

RHODE ISLAND

State of Rhode Island and Providence Plantations DEPARTMENT OF BUSINESS REGULATION

Division of Insurance
233 Richmond Street
Providence, RI 02903

INSURANCE REGULATION 77

PRE-INSPECTION OF PRIVATE PASSENGER MOTOR VEHICLES

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Section 1 Authority

This Regulation is promulgated pursuant to R.I. Gen. Laws §§ 27-10.1-10 and 42

14-17.

Section 2 Purpose

The purpose of this Regulation is to establish standards and procedures for inspection of private passenger vehicles weighing less than ten thousand (10,000) pounds prior to the issuance by insurers of Physical Damage Coverage.

Section 3 Definitions

For the purpose of this Regulation:

- A. "Director" means the Director of Business Regulation or his or her designee.
- B. "Insurer" means all persons, firms, corporations, or associations authorized to offer automobile insurance in this state.
- C. "Applicant" means the named insured, as defined in the policy, or an applicant for a motor vehicle insurance policy.
- D. "Authorized Representative" means any person or legal entity, other than the applicant, authorized by an insurer to conduct pre-insurance inspections pursuant to this Regulation, and may include an employee of the insurer, or inspection service.
- E. "Producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.
- F. "Inspection Service" means any person or legal entity, other than the applicant, which is approved by the insurer to perform inspections required by this Regulation. In determining whether to approve an inspection service, an insurer must take into consideration the service's professionalism, efficiency, and cost effectiveness.
- G. "Physical Damage Coverage" means the optional coverages in a policy for collision or comprehensive (other than collision) coverages.
- H. "Private Passenger Motor Vehicle" means any owned or leased four wheeled motor vehicle, except vehicles which have a gross weight equal to or in excess of ten thousand (10,000) pounds.
- I. Policy means any insurance policy, contract, or certificate under which a claim is made.
- J. "Temporary Substitute Motor Vehicle" means any private passenger motor vehicle not owned by the applicant, which is used by the applicant, with the permission of the owner, as a temporary substitute due to breakdown, repair, servicing, loss or destruction of the applicant's own motor vehicle.
- K. "Existing Customer" means an applicant who has been insured for two (2) years or longer, without interruption, under a private passenger motor vehicle policy which includes Physical Damage Coverage, by the insurer to which the

Section 4 *Mandatory Inspection Requirements*

- (1) No motor vehicle liability policy or endorsement insuring a private passenger motor vehicle for Physical Damage Coverage shall be issued in this state unless the insurer has inspected the motor vehicle in accordance with this Regulation.
- (2) Physical Damage Coverage shall not be issued on an additional or replacement motor vehicle under an existing policy, unless otherwise exempted, until the insurer has inspected the motor vehicle in accordance with the Regulation.

Section 5 *Exemptions to Inspection Requirement*

- (1) The requirement of an inspection shall not apply to the following:
 - (A) a new, unused motor vehicle, including demonstration vehicles, from an automobile dealership where the insurer is provided with either:
 - (I) a copy of the bill of sale which contains a full description of the motor vehicle, including all options and accessories; or
 - (ii) a copy of the window sticker or the dealer invoice showing the itemized options and equipment in addition to the total retail price of the vehicle.

The Physical Damage Coverage on such new, unused motor vehicle, including demos, shall not be suspended during the term of the policy due to the applicant's failure to provide the required documents. Payment of a claim, however, may be conditioned upon the receipt by the insurer of such documents, and no physical damage loss occurring after the effective date of the coverage shall be payable until the documents are provided to the insurer. If the above documents are not submitted by the applicant at least sixty (60) days prior to the applicant's annual renewal date, the insurer, before renewing the Physical Damage Coverage, must require an inspection as set forth in this Regulation.

- (B) a motor vehicle which is already insured for such Physical Damage Coverages with the insurer by the applicant.
- (C) a temporary substitute motor vehicle.

- (D) a motor vehicle which is leased for less than six (6) months, provided the insurer receives the lease or rental agreement containing a description of the leased motor vehicle, including its condition. Payment of a physical damage claim may be conditioned upon receipt of the lease or rental agreement.
- (E) when requiring an inspection would cause a serious hardship to the insurer or the applicant, and such hardship is documented in the applicant's policy record.
- (2) An insurer shall state in the applicant's policy record the reason a vehicle is being exempted from the inspection requirement.
- (3) An insurer may require an inspection of a motor vehicle otherwise exempt, provided that the decision to inspect such motor vehicle is reasonable and supported by objective facts. The decision to require such an inspection shall not be based on the age, race, sex, or marital status of the applicant or the customary operators of the vehicle, or the principal place of garaging. A written statement of the reasons for requiring an inspection, pursuant to this subsection shall be placed in the applicant's policy record.

