NOTICE OF RULE ADOPTION—FINAL RULE

STATE OF MISSISSIPPI
DEPARTMENT OF INSURANCE

Mississippi Department of Insurance
c/o Robert L. Perkins
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Jackson, MS 39205
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Reference to Rules repealed, amended or suspended by the Proposed Rule Repealed Mississippi Department of Insurance Emergency Regulation 2005-1

Specific Legal Authority Authorizing the promulgation of Rule: Miss. Code Ann. § 63-15-65
Date Rule Proposed: January 18, 2006

Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule
The Mississippi Department of Insurance adopted Emergency Regulation 2005-1 because significant changes were needed, with respect to the provisions of Regulations 78-1 and 78-2, to enable the Mississippi Automobile Insurance Assigned Risk Plan ("the Plan") to operate more efficiently and effectively in making automobile coverage available to eligible citizens of this State. The purpose of this proposed rule is to permanently adopt without substantive variance Emergency Regulation 2005-1.

The Agency Rule Making Record for this rule including any written comments received during the comment period and the record of any oral proceeding is available for public inspection by contacting the Agency at the above address.

☒ An oral proceeding was held on this rule:

Date: February 16, 2006
Time: 2:30 p.m.
Place: Offices of the Commissioner of Insurance
501 North West Street
Jackson, Mississippi

☐ An oral proceeding was not held on this rule.

The Agency has considered the written comments and the presentations made in any oral proceedings, and

☒ This rule as adopted is without variance from the proposed rule.

☐ This rule as adopted differs from the proposed rule as there are minor editorial changes which affect the form rather than the substance of the rule.

☐ The rule as adopted differs from the proposed rule. The differences however are:
Within the scope of the matters in the Notice of Proposed Rule Adoption, the logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted in response thereto, and
The Notice of Proposed Rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Effective Date of Rule: February 21, 2006

Robert L. Perkins
Senior Attorney
Mississippi Department of Insurance

STATE OF MISSISSIPPI
OFFICE OF THE INSURANCE COMMISSIONER

IN THE MATTER OF:

MISSISSIPPI AUTOMOBILE INSURANCE ASSIGNED RISK PLAN **CAUSE NO. 05-5251**

REGULATION 2006-1

ORDER

THIS CAUSE came on for hearing to consider the adoption of Mississippi Insurance Department Regulation No. 2006-1, entitled "Mississippi Automobile Insurance Assigned Risk Plan.", and the Commissioner of Insurance having held a public hearing and heard the comments of all interested parties and the evidence produced by such parties involved and after considering all comments, finds as follow to wit:

I.

That on January 18, 2006, the Commissioner of Insurance for the State of Mississippi, through his duly appointed representative, pursuant to the provisions of Miss. Code Ann. § 25-43-3.103 (Rev. 2003), filed with the Secretary of State of the State of Mississippi that said Commissioner of Insurance, or his duly designated representative, would hold a public hearing on Thursday, February 16, 2006, at 2:30 p.m., in the offices of the Commissioner of Insurance, 501 North West Street, Suite 1001, Jackson, Mississippi, to afford all interested persons the opportunity to submit testimony and evidence and to give opinions, make comments, suggestions or objections concerning Regulation 2006-1.

II.

That the Commissioner of Insurance, through his duly appointed representative, pursuant to the provision of Miss. Code Ann. § 25-43-3.103 (Rev. 2003), transmitted by electronic mail,

copies of an Administrative Proceedings Filing Notice and Notice of Hearing to all persons who had made a timely request to the Mississippi Insurance Department for advance notice of said Department's rule making proceedings.

III.

That pursuant to said Notice of Hearing, a public hearing was held before the Commissioner of Insurance of the State of Mississippi, or his duly appointed representative, on February 16, 2006 at 2:30 p.m. in the offices of the Commissioner of Insurance, 501 North West Street, Suite 1001, Jackson, Mississippi, in which all interested parties were given an opportunity to present their views, opinions, suggestions, comments or objections relative to Regulation 2006-1.

IV.

That the Commissioner did not receive any oral or written statements requesting changes to or in opposition of proposed Regulation 2006-1.

V.

That the Commissioner of Insurance, after having considered all relevant evidence, is of the opinion that it will be in the public interest to adopt the Mississippi Insurance Department Regulation 2006-1 entitled, "Mississippi Automobile Insurance Assigned Risk Plan", a copy of which is attached hereto marked Exhibit "A", and made a part hereof as if fully copied herein in words, lines and figures, should be an is hereby **ADOPTED,** effective February 21, 2006.

