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NOTICE OF MEETING

COMMERCIAL AUTOMOBILE COMMITTEE

A meeting of the Commercial Automobile Committee will be held virtually via Zoom video conferencing software, on

TUESDAY, AUGUST 31, 2021, AT 10:30 A.M.

If you plan to attend this meeting and are not a member of this Committee, please RSVP by completing the Visitor Security Form located in the Contact Us/Visitor Information section of CAR's website. CAR will then forward to you, via email, meeting access information. Please do not share access information provided by CAR, but refer others wishing to attend the meeting to CAR's Visitor Security Form.

MEMBERS OF THE COMMITTEE

Mr. Thomas DePaulo – Chair
Cabot Risk Strategies, LLC

Ms. Kristina Broskey
Ms. Annmarie Castonguay
Ms. Sheila Doherty
Mr. Brian Hurwitz
Ms. Mary McConnell
Ms. Sharon Murphy
Mr. John Olivieri, Jr.
Mr. Thomas Skelly, Jr.
Mr. Barry Tagen
Mr. Mark Winiker
Mr. David Zawilinski

MAPFRE U.S.A. Corporation
The Hanover Insurance Company
Doherty Insurance Agency, Inc.
The Norfolk and Dedham Group
Safety Insurance Company
Acadia Insurance Company
J.K. Olivieri Insurance Agency, Inc.
Deland, Gibson Insurance Associates, Inc.
Pilgrim Insurance Company
A-Affordable Insurance Agency, Inc.
Arbella Insurance Group

AGENDA

CAC

21.01 Records of Previous Meeting

The Records of the Commercial Automobile Committee meeting of July 20, 2021 should be read and approved.

CAC

21.03 CAR Conflict of Interest Policy

The Chair will read a statement relative to CAR's Conflict of Interest Policy.

CAC

20.05 Transportation Network Services Coverage (TNC)

At the last meeting, the Committee discussed the various endorsement approaches to define coverage in policies where TNC use may be present, and unanimously voted to accept CAR staff's recommendation for use of the "Other Insurance Condition Endorsement" approach for addressing coverage on policies with both public and non-public classed vehicles. Staff was directed to prepare rules and forms for Committee consideration at its next meeting.

Endorsement Forms and proposed modifications to the Commercial Automobile Insurance Manual are included to address the exclusion of TNC activities on all commercial automobiles, except those providing coverage for public automobile classifications, the exclusion of any vehicle sharing program in the residual market, and the use of the Other Insurance Condition for policies with public automobile classes. Attached is a Summary of Amendments, Endorsement Forms, and Manual changes to address the TNC Coverage. (Docket #CAC20.05, Exhibit #8)

The Committee will continue discussion in an effort to formulate a recommendation to the Governing Committee.

Other Business

To transact any other business that may properly come before this Committee.

Executive Session

The Commercial Automobile Committee may convene in Executive Session in accordance with the provisions of G.L. c. 30A, § 21.

TIMOTHY GALLIGAN
Actuarial and Statistical Services Director

Attachment

Boston, Massachusetts
August 18, 2021

August 18, 2021

Commercial Automobile Committee
Commercial Automobile Insurance Rules and Forms
Summary of Amendments to Address TNC Activities

TNC Endorsement Forms

CR 99 06 XX 21 – Public or Livery Passenger Conveyance and On-Demand Delivery Services Exclusion

This endorsement will be filed for use with all commercial automobile policies, except those providing coverage for public automobile classifications. It excludes coverage for any auto being used as public livery or conveyance for passengers or by an insured who is logged into a transportation network platform or delivery network platform as a driver.

CR 99 05 XX 21 – Vehicle Sharing Program Exclusion Endorsement

This endorsement will be filed for use with all commercial automobile policies. It excludes coverage for any auto enrolled or participating in a vehicle sharing program.

CR 99 04 XX 21 – Public or Livery Passenger Conveyance and On-Demand Delivery Services Other Insurance Condition Endorsement

This endorsement will be filed for use with all public automobile classifications. It stipulates that the public transportation auto liability coverage is excess over the insurance provided by a transportation network company when the auto is engaged in transportation network or delivery network services.

Proposed Modifications to the Commercial Automobile Insurance Manual

Section II – Common Coverages and Rating Procedures

Rule 20 – How to Classify Automobiles

Section D. of Rule 20 has been modified to indicate that vehicles engaging in TNC activities should be classified and rated in accordance with Section V – Public Transportation of the Manual.

