

TITLE 20: DEPARTMENT OF COMMERCE

**SUBCHAPTER 20-40.2
MANDATORY MOTOR VEHICLE LIABILITY INSURANCE RULES
AND REGULATIONS**

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Subchapter Authority: 9 CMC §§ 8206 and 8207.

Subchapter History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649* (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

*Page 16649 is misnumbered as page 16449 in the Commonwealth Register.

Commission Comment: 1 CMC § 2451 originally created the Department of Commerce and Labor. 1 CMC § 2454 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Title 4, division 7 of the Commonwealth Code, 4 CMC §§ 7101-7509, codifies PL 3-107 (effective Feb. 24, 1984),

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the "Commonwealth Insurance Act of 1983," and governs the insurance business in the Commonwealth. 4 CMC § 7104 creates the Insurance Commissioner of the Commonwealth with the powers and duties to administer the act and promulgate rules and regulations necessary for effectuating the act. 4 CMC §§ 7104 and 7105(b).

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 103:

Section 103. Department of Commerce.

The Department of Commerce and Labor is re-designated the Department of Commerce.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

PL 11-55 (effective Jan. 29, 1999), the "Mandatory Liability Auto Insurance Act," codified at 9 CMC §§ 8201-8218, requires a minimum level of auto liability insurance to operate a motor vehicle on public streets. 9 CMC § 8206 provides that the Insurance Commissioner will issue licenses to motor vehicle liability insurance providers and authorizes the Commissioner to promulgate rules and regulations necessary to implement the act. 9 CMC § 8207 directs the Insurance Commissioner to promulgate rules and regulations to create an Assigned Risk Plan for motor vehicle liability insurance.

The emergency regulations published on April 19, 1999 were in effect for 120 days from March 29, 1999. PL 11-55 § 11 addressed the effective date of implementing regulations as follows:

Section 11. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval provided that in order to allow 60 days for the regulations required by this Act to be promulgated, all provisions in this Act except for those authorizing or requiring the promulgation of regulations shall be suspended for 60 days after the effective date of this Act. Upon completion of this 60 day period, all provisions of this Act and any regulations promulgated during the 60 day period, shall all become effective.

PL 11-55 took effect January 29, 1999.

Part 001 - General Provisions

[Reserved.]

Part 100 - The Assigned Risk Plan

§ 20-40.2-101 Minimum Liability Coverage

In accordance with section 6 of Public Law 11-55 [9 CMC §§ 8202-8216], the operator of a motor vehicle must maintain minimum liability insurance of \$15,000 for bodily injury or death of any one person; \$30,000 for the bodily injuries or deaths of all persons involved in any one accident; and \$15,000 for injury, damage, or destruction of property in any one accident. The operator is required to have on his or her person or in the vehicle satisfactory evidence of minimum motor vehicle liability insurance. An insurance card issued by the insurance provider or agent that comports with the guidelines established by the Insurance Commissioner or his or her designee shall suffice as evidence of minimum motor vehicle liability insurance.

Modified, 1 CMC § 3806(f), (g).

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History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The 1999 regulations contained a footnote after “the Insurance Commissioner or his or her designee” as follows: “Hereinafter, whenever the terms ‘Insurance Commissioner’ or ‘the Commissioner’ are used, they shall be understood to mean ‘the Insurance Commissioner or his or her designee.’” See 21 Com. Reg. at 16655 n. 1. (Apr. 19, 1999).

The commission deleted an incorrect reference to the Commonwealth code provisions which codify PL 11-55 § 6.

§ 20-40.2-102 Coverage to Be Provided in the First Instance by the Voluntary Market

The coverage is to be provided in the first instance by the “voluntary market.” The “voluntary market” means coverage for motor vehicles provided by insurance providers in accordance with Public Law 11-55 [9 CMC §§ 8101, et seq.] but not written under the “assigned risk plan.” In the “voluntary market,” an insurance provider may decline to provide insurance coverage to an owner or operator based on the insurance provider’s underwriting guidelines. In the event that an insurance provider declines to provide the owner or operator with such coverage, the insurance provider will issue the owner or operator a letter of declination that states with specificity the reason(s) for declination.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-104 Purposes of the Assigned Risk Plan

The purposes of the assigned risk plan (hereinafter “ARP” or “the plan”) are as follows:

(a) To provide a means by which applicants for automobile bodily injury and property damage liability insurance, who are in good faith entitled to but are unable to procure such insurance through ordinary methods, may obtain such coverage.