SO ORDERED this the 21st day of February, 2006.

GEORGE DALE
COMMISSIONER OF INSURANCE
STATE OF MISSISSIPPI

REGULATION 2006-1
MISSISSIPPI AUTOMOBILE INSURANCE
ASSIGNED RISK PLAN

Section

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The Mississippi Automobile Insurance Assigned Risk Plan ("the Plan"), established by Miss. Code Ann. § 63-15-65, is an agreement among insurance companies for granting automobile bodily injury and property damage liability insurance to risks unable to secure it for themselves.

Section 2006-1.1 Purposes of plan

The purposes of the Plan are to make automobile bodily injury, property damage, and medical payment liability insurance available to vehicles registered with the Mississippi Division of Motor Vehicles, subject to the conditions hereinafter stated and in the Mississippi Plan of Operation (hereinafter the "Plan of Operation") and the Mississippi Automobile Insurance Plan of Rules and Rates (hereinafter the "Plan Manual"). The Plan also establishes a procedure for the equitable distribution of risks assigned to insurance companies and a procedure for the sharing of premium, losses, and expenses generated by the Commercial Automobile Procedure (hereinafter "CAIP") among all subscriber companies writing voluntary other than private passenger (hereinafter "OTPP") policies in the State of Mississippi. Copies of the Plan of Operation or Plan Manual may be obtained at www.aipso.com/ms or by calling 1-800-301-6477.

Section 2006-1.2 Effective date

The Plan became effective in February of 1949 when all companies licensed to write direct automobile bodily injury liability insurance in the state have subscribed thereto. The requirements in this Regulation shall become effective upon adoption, and at the time this regulation becomes effective it shall serve to repeal Regulation 78-1 and Regulation 78-2. No company which is licensed to write only reinsurance shall be a subscriber to this plan.

Section 2006-1.3 Residents and Non-Residents

A. Except as may be otherwise provided, the Plan shall be available to residents and non-residents of the state only with respect to automobiles that are registered in the state, except that nonresidents who are members of the United States military forces shall be eligible with respect to automobiles registered in other states provided such military non-residents are stationed in this state at the time application is made and are otherwise eligible for insurance under the Plan.

B. A motor vehicle registered in Mississippi, and principally garaged in another state shall be subject to the rates, additional charges, rating rules and policy forms applicable under the Automobile Insurance Plan of the state of principal garaging, and such applicants shall be assigned to companies licensed to write and writing automobile liability insurance in that state.

C. When a vehicle registered in Mississippi is principally garaged in another state whose Automobile Insurance Plan does not provide for physical damage coverage such risk shall be subject to whichever of the following will produce the higher dollar amount:

1. The rates applicable to the Mississippi territory determined by the address shown on the registration, and otherwise subject to all of the provisions of this Plan, or

2. The rules, rates, minimum premiums, classifications in force and rating plans applicable in the state and territory where the vehicle is principally garaged, and otherwise subject to all of the provisions of this Plan.

Section 2006-1.4 Administration

The Plan shall be administered by a Governing Committee and a Manager. The Governing Committee (hereinafter referred to as "the Committee") must be approved by the Commissioner of Insurance and shall consist of nine voting members, who are Plan Subscriber Companies, two non-voting members who are licensed Mississippi resident property and casualty insurance producers and two ex officio non-voting members.

a.) Three members shall be chosen from each of the following classes of insurers:

American Insurance Association (AIA);

Property Casualty Insurers Association of America (PCI);

Non-Affiliated Insurance Companies (NAF)

Each voting member serving on the Committee shall be a salaried employee of the Company.

b.) Two non-voting members shall be chosen from a list of all licensed Mississippi resident property and casualty insurance producers.

c.) The Commissioner of Insurance shall appoint two persons, who are employed by the Mississippi Insurance Department, to serve as ex officio non-voting members.

Prior to the annual meeting, the Manager shall poll the nonaffiliated companies to determine those companies desiring to serve on the Committee and then conduct a mail ballot prior to the annual meeting for the nonaffiliated companies to elect their representatives. Nonaffiliated company representatives shall be selected on a weighted vote basis by all nonaffiliated company insurers. Each nonaffiliated company shall cast a proportionate vote based on that company's respective Voluntary Private Passenger Nonfleet Liability Direct Written Premiums and Voluntary Other than Private Passenger Liability and Physical Damage Net Direct Written Premiums written in the state for the calendar year ending December 31 of the second prior year by nonaffiliated companies as reported to AIPSO by statistical agents.

