Title 19: Insurance

Part 5: <u>Non-Auto Property & Casualty Insurance</u>

Part 5 Chapter 1: (F&C 61-1) Notice To All Fire And Casualty Insurance Companies

Rule 1.01: Fire and Casualty Companies; Requirement to Notify Commissioner

WHEREAS, under date if July 15, 1960, the Commissioner of Insurance requested all fire and casualty insurance companies to notify their agents that failure by an agent to remit premiums due a company when such premiums had been collected from an insured would subject such agent to a hearing for revocation of license under the provisions of Section 5723-04, Mississippi Code of 1942, Recompiled.

WHEREAS, it is evident that the situation which prompted such notice has not improved but rather has become more acute, and as a result the insurance buying public is being subjected to cancellation of insurance by companies in an effort to reduce balances owed by delinquent agents.

IT IS THE POSITION OF THE DEPARTMENT that any fire or casualty insurance company operating in Mississippi which fails to report to the Department the name of any agent whose account is habitually in arrears in violation of his agency contract shall be considered as aiding and abetting a possible insolvency.

IT IS, THEREFORE, ORDERED that any fire or casualty insurance company failing to so report an agency delinquency as above outlined, and resorting to cancellation of outstanding policies written through said agency for the purpose of reducing the agency balance, shall be subject to a hearing to show cause why the license of said company should not be revoked.

SO ORDERED THIS 15th DAY OF JUNE, 1961.

Source: <u>*Miss. Code Ann.*§§ 83-5-1 & 83-17-71 (Rev. 2011)</u>

Part 5 Chapter 2:**(**FR 68-1) Filing Regulations

Rule 2.01: General

A. The Mississippi Insurance Commission meets regularly on the 3rd Friday of each month for the purpose of carrying out their duties in the regulation of rates, rules, and forms for fire, casualty and inland marine insurance. Filings to be considered should contain all information as outlined below, and should be received in the offices of the Commission at least 14 days prior to the Commission Meeting and should be addressed as follows:

Robert G. Gibson, Director
Mississippi Insurance Commission
P O Box 2306

Jackson, Mississippi 39205

B. In submitting fire, casualty, and/or inland marine forms and rate filings, all insurers and rating organizations shall use the following procedure and all filings must be accompanied by a letter of transmittal, said letter in duplicate and containing the following:

1. The company name and complete mailing address to which correspondence shall be sent.

2. Complete the Mississippi Worksheet for all rate filings.

3. A "Re" or "Caption" briefly describing the context of the material filed.

4. A complete description and explanation of the changes made by the filing. (The mere fact that a similar filing may have been previously approved for another insurer or rating organization will not suffice as an adequate explanation of a filing.)

5. A statement to identify the form or manual page to be replaced by the filing including previous approval and effective date.

6. A detailed discussion of the basis upon which the filing is supported. Filingswhich propose a change in a presently filed rate level should be supplemented by an exhibit or exhibits, where available, showing the company's experience on a basis which supports the proposed change.

7. If statistical information is not available to fully support a filing, the company must give a complete explanation of the factors considered to justify the filing.

8. The proposed "rule of application" or "effective date" which would be used by the company if the filing were approved.

9. If a filing is identical with a filing made by a rating organization or independent filing company, it should be so indicated in the transmittal letter.

10. A statement signed by an authorized representative of the insurer who is familiar with the applicable laws and rules and regulations wherein it is certified that to the best of his knowledge, information and belief, the filings submitted are in compliance in all respects with the provisions of the insurance laws and rules and regulation of this state.

C. Forms Filings.

1. The filings of policy forms and endorsements made by a rating organization whose constitution, articles of association, by-laws or regulations grant control

over the forms to be used by its member and subscriber companies will be the filings of such companies; Provided, that each individual company shall also submit all basis policy forms or jackets to the Insurance Commission for approval.

2. Such filings of forms when made, and if not disapproved by The Mississippi Insurance Commission, will be adhered to by all members and subscribers of the rating organization making the filings, and any deviation by them from such accepted filings will be a violation.

3. Except as provided in (a) above, it will be the responsibility of each company so control its filings of forms as to promptly discontinue individual filings of those forms filed in their behalf by a rating organization, and to individually comply with the filing requirements for those forms not filed in their behalf by a rating organization.

4. A company newly taking membership or subscribership in a rating organization will be presumed to be issuing the forms of the rating organization from the effective date of membership or subscribership.

5. A company retiring from membership or subscribership in a rating organization will immediately on retirement meet filing requirements.

6. In order that forms and endorsements which follow the standard provisions filed by rating organizations can be readily recognized as a standard form, all such forms printed for use in Mississippi will bear a recognition designation corresponding to the designation given the standard form by the rating organization.

D. Rates – Classification, Fictitious Grouping**.**

1. No rate, rating plan or form for fire, inland marine, casualty or surety insurance covering risks in the state shall be unfairly discriminatory.

2. Insurers writing Mississippi risks shall not write fire, casualty, inland marine or surety coverages upon any firm corporation, individual or association of individuals at any preferred rate, coverage, or premium based on any fictitious grouping or classification of risks, and no insurer shall pay dividends or distribute profits to insureds belonging to any fictitious group or classification of risk, and no insureds belonging to any fictitious group or classification on a basis more favorable than would be the case if they were insured individually.

3. Any grouping of risks which is not in accord with the classification or grouping of risks recognized by an insurer's approved rate and policy form filings for individual risks and which does not possess the necessary homogeneous characteristics for group rating and classification, and has not been found to be in

compliance with the provisions of the Mississippi insurance code by the commissioner of insurance, shall be deemed to be a fictitious grouping.

E. Dividends, Participations.

All fire and casualty insurance contracts issued in Mississippi by a mutual insurer or reciprocal inter-insurance exchange and all participating fire and casualty insurance contracts issued in Mississippi by a capital stock insurer must contain a provision setting forth the fact that dividends may be paid on the policy: Provided; however, that no capital stock insurer shall issue participating policies in Mississippi unless:

1. It has authority in its charter or articles of incorporation to issue participating policies, or

2. The supreme court of its state of domicile has held that a domestic capital stock insurer has inherent authority to issue participating policies, or

3. The attorney general or chief legal official of its state of domicile has ruled that a domestic capital stock insurer has inherent authority to issue participating policies.

F. Individual Risk Rating Plans**.**

1. Each such plan must be filed with the commission for approval and must specify the kind of insurance, or subdivision or combination thereof, to which the plan applies.

2. Each such plan must establish standards which bear a relationship to the variation in hazard and/or expense to be measured.

3. Any such plan must be applied to all eligible risks, and must be applied by company representatives responsible for underwriting the risk(s) involved.

4. Each company utilizing such plans must obtain all information necessary to determine the proper application of such plans to any particular risk. Such supporting information shall be retained by the company and made available to the commissioner upon his request.

G. For the purpose of this regulation "individual risk rating plans" means those plans embodying one or more of the following types of premium modification:

1. Risk Modification- the application of judgment debits and credits to the individual rates otherwise applicable, based on the individual's risk's variations in hazard;

2. Expense Modification- the variation of the premium for an individual risk that corresponds to the variation in the expenses of such risk from the provision for expenses applicable to the entire class of risk;

3. Experience Modification (Excluding Retrospective Rating Plans)- a variation in the premium for an individual risk that corresponds to that risk's variation in past loss experience from the provision for losses applicable to that entire class of risk.

Source: *Miss. Code Ann.*§83-2-1, *et seq.*(Rev. 2011)

Rule 2.02: Fire and Allied Lines

The Mississippi Fire Rating Law requires that all stock fire insurance companies doing business in this state be members of the Mississippi State Rating Bureau. Non-stock companies may subscribe. Information relative to membership or subscribership should be obtained from Mr. C. B. Egger, Manager, Mississippi State Rating Bureau, P. O. Box 5231, Jackson, Mississippi. Non-stock companies, not electing to subscribe to the bureau, are required to file their rates and schedules with the Mississippi Insurance Commission for approval.

Source: *Miss. Code Ann.*§83-2-1, *et seq.*(Rev. 2011)

Rule 2.03: Casualty

The Mississippi Casualty Rating Law follows substantially the Commissioners' prior-approval-type bill and applies to all casualty lines including all forms of motor vehicle insurance except: "Re-insurance; title insurance, credit insurance; accident and health insurance; or insurance against risks or liability (other than workman's compensation and employers' liability) arising out of the ownership, maintenance, or use of aircraft."

A. Individual risk rating plans must comply with the following requirements:

1. Each such plan must be filed with the commission for approval and must specify the kind of insurance or subdivision or combination thereof, to which the plan applies.

2. Each such plan must establish standards which bear a relationship to the variation in hazard and/or expense to be measured.

3. Any such plan must be applied to all eligible risks, and must be applied by company representatives responsible for underwriting the risk(s) involved.

4. Each company utilizing such plans must obtain all information necessary to determine the proper application of such plans to any particular risk. Such supporting information shall be retained by the company and made available to the commission upon request.

B. Risks Declined in Normal Market.

When companies issuing casualty insurance in this state write a policy, the premium which results from the fact that the risk cannot contain such coverage in the normal market, the company should submit in duplicate a letter to the Mississippi Insurance Commission requesting approval and attach a signed statement from the insured using the following or wording of similar import:

1. I am unable to obtain (state kind) insurance at normal rates and hereby request the issuance of this policy at rates in excess of normal rates.

2. I have been unable to procure similar insurance at normal rates although my risk has been submitted to at least three (3) other insurance companies authorized to transact such business in Mississippi.

3. (In case of automobile liability insurance) I understand that liability limits sufficient to meet the financial responsibility requirements of the state may be available through the Mississippi Automobile Insurance Plan. (The foregoing statement is not applicable when the policy is issued through the Mississippi Automobile Insurance Plan.)

4. (In the case of workmen's compensation and employers' liability insurance) I understand that I may obtain normal limits of liability insurance through a workmen's compensation and employers' liability assigned risk plan. (The foregoing statement is not applicable when the policy is issued through a Workmen's Compensation and Employer's Liability Assigned Risk Plan.)

5. Each submission should contain limits desired for each coverage together with premium applicable to each.

6. A copy of the daily report should accompany the request.

C. Uninsured Motorist.

The General Acts of the Regular Legislative Session 1966 contain house Bill No. 121 which we call to your attention.

Source: *Miss. Code Ann.*§83-2-1, *et seq.*(Rev. 2011)

Rule 2.04: Inland Marine

A. Marine and /or transportation policies may cover under the following conditions:

1. Imports.

   Imports may be covered wherever the property may be and without restriction as to time, provided the coverage of the issuing companies includes hazards of transportation.

   An import, as a proper subject, of marine or transportation insurance, shall be deemed to maintain its character as such, so long as the property remains segregated in such a way that it can be identified and has not become incorporated and mixed with the general mass of property in the United States, and shall be deemed to have been completed when such property has been:

   a. sold and delivered by the importer, factor or consignee; or

   b. removed from place of storage and placed on sale as part of importer's stock in trade at a point of sale-distribution; or

   c. delivered for manufacture, processing or change in form to premises of the importer or of another used for any such purposes.

2. Exports.

   Exports may be covered wherever the property may be without restriction as to time, provided the coverage of the issuing companies includes hazards of transportation.

   An export, as a proper subject of marine or transportation insurance, shall be deemed to acquire its character as such when designated or while being prepared for export and retain that character unless diverted for domestic trade, and when so diverted, the provisions of this Ruling respecting domestic shipments shall apply, provided, however, that this provision shall not apply to long established methods of insuring certain commodities, e.g., cotton.

3. Domestic Shipments.

   a. Domestic shipments or consignment, [provided the coverage of the issuing companies includes hazards of transportation] for sale or distribution, exhibit, or trial, or approval or auction, while in transit, while in the custody of others and while being returned, provided that in no event shall the policy cover on premises owned, leased or operated by the consignor.

   b. Domestic shipments not on consignment, provided the coverage of the issuing companies includes hazards of transportation, beginning and ending within the United States, provided that such shipments shall not be covered at manufacturing premises nor after arrival at premises owned, leased or operated by Assured or purchaser.

4. Bridges, Tunnels and Other Instrumentalities of Transportation and Communication (excluding buildings, their improvements and betterments, furniture and furnishings, fixed contents and supplies held in storage.)

The foregoing includes:

a. Bridges, tunnels, other similar instrumentalities, including auxiliary facilities and equipment attendant thereto.

b. Piers, wharves, docks, slips, dry docks and marine railways.

c. Pipelines, including on-line propulsion, regulating and other equipment appurtenant to such pipelines, but excluding all property at manufacturing, producing, refining, converting, treating or conditioning plants.

d. Power transmission and Telephone and Telegraph lines, excluding all property at generating, converting or transforming stations, substations and exchanges.

e. Radio and Television Communication Equipment in use as such including towersand antennae with auxiliary equipment, and appurtenant electrical operating and control apparatus.

f. Outdoor cranes, loading bridges and similar equipment used to load, unload and transport.

5. Personal Property Floater Risks covering individuals and/or generally.

a. Personal Effects Floater Policies.

b. The Personal Property Floater.

c. Government Service Floaters.

d. Personal Fur Floaters.

e. Personal Jewelry Floaters.

f. Wedding Present Floaters for not exceeding 90 (ninety) days after the day of the wedding.

g. Silverware Floaters.

h. Fine Arts Floaters covering paintings, etchings, pictures, tapestries, art glass windows, and other bona fide works of art of rarity, historical value or artistic merit.

i. Stamp and Coin Floaters.

j. Musical Instrument Floaters. Radios, televisions, record players and combinations thereof are not deemed musical instruments.

k. Mobile Articles, Machinery and Equipment Floaters (excluding motor vehicles designed for highway use and auto homes, trailers and semi-trailers except when hauled by tractors not designed for highway use)covering identified property of a mobile or floating nature pertaining to or usual to a household. Such policies shall not cover furniture and fixtures not customarily used away from premises where such property is usually kept.

l. Installment Sales and Leased Property Policies covering property pertaining to a household and sold under conditional contract of sale, partial payment contract or installment sales contract or leased, but excluding motor vehicles designed for highway use. Such policies must cover in transit but shall not extend beyond the termination of the seller's or lessor's interest.

m. Live Animal Floaters.