Rule 43 – Vehicle Sharing Program Exclusion Endorsement

This Rule has been added to specify that the Vehicle Sharing Program Exclusion Endorsement (CR 99 05) must be attached to all commercial residual market policies.

Rule 44 – Public or Livery Passenger Conveyance and On-Demand Delivery Services Exclusion Endorsements

This Rule has been added to specify that the Public or Livery Passenger Conveyance and On-Demand Delivery Services Exclusion Endorsement (CR 99 06) must be attached to all commercial residual market policies, except those providing coverage for public automobiles.

Section V – Public Transportation

Rule 71 – Eligibility

The eligibility requirements in this Rule have been modified to indicate that this Section also applies to those autos used as public livery or conveyance, including autos engaging in public or livery passenger conveyance and on-demand delivery services through a transportation network or delivery network services company.

Rule 72 – Public Automobile Classifications

The definition of the car service classification has been modified to clarify that the insured may be under contract with a transportation network or delivery network services company.

Rule 75 – Public or Livery Passenger Conveyance and On-Demand Delivery Services – Other Insurance Condition Endorsement

This Rule has been added to specify that the Public or Livery Passenger Conveyance and On-Demand Delivery Services – Other Insurance Condition Endorsement (CR 99 04) must be attached to all residual market policies that provide coverage for vehicles classified as public transportation.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PUBLIC OR LIVERY PASSENGER CONVEYANCE AND ON-DEMAND DELIVERY SERVICES EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MASSACHUSETTS GARAGE INSURANCE POLICY COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. Changes in Covered Auto Liability Coverage

The following exclusion is added:

Public or Livery Passenger Conveyance and On-Demand Delivery Services

This insurance does not apply to any covered "auto" while being used:

1. As a public or livery conveyance for passengers. This includes, but is not limited to, any period of time a covered "auto" is being used by an "insured" who is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the covered "auto"; or
2. By an "insured" who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items or products to be delivered are in the covered "auto".

However, this exclusion does not apply to business activities performed by an "insured" that are directly related to the Named Insured's business listed in the Declarations.

B. Changes in Physical Damage Coverage

The following exclusion is added:

Public or Livery Passenger Conveyance and On-Demand Delivery Services

We will not pay for "loss" to any covered "auto while being used:

1. As a public or livery conveyance for passengers. This includes, but is not limited to, any period of time a covered "auto" is being used by an "insured" who is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the covered "auto"; or
2. By an "insured" who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items or products to be delivered are in the covered "auto".

However, this exclusion does not apply to business activities performed by an "insured" that are directly related to the Named Insured's business listed in the Declarations.

C. Changes in Auto Medical Payments

If Auto Medical Payments Coverage is attached, then the following exclusion is added:

Public or Livery Passenger Conveyance and On-Demand Delivery Services

This insurance does not apply to:

"Bodily injury" sustained by an "insured" "occupying" a covered "auto" while it is being used:

1. As a public or livery conveyance for passengers. This includes, but is not limited to, any period of time a covered "auto" is being used by an "insured" who is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the covered "auto"; or
2. By an "insured" who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items or products to be delivered are in the covered "auto".

However, this exclusion does not apply to business activities performed by an "insured" that are directly related to the Named Insured's business listed in the Declarations.

D. Changes in Uninsured and/or Underinsured Motorists Coverage

1. If Uninsured and/or Underinsured Motorists Coverage is attached, and:
 - a. Contains, in whole or in part, a public or livery exclusion, then the following exclusion in Paragraph 2. does not apply.
 - b. Does not contain a public or livery exclusion, then the following exclusion in Paragraph 2. is added.

2. Public or Livery Passenger Conveyance and On-Demand Delivery Services

This insurance does not apply to any covered "auto" while being used:

- a. As a public or livery conveyance for passengers. This includes, but is not limited to, any period of time a covered "auto" is being used by an "insured" who is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the covered "auto"; or
- b. By an "insured" who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items or products to be delivered are in the covered "auto".

However, this exclusion does not apply to business activities performed by an "insured" that are directly related to the Named Insured's business listed in the Declarations.

E. Changes in Personal Injury Protection Coverage

1. If Personal Injury Protection, no-fault or other similar coverage is attached, and:
 - a. Contains, in whole or in part, a public or livery exclusion, then the following exclusion in Paragraph 2. does not apply.
 - b. Does not contain a public or livery exclusion, then the following exclusion in Paragraph 2. is added.

