

211 CMR 134.00: SAFE DRIVER INSURANCE PLAN

Section

- 134.01: Authority
 - 134.02: Purpose, Scope and Responsibility
 - 134.03: Definitions
 - 134.04: Relevant Vehicles, Policies, Accidents, Traffic Law Violations and Claims
 - 134.05: Notification of At Fault Accidents
 - 134.06: Notification of a Claim Under Comprehensive Coverage or Personal Injury Protection Coverage
 - 134.07: Notice Following Traffic Law Violations
 - 134.08: Operator Information
 - 134.09: Acquisition of SDIP Information or Merit Rating Information from the Merit Rating Board
 - 134.10: Posting of At Fault Accidents, Traffic Law Violations and Claims
 - 134.11: Computation of Safe Driver Insurance Plan Surcharges and Credits
 - 134.12: Application of Safe Driver Insurance Plan or Merit Rating Plan
 - 134.13: Earned Premium Not Paid
 - 134.14: Reporting of Information
 - 134.15: Schedule of Surcharge Points
 - 134.16: Merit Rating Board Liaison
 - 134.17: Industry Advisory Committee
 - 134.18: Merit Rating Board Manual(s) of Administrative Procedures
 - 134.19: Penalties
 - 134.20: Severability
- Appendix A: Traffic Law Violations

134.01: Authority

211 CMR 134.00 is promulgated in accordance with the authority granted to the Commissioner of Insurance under M.G.L. c. 175, § 113B; M.G.L. c. 175A, § 15; and M.G.L. c. 175E, § 10.

134.02: Purpose, Scope and Responsibility

- (1) Purpose and Scope. All Insurers issuing Private Passenger Motor Vehicle insurance Policies shall comply with 211 CMR 134.00. 211 CMR 134.00 incorporates and merges the provisions of 1990 through 1996 Safe Driver Insurance Plans (SDIP), previously codified at: 211 CMR 125.00; 211 CMR 126.00; 211 CMR 127.00; 211 CMR 128.00; 211 CMR 130.00; 211 CMR 132.00; and 211 CMR 134.00. 211 CMR 134.00 hereinafter is referred to as the Safe Driver Insurance Plan and is promulgated, in part, to implement the Safe Driver Insurance Plan required by M.G.L. c. 175, § 113B. The purpose of 211 CMR 134.00 is (a) to define the surcharges and credits that apply in the Safe Driver Insurance Plan required during Fixed-and-Established Markets, and (b) to provide for the continuous, timely, accurate and uniform collection and exchange of Private Passenger Motor Vehicle insurance claim and traffic law violation data during Fixed-and-Established and Competitive Markets to facilitate the operation of the SDIP or Insurer Merit Rating Plans.

- (2) Responsibilities of the Merit Rating Board. The Merit Rating Board shall collect and report Private Passenger Motor Vehicle insurance claim and traffic law violation data and respond to insurance company requests for such information.

134.03: Definitions

As used in 211 CMR 134.00, the following words shall mean:

At Fault Accident. An accident involving a vehicle subject to 211 CMR 134.00 wherein the Involved Operator was more than 50% at fault, as determined by the application of the Standards of Fault of the Board of Appeal.

Board of Appeal. The Board of Appeal on Motor Vehicle Liability Policies and Bonds established pursuant to M.G.L. c. 26, § 8A.

Bodily Injury Liability Coverage. The insurance coverage designated as such in a Massachusetts Private Passenger Motor Vehicle insurance Policy.

Collision Coverage. The insurance coverage designated as such in a Massachusetts Private Passenger Motor Vehicle insurance Policy.

Commissioner. The Commissioner of Insurance appointed pursuant to M.G.L. c. 26, § 6.

Competitive Market. A market in which Private Passenger Motor Vehicle insurance rates are not fixed and established pursuant to M.G.L. c. 175, § 113B.

Comprehensive Coverage. The insurance coverage designated as such in a Massachusetts Private Passenger Motor Vehicle insurance Policy.

Coverage Selections Page. The coverage selections page of a Massachusetts Private Passenger Motor Vehicle insurance Policy, or a replacement Coverage Selections Page.

Credit Code. The code representing the number of consecutive Incident-Free Years within the Incident-Free Period applicable to any operator as approved by the Commissioner in the Statistical Plan.

Credit Points. Except as otherwise provided by 211 CMR 134.00, one Credit Point is earned by an operator with a valid driver's license for each Incident-Free Year within the Policy Experience Period.

Designated Statistical Agent. The rating organization or other agency designated by the Commissioner as the statistical agent for the Division of Insurance pursuant to M.G.L. c. 175A, § 15(a).

Excellent Driver Discount. The percentage value assigned by the Commissioner at the time Private Passenger Motor Vehicle insurance rates are fixed-and-established pursuant to M.G.L. c. 175, § 113B reflecting the lower expected loss experience of operators with Incident-Free Periods of more than five and less than six years, which may vary according to the affected liability coverages and Collision Coverage, irrespective of the class and territory of the Policy.

Excellent Driver Discount Plus. The percentage value assigned by the Commissioner at the time Private Passenger Motor Vehicle insurance rates are fixed-and-established pursuant to M.G.L. c. 175, § 113B reflecting the lower expected loss experience of operators with Incident-Free Periods of at least six years, which may vary according to the affected liability coverages and Collision Coverage, irrespective of the class and territory of the Policy.

Experienced Operator. An operator licensed at least six years as defined in the Commissioner's 2007 Manual of Private Passenger Automobile Rates, including operators defined in that manual rated for business use.

Fixed-and-Established Market. A market in which premiums for Private Passenger Motor Vehicle insurance are based on rates fixed-and-established by the Commissioner pursuant to M.G.L. c. 175, § 113B, following a hearing and decision pursuant to M.G.L. c. 175E, § 5 finding that competition in the Private Passenger Motor Vehicle insurance market is, with respect to any territory or to any kind, subdivision or class of insurance, either (a) insufficient to assure that rates would not be excessive, or (b) so conducted as to be destructive of competition or detrimental to the solvency of Insurers.

Incident-Free Period. The number of consecutive Incident-Free Years immediately preceding the Policy Effective Date and within the Policy Experience Period of the Policy for which an operator with a valid driver's license had no Surchargeable Incidents.

Incident-Free Year. Any of the series of one-year periods immediately preceding the Policy Effective Date and within the Policy Experience Period of the Policy for which the licensed operator had no Surchargeable Incidents.

Inexperienced Operator. An operator licensed less than six years as defined in the Commissioner's 2007 Manual of Private Passenger Automobile Rates.

Insurer. Any corporation, association, partnership, group or individual engaged as a principal authorized to write Private Passenger Motor Vehicle insurance in the Commonwealth.