6. Commercial Property Floater Risks covering property pertaining to a business, profession or occupation.

a. Radium Floaters.

b. Physicians' and Surgeons' Instrument Floaters. Such policies may include coverage of such furniture, fixtures and tenant Assured's interest in such improvements and betterments of buildings as are located in that portion of the premises occupied by the Assured in the practice of his profession.

c. Pattern and Die Floaters.

d. Theatrical Floaters, excluding buildings and their improvements and betterments, and furniture and fixtures that do not travel about with theatrical troupes.

e. Film Floaters, including builders' risk during the production and coverage on completed negatives and positives and sound records.

f. Salesmen's Samples Floaters.

g. Exhibition Policies on property while on exhibition and in transit to or from such exhibitions.

h. Live Animal Floaters.

i. Builders' Risk and/or Installation Risks covering interest of owner, seller or contractor, against loss or damage to machinery, equipment, building materials or supplies, being used with and during the course of installation, testing, building, renovating or repairing. Such policies may cover at points or places where work is being performed, while in transit and during temporary storage or deposit, of property designated for and awaiting specific installation, building, renovating or repairing.

   Such coverage shall be limited to Builders' Risks or Installation Risks where Perils in addition to Fire and Extended Coverage are to be insured.

   If written for account of owner, the coverage shall cease upon completion and acceptance thereof; or if written for account of a seller or contractor the coverage shall terminate when the interest of the seller or contractor ceases.

j. Mobile Articles, Machinery and Equipment Floaters (excluding motor vehicles designed for highway use and auto homes, trailers and semi-trailers except when hauled by tractors not designed for highway use and snow plows constructed exclusively for highway use), covering identified property of a mobile or floating nature, not on sale or consignment, or in course of manufacture, which has come into custody or control of parties who intend to use such property for the purpose for which it was manufactured or created. Such policies shall not cover furniture and fixtures not customarily used away from premises where such property is usually kept.

k. Property in transit to or from and in the custody of bailees (not owned, controlled or operated by the bailor). Such policies shall not cover bailee's property at his premises.

l. Installment Sales and Leased Property. Policies covering property sold under conditional contract of swale, partial payment contract, installment sales contract, or leased but excluding motor vehicles designed for highway use. Such policies must cover in transit but shall not extend beyond the termination of the seller's or lessor's interest. This section is not intended to include machinery and equipment under certain "lease-back" contracts.

m. Garment Contractors Floaters.

n. Furriers or Fur Storers Customer's Policies (i.e., policies under which certificates or receipts are issued by furriers or fur storers) covering specified articles the property of customers.

o. Accounts Receivable Policies, Valuable Papers and Records Policies.

p. Floor Plan Policies, covering property for sale while in possession of dealers under a Floor Plan or any similar plan under which the dealer borrows money from a bank or lending institution with which to pay the manufacturer, provided:

   i. Such merchandise is specifically identifiable as encumbered to the bank or lending institution.

   ii. The dealer's right to sell or otherwise dispose of such merchandise is conditioned upon its being released from encumbrance by the bank or lending institution.

   iii. That such policies cover in transit and do not extend beyond the termination of the dealer's interest.

Provided that such policies shall not cover automobiles or motor vehicles; merchandise for which the dealer's collateral is the stock or inventory as distinguished from merchandise specifically identifiable as encumbered to the lending institution.

q. Sign and Street Clock Policies, including neon signs, automatic or mechanical signs, street clocks, while in use as such.

r. Fine Arts Policies covering paintings, etchings, pictures, tapestries, art glass windows, and other bona fide works of art of rarity, historical value or artistic merit, for account of museums, galleries, universities, businesses, municipalities and other similar interests.

s. Policies covering personal property which, when sold to the ultimate purchaser, may be covered specifically, by the owner, under Inland marine Policies including:

   i. Musical Instrument Dealers Policies, covering property consisting principally of musical instruments and their accessories. Radios, televisions, record players and combinations thereof are not deemed musical instruments.

   ii. Camera Dealers Policies, covering property consisting principally of cameras and their accessories.

   iii. Furrier's Dealers Policies, covering property consisting principally of furs and fur garments.

   iv. Equipment Dealers Policies, covering mobile equipment consisting of binders, reapers, tractors, harvesters, harrows, tedders and other similar agricultural equipment and accessories therefor; construction

equipment consisting of bulldozers, road scrapers, tractors, compressors, pneumatic tools and similar equipment and accessories therefor; but excluding motor vehicles designed for

v. Stamp and Coin Dealers covering property of philatelic and numismatic nature.

vi. Jewelers' Block Policies.

vii. Fine Arts Dealers.

Such policies may include coverage of money in locked safes or vaults on the Assured's premises. Such policies also may include coverage of furniture, fixtures, tools, machinery, patterns, molds, dies and tenant insureds interest in improvements of buildings.

t. Wool Growers Floaters.

u. Domestic Bulk Liquids Policies, covering tanks and domestic bulk liquids stored therein.

v. Differences in Conditions Coverage excluding fire and extended coverage perils.

w. Electronic Data Processing Policies.

B. Unless otherwise permitted, nothing in the foregoing shall be construed to permit MARINEOR TRANSPORTATION POLICIES TO COVER:

1. Storage of Assured's, merchandise, except as hereinbefore provided.

2. Merchandise in course of manufacture, the property of and on the premises of the manufacturer.

3. Furniture and fixtures and improvements and betterments to buildings.

4. Monies and/or securities in safes, vaults, safety deposit vaults, bank or Assured's premises, except while in the course of transportation.

Source: *Miss. Code Ann.*§§83-2-1, *et seq.*(Rev. 2011); 83-5-1, 83-19-1 (Rev. 2011)

Rule 2.05: Reference Filing

For Casualty lines only, companies who are not members of a licensed rating organization may become "Reference Filers" in Mississippi. Forms to accomplish this will be submitted to licensed companies requesting same and contain the following language.

A. Reference Filing Procedure.

The Mississippi Insurance Commission has in effect a Reference Filing Agreement applicable to licensed casualty insurance companies who have no casualty rating bureau affiliation. The purpose of this system is to facilitate action on independent filings and eliminate the unnecessary duplications involved in filing complete bureau manuals with the exception pages for each company.

Any casualty company licensed to do business in Mississippi may make independent filings provided such company is not affiliated with a licensed rating bureau for those coverages.

It is the intent of this office to eliminate the necessity for filing manuals and revisions by soliciting your cooperation, which we believe will expedite the required action upon any filing made to this office.

This system will require the independent filer to notify this office that they are a manual subscriber to a particular rating bureau and will follow the standard manual and subsequent revisions as of the published effective date unless otherwise noted.

Any exception page must be filed as previously required in color and identifiable with the manual rule. Such pages should also be submitted in duplicate.

Rate deviations (variations from manual rates) must be supported as required by law.

This is not a mandatory requirement. If a company wishes to comply with this system, it must do so voluntarily. For that reason, we are attaching an agreement to be completed and returned to this office.

Full Company Name _____

REFERENCE FILING AGREEMENT

The undersigned is a purchaser of the manual service of the Bureau(s) checked below and agrees to accept, by reference, all filings and future revisions of all manuals filed by said Bureau and approved for use in the State of Mississippi. All changes are to become effective for the undersigned simultaneously with the Bureau filing. Nothing herein contained shall effect or abridge the right of the undersigned to file variations to any rates or rules contained in the Bureau manuals.

This agreement shall be effective as of the date it is approved by the Mississippi Insurance Commission and shall remain in full force until either withdrawn by the undersigned or ordered rescinded by the Mississippi Insurance Commission.

_____ Insurance Rating Board

_____ Mutual Insurance Rating Bureau
_____ Surety Association of America

Company _____
By _____
Title _____
Date _____

Source: *Miss. Code Ann.*§83-2-1, *et seq.*(Rev. 2011)

Rule 2.06: Deviations

A. Fire.

1. Members or Subscribers of the Mississippi State Rating Bureau desiring to deviate from approved rates of the said bureau may have their request considered by completing in detail the forms furnished by the Commission with carbon copy to the Bureau.

2. Deviations are approved for one year or less and expire annually on May 31. Forms for renewal are automatically mailed to each company in March.

B. Casualty.

1. Companies desiring to deviate from approved rates of casualty bureaus to which they are members or subscribers may have their request considered by completing in detail forms furnished by the Commission.

2. Deviations are approved for one year or less and expire annually on October 31. Forms for renewal are automatically mailed to each company in July.

Source: *Miss. Code Ann.*§ 83-2-1, *et seq.*(Rev. 2011)

Rule 2.07: House Bill No. 121-

An Act to provide that no automobile liability insurance policy shall be issued unless coverage is provided therein for the protection of the insured against loss caused by an uninsured vehicle; to provide the procedure connected therewith; and for related purposes.

Be it enacted by the legislature of the State of Mississippi.

A. No automobile liability insurance policy or contract shall be issued or delivered after January 1, 1967, unless it contains an endorsement or provisions undertaking to pay the insured all sums which he shall be legally entitled to recover as damages for bodily injury or death from the owner or operator of an uninsured motor vehicle, within limits which shall be no less than those set forth in the Mississippi Motor Vehicle Safety

Responsibility Act, as amended, under provisions approved by the commissioner of Insurance; *however, at the option of the insured, the uninsured motorist limits may be increased to limits not to exceed those provided in the policy of bodily injury liability insurance of the insured or such lesser limits as the insured elects to carryover the minimum requirement set forth by this section*.[1]The coverage required herein shall not be applicable where any insured named in the policy shall reject the coverage in writing and provided further, that, unless the named insured requests such coverage in writing, such coverage need not be provided in any renewal policy where the named insured has rejected the coverage in connection with a policy previously issued to him by the same insurer.

B. As used herein:

1. the term "bodily injury" shall include death resulting here from;

2. the term "insured" means the named insured and, while resident of the same household, the spouse of any such named insured, and relatives of either, while in a motor vehicle or otherwise, and any person who uses, with the consent, expressed or implied, of the named insured, the motor vehicle to which the policy applies, and a guest in such motor vehicle to which the policy applies, or the personal representative of any of any of the above; and

3. the term "uninsured motor vehicle' means a motor vehicle as to which there is:

    a. no bodily injury liability insurance or bodily injury liability insurance with limits less than the amounts specified in Section 1, but it will be considered uninsured only for that amount between the limit carried and the limit required in Section 1;

    b. there is such insurance in existence but the insurance company writing the same has legally denied coverage thereunder, or is unable, because of being insolvent at the time of, or becoming insolvent during the twelve (12) months following the accident, to make payment with respect to the legal liability of is insured within the limits specified in said Section 1; or

    c. there is no bond or deposit of cash or securities in lieu of such bodily injury and property damage liability insurance or other compliance with the State Financial Responsibility Law.

Provided, however, no vehicle shall be considered uninsured that is owned by the United States Government and against which a claim may be made under the Federal

[1]An Act to amend Section 83-11-101, Mississippi Code of 1972, to provide that uninsured motorist coverage limits may be increased, at the option of the insured, to equal the limits of bodily injury liability of the insured; and for related purposes. This act shall take effect and be in force from and after July 1, 1974.

Tort Claims Act as amended. A motor vehicle shall be deemed to be uninsured if the owner or operator thereof be unknown; provided, that in order for the insured to recover under the endorsement where the owner or operator of any motor vehicle which causes bodily injury to the insured is unknown, actual physical contact must have occurred between the motor vehicle owned or operated by such unknown person and the person or property of the insured.

4. The definition of the term "insured" given in this paragraph shall apply only to the uninsured motorist portion of the policy.

C. In the event the owner or operator of the uninsured vehicle causing injury or death is know and action is brought against said owner or operator by the named insured as defined by said policy, then a copy of the process served upon the owner or operator shall also be served by the circuit clerk mailing, registered mail, a copy of the process to the insurance company issuing the policy providing the uninsured motorist coverage as prescribed by law.

   If the owner or operator of any motor vehicle which causes bodily injury to the insured be unknown, the insured, or someone on his behalf, or in the event of a death claim, someone on behalf of the party having such claim, in order for the insured to recover under the endorsement, shall report the accident as required by Section 8285-04, Mississippi Code of 1942, Recompiled.

D. An insurer paying a claim under the endorsement or provisions required by Section 1 shall be subrogated to the rights of the insured to whom such claim was paid against the person causing such injury, death or damage, to the extent that payment was made; including the proceeds recoverable from the assets of the insolvent insurer; provided, that the bringing of an action against the unknown owner or operator or the conclusion of such an action, shall not constitute a bar to the insured, if the identity of the owner or operator who caused the injury or damages complained of becomes known, provided, that in any action brought against such owner or operator, the insurance company that has previously made payment as a result of the policyholder's claim against such owner or operator shall be mailed a copy of the summons issued for the defendant or defendants, and that any recovery against such owner or operator shall be paid to the insurance company to the extent that such insurance company paid the named insured in the action brought against such owner or operator, except that such insurance company shall pay its proportionate part of any reasonable costs and expense incurred in connection therewith, including reasonable attorney's fees.

E. No such endorsement or provisions shall contain a provision requiring arbitration of any claim arising under any such endorsement or provisions. The insured shall not be restricted or prevented in any manner from employing legal counsel or instituting legal proceedings, but the insured may be required to establish legal liability of the uninsured owner or operator.

F. Any policy which grants the coverage required for motor vehicle liability insurance may also grant any lawful coverage in excess of, or in addition to, the coverage specified for a motor vehicle liability policy, and the excess or additional coverage shall not be subject to the provisions of this act. With respect to a policy which grants this excess or additional coverage, the term "motor vehicle liability policy" as used herein shall apply only to that part of the coverage which is required by this act.

Any binder issued pending the issuance of a motor vehicle liability policy shall be considered as fulfilling the requirements for such policy.

