

211 CMR 94.00: ~~Mandatory~~ Pre-Insurance Inspection of Private Passenger Motor Vehicles

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94.01: Authority

211 CMR 94.00 is issued pursuant to the authority granted the Commissioner of Insurance by M.G.L. c. 175, § 113S.

94.02: Scope and Purpose

The purpose of 211 CMR 94.00~~02~~ is to establish standards and procedures for the inspections of certain ~~used cars~~ motor vehicles prior to ~~the issuance by insurers' issuance~~ of ~~Physical~~ ~~Damage~~ insurance coverages. 211 CMR 94.00 applies to all ~~Private~~ ~~Passenger~~ ~~Motor~~ ~~Vehicles~~ insured in the Commonwealth, ~~of Massachusetts,~~ unless specifically exempted or waived ~~under 211 CMR 94.00 herein.~~

94.03: Definitions

As used in 211 CMR 94.00, the following words will have the meanings indicated:

Applicant means the named insured ~~or individual applying as the named insured~~, as ~~that term is~~ defined in ~~the Standard Massachusetts a Motor Vehicle Insurance~~ Liability Policy ~~or Bond~~, ~~an applicant for a motor vehicle liability policy or bond.~~

Authorized Representative means any person or legal entity, other than the ~~a~~ Applicant, authorized by an ~~insurer~~ ~~or an Inspection Service~~ to conduct pre-insurance inspections pursuant to 211 CMR 94.00 and may include an employee of the ~~insurer~~, ~~or an insurance~~ producer ~~of the Insurer~~, or an ~~Inspection~~ Service.

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Book of ~~b~~Business means all ~~m~~Motor ~~v~~Vehicle Liability Policies~~insurance~~ written by one insurance producer with one ~~i~~Insurer.

Certificate of Mailing means a notice by regular mail with a certificate of mailing endorsed by the United States Postal Service.

Commissioner means the Commissioner of Insurance appointed under the provisions of M.G.L. c. 26, § 6, or his or her designee.

Division means the Division of Insurance created pursuant to M.G.L. c. 26, § 1, within the Department of Banking and Insurance Office of Consumer Affairs & Business Regulation.

Existing Customer means an ~~a~~Applicant for a ~~m~~Motor ~~v~~Vehicle ~~l~~Liability ~~p~~Policy ~~or b~~Bond who has been insured for three years or longer, without interruption, under a ~~m~~Motor ~~v~~Vehicle ~~l~~Liability ~~p~~Policy or ~~p~~Policies which include(s) ~~p~~Physical ~~d~~Damage ~~e~~Coverage, issued by the ~~i~~Insurer to which the Applicant's application is submitted. An existing customer shall include any aApplicant involuntarily transferred to another iInsurer due to the aApplicant's original iInsurer's withdrawal from the Commonwealth, if the aApplicant otherwise qualifies under 211 CMR 94.00.

Inspection Sservice means any person or legal entity, other than the ~~a~~Applicant, ~~designed and operated~~authorized by the Insurer to perform inspections required by 211 CMR 94.00, ~~and which is approved by the insurer.~~ In determining whether to ~~approve~~authorize an ~~i~~Inspection Sservice an ~~i~~Insurer may take into consideration the Inspection Sservice's professionalism, efficiency and cost effectiveness.

Insurer means any insurance company authorized to write M~~m~~otor V~~v~~ehicle Liability Policies~~insurance~~ in the Commonwealth of Massachusetts.

Motor Vvehicle Lliability Ppolicy~~or Bbond~~ means an motor vehicle liability insurance policy, including the coverage selections page and any endorsements, or motor vehicle liability bond, as defined in M.G.L. c. 90, §§ 34A, 34O, and M.G.L. ~~34O, and M.G.L. c. 175.~~ c. 175.

Nonowned M-motor Vvehicle means a ~~p~~Private ~~p~~Passenger ~~m~~Motor ~~v~~Vehicle in the possession of the ~~a~~Applicant, or being operated by the ~~a~~Applicant, which is neither owned by nor furnished for the regular use of either the ~~a~~Applicant or any ~~relative~~relative insured (as defined in ~~the a Motor Vehicle Liability Ppolicy~~), other than a ~~t~~Temporary ~~s~~Substitute ~~m~~Motor ~~v~~Vehicle, as defined herein below.

Physical Ddamage Ceoverage means the optional coverages in a ~~m~~Motor ~~v~~Vehicle ~~l~~Liability ~~p~~Policy ~~or b~~Bond for collision or limited collision and/or fire and theft or so-called comprehensive coverages, as defined in M.G.L. c. 90, § 34~~(O)~~ and M.G.L. c. 175, § 113O.

Private Ppassenger Mmotor Vvehicle means any owned or leased four-wheeled motor vehicles including, but not limited to, sedans, coupes, hatchbacks, station wagons, jeep-type vehicles, pick-up trucks, panel trucks, delivery sedans and vans, except motor vehicles which have a gross weight in excess of 108,000 pounds.