Involved Operator. Any person determined to have been operating a motor vehicle subject to 211 CMR 134.00 at the time of, and involved in, an accident subject to 211 CMR 134.00, or any person having a traffic law violation subject to 211 CMR 134.00, as specified by 211 CMR 134.04.

Limited Collision Coverage. The insurance coverage designated as such in Massachusetts Private Passenger Motor Vehicle insurance Policy.

Listed Operator. The Policyholder and any person listed on the new or renewal application for the Policy covering one or more vehicles subject to 211 CMR 134.00.

Merit Rating Board (MRB). The Motor Vehicle Insurance Merit Rating Board established pursuant to M.G.L. c. 6, § 183.

Merit Rating Information. Motor vehicle insurance claim and traffic law violation information provided to an Insurer by the Merit Rating Board that will be used by Insurers in the application of the Insurer's Merit Rating Plan that Insurers may submit pursuant to M.G.L. c. 175E during Competitive Markets.

Merit Rating Plan. A rating procedure used for calculating Private Passenger Motor Vehicle insurance premiums by Insurers in a Competitive Market that utilizes past motor vehicle insurance claim and traffic law violation experience of the operators insured under a Policy to forecast future losses by measuring their loss experience against the loss experience of operators in the same classification to produce a prospective premium.

MRB Manual(s). The Manual(s) prepared by the Merit Rating Board in accordance with 211 CMR 134.18.

Neutral Step. Operator SDIP Step 15 (no Credit or Surcharge Points).

Operator Information. The driver's license number, license state, name and date of birth as they appear on the driver's license of the Policyholder and of all Listed Operators on a Massachusetts Private Passenger Motor Vehicle insurance Policy.

Operator SDIP Step. The SDIP Step of a Listed Operator resulting from adjustments to the Neutral Step (Step 15) by the addition of Surcharge Points and the subtraction of Credit Points earned during the Policy Experience Period.

Personal Injury Protection Coverage. The insurance coverage designated as such in a Massachusetts Private Passenger Motor Vehicle insurance Policy.

Policy. For the policy year and each year thereafter, any motor vehicle liability Policy as defined in M.G.L. c. 90, § 34A applicable to Private Passenger Motor Vehicles; including any Massachusetts motor vehicle insurance Policy written in accordance with a Private Passenger Motor Vehicle insurance manual.

Policy Effective Date. The date on which the Massachusetts Private Passenger Motor Vehicle insurance Policy takes effect.

Policy Experience Period. The six year period immediately preceding the effective date of the Policy.

Policy Number. A unique number, up to 16 characters long, that does not change throughout the life of the Policy.

Policyholder. The principal named insured(s) on a Policy.

Private Passenger Motor Vehicle. Any vehicle, except motorized vehicles not normally driven on public ways, that is subject to rating in accordance with a Private Passenger Motor Vehicle insurance manual, regardless of whether a Competitive Market or a Fixed-and-Established Market is in place.

Property Damage Liability Coverage. The insurance coverage designated as such in a Massachusetts Private Passenger Motor Vehicle insurance Policy, also known as "Damage to Someone Else's Property."

Safe Driver Insurance Plan or SDIP. The adjustment of insurance rates and premiums during Fixed-and-Established Markets for Private Passenger Motor Vehicles subject to 211 CMR 134.00 on the basis of motor vehicle insurance claims arising from At Fault Accidents, traffic law violations and Comprehensive Coverage claims.

Safe Driver Insurance Plan (SDIP) Statement. For Policies subject to the Safe Driver Insurance Plan during Fixed-and-Established Markets on and after January 1, 2006, the notification from an Insurer to a Policyholder with one or more vehicles not assigned the Excellent Driver Discount Plus (best credit) for Property Damage Liability Coverage, mandatory Bodily Injury Liability Coverage, Personal Injury Protection Coverage, or Collision Coverage. For policies subject to the SDIP prior to January 1, 2006, the notification from an Insurer to a Policyholder with one or more vehicles not assigned the lowest Operator SDIP Step (best credit) for Property Damage Liability Coverage, mandatory Bodily Injury Liability Coverage, Personal Injury Protection Coverage, or Collision Coverage.

SDIP Information. Information provided to an Insurer by the Merit Rating Board which is the basis upon which Private Passenger Motor Vehicle insurance premium adjustments that are required to be made under the Safe Driver Insurance Plan during Fixed-and-Established Markets, including but not necessarily limited to Surchargeable Incidents (and the Surcharge Points applicable thereto), number of Incident-Free Years or Credit Points and driver's license status.

SDIP Step Values. For Policies subject to the Safe Driver Insurance Plan prior to January 1, 2006, the percentage values assigned by the Commissioner to Operator SDIP Steps, which may vary according to the affected liability coverages and Collision Coverage, irrespective of the class and territory of the Policy.

Starting Step Date. For Policies subject to the Safe Driver Insurance Plan prior to January 1, 2006, the beginning date of the Policy Experience Period (six years), or a later date if the operator has less than six years of driving experience.

Statistical Plan. The Massachusetts automobile statistical plan promulgated by the Commissioner pursuant to the authority granted under M.G.L. c. 175A, § 15(a).

Surchargeable Incident. An At Fault Accident, traffic law violation, or Comprehensive Coverage claim, which may result in an increase in the Policyholder's premium during Fixed-and-Established Markets.

Surcharge Date. The date of notice entered by an Insurer on the Surcharge Notice required by 211 CMR 134.05, the date of payment on the Comprehensive Coverage claim notice required by 211 CMR 134.06, the disposition date entered by a court on the citation for a traffic law violation, or the date the payment of the fine assessed for civil motor vehicle infractions is received by the Registry of Motor Vehicles.

Surcharge Notice. The notice of an At Fault Accident provided to the Involved Operator and/or the Policyholder.

Surcharge Percentage. The percentage value assigned by the Commissioner when Private Passenger Motor Vehicle insurance rates are fixed and established pursuant to M.G.L. c. 175, § 113B to be applied to the total number of Surcharge Points for each Surchargeable Incident during the Policy Experience Period, which may vary according to the affected liability coverages and Collision Coverage, irrespective of the class and territory of the Policy.

Surcharge Points. The point values assigned by the Commissioner for each Surchargeable Incident set forth in 211 CMR 134.15.

All other items in 211 CMR 134.00 shall be construed as defined in M.G.L. c. 90, §§ 34A and 34O, M.G.L. c. 175 and M.G.L. c. 175A, or, if not defined in these chapters, in accordance with common usage.