Section 7.This act shall take effect and be in force from and after its passage.

Approved: May 18, 1966

Source: *Miss. Code Ann.*§ 83-11-101 (Rev. 2011)

Part 5 Chapter 3: (2006-2) Insurers to Inform Policyholders of Flood and Earthquake Exclusions in Homeowners and/or Windstorm Residential Policies.

Rule 3.01: Purpose

The purpose of this Regulation is to set forth a requirement that all property and casualty insurers who sell personal lines residential property insurance coverage ("homeowners") and/or residential windstorm property coverage ("windstorm") shall provide written notice to the policyholder at the time of issuance of the policy and thereafter at each renewal of any flood exclusion and/or earthquake exclusion in the homeowners and/or windstorm residential insurance policy, and to further provide notice of such exclusions directly within the Declarations Page(s) of each policy.

Source: *Miss. Code Ann.*§§ 83-5-1; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.02: Authority

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority granted to him by Miss. Code Ann. §§ 83-5-1; 83-5-29 through 83-5-51, as well as the provisions of Mississippi Department of Insurance Regulation No. 88-101, said regulation being the Rules of Practice and Procedure before the Mississippi Insurance Department.

Source: *Miss. Code Ann.*§§ 83-5-1; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.03: Scope

This Regulation shall apply to all insurers selling homeowners and/or windstorm residential property coverage insurance policies in the State of Mississippi.

Source: *Miss. Code Ann.*§§ 83-5-1; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.04: Definitions

A. "Insurer" means those companies subject to the jurisdiction of the Department as provided in Miss. Code Ann. § 83-5-1 (Rev. 1999), and which provide personal residential property insurance coverage in the State of Mississippi. The term insurer shall include eligible non-admitted insurers/surplus lines insurers doing business in Mississippi pursuant to Miss. Code Ann. § 83-21-17, et seq. (Rev. 1999), the Mississippi Windstorm Underwriting Association (MWUA), and the Mississippi Residential Property Insurance Underwriting Association (MRPIUA).

B. "Homeowners coverage" means any personal lines residential property insurance coverage including any homeowner, dwelling, mobile home, tenant or condominium unit owner form of coverage. For the purposes of this Regulation, this shall include mobile home/ manufactured housing property coverage.

C. "Windstorm coverage" means any personal lines residential property insurance coverage which provides insurance coverage for any loss due to a windstorm, hurricane or hail.

Source: *Miss. Code Ann.*§§ 83-5-1; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.05: Requirements

A. An insurer shall, after January 1, 2007, provide at the time of issuance and thereafter at each time of renewal a notice that provides a statement that said policy contains a flood and/or earthquake exclusion. The notice shall be provided to the policyholder along with the insurance policy at the time of issuance of the policy, and thereafter shall be sent by first class mail at each time of renewal to the address of the policyholder as indicated by the records of the insurer. The notice should contain at a minimum the following language in 10-point print:

1. Flood Exclusion:

   Your policy excludes coverage for damage caused by flooding of all types. This exclusion may exclude any and all damages resulting from storm surge from a hurricane, surface water, flash floods, waves, tidal water, tidal waves, wind driven rain or water, or any other overflow of water, and spray from any of these events. For further details, please see the language of your policy. The language of your policy will control the obligations of the parties.

2. You are further advised that to be covered for such a loss, you will have to obtain a separate flood insurance policy through the National Flood Insurance Program (NFIP). Your insurance agent or company representative can provide you with information regarding obtaining flood insurance from the NFIP and whether it is available in your location. The NFIP can provide both structure and contents coverage.

3. Earthquake Exclusion: (if applicable)

   Your policy excludes coverage for any damages caused or precipitated by an earthquake or earth movement. This exclusion generally excludes all damages caused or in any way resulting from an earthquake, earth movements, tremors and aftershocks, and also excludes earth movement, land shock waves, aftershocks or tremors before, during or after a volcanic eruption. For further details, please see the language of your policy. The language of the policy will control the obligations of the parties.

   You are further advised that to be covered for such a loss, you will have to obtain a separate earthquake endorsement or special earthquake policy. Not all insurance companies provide earthquake coverage. Your insurance agent or company representative can provide you with information on coverage for damage due to an earthquake.

B. Each insurer that writes homeowners and/or windstorm coverage in the State of Mississippi shall, by September 1, 2006, send a copy of the appropriate notice required in Section 5(A) to their residential policyholders in this State informing them of any exclusion contained within their policy.

C. Furthermore, each insurer that writes homeowners and/or windstorm coverage in the State of Mississippi shall provide a copy of the appropriate notice required in Section 5(A) at the time of the issuance of the policy to the policyholder of any new residential policy written in this state between September 1, 2006, and December 31, 2006, informing them of any exclusion contained within their policy.

Source: *Miss. Code Ann.*§§ 83-5-1; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.06: Notice of Exclusion to be Stated on Declarations Page

No later than January 1, 2007, each insurer shall clearly provide within the main Declarations Page(s) of each policy, or attached to the Declarations Page(s), a statement in 10-point print that informs the policyholder that the policy contains a flood and/or earthquake exclusion. The statement should include one or both of the following statements, whichever is applicable:

"This policy contains a flood exclusion. Flood coverage may be purchased separately from the National Flood Insurance Program, if available in your area."

"This policy contains an earthquake exclusion. Contact your agent for information concerning the availability of earthquake coverage."

Source: *Miss. Code Ann.*§§ 83-5-1; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.07: Violations and Penalties

Failure of an insurer writing homeowners and/or windstorm coverage in this State to comply with a material provision of this regulation shall be considered a violation of Miss. Code Ann. § 83-5-17 and §§ 83-5-29 through 83-5-51 (Rev. 1999), but does not change the coverage selected and paid for by the policyholder and does not in any way operate to expand coverage beyond the terms of the insurance policy. Violation of said statutes may subject the insurer to the suspension or revocation of the insurer's Certificate of Authority, the imposition of an administrative fine, or both.

Source: *Miss. Code Ann.*§§ 83-5-1; 83-5-17; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.08: Limitation of Regulation

Nothing stated or required in this Regulation is intended to change any insurance coverage selected and paid for by the policyholder and does not in any way operate to expand coverage beyond the terms of the insurance policy.

Source: *Miss. Code Ann.*§§ 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.09: Severability

If any section or portion of a section of this Regulation or the application thereof is held by a court to be invalid, such invalidity shall not affect any other provision of that section or application of the Regulation which can be given effect without the invalid provision or application, and to this end the provisions of the Regulation are declared to be severable.

Source: *Miss. Code Ann.*§83-5-1 (Rev. 2011)

Rule 3.10: Effective Date

The effective date of this Regulation shall be thirty (30) days after filing with the Secretary of State's Office.

Source: *Miss. Code Ann.*§25-43-3.113 (Rev 2010)

Part 5 Chapter 4: (2007-2) Mississippi worker's compensation assigned risk plan and the Mississippi workers' compensation assigned risk pool.

Rule 4.01: General Provisions

4.01.1: Purpose

The purpose of this Regulation is to promulgate and adopt clear and comprehensive rules governing the establishment and operation of the Mississippi Workers' Compensation Assigned Risk Plan ("Plan") and the Mississippi Workers' Compensation Assigned Risk Pool ("Pool").

Source: *Miss. Code Ann.*§71-3-1, *et seq* and §71-3-111 (Rev. 2011)

4.01.2: Authority

This Regulation is adopted pursuant to the authority granted by Section 71-3-111, Mississippi Code Annotated (Supp. 2006), as well as the provisions of Mississippi Department of Insurance Regulation No. 88-101, said Regulation being the Rules of Practice and Procedure before the Mississippi Department of Insurance.

Source: *Miss. Code Ann.*§71-3-1, *et seq* and §71-3-111 (Rev. 2011)

4.01.3: Scope

This Regulation shall apply to all insurance companies licensed to write workers' compensation insurance in Mississippi.

Source: *Miss. Code Ann.*§71-3-1, *et seq* and §71-3-111 (Rev. 2011)

4.01.4: Definitions

For purposes of this Regulation, the terms hereinafter set forth are defined as follows:

A. "Advisory Board" or “Board" shall mean the Advisory Board of the Pool.

B. "Plan" shall mean the Mississippi Workers' Compensation Assigned Risk Plan as provided for under Section 71-3-111, Mississippi Code Annotated (Supp. 2006).

C. "Pool" shall mean the Mississippi Workers' Compensation Assigned Risk Pool as provided for under Section 71-3-111, Mississippi Code Annotated (Supp. 2006).

D. "Plan Administrator" shall mean such organization as is designated by the Commissioner of Insurance for the State of Mississippi to administer the affairs of the Plan.

E. "Pool Administrator" shall mean such organization as is designated by the Commissioner of Insurance for the State of Mississippi to administer the affairs of the Pool.

F. "Commissioner" and/or "Regulator" shall mean the Commissioner of Insurance for the State of Mississippi, or his designee.

G. "Servicing Carrier" shall mean those insurance companies licensed and writing workers' compensation insurance within Mississippi, which have been appointed by the Commissioner to provide coverage to employers who have applied for workers' compensation insurance pursuant to the Plan.

H. "Residual Market" and "Residual Market Mechanism" shall mean the Plan and the Pool, collectively.

I. "Member" shall mean an insurance company licensed to write workers' compensation insurance under Chapter 3 of Title 71 of the Mississippi Code of 1972, as amended, each of which is required to be a member of and participant in the Pool.

Source: *Miss. Code Ann.*§71-3-1, *et seq* and §71-3-111 (Rev. 2011)

4.01.5: Other Applicable Laws and Rules

The operation of the Residual Market shall be subject to the following provisions in addition to the statute referred herein and the rules contained herein:

A. Chapter 3 of Title 71 of the Code of Mississippi (1972), as amended, codified as Section 71-3-1, et. seq.;

B. Rules of the Mississippi Workers' Compensation Commission;

C. The requirements and standards provided for in the Workers' Compensation and Employers' Liability Manuals as approved for use in Mississippi by the Commissioner, or as approved for use by members of a licensed data service organization, which manuals may include, but are not limited to, the following:

1. The Basic Manual for Workers' Compensation and Employers' Liability Insurance;

2. The Workers' Compensation Statistical Plan Manual;

3. The Experience Rating Plan Manual for Workers' Compensation and Employers' Liability Insurance;

4. The classification codes for workers' compensation and employers' liability insurance;

5. The approved workers' compensation and employers' liability insurance policy and endorsement forms; and,

6. Such other manual(s) as designated for use by the Commissioner.

Source: *Miss. Code Ann.*§71-3-1, *et seq* and §71-3-111 (Rev. 2011)

4.01.6: Coverage

The following coverages shall be available through the Residual Market:

A. Statutory workers' compensation and occupational disease including liability under the Long shore and Harbor Workers' Compensation Act, as amended, and the Federal Coal Mine Health and Safety Act of 1969, as amended;

B. Employers liability insurance written in connection with a workers' compensation policy; and,

C. Such other coverages as are determined by the Plan Administrator and approved by the Commissioner.

Source: *Miss. Code Ann.*§71-3-1, *et seq* and §71-3-111 (Rev. 2011)

Rule 4.02: Purposes

4.02.1: Purpose of Plan

The purpose of the Plan is to provide for the assignment of risks which in good faith are entitled to insurance under Chapter 3 of Title 71 of the Code of Mississippi (1972), as amended, but which, because of unusual conditions and circumstances, are unable to obtain such insurance.

Source: *Miss. Code Ann* §71-3-111 (Rev. 2011)

4.02.2: Purpose of the Pool

The Pool is a non-profit, unincorporated association of Member companies, the purpose of which is to provide reinsurance for all workers' compensation Residual Market policies and to accomplish the equitable distribution of all underwriting profit or loss of the Residual Market policies to the Members.

Source: *Miss. Code Ann.*§71-3-111 (Rev. 2011)

Rule 4.03: Administration And Operation Of The Plan

4.03.1: Director

The Commissioner shall serve as the Director of the Plan.

Miss. Code Ann §71-3-111 (Rev. 2011)

4.03.2: Administration

The Commissioner shall be responsible for the administration of the Plan, but he may designate an administrator for the Plan at his discretion.

Miss. Code Ann §71-3-111 (Rev. 2011)

4.03.3: Operation

The Plan shall be operated in accordance with the Mississippi Workers' Compensation Assigned Risk Plan rules then in effect as approved by the Commissioner and published in the Basic Manual for Workers' Compensation and Employers Liability Insurance as RULE 4 - WORKERS COMPENSATION INSURANCE PLAN RULES, including Mississippi Exceptions ("WCIP Rules"), as may be revised or amended. The WCIP Rules effective with the Regulation are annexed hereto as Appendix "A".

Source: *Miss. Code Ann.* §71-3-111 (Rev. 2011)

RULE 4.04: Administration and Operation of the Pool

4.04.1: Director

The Commissioner shall serve as the Director of the Pool.

Miss. Code Ann §71-3-111 (Rev. 2011)

4.04.2: Members and Participants

All insurance companies licensed to write workers' compensation insurance under Chapter 3 of Title 71 of the Mississippi Code of 1972, as amended, shall be members of and participants in the Pool.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.04.3: Administration

The Commissioner shall be responsible for the administration of the Pool, but may designate an administrator of the Pool at his discretion.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.04.4: Operation

The Poll shall be operated in accordance with the Governing Articles of the Mississippi Workers' Compensation Assigned Risk Pool then in affect as approved by the Commissioner ("Governing Articles"), the same may be revised or amended. The Governing Articles effective with the Regulation are annexed hereto as Appendix "B".

Source: *Miss. Code Ann.*§71-3-111 (Rev. 2011)

Rule 4.05: Other Provisions And Effective Date

4.05.1: Severability

If any section, or portion of a section, or attachment of this Regulation or the application thereof is held by a court to be invalid, such invalidity shall not affect any other provision of that section or application of the Regulation which can be given effect without the invalid provision or application, and to this end the provisions of the Regulation and attachments are declared to be severable.