~~Producer means an agent or broker licensed pursuant to M.G.L. c. 175, §§ 163 or 166, to write property and casualty insurance in the Commonwealth, including a representative producer as defined by the rules for the Commonwealth Automobile Reinsurers established pursuant to M.G.L. c. 175, § 113H.~~

Temporary Substitute Motor Vehicle means any pPrivate pPassenger ~~m~~Motor ~~v~~Vehicle not owned by the applicant, which is used by the applicant, with the permission of the owner, as a temporary substitute due to the breakdown, repair, servicing, loss or destruction of the applicant's own motor vehicle.

94.04: Mandatory Inspection Requirementss

(1) No ~~m~~Motor ~~v~~Vehicle ~~l~~Liability ~~p~~Policy ~~for a or endorsement insuring a~~ pPrivate pPassenger ~~m~~Motor ~~v~~Vehicle, ~~including for~~ pPhysical ~~d~~Damage ~~e~~Coverage, shall be issued or renewed in the Commonwealth ~~of Massachusetts~~ unless the insurer has inspected the motor vehicle in accordance with 211 CMR 94.00.

(2) Physical ~~d~~Damage ~~e~~Coverage shall not be effective on an additional or replacement Private Passenger mMotor ~~v~~Vehicle under an existing Motor Vehicle Liability pPolicy, ~~unless otherwise exempted,~~ until the insurer has inspected the motor ~~motor~~-vehicle in accordance with 211 CMR 94.00.

94.05: Mandatory Waivers of Exemptions to Inspection Requirements

(1) The ~~insurer shall waive an inspection requirement of an~~ inspection ~~of a Private Passenger Motor Vehicle under~~ ~~shall be waived~~ ~~the not apply to~~ the following circumstances~~situations~~:

(a) ~~the a new, unused~~ Private Passenger mMotor ~~v~~Vehicle is a new, unused motor vehicle from a franchised automobile dealership where the insurer is provided with either: a copy of the bill of sale which contains a full description of the motor ~~motor~~-vehicle including all options and accessories; or a copy of the RMV Form 1 provided by the Registry of Motor Vehicles, which establishes the transfer of ownership from the dealer to the customer and 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 motor vehicle. The pPhysical ~~d~~Damage ~~e~~Coverage on such new, unused Private Passenger mMotor ~~v~~Vehicle shall not be suspended during the term of the Motor Vehicle Liability Policy due to the applicant's failure to provide the required documents. Payment of a Physical Damage Coverage claim, however, shall be conditioned upon the receipt by the insurer of such documents and no pphysical ~~d~~Damage ~~e~~Coverage 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 60 days prior to the applicant's annual policy renewal date, the insurer, upon renewal of the pphysical damage coverage, ~~shall must~~ require an inspection as set forth in 211 CMR 94.00;

(b) the applicant for Physical Damage Coverage is an eExisting eCustomer;

(c) the Private Passenger mMotor ~~v~~Vehicle ~~is already~~ is insured for such pPhysical ~~d~~Damage ~~e~~Coverages with the insurer by the applicant;

(d) ~~the Insurer waives the an~~ inspection ~~is waived by the i~~Insurer pursuant to 211 CMR 94.06;

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(e) ~~at~~the Private Passenger Motor Vehicle is a ~~t~~Temporary ~~s~~Substitute ~~m~~Motor ~~v~~Vehicle;

(f) ~~at~~the Private Passenger ~~m~~Motor ~~v~~Vehicle ~~which~~ is leased for less than six months, provided the ~~i~~Insurer receives a copy of the lease or rental agreement containing a description of the leased ~~motor~~ motor vehicle including its condition. Payment of a ~~P~~physical ~~D~~Damage Coverage claim shall be conditioned upon receipt of a the copy of the lease or rental agreement;

(g) ~~when requiring an the~~ inspection would cause a serious hardship to the ~~i~~Insurer or the ~~a~~Applicant ~~and such hardship is documented in the applicant's policy record; or~~or

(h) ~~when the i~~Insurer has not ~~authorized an Authorized Representative or an i~~Inspection ~~Service facility or authorized representative~~ either in the city or town in which the Private Passenger mMotor vVehicle is principally garaged, or within five miles of said city or town.

~~(2) An insurer shall indicate in the applicant's policy record the reason a vehicle is being exempted from the inspection requirement under 211 CMR 94.00.~~

~~(32) An i~~Insurer may require an inspection of a Private Passenger mMotor vVehicle otherwise exempt from such inspection pursuant to 211 CMR 94.05(1) provided that the decision to inspect is based on such exceptions are based on underwriting criteria uniformly applied, and the such decision is 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, creed, national origin, religion, occupation, income, education, credit information or homeownership of the ~~a~~Applicant or the customary operators of the motor vehicle, the principal place ~~of~~ where the motor vehicle is garaged~~ing~~, or the fact that the Motor Vehicle Liability pPolicy has been ~~eeded to issued through~~ the residual market ~~mechanism~~.