Section 6

Waiver of Inspection

An insurer may waive an inspection under any of the following circumstances:

- (A) for policies which include Physical Damage Coverage on vehicles which are six (6) or more years old; or
- (B) when an individual applicant's coverage is being transferred by a producer to a new insurer and the producer provides the new insurer with a copy of the inspection report completed on behalf of the previous insurer, provided the producer represents both insurers, and the insured vehicle was physically inspected by the previous insurer. However, if the new insurer does not receive a copy of the inspection report sixty (60) days prior to the first annual renewal date, the insurer must, before renewing physical damage insurance, require an inspection as set forth in this Regulation.
- (C) when the applicant is an existing customer who has not had a total loss due to theft or fire in the preceding two (2) years.
- (2) Any decision to waive or not to waive an inspection pursuant to this Regulation, shall not be based on the age, race, sex, or marital status of the

applicant or the customary operators of the vehicle, or the principal place of garaging.

An insurer shall state in the applicant's policy record the reason a waiver has been granted.

Section 7 *Deferral of Inspection*

- (1) An insurer may defer an inspection for ten (10) business days following coverage being bound or the effective date of coverage, whichever is earlier, for a new policy or for inclusion of additional or replacement vehicles to an existing policy.
- (2) When an inspection is deferred pursuant to subsection (1), an insurer, through its producer, shall either:
 - (a) if the applicant applied for coverage in person, immediately obtain the prescribed acknowledgment (Form D) signed by the applicant, or
 - (b) if the applicant has applied for coverage either by mail, by phone, or electronically, immediately orally confirm Physical Damage Coverage and remind the applicant of the inspection requirement on a prescribed notice letter (Form B. The Form B notice must be mailed or delivered to the insured within three (3) business days following the effective date of coverage being bound or the effective date of coverage, whichever is earlier.
- (3) In addition to the notice requirements of (2) above, the insurer, through its producer, shall furnish the applicant, at the time coverage is effected, with a list of inspection sites where the inspection can be conducted. The location of an inspection site or sites, and the consequences of the applicant's failure to obtain a timely inspection shall be furnished immediately to the applicant either in person, by telephone, or in writing. Documentation of such notice, including the name of the person giving the notice and the identity of the site(s) provided must be contained in the applicant's policy record.
- (4) Producers must use the prescribed NOTICE OF MANDATORY PRE-INSPECTION REQUIREMENT letter (Form B) or the prescribed ACKNOWLEDGMENT OF REQUIREMENT FOR PRE-INSPECTION letter (Form D), and immediately send a copy to the insurer. A copy of the confirmation letter addressed to the applicant or the completed ACKNOWLEDGMENT letter shall be retained by the producer in the applicant's policy record.

- (5) Any decision to waive or not to waive an inspection pursuant to this Regulation, shall not be based on the age, race, sex, or marital status of the applicant or the customary operators of the vehicle, or the principal place of garaging.

Section 8 *Standards and Procedures for Inspections*

- (1) Inspections required or permitted pursuant to this Regulation shall be made by a designated authorized representative of the insurer at a time and place reasonably convenient to the applicant.
- (2) The inspection shall:
- (A) Be recorded on a form which contains, as a minimum, the information described on the Motor Vehicle Pre-Inspection Report (Form A);
 - (B) Include two (2) color photographs of the motor vehicle, taken as directed on the inspection report, which shall be attached to the report;
 - (C) Include a close-up color photograph (using a special camera attachment if necessary) showing the Vehicle Identification Number (VIN) located on the Environmental Protection Agency/Federal Certification Label (EPA) sticker affixed to the driver's side doorjamb. The photograph must be of sufficient clarity that the information contained on the EPA sticker and VIN is legible. If the EPA sticker is damaged, faded, missing, or otherwise not legible, a photograph of the EPA sticker or of the area of the doorjamb where the sticker is normally located, is still required.
 - (D) Include any additional photographs, taken at the discretion of the authorized representative, showing any damaged areas. Such photographs shall also be attached to the report.
- (3) The original report and photographs shall be immediately sent to the insurer who shall retain the report and photographs in the applicant's policy record for three (3) years from the date of inspection, except as provided by paragraph (6)(D). The authorized representative shall also provide a copy of the report, without photographs, to the applicant and producer of record.
- (4) The insurers shall maintain an up-to-date list of all authorized representatives and inspection sites performing inspections for the insurer. The list must include the names, addresses, and business phone numbers

of all authorized representatives, and the insurer shall make such a list accessible to the Director upon request.