Annually, on a date fixed by the Committee, each respective group of insurers heretofore described shall elect its representative to the Committee to serve for a period of one year or until a successor is elected. Forty-five (45) days notice of such meeting shall be given in writing to all subscribers and members to the Plan. The subscriber companies and members may be present or represented by proxy at such meetings and voting by proxy shall be permitted.

Section 2006-1.5 Duties of governing committee

The Committee shall meet as often as may be required to perform the general duties of administration of the Plan. Five voting members of the Committee shall constitute a quorum.

The Committee shall be empowered to appoint a Manager, budget expenses, levy assessments, disburse funds and perform all duties essential to the proper administration of the Plan.

Upon request, the Committee shall furnish to any subscribers to the Plan, a written report of operations annually in such form and detail as the Committee may determine.

Section 2006-1.6 Determination and fulfillment of quotas

A. The Plan shall make random assignments of private passenger applications which are eligible for coverage based on each company's individual quota. A company's quota shall reflect that company's proportion of Private Passenger Non-fleet Automobile Insurance Plan premiums that its respective Voluntary Private Passenger Non-fleet Liability Net Direct Written Car Years bears to the statewide total of the Voluntary Private Passenger Non-fleet Liability Net Direct Written Car Years of all companies in the state.

B. The Plan shall distribute CAIP applications to the CAIP servicing carriers for servicing of eligible risks.

C. Company groups under the same ownership may elect to be treated as one company to receive assignments, assessments, and CAIP participation.

Section 2006-1.7 Cost of Administration

Each company subscribing to the Plan shall pay a minimum annual fee and assessments as provided in the Plan of Operation, each for liability and for physical damage insurance.

Section 2006-1.7A Plan Service Center

For the purposes of (a) the assignment of risks which are eligible for coverage to the subscribers and (b) the standardization of service and centralization of policy, premium, and commission payment services for all risks defined in the applicable sections of the Plan of Operation each company subscribing to this plan authorizes the Plan to establish a Mississippi Automobile Insurance Plan Service Center (hereinafter the "Plan Service Center") to perform all such services on behalf of the subscribers and to account therefore periodically, in accordance with established procedures of AIPSO.

Any and all references in the Plan provisions to the acts and services performed by the Plan Service Center shall be interpreted, as applicable, to mean that the undertaking of such acts and services was done on behalf of the assigned company and/or the subscribers to the Plan.

Section 2006-1.8 Eligibility

A. To be eligible for bodily injury, property damage, medical payments, and physical damage coverage's, the applicant must meet the following criteria:

1. As a prerequisite to consideration for assignment under the Plan, an applicant must certify, in the prescribed application form, that he has attempted, within 60 days prior to the date of application, to obtain automobile insurance in the State and that he has been unable to obtain such insurance.

2. An applicant so certifying shall be considered for assignment upon making application in good faith to the Plan. An applicant shall be considered in good faith if he reports all information of a material nature, and does not willfully make incorrect or misleading statements, in the prescribed application form, or does not come within any of the prohibitions or exclusions specified in the Plan of Operation or Plan Manual.

B. An applicant shall not be entitled to physical damage insurance nor shall any assigned company or CAIP servicing carrier be required to afford or continue to afford physical damage insurance under the exclusions specified in the Plan of Operation or Plan Manual.

C. Medical payments insurance shall be available to an applicant, but only in conjunction with the same policy written in accordance with this Plan affording bodily injury and property damage coverage for a four-wheel vehicle classified and rated as a private passenger automobile.

Section 2006-1.9 Extent of Coverage

A. Each assigned company or CAIP servicing carrier shall be required to write a policy or binder at a minimum for the limits in the Financial Responsibility law of the State.

B. Notwithstanding paragraph A, upon request of any applicant the assigned company or CAIP servicing carrier shall provide limits adequate to comply with the provisions of the Financial Responsibility Law of any state in which the motor vehicle will be operated, but applicable only while the motor vehicle is being operated in that state/province.

C. Upon request of the insured, a standard loss payable clause for the benefit of a lien-holder shall be included in the policy.