Miss. Code Ann. §83-5-1 (Rev. 2011)

4.05.2: Repeal of Regulation 96-101 and Regulation 96-102

Upon adoption of Regulation 2007-2, Regulation 96-101, as amended, and Regulation 96-102 shall be repealed.

Miss. Code Ann. §25-43-3.113 (Rev. 2010)

4.05.3: Effective Date

The Effective Date of this Regulation shall be thirty (30) days after filing with the Secretary of State.

Source: *Miss. Code Ann.*§25-43-3.113 (Rev. 2010) and *Miss. Code Ann.*§83-5-1 (Rev. 2011)

Rule 4.06: Mississippi Worker's Compensation Assigned Risk Plan

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f. Bona Fide Premium Dispute

A bona fide premium dispute for a workers compensation insurance premium obligation exists when the employer or its representative has provided:

(1) Written notice to the Plan Administrator that includes:

- All documentation relevant to the dispute, including written notice to the insurer or the assigned carrier detailing the specific areas of dispute
- Description of the attempts to reconcile the differences with the insurer
- A specific request for a review of all documentation, appropriate action to resolve the areas of dispute, and if necessary, a hearing before the appropriate administrative or regulatory body having jurisdiction over assigned risk related appeals

(2) An estimate of the premium the employer believes to be correct, with an explanation of the premium calculation

(3) Verification of payment of the undisputed portion of the premium provided to the assigned carrier or insurer, and the Plan Administrator.

If the premium in dispute is in litigation, documentation must be provided to the Plan Administrator.

The Plan Administrator will notify the assigned carrier when a bona fide premium dispute is confirmed. Upon notification, the assigned carrier will act according to the Plan Administrator's direction pending the resolution of the dispute, which may include:

- Suspend collection activity
- Suspend cancellation if a dispute exists prior to the effective date of cancellation
- For policies already cancelled, refer to ***Basic Manual*** Rule 4-A-4-a(4)

g. Commissioner

The Commissioner of Insurance for the State of Mississippi.

h. Common Managing (or Management) Interest

Where referred to a policyholder or applicant within the Plan, "common managing (or management) interest" exists when one or more individuals are or were owners or officers of, or perform management functions for, two or more entities, or for a succession of entities.

i. Employer

Any business organization or enterprise that is required or permitted under Chapter 3 of Title 71 of the Mississippi Code of 1972, As Amended, to maintain workers compensation insurance in the State of Mississippi, including any business organizations or enterprises that are or were affiliated at any time as a result of common management or common ownership.

j. Governing State

The state that generates the largest amount of payroll.

k. Insured

The assigned risk employer designated in the Information Page of the policy or policies issued by an assigned carrier pursuant to this Plan.

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l. Mississippi Workers' Compensation Assigned Risk Pool or Pool

Established pursuant to Section 71-3-111, Mississippi Code of 1972, As Amended, to be the reinsurance mechanism for workers compensation insurance policies issued by Servicing Carriers under this Plan.

m. National Council on Compensation Insurance, Inc. or NCCI

The rating/advisory organization and/or statistical agent licensed in this state to make and file rates, loss costs, rating values, classifications, and rating plans for workers compensation insurance.

n. Net Premiums Written

The gross direct premiums charged less all premiums (except dividends and savings refunded under participating policies) returned to insureds for all workers compensation and occupational disease insurance, exclusive of premiums for:

(1) Employers subject to this Plan

(2) Employers written under the National Defense Projects Rating Plan, and

(3) Under excess policies

o. Payment Methods—Initial or Deposit Premium

The payment methods currently approved by the Plan Administrator for the total required initial or deposit premium on application submissions are:

- Electronic Funds Transfer (EFT)
- Credit Card
- Check

The initial or deposit premium can be submitted by either the employer or their representative.

If an application is submitted via overnight delivery service or U.S. mail, the estimated annual or initial deposit premium must accompany the application.

p. Plan Administrator

The organization designated to administer the affairs of this Plan as approved by the regulatory authority in this state.

q. Producer

A licensed insurance agent, broker, producer, or insurance representative, as defined in Section 73-17-1 et. seq., Mississippi Code of 1972, As Amended, whose privileges under this Plan have not been suspended or revoked, designated by the employer or applicant applying under this Plan to secure and maintain workers compensation and employers liability insurance on behalf of the employer. For purposes of this Plan, the producer is considered to be acting on behalf of the insured or employer applying for coverage under this Plan and not as an agent of the Plan Administrator or of any assigned carrier for this Plan.

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r. Reasonable Offer of Voluntary Coverage

Any offer for voluntary coverage where the total estimated annual premium is less than or equal to the assigned risk total estimated annual premium including any applicable assigned risk surcharges and/or pricing programs for all comparable coverages.

Subject to the Plan Administrator's discretion and without limitation, the following are not considered a reasonable offer of voluntary coverage:

- Offer does not provide all of the required coverage (i.e., carrier cannot provide federal coverage or limits of liability)
- A deductible or deposit that is a financial burden to the employer as determined by the producer and/or employer
- Carrier's A.M. Best financial rating status is below that required by the producer and/or employer

s. Reasonable Rating Plan

Any rating program approved by the Commissioner for use in Mississippi.

t. Regulatory Authority

The Commissioner or his duly appointed designee.

u. Residual Market

State insurance plans that provide employers unable to secure coverage in the voluntary market with a means for insuring their operations through a designated insurance carrier. The residual market is also known as the "involuntary market," "assigned risk market," or "market of last resort."

v. Servicing Carrier

An insurer appointed by the Commissioner to receive assignments and provide coverage to eligible employers pursuant to this Plan. A servicing carrier may also be referred to as an assigned carrier.

w. State

Any state of the United States of America, and the District of Columbia.

x. Undisputed Premium

A workers compensation insurance premium obligation that is not a bona fide premium dispute as defined in Rule 4-A-2-f.

y. Workers Compensation Insurance

(1) Insurance for liability under statutory workers compensation and occupational disease liability insurance including insurance for liability under the Longshore and Harbor Workers' Compensation Act, as amended, and the Federal Coal Mine Health and Safety Act of 1969, as amended

(2) Employers liability insurance written in connection with a workers compensation insurance policy

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(3) Such other coverages as determined by the Plan Administrator and approved by the Regulatory authority

z. Workers Compensation Insurance Plan (WCIP or Plan)

For purposes of this Plan Workers Compensation Insurance Plan (WCIP) or Plan means the Mississippi Workers' Compensation Assigned Risk Plan (Plan).

3. Eligibility and Assignment

a. Purpose

The following rules will govern the insuring of employers who are *in good faith entitled to workers compensation insurance* as defined herein, but who are unable to procure such insurance in a regular manner.

For purposes of this Plan, the offer of any reasonable rating plan approved by the regulatory authority is deemed an offer of insurance in a regular manner. Any dispute arising from the application or interpretation of this Plan is subject to the dispute resolution procedure provided in Rule 4-A-10.

b. Good Faith Rules of Eligibility

Good faith will be presumed in the absence of clear and convincing evidence to the contrary. An employer is not in good faith entitled to insurance if any of the following circumstances exist at the time of application or thereafter, or other evidence exists that such employer is not in good faith entitled to insurance:

(1) A self-insured employer knows or is aware of pending bankruptcy proceedings, insolvency, cessation of operations, or conditions that would probably result in occupational disease or cumulative injury claims from exposure incurred while the employer was self-insured.

(2) The employer:

- Knowingly refuses to meet reasonable health, safety, premium audit, or loss prevention requirements
- Does not allow any insurer or assigned carrier reasonable access to its records for audit or inspection under the policy
- Does not comply with any other policy obligations

(3) The employer has any unpaid workers compensation insurance premium obligation or other monetary policy obligation, (e.g., deductible program) on any previous or other workers compensation insurance, that is not subject to a bona fide premium dispute as defined in Rule 4-A-2-f.

(4) The employer, its representative, or the producer knowingly fails to comply with Plan procedures, or knowingly makes a material misrepresentation on the application by express statement, omission or otherwise, including, but not limited to, the following:

- Estimated payroll
- Offers of workers compensation insurance
- Nature of business
- Name of business

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- Management or ownership of business
- Previous insurance history
- Avoidance of an experience rating modification
- An outstanding workers compensation insurance premium obligation or other monetary policy obligation of the employer
- Noncompliance with any applicable state licensing or registration requirements

(5) The employer, its representative, or the producer does not accept any reasonable offer of voluntary coverage through NCCI's ***VCAP® Service.***

c. Declinations

Within sixty (60) days preceding the date of application, the employer must apply for workers compensation insurance and have received declinations from at least two (2) nonaffiliated insurers that are licensed to write and are actively writing workers compensation insurance within the state.

Specifically, one of the declinations must be from the insurer providing workers compensation insurance to the employer at the time of application, if any. Proof of cancellation or nonrenewal from such insurer will be considered as one of the required declinations.

The employer or its representative must maintain a record of all carrier declinations for the policy period that is in force. This information must be provided upon request to the Plan Administrator or assigned carrier and must include:

- Carrier name
- Person contacted at carrier
- Mailing address and phone number of carrier contact
- Date of declination

d. Securing a Requested Effective Date

The employer or its representative may request an effective date no later than sixty (60) days from the date of application; however, such requested effective date must be the later of the following:

(1) The established effective date as outlined in the following tables

(2) The date of expiration of existing coverage

(3) A date the employer requested

To secure a requested effective date, the employer or its representative must:

(1) Submit to the Plan Administrator a signed and completed ACORD® 130 and 133 applications, using one of the submission methods as defined in Rule 4-A-2-c.

(2) For applications submitted by U.S. Postal service or private overnight delivery service, at a minimum, include in the application submission the required critical threshold elements as defined in NCCI's ***Assigned Risk Supplement to the Basic Manual.***

(3) If submitting an application via mail or an overnight delivery service, send the application to the appropriate lockbox and include the appropriate initial or deposit premium.

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Receipt of the application at the appropriate lockbox will be considered receipt by the Plan Administrator.

Depending on the application submission method, the earliest effective date for coverage will be established in the following manner:

Application Submission Table 1

If the application is submitted by regular mail and the envelope containing the application has . . .	**Then the earliest eligible effective date will be 12:01 a.m. on the day after . . .**
A legible U.S. postmark	Postmark
An illegible U.S. postmark	Receipt of the application by the Plan Administrator
A meter mark only	Receipt of the application by the Plan Administrator
Internet postage with a legible cancellation stamp	The date on the cancellation stamp
Internet postage without a cancellation stamp or an illegible cancellation stamp	Receipt of the application by the Plan Administrator

Application Submission Table 2

If the application is submitted by overnight mail and . . .	**Then the earliest eligible effective date will be 12:01 a.m. on the day after . . .**
The package containing the application has proof of mailing that can be verified	The application was sent to the Plan Administrator
The package containing the application does not have proof of mailing or proof of mailing cannot be verified	Receipt of the application by the Plan Administrator
Proof of mailing (i.e., certified mail receipt) can be obtained	Postmark
Proof of mailing cannot be obtained	Receipt of the application by the Plan Administrator

Application Submission Table 3

If all required information and deposit premium is received within the established time frame and the application is submitted by . . .	**Then the earliest eligible effective date will be 12:01 a.m. on the day after receipt of the . . .**
RMAPS® Online Application Service	Completed online submission
Telephone	Telephone submission

e. Application Review

Upon receipt of the application, the Plan Administrator will review it for eligibility and completeness. The Plan Administrator may request additional information at its discretion to establish eligibility, assign appropriate classification codes, calculate applicable premium, and otherwise appropriately process the application. Such information may include, but is not limited to:

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- Tax documentation
- Ownership information, which may include a request to complete and sign an ERM-14 Form
- Contracts (i.e., PEO Arrangement, temporary employment agency contracts, or franchise agreements)
- Supplemental PEO Arrangement applications
- Additional information regarding short-term policies requests (i.e., verification of annualized payroll)
- Proof of declinations of voluntary coverage
- Proof of bankruptcy and/or settlements
- Any other information that is demonstrated by the Plan Administrator to be necessary to process the application

The employer and/or its representative must provide this information/documentation or provide an acceptable explanation for failure to provide the requested items within the time frame established by the Plan Administrator.

An incomplete application received by the Plan Administrator may, at the discretion of the Plan Administrator, be returned to the employer or its representative for completion or, with notice to the employer or its representative, may be retained by the Plan Administrator pending receipt of further information. Failure to comply in a time frame as established by the Plan Administrator may result in the rejection of the application and loss of the previously established effective date.

A complete application may be resubmitted to the Plan Administrator for an application review and establishment of a new effective date in accordance with Rule 4-A-3-d.

f. Additional States Coverage

Any current assigned risk employer desiring insurance for operations in states other than Mississippi may request its assigned carrier to furnish insurance in the additional states in accordance with Rule 4-A-8 of this Plan.

Assignments under this Plan shall be made on an intrastate basis only.

g. Premium Obligations

Assignments under this Plan will not knowingly be made unless all undisputed workers compensation premium obligations on any previous workers compensation insurance have been met by the employer whether the obligation is to any or all of the following, but not limited to:

- An assigned carrier
- A voluntary insurer
- The Plan Administrator

If, after policy issuance, the employer does not meet all undisputed workers compensation insurance premium obligations under the current policy or previous assigned risk or voluntary market policies, the employer's present assigned carrier retains the right to cancel a policy currently in force under this Plan within the statutory cancellation requirements.

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h. Initial or Deposit Premium

The employer or its representative must submit the total appropriate initial or deposit premium to the Plan Administrator, using one of the payment methods defined in Rule 4-A-2-p.

The individual State Rule Exception pages of NCCI's ***Basic Manual for Workers Compensation and Employers Liability Insurance*** or the ACORD® State Instruction Pages available on **ncci.com** contain applicable initial or deposit premium rules.