(b) To establish a reasonable plan for the assignment of eligible risks and for the equitable apportionment of these risks among insurers admitted to transact automobile insurance in the CNMI.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-106 Eligibility for the Assigned Risk Plan

In order to be eligible for the ARP, the owner of the vehicle must have attempted to secure motor vehicle liability insurance in the “voluntary market,” as evidenced by three letters of declination.

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Modified, 1 CMC § 3806(e), (f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-108 Additional Coverage Available to ARP Applicants

Nothing contained herein shall prohibit an insurer who accepts an assignment under this plan from offering to any insured any additional coverage which the applicant may be willing to purchase, such as collision, comprehensive, medical payments and uninsured motorist coverage. However, the insurance provider may not make such additional coverage a condition for provision of liability insurance to an ARP applicant assigned to it by the Insurance Commissioner.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-110 Administration of the Assigned Risk Plan

(a) The Insurance Commissioner shall administer the plan. The Insurance Commissioner shall make all assignments under the plan and shall faithfully and impartially perform the functions and duties set forth in this plan. S/he shall keep complete records and statistics and submit reports to the Commissioner as may be necessary for the efficient operation of the plan. The Insurance Commissioner shall compile the quarterly reports filed by the insurers for assigned risks written under the plan and shall keep a summary of these reports that will be made available for inspection upon request.

(b) On or before September 1st following the calendar year the Insurance Commissioner shall submit a compilation of the insurer's annual reports for risks covered under the plan together with any recommendations for the efficient administration of the plan, including but not limited to the adjustments of rates, penalty points, recordkeeping and compilation of statistics.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) and (b).

§ 20-40.2-112 Accumulation of Penalty Points under the Plan

(a) The driving record of any applicant and any person who during the 36 previous months, normally or usually drove or drives the motor vehicle, shall be the determining factor in the applicability of the additional premium charges. The modification shall be determined by the total number of penalty points accumulated by any owner or operator and any other person authorized by the applicant to operate the motor vehicle.

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(b) In accordance with the following rules, penalty points shall be assigned to a maximum of eighteen points per vehicle on the basis of motor vehicle convictions that occurred during the 36 months immediately preceding the effective date of coverage in connection with the original application for motor vehicle insurance coverage and for renewal, during the 36 months ending prior to the effective date of renewal.

(1) Ten points shall be assigned for each of the following convictions, in addition to any points assignable for any one accident.

(i) Driving a motor vehicle under the influence of intoxicating liquor or narcotic drugs.

(ii) Failing to stop and report when involved in an accident where injury to any person results therefrom.

(iii) Homicide or assault arising out of the operation of a motor vehicle.

(2) Six points shall be assigned for each of the following convictions, in addition to any points assignable for any accident:

(i) Operating a motor vehicle without current automobile liability insurance, certificate of registration, and a valid driver's including during a period of revocation or suspension of motor vehicle registration or driver's license.

(ii) Operating a motor vehicle without the permission of owner of the vehicle.

(iii) Loaning a driver's license to an unlicensed operator.

(iv) Making false statement in the application for motor vehicle registration or driver's license.

(v) Impersonating an applicant for motor vehicle registration or driver's license or procuring a motor vehicle registration or driver's license through impersonation whether for himself or another person.

(3) Four points shall be assigned for each of the following convictions in addition to any points assignable for any accident:

(i) Driving a motor vehicle in a reckless manner.

(ii) Engaging in a speed contest.

(iii) Permitting an unlicensed person to drive.

(iv) Failing to stop and report when involved in an accident where injury does not result therefrom.

(4)(i) One point shall be assigned for one conviction and two points shall be assigned for each additional conviction, in the case of convictions for moving traffic violations other than those set forth above, unless the conviction resulted from an accident for which points are assignable, in which case only the points for the accident shall be assigned.

(ii) Exception: The following shall not be considered moving traffic violations:

(A) Any motor vehicle equipment requirement of motor vehicle and traffic laws except brake and failure to use seatbelts and child restraint devices.

(B) Failure to display proper motor vehicle license plates provided such plates are in existence.

(C) Failure to have in possession a driver's license provided there is a valid driver's license in existence.