~~An Insurer shall indicate written record of the reasons for requiring an inspection, pursuant to 211 CMR 94.05(32), shall be placed in the a~~Applicant's policy record.

94.06: Optional Waivers of Inspection Requirements

(1) An ~~i~~Insurer may waive ~~an~~ inspection of a Private Passenger Motor Vehicle under any of the following circumstances:

(a) for Motor Vehicle Liability pPolicies issued or renewed with Physical Damage Coverage during the current calendar year ~~2002~~, when the difference between the current calendar year and the model year designated by the manufacturer of the motor vehicle is ten years or more. For example, if the calendar year is 2002, the Insurer may waive the inspection for all 1992 and older model year motor vehicles. For policies issued or renewed during each calendar year thereafter, the applicable model year shall be moved forward by one year. For example: in 2002 an insurer must inspect 1993 and newer model year vehicles and in 2003 an insurer must inspect 1994 and newer model year vehicles. An ~~i~~Insurer may elect to inspect specified motor vehicles included within this optional waiver. Such exceptions to this optional waiver

~~shall must~~ be ~~subject to based on~~ underwriting criteria uniformly applied, and shall be reasonable and supported by objective facts. The decision to require such an inspection shall not be based on the age, race, sex, marital status, creed, national origin, religion, occupation, income, education, credit information or homeownership of the Applicant or the customary operators of the motor vehicle, the principal place where the motor vehicle is garaged, or the fact that the Motor Vehicle Liability Policy has been issued through the residual market;

- (b) where a ~~nNonowned mMotor vVehicle~~ is insured under a Motor Vehicle Liability pPolicy providing pPhysical dDamage eCoverage issued by an iInsurer which has inspected such ~~motor motor~~-vehicle in accordance with the provisions of 211 CMR 94.00;

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- (c) where the ~~insured-Private Passenger mMotor vVehicle~~ is insured under a commercially-rated Motor Vehicle Liability pPolicy, ~~which insures a fleet of five or more motor vehicles owned by the same person or legal entity;~~

- (d) when an insurance producer is transferring a ~~bBook of bBusiness~~ from one iInsurer to one or more iInsurers; ~~The new Insurer may require the insurance producer to provide a copy of the inspection information completed on behalf of the previous Insurer, provided the insurance producer represents both Insurers and the Private Passenger Motor Vehicle was previously inspected by the previous Insurer. If the new Insurer does not receive a copy of the inspection report 60 days prior to the first annual renewal date of the Physical Damage Coverages, the insurer must require an inspection as set forth in 211 CMR 94.00 prior to the first renewal; or~~

- (e) when an insurance producer is transferring an individual aApplicant's coverage from one Insurer to another Insurer. The new Insurer may require the insurance producer to provide the inspection information completed on behalf of the ~~former previous~~-Insurer, provided the ~~insurance producer represents both Insurers and the~~ Private Passenger Motor Vehicle ~~was~~ previously ~~was~~ inspected by the ~~former previous~~-Insurer. If the new Insurer does not receive the inspection information 60 days prior to the first ~~annual~~policy renewal date of the Physical Damage Coverages, the ~~new iInsurer must~~may require an inspection as set forth in 211 CMR 94.00 prior to the first ~~policy~~ renewal;

- (e) when an individual applicant's coverage is being transferred by an independent insurance agent to a new insurer and said agent provides the new insurer with a copy of the inspection report completed on behalf of the previous insurer, provided the independent agent 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 60 days prior to the first annual renewal date, the insurer must, upon renewal of the physical damage insurance, require an inspection as set forth in 211 CMR 94.00; or ~~[Note, this is incorporated with (d) above]~~

- (f) ~~When~~ the Private Passenger mMotor vVehicle is insured for pPhysical dDamage Coverage on the aApplicant's expiring ~~Massachusetts Automobile Insurance Policy~~Motor Vehicle Liability Policy, or when ~~a copy of the~~ prior ~~Ppre-I~~pre-Insurance iInspection information is provided; ~~or~~

(g) When the Applicant has been the customer of the insurance insurer-producer of record for at least three (3) years under a Massachusetts Automobile Motor Vehicle Insurance Liability Policy which included Physical Damage Coverage;

(g) when the Insurer has independently has filed with the Commissioner a plan setting forth its criteria for conducting Private Passenger Motor Vehicle pre-insurance inspections, which requirements that comply with the requirements of 94.06(2), and such plan have has been approved by the Commissioner;

(2) On or after _____, An Insurer also may waive an inspection if it files its own a plan criteria for waiving pre-insurance inspections on Private Passenger Motor Vehicles, subject to the approval of the by the Commissioner. Such pre-insurance inspection plans plans shall must comply with the following minimum requirements:

(a) the Insurer's plan shall must comply with the provisions in requirements of 211 CMR 94.05 and 211 CMR 94.08(4);

(b) the Insurer's plan shall require the following documentation to be included in the Insurer's policy records for the Applicant:

- i. The reason the for requiring a any pre-insurance inspection;
- ii. The reason for any other exceptions to other any other provisions of the Insurer's plan; and
- iii. The notification(s) made to the Applicant in connection with any required pre-insurance inspections required by the Insurer.