Applicants requesting short-term policies with a duration of six months or less must submit 100% of the total estimated annual premium, unless otherwise approved by the Plan Administrator. Premium calculation and subsequent deposit or initial premiums are based on total estimated annual premium calculations.

i. Binding of Coverage

(1) The Plan Administrator is authorized under this Plan to issue binders to eligible employers in accordance with the provisions of this Plan. Coverage under any binder issued by the Plan Administrator shall be provided by the assigned carrier, subject to the provisions of this Plan, any applicable policy terms or conditions, and/or any applicable laws, rules, or regulations. The Plan Administrator will issue a binder to the employer, its representative, if any, the assigned carrier to which the Plan Administrator assigned the employer, and the appropriate state agency if required by law, subject to Plan rules, only when **all** of the following occur:

- The Plan Administrator is in receipt of complete and signed ACORD® 130 and 133 applications along with any additional information within the established time frame. The signature must be that of an officer, owner, or other designee with power of attorney.
- The applicant is deemed eligible by the Plan Administrator.
- The total initial or deposit premium has been received by the Plan Administrator within the established time frame.

(2) The Plan Administrator uses a random, equitable assignment system to select the assigned carrier in accordance with Rule 4-A-9. Once coverage is bound, the assigned carrier will receive:

- A copy of the binder
- The initial or deposit premium
- The ACORD® 130 and 133 application
- Copies of any provided election or rejection forms
- Other forms submitted during the application review process
- Any information to assist the assigned carrier in providing the proper coverage and correct rates (e.g., experience rating modification worksheet data, NCCI's Inspection and Classification Report, and change of ownership information (ERM-14), if applicable).

Upon receipt of the assignment package, the assigned carrier will review the documents to ensure that all documentation needed to properly issue the policy is attached. Based on their separate review, the assigned carrier may request additional information and/or premium from the employer. All such requested information and/or premium must be received by the assigned carrier prior to issuing a policy.

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The assigned carrier must issue the policy in accordance with Plan rules, state law, and the assigned carrier performance standards. Where these standards conflict with state law or regulation, the more stringent rule will apply.

j. Binder Information

The binder/verification page must be sent to the appropriate parties as required and must remain in effect until cancelled or until a policy has been issued in accordance with the carrier performance standards or state law. Coverage will not exist if a binder was not issued by the Plan Administrator.

k. Reassignment

An employer may submit to the Plan Administrator a written request for reassignment to a different assigned carrier, if available. The request for reassignment must be made in writing no less than thirty (30) days or more than sixty (60) days prior to the expiration of the current policy unless otherwise approved by the Plan Administrator or at the request of the regulatory authority.

The employer must provide the Plan Administrator with an acceptable reason(s) for the request along with the appropriate documentation.

Acceptable reasons for reassignment requests from an employer are:

- Documented items pertaining to assigned carrier service—timely issuance of statements, policies, and endorsements, or services not provided under the policy
- Documented refusal of or inability of an assigned carrier to supply a required type of coverage (i.e., longshore, coal mine, maritime, additional state exposures, etc.)
- Documented items pertaining to an assigned carrier's return of premium due to the insured, where there is no valid bona fide premium dispute
- Based on the assigned carrier's A.M. Best Rating or financial size category, if appropriate documentation is provided to and approved by the Plan Administrator
- Other substantial documented reasons are subject to approval in the discretion of the Plan Administrator

Any request for reassignment is subject to approval by the Plan Administrator. If the Plan Administrator approves the reassignment request, the employer must submit a new application along with the appropriate initial or deposit premium to the Plan Administrator and otherwise be eligible for continued coverage through the Plan in accordance with the Rule 4-A-3. All reassignments will be made on a random and equitable basis.

l. Producer Information:

(1) Producer Fee

The assigned carrier must pay a fee to the licensed agency on all new and renewal policies after the policy is issued. The carrier will pay the producer as written premium is collected. The carrier is required to process and mail fee payments within thirty (30) days from the date the policy is issued or thirty (30) days from the receipt of premium. The carrier may withhold payments until an accumulative total of $25 per agency is reached. However, agencies will be paid their fees upon request regardless of the amount or if the withholding time period

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exceeds six (6) months. The fee payment may also be applied to return fees that the agency may owe to the carrier from other assigned risk policies for that agency. No producer fee will be paid on premium not actually collected.

The producer fee paid by the assigned carrier will be in accordance with the Producer Fee Percentage Scales located in NCCI's ***Assigned Risk Supplement to the Basic Manual,*** and will be paid at the rate filed by the Plan Administrator with the state regulatory authority. It is the carrier's responsibility to determine whether or not the producer is properly licensed in the appropriate jurisdictions for payment of producer fees. If the producer listed on the application is not properly licensed, or if the employer designates a representative other than a licensed producer, the carrier will accept the assignment and the producer fee will not be paid. However, for all other purposes, the producer will be treated as the producer of record.

(2) Producer Changes

The employer may request a change to the licensed agency. Written notice must be provided to the assigned carrier, generally in the form of a "producer of record" letter. Such requests must be made prior to the date of renewal, or with the consent of the assigned carrier at another agreed upon time.

m. Additional Coverages

Additional coverages may be available to the employer through the assigned carrier. Refer to each state's ***Workers Compensation Insurance Plan Supplement—Additional Coverages Under the WCIP*** for those coverages available in each state.

n. Policy Term

The policy must be issued for a term of at least one (1) year, unless insurance for a shorter term has been requested. A short-term policy may be obtained only once within a twelve (12) month period unless agreed to by the assigned carrier.

4. Assigned Carrier

a. Responsibilities

The assigned carrier is held accountable to the appropriate assigned carrier performance standards, state laws, regulations, and/or rules, market conduct requirements, or rating/advisory and/or statistical organization reporting requirements (where appropriate) for the following issues including, but not limited to:

(1) Policy Information Page

The Policy Information Page and all endorsements must be properly identified as a WCIP (Plan) or AR (Assigned Risk) policy (i.e., policy information submitted on hard copy must show the WCIP (Plan) or AR indicator and the binder number, where approved, by the policy number on the Information Page). This information must be submitted to the Plan Administrator or its designee within the time frame and the format established by the Plan Administrator.

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(2) Forms and Rates

All policies issued to employers to which this Plan applies must be written utilizing the classifications, forms (e.g., policy endorsements, ERM-14 forms, supplemental PEO arrangement forms, etc.), rates, and rating plans (including retrospective rating plans) approved by the regulatory authority and authorized for use in the residual market by the Plan Administrator.

(3) Cancellation of the Policy

If, after the issuance of a policy, the assigned carrier determines that an employer:

- Is not in good faith entitled to workers compensation insurance
- Has failed to comply with reasonable health, safety, audit, and/or loss prevention requirements
- Has violated any of the terms and conditions under which the insurance was issued
- Refuses to allow the assigned carrier or NCCI reasonable access to its facilities or its files and records for audit or inspection
- Refuses to disclose to the assigned carrier the full nature and scope of the employer's exposure

The assigned carrier will initiate cancellation (after providing an opportunity for cure) and inform the Plan Administrator and appropriate state organization of the reason for such cancellation. The policy should be cancelled in accordance with the cancellation provision of NCCI's ***Basic Manual*** Rule 3-A-3 and the Assigned Carrier Performance Standards located in NCCI's ***Assigned Risk Supplement to the Basic Manual for Workers Compensation and Employers Liability Insurance.***

The assigned carrier must keep the Plan Administrator fully informed of any cancellation and of any reestablishment of eligibility or of compliance by the employer in accordance with Rule 4-A-4-a (7). Any employer whose coverage is cancelled must reestablish eligibility or must demonstrate entitlement to coverage under this Plan to the Plan Administrator before any further assignment can be made under this Plan.

(4) Effective Date of Policy

Policies must be issued, renewed, or reinstated without a lapse in coverage when premium, including an interim premium audit or installment payment, is received or contains a legible U.S. postmark **prior** to the policy effective date or cancellation date.

Refer to the following table for information regarding reinstatement provisions for cancelled and renewal policies:

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If...	Then...
An item correcting a deficiency that resulted in cancellation is **received** on or within 60 days after the effective date of cancellation	The carrier will reinstate insurance with a lapse in coverage, issue a short-term policy, or take other underwriting action consistent with NCCI ***Basic Manual*** Rules, one time only during the original policy period. The lapse of coverage must clearly be stated on the reinstatement notice. A copy of the reinstatement notice must be sent to the Plan Administrator. In those instances where a proof of mailing cannot be clearly determined, timely receipt of the deficiency by the assigned carrier will be presumed if received within (5) five days of the expiration date of the policy. Receipt at the assigned carrier's designated lockbox is considered receipt by the assigned carrier. No lapse occurs if such item(s) are U.S. postmarked prior to the effective date of cancellation.
An item correcting a deficiency that resulted in cancellation is received more than sixty (60) days from the effective date of cancellation	If coverage is still required under the Plan, the employer must submit a new application to the Plan Administrator.
An item correcting a deficiency that resulted in cancellation is received on, within, or after sixty (60) days after the effective date of cancellation and the insured had received a previous policy reinstatement during the policy term	If coverage is still required under the Plan, the employer must submit a new application to the Plan Administrator.
Payment for a renewal policy is received on or within sixty (60) days after the renewal effective date	The policy will be issued with a revised new or different effective date (a "gap") in coverage. The determination of the revised effective date will be in accordance with Rule 4-A-3-d—Application Submission Table 1 and 2.
A finance company requests cancellation for non-payment of premium, and subsequently a request for reinstatement is received within sixty (60) days of the date of cancellation	A one-time reinstatement is allowed. However, the assigned carrier is not obligated to reinstate.

The carrier may impose additional requirements, if necessary, to effect the reinstatement.

Effective/reinstatement dates for lapses in coverage will be determined in the same manner as described in Rule 4-A-3-d.

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(5) Renewal and Nonrenewal of Coverage

Any assigned carrier must send a renewal or nonrenewal notice of impending expiration of coverage to the insured, its representative, and the Plan Administrator at least:

(a) Sixty (60) days in advance of expiration of insurance, or

(b) The number of days required by state law, regulation, and/or rule if more stringent

Upon receipt of the required premium, the policy must be issued in accordance with the assigned carrier performance standards and a copy of such policy and all endorsements, properly identified as a WCIP (Plan) or AR (Assigned Risk) policy, must be reported to the Plan Administrator or its designee within the time frame and the format established by the Plan Administrator.

If the assigned carrier is unwilling to renew a policy, they must provide the employer with a reason(s) that is acceptable to the Plan Administrator. Acceptable reasons for nonrenewal are:

- Refusal of or inability of an assigned carrier to supply a required type of coverage (e.g., longshore, coal mine, maritime, additional state exposures, etc.)
- Other substantial and documented reasons subject to approval in the discretion of the Plan Administrator

(6) Cancellation for Voluntary Coverage

Notwithstanding Rule 4-A-4-a (9), any insurer that wishes to insure an employer as voluntary business may do so at any time. If such insurer is not the assigned carrier, the assigned carrier must cancel its policy pro rata and the assignment must automatically terminate as of the effective date of the voluntary insurer's policy.

(7) Notification of Undisputed Outstanding Premium and Other Noncompliance Issues

Outstanding premium or other monetary policy obligation information identified by the assigned carrier or its representative must be updated and reported to the Plan Administrator or its designee in accordance with the appropriate assigned carrier performance standards. Assigned carriers should immediately report all instances of noncompliance and subsequent compliance information to the Plan Administrator.

(8) Policyholder Services

Policyholders and their designated representative must be provided:

- Access to audit, loss prevention, and safety services
- Prompt, professional handling of claims, including investigation, resolution, and communication
- Fair and prompt responses to complaints and disputes
- Access to appropriate information regarding the classification of the business and the policy premium.

Assigned carriers are required to comply with the minimum level of performance standards as defined in the assigned carrier performance standards.

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(9) Confidentiality of Information

The assigned carrier must keep in confidence and must not, except as directed by the insured or the producer of record, or as otherwise may be required by law or regulatory authority, disclose to any third party, or use for the benefit of itself or any third party, such detailed information as it may obtain by virtue of its position as the assigned carrier. Such information will be used solely for the evaluation, underwriting, and insuring of coverage under this Plan and not for any other purpose. The assigned carrier must not use any information it obtains in its capacity as the assigned carrier to request, encourage, or solicit employers it insures under this Plan to utilize the services of any specific insurance agent, agency, broker, insurer or group of insurers, including without limitation, direct writers affiliated with the assigned insurer, for purposes of providing voluntary workers compensation insurance or other lines of insurance to such employer.

5. Participation

All insurance companies licensed to write workers compensation and employers liability insurance under Chapter 3 of Title 71 of the Mississippi Code of 1972, as amended, are required to participate in this Plan through membership and participation in the Mississippi Workers' Compensation Assigned Risk Pool.

6. Plan Administrator

a. Designation

The Commissioner shall be responsible for the administration of this Plan but will contract with an organization to serve as Plan Administrator.

b. Duties and Responsibilities

The Plan Administrator will have the following duties and responsibilities in addition to any others set forth in this Plan:

(1) Administering, managing, and enforcing the Plan subject to the provisions contained herein.

(2) Determining the methodology and formula for making assignments to assigned carriers pursuant to Rule 4-A-9 and securing the necessary information in order to make the assignments

(3) Developing and implementing assigned risk procedures and forms to the extent necessary to carry out the purpose of this Plan

(4) Processing assigned risk applications pursuant to Rule 4-A-3

(5) Administering the dispute resolution procedure as provided in Rule 4-A-10

(6) Monitoring the performance and operation of the Plan and initiating amendments thereto as appropriate

7. Servicing Carriers

a. Eligibility to Act as a Servicing Carrier

The Commissioner will establish the requirements that insurers must meet in order to be eligible to act as a servicing carrier.