- (5) There shall be no charge to the applicant in connection with an inspection.
- (6) An insurer shall utilize authorized representatives who shall:
 - (A) verify the accuracy, completeness and signature of the inspector for each inspection report in writing;
 - (B) maintain a control system on such inspection reports, including the use of sequentially numbered reports;
 - (C) retain and supply to other insurers, upon request, a copy of any inspection report which was completed within three (3) years of the date of inspection;
 - (D) provide an optional service, on an additional fee basis, to insurers whereby the original inspection reports and photographs are retained by the authorized representative who shall maintain such original inspection reports and photographs in a manner so as to facilitate rapid retrieval for a period of at least three (3) years from the date of inspection. The authorized representative shall, upon request of an insurer, mail or deliver the original inspection report and photographs to the insurer within two (2) business days of such request.
- 7.
 - (A) the inspection report and photographs shall be used by the insurer to document previous damage, prior condition, options, and mileage of the motor vehicle on physical damage claims whenever:
 - (I) the appraisal indicates prior damage;
 - (ii) the vehicle is a total loss or unrecovered theft; or
 - (iii) the damage exceeds three thousand dollars (\$3,000).
 - (B) a copy of the inspection report and photographs must be utilized, and made a part of the insurer's claim file, in settlement of all total loss claims. The inspection report must be made a part of the claim file regardless of whether or not the payment is reduced based on the information contained therein.
 - (C) access to an electronic file containing images of inspection reports and images of color photographs will suffice in lieu of physically placing hard copies of forms and/or photos in a paper file;

providing, the system allows for the printing of hard copies of forms and color photographs if required in litigation.

Section 9 ***Standards for Suspension of Physical Damage Coverages***

- (1) If the inspection is not conducted prior to the expiration of the ten (10) business day deferral period, motor vehicle Physical Damage Coverage on the motor vehicle shall be suspended at 12:01 a.m. of the day following the tenth business day, and such suspension shall continue until the inspection is done. The insurer must inspect the motor vehicle and reinstate Physical Damage Coverage (effective at the time of the inspection) if the applicant thereafter requests an inspection.
- (2) Whenever Physical Damage Coverage is suspended, the insurer shall within three (3) business days give notice to the applicant, the producer of record, and any lienholders a completed prescribed NOTICE OF SUSPENSION OF PHYSICAL DAMAGE COVERAGE (Form C). The insurer shall complete a certificate of mailing of the suspension to the applicant and shall retain the certificate and a copy of the suspension in the applicant's policy record. Whenever there is a suspension of Physical Damage Coverage for more than ten (10) days, the insurer shall make a pro-rata premium adjustment (return premium or credit) which shall be mailed to the applicant no later than forty-five (45) days after the effective date of the suspension. After the insurer makes the pro-rata premium adjustment, reinstatement of Physical Damage Coverage shall only be effective upon inspection and payment by the applicant to the insurer of the adjusted premium for the Physical Damage Coverage in full or in accordance with the insurer's normal payment plan, at the insurer's option.
- (3) If the motor vehicle is not inspected pursuant to this Regulation due to the fault of the insurer, or if its producer fails to give the verbal or telephone notice required by this Regulation, or fails to mail or deliver the NOTICE OF MANDATORY PRE-INSPECTION REQUIREMENT (Form B) or obtain the ACKNOWLEDGMENT OF REQUIREMENTS FOR PRE-INSPECTION INSPECTION (Form D), Physical Damage Coverage on the motor vehicle shall not lapse. The failure of the insurer to act promptly does not relieve it of its obligation to inspect.

Section 10 *Records*

Insurers shall maintain records as to the costs and savings related to this Regulation and shall make such records available to the Director upon request.

Section 11 *Severability*

If any section, term, or provision of this Regulation should be adjudged invalid for any reason, that judgment should not effect, impair, or invalidate any remaining section, term, or provision, which shall remain in full force and effect.

Section 12 *Effective Date*

This Regulation shall become effective twenty (20) days after filing with the Secretary of State.

EFFECTIVE DATE: March 25, 1994 AMENDED: None REFILED: December 19, 2001

AMENDED: September 3, 2002