134.04: Relevant Vehicles, Policies, Accidents, Traffic Law Violations and Claims

- (1) Vehicles. Any Private Passenger Motor Vehicle that is rated in accordance with a Private Passenger Motor Vehicle insurance manual shall be a vehicle subject to 211 CMR 134.00.
- (2) Policies. Any Policy meeting the definition in 211 CMR 134.03 that provides the mandatory liability coverages (Property Damage Liability Coverage, Bodily Injury to Others Coverage, Personal Injury Protection Coverage) and/or Collision Coverage for one or more vehicles subject to 211 CMR 134.00 shall be a Policy subject to 211 CMR 134.00.
- (3) Accidents. Any At Fault Accident shall be an accident subject to 211 CMR 134.00 if it results in a Collision, Limited Collision, Property Damage Liability claim payment of more than \$500 in excess of any applicable deductible for damage to or caused by a vehicle subject to 211 CMR 134.00. In addition, for accidents occurring on or after January 1, 2006, an accident also will be subject to 211 CMR 134.00 if it results in a Bodily Injury Liability claim payment of more than \$500 caused by a vehicle subject to 211 CMR 134.00.
- (4) Traffic Law Violations. Any conviction of an operator, including payments made or assessed pursuant to M.G.L. c. 90C, or any assignment of the operator to a driver alcohol education program or controlled substance abuse treatment or rehabilitation program, for a traffic law violation as listed in 211 CMR 134.00: Appendix A shall be subject to 211 CMR 134.00. 211 CMR 134.00 also shall take into consideration certain major and minor out-of-state traffic law violations as specified in 211 CMR 134.00: Appendix A, as well as convictions reported to the Registry of Motor Vehicles as the result of any compact entered into by the Secretary of Public Safety and Security for the exchange of information between states.
- (5) Comprehensive Coverage Claims. Any claim made under Comprehensive Coverage for which payment is made shall be a Comprehensive Coverage claim subject to 211 CMR 134.00, as specified in 211 CMR 134.06.
- (6) Personal Injury Protection Claims. Any claim made on or after April 1, 2008 under Personal Injury Protection Coverage for which the Involved Operator was determined to be more than 50% at fault shall be subject to 211 CMR 134.00, as specified in 211 CMR 134.06.

134.05: Notification of At Fault Accidents

All Insurers shall report to the Merit Rating Board all claims arising from At Fault Accidents in accordance with the MRB Manual(s) under the following circumstances during Fixed-and-Established and Competitive Markets:

- (1) Claims Under Bodily Injury Liability Coverage – Single Vehicle Accidents. Notification of a Bodily Injury Liability Coverage claim is required only when such claim is not associated with any Property Damage Liability Coverage or Collision Coverage claim reported pursuant to 211 CMR 134.05(2) or 211 CMR 134.05(3) in connection with the same At Fault Accident. Within 20 working days of the payment of any Bodily Injury Liability Coverage claim in excess of the amounts specified in 211 CMR 134.04(3) that resulted from an accident involving only one vehicle where that vehicle was a vehicle subject to 211 CMR 134.00, the Insurer shall report an At Fault Accident to the Merit Rating Board and shall notify the Involved Operator of the report. If the Policyholder is a person other than the Involved Operator, the Insurer shall send the Policyholder a copy of the notice.
- (2) Claims Under Property Damage Liability Coverage - Single Vehicle Accidents. Within 20 working days of the payment of any Property Damage Liability Coverage claim in excess of the amounts specified in 211 CMR 134.04(3) that resulted from an accident involving only one vehicle where that vehicle was a vehicle subject to 211 CMR 134.00, the Insurer shall report an At Fault Accident to the Merit Rating Board and shall notify the Involved Operator of the report. If the Policyholder is a person other than the Involved Operator, the Insurer shall send the Policyholder a copy of the notice.
- (3) Claims Under Collision Coverage - Single Vehicle Accidents. Within 20 working days of the payment of any Collision Coverage claim in excess of the amounts specified in 211 CMR 134.04(3) that resulted from an accident involving only one vehicle, where that vehicle was a vehicle subject to 211 CMR 134.00, the Insurer shall report an At Fault Accident to the Merit Rating Board and shall notify the Involved Operator of the report unless the claim resulted from damage to the vehicle caused by flying gravel, missiles or falling objects. If the Policyholder is a person other than the Involved Operator, the Insurer shall send the Policyholder a copy of the notice.
- (4) Claims Under Bodily Injury Liability Coverage – Multiple Vehicle Accidents. Notification of a Bodily Injury Liability Coverage claim is required only when such claim is not associated with any Property Damage Liability Coverage or Collision Coverage claim reported pursuant to 211 CMR 134.05(5) or 211 CMR 134.05(6) in connection with the same At Fault Accident. Within 20 working days of the payment of any Bodily Injury Liability Coverage claim in excess of the amounts specified in 211 CMR 134.04(3) that resulted from an accident involving more than one vehicle, where at least one vehicle was a vehicle subject to 211 CMR 134.00, the Insurer shall report an At Fault Accident to the Merit Rating Board and shall notify the Involved Operator of the report. No such notification shall be sent by the Insurer if the sole reason for filing the claim is that a vehicle owned by the person filing the claim was being driven by some other person at the time that it was involved in the accident. If the Policyholder is a person other than the Involved Operator, the Insurer shall send the Policyholder a copy of the notice.
- (5) Claims Under Property Damage Liability Coverage - Multiple Vehicle Accidents. Within 20 working days of the payment of any Property Damage Liability Coverage claim in excess

of the amounts specified in 211 CMR 134.04(3) that resulted from an accident involving more than one vehicle, where at least one vehicle was a vehicle subject to 211 CMR 134.00, the Insurer shall report an At Fault Accident to the Merit Rating Board and shall notify the Involved Operator of the report. No such notification shall be sent by the Insurer if the sole reason for filing the claim is that a vehicle owned by the person filing the claim was being driven by some other person at the time that it was involved in the accident. If the Policyholder is a person other than the Involved Operator, the Insurer shall send the Policyholder a copy of the notice.