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b. Selection of Servicing Carrier(s)

The Commissioner will select and appoint, and enter into a contract with, each servicing carrier that will receive assignments and provide coverage for eligible employers pursuant to this Plan.

c. Standards for Servicing Carrier Performance, Compensation, and Incentives

The Commissioner will establish procedures for measuring servicing carrier performance. The Commissioner will also establish the compensation for servicing carriers, which may take into consideration, among other things, provisions for:

(1) Rewarding servicing carriers for positive action targeted at reducing losses and costs

(2) Disincentives for inefficiencies and service below the minimum assigned carrier performance standards

(3) Servicing carrier capacity

d. Monitoring and Enforcement

The Commissioner will monitor and review servicing carrier performance to maintain desired performance levels and will take appropriate remedial action where necessary. The Commissioner or his designee will have the right at all reasonable times during regular business hours, to audit and inspect the books and records of any servicing carrier with respect to any policies, claims, or related documents coming within the purview of this Plan or the Mississippi Workers' Compensation Assigned Risk Pool.

e. Disputes

The Commissioner will establish procedures and handle any disputes arising regarding a-d above.

8. Interstate Assignments

All assignments under this Plan shall be made on an intrastate basis. An employer desiring insurance for operations in states other than Mississippi must request coverage for such operations from the administrator of that state's Plan.

9. Assignment Formula Determination

a. Procedures

Assignments will be made in accordance with a mechanism established by the Plan Administrator that provides for the random and equitable distribution of employers under this Plan to assigned carriers. The Plan Administrator may override the random assignment process to ensure the availability of the requested Plan coverages for the employer.

b. Assignment Distribution

(1) The percentage of Plan premium assigned to a servicing carrier is determined by the Commissioner.

(2) When assigning an employer to an insurer, the assignment mechanism considers the employer's prior Plan coverage, special requirements (i.e., additional states or federal coverage) and premium size.

(3) Any carrier authorized by the U.S. Department of Labor to provide coverage under the U.S. Longshore and Harbor Workers Compensation (USL&HW) Act and extension acts is

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eligible to receive assignments requesting the same coverages in the assigned risk market. Carriers with USL&HW authorization will also be eligible for assignments requesting Maritime (Admiralty), Program I or II. Assignments requesting USL&HW, Maritime, and/or extension acts coverage will be made as determined by the Plan Administrator in accordance with the assignment methodology established by the Plan Administrator.

(4) An assigned carrier that, in any state, has previously reported voluntary or assigned risk premium writing that is subject to the Federal Coal Mine Health and Safety Act or has previously accepted assignments in any state for operations that are subject to the Federal Coal Mine Health and Safety Act, will receive assignments requesting such coverage in accordance with the assignment methodology as established by the Plan Administrator.

c. Reassignment

An employer which has had prior assigned risk coverage will be reassigned to the original assigned carrier as long as the carrier can provide authorized coverages requested by the employer. Circumstances occasionally require the suspension of this criterion by the Plan Administrator.

d. Carrier Eligibility

The assignment system identifies those assigned carriers eligible to receive an assignment based on the requirements of the employer and the capabilities of carriers.

10. Dispute Resolution Procedure

a. Procedure

The dispute resolution procedure can be categorized as either Assigned Risk Employer/Producer-related disputes, Plan-related disputes, or Pool-related disputes.

b. Assigned Risk Employer/Producer Disputes

Any assigned risk policyholders and their producers affected by the actions of their assigned carrier or NCCI are provided with a process in which grievances can be reviewed, resolved, or heard by the mechanism that has been established and approved in the state for such grievances.

(1) Employer Disputes

The conditions outlined in Rule 4-A-2-f must be met in order for the employer to have a bona fide premium dispute. The Plan Administrator's intervention in disputes is generally limited to matters involving:

- Experience rating modification factors
- Application of rules contained in NCCI manuals
- Eligibility and assignment under the Workers Compensation Insurance Plan (WCIP)
- Classification assignment
- Assigned risk pricing programs

The Plan Administrator may intervene in disputes involving other matters arising under this Plan as determined by the Plan Administrator in its discretion.

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The Plan Administrator (upon receipt of all necessary information regarding the dispute), will review the matter and provide a written decision within thirty (30) days.

For a general overview of the employer dispute resolution process, refer to NCCI's ***Assigned Risk Supplement.***

(2) Producer Disputes

For disputes relating to the calculation and/or payment of producer fees and producer of record changes, the Plan Administrator (upon receipt of all necessary information regarding the dispute), will review the matter and provide a written decision within thirty (30) days.

c. Plan Disputes

Except as provided in b. or d. of this section 10., any person affected by the operation of the Plan who has a dispute with respect to any aspect of the Plan may seek a review of the matter by the Plan Administrator by setting forth in writing with particularity the nature of the dispute, the parties to the dispute, the relief sought and the basis thereof. The Plan Administrator may secure such additional information as it deems necessary to make a decision. The Plan Administrator will review the matter and provide a written decision within thirty (30) days after receipt of all information necessary to make the decision.

Any party affected by a decision of the Plan Administrator may seek to resolve the matter through binding arbitration, or in the alternative, may seek a review by the Commissioner by requesting such review in writing within thirty (30) days after the date of such decision.

In reviewing any such matter, the Commissioner shall follow the procedures set forth in Mississippi Regulation 88-101.XV Hearings. The Commissioner's decision shall be final, subject to appeal to the Chancery Court of the First Judicial District of Hinds County, Mississippi.

d. Pool Disputes

Any dispute arising with respect to the Governing Articles of the Mississippi Workers' Compensation Assigned Risk Pool, refer to Disputes and Appeals and the dispute resolution mechanism set forth under the Governing Articles of the Mississippi Workers' Compensation Assigned Risk Pool.

11. Self-Funded Plan

Insofar as practicable, rates for insurance provided through the Plan shall be established and maintained at a level that will permit the Plan to operate as a self-funded mechanism. In order to permit the actuarial determination of rates and rating plans appropriate for the business insured through the Plan, all assigned carriers are required to report their experience on business written under the Plan to NCCI in a format prescribed by NCCI. It is the responsibility of NCCI to monitor both rate adequacy and Plan results. NCCI will notify the Commissioner if excessive losses are indicated to enable the Commissioner to take corrective action.

12. Approval

I have reviewed the foregoing Plan and all matters incorporated therein and have determined that it is reasonable, complies with the laws and regulations of this state, and provides for the equitable apportionment of employers who are in good faith entitled to workers compensation insurance

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and are unable to procure such insurance in a regular manner. I hereby approve this Plan for use in this state as indicated by the signature below or any other acceptance method authorized for use by the regulatory authority.

Date _____

_____
Regulatory Authority

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Source: *Miss. Code Ann.*§71-3-111 (Rev. 2011)

Rule 4.07: Governing Articles: Article I

4.07.1: Establishment of the Pool

The Mississippi Workers' Compensation Assigned Risk Pool was established effective January 1, 1993, by the Mississippi Commissioner of Insurance pursuant to the authority granted by Section 71-3-111, Mississippi Code of 1972, as amended, as a non-profit unincorporated association of Member companies.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.07.2: Purpose of the Pool

The purpose of the Pool is to be a reinsurance mechanism for the Mississippi Workers' Compensation Assigned Risk Plan and to accomplish the equitable distribution of all underwriting profit or loss of the Plan to the Members.

4.07.3: Definitions

A. Advisory Board and Board mean the Advisory Board of the Mississippi Workers' Compensation Assigned Risk Pool.

B. Articles mean these Governing Articles of the Mississippi Workers' Compensation Assigned Risk Pool.

C. Commissioner means the Commissioner of Insurance of the State of Mississippi.

D. Member means an insurance company whose license to write workers compensation insurance under Chapter 3 of Title 71 of the Mississippi Code of 1972, as amended, has not been revoked.

E. Plan means the Mississippi Workers' Compensation Assigned Risk Plan as provided for under Section 71-3-111, Mississippi Code of 1972, as amended, and any regulations promulgated pursuant thereto.

F. Plan Administrator means the organization appointed by the Commissioner to administer the affairs of the Plan.

G. Pool means the Mississippi Workers' Compensation Assigned Risk Pool as provided for under Section 71-3-111, Mississippi Code of 1972, as amended, and any regulations promulgated pursuant thereto.

H. Pool Administrator means the organization appointed by the Commissioner to administer the affairs of the Pool.

I. Servicing Carrier means a Member of the Pool that has been appointed by the Commissioner to receive assignments and provide coverage to eligible employers pursuant to the Plan on behalf of all other Pool Members.

J. Reinsurance Agreements mean those reinsurance agreements entered into by and between the Servicing Carriers and the Pool pursuant to these Governing Articles.

K. Net Premiums Written means the gross direct premiums charged less all premiums (except dividends and savings refunded under participating policies) returned to insureds for all Workers Compensation and Occupational Disease Insurance, exclusive of premiums for employers subject to the Plan, and for employers written under the National Defense Projects Rating Plan and under excess policies.

Source: *Miss. Code Ann.*§71-3-111 (Rev. 2011)

Rule 4.08: Governing Articles: Article II

4.08.1: Membership

Each insurance company authorized to write workers compensation and employers liability insurance in Mississippi shall be a Member of and a participant in the Pool, shall participate in the Plan, and shall be bound by these Articles as a condition of its authority to transact workers compensation and employers liability insurance in Mississippi.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.08.2: Termination of Membership

A Member's membership in the Pool shall be terminated upon the occurrence of one or more of the following events:

A. withdrawal or non-renewal of the Member's license to write workers compensation insurance in Mississippi;

B. revocation of the Member's license to write workers compensation insurance in Mississippi by the Commissioner; or

C. adjudication of insolvency of the Member.

Any provision herein to the contrary notwithstanding, a Member shall be deemed to be a member of the Pool for any policy year corresponding to a calendar year during which such Member has positive net workers compensation premiums written in Mississippi as reported in its Annual Statement to the Mississippi Department of Insurance.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.08.3: Members' Obligation

A. Each member shall:

1. designate and provide to the Pool Administrator the name and address of an official of the Member's organization with authority to represent the Member in its dealings with the Pool and to whom all correspondence from the Pool shall be sent;

2. report to the Pool Administrator, in the form and manner prescribed by the Pool Administrator, the workers compensation premiums written by such Member during each calendar year;

3. provide to the Pool Administrator such other information as the Pool Administrator may require to administer the affairs of the Pool and to determine the Member's share of the Pool's surplus or deficit or the Member's ability to meet its obligations to the Pool;

4. promptly pay, when ordered by the Pool Administrator and approved by the Commissioner, all assessments; and

5. comply with such operational or administrative procedures as the Commissioner, or the Pool Administrator with the approval of the Commissioner, may prescribe.

B. If the Pool Administrator determines that a Member has not cooperated to the extent necessary to make the determinations required hereunder, the Pool Administrator shall have the authority to ensure the Member's ability to meet its obligations to the Pool by, without limitation:

1. ordering that any distribution or refund due the Member be paid into escrow or trust with the Pool Administrator to secure the Member's obligations;

2. ordering that any distribution or refund due the Member be paid in trust with a third party to secure the Member's obligations; or

3. ordering that the Member obtain a letter of credit or such other form of security and in such amount approved by the Pool Administrator to secure the Member's obligations.

Compliance with any such order within the time specified therein shall be an obligation of the Member to which the order is directed and shall be enforced by the Commissioner.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.08.4: Obligations After Termination

Any Member whose membership in the Pool is terminated shall nevertheless continue to be governed by all Pool and Plan rules for all policy years for which the Member was a participant

in the Pool. The Pool Administrator shall, as soon as reasonably practical following a Member's termination, estimate the balance of the Members account in the Pool based on information then available. At the discretion of the Pool Administrator, the Member's account shall be settled either by payment in full of the estimated amount due to or from the Member or by periodic distributions and /or assessments at the time and in the manner applicable to other Pool Members for the policy years for which the Member was a participant.

No payment to or from the terminated Member of the estimated balance of such Member's account shall in any way effect the Pool Administrator's right to make additional assessments against the terminated Member and/or demand reimbursement of amounts previously distributed to the terminated Member based on subsequent developments for the policy years for which the Member was a participant in the Pool.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.08.5: Insolvency

A. A Member's participation in the Pool shall be deemed terminated in the event a Member becomes insolvent. As used herein, "insolvent" means being the subject of receivership, conservatorship, rehabilitation, liquidation, or similar proceedings, whether voluntary or involuntary, in any jurisdiction.

B. If, at the time of a Member's insolvency, the insolvent Member's account in the Pool reflects a net balance due to the Pool and the liquidator or receiver of the insolvent Member does not have sufficient funds available to make a final adjustment of the account, the insolvent Member's share of undistributed surpluses and/or uncollected deficits for each policy year for which the insolvent Member was a participant in the Pool shall be reallocated to the remaining Members as if the insolvent Member had not been a participant in the Pool for such policy years.

C. In the event a Servicing Carrier becomes insolvent, the Pool Administrator shall have the option to:

    1. pay to the receiver, conservator, rehabilitator, liquidator or other appropriate representative of the insolvent Servicing Carrier the losses and expenses for which the Pool is liable under the Reinsurance Agreement(s); or:

    2. subject to the approval of the receiver, conservator, rehabilitator, liquidator or other representative, and subject to the approval of any court having jurisdiction over the proceedings, assume the policy obligations of the insolvent Servicing Carrier for policies written pursuant to the Plan and reinsured by the Pool.

    If the latter option is exercised, the Pool Administrator shall make arrangements to have all policies that have been assigned to and are being

serviced by the insolvent Servicing Carrier reassigned to another Servicing Carrier for servicing. The successor Servicing Carrier shall assume all the duties and obligations of the insolvent Servicing Carrier and shall be entitled to the reinsurance provided by the Pool. Payment made on account of such policies, including expenses for the servicing thereof, shall be reimbursed by the Pool and apportioned to the policy years for which such policies were originally issued.

3. All amounts due to an insolvent Servicing Carrier from the Pool as a result of the reinsurance provided to such Servicing Carrier and all amounts due from an insolvent Servicing Carrier as a member shall be merged into one account and deemed mutual debits and credits which the Pool may offset.

4. The Pool shall have all the rights allowed by law against the estate or funds of an insolvent Member for recovery of amounts which have been absorbed by the other. Members of the Pool as herein provided. The Pool Administrator may assert and enforce such rights on behalf of the Pool.