(D) Failure to have a valid driver's license or valid vehicle registration certificate provided there is such license or registration in existence which has not been renewed for a period not to exceed ninety days.

(5)(i) Two points shall be assigned for each automobile accident resulting in a bodily injury or death to any person or in damage to property in excess of \$1,000.00.

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(ii) Exception: Points shall not be assigned under this subsection if the accident occurred under the following circumstances:

(A) The motor vehicle, owned or operated by the applicant or other person who usually drives the applicant's motor vehicle, was legally stopped at traffic control or was lawfully parked (an automobile rolling from a parked position shall not be construed as lawfully parked, but shall be considered as the operation of the last operator).

(B) The motor vehicle, owned or operated by the applicant or other person who usually drives the applicant's motor vehicle, was struck in the rear by another vehicle, and the applicant or other person who usually drives the applicant's motor vehicle, was not convicted of a moving traffic violation in connection with the accident.

(C) The motor vehicle, owned or operated by the applicant or other person who usually drives the applicant's motor vehicle, was damaged as a result of contact with a "hit and run" driver, and the applicant or such other person reported the accident to the proper authorities within 24 hours.

(D) The applicant (owner or operator) or other person who usually drives the applicant's motor vehicle was not convicted of a moving traffic violation, and the owner or operator of another motor vehicle was so convicted in connection with that accident.

(E) The applicant (owner or operator) or another person who usually drives the applicant's motor vehicle has obtained a judgment against, or a settlement from or on behalf of, the owner or operator of another vehicle involved in the accident (provided the judgment or settlement was obtained prior to the date of application to the plan, or, in the case of renewal, prior to the effective date of the renewal policy; and provided that as a result of such accident, no judgment was obtained against, nor was any amount paid in settlement by or on behalf of, the applicant or other person who usually drives the applicant's motor vehicle).

(F) Injury or damage was caused by contact with animals, fowl, flying gravel or falling objects.

(G) The accident occurred as a result of operating a motor vehicle in response to an emergency and, at the time of the accident, the applicant, or other person who usually drives the applicant's motor vehicle, was responding to a call of duty as a paid or volunteer member of any police or fire department, first aid squad, or any law enforcement agency.

(c) Penalty Point Values and Additional Premium Charges. An additional \$25 for each penalty point shall be added to the premium for each vehicle insured under the assigned risk plan.

(d) Note: Where any automobile policy insures more than one motor vehicle, the applicable accumulated points shall be applied first to the motor vehicle with the highest premium and then shall be applied to the next highest rated motor vehicle or vehicle in succession, up to a maximum of eighteen points per vehicle.

Modified, 1 CMC § 3806(e), (f), (g).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The original paragraphs of this section were not designated. The commission designated subsections (a) through (d). The commission changed former subsection (b)(6) to subsection (c) for clarity. The commission also designated the paragraphs in subsections (b)(4) and (b)(5) as subsections (b)(4)(i) and (ii) and

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subsections (b)(5)(i) and (ii), respectively.

§ 20-40.2-114 Application to the ARP

- (a) An application for automobile insurance coverage shall be filed by the applicant or anyone designated by him to act on his behalf.
- (b) In the event an insurer shall deny automobile liability insurance coverage to an applicant, the insurer, or the general agent or any duly authorized agent of the insurer shall provide the applicant with a letter of declination that states with specificity the reason(s) for denial.
- (c) To apply for the ARP, the owner must fill out the application provided by the Insurance Commissioner and attach copies of the three letters of declination, the owner and/or operator's traffic abstract, as provided by the Bureau of Motor Vehicles for a fee, and the owner and/or operator's traffic record, as provided by the Superior Court for a fee.
- (d) Upon receipt of an application properly completed and executed and a determination that the applicant is an eligible risk for assignment, the Insurance Commissioner shall within five working days from receipt of completed application, designate an insurer and assign the eligible risk to such insurer.

Modified, 1 CMC § 3806(e), (f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) through (d).

§ 20-40.2-116 Assignment to the Assigned Risk Plan

In the assignment of an eligible risk to insurer, the Insurance Commissioner shall issue to the applicant the following items that are to be supplied to the assigned insurer or its resident general agent:

- (a) An assignment of risk form;
- (b) The ARP application;
- (c) The driving record and the accident record (as enumerated in § 20-40.2-114) of the applicant and any person who, during the 36 previous months, normally and usually drove or drives the motor vehicle(s) included in a risk.