(c) the decision criteria for waiving the pre-insurance inspections required by 211 CMR 94.00 set forth in the Insurer's plan shall not consider the Applicant's membership in any group subject to a n approved group marketing deviation plan approved by the Commissioner pursuant to under M.G.L. c. 175, § 193R; or and

(d) the decision criteria for waiving the pre-insurance inspections required by 211 CMR 94.00 set forth in the Insurer's plan shall not be based on the loss ratio for an insurance producer, where such loss ratio is calculated using premium and loss experience incurred prior to December 31, 200811 for personally-rated Motor Vehicle Liability Policies;

(e) any provisions of the Insurer's plan that permit the Insurer to elect to inspect a Private Passenger Motor Vehicle for which s-inspection which are customarily are-is waived under such its plan shall must be based on underwriting criteria uniformly applied, and the decision to inspect such motor vehicle shall be is reasonable and supported by objective facts. The decision to require such an inspection shall not be based on the age, race, sex, marital status, creed, national origin, religion, occupation, income, education, credit information or homeownership of the Applicant or the customary operators of the motor vehicle, the principal place of where the motor vehicle is garaged, or the fact that the Motor Vehicle Liability Policy has been issued through the residual market; and

(f) any provisions of the Insurer's plan that set forth describe a a time-period of time for the completion of a pre-insurance inspection following the effective date of a Motor Vehicle

Liability Policy shall ~~must~~ be based on underwriting criteria uniformly applied, and shall be reasonable and supported by objective facts. The period of time for obtaining the pre-insurance inspection shall not be based on the age, race, sex, marital status, creed, national origin, religion, occupation, income, education, credit information or homeownership of the Applicant or the customary operators of the motor vehicle, the principal place of where the motor vehicle is garaged, or the fact that the Motor Vehicle Liability Policy has been issued through the residual market.

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(3) An Insurer's decision to waive or not to waive a pre-insurance inspection of a Private Passenger Motor Vehicle pursuant to 211 CMR 94.06(1) or 94.06(2) shall be based on underwriting criteria uniformly applied and shall be reasonable and supported by objective facts. The decision to require a pre-insurance inspection shall not be based on the age, race, sex, marital status, creed, national origin, religion, occupation, income, education, credit information or homeownership of the Applicant or the customary operators of the motor vehicle, the principal place where the motor vehicle is garaged, or the fact that the Motor Vehicle Liability Policy has been issued through the residual market.

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(23) AnyAn Insurer's decision to waive or not to waive a pre insurance to waive or not to waive an inspection of a motor vehicle pursuant to 211 CMR 94.06(1) or 94.06(2)0;

shall be based on underwriting criteria uniformly applied. The decision to require an inspection shall not be based on the age, race, sex, or marital status, creed, national origin, religion, occupation, income, education, credit information or homeownership of the aApplicant or the customary operators of the motor vehicle, the principal place ofwhere the motor vehicle is garageding, or the fact that athe Motor Vehicle Liability pPolicy has been ceded toissued through the residual market; mechanism.

(443) -When an Insurer does not waive the pre-insurance inspection requirement, theAn iInsurer shall indicate in the applicant's policy record the underlying reason an inspection was required waiver has been in the Applicant's policy record. granted.

apreviously approved plan for conducting ssuch Insurershall all provisions of

94.07: Deferral of Inspection Requirements

(1) An iInsurer may defer an inspection for ten calendar days (not including legal holidays and Sundays) following the effective date of coverage or the date on which the iInsurer or the insurance producer of record issued notice to the Applicant that the Private Passenger Motor Vehicle ~~must must~~ be inspected, mailed the Notice of Mandatory Pre-Insurance Inspection Requirement (Form B) whichever is later, on new business and on additional or replacement vehicles to an existing policy, if an inspection at the time of the request for coverage would create a serious inconvenience for the aApplicant.