5. Anything in this Article to the contrary notwithstanding, the Commissioner may, in the event such action is in his judgment feasible and desirable, and in a manner equitable to all Members, elect not to terminate the participation of an insolvent Member and permit such Member to continue its participation in the Pool upon such conditions as he may prescribe and subject in all respects to these Articles and the rules and procedures applicable to the Pool and the Plan.

Source: *Miss. Code Ann.*§71-3-111 (Rev. 2011)

Rule 4.09: Governing Articles: Article III

4.09.1: Annual Meetings of Pool Members

The Members of the Pool shall meet annually during the month of March at such place as the Board may determine, subject to approval of the Commissioner. If the annual meeting for any year shall not be duly held, the Board shall cause a special meeting of the Members to be held as soon thereafter as possible, in lieu of and for the purpose of conducting an annual meeting, and all proceedings of such special meeting shall have the same force as if taken at the regular annual meeting.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.09.2: Special Meetings of the Pool Members

Special meetings of the Members may be called at any time by the Chairman of the Board or by the Commissioner or by the Pool Administrator and special meetings shall be called by the Chairman of the Board upon the written request of five (5) Members of the Pool or the Commissioner or the Pool Administrator.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.09.3: Notice of Pool Member Meetings

Except as otherwise provided in this Article, notice of each annual and special meeting shall be given or caused to be given by the Chairman of the Board, in writing, mailed or hand delivered or telefaxed to each Member at the last address appearing on the records of the Pool. Each Member shall be provided not less than thirty (30) days notice of the annual meeting of the Pool. If notice of a meeting of Members other than the annual meeting is given by mail to a Member such notice shall be placed in the mail not less than eight (8) days prior to the meeting. If notice of a meeting of the Members, other than the annual meeting, is given by hand delivery or by telefax, it shall be so given not less than five (5) days prior to the meeting.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.09.4: Quorum

Five (5) or more Members present or represented at any meeting of the Members shall constitute a quorum.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.09.5: Purpose of Meetings

The Advisory Board of the Pool shall be nominated at the annual meeting of the Members. The purpose of any special meeting shall be stated in the notice thereof. At all such meetings, including the annual meeting, Members may consider and act upon matters brought before the membership.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.09.6: Voting Rights

Each Member shall be entitled to one vote at all meetings of the Pool. Actions of the Pool shall require the affirmative vote of a majority of the Members present at such meeting, either by representative or proxy, and the affirmative vote of those Members writing more than fifty percent (50%) of the total Mississippi workers compensation net written premium for the latest calendar year for which data is available.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.09.7: Proxies

Members may be represented at any meeting of the Pool by proxy. Members may record their votes by mail on written propositions and such votes shall have the same standing as if cast by such Members in person or by proxy.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.09.8: Minutes of Meetings

Minutes of all meetings of the Members of the Pool, and of the Board, shall be sent to the Advisory Board members and the Commissioner, and shall be available to Members upon request to the Pool Administrator.

Miss. Code Ann. §71-3-111 (Rev. 2011)

4.09.9: Advisory Board

The Pool shall have an Advisory Board composed of representatives of the Members of the Pool. The Advisory Board shall be appointed by the Commissioner from nominations made by the Members. The Members shall nominate not less than twice as many nominees as available positions for consideration by the Commissioner.

Miss. Code Ann. §71-3-111 and § 71-3-119 (Rev. 2011)

4.09.10: Numbers and Term of Office

The Advisory Board shall be comprised of seven (7) of the Members of the Pool. No more than three (3) Servicing Carriers shall serve on the Advisory Board at any time. The Commissioner and Pool Administrator shall serve as ex officio, nonvoting Members of the Advisory Board. Board appointments shall be made as follows:

A. the three (3) Board members initially appointed to serve a term of three (3) years shall serve until April 1, 1997; and.

B. the four (4) Board members initially appointed to serve a term of two (2) years shall serve until April 1, 1996.

At April 1, 1996, two (2) Board members shall be appointed to serve a term of two (2) years (through April 1, 1998) and two (2) Board members shall be appointed to serve a term of three (3) years (through April 1, 1999). Succeeding appointments to the Board shall be for terms of three (3) years.

Board members shall serve for calendar years beginning on April 1 of the calendar year in which the Board member is appointed. No Member of the Pool serving on the Board for a full term shall succeed itself, except where a sufficient number of non-succeeding Members of the Pool shall not accept appointment to the Board. Each Member of the Pool elected to the Board shall designate a knowledgeable representative of suitable senior standing and shall select two alternates of similar standing to attend Board meetings and vote on matters brought before the Board.

Miss. Code Ann. §71-3-111 and § 71-3-119 (Rev. 2011)

4.09.11: Vacancies

If a vacancy occurs on the Advisory Board, the Commissioner shall appoint a replacement to fill the unexpired term.

Miss. Code Ann. §71-3-111 and § 71-3-119 (Rev. 2011)

4.09.12: Board Meetings

The Advisory Board shall meet during the month of March of each calendar year for the purpose of electing officers to serve for the next ensuing year and for the transaction of all other business upon which the Board is authorized to act. Other regular meetings of the Advisory Board shall be held on such dates as the Board may from time to time determine. Special meetings of the Board may be called at any time by the Chair, and shall be called by the Chair upon written request of three (3) non-affiliated members of the Board. Notice of regular or special meetings of the Board shall be given as may be determined by the Board or, in the event the period of notice shall not have been prescribed, as the Chair shall deem reasonable.

Miss. Code Ann. §71-3-111 and § 71-3-119 (Rev. 2011)

4.09.13: Place of Board Meetings

All meetings of the Board shall be held at a place designated by the Chairman of the Board, subject to approval of the Commissioner.

Miss. Code Ann. §71-3-111 and § 71-3-119 (Rev. 2011)

4.09.14: Quorum and Voting Rights of Board

A majority of the Advisory Board shall constitute a quorum. Each Advisory Board member shall be entitled to one (1) vote. An Advisory Board member's vote may be cast only by its representative, or in his or her absence, by its alternate. Proxy voting shall not be permitted. Any action of the Board requires the affirmative vote of a majority of the Board present at the meeting in which such action is considered. Provided, however, that a vote may not be taken on any question at a meeting of the Board unless the number of Board members present at the meeting who are not Servicing Carriers equals or exceeds the number of members of the Board who are Servicing Carriers present at the meeting. If such votes are not cast, the matter fails adoption except as provided for elsewhere in these Articles. In the absence of a quorum, the Board shall have no power except that a majority of the Board in attendance may adjourn the meeting from time to time until a quorum shall attend. Action may also be taken without meeting by mail, telephone, or telefax upon the affirmative vote of a majority of the Board provided all Board members are polled and no member of the Board demands a meeting.

Miss. Code Ann. §71-3-111 and § 71-3-119 (Rev. 2011)

4.09.15: Organization and Procedure

The members of the Advisory Board shall elect a Chair and an Executive Vice-Chair. The Chair may also appoint one (1) or more Vice-Chairs and assign such responsibility to them as the Chair may determine within the authority granted to the Chair. The Chair, or in his or her absence, the Executive Vice-Chair, or in the absence of both, a Chair Pro tem elected by the Advisory Board present shall act as Chair of each meeting of the Board. The Pool Administrator shall act as Secretary of each meeting of the Board and shall keep a record of the Board's proceedings. The order of business at all meetings of the Board shall be determined by the Chair.

Miss. Code Ann. §71-3-111 and § 71-3-119 (Rev. 2011)

4.09.16: Disputes and Appeals

The Advisory Board shall constitute a committee to hear, consider and render decisions upon all disputes arising with respect to these Articles including, without limitation, questions relating to the application, scope and effect of these Articles. Appeals from decisions of the Pool Administrator shall be reviewed and a decision shall be issued by the Board, which decision may then be appealed to the Commissioner in accordance with the dispute resolution procedures hereinafter set forth in Article IV.

Miss. Code Ann. §71-3-111 and § 71-3-119 (Rev. 2011)

4.09.17: Duties of Board Chair

The Chair shall be the Chief Executive Officer of the Advisory Board, and shall have overall control of and responsibility for all activities subject to these Articles and other powers which are incidental thereto.

Miss. Code Ann. §71-3-111 and § 71-3-119 (Rev. 2011)

4.09.18: Duties of Board Executive Vice-Chair

The Executive Vice-Chair shall have immediate charge, subject to the direction and control of the Chair, of such matters as may be assigned to him or her by the Chair. In the Chair's absence or inability for any reason to act as the Chair, his or her duties and powers under these Articles may, with like effect, be performed and exercised by the Executive Vice-Chair.

Miss. Code Ann. §71-3-111 and § 71-3-119 (Rev. 2011)

4.09.19: Board Committees

The Chair may from time to time appoint committees assigned to perform such duties as the Chair may deem desirable.

Miss. Code Ann. §71-3-111 and § 71-3-119 (Rev. 2011)

4.09.20: Authority of Advisory Board

The Advisory Board shall have the powers and authorities specifically herein set forth and such other powers and authorities as may from time to time be granted to the Advisory Board by the Commissioner.

Miss. Code Ann. §71-3-111 and § 71-3-119 (Rev. 2011)

4.09.21: Compensation of Advisory Board

The Advisory Board shall serve without compensation.

4.09.22: Meetings of the Servicing Carriers

The Servicing Carriers shall meet annually immediately following the annual meeting of the Members of the Pool. Special meetings of the Servicing Carriers may be called at any time by the Commissioner or the Pool Administrator and shall be called by the Pool Administrator upon the written request of three (3) Servicing Carriers. The Pool Administrator shall give reasonable notice of special meetings.

Source: *Miss. Code Ann.*§71-3-111 and § 71-3-119 (Rev. 2011)

Rule 4.10: Governing Articles: Article IV

Rule 4.10.1: Administration of the Pool

Under the direction and supervision of the Commissioner, and subject to advice and counsel of the Advisory Board, the Pool Administrator shall manage and control the operation, business and affairs of the Pool and all other matters arising under these Articles.

The Pool Administrator shall cause to be kept a record of all meetings of the Pool Members, the Advisory Board, and such other committees as the Advisory Board or Commissioner may designate. The Pool Administrator shall act as Treasurer of the Pool and collect all fees, charges and assessments, and other monies payable to the Pool and shall keep proper accounts of all such funds. The Pool Administrator shall be the agent through which all communications and remittances relating to the Reinsurance Agreements shall be transmitted.

Subject to the approval of the Commissioner, the Pool Administrator is authorized to:

A. enter into agreements on behalf of the Pool to carry out the purposes of these Articles, including, but not limited to, the Reinsurance Agreements;

B. hire specialists or other professionals to provide additional services necessary to the administration of the Pool, the Reinsurance Agreement and these Articles including, without limitation, the services of actuaries, attorneys and auditors;

C. act as attorney-in-fact for the Pool to prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to any claim existing in favor of or against, the Pool based on or involving any matter relating to these Articles or the Reinsurance Agreements or to intervene in any action or proceeding related thereto.

The fees for services of specialists including actuaries, attorneys and auditors as well as others deemed necessary by the Commissioner shall be a proper charge against and an obligation of the Pool.

The Pool Administrator or an officer, manager or other duly authorized representative thereof is authorized to certify these Articles, acts taken by the Board, and tenure of, signatures, identity and acts of officers or other officials, and other official acts; and such certificates may be relied upon by any person to whom the same shall be given, until receipt of notice to the contrary.

Source: *Miss. Code Ann.*§71-3-111 and § 71-3-119 (Rev. 2011)

4.10.2: Disputes and Appeals

Any person affected by the operation of these Articles who may have a dispute with respect to any aspect of the application of the Articles, may seek a review of the matter by the Pool Administrator by setting forth in writing with particularity the nature of the dispute, the parties to the dispute, the relief sought and the basis thereof. The Pool Administrator may secure such additional information as it deems necessary and shall render a written decision with an explanation of the reasons for the decision within thirty (30) days after receipt of all the information necessary to make the decision.

Any party affected by the decision of the Pool Administrator may seek a review by the Advisory Board by submitting a written request for such review to the Chairman of the Advisory Board within thirty (30) days of the date of the decision by the Pool Administrator. The Advisory Board shall, within sixty (60) days of the receipt of such written request and all information considered by the Pool Administrator, review the decision of the Pool Administrator and render its written decision to the party seeking review and the Pool Administrator.

Any party (including the Pool Administrator) affected by a decision of the Advisory Board may seek a de novo review by the Commissioner by requesting such a review in writing within thirty (30) days of the date of the Board's decision. In reviewing any such matter, the Commissioner shall follow those procedures applicable to administrative hearings in the State. The Commissioner's shall decide the dispute in accordance with State law, regulation, and policy and in the interests of the reasonable and proper administration of the Articles. The Commissioner's decision shall be final subject only to such court review as may be available under applicable law and rules.