Section 2006-1.10 Application for assignment

The application for insurance under the Plan must be submitted to the Plan on a prescribed form accompanied by the appropriate premium as specified in the Plan of Operation. If the applicant is ineligible for assignment, the deposit shall be returned. No coverage will be in effect if the premium remittance which accompanies the application is justifiably dishonored by the financial institution. Producers may not deduct commission from the premium submitted with the application. The producer must compute the premium for each risk and show the computed premium on the application. If computation is not shown, the application will be returned. The Plan will not estimate a premium.

Section 2006-1.11 Designation of company and effective date of coverage

Upon receipt of the application for insurance properly completed and the deposit specified in the Plan of Operation, and if the application form shows that the applicant is eligible for coverage, the Plan shall designate the applicant to an assigned company or CAIP servicing carrier and shall so advise the applicant and producer of record and shall state in such notice the date when the coverage shall become effective. The Plan shall give written notice to the assigned company or CAIP servicing carrier of the name of the applicant, the producer of record, the coverage to be afforded and the effective date of coverage.

If for any reason, the applicant refuses to accept the policy, the assigned company or CAIP servicing carrier shall retain the premium as allowed in the Plan of Operation or Plan Manual.

The Plan shall forward to the CAIP servicing carrier, a copy of the application form, the notice of the effective date of coverage, and the deposit, same to be credited by the CAIP servicing carrier against the policy premium.

Section 2006-1.12 Assignment Period

An applicant shall be assigned to an assigned company or CAIP servicing carrier for a period of three consecutive years, except in the event a financial responsibility filing is required, the assigned company or CAIP servicing carrier shall carry the risk for the period of Financial Responsibility Filing, but in no event in excess of 5 years. The Plan Service Center on behalf of the assigned company, or CAIP servicing carrier shall not extend or offer to renew a policy beyond the fifth year. If an insured is unable to obtain insurance at the end of the 3 year period,

reapplication for insurance may be made to the Plan. Such reapplication shall be considered as a new application.

In the case of non-resident military personnel, the Plan Service Center on behalf of the assigned company, or CAIP servicing carrier, shall not be required to renew if at the time of renewal the insured is stationed in another state and his/her automobile is not registered in Mississippi.

Section 2006-1.13 Notice to Applicant

A. For private passenger risks serviced by the Plan Service Center, issuance of the original or renewal policy and the making of Financial Responsibility filings, shall all be done in accordance with the applicable provisions of the Plan of Operation or Plan Manual.

B. For risks serviced by a CAIP servicing carrier, issuance of original or renewal policy and the making of Financial Responsibility filings, shall all be done in accordance with the applicable provisions of the Plan of Operation and Plan Manual.

Section 2006-1.14 Reserved

Section 2006-1.15 Rates

A. All risks placed through the Plan shall be subject to the rules, rates, surcharges, minimum premiums and classifications filed on behalf of all companies subscribing to this Plan by AIPSO and approved by the Mississippi Department of Insurance. The rate applicable to any risk placed through the plan shall be determined in accordance with the applicable provisions as set forth in the Plan Manual.

B. For the purposes of such filings, each company subscribing to this Plan is a subscriber to the AIPSO and authorizes the Mississippi Insurance Department to accept such filings on its behalf.

C. All of the statistical data required to develop the appropriate rate shall be furnished to AIPSO by each company subscribing to this Plan or by a statistical agency designated by such company.

D. Nothing herein shall preclude the assigned company from seeking to obtain facultative reinsurance and the charge for such reinsurance (subject to the applicable provisions in the Plan Manual) may be passed on to the insured. This is applicable only when a risk which has been assigned to a company becomes subject to CAIP midterm.

Section 2006-1.15A Standard Policy Coverage

A. Personal Auto Policy

Coverage for private passenger automobiles, as defined in the Plan of Operation and Plan Manual, which have four wheels and are owned or hired under a long-term contract by an individual or by husband and wife who are residents in the same household and written on a specified car basis; for private passenger automobiles owned or hired under a long-term contract by relatives other than husband and wife or resident individuals and for motorcycles or similar type motor vehicles or motor homes; and for named non-owner risks, shall be provided uniform coverage equivalent to the coverage of the Edition of the Insurance Service Office, Inc. (ISO)

Personal Auto Policy and the ISO and Automobile Insurance Plan endorsements which have been approved by the Mississippi Insurance Department for use with Plan business.

