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Organization and Rules of Practice

ARTICLE I

DESCRIPTION OF ORGANIZATION AND PUBLIC INFORMATION

Sec. 38a-8-1. Duties and authority of insurance department

It is the mission of the Insurance Department to protect the consumer by administering and enforcing the insurance laws in the most responsive and cost effective manner to ensure the financial reliability and responsibility of all regulated entities. The Insurance Department shall act on the Insurance Commissioner's behalf and at his or her direction in order to carry out the Commissioner's responsibilities under Title 38a of the Connecticut General Statutes. As such, the insurance department's duties and authority are primarily set out in title 38a of the Connecticut General Statutes. It is the primary function of the insurance department to see that all laws regarding insurance are complied with and that the public interest is protected by the enforcement of the insurance laws and all implementing regulations. In addition, the Insurance Department has regulatory authority over hospital and medical service corporations, and health care centers, chapter 698a of the Connecticut General Statutes; savings bank life insurance, chapter 642 of the Connecticut General Statutes; prepaid legal services, chapter 698b of the Connecticut General Statutes; risk retention groups, chapter 698c of the Connecticut General Statutes; burial contracts, chapter 700b of the Connecticut General Statutes; consumer dental plans, chapter 700c of the Connecticut General Statutes; and fraternal benefit societies, chapter 700d of the Connecticut General Statutes.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-2. Basic organization

The Insurance Department consists of the office of the Commissioner and seven Divisions which are as follows:

(1) Administration Division — responsible for all functions relating to accounting, budget and fiscal services, payroll and personnel procedures, computer support for the Insurance Department, Insurance Fraud Unit, and Federal International Issues Oversight.

(2) Legal Division — in consultation with the Office of the Attorney General, provides legal advice and related services to the Commissioner and each division of the Insurance Department. The division also provides oversight of the Insurance Receiverships and Insurance Guaranty Associations.

(3) Division of Financial Regulation — determines the eligibility of insurance companies applying for a certificate of authority to do an insurance business in Connecticut, and monitors the financial condition of admitted domestic, foreign and alien insurance companies, health care centers and fraternal benefit societies through the analysis of financial statements, and other information required by statute, and through on-site examinations of domestic entities to ensure that such entities remain solvent and capable of meeting their contractual obligations to policyholders and claimants.

(4) Life and Health Division — reviews all group and individual life and health insurance policies and rates of licensed insurance companies, fraternal benefit societies, hospital or medical service corporations, and health care centers as required by statute. Approves all such policies prior to being offered in Connecticut. Approves rates for health care center subscriber agreements, individual accident and health

policies, medicare supplement policies and individual long-term care policies. Rates for group long-term care policies shall be filed and are subject to disapproval by the Commissioner. Approves deviations from the prima facie rates for credit life and health. Licenses utilization review companies. Publishes annual comparison of managed care organizations. Administers external grievance process and oversees expedited review process for managed care plans.

(5) Property and Casualty Division — examines property and casualty rates, rules, policy forms and underwriting guidelines to ensure that insurance products sold in Connecticut by licensed companies comply with statutory requirements. Reviews rates of residual market providers including the Worker's Compensation Assigned Risk Plan, the Connecticut Automobile Insurance Assigned Risk Plan, and the Fair Access to Insurance Requirements Plan. Licenses and examines rating, advisory and joint underwriting organizations and self-insured pools and plans.

(6) Licensing and Market Conduct Division — (a) The licensing section ensures that only competent and trustworthy persons are licensed to perform insurance services in Connecticut through the determination of eligibility of persons seeking licensure to act as an insurance producer, surplus lines broker, public adjuster, casualty adjuster, motor vehicle physical damage appraisers, fraternal agents, certified insurance consultants, bail bonds agents and viatical settlement producers and brokers. Administers a program of continuing education for insurance producers. (b) The market conduct section examines the affairs and conduct of insurance companies, health care centers, fraternal benefit societies and medical utilization review companies authorized to do business in Connecticut for the purpose of analyzing the treatment of Connecticut policyholders and claimants. Investigates and prosecutes alleged infractions of licensing laws pertaining to individuals or organizations, and allegations of fraud.