(2) If the Insurer is required, pursuant to M.G.L c. 175, § 113H, to provide Physical Damage Coverage at the option of the Applicant, it shall provide immediate coverage upon an Applicant's request for such Physical Damage Coverage, and may defer the inspection for ten calendar days (not including legal holidays and Sundays) following the effective date of such coverage or the date on which the Insurer or the insurance producer of record issued notice to the Applicant that the Private Passenger Motor Vehicle must be inspected, whichever is later.

| (3) (2)

(a) When an inspection is deferred pursuant to 211 CMR 94.07(1) or (42), an iInsurer, through its insurance producer, shall either:

- ~~1. immediately obtain the prescribed written acknowledgement of the deferral (Form D) signed by~~ from the aApplicant if the aApplicant has applied
1. - for coverage in person; or
- ~~2. immediately confirm pPhysical dDamage eCoverage on the Private Passenger Motor Vehicle -and remind the applicant of the inspection requirement on a prescribed issue a notice of deferral letter (Form B) to the~~
- ~~Applicant, if the aApplicant has applied for coverage either by mail, or by phone, or internet.~~
2. -

(b)

~~(b) In~~ addition to the notice requirements of 211 CMR 94.07(23)(a), the iInsurer, through its insurance producer, shall furnish the aApplicant, at the time Physical eCoverage is effected, with a list of iInspection Services, including location(s), and their locations at which sites where the inspection ~~can~~ be conducted. The list of iInspection sServicesites may be provided to the Applicant in writing, through a toll free number or by electronic access, as convenient for requested convenient for by the aApplicant. The Applicant immediately shall be notified of the location of the an iInspection Service(s) or Services, site or sites, as well as -and the consequences of the aApplicant's failure to obtain a timely inspection of the motor vehicle, shall be furnished communicated immediately to the aApplicant either in person, if the applicant has applied for coverage in person, or by telephone, if the applicant has applied for coverage by phone. Documentation of such notice, including the name of the person providing such giving the notice to the Applicant, shall must be contained in the aApplicant's policy record.

~~(4) Insurance producers must immediately shall send to notify the iInsurer a copy of the notice to that the Applicant has acknowledged or has been issued notice that the Private Passenger Motor Vehicle must must be inspected in accordance with 211 CMR 94.07(3)(a), and the acknowledgement from the Applicant. In the case of a so-called courtesy transfer, the insurance producer confirming Physical Damage? eCoverage shall be responsible for obtaining the Applicant's acknowledgement pursuant to 211 CMR 94.07(23)(a)1, above, unless the application for Physical Damage? coverage is submitted by a person other than the Applicant. In such cases, the insurance producer of record shall remain responsible for notification pursuant to 211 CMR 94.07(23)(a)2, and 94.07(23)(b). The insurance producer confirming coverage shall notify immediately notify the insurance producer of record who shall then shall be responsible for notifying the Insurer as required by 211 CMR 94.07(34).~~

~~(24) If the iInsurer is required, pursuant to M.G.L. c. 175, s. 113H, to provide pPhysical dDamage eCoverage at the option of the aApplicant, it shall provide, upon an aApplicant's request for such pPhysical dDamage eCoverage, immediate coverage and may defer the inspection for the ten calendar days (not including legal holidays and Sundays) following the effective date of such coverage or the date on which the iInsurer or the producer of record~~

~~mailed issued notice to the Applicant that the Private Passenger Motor Vehicle mustmust be inspected, the Notice of Mandatory Pre-Insurance Inspection Requirement (Form B) whichever is later.~~

(~~535~~) Any decision to defer or not to defer an inspection pursuant to 211 CMR 94.07~~9~~ shall

~~be based on underwriting criteria uniformly applied and shall be reasonable and supported by objective facts. The decision to defer or not to defer an inspection, and shall~~ not be based on the age, race, sex, ~~or~~ marital status, ~~creed, national origin, religion, occupation, income, education, credit information, or homeownership~~ of the ~~a~~Applicant or the customary operators of the ~~motor~~ vehicle, the principal place ~~of where the motor vehicle is garageding,~~ or the fact that ~~thea~~ Motor Vehicle Liability ~~p~~Policy has been ~~eeded to~~issued through the residual market, ~~mechanism.~~

94.08: Standards and Procedures for Inspections

(1) ~~Pre-insurance i~~nspections required or permitted pursuant to 211 CMR 94.00 shall be ~~made conducted by an designated Authorized Representative of the Insureran Inspection Service designated authorized representative ofby the insurer~~ at a time and place reasonably convenient to the ~~a~~Applicant. A reasonably convenient time shall include, in addition to customary business hours, sufficient early morning, evening and weekend hours. A reasonably convenient place shall not be more than five miles from the city or town where the ~~Private Passenger m~~Motor ~~v~~Vehicle is principally garaged.

(2)

(a) Any ~~inspection authorization~~ forms issued by the ~~i~~nsurer to the ~~a~~Applicant, for presentation to the ~~A~~authorized ~~Representative representative~~Inspection Service, shall not contain the Vehicle Identification Number (VIN) of the ~~motor~~ vehicle to be inspected.