Modified, 1 CMC § 3806(c), (f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The Commission inserted semicolons at the ends of subsections (a) and (b) pursuant to 1

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CMC § 3806(g).

§ 20-40.2-118 Insurer's Duty to Accept or Reject

(a) Within five working days from receipt of the required documentation stated in § 20-40.2-116, the designated insurer shall accept the assignment by the Insurance Commissioner and:

(1) Issue a policy required by this plan or a temporary binder of coverage that will be effective not later than 12:00 a.m. of the fifth day following the receipt of such required documentation specified under § 20-40.2-116. In the event there is in force a policy terminating at a date later than the date that would be fixed pursuant to this section and applicant indicates such date in this application than the insurer shall fix the date when the policy or binder becomes effective as of 12:01 a.m. on the stated termination date of policy. In case a temporary binder of coverage was issued, the policy to replace such binder shall be issued no later than thirty days from the date of inception; and

(2) Collect from the insured, the full annual premium or deposit premium as required in § 20-40.2-120. If a partial deposit has been paid to the insurer, the insurer shall notify the insured of the payment cancellation terms as stated in § 20-40.2-120; and

(3) Notify the Insurance Commissioner that it has completed the assignment, and of the policy number, effective date and the gross premium.

(b) If within five working days from receipt of the required documentation stated in § 20-40.2-116, the designated insurer wants to reject the assignment by the Insurance Commissioner, it must file an appeal in accordance with § 20-40.2-140 and § 20-40.2-142.

Modified, 1 CMC § 3806(c), (e), (f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The notice of adoption added subsection (b). See 21 Com. Reg. at 16852 (July 23, 1999).

§ 20-40.2-120 Installment Premium Payment Option

(a) Any and all premiums of \$300.00 or less must be paid in advance of the issuance of a policy or a temporary binder of coverage under this plan. In the event that an annual premium exceeds \$300.00, an applicant may procure insurance by paying a deposit premium of 30% of the entire annual premium or \$300.00, whichever is greater. The remainder must be paid within 60 days of the issuance of the premium in two equal monthly installments. An insurer may require the payment of full annual premium if an applicant has within the twelve months prior to the date of application to the plan, had insurance coverage canceled due to non-payment of the premium.

(b) During any one assignment period (up to three years), if payment is not received within the time required under this section, an insurer shall have the right to cancel the policy by mailing or delivering to the insured, a notice of cancellation for non-payment of premium. Such notice shall state:

(1) The date, not less than thirty days from the date of mailing or delivery when a policy is to be canceled unless payment is made, and

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(2) The amount required in order for coverage to continue under the plan. If the insured fails to meet the payment required by the date stated on such notice, the insurer may cancel the policy; in all such cases the insurer shall have filed with the Insurance Commissioner, in writing a notice of such cancellation.

(c) During any one assignment period (up to three years), if payment is not received within the time required under this section and an insurer mails or delivers a notice of cancellation for non-payment of premium, and the insured tenders payment before the effective date of cancellation of the policy, the insurer may require from the insured, the full payment of the balance of the premium for the current annual policy and may require the payment of the full premium on any subsequent renewals for such assignment under the plan.

(d) The obligation of a designated insurer with respect to an assignment under the plan ends and the insurer is not obligated to reinstate the policy or issue a new policy under the plan if:

(1) An insurer has canceled a policy due to non-payment of premium, or

(2) If the insured has failed to tender the required renewal or deposit premium in the time stated under subsection (a) of this section.

(e) In the event of a cancellation or non-renewal, the insured may file an application with the Insurance Commissioner as a new applicant. The Insurance Commissioner shall assign the applicant to another insurance provider within the ARP and shall require payment in full at the outset, regardless of the amount of the total premium.

Modified, 1 CMC § 3806(d), (e), (f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The final paragraph was not designated. The commission designated it subsection (e).

§ 20-40.2-122 Procedure for Cancellations

If after the issuance of a policy the insurer finds that the applicant is not eligible for insurance, the insurer shall have the right to cancel the policy by mailing or delivering to the insured a notice of cancellation. Such notice shall state the date, not less than thirty days from the date of mailing or delivery when a policy is to be canceled and the reasons underlying such cancellation. In all such cases, the insurer shall have filed with the Bureau of Motor Vehicles and the Insurance Commissioner, in writing, prior to the effective date of cancellation, a notice of such cancellation and the reasons underlying such cancellation.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-124 Use of Premiums to Decide Apportionment of Assignments

All insurers admitted to transact automobile insurance in the CNMI shall participate in the ARP.