Source: *Miss. Code Ann.*§71-3-111 and § 71-3-119 (Rev. 2011)

4.10.3: Administrative Procedures

The Commissioner or the Pool Administrator, with the approval of the Commissioner, shall have the authority to promulgate and adopt procedures for the purpose of implementing the terms of these Articles.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

Rule 4.11: Governing Articles: Article V

4.11.1: Fiscal Year

The Fiscal year of the Pool shall be the calendar year unless otherwise established by the Commissioner.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

4.11.2: Funds of the Pool

Funds held by the Pool, including funds remitted by Servicing Carriers in accordance with the Reinsurance Agreements, and funds withheld pursuant to Article II, shall be kept on deposit in such banks, trust companies, or other depositories as may from time to time be designated and prescribed by the Commissioner. The Pool Administrator shall invest Pool funds only in investments of a type and quality as will qualify as fully admitted assets under the rules of the National Association of Insurance commissioners. Disbursements from Pool funds shall be made by the Pool Administrator only as authorized by the Commissioner. The Pool Administrator shall keep accurate records to identify all deposits, withdrawals, and investment of Pool funds, which records shall be available for review by the Commissioner and Chairman of the Advisory Board at any time.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

4.11.3: Investment Income

Except for earning on funds held pursuant to Article II, income earned on funds of the Pool shall be held by the Pool Administrator in the same manner as premiums remitted by Servicing Carriers under the Reinsurance Agreements and shall be included in the determination of the Pool's operating results in accordance with the terms provided herein. Income earned on funds held pursuant to Article II shall accrue to the Member providing the security required.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

4.11.4: Expenses of Administration

Expenses incurred by the Commissioner, or by the Pool Administrator at the direction of the Commissioner, in the administration of the affairs of the Pool shall be a proper charge against the

Pool. A record shall be kept of all such expenses, and the amount thereof shall be included in financial statements to Members along with other transactions of the Pool. Such expenses may be paid out of funds held by the Pool or may be assessed against the Members.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

4.11.5: Examinations and Reserves

The Commissioner shall review loss payments and reserves for outstanding claims as reported to the Pool Administrator by the Servicing Carriers for the purpose of determining the underwriting results from policies issued pursuant to the Plan. The Commissioner may establish, in his sole discretion, additional reserves as he may deem necessary to adequately reflect such underwriting results. There shall be an annual independent actuarial evaluation of the Pool's reserves for unpaid losses.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

4.11.6: Transactions, Accounts, and Financial Statements

Separate accounts shall be maintained by the Pool Administrator covering transactions for each policy year based on the information provided by Servicing Carriers pursuant to the Reinsurance Agreements. The operating deficit or surplus of a policy year shall be the net of premiums earned and losses and expenses incurred with respect to policies issued during the calendar year corresponding to the policy year, reduced by administrative and other expenses paid and accrued during the calendar year corresponding to the policy year and increased by investment income attributed to the policy year. Investment income on funds of the Pool, except funds held pursuant to Article II, shall be apportioned among policy years based on the relationship which a given policy year's funds available for investment bears to all policy years' funds available for investment.

The Pool Administrator shall prepare and deliver to each Member an annual report of each policy year's transactions during the preceding calendar year and the Member's proportion of each policy year's deficit or surplus from operations.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

4.11.7: Allocation of Operating Results

The operating deficit or surplus for each policy year shall be allocated to Members in proportion to their net workers compensation premium writings in Mississippi during the calendar year corresponding to the policy as reported by Members in their Annual Statements to the Mississippi Department of Insurance for such calendar year.

Members which voluntarily write workers compensation insurance policies which would otherwise have been renewed through the Plan shall be allowed a deduction from the amount of net workers compensation premiums written in Mississippi as reported in their Annual

Statement, subject to rules prescribed by the Pool Administrator and approved by the Commissioner. In no event shall the amount of the deduction allowed hereunder during any calendar year exceed the amount of net workers compensation premiums written in Mississippi during the same calendar year.

To the extent that an allocation required hereunder must be made prior to the availability of the report of actual net workers compensation premiums for the calendar year to which such allocation applies, the net workers compensation premiums for the preceding calendar year shall serve as the temporary basis for such allocation. Allocations so made shall be adjusted to reflect actual net workers compensation premiums written when actual amounts are available. Iffor any reason the foregoing basis should prove inappropriate in a given case, the Pool Administrator shall make an equitable adjustment in the basis for allocation.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

4.11.8: Distributions, Assessments and Refunds

The Pool Administrator shall establish and maintain a separate account for each Member in which the Member's share of each policy year's operating deficit or surplus shall be recorded. At the end of each calendar year, the Pool Administrator shall examine the operating results of each policy year and the condition of each account to determine if a distribution or assessment is appropriate. The determination of the Pool Administrator shall be reviewed by the Advisory Board which shall concur or make its own determination. The Commissioner shall review the determination of the Pool Administrator and the Advisory Board, if different, and make the final determination of the amount and timing of any distribution or assessment.

The Pool shall always maintain funds adequate to meet its cash flow obligations. Projections of anticipated cash requirements shall be made to assure the adequacy of funds held by the Pool. Interim assessments may be levied by the Commissioner at any time that he, in his sole discretion, deems an assessment necessary to meet the obligations of the Pool.

Any assets remaining on hand in the Pool on the date of final termination, as specified by the Commissioner, after payment or appropriate reserves of any and all outstanding expenses and claims, shall be remitted to the general fund of the State of Mississippi.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

4.11.9: Borrowing Authority

The Pool may borrow money to effect the purposes of these Articles. No loans shall be contracted on behalf of the Pool and no evidences of indebtedness shall be issued in its name unless authorized by the Commissioner.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

4.11.10: Reports to the Commissioner

On or before June 30th of each calendar year, the Pool Administrator shall file with the Commissioner a report of the Pool's financial condition at the end of the immediately preceding calendar year and the results of Pool operations for such immediately preceding calendar year. The report shall include information regarding the condition of Members' accounts, the make-up and character of the Pool's investment portfolio, and accident year development of the Pool's losses. The Commissioner may require such other information as he deems necessary to the proper administration of the Pool.

The accounts of the Pool and the Pool Administrator's reports to the Commissioner shall be annually audited on a statutory accounting basis by an independent certified public accounting firm.

Source: *Miss. Code Ann.*§71-3-111 (Rev. 2011)

Rule 4.12: Governing Articles: Article VI

4.12.1: Indemnification

Any person or insurer against whom any claim, demand, action, suit or proceeding is made, commenced, asserted or threatened by reason of or relating to the fact that such person or insurer is or was: (a) a Member of the Pool; (b) a member of the Advisory Board; (c) a Servicing Carrier; (d) the Plan Administrator; (e) the Pool Administrator; or (f) an officer, partner, employee or agent of any of the foregoing shall be indemnified against all judgments, fines, amounts paid in settlement, reasonable costs and expenses including attorney's fees, and any other liabilities that may be incurred as a result of such claim, demand, action, suit or proceeding made, commenced, asserted or threatened except with respect to matters: (a) as to which he, she or it shall be adjudged to be liable by reason of willful misconduct in the performance of his, her or its duties or obligations to the Pool or the Members thereof; and (b) any criminal actions or proceedings, where such person or insurer had reasonable cause to believe that his, her or its conduct was unlawful. Such indemnification shall be provided whether or not such person or insurer is one of the persons hereinabove described at the time such claim, demand, action, suit or proceeding is made, commenced, asserted or threatened. Such indemnification shall be limited to only those claims, demand, actions, suits and proceedings relating to or arising from the Pool or the Plan as herein defined, including, without limitation, the establishment, administration and operation of the Pool and Plan. Such indemnification shall not be exclusive of other rights such person or insurer may have, and shall pass to the successors, heirs, executors or administrators of such person or insurer. The termination of any such civil or criminal action, suit or proceeding by judgment, settlement, conviction or upon a plea of nolo contendere, or its equivalent, shall not in itself create a presumption that any such person or insurer was liable by reason of willful misconduct, or that he, she or it had reasonable cause to believe that his, her or its conduct was unlawful. If any such claim, demand, action, suit or proceeding is compromised, it must be with the approval of the Commissioner provided; however, the Commissioner may delegate to the Pool Administrator the authority to approve any such compromise of financial liability.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

4.12.2: Entitlement to Indemnification

In each instance in which a question of indemnification arises, entitlement thereto, pursuant to the conditions set forth in section 6.1 of this Article, shall be determined by the Commissioner who shall also determine the time and manner of payment of such indemnification; provided, however, that a person or insurer who or which has been wholly successful, on the merits or otherwise, in the defense of a civil or criminal action, suit or proceeding of the character described in section 6.1 of this Article shall be entitled to indemnification as authorized in such Article. The Commissioner may delegate to the Pool Administrator the authority to determine, in a manner consistent with this Article, entitlement to indemnification, and the time and manner of payment of such indemnification, for any indemnification requiring payment which is less than an amount as may be fixed from time to time by the Commissioner. The rights hereunder provided shall not be exclusive of the rights to which any person or insurer may be entitled as a matter of law.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

4.12.3: Indemnification Expense

All indemnity paid or expense incurred by the Pool by reason of the indemnification provided above shall be an operating expense of the Pool incurred in the calendar year in which such indemnity is paid or expense is incurred and shall be assessed and collected as an operating expense of the Pool under the provisions of these Articles.

Source: *Miss. Code Ann.*§71-3-111 (Rev. 2011)

Rule 4.13: Governing Articles: Article VII

4.13.1: Amendments

The provisions of these Articles, and any amendments hereto, shall be subject to amendment, alteration, repeal or re-enactment at the discretion of the Commissioner. Any such amendments to these Articles shall become effective on the date specified by the Commissioner in the amendment.

Source: *Miss. Code Ann*. §71-3-111 (Rev. 2011)

4.13.2: Termination

The authority to terminate this Pool is vested in the Commissioner. In the event of termination of this Pool by the Commissioner, the termination shall be effective as of the date set forth by the Commissioner and the procedure for winding up affairs for this Pool shall be accomplished pursuant to the direction of the Commissioner.

Source: *Miss. Code Ann.*§71-3-111 (Rev. 2011)

Rule 4.14: Governing Articles: Article VIII - Effective Date

These Articles shall be effective April 15, 2007.

Pursuant to the authority granted in Section 71-3-111, Mississippi Code of 1972, as amended, and Regulations promulgated thereunder, I George Dale, in my capacity as Commissioner of Insurance of the State of Mississippi do hereby adopt these Governing Articles of the Mississippi Workers' Compensation Assigned Risk Pool.

Source: *Miss. Code Ann.*§25-43-3-113(Rev. 2011)

Part 5 Chapter 5: (2009-1) General Property and Casualty Binders, Certificates of Insurance or Indemnity Agreements.

Rule 5.01: Purpose

The purpose of this Regulation is to clarify and set out the basic responsibilities of insurance companies ("insurers") and insurance producers ("producers") as to the extension or restriction of property and casualty insurance commercial lines coverages by the use of a binder, certificate of insurance, indemnity agreement or any other similar type of instrument.

Source: *Miss. Code Ann.* §§83-5-29 through 83-5-51 (Rev. 2011); 83-17-1 through 83-17-89 (Rev._2011)

Rule 5.02: Authority

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority granted to him by Miss. Code Ann.ээ 83-5-17; 83-5-29 through 83-5-51; and 83-17-1 through 83-17-89 (Rev. 2001), as well as the provisions of Mississippi Department of Insurance Regulation No. 88-101, said regulation being the Rules of Practice and Procedure before the Mississippi Insurance Department.

Source: *Miss. Code Ann.* §§83-5-29 through 83-5-51 (Rev. 2011); 83-17-1 through 83-17-89 (Rev_2011)

Rule 5.03: Scope

This Regulation shall apply to all insurers writing property and casualty commercial lines insurance policies in the State of Mississippi, and all producers selling property and casualty commercial lines insurance policies in the State of Mississippi.

Source: *Miss. Code Ann.* §§83-5-1(Rev. 2011); 83-17-51 (Rev.2011)

Rule 5.04: Requirements

A. No insurer or producer may issue a binder, certificate of insurance, indemnity agreement or any other similar type of instrument which either affirmatively or negatively amends, extends or alters the coverage provided by its approved issued forms and endorsements.

B. Each insurer or producer not using the standard ACORD or ISO Form "Certificate of Insurance", as filed with and approved by the Commissioner, shall file with the Commissioner for approval prior to use the form of the certificate of insurance or binder which will be used by such insurer or producer.

C. Upon filing for approval by the Commissioner, each binder or certificate of insurance shall contain the following or a similar statement: **"This certificate of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number _____ issued by _____."**

D. No binder, certificate of insurance, indemnity agreement or any other similar type of instrument shall contain references to construction or service contracts or insurance requirements for the purpose of defining or amending coverage afforded by the policies to which the certificate makes reference. No certificate of insurance may be used to define, amend, extend, restrict or alter coverage afforded by the policies to which the certificate of insurance makes reference.

E. No insurer or producer doing business in Mississippi shall have the authority to issue an "Agent's Opinion Letter" or any other similar correspondence purporting that an insurance policy provides coverages which the policy does not provide.

This Regulation shall not apply to or otherwise affect duly issued endorsements to policies.

Source: *Miss. Code Ann.* §§83-5-29 through 83-5-51(Rev. 2011); 83-17-1 through 83-17-89 (Rev. 2011)

Rule 5.05: Date of Compliance

All insurers and producers shall comply with the provisions of this Regulation by October 1, 2009.

Source: *Miss. Code Ann.* §§ 83-5-1; 83-17-87 (Rev. 2011)

Rule 5.06: Violations and Penalties

Failure of an insurance producer to comply with a material provision of this regulation is considered a violation of Miss. Code Ann.§83-17-71(1)(b) (Rev. 2001). Violation of said statute may subject the insurance producer to the suspension or revocation of the insurance producer's privilege license, the imposition of an administrative fine, or both.

Failure of an insurance company writing property and casualty policies in this State to comply with a material provision of this regulation is considered a violation of Miss. Code Ann. § 83-5-17 and §§ 83-5-39 through 83-5-51 (Rev. 1999). Violation of said statutes may subject the insurance company to the suspension or revocation of the insurer's Certificate of Authority, the imposition of an administrative fine, or both.

Source: *Miss. Code Ann.* §§ 83-5-17 (Rev. 2011); 83-5-29 through 83-5-51 (Rev. 2011); 83-17-71 (Rev. 2011)

Rule 5.07: Severability

If any section or portion of a section of this Regulation or the application thereof is held by a court to be invalid, such invalidity shall not affect any other provision of that section or application of the Regulation which can be given effect without the invalid provision or application, and to this end the provisions of the Regulation are declared to be severable.

Source: *Miss. Code Ann.* § 83-5-1 (Rev. 2011)

Rule 5.08: Effective Date

The Effective Date of this Regulation shall be thirty (30) days from filing for final adoption with the Secretary of State.

Done this the _____th day of March, 2009.

Source: *Miss. Code Ann.* § 25-43-3-113 (Rev. 2010)