2. Public or Livery Passenger Conveyance and On-Demand Delivery Services

This insurance does not apply to any covered "auto" while being used:

- a. As a public or livery conveyance for passengers. This includes, but is not limited to, any period of time a covered "auto" is being used by an "insured" who is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the covered "auto"; or
- b. By an "insured" who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items or products to be delivered are in the covered "auto".

However, this exclusion does not apply to business activities performed by an "insured" that are directly related to the Named Insured's business listed in the Declarations.

F. Additional Definitions

As used in this endorsement:

1. "Delivery network platform" means an online-enabled application or digital network used to connect customers:
 - a. With drivers; or
 - b. With local vendors using drivers for the purpose of providing prearranged "delivery services" for compensation. A "delivery network platform" does not include a "transportation network platform".
2. "Delivery Services" includes courier services.
3. "Occupying" means in, upon, getting in, on, out or off.
4. "Transportation network platform" means an online-enabled application or digital network used to connect passengers with drivers using vehicles for the purpose of providing prearranged transportation services for compensation.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

VEHICLE SHARING PROGRAM EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MASSACHUSETTS GARAGE INSURANCE POLICY COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. Changes in Covered Auto Liability Coverage

The following exclusion is added:

Vehicle Sharing Program:

This insurance does not apply to any "covered" auto while enrolled or participating in a vehicle sharing program under the terms of an express agreement.

B. Changes in Physical Damage Coverage

The following exclusion is added:

We will not pay for "loss" to any covered "autos" while enrolled or participating in a vehicle sharing program under the terms of an express agreement.

C. Changes in Auto Medical Payments

If Auto Medical Payments Coverage is attached, then the following exclusion is added:

Vehicle Sharing Program:

This insurance does not apply to any "Bodily Injury" sustained by an "insured" "occupying a covered "auto" while enrolled or participating in a vehicle sharing program under the terms of an express agreement.

D. Changes in Uninsured And/Or Underinsured Motorist Coverage

If Uninsured and/or Underinsured Motorist Coverage is attached, then the following exclusion is added:

Vehicle Sharing Program:

This insurance does not apply to any covered "auto" while enrolled or participating in a vehicle sharing program under the terms of an express agreement.

E. Changes in Personal Injury Protection Coverage

If Personal Injury Protection, no-fault, or other similar coverage is attached, then the following exclusion is added:

Vehicle Sharing Program

This insurance does not apply to any covered “auto” while enrolled or participating in a vehicle sharing program under the terms of an express agreement.

F. Additional Definitions

As used in this endorsement

1. “Vehicle Sharing Program” means an online-enabled application or digital network used to connect owners of commercially insured vehicles with business entities seeking to rent those vehicles.
2. Vehicle Sharing Programs do not include leasing or rental companies.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PUBLIC OR LIVERY PASSENGER CONVEYANCE AND ON-DEMAND DELIVERY SERVICES

OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MASSACHUSETTS GARAGE INSURANCE POLICY COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. Changes in Covered Auto Liability Coverage

The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary and Excess Insurance Provisions** in the Truckers Coverage Form and supersedes any provision to the contrary:

The Coverage Form's Covered Auto Liability coverage is excess over insurance provided by a "transportation network company" when the covered "auto" is being used:

1. By an insured who is logged into a transportation network platform as a driver, whether or not a passenger is "occupying" the covered "auto" and whether or not the driver is driving to provide a prearranged ride; or
2. By an insured who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items, or products to be delivered are in the covered "auto".

B. Additional Definitions

As used in this endorsement:

1. "Delivery network platform" means an online-enabled application or digital network used to connect customers:
 - a. With drivers; or
 - b. With local vendors using drivers for the purpose of providing prearranged "delivery services" for compensation. A "delivery network platform" does not include a "transportation network platform".
2. "Delivery Services" includes courier services.
3. "Occupying" means in, upon, getting in, on, out or off.
4. "Transportation network company" means a corporation, partnership, sole proprietorship or other entity that uses a digital network to connect riders to drivers to pre-arrange and provide transportation.
5. "Transportation network platform" means an online-enabled application or digital network used to connect passengers with drivers using vehicles for the purpose of providing prearranged transportation services for compensation.