- (6) Claims Under Collision Coverage - Multiple Vehicle Accidents. Within 20 working days of the filing of any Collision Coverage claim in excess of the amounts specified in 211 CMR 134.04(3) that resulted from an accident involving more than one vehicle, where at least one vehicle was a vehicle subject to 211 CMR 134.00, there shall be a conference of the Insurer with whom the claim has been filed and all Insurers of operators who were involved in the accident and who might be alleged to have been at fault, unless the Insurer with whom the claim has been filed has denied the claim or has determined that the operator of its insured vehicle is more than 50% at fault. A telephone conference among the Insurers shall satisfy the requirement that a conference be held. If no conference is held, the Insurer shall report the At Fault Accident to the Merit Rating Board in accordance with 211 CMR 134.05(3). Within 45 working days of any conference, the Insurers shall determine which operator, if any, was at fault in excess of 50%. If any Involved Operator is determined to have been at fault in excess of 50%, the Insurer of that Involved Operator shall report an At Fault Accident to the Merit Rating Board, and shall notify the Involved Operator of the report unless this Insurer has denied each Property Damage Liability Coverage or Collision Coverage claim resulting from the accident or closed each such claim resulting from the accident with a payment of less than the amounts specified in 211 CMR 134.04(3). If the Policyholder is a person other than the Involved Operator, the Insurer shall send to the Policyholder a copy of the notice within 60 working days of the date the claim was filed.
- (7) Claims Under Limited Collision Coverage - Multiple Vehicle Accidents. Within 20 working days of the payment of any Limited Collision Coverage claim in excess of the amount specified in 211 CMR 134.04(3) that resulted from an accident involving more than one vehicle, where at least one vehicle is a vehicle subject to 211 CMR 134.00, there shall be a conference of the Insurer with whom the claim has been filed and all Insurers of operators who were involved in the accident and who might be alleged to have been at fault. A telephone conference among the Insurers shall satisfy the requirement that a conference be held. Within 45 working days of any conference, the Insurers shall determine which operator, if any, was at fault in excess of 50%. If any Involved Operator is determined to have been at fault in excess of 50%, the Insurer of that Involved Operator shall report an At Fault Accident to the Merit Rating Board and shall notify the Involved Operator of the report unless this Insurer has denied each Property Damage Liability Coverage or Collision Coverage claim resulting from the accident or closed each such claim with a payment of less than the amounts specified in 211 CMR 134.04(3). If the Policyholder is a person other than the Involved Operator, the Insurer shall send to the Policyholder a copy of the notice within 60 working days of the date the claim was filed.

- (8) Disputed Claims. Notice required by 211 CMR 134.05(6) or (7) may be deferred up to one year from the date of the accident, if:
- (a) the Insurer has determined after any conference required by 211 CMR 134.05(6) or (7) that the Involved Operator was not at fault in excess of 50%; and
 - (b) an inter-company arbitration petition has been filed or a civil action has been initiated following denial of a Property Damage Liability Coverage claim.
- (9) Form of Surcharge Notice. Any notice of an At Fault Accident to the Merit Rating Board shall be made using the Surcharge Notice in accordance with the MRB Manual(s). The Surcharge Notice shall include an appeal form that may be used by the Policyholder or the Involved Operator to appeal the At Fault Accident to the Board of Appeals pursuant to M.G.L. c. 175, § 113P. The Surcharge Notice shall be completed by the Insurer in the manner prescribed in the MRB Manual(s).
- (10) Failure to Submit. Failure to accurately complete and submit, within the specified time, the Surcharge Notice required by 211 CMR 134.05(1) through (7) to the Merit Rating Board may subject the Insurer to the penalty set forth in 211 CMR 134.19.
- (11) Correction of Surcharge Notice. Failure to correct and return a Surcharge Notice found to be in error in the manner specified in the MRB Manual(s) may subject the Insurer to the penalty set forth in 211 CMR 134.19.

134.06: Notification of a Claim Under Comprehensive Coverage or Personal Injury Protection Coverage

All Insurers shall report to the Merit Rating Board claims under Comprehensive Coverage and Personal Injury Protection Coverage in accordance with the MRB Manual(s) in the following circumstances during Fixed-and-Established and Competitive Markets:

- (1) Claims Under Comprehensive Coverage. Within 30 working days of the payment of any Comprehensive Coverage claim for a vehicle subject to 211 CMR 134.00, the Insurer shall notify the Merit Rating Board in the manner specified in the MRB Manual(s).
- (2) Claims Under Personal Injury Protection Coverage Occurring On or After April 1, 2008. Within 30 working days of the final payment of any Personal Injury Protection Coverage claim under the Policy for the vehicle involved in the accident and providing coverage to the operator, occupants or pedestrians occurring on or after April 1, 2008 for a vehicle subject to 211 CMR 134.00, where the Involved Operator is more than 50% at fault for the accident, the Insurer shall notify the Merit Rating Board in the manner specified in the MRB Manual(s). For the purposes of 211 CMR 134.06(2), an at fault Personal Injury Protection Coverage claim paid under the Policy for the vehicle involved in the accident and providing coverage to the operator, occupants or pedestrians shall be any claim made following a single vehicle At Fault Accident or a multiple vehicle At Fault Accident
- (3) Form of Notice to the Merit Rating Board. The Merit Rating Board shall specify in the MRB Manual(s) the form of the Comprehensive Coverage claim notice and the Personal Injury Protection Coverage claim notice, the manner of completing said notices, and the timing of the submission of said notices to the Merit Rating Board.

- (4) Failure to Submit. Failure to accurately complete and submit, within the specified time, the Comprehensive Coverage claim notice or the Personal Injury Protection Coverage claim notice required by 211 CMR 134.06(3) to the Merit Rating Board may subject the Insurer to the penalty set forth in 211 CMR 134.19.
- (5) Correction of Claim Notices. Failure to correct and return a Comprehensive Coverage claim notice or a Personal Injury Protection Coverage claim notice found to be in error in the manner specified in the MRB Manual(s) may subject the Insurer to the penalty set forth in 211 CMR 134.19.

134.07: Notice Following Traffic Law Violations

- (1) No Notice by Insurer or Merit Rating Board. Citation for any traffic law violation subject to 211 CMR 134.00 shall serve as sufficient notice to the Involved Operator that premium adjustments may be applied. There shall be no right of appeal to the Board of Appeal pursuant to M.G.L. c. 175, § 113P.
- (2) Notice on Citation. The Merit Rating Board shall take reasonable steps to ensure that each citation issued for a traffic law violation informs the Involved Operator that election of any of the alternatives afforded by M.G.L. c. 90C may result in an adjustment of premium.

134.08: Operator Information

- (1) Collection of Operator Information. Prior to requesting SDIP Information or Merit Rating Information from the Merit rating Board for any Policy subject to 211 CMR 134.00, an Insurer shall obtain, from the Policyholder, Operator Information for the Policyholder and for any Listed Operator covered by the Policy. Each Insurer shall require its Policyholders to indicate whether a Listed Operator also is the Policyholder of or listed as an operator on any other Policy subject to 211 CMR 134.00.
- (2) Correction of Operator Information. Following the rejection by the Merit Rating Board of a request for SDIP Information or Merit Rating Information because of incorrect Operator Information, the Insurer must correct the Operator Information in the manner specified in the MRB Manual(s).
- (3) Penalties. Failure to collect or correct Operator Information in accordance with 211 CMR 134.08(1) and (2) and applicable portions of the MRB Manual(s) may subject the Insurer to the penalty set forth in 211 CMR 134.19.

134.09: Acquisition of SDIP Information or Merit Rating Information from the Merit Rating Board

- (1) Insurers shall acquire SDIP Information from the Merit Rating Board, as set forth in 211 CMR 134.09(2) through 211 CMR 134.09(6), during Fixed-and-Established Markets. Insurers may acquire Merit Rating Information from the Merit Rating Board at any time, at the discretion of the Insurer, during Competitive Markets. Insurers are not required to obtain Merit Rating Information from the Merit Rating Board for calculating Private Passenger Motor Vehicle insurance premiums pursuant to a Merit Rating Plan filed by the Insurer for use in a Competitive Market.