(b) The inspection shall:

~~1. 1.—be recorded in a format mutually agreeable to the Aauthorized RepresentativeInspection Service and the Insurer; on the prescribed MOTOR VEHICLE PRE INSURANCE INSPECTION REPORT (Form A) (See 211 CMR 94.16);~~

~~2. 2.—include two color photographs of the Private Pasesenger mMotor vVehicle, taken as directed by the Insureron the inspection report, which shall be attached to the report;~~

~~3. 3.—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 door jamb. The photograph shallmust be of sufficient clarity that the information contained on the EPA sticker and the 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 door jamb where the sticker ~~is~~ normally is located; still is ~~still~~ required.

- (c) The ~~a~~Authorized ~~r~~Representative ~~may~~shall take additional photographs showing any damaged areas of the Private Passenger Motor Vehicle, as required by the Insurer, which shall also be attached to the report.
- (d) The ~~original report and inspection information and~~ -photographs shall be ~~immediately~~immediately sent to the ~~i~~Insurer ~~which~~he shall retain this information e-report and photographs in the ~~a~~Applicant's policy record for three years from the date of the inspection, except as provided by 211 CMR

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94.08(6)(~~dc~~). The ~~a~~Authorized ~~r~~Representative shall also provide a receipt copy of the report, without photographs, to the aApplicant at the time of the inspection indicating that the inspection has been completed and the date upon which it has been completed.

(3) The ~~i~~Insurer shall maintain an up-to-date list of all Aauthorized RepresentativesrepresentativesInspection Services and Iinspection Service(s)ites performing inspections for the ~~i~~Insurer. The list ~~must~~shall include the names, addresses and business telephone numbers of all aAuthorized rRepresentatives and Inspection Services, and the ~~i~~Insurer shall make such list accessible [available?] to the Division upon request.

(4) There shall be no additional or separate charge ~~either directly or indirectly~~ to the ~~a~~Applicant in connection with an inspection of a Private Passenger Motor Vehicle in addition to the policy premium for the Motor Vehicle Liability Policy, except that such charge may be considered in accordance with M.G.L. c. 175, § 113B or other applicable laws.

(5) The Insurer is responsible for the acts of the Authorized Representative conducting inspections on behalf of the Insurer. The competency and trustworthiness of the authorized representativeInspection Service in the conduct of the inspections provided for in 211 CMR 94.08 shall be the responsibility of the iInsurer. The competency and trustworthiness of all Authorized Representatives in the conduct of the inspections provided by 211 CMR 94.00 shall be the responsibility of the Insurer.

(6) An ~~i~~Insurer shall utilize Aauthorized RepresentativesrepresentativesInspection Services who shall:

(a) v

(a) verify the accuracy, completeness and signature of the inspectorAuthorized Representativeinspector for each inspection report in -writing;

(b) ma

(b) maintain a control system on such inspections, and maintain records of the inspection information for a period of time agreed to by the Insurer and the Authorized Representative reports including the use of sequentially numbered reports;

~~(e)~~ retain and supply to an insurer, upon request, a copy of any inspection report which was completed within three years of the date of inspection.

~~(d)~~ provide an optional service, on an additional fee basis, to ~~i~~nsurers whereby the original inspection ~~reports~~information and photographs are retained by the ~~A~~uthorized ~~Representative~~representative~~Inspection Service~~, who shall maintain such original inspection ~~information~~reports and photographs in a manner so as to facilitate ~~their~~ rapid retrieval for a period of at least three years from the date of inspection. ~~A~~ copy of the inspection ~~report~~information and photographs shall be provided to the ~~i~~nsurer. ~~The~~ ~~A~~uthorized ~~Representative~~representative~~Inspection Service~~ shall, upon the request of the ~~i~~nsurer, mail or otherwise deliver the original inspection ~~report~~information and photographs to the ~~i~~nsurer within two business days of such request.

~~(7)~~

(a) The inspection ~~report~~information and photographs shall be used by the ~~i~~nsurer to document previous damage, prior condition, options and mileage of the ~~Private Passenger M~~otor ~~V~~ehicle on ~~P~~hysical ~~D~~amage ~~Coverage~~ claims whenever:

1. the appraisal ~~of the motor vehicle~~ indicates prior damage; ~~or~~
2. the ~~motor~~ vehicle is a total loss or unrecovered theft; ~~or~~
3. ~~the damage to the motor vehicle exceeds \$14,000.~~

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~~(b)~~ ~~A copy of t~~The inspection ~~report~~information and photographs ~~shall~~must be utilized, and made a part of the ~~ee~~

~~Insurer's~~ claim file, in the settlement of all total loss claims. The inspection ~~report~~information and photographs ~~shall~~must be made a part of the claim file regardless of whether ~~or not the~~ payment ~~on the claim~~ is reduced based on ~~itsuch information. the information contained therein.~~ Such inspection ~~report~~information ~~shall~~must come from the ~~a~~Applicant's policy record.