(7) Consumer Affairs Division — Receives and reviews complaints from residents of Connecticut concerning their insurance problems, including claims disputes, and serves as a mediator in such disputes in order to determine whether statutory and contractual obligations have been fulfilled. Provides an independent arbitration procedure for the settlement of disputes between claimants and insurance companies concerning automobile physical damage and automobile property damage liability claims in which liability and coverage are not in dispute.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-3. Duties and method of operations

(a) **Commissioner.** The Insurance Commissioner has overall responsibility for the operation of the Insurance Department and provides supervision and direction to the activities of the department. The Commissioner is appointed by the governor. The Commissioner may appoint one or more deputies to assist him or her in the operation of the department. Pursuant to Section 4-8 of the Connecticut General Statutes, the Commissioner shall designate one deputy who shall in the absence or disqualification of the Commissioner or on his or her death, exercise the powers and duties of the Commissioner until the Commissioner resumes his or her duties or the vacancy is filled. In carrying out his or her responsibilities, the Commissioner may delegate certain of his or her functions to a Deputy Commissioner, a division of the department, an individual division director, a hearing officer or an examiner.

(b) **Administration division**:

(1) maintains accounting records of department;

(2) prepares and maintains payroll records for department;

(3) prepares budget for department;

(4) responsible for mail, supplies, and other related support activities;

(5) processes receipts from fees collected from insurers and producers;

(6) processes taxes collected from surplus line brokers and unauthorized insurers;

(7) Insurance Fraud Unit staff works, gathers and reports data on patterns of insurance fraud in Connecticut and develops and provides outreach programs implemented to aid the public in recognizing, avoiding and reporting suspected insurance fraud;

(8) Provides oversight and advice on federal and international insurance regulation issues.

(c) **Division of financial regulation:**

(1) examines the affairs and records of all insurance companies, fraternal benefit societies, nonprofit hospital and medical service corporations and life insurance departments of savings banks for solvency and compliance with applicable statutes, and issues appropriate licenses to conduct business in this state;

(2) reviews all applications submitted by domestic, nonresident and foreign insurance companies and fraternal benefit societies and health care centers that desire to become licensed in this state;

(3) verifies, annually, the life insurance reserves held by all Connecticut chartered life insurance companies;

(4) reviews the proxies of Connecticut chartered stock insurance companies and maintains files on equity holdings of officers and directors in such companies;

(5) receives and reviews registration statements of insurance companies that are part of a holding company system;

(6) receives applications from insurance companies involved in mergers and tender offers;

(7) maintains records of insurance companies licensed in Connecticut and furnishes information regarding status of companies.

(d) **Life and health division**:

(1) accepts for filing, and approves or disapproves, all life and accident and health policy forms that licensed insurance companies, fraternal benefit societies, hospital or medical service corporations, and health care centers intend to sell in this state, and approves or disapproves health care center, individual accident and health, credit life and health, individual long-term care, and medicare supplement premium rates. Accepts for filing and has authority to disapprove group long-term care premium rates;

(2) accepts for filing reporting requirements, publishes report card, oversees expedited review process and administers external grievance process for managed care organizations;

(3) licenses utilization review companies.

(e) **Property and casualty division:**

(1) reviews and accepts or disapproves all policy forms, endorsements, rules, rates, and rating plans used by property and casualty insurance companies involving all lines of property and casualty insurance ;

(2) licenses rating and advisory organizations, and, in addition, periodically examines the affairs of such organizations;

(3) approves statistical plans of insurers or rating organizations for the recording and reporting of loss and expense experience;

(4) investigates complaints involving rates and rating plans as well as complaints about individual policies;

(5) supervises the Connecticut Fair Plan, Worker's Compensation Assigned Risk Plan, the Connecticut Automobile Insurance Assigned Risk Plan and approves rates, rules, forms, and rating plans to be used therein.

(6) approves the forms, rules, rates, and administration of the Connecticut Fair Plan to determine that fire insurance is available to all Connecticut residents at a reasonable cost.