- (2) Initial Inquiries.
- (a) New Policies. Insurers shall acquire SDIP Information for a new Policy subject to 211 CMR 134.00 from the Merit Rating Board no earlier than 45 days before the first day of the month of the effective date of the Policy and no later than 15 days after the date the Policy is issued. The inquiry shall be made in the manner prescribed in the MRB Manual(s).
 - (b) Renewal Policies. Insurers shall acquire SDIP Information for a renewal Policy subject to 211 CMR 134.00 from the Merit Rating Board no earlier than 75 days before the first day of the month of the effective date of the Policy and prior to issuing the Policy. The inquiry shall be made in the manner prescribed in the MRB Manual(s).
- (3) Inquiries for New Operators. In the event a Policy subject to 211 CMR 134.00 is endorsed to add an operator as a Listed Operator during the first 245 days of the Policy term, the Insurer shall acquire SDIP Information for the operator that is being added from the Merit Rating Board in the manner prescribed in the MRB Manual(s).
- (4) Inquiries for "Add Property Damage Liability Coverage". Insurers shall acquire SDIP Information for a Policy subject to 211 CMR 134.00 when Property Damage Liability Coverage is added to a Policy that previously had no Property Damage Liability Coverage no earlier than 45 days before the first day of the month of the endorsement date and no later than 15 days after the effective date of the endorsement. The inquiry shall be made in the manner prescribed in the MRB Manual(s).
- (5) Inquiries for "Add Collision Coverage". Insurers shall acquire SDIP Information for a Policy subject to 211 CMR 134.00 when Collision Coverage is added to the Policy that previously had no Collision Coverage no earlier than 45 days before the first day of the month of the endorsement date and no later than 15 days after the effective date of the endorsement. The inquiry shall be made in the manner prescribed in the MRB Manual(s).
- (6) Reinquiries. Following the receipt of a Notice to Reinquire from the Merit Rating Board, an Insurer must submit a request for SDIP Information to the Merit Rating Board for the Policyholder and for each Listed Operator in the manner prescribed in the MRB Manual(s).
- (7) Policy Numbers. Insurers must assign policy numbers unique to each Policy being issued within a particular policy year. This number must be consistently reported and/or used on the Coverage Selections Page, inquiries to the Merit Rating Board, Surcharge Notices, Comprehensive Coverage claim notices, Personal Injury Protection Coverage claim notices, premium and loss statistical records, Policy data reported to the Registry of Motor Vehicle's Uninsured Motorist System (UMS), and any other document calling for identification utilizing a Policy number. Upon written request by an Insurer, the Commissioner may grant a one-year waiver of the requirements of this subsection if the Insurer demonstrates that compliance would result in undue hardship.
- (8) Use of Surcharge Points to Determine Eligibility for Placement in the Massachusetts Insurance Plan (MAIP). For Policies with effective dates on or after April 1, 2008 through March 31, 2009, Insurers shall use the Surcharge Points described in 211 CMR 134.15(2) through (5) to determine whether an insured under the Policy has 10 or more Surcharge Points to determine eligibility for placement in the MAIP. Insurers also shall use At Fault

Accident claim and traffic law violation information, including Personal Injury Protection Coverage claim data, to determine whether an operator is a “Clean-In-Three Risk”, as defined in the MAIP Rules of Operation.

134.10: Posting of At Fault Accidents, Traffic Law Violations and Claims

- (1) Posting of At Fault Accidents. Upon receipt of a Surcharge Notice sent by an Insurer in accordance with 211 CMR 134.05, the Merit Rating Board shall post the At Fault Accident to the account of the Involved Operator.
- (2) Posting of Traffic Law Violations. Upon receipt of a citation for a traffic law violation which is listed on the schedule of violations specified in 211 CMR 134.00: Appendix A, and for which payment has been made pursuant to M.G.L. c. 90C, or for which payment is legally in default, or for which the court either has found the Involved Operator guilty or responsible, or has assigned the operator to an alcohol education program or controlled substance abuse treatment or rehabilitation program, the Merit Rating Board shall post the traffic law violation to the account of the Involved Operator, unless the violation was deemed to be an owner violation, in which case the Merit Rating Board shall post the traffic law violation to the account of the owner of the vehicle.
- (3) Determination of the Incident Type. When posting an At Fault Accident claim or traffic law violation to the account of an Involved Operator or a Policyholder, the Merit Rating Board shall assign it a type and a point value in accordance with 211 CMR 134.15.
 - (a) Major Accident. An At Fault Accident wherein the claim payment, exclusive of any deductible, exceeds \$2,000 under either:
 1. Property Damage Liability Coverage;
 2. Collision Coverage;
 3. Limited Collision Coverage; or
 4. for accidents occurring on after or January 1, 2006, Bodily Injury Liability Coverage if there is neither a surchargeable Property Damage Liability Coverage claim nor a surchargeable Collision Coverage claim pursuant to 134.10(3)(a)1. or 2. as a result of the incident with the Bodily Injury Liability Coverage claim.
 - (b) Minor Accident. An At Fault Accident wherein the claim payment, exclusive of any deductible, exceeds \$500 but is no more than \$2,000 under either:
 1. Property Damage Liability Coverage;
 2. Collision Coverage;
 3. Limited Collision Coverage; or
 4. for accidents occurring on or after January 1, 2006, Bodily Injury Liability Coverage if there is neither a surchargeable Property Damage Liability Coverage claim nor a surchargeable Collision Coverage claim pursuant to 134.10(3)(b)1. or 2. as a result of the incident with the Bodily Injury Liability Coverage claim.
 - (c) Major Traffic Law Violation. Those traffic law violations so designated by the Commissioner for use in the Safe Driver Insurance Plan and set forth in 211 CMR 134.00: Appendix A.
 - (d) Minor Traffic Law Violation. Those traffic law violations so designated by the Commissioner for use in the Safe Driver Insurance Plan and set forth in 211 CMR

134.00: Appendix A.

- (4) Posting of Comprehensive Coverage Claims. Upon receipt of a Comprehensive Coverage claim notice from an Insurer in accordance with 211 CMR 134.06, the Merit Rating Board shall post a Comprehensive Coverage claim to the account of the Policyholder. In the case where two individuals are listed as the Policyholders and joint owners of the insured vehicle(s), the first person listed on the Policy shall be considered to be the Policyholder for the purpose of 211 CMR 134.10(4).
- (5) Posting of Personal Injury Protection Coverage Claims. Upon receipt of a Personal Injury Protection Coverage claim notice from an Insurer in accordance with 211 CMR 134.06, the Merit Rating Board shall post a Personal Injury Protection Coverage claim to the account of the Involved Operator.
- (6) Multiple Incidents. If an Involved Operator or Policyholder has two or more At Fault Accident claims or traffic law violations on file at the Merit Rating Board, all of which arose from the same incident, the Merit Rating Board shall assign a point value to the At Fault Accident claim or traffic law violation with the greatest number of points as specified in 211 CMR 134.15 and shall assign zero points to the remaining At Fault Accident claims or traffic law violations arising from the same incident.