94.09 Standards for Suspension of Physical Damage Coverage ~~for Failure to Inspects~~

(1) If the inspection is not conducted prior to the expiration of the ~~ten calendar days~~ deferral period specified in 211 CMR 94.07(1), ~~motor vehicle p~~Physical ~~d~~Damage ~~e~~Coverage on the ~~Private~~

Passenger mMotor vVehicle shall be suspended at 12:01 a.m. of the day following the tenth calendar day allowed by 211 CMR 94.07(1), and ~~such suspension~~ shall continue until the inspection is effected. The iInsurer ~~shall must inspect the motor vehicle and~~ reinstate pPhysical dDamage eCoverage (effective at the time of the inspection) if the aApplicant thereafter requests an inspection. The aApplicant's ability to reinstate the pPhysical dDamage eCoverage upon inspection, however, shall lapse if the iInsurer ~~has~~ already has made a pro-rata premium adjustment pursuant to 211 CMR 94.09(2). Thereafter, a reinstatement of Physical Damage Coverage only shall ~~only~~ be effective upon inspection and payment by the aApplicant to the iInsurer of the adjusted premium for the pPhysical dDamage eCoverage, either in full or in accordance with the iInsurer's normal premium payment plan, at the iInsurer's option.

(2) Whenever pPhysical dDamage eCoverage is suspended, the iInsurer shall, between the 21st and the 30th calendar day after the effective date of the Physical Damage eCoverage, or the date on which the iInsurer or ~~the~~its insurance producer ~~of record issued notice to the Applicant that the Private Passenger Motor Vehicle must must be inspected, mailed the Notice of Mandatory Pre Insurance Inspection Requirement (Form B)~~, whichever is later, mail to the aApplicant, the insurance producer of record, and any lienholders a notice that Physical Damage Coverage has been suspended under the Motor Vehicle Liability Policy. ~~prescribed NOTICE OF SUSPENSION OF PHYSICAL DAMAGE COVERAGE (Form C) (see 211 CMR 94.16).~~ The iInsurer shall complete a eCertificate of mMailing of such notice of -the suspension of Physical Damage Coverage to the aApplicant and shall include ~~retain the certificate and a copy of the suspension~~ incorporate this information in notice in the aApplicant's policy record. Whenever there is a suspension of pPhysical dDamage eCoverage for more than ~~40-ten~~ days, the iInsurer shall make a pro-rata premium adjustment (return premium or credit) which shall be mailed to the aApplicant no later than ~~45~~30-45 days after the effective date of ~~such the~~ suspension.

(3) If the Private Passenger mMotor vVehicle is not inspected pursuant to 211 CMR 94.00 ~~this regulation due because the Insurer or its insurance producer failed to of the acts of the because due to the fault of the iInsurer, or if due to the failure insurance its producer failed to provide give the verbal or telephone notice(s) or to -obtain the acknowledgement(s)s required by 211 CMR 94.07(32) of this regulation or mail or deliver the NOTICE OF MANDATORY PRE INSURANCE INSPECTION REQUIREMENT (Form B) or obtain the pre inspection requirements, ACKNOWLEDGEMENT OF REQUIREMENTS FOR PRE INSURANCE INSPECTION (Form D) as set forth in 211 CMR 94.07(2) and the insurer or the producer of record has failed to issue the Mandatory Pre Insurance Inspection Requirement (Form B), pPhysical dDamage eCoverage on the mMotor vVehicle Liability Policy shall not be suspended lapse.~~ The failure of the iInsurer to act promptly does not relieve it of its obligation to inspect the motor vehicle. ~~-~~ In the event that the Insurer or its insurance producer ~~of record fails to properly comply properly provide communicate to the aApplicant with the requisite notice or acknowledgements required by 211 CMR 94.07(3), the Mandatory Pre Insurance Inspection Requirement (Form B) or an Acknowledgement of Requirement for Pre Insurance Inspection (Form D), the iInsurer or the insurance producer of record shall must issue a notices for a pre-insurance inspection and the Mandatory Pre Insurance Inspection Requirement (Form B) and the aApplicant has ten~~ 9 calendar days to comply. An iInsurer's failure ~~, however,~~ to comply with the provisions of 211+ CMR 94.09(2), however, does not restore pPhysical dDamage eCoverage, but shall subject the iInsurer to a penalty pursuant to 211 CMR 94.12.

94.10: Inspection Services

- (1) Inspection ~~s~~Services shall maintain a record of the name, address and signature of all persons ~~authorized by such i~~Inspection ~~s~~Service ~~who are a~~Authorized ~~Representatives of~~by such ~~i~~Inspection ~~s~~Service to perform inspections ~~on their motor vehicles~~, prior to that person performing any inspections on behalf of an Insurer pursuant to 211 CMR 94.00~~this regulation~~. Such record shall be made available to the Division upon request.
- (2) An ~~i~~Inspection ~~s~~Service ~~must~~~~shall~~ be ~~authorized~~approved by the ~~i~~Insurer for which it will be conducting ~~i~~ inspections. In determining whether to ~~approve~~authorize an ~~i~~Inspection ~~s~~Service an ~~i~~Insurer may take into consideration the service's professionalism, efficiency and cost effectiveness.