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RULE 20. HOW TO CLASSIFY AUTOMOBILES

- A. If an automobile has more than one use, use the highest rated classification, unless 80% or more of the use is in a lower rated activity. In that case, use the lower rated classification.
- B. Classify and rate automobiles of the truck type that transport property or are used in business according to Section III – Trucks, Tractors and Trailers of this Manual.
- C. Classify and rate automobiles of the private passenger type according to Section IV – Private Passenger Types of this Manual.
- D. Classify and rate buses, taxicabs and other automobiles that are used ~~in the business of transporting people as public livery or conveyance, including automobiles engaging in public livery and on-demand delivery services through a transportation network or delivery network services company,~~ according to Section V – Public Transportation of this Manual.
- E. Classify and rate new and used automobile dealers according to Section VI – Garage Dealers of this Manual.
- F. Classify and rate automobiles that do not fit into these categories according to Section VII – Special Types and Operations of this Manual.
- G. Upon request, the applicant shall be required to substantiate with permanent records (such as log books, revenue books, etc.) that the automobile is being used as set forth in the application or renewal questionnaire.

RULE 21. RESIDENCE AND LOCATION

The proper rate schedules and rules are those effective in the city or town where the automobile is principally garaged except as otherwise provided in this Manual. Automobiles used by salesmen or solicitors, or those with similar duties, requiring the operation of the automobile in more than one rating territory in Massachusetts, shall be assigned to the territory determined by the place of principal garaging, or, if there is no specific city or town of principal garaging, then, by the residential address of the operator or, if the residential address of the operator cannot be determined then, by the Massachusetts business address of the operator. No

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b. Van Pools

Determine the value of the automobile and divide by \$100. Apply the stated amount rate to this value to determine the base premium. This base premium must be modified by the applicable van pool rating factor.

c. Private Passenger Types

Determine the value of the automobile and divide by \$100. Apply the stated amount rate to this value to determine the stated amount premium.

E. Agreed Value Basis

Physical Damage Coverages may be written on an agreed value basis which provides that in determining the actual cash value of an automobile to be insured, no deduction shall be made to reduce the value of the automobile to less than the agreed value in the event of a loss. Agreed value means the value of the automobile as determined by agreement between the insurer and the policyholder. As a condition to this coverage, the insurer shall be permitted to inspect the automobile at the time of application. The following procedures apply when rating this coverage:

1. An appraisal is to be made to establish the current market value of the automobile. The cost of said appraisal shall be borne by the policyholder.
2. Multiply the stated amount premium obtained by a factor of 110%.

RULE 43. ~~RESERVED FOR FUTURE USE~~ VEHICLE SHARING PROGRAM EXCLUSION ENDORSEMENT

The Servicing Carrier will attach the Vehicle Sharing Program Exclusion endorsement form CR 99 05 to the policy. A vehicle sharing program means an online-enabled application or digital network used to connect owners of commercially insured vehicles with business entities seeking to rent those vehicles.

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RULE 44. ~~RESERVED FOR FUTURE USE~~ PUBLIC OR LIVERY PASSENGER CONVEYANCE AND ON-DEMAND DELIVERY SERVICES EXCLUSION ENDORSEMENT

The Servicing Carrier will attach the Public or Livery Passenger Conveyance and On-Demand Delivery Services Exclusion Form CR 99 06 to all policies, except those policies providing coverage for public automobiles classified in accordance with Section V – Public Transportation of this Manual

RULE 45. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT

- A. This rule does not apply to equipment permanently installed in the opening of the dash or console of the automobile normally used by the manufacturer for the installation of a radio.
- B. Use the appropriate endorsement to remove without charge the exclusion relating to audio, visual and data electronic equipment when the policy insures:
 - 1. police department automobiles,
 - 2. fire department automobiles,
 - 3. emergency automobiles owned by local, state or federal governments or by volunteer fire departments, rescue squads or ambulance corps operations.
- C. In all other cases, coverage for loss of or damage to audio, visual and data electronic equipment is available if the equipment is permanently installed in the owned automobile.
- D. Refer to the Common Coverages rate pages in the Rate Section for premium development.