134.11: Computation of Safe Driver Insurance Plan Surcharges and Credits

- (1) 211 CMR 134.11(2) through 211 CMR 134.11(10) shall be required only for Policies issued during a Fixed-and-Established Market.
- (2) Information Used for Computation.
 - (a) For Policies subject to the Safe Driver Insurance Plan on or after January 1, 2006: In response to a request from an Insurer for SDIP Information for a Policy subject to 211 CMR 134.00, the Insurer shall use the total number of Surcharge Points or Credit Code for each Listed Operator as reported by the Merit Rating Board to calculate the applicable operator surcharge factor or operator credit factor in accordance with 211 CMR 134.11(3). The Insurer shall use the resulting factor to adjust the Policyholder's premium accordingly.
 - (b) For Policies subject to the Safe Driver Insurance Plan prior to January 1, 2006: In response to a request from an Insurer for SDIP Information for a Policy subject to 211 CMR 134.00, the Merit Rating Board shall compute and report to the Insurer the Operator SDIP Step for each Listed Operator. The Insurer shall adjust the premium to the Policyholder by using the Operator SDIP Step for each Listed Operator as reported by the Merit Rating Board.
- (3) Operator Surcharge Factor or Operator Credit Factor. For Policies subject to the Safe Driver Insurance Plan on or after January 1, 2006, each Listed Operator shall be assigned an operator surcharge factor or an operator credit factor based on the operator's driving history record. The surcharge factor is equal to one plus the product of the total number of SDIP Surcharge Points, calculated pursuant to 211 CMR 134.11(5)(a), and the Surcharge Percentage. The credit factor is equal to one minus either the Excellent Driver Discount or the Excellent Driver Discount Plus, as applicable.

- (4) Operator SDIP Step. For Policies subject to the Safe Driver Insurance Plan prior to January 1, 2006, each Listed Operator is assigned an Operator SDIP Step based on the operator's driving history record. Each operator starts with an Operator SDIP Step 15 (Neutral Step). Surcharge Points for Surchargeable Incidents in the Policy Experience Period are added to the starting SDIP Step Value; and then Credit Points earned by the operator during the Policy Experience Period are subtracted.
- (5) Calculation of Total Operator SDIP Points.
- (a) For Policies subject to the Safe Driver Insurance Plan on or after January 1, 2006:
1. When the Incident-Free Period is less than or equal to three, the total number of Surcharge Points applicable to the operator shall be the sum of the Surcharge Points identified for each Surchargeable Incident in the Policy Experience Period.
 2. When the Incident-Free Period is greater than three, and the total number of Surchargeable Incidents in the most recent five years of the Policy Experience Period is three or less, the Surcharge Points applicable to each incident shall be reduced by one and the total number of Surcharge Points applicable to the operator shall be the sum of those reduced Surcharge Points. In no event shall the Surcharge Points for any single incident be reduced below zero.
- (b) For all Policies subject to the Safe Driver Insurance Plan: Only Surchargeable Incidents that are within the Policy Experience Period shall be used in calculating Surcharge Points, however, Surcharge Points for Surchargeable Incidents in the sixth year of the Policy Experience Period shall be set at zero. The Merit Rating Board shall use the Surcharge Date of a Surchargeable Incident to determine which Surchargeable Incidents are within the Policy Experience Period. The Surcharge Points assigned for each major accident, each minor accident, each minor traffic law violation and each major traffic law violation, as designated in 211 CMR 134.00: Appendix A, are set forth in 211 CMR 134.15.
- (6) Credit for Incident-Free Years.
- (a) For Policies subject to the Safe Driver Insurance Plan on or after January 1, 2006:
1. When the Incident-Free Period is at least five, but less than six years, a unique Credit Code shall be assigned to the operator.
 2. When the Incident-Free Period is at least six years, a unique Credit Code shall be assigned to the operator.
 3. For operators with at least five full years of driving experience, when the Incident-Free Period is greater than three, and the only Surchargeable Incident within the Policy Experience Period is a minor traffic law violation, the disposition of which was non-criminal under M.G.L. c. 90C, the Credit Code assigned to the operator shall be the same as that assigned to operators in 211 CMR 134.11(6)(a)(1) above.
- (b) For Policies subject to the Safe Driver Insurance Plan prior to January 1, 2006: Based

on each Listed Operator's Starting Step Date, one Credit Point is earned by an operator with a valid driver's license for each Incident-Free Year within the Policy Experience Period.

- (c) For Policies effective in 2005: Experienced Operators with exactly one Surchargeable Incident during the Policy Experience Period resulting in an Operator SDIP Step of 10, 11, 12, 13, 14, or 15, shall receive an additional Credit Point if the Surcharge Date is more than three years prior to the 2005 Policy Effective Date.
- (7) Operator SDIP Ranges.
- (a) For Policies subject to the Safe Driver Insurance Plan on or after January 1, 2006: The total number of SDIP Points range from 0 to 45. The maximum number of SDIP points is 45.
 - (b) For Policies subject to the Safe Driver Insurance Plan prior to January 1, 2006: The Operator SDIP Step ranges from 9 to 35. The lowest Operator SDIP Step is 9 (best credit); the highest Operator SDIP Step is 35.
- (8) Policy Experience Period.
- (a) For Policies subject to the Safe Driver Insurance Plan on or after January 1, 2006: A Surchargeable Incident in the sixth year of the Policy Experience Period (as determined by the Surcharge Date) will not be assigned Surcharge Points. A Surchargeable Incident in the sixth year will prevent an operator from earning an Incident-Free Year.
 - (b) For Policies subject to the Safe Driver Insurance Plan prior to January 1, 2006: A Surchargeable Incident in the sixth year of the Policy Experience Period (as determined by the Surcharge Date) will not be assigned Surcharge Points. Incidents in the sixth year will not prevent an Experienced Operator from earning an Incident-Free Year if the most recent consecutive five year period (as determined by the Surcharge Date) preceding the effective date of the Policy is incident-free.
- (9) Clean Slate Rule. For Policies subject to the Safe Driver Insurance Plan Prior to January 1, 2006, an operator is assigned Credit Points to reduce the Operator's SDIP Step to 14 if all of the following conditions are met:
- (a) the operator has a three-year period of incident-free driving within the Policy Experience Period;
 - (b) the three-year period occurs before December 31, 2004; and
 - (c) the Operator's SDIP Step at the end of the Incident-Free Period is greater than 14. Points for Surchargeable Incidents within the Policy Experience Period which have Surcharge Dates that are recorded after this three-year Incident-Free Period are added to Operator SDIP Step 14.