(f) **Licensing and market conduct division**:

(1) The licensing section (A) issues the following licenses:

(i) insurance producers, under section 38a-769 of the Connecticut General Statutes;

(ii) public adjusters, under section 38a-769 of the Connecticut General Statutes;

(iii) temporary producers, under section 38a-783 of the Connecticut General Statutes;

(iv) casualty claim adjusters, under section 38a-792 of the Connecticut General Statutes;

(v) surplus lines brokers, under section 38a-794 of the Connecticut General Statutes;

(vi) fraternal agents, under section 38a-800 of the Connecticut General Statutes;

(vii) motor vehicle physical damage appraisers, under section 38a-790 of the Connecticut General Statutes;

(viii) certified insurance consultants under section 38a-731 of the Connecticut General Statutes; and

(ix) insurance premium finance companies, under the provisions of section 38a-162 of the Connecticut General Statutes;

(B) issues to applicants and insurers instructions regarding eligibility requirements necessary for the type of license applied for, in accordance with the statutes cited; and

(C) determines the qualification of applicants with due regard to the public interest and coordinates and administers qualifying examinations as required by the cited statutes;

(2) the market conduct section investigates complaints against all licensees; prepares cases for presentation at department hearings; enforces compliance with licensing laws and regulations.

(g) **Consumer affairs division**: The consumer affairs division receives, reviews and responds to complaints and inquiries from state residents concerning insurance related problems. The staff examines each complaint to determine whether statutory requirements and contractual obligations within the commissioner's jurisdiction have been fulfilled. The consumer affairs division coordinates the resources available within the department to fully address consumer complaints.

(h) **Legal division:** provides legal advice and related services to the Commissioner and the seven divisions of the Insurance Department on a broad spectrum of issues that arise in regulating the insurance industry and in providing services to the consumer. In doing so, the legal staff of this office drafts, monitors and analyzes legislation; drafts and promulgates regulations; and participates in department hearings involving rates, license enforcement, and acquisitions of domestic insurance companies. The legal division also provides oversight of the insurance receivership and insurance guaranty association activity of the department and in doing so, keeps the staff of the consumer affairs division, and other department staff, informed on developments so they may properly service the inquiries and complaints of consumers.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-4. Location of principal office

The Insurance Department is located at 153 Market Street, 11th floor, Hartford, Connecticut 06103. The Insurance Department's mailing address is P.O. Box 816, Hartford, Connecticut 06142-0816. Normal business hours are from 8:00 A.M. to 5:00 P.M. daily except Saturdays, Sundays, and holidays.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-5. Public information

The policy of the Insurance Department, in accordance with the Freedom of Information Act, chapter 14 of the Connecticut General Statutes, is to make available for public inspection all files, records, and documents and other materials within its possession, unless prohibited by law.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-6. Insurance department bulletins

Any person or group may file a request with the Commissioner to be placed on a mailing list to receive Insurance Department Bulletins. Such request shall be in effect only for the calendar year in which it was filed and all requests shall expire on December 31 each year. The fee for being placed on the mailing list for all Insurance Department Bulletins shall be $20.00 per year and each request shall be accompanied by a check or money order payable to the Treasurer, State of Connecticut.

(Effective September 25, 1992; amended February 1, 2001)

ARTICLE II

SCOPE AND CONSTRUCTION OF RULES

Part I

General Provisions

Sec. 38a-8-7. Procedure governed

Section 38a-8-7 to section 38a-8-75, inclusive, of the Regulations of Connecticut State Agencies govern practice and procedure before the Insurance Commissioner or any division of the Insurance Department, an individual division head or a hearing officer, under the applicable laws of the State of Connecticut, and except where by statute otherwise provided.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-8. Definitions

(a) As used in section 38a-8-1 to section 38a-8-75, inclusive, of the Regulations of Connecticut State Agencies, the following words and phrases shall have the same definitions as those contained in chapter 54 of the Connecticut General Statutes: "contested case," "final decision," "hearing officer," "intervenor," "license," "party," "person," "presiding officer," "proposed final decision," "proposed regulation," "regulation," and "regulation-making."