RULE 46. POLLUTION LIABILITY

- A. Coverage for bodily injury or property damage arising out of the discharge of pollutants that are being transported or towed by, loaded onto or unloaded from or, with the exception of certain fuels, stored, disposed of, treated or processed in or upon a covered automobile is excluded under the Business Auto and Truckers Coverage Forms and

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RULE 71. ELIGIBILITY

This section applies to automobiles registered or used ~~for the transportation of members of the public, as public livery or conveyance, including automobiles engaging in public livery and on-demand delivery services through a transportation or delivery network services company.~~

RULE 72. PUBLIC AUTOMOBILE CLASSIFICATIONS

If an automobile has more than one use, use the highest rated classification unless 80% or more of the use is in a single lower rated activity. In that case, use the lower rated classification.

Classify public automobiles as follows:

A. Fleet and Non-Fleet Classifications

1. Fleet Classification

Any risk that has five or more self-propelled automobiles of any type that are under one ownership. For the purpose of assigning this classification, do not include:

- 1) automobiles owned by allied or subsidiary interests unless the insured holds a majority financial interest
- b. mobile equipment insured on a General Liability Policy
- c. trailers

2. Non-Fleet Classification

Automobiles for risks that do not qualify for a fleet classification.

Do not change the fleet or non-fleet classification because of mid-term changes in the number of owned automobiles except at the request of the insured. The policy must be cancelled in accordance with Rule 9 – Cancellation in Section I – General Rules of this Manual and rewritten as of the effective date of the cancellation.

B. Primary Classifications

The primary classification codes assigned to public vehicles are determined based upon the automobile's use and radius class with the exception of van pools which use seating capacity in determining

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- (1) is hired on a prearranged hourly basis for weddings, funerals, religious ceremonies or other non-business social functions;
 - (2) is hired on an exclusive, dedicated basis for the duration of the event, not for drop-off and pick-up;
 - (3) is operated by the named insured, an employee, or an independent contractor of the named insured, in attendance as a chauffeur at the beginning and ending of the function.
- c. *Car Service* – an unmarked for hire automobile with a seating capacity of eight or less which
- (1) is hired on a prearranged basis;
 - (2) does not pick up hail fares on the street;
 - (3) does not contain a rate meter, and does not charge for services based upon miles traveled if the trip is less than 25 miles;
 - (4) operates on a scheduled business day, and is returned to the automobile's base of operation for a continuous period of at least four hours in each 24 hour period;
 - (5) is operated by the named insured, an employee, or an independent contractor of the named insured, in attendance as a chauffeur;
 - (6) operates from a base with two-way communication;
 - (7) primary payment method is by billing or credit card;
 - (8) may be under contract with a regional transit authority where transportation services are paid for by the individual requesting the services. For services contracted and paid for by a social service agency, classify the automobile in accordance with Section B.1.f.(7) of this Rule.
 - (9) may be under contract with a transportation network or delivery network services company.
- d. *School Bus* – an automobile that carries students or other persons to and from school, or in any school activity including

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RULE 75. RESERVED FOR FUTURE USE PUBLIC OR LIVERY PASSENGER CONVEYANCE AND ON-DEMAND DELIVERY SERVICES – OTHER INSURANCE CONDITION

For all policies with automobiles classified as public automobiles in accordance with this Section, the Servicing Carrier will attach Public or Livery Passenger Conveyance and On-Demand Delivery Services – Other Insurance Condition endorsement form CR 99 04 to the policy.

RULE 76. TRANSPORTATION OF MIGRANT FARM WORKERS BY FARM LABOR CONTRACTORS

This rule applies only to automobiles of a farm labor contractor required to be registered in accordance with the Migrant and Seasonal Agricultural Workers Protection Act.

A. Eligible Class Codes

1. Passenger Hazard Included (Class Code 5926)
2. Passenger Hazard Excluded (Class Code 5927)

B. Premium Computation

1. Rate each automobile as an inter-city bus (Rule 72.B.1.f.(1)) and calculate the otherwise applicable non-fleet premium for each risk according to the provisions of Rule 73 – Premium Development – Other than Zone Rated Automobiles. If an automobile subject to this rule is of a truck type, the secondary rating factor should reflect a seating capacity of 21-60 in accordance with this Rule.

2. Passenger Hazard Included

Multiply the compulsory and optional bodily injury liability, personal injury protection and property damage liability premiums determined in Section B.1. of this Rule by 0.50 to determine the final premium.

3. Passenger Hazard Excluded

Multiply the compulsory and optional bodily injury liability, personal injury protection and property damage liability premiums determined in Section B.1. of this Rule by 0.375 to determine the final premium.