- (10) Incarcerated Operators. Notwithstanding any other provision of 211 CMR 134.00, where sufficient information is available, operator credits and surcharges shall be determined in accordance with the provisions of St. 1997, c. 43, § 130.

134.12: Application of Safe Driver Insurance Plan or Merit Rating Plan

- (1) 211 CMR 134.12(2) through 211 CMR 134.12(5) shall be required only for Policies issued during a Fixed-and-Established Market.
- (2) Policy Issuance. No Policy subject to 211 CMR 134.00 shall be issued without SDIP Information, except as approved by the Commissioner, and as specified in the MRB Manual(s).
- (3) Coverage Selections Page. Each Insurer shall assure that the first Coverage Selections Page sent to a Policyholder shows the total premium, correctly adjusted for the operator credit factor, operator surcharge factor or Operator SDIP Step, as applicable, unless an explicit provision of the MRB Manual(s) allows, or the Insurer has requested, and has received from the Commissioner, in writing, a waiver that allows the Insurer to display the total premium adjustment amount for the Policy either on a replacement Coverage Selections Page or on an invoice for the Policy, in lieu of displaying it on the initial Coverage Selections Page, as required by 211 CMR 134.12(2).
- (4) Safe Driver Insurance Plan (SDIP) Statement. For Policies subject to the SDIP during Fixed-and-Established Markets, each Insurer shall assure that each Policyholder not eligible for the best credit available, either the Excellent Driver Discount Plus or Operator SDIP Step 9, as applicable, receives a SDIP Statement, which includes an itemization on a form approved by the Commissioner of the total number of operator SDIP points or Operator SDIP Step, respectively, assigned to each Listed Operator. The SDIP Statement and the method of mailing the SDIP Statement to the Policyholder shall conform to the requirements specified in the MRB Manual(s).
- (5) Policy Application.
- (a) For Policies subject to the Safe Driver Insurance Plan on or after January 1, 2006: The process for assigning operators to vehicles shall be consistent with the rules prescribed in the Private Passenger Motor Vehicle insurance manual from which the premium is generated.
- (b) For Policies subject to the Safe Driver Insurance Plan prior to January 1, 2006: The Operator SDIP Step will be applied on a per vehicle basis. Operators will be assigned to vehicles using the ratio that one operator-year of exposure equals one vehicle-year of exposure. The Operator SDIP Step for each operator will be calculated by adding to the Neutral Step (Operator SDIP Step 15) the number of points assigned to each Surchargeable Incident classification within the Policy Experience Period and then subtracting one Credit Point for each Incident-Free Year.
1. For Policies effective in 2005 and prior, Single Vehicle Policies: The premium adjustment shall be computed by assigning the Listed Operator with the highest Operator SDIP Step to the vehicle producing the highest combined premium for Parts 1, 2, 4, and 7 of the Massachusetts Private Passenger Motor Vehicle insurance Policy and shall not reflect the Operator SDIP Step of any other Listed Operator. In

cases where separate Policies are issued by the same Insurer to the common owner of two or more vehicles, the Listed Operator with the highest Operator SDIP Step is assigned to the vehicle producing the highest combined premium.

2. For Policies effective in 2005 and prior, Multi-Vehicle Policies: The premium adjustment shall be computed by assigning the Listed Operator with the highest Operator SDIP Step to the vehicle producing the highest combined premium for Parts 1, 2, 4, and 7 of the Massachusetts Private Passenger Motor Vehicle insurance Policy. For each subsequent vehicle, the premium adjustment shall be computed by assigning the Listed Operator with the next highest Operator SDIP Step to the vehicle producing the next highest combined premium for Parts 1, 2, 4, and 7 of the Massachusetts Private Passenger Motor Vehicle insurance Policy until all vehicles are exhausted. If the number of vehicles exceeds the number of Listed Operators, such excess vehicles shall be assigned to the Operator SDIP Step of the operator with the lowest Operator SDIP Step unless such Operator SDIP Step is above Operator SDIP Step 15. In such case, the excess vehicles shall be assigned to Operator SDIP Step 15. 211 CMR 134.12(5)(b)2. also applies in cases in which separate Policies are issued by the same Insurer to the common owner of two or more vehicles.
3. For Policies effective in 2005 and prior, Multi-Vehicle Billings: An individual's Operator SDIP Step, if greater than 15, may not be applied on more than one Policy in effect at the same time by either the same or different Insurers.

(6) Refunds.

- (a) For Policies subject to Merit Rating Plans during Competitive Markets on or after April 1, 2008: Whenever responsibility for an At Fault Accident or a traffic law violation of an Involved Operator is reversed by a court of competent jurisdiction or the Board of Appeal for an incident previously reported and billed, Insurers shall re-rate Policies to exclude the effect of such incident in the calculation of Private Passenger Motor Vehicle insurance premiums.
 - (b) For Policies subject to the Safe Driver Insurance Plan during Fixed-and-Established Markets on or after January 1, 2006: Whenever the number of SDIP Points is decreased by reason of a reversal by the Superior Court or the Board of Appeal of an incident previously reported and billed, Insurers shall re-rate policies to exclude the effect of such accident in the calculation of Private Passenger Motor Vehicle insurance premiums.
 - (c) For policies subject to the Safe Driver Insurance Plan during Fixed-and-Established Markets prior to January 1, 2006: Whenever the Operator SDIP Step is decreased by reason of a reversal by the Superior Court or the Board of Appeal of an incident previously reported and billed, Insurers shall re-rate policies to exclude the effect of such accident in the calculation of Private Passenger Motor Vehicle insurance premiums.
- (7) Affirmative Duty. All Insurers and their producers have an affirmative duty to correctly apply the Safe Driver Insurance Plan's operator surcharge factor, operator credit factor, Credit Code or Operator SDIP Step, or the premium adjustment calculated in accordance with the Insurer's Merit Rating Plan, as applicable, for each Listed Operator.

- (8) Penalties. Failure to correctly apply the Safe Driver Insurance Plan's operator surcharge factor, operator credit factor, Credit Code or Operator SDIP Step, or the premium adjustment calculated in accordance with the Insurer's Merit Rating Plan, as applicable, for each Listed Operator may subject the Insurer to penalty set forth in 211 CMR 134.19.