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The Insurance Commissioner shall assign applicants to the ARP to insurance providers based on the insurer's proportion of gross written premium for total auto insurance in the CNMI. The Insurance Commissioner shall calculate the equitable apportionment of assignments to insurers under the plan and shall implement such calculation for assignments under the plan upon the completion and release of the Commissioner's annual report.

(a) In the year that an insurer transacts automobile liability insurance for the first time, the insurer shall participate in the equitable apportionment of eligible risks and be assigned the same proportion of eligible risks assigned to the insurer with the least direct premiums written but in no case less than one assignment.

(b) In the event of a merger or consolidation of insurers, the total direct premiums written by all insurers merged or consolidated shall be used to calculate the proportion of eligible risks assigned to the insurer formed by the merger or consolidation.

(c) If after the proportion of eligible risks has been calculated and assignments made, a new insurer commences transacting insurance, the Insurance Commissioner shall equitably adjust the proportion for the assignment of eligible risks to the other insurers.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-126 Request for Voluntary Reassignment

An eligible risk who is dissatisfied with the designated insurer or a designated insurer that is dissatisfied with an applicant insured by it may file with the Insurance Commissioner, not less than 30 days prior to the expiration of policy, written request for assignment of such eligible risk upon expiration to another insurer. Assignment to another insurer shall be at the discretion of the Insurance Commissioner.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-128 Quarterly Reports and Annual Statements

(a) Any and all insurers shall file annual statements as required by law and shall file quarterly reports of direct premiums written and direct losses incurred under the plan. The quarterly report shall be filed on or before the 20th day of the month following the end of the quarter.

(b) In the event an insurer shall fail to submit any quarterly report or annual statement in the time required herein, the Commissioner shall have the discretion to assess a late filing fee of \$500.00 per report to such insurer. In the event an insurer shall fail to submit any required quarterly report or annual statement in excess of ninety days past the time stipulated, the

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Commissioner shall have the discretion to revoke the certificate of authority of such insurer.

(c) Should any insurer shall* fail to submit any annual statement for any given year, the Insurance Commissioner shall have the option of using the highest gross written premiums for total auto by such insurer within the previous three years for the computation of the proportionate share of the insurer in the plan.

*So in original, probably should be deleted.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) through (c).

§ 20-40.2-130 Renewal Notices

(a) An insurer may request current policy rating information from the insured by means of a renewal questionnaire filed with and approved by the Commissioner. The questionnaire shall be mailed to the insured at the address shown on the policy, at least sixty days before the expiration date of the policy. Should the insured fail to respond or return the questionnaire, the insurer may use the most recent application submitted by the insured in the calculation of the annual premium.

(b) In any case, the insurer must send to the insured at the address shown on the policy, a notice for the renewal of the policy, together with the required renewal premium or down payment in accordance with § 20-40.2-120. This notice to the insured shall be mailed by the insurer no less than thirty days before the expiration date of the current policy.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) and (b).

§ 20-40.2-132 Maximum Term of Coverage under the Plan

An insurer shall not be required to insure a risk as an assignment under the plan for a period in excess of three consecutive years.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-134 Options after Three Years of Participation Under Plan

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(a) Every insurer insuring an eligible risk that has been insured by insurer for a period of three consecutive years by an assignment under the plan, shall upon expiration of the current policy, either:

- (1) Issue a policy under the voluntary market; or
- (2) Issue a letter of declination to the insured.

(b) At least thirty days before the expiration date of such policy, such insurer shall notify the Insurance Commissioner and the insured of its intended action under this section.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) and (b).

§ 20-40.2-136 Re-application

If an insurer serves notice to the applicant and discloses an intent to refuse to issue a renewal policy pursuant to § 20-40.2-134 and the applicant is unable to procure insurance in the voluntary market from another insurance provider, re-application may be made to the plan. Such application and subsequent assignment shall be considered a new application and a new assignment to the designated insurer.

