



INSURANCE DIVISION BULLETIN INS 2001-1

DATE: March 12, 2001

TO: Property/Casualty Insurers and Other Interested Parties

SUBJECT: Oregon Administrative Rule 836-080-0240
Standards for Prompt & Fair Settlement-Automobile Insurance

The Insurance Division has received a number of questions regarding Oregon Administrative Rule (OAR) 836-080-0240 and the manner in which insurers have interpreted and applied this rule. The rule governs the settlement of total losses of motor vehicles. The purpose of this bulletin is to clarify the intent of this Administrative Rule.

1. Responsibility for Data.

Under OAR 836-080-0240(3) insurers are responsible for the determination of value of total loss vehicles.

2. Cash Settlement; Application of Standards in the Rule.

Comparability Standards. OAR 836-080-0240(3)(a)(B) requires an insurer to apply "appropriate standards for comparability" when relying on values of currently available vehicles for the purpose of a cash settlement. These standards are the same comparability standards described in OAR 836-080-0240(2), except that an insurer may make adjustments for condition, options, and mileage. Any adjustments made must be explained and verifiable.

3. Cash Settlement; Valuation Report.

Cash Settlement; Required Information. OAR 836-080-0240(3) requires an insurer, who makes a cash settlement, to furnish to the insured the information used in determining the amount of the cash settlement. This requirement is useful and meaningful to an insured only if the insured knows that, upon request by the insured, the information is available and must be furnished. It is the intent of this rule that an insurer must give written notice to an insured or claimant that the information is available upon request. This notice must be given at the time of the initial settlement offer, and documented in the claim file.

Included Information. The valuation report produced pursuant to OAR 836-080-0240(3)(a) must contain only the information that the insurer used to arrive at the fair market value of the automobile. Any supplemental or ancillary information must be clearly identified with a separate heading.

Condition Report Required. It is the intent of OAR 836-080-0240(3)(a) that each report include the information collected during the initial inspection that sets forth the condition and equipment of the loss vehicle.

4. Recourse. OAR 836-080-0240(4) offers recourse to first-party claimants. It is the intent of this rule that this option be clearly explained to the insured in writing, and documented in the claim file, at the time of settlement or settlement offer.
5. Effective Date of Bulletin. This bulletin is effective April 1, 2001.

This bulletin is dated the 13th day of March 2001 at Salem, Oregon.

_____(signed)_____
Joel Ario
Insurance Administrator