(b) In addition, as used in section 38a-8-1 to section 38a-8-75, inclusive, of the Regulations of Connecticut State Agencies, the following words and phrases shall have the following meanings, except where any such word or phrase is used in a context which clearly indicates the contrary:

(1) "Appellant" means a person who takes an appeal to the Insurance Commissioner from a decision or ruling of the manager or committee designated to operate a residual market mechanism;

(2) "Applicant" means a party applying for any license, right or authority from the Insurance Commissioner;

(3) "Commissioner" means the Insurance Commissioner;

(4) "Complainant" means any person who complains to the Insurance Commissioner of any alleged act or omission in violation of insurance law, regulations or order of the Insurance Commissioner;

(5) "Hearing" means that portion of the department's procedures in the disposition of matters delegated to its jurisdiction by law wherein an opportunity, as deemed appropriate by the presiding officer, for presentation of evidence and argument occurs;

(6) "Non conforming" means not in compliance with applicable provisions of the General Statutes or implementing regulations;

(7) "Petitioner" means a person who has filed a petition with the Insurance Department seeking relief from the Insurance Commissioner;

(8) "Residual market mechanism" means an association, organization or other entity defined or described in sections 38a-328, 38a-329 and 38a-670 of the Connecticut General Statutes;

(9) "Respondent" means a person against whom an order or a proceeding is directed; and

(10) "Rules of practice" means section 38a-8-7 to section 38a-8-75, inclusive, of the Regulations of Connecticut State Agencies.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-9. Waiver of rules

Where good cause appears, the Commissioner or any presiding officer may permit deviation from the rules of practice, except where precluded by law.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-10. Construction and amendment

The rules of practice shall be construed by the Commissioner and any presiding officer as to secure just, speedy, and inexpensive determination of the issues presented hereunder. Amendments and additions to the rules of practice may be adopted by the Commissioner by being duly promulgated as regulations in accordance with Chapter 54 of the Connecticut General Statutes.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-11. Computation of time

Computation of any period of time referred to in the rules of practice begins with the first day following that on which the act which initiates such period of time occurs and ends on the last day of the period so computed. This last day of that period is to be included unless it is a day on which the office of the department is closed, in which event the period shall run until the end of the next following business day. When such period of time, with the intervening Saturdays, Sundays, and legal holidays counted, is five (5) days or less, such Saturdays, Sundays, and legal holidays shall be excluded from the computation; otherwise such days shall be included in the computation.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-12. Extension of time

In the discretion of the Commissioner, or the presiding officer, for good cause shown any time limit prescribed or allowed by the rules of practice may be extended. All requests for extensions shall be made before the expiration of the period originally prescribed or as previously extended. The Commissioner shall cause all parties to be notified of the action upon any such motion.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-13. Effect of filing

(a) The filing with the department of any application, petition, complaint, request for declaratory ruling or any other filing of any nature whatsoever shall not relieve any person of the obligation to comply with any statute, regulation or order of the Commissioner.

(b) Unless the Commissioner provides otherwise in writing, accepting the filing of any non-conforming petition, application, exhibit, annex or document of any kind whatsoever, shall not be construed as a waiver of compliance with these rules.

(c) Any petition or application filed for the purpose of securing from the Commissioner an approval or grant of permission under the rules of practice and any supporting evidence annexed or filed as part of such petition or application shall be part of the public records of the department as defined by section 1-200 of the Connecticut General Statutes, except when expressly excluded by the provisions of section 1-210(b) of the Connecticut General Statutes, or other statutes. Such public record shall include and not be limited to all written forms, required components, pre-filed testimony, exhibits, and other evidence attached to the application as part thereof.

(Effective September 25, 1992; amended February 1, 2001)

Part 2

Formal Requirements

Sec. 38a-8-14. Date of filing

All orders, decisions, findings of fact, correspondence, motions, petitions, applications, and any other documents governed by the rules of practice, including rate applications and applications for approval as hereinafter defined, shall be deemed to have been filed or received on the date on which they are issued or received by the department or the Commissioner at its principal office, except as hereinafter provided.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-15. Identification of communications

Communications should embrace only one matter and shall contain the name and address of the sender and an appropriate file reference to the subject of the communication. When the subject matter pertains to a proceeding pending before the insurance department, the title of the proceeding and the department docket number should be given.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-16. Signatures

Every application, notice, motion, petition, brief, memorandum and other communications shall be signed by the filing person or by one or more attorneys in their individual names on behalf of the filing person.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-17. Formal requirements as to documents and other papers filed in proceedings

(a) **Copies.** Except for routine correspondence and inquiries by the public, and as may be otherwise required by the rules of practice or by any other rules or regulations of the Commissioner or as ordered or expressly requested by the Commissioner, at the time motions, petitions, applications, documents or other papers are filed with the Commissioner, there shall be furnished to the Commissioner the original of such papers. In addition to the original, there shall also be filed four (4) copies for the use of the department, the staff, and the public, unless a greater or lesser number of such copies is expressly requested by the Commissioner.