Modified, 1 CMC § 3806(c), (f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-138 Relief under Tariff

In the calculation of the applicable insurance premium on any risk under the plan, an insurer shall:

(a) Rate and charge an applicant who has accumulated penalty points by using the corresponding amounts of penalty set forth in the rate modifications contained in § 20-40.2-112 in addition to the applicable rates set forth in a tariff approved by the Insurance Commissioner.

(b) Apply a surcharge up to 30% in addition to the applicable rates set forth in an current approved tariff whenever an applicant applies for automobile insurance coverage for any vehicle modified structurally or mechanically to enhance or hamper performance.

Modified, 1 CMC § 3806(c), (f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-140 Appeal

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The following persons may file an appeal with the Commissioner under the following circumstances:

- (a) Any applicant who is denied motor vehicle insurance coverage in the voluntary market or denied automobile liability insurance under the assigned risk plan; the denials thereof that are asserted to be in violation of any applicable statute, regulation, order or rule.
- (b) Any insured who is denied motor vehicle insurance coverage in the voluntary market or denied automobile liability insurance under the assigned risk plan; the denials thereof that are asserted to be in violation of any applicable statute, regulation, order or rule.
- (c) Any applicant, insured, or insurer who is adversely affected by any decision, order, ruling, rule or sanction of the Commissioner that is asserted to be in violation of any applicable statute, regulation, order or rule.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-142 Procedure for Appeal

The Commonwealth Administrative Procedure Act [1 CMC §§ 9101, et seq.] and the Commonwealth Insurance Act [4 CMC §§ 7101, et seq.] shall apply to any appeal taken by an applicant or an insured or an insurer, and will be supplemented by the following procedural rules:

- (a) Any applicant or insured who appeals an action or decision of an insurer shall:
 - (1) Submit two copies of the application for automobile insurance in question to the Insurance Commissioner within ten working days;
 - (2) Submit, after receipt of the notice of denial or the notice of cancellation, a written appeal letter to the Insurance Commissioner and to the insurer within ten working days; and,
 - (3) Submit to the Insurance Commissioner two copies of official documentation of the driving record of the applicant or insured demonstrating the driving experience of the applicant or insured for a 36 month period preceding the date of application from the jurisdiction(s) where the applicant or insured has resided. For the purposes of this subsection “official documentation” may be in the form of an abstract of driving records from a Department of Public Safety, Department of Motor Vehicles, Bureau of Motor Vehicles, or appropriate governmental agency or subdivision tasked with collecting and maintaining driving records.
- (b) Any applicant, insured, or insurer under the assigned risk plan who appeals any decision, order, ruling, rule, or sanction of the Commissioner shall:
 - (1) Submit, after receipt of the written decision, order, ruling, rule, or sanction of the Insurance Commissioner, a written appeal letter to the Insurance Commissioner within ten working days; containing a statement of facts setting forth the reasons for the appeal and a citation of any applicable statute, regulation, order or rule in support of the appeal; and,

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(2) Submit a copy of the written decision, order, ruling, rule, or sanction of the Insurance Commissioner that is the subject of the appeal.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-144 Decision on Administrative Appeal

(a) The Commissioner or his delegate shall render a final administrative decision on administrative appeals filed by an applicant, an insured, or an insurer pursuant to the provisions of § 20-40.2-140 and § 20-40.2-142. This final administrative decision shall be rendered within 30 days of receipt of the written appeal letter or within 30 days of the closing of the record of an administrative hearing. Failure to render the decision within 30 days shall not affect the validity of the ruling on the administrative appeal.

(b) The Commissioner or his delegate shall schedule an administrative hearing within ten days of the receipt of a written appeal letter. The Commissioner or his delegate shall render a decision and issue an appropriate order sustaining or reversing or modifying the appealed denial or cancellation or non-renewal of automobile insurance coverage or assignment of risk under the assigned risk plan.

Modified, 1 CMC § 3806(c), (f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) and (b).

§ 20-40.2-146 Examination

At such times as the Commissioner shall deem necessary and proper, s/he may cause an examination of any insurer to participate in the plan.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Part 200 - The Licensing of Insurance Providers that Provide Motor Vehicle Liability Insurance

§ 20-40.2-201 Definitions

(a)(1) "Insurance Provider" means any person, business, partnership, corporation, or any other entity which sells, underwrites, or in any way provides other persons or businesses with liability insurance in relation to the operation of any motor vehicle(s) in the Commonwealth.