94.11: Conflicts of Interest

An ~~a~~Authorized ~~r~~Representative shall not ~~have be deemed trustworthy if there exists~~ any conflicts of interest which may prevent him or her from conducting a thorough and accurate pre-insurance inspection on behalf of the Insurer.—It shall be a conflict of interest for an ~~a~~Authorized ~~r~~Representative to accept, in connection with an inspection, anything of value for conducting such inspection from any source other than the ~~i~~Insurer.

94.12: Enforcement-

(1) A violation of any provision of 211 CMR 94.00 by an Insurer shall be deemed a violation under the statutes or regulations under which such Insurer is licensed and shall be sufficient grounds, after hearing, for the imposition of fines as prescribed in the licensing statutes or regulations. Any such violation also shall be considered an unfair or deceptive act or practice in the business of insurance in violation of M.G.L. c. 176D.

(2) A violation of any provision of 211 CMR 94.00 by an Authorized Representative shall be deemed a violation under the statutes or regulations under which such Authorized Representative is licensed by the Division, if so licensed, and shall be sufficient grounds, after hearing, for the suspension or revocation of such license and for the imposition of fines as prescribed in the licensing statutes or regulations. Any such violation also shall be considered an unfair or deceptive act or practice in the business of insurance in violation of M.G.L. c. 176D.

(3) The competency and trustworthiness of all Authorized Representatives in the conduct of inspections provided by 211 CMR 94.00 shall be the responsibility of the Insurer.

(4) Nothing contained in 211 CMR 94.00 shall be deemed to preclude the Applicant, the Commissioner or the Attorney General from pursuing any other remedy or penalty provided by law for a violation of this regulation, including any remedy or penalty provided under M.G.L. c. 93A or M.G.L. c. 176D.

~~(1) A violation of any provision of 211 CMR 94.00 by an iInsurer shall be deemed a violation under the statute or regulation under which such iInsurer is licensed and shall be sufficient grounds, after hearing, for the imposition of fines as prescribed in the licensing statute or regulation. Any such violation shall be considered an unfair and deceptive act or practice in violation of M.G.L. c. 176D.~~

~~(2) A violation of any provision of 211 CMR 94.00 by an aAuthorized rRepresentative shall be deemed a violation under the statute or regulation under which such aAuthorized rRepresentative is licensed and shall be sufficient grounds, after hearing, for the suspension or revocation of such license and for the imposition of fines as prescribed in the licensing statute or regulation. Any such violation shall also be considered an unfair and deceptive act or practice in violation of M.G.L. c. 176D.~~

~~(3) The conduct of The competency and trustworthiness of all aAuthorized rRepresentatives in in the conduct of the inspections provided by 211 CMR 94.00 shall be the responsibility of the iInsurer.~~

~~(4) Nothing contained in 211 CMR 94.00 shall be deemed to preclude the Aapplicant, the Commissioner or the Massachusetts Attorney General from pursuing any other remedy or penalty provided by law, for a violation of this regulation, including any remedy provided under M.G.L. c. 93A or M.G.L. c. 176D.~~

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94.13: Records and Audits

~~(1) Insurers shall maintain records as to the costs and savings related to 211 CMR 94.00 and shall make such records available to the Division upon request.~~

~~(2) Insurers shall be responsible for the monthly auditing pre-insurance of inspections reports received from their Aauthorized Representatives. Insurers may representatives Inspection Services and shall may provide such Authorized Representatives authorized representatives Inspection Services, excluding producers, with monthly status reports indicating the total number of reports completed inspections received, including the number of inspections that were incomplete or incorrect reports received, at the option of the Insurer.~~

94.14: Forms

~~Sample forms for Motor Vehicle Pre-Insurance Inspection Report (Form A), Notice of Mandatory Pre-Insurance Inspection Requirement (Form B), Notice of Suspension of Physical Damage Coverage (Form C) and Acknowledgment of Requirement for Pre-Insurance Inspection (Form D) as referred to in 211 CMR 94.00 are available from:~~

~~Division of Insurance—Legal Section~~

~~One South Station~~

~~Boston, MA 02110~~

94.145: Severability

If any section or portion of a section of 211 CMR 94.00 or its application to any person, entity or circumstance is held invalid by any court [of competent jurisdiction](#), the remainder of 211 CMR 94.00, or the applicability of such provision to other persons, entities or circumstances, shall not be [e](#)affected thereby.

~~REGULATORY AUTHORITY~~

~~• 211 CMR 94.00: M.G.L. c. 175, § 113S.~~

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