

**STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, California 94105**

**RH05047241**

**January 16, 2007**

**NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING  
REGARDING REVISIONS TO CALIFORNIA AUTOMOBILE ASSIGNED RISK  
PLAN**

SUBJECT OF HEARING

California Insurance Commissioner Steve Poizner will hold a public hearing to address the proposed amendments to Sections 8, 28, 33, 37, 43, 48 and Private Passenger Application of the California Automobile Assigned Risk Plan (CAARP) Plan of Operations.

AUTHORITY TO ADOPT RATES AND PROCEDURES AND REFERENCE

The Commissioner will consider the proposed addition pursuant to the authority vested in him by California Insurance Code Sections 11620 and 11624. Government Code Sections 11340.9(g) and 11343(a) apply to these proceeds.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed changes at the following date, time, and place:

**Date and Time:**        **April 19, 2007  
10:00 a.m.**

**Location:**            **California Department of Insurance  
45 Fremont Street  
22<sup>nd</sup> Floor Hearing Room  
San Francisco, California 94105**

ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS: AGENCY CONTACT PERSON

All persons are invited to submit written comments to the Insurance Commissioner on the proposal prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Mike Riordan, Staff Counsel  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[riordanm@insurance.ca.gov](mailto:riordanm@insurance.ca.gov)  
Telephone: (415) 538-4226  
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Elizabeth Mohr, Assistant Chief Counsel  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[mohre@insurance.ca.gov](mailto:mohre@insurance.ca.gov)  
Telephone: (415) 538-4112  
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be **received** by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on April 19, 2007**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail and facsimile transmission. Please select only one method to submit written comments.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1-2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall, Suite 1700  
Sacramento, CA 95814  
Telephone: (916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

#### INFORMATIVE DIGEST

The LAD buy-out contracts are between the buy-out company and the servicing company. As a result of this relationship, staff must wait for notification from the LAD servicing company before terminating the LAD grouping and restricting a buy-out company that is in rehabilitation. Until the buy-out company is removed from LAD at the start of the next quota quarter, the company's assignments continue to go to the LAD servicing company. Due to the existence of the insurance department order and the financially troubled status of the buy-out company with respect to buy-out fees owed, the company should be removed from LAD as soon as possible. Therefore, it is necessary to terminate the LAD buy-out contract on a timely basis to ensure the company is removed from LAD at the start of the next quota quarter.

For consistency in references to Insurance Department orders, paragraph B.7.a will be amended. Paragraph B.14 pertaining to the determination of each buy-out company's LAD obligation by the servicing company is amended to include reference to the annual quota report, the source of the data used by the servicing company. Provisions relating to the termination of the buy-out contract are introduced in new paragraph B. 15.

Currently insurers writing Plan private passenger risk can contact the applicant or insured to obtain underwriting information to remedy application violations or deficiencies. If the information is not provided the policy could be insured with additional charges or cancelled.

The current request for additional information request does not include the consequences if the asked for information is not provided. The proposed changes will meet the standard in the voluntary market.

Section 28 would clarify procedures for Plan and insurer request to applicants and procedures for information to correct application deficiencies and/or violations. Section 33 would be amended to clarify performance standards for insurer request for information. Section 37 would be amended to address (1) when the Plan assigns an application with an uncorrected violation and the insurer must follow-up on information already requested and (2) when the insurer received and application without violations and must request additional information. Paragraph A.6 would require that the insurers written request for underwriting information and/or renewal questionnaire contain a statement advising the applicant of the consequence of not providing the asked for

information. The statements would be in Spanish and English. On the private passenger application a new tenth statement would be added to inform the applicant of the consequences of not providing the information.

Plan rules require that a servicing carrier must provide hired and nonowned liability coverage if the Plan commercial auto policy has an “Any Auto” symbol or any other local, state, or federal filing. The extent of coverage section of the Plan of Operations does not state that hired and nonowned liability coverage is required for commercial risks under certain conditions. When the coverage is added during the underwriting process the insured’s annual premium increases and producers complain the coverage is being added after the fact.

Section 43 paragraph A would be amended to clarify when hired and nonowned liability coverage must be provided on a commercial auto policy.

The current Plan does not provide a procedure for the consistent handling of midterm producer changes for commercial risks. Servicing carriers currently process changes in accordance with individual company procedures.

The proposed new Section 48 is introduced to provide a consistent procedure for handling midterm producer changes for commercial risks. The Plan introduction would be amended to include the new Authorization of Change Producer of Record and Notice of Agency Acquisition/Transfer/Merger forms.

#### COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

#### LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

#### MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS OR COSTS WHICH MUST BE REIMBURSED PURSUANT TO GOVERNMENT CODE SECTIONS 17500 THROUGH 17630

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies.

#### COST OR SAVINGS TO ANY STATE AGENCY; FEDERAL FUNDING

The Commissioner has determined that the proposed regulation will result in no cost or savings to any state agency and no cost or savings in federal funding to the state.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has initially determined that the proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of

California businesses to compete with businesses in other states. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

#### COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

#### IMPACT ON SMALL BUSINESS

The matter proposed herein will affect insurance companies and therefore will not affect small business. (Gov. Code Section 11342.610(b)(2)).

#### SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

#### ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### PLAIN ENGLISH

The proposed changes describing CAARP's proposals are in plain English.

#### TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons addressing the proposed amendments in addition to the Informative Digest included in this notice. The Initial Statement of Reasons and this Notice of Proposed Action are available for inspection or copying, and will be provided at no charge upon request to the contact person listed above. Further details on CAARP's proposal are on file with the Commissioner and available for review as set forth below.

#### FINAL STATEMENT OF REASONS

A final statement of reasons will be prepared at the conclusion of this proceeding. Upon written or e-mail request to the contact person listed above, the final statement of reasons will be made available for inspection and copying once it has been prepared. A copy of the final statement of reasons will also be posted on the Department's web site.

#### ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's proposed amendments, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest is being sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons, proposed text, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at [www.insurance.ca.gov](http://www.insurance.ca.gov).

AVAILABILITY OF MODIFIED TEXT OF REGULATIONS

If the Department amends the proposed regulations with changes that are sufficiently related to the original text, the Department will make the full text of the amended regulations, with the changes clearly indicated, available to the public for at least 15 days before the date the Department adopts the amended regulations.

**STEVE POIZNER**  
Insurance Commissioner

Dated: \_\_\_\_\_, 2007

By: \_\_\_\_\_/s/\_\_\_\_\_  
Mike Riordan  
Staff Counsel