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(2) For purposes of this subchapter, an insurance provider means an insurer, as defined under 4 CMC § 7103(a),(h), or (i).

(b)(1) “Satisfactory Evidence of Minimum Motor Vehicle Liability Insurance” shall mean valid documentary evidence of minimum liability insurance required by this Act, containing such information and printed on such form as required by the rules and regulations promulgated by the Insurance Commissioner for these purposes.

(2) For purposes of this subchapter, “Satisfactory Evidence of Minimum Motor Vehicle Liability Insurance” means a document, which may be referred to as an “insurance card,” issued by a duly licensed insurance provider, containing at a minimum, the following:

Name of Insurance Provider:

Address: (if applicable)

Name of General Agent: (if applicable)

Address:

Name of Insured:

Policy Number:

Inception Date & Expiration Date:

Vehicle Information:

Vehicle Identification Number:

License Plate Number:

Year:

Make:

Model:

(3) A signature block on the face of such insurance card shall indicate “authorized signature,” which, once signed, shall constitute coverage and compliance with the minimum liability insurance. In addition, the wording, “This insurance card complies with Public Law (PL) 11-55,” shall also be included on the face of the insurance card.

(c) “Letter of Declination” means a document issued by an insurance provider to an applicant for minimum liability insurance in the case where an insurance provider declines to provide said minimum liability insurance. At a minimum, the document shall contain the following:

(1) Name of applicant for insurance:

(2) Address:

(3) Name of the insurance provider issuing the letter of declination, or in the of a general agent, on behalf of the insurance provider for which a letter of declination is issued.

(4) Where applicable, the particulars of the motor vehicle(s) for which the declination is being issued.

(5) A statement of the reason(s) for such declination. In cases where a declination is issued for reason(s) that a particular risk is not within a carrier’s underwriting guidelines, a detailed statement, to the effect, shall be provided.

(6) In the case that a general agent (GA) represents more than one insurance provider, the GA shall not issue more than one letter of declination to the same applicant for insurance.

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(d) “Insurance Commissioner” means the insurance commissioner established by 4 CMC § 7104, as amended.

(e) “Motor Vehicle” means every self-propelled vehicle which is designed and required to be licensed for use upon a highway, including trailers and semi-trailers designed for use with such vehicles, and shall include motorcycles, mopeds, and powered scooters.

(f) “Minimum Liability Coverage” means an insurance policy which provides not less than the following coverage: \$15,000 for bodily injury or death of any one person in any one accident; \$30,000 for the bodily injuries or deaths of all persons involved in any one accident; \$15,000 for injury, damage or destruction of property in any one accident.

(g) “Regulation of Insurance Providers” means no person shall engage in the business of providing any kind of motor vehicle liability insurance for the operation of any motor vehicle within the Commonwealth unless they have a valid insurance provider’s license, issued by the Insurance Commissioner.

Modified, 1 CMC § 3806(d), (e), (f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The original paragraphs of subsections (a), (b) and (c) were not designated. The commission designated subsections (a)(1) and (a)(2), (b)(1) and (b)(2) and (c)(1) through (c)(6).

§ 20-40.2-205 Application for Insurance Provider License

(a) An applicant shall complete an application for insurance provider license prescribed by the Insurance Commissioner and is hereby incorporated as form IP-01, and enclosed as exhibit A.

(b) The applicable fee for such license shall be \$250, which shall be non-refundable.

(c) An applicant shall appoint a general agent, where applicable, and the regulation of such appointment shall be in accordance with 4 CMC, division 7.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

§ 20-40.2-210 Filing of Quarterly and Annual Reports

(a) All insurance provider licensees shall, no later than the twentieth day following the end of a calendar quarter, file with the Insurance Commissioner business written on the assignment of eligible risk (ER) under the assigned risk plan (ARP).

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- (b) The format for such filing shall contain, at a minimum, the following:
 - (1) Name of insurance provider
 - (2) Direct premiums written
 - (3) Direct losses incurred
 - (4) The period for which the report is being provided.
- (c) All other statutory filing requirements, in accordance with 4 CMC, division 7, apply under this section.
- (d) All other requirements, as set forth under § 20-40.2-128 of the ARP apply under this section.

Modified, 1 CMC § 3806(f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: The original final three paragraphs were not designated. The commission designated subsections (b) through (d). The Commission inserted semicolons at the ends of subsections (b)(1) through (b)(4) pursuant to 1 CMC § 3806(g).