B. CAIP Commercial Policy

Commercial risks shall be provided uniform coverage, equivalent to the coverage of the ISO Commercial Auto Coverage Part Program and the ISO and Automobile Insurance Plan endorsements which have been approved by the Mississippi Insurance Department for use with Plan business.

Policies issued under the provisions of the Mississippi Commercial Automobile Part of the Plan of Operation shall indicate that they have been issued on behalf of the Plan.

C. Any required filings of policy or endorsement forms shall be made on behalf of all companies subscribing to this Plan by AIPSO. For the purposes of such filings, each company subscribing to the Plan is a subscriber to AIPSO.

Section 2006-1.16 Cancellations

A. Cancellation at Request of Insured.

If for any reason the insured requests a cancellation, the assigned company or CAIP servicing carrier shall retain the earned premium for the period of coverage and 10% of the pro rata unearned policy premium, or the minimum policy premium as contained in the Plan Manual, whichever is greater, and return the balance to the insured except in the cases indicated in the Plan of Operation or Plan Manual where the return premium shall be computed pro rata.

B. Cancellation by the Plan Service Center on behalf of the Assigned Company or by the CAIP Servicing Carrier

The Plan Service Center, or CAIP servicing carrier which has issued a policy or binder under this Plan, shall have the right to cancel the insurance by giving appropriate notice as required in the policy or binder only for the reasons specified in the Plan of Operation unless otherwise specified by law.

Nothing herein shall be deemed to affect the Plan Service Center's, on behalf of the assigned company, or the CAIP servicing carrier's right to rescind a policy for fraud or misrepresentation or if the insured's premium remittance which accompanies the application is justifiably dishonored by the financial institution, or to invoke other remedies provided by law.

Section 2006-1.17 Right of Appeal

The Committee may hear any appeal from an applicant, insured, producer, or insurer on a matter pertaining to the proper administration of the Plan. Each Notice of Cancellation or denial of insurance under the provisions of the Plan shall contain or be accompanied by a statement that the insured or applicant has a right to appeal to the Committee within thirty (30) days from the date of cancellation, or denial of insurance. The action of the Committee may be appealed to the Commissioner of Insurance within thirty (30) days from the date of action by the Committee.

The Plan shall promptly notify the company, the insured or the applicant, and the producer of record, of the disposition of the appeal, which notification in the case of refusal to sustain a cancellation shall include notice that upon payment of the deposit premium to the company a policy or binder will be issued.

An appeal shall not operate as stay of cancellation, provided, however, that if either the Committee or the Commissioner of Insurance refuses to sustain the cancellation, the company which issued the policy or binder shall, within two working days after receipt of the deposit premium, provided such deposit premium is received within thirty (30) days after determination of the appeal, issue a new policy or binder effective for a period of one year from the date of issuance of such new policy or binder. The balance of the premium shall be payable as provided in the Plan of Operation Personal Automobile Part and the Plan of Operation Commercial Automobile Part.

Section 2006-1.18 Re-eligibility

An applicant denied insurance under the Plan or cancelled by the Plan Service Center or CAIP servicing carrier, may reapply to the Plan as provided in the Plan of Operation.

Section 2006-1.19 Commission

Unless other arrangements have been made with the Insurance Department the compensation under the Plan shall be a percentage as provided in the Plan of Operation. On any risk rated and domiciled outside of this state, the licensed producer may be paid only that portion of the producer's commission which is permissible under the laws of the state in which the risk is rated and domiciled.

Section 2006-1.20 Amendment Plan

Subject to the approval of the Commissioner of Insurance, the Plan may be amended by the Committee by a majority vote taken at a Committee meeting or teleconference or by mail vote.

In the event a mail vote is conducted, the mail ballot containing any proposed amendment shall be mailed to the Committee not less than ten (10) days prior to the final date fixed for voting thereon. If a Committee member does not respond on or by the final voting date, its vote shall be considered affirmative on the proposed amendment.

Section 2006-1.21 Separability

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the regulation and its application to other persons or circumstances shall not be affected.

Section 2006-1.22 Examination Oversight

The Commissioner or any of his appointed examiners may conduct an examination of the Plan under the procedures set forth under Miss. Code Ann. § 83-5-201 et. seq. (as amended) as often as the Commissioner, in his or her sole discretion, deems appropriate. The cost of such examination shall be borne in full by the Plan.