134.13: Earned Premium Not Paid

- (1) Policies Canceled. In the event of the cancellation of a Policy subject to 211 CMR 134.00 for which the Insurer has billed but failed to collect monies from the Policyholder equal to the earned premium, the Insurer may report the earned but unpaid premium amount to the Merit Rating Board as provided in the MRB Manual(s) within 120 days of cancellation. The Merit Rating Board may reject any submission later than 120 days from the cancellation date.
- (2) Posting of Unpaid Premium. Upon notification of unpaid earned premium from an Insurer in accordance with 211 CMR 134.13(1), the Merit Rating Board shall post to the account of the Policyholder, a record which so indicates.
- (3) Reporting of Unpaid Premium. In response to a request from an Insurer for SDIP Information or Merit Rating Information for a Policy subject to 211 CMR 134.00, the Merit Rating Board shall report to the Insurer any unpaid earned premium, as listed on the Merit Rating Board's records at time of inquiry, for any Listed Operator.
- (4) Policy Application. When an Insurer receives a response record from the Merit Rating Board indicating that one or more of the Policy's Listed Operators has unpaid earned premium due a previous Insurer within the previous year, the current Insurer may take such action, including the refusal to insure, as allowed by law. If the current Insurer does not take any action, the Merit Rating Board shall refuse to accept any unpaid earned premium record for the current Policy.
- (5) Offsetting Records. Each Insurer that has submitted an unpaid premium record to the Merit Rating Board as provided in 211 CMR 134.13(1), and subsequently collects that unpaid earned premium, must, within 30 days of said collection, submit an offsetting record to the Merit Rating Board as prescribed in the MRB Manual(s).
- (6) Reporting. At the Commissioner's request, the Merit Rating Board shall issue a report to the Commissioner summarizing the following:
 - (a) The total dollar value of all unpaid earned premium records reported to the Merit Rating Board in the preceding year that have not been offset as provided in 211 CMR 134.13(5).
 - (b) The total dollar value of all cases in the preceding year wherein unpaid earned premium due a previous Insurer was reported to the current Insurer and the current Insurer did not take any steps to promote the collection of this premium.

134.14: Reporting of Information

Insurers shall submit to the Commissioner, to the Merit Rating Board or to the Designated Statistical Agent, such records, statistics, or other compilations of data pertaining to the Safe Driver Insurance Plan, as the Commissioner or the Merit Rating Board may require, in Fixed-and-Established and Competitive Markets. The Commissioner shall prescribe the form of such submissions. The Designated Statistical Agent shall send to the Merit Rating Board copies of statistical records noted above and copies of any statistical records forwarded to the Automobile Insurers Bureau of Massachusetts for all policies subject to 211 CMR 134.00, as directed by the Commissioner.

134.15: Schedule of Surcharge Points

- (1) During Fixed-and-Established Markets, Surcharge Points will be assigned for each Surchargeable Incident. During a Competitive Market, an Insurer may adopt a Merit Rating Plan with a different system for adjusting premiums for At Fault Accidents and traffic law violations than the point system set forth in 211 CMR 134.15(2) through 211 CMR 134.15(5). Policies issued during Fixed-and-Established Markets with effective dates on or after January 1, 1990 will be assigned the Surcharge Points for each incident type described in 211 CMR 134.15(2) through 211 CMR 134.15(5).
- (2) Major Accident. Four Surcharge Points shall be assigned to each major accident, as defined in 211 CMR 134.10(3)(a), that is within the Experience Period of the Policy.
- (3) Minor Accident. Three Surcharge Points shall be assigned to each minor accident, as defined in 211 CMR 134.10(3)(b), that is within the Experience Period of the Policy.
- (4) Major Traffic Law Violation. Five Surcharge Points shall be assigned to each major traffic law violation, as defined in 211 CMR 134.10(3)(c), that is within the Experience Period of the Policy.
- (5) Minor Traffic Law Violation. Two Surcharge Points shall be assigned to each minor traffic law violation, as defined in 211 CMR 134.10(3)(d), that is within the Experience Period of the Policy. No Surcharge Points shall be assigned to a minor traffic law violation which is the first traffic law violation, as determined by Surcharge Date, within the Policy Experience Period if the disposition of the violation was non-criminal under M.G.L. c. 90C.
- (6) Comprehensive Coverage Claims. During Fixed-and-Established Markets, Surcharge Points for Comprehensive Coverage claims may be assigned to policies affording Comprehensive Coverage; however, no points may be assigned unless four or more Comprehensive Coverage claims totaling \$2,000 or more have occurred. In establishing the four or more Comprehensive Coverage claims totaling \$2,000 or more, claims for damages caused by acts of God shall be excluded.

134.16: Merit Rating Board Liaison

- (1) Designation. Each Insurer with one or more Policies subject to 211 CMR 134.00 shall designate an employee as its Merit Rating Board liaison and shall notify the Commissioner and the Merit Rating Board in writing of its designation in the manner prescribed in the MRB Manual(s). Within ten working days of the reassignment of a Merit Rating Board liaison, an Insurer shall replace or re-designate its Merit Rating Board liaison and notify the

Commissioner and the Merit Rating Board in writing of the replacement or re-designation.

- (2) Information. Each Insurer shall be responsible for ensuring that its Merit Rating Board Liaison becomes and remains informed of the provisions of 211 CMR 134.00 and of the MRB Manual(s).

134.17: Industry Advisory Committee

The Commissioner shall establish an Industry Advisory Committee that shall consist of at least 12 Merit Rating Board Liaisons and other interested parties appointed by the Commissioner. The Committee shall provide advice to the Commissioner or to the Merit Rating Board concerning 211 CMR 134.00, and to the Merit Rating Board concerning the contents of the MRB Manual(s).

134.18: MRB Manual(s) of Administrative Procedures

The Merit Rating Board shall prepare and distribute, with the assistance of the Industry Advisory Committee specified in 211 CMR 134.17, manual(s) setting forth the administrative rules to be followed by all Insurers in implementing the provisions of 211 CMR 134.00. Copies of any new MRB Manual(s) or any proposed amendment to the MRB Manual(s) prepared in accordance with 211 CMR 134.18 shall be sent to each Merit Rating Liaison and to any other interested party.

134.19: Penalties

- (1) Any Insurer or person violating 211 CMR 134.00 shall be subject to a fine of not more than \$500 for each violation in accordance with M.G.L. c. 175, § 194.
- (2) Any Insurer or person who disseminates or uses SDIP Information or Merit Rating Information from the Merit Rating Board for any purpose other than for motor vehicle insurance purposes or criminal law enforcement purposes shall be subject to a fine of not more than \$1,000 for each offense or by imprisonment for not more than one year, or both, in accordance with M.G.L. c. 6, § 183.

134.20: Severability

If any section or portion of a section of 211 CMR 134.00, or its application to any person, entity or circumstance is held invalid by any court, the remainder of 211 CMR 134.00 or the application of such provision to other persons, entities or circumstances shall not be affected thereby.

REGULATORY AUTHORITY

211 CMR 134.00: M.G.L. c. 175, § 113B as amended by St. 1988, c. 273, §38, and as further amended by St. 1990, c. 171; M.G.L. c. 175A, § 15; and M.G.L. c. 175E, § 10.