§ 20-40.2-215 Applications and Forms

- (a) Application to the ARP.
 - (1) For purposes of application to the ARP, an applicant shall execute form IP-02, incorporated as exhibit B.
 - (2) In addition, an applicant shall also include in such application the following:
 - (i) Three letters of declination issued by duly licensed insurance provider licensees.
 - (ii) Owner's and/or operator's traffic abstract, as issued by the Bureau of Motor Vehicles for a fee.
 - (iii) Owner's and/or operator's traffic record, as issued by the CNMI Superior Court for a fee.
- (b) Assignment of Risk form.
 - (1) For purposes of the assignment of an ER to an insurer, the Office of the Insurance Commissioner shall issue to an applicant to the ARP, form IP-03, incorporated as exhibit C.
 - (2) In addition, such issuance shall include the following:
 - (i) The ARP application;
 - (ii) The driving record and the accident record (as enumerated in § 20-40.2-114 of the ARP) of the applicant and any person who, during the preceding 36 months, normally and usually drove or drives the motor vehicle(s) included in an ER.
- (c) Notification of completed assignment form.
 - (1) Upon the completion of an assignment of an ER, an insurance provider shall file, within five days, a notification of a completed assignment.
 - (2) At a minimum, the notification shall contain the following:
 - (i) The policy number;
 - (ii) The inception and expiration date of the policy;
 - (iii) The gross premium written, showing the base rate applicable to the type of the vehicle,

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and the calculation for any penalty points assessed on the assignment of the ER.

Modified, 1 CMC § 3806(e), (f).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: Not all of the original paragraphs in subsections (a), (b) and (c) were designated. The commission designated subsections (a)(2), (b)(2), (c)(1) and (c)(2).

Form IP-03, referenced in subsection (b) and incorporated as exhibit C was not published with the proposed or adopted regulations.

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**Exhibit A
APPLICATION FOR INSURANCE PROVIDER LICENSE**

NEW

EXTENSION _____ Date: _____

TO THE INSURANCE COMMISSIONER OF THE COMMONWEALTH:

The _____ Company of _____, does hereby apply for authority to participate as an Insurance Provider for the year ending December 31, 19__ to sell Minimum Liability Insurance in the Commonwealth, in accordance with Public Law 11-55.

The company further states that it will participate in the Assigned Risk Plan and is aware of and will comply with the rules and regulations governing that plan.

Name (please print or type) _____

Signature: _____

Title / Position: _____

Form IP-01

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: This form was published after § 20-40.2-215 (former § 4 of the Insurance Provider Licensing Rules and Regulations) at 21 Com. Reg 16649, 16671 (Apr. 19, 1999).

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**Exhibit B
APPLICATION TO THE ASSIGNED RISK PLAN (ARP)**

The undersigned, _____, hereby makes application to the CNMI Insurance Commissioner, in accordance with NMIAC § 20-40.2-114.

The particulars of the vehicle(s) for which motor vehicle liability insurance is sought are:

Vehicle Information:

Vehicle Identification Number:

License Plate Number:

Year:

Make:

Model:

In support of this application for assignment as an Eligible Risk (ER), I hereby submit the following:

_____ Three (3) Letters of Declination

_____ A copy of my traffic abstract (traffic record), as issued by the Bureau of Motor Vehicle

_____ A copy of my accident abstract (accident record), as issued by the CNMI Superior Court

_____ A copy of the traffic abstract (traffic record) of the person(s) who normally and usually drives or drove the motor vehicle(s), as issued by the Bureau of Motor Vehicles

_____ A copy of the accident abstract (accident record) of the person(s) who normally and usually drives or drove the motor vehicle(s) (traffic record), as issued by the CNMI Superior Court

Signature: _____

Date: _____

Form IP-02

Modified, 1 CMC § 3806(c).

History: 21 Com. Reg. 16882 (Aug. 23, 1999) (correcting the certification date); Adopted 21 Com. Reg. 16851 (July 23, 1999); Emergency and Proposed 21 Com. Reg. 16649 (Apr. 19, 1999) (effective 120 days from Mar. 29, 1999).

Commission Comment: This form was published after § 20-40.2-215 (former § 4 of the Insurance Provider Licensing Rules and Regulations) at 21 Com. Reg 16649, 16672 (Apr. 19, 1999).