(b) **Form.** Except for such forms as may from time to time be provided or adopted by the department and used where appropriate, all documents and papers including but not limited to motions, petitions, applications, notices, briefs, exhibits, and all other written materials filed for the purpose of any proceeding before the department shall be on only one side of eight and one half by eleven inch (8½″ × 11″) paper, unless pre-printed, and shall be double spaced. Reproduced copies of the original documents will be accepted provided all copies filed are clear and permanently legible.

(c) **Filing.** All motions, petitions, applications, documents or other papers relating to matters requiring action by the Commissioner or the department shall be filed with the Commissioner, at the Department's principal office.

(d) Failure to comply with the provisions of this section shall constitute a deficiency in filing and as such shall be subject to the regulations governing that contingency.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-18. Service

(a) **General rule.** Service of all documents and other papers filed in all contested cases, including but not limited to motions, petitions, applications, notices, briefs, and exhibits shall be by personal delivery, first class mail or other manner as determined by the Commissioner, except as otherwise provided by law.

(b) **On whom served.** In addition to the filing of such documents and papers by the person filing an original plus four (4) copies on the Commissioner, one copy shall be served by personal delivery, first class mail or other manner as determined by the Commissioner on every person that has theretofore been designated a party or intervenor in the proceeding. Certification of such service shall be endorsed on all documents and other papers when filed with the Commissioner.

(c) **Service by the Commissioner.** A copy of any documents or other papers served by the Commissioner showing the addresses to whom the document or other paper was mailed and the date of mailing shall be placed in the department's files and shall be prima facie evidence of such service and the date thereof.

(d) **Service as written notice.** Written notice of all orders, decisions or authorizations, issued by the Commissioner, shall be given to the party affected thereby and to such other person as the Commissioner may deem appropriate by personal service upon such person, first class mail or other manner determined by the Commissioner.

(Effective September 25, 1992; amended February 1, 2001)

ARTICLE III

REQUIREMENTS FOR APPLICATIONS AND PETITIONS

Part I

General Provisions

Sec. 38a-8-19. General rule

Petitions and applications shall include all proposals, requests, applications, petitions, and filings of whatever nature that are placed before the Commissioner or the Insurance Department pursuant to law including, but not limited to, petitions for declaratory ruling, petitions for regulation, applications for any license, and applications for approval of rates or contracts.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-20. Function of application

The petition or application and annexed materials may be treated by the department as a substantially complete statement of the case in chief of the applicant or petitioner.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-21. Required components, general

(a) **Form.** The form to be followed in the filing of petitions and applications hereunder will vary to the extent necessary to provide for the nature of the legal rights, duties or privileges involved therein. In addition to the special provisions for particular types of petitions and applications provided by the rules of practice, all petitions and applications shall include the following components:

(1) Each petition or application shall incorporate a statement setting forth clearly and concisely the authorization or other relief sought. The statement shall cite by appropriate reference the statutory provision or other authority under which such authorization or relief is to be granted by the Commissioner.

(2) The exact legal name of each person seeking the authorization or relief and the address or principal place of business of each such person. If any applicant or petitioner is a corporation, trust association or other organized group, it shall also give the state under the laws of which it was created or organized.

(3) The name, title, address and telephone number of the attorney or other person to whom correspondence or communications in regard to the petition or application shall be addressed. Notice, orders and other papers may be served upon the person so named; and such service shall be deemed to be service upon the petitioner or applicant.

(4) A concise and explicit statement of the facts on which the Commissioner is expected to rely in granting the authorization or other relief sought.

(5) An explanation of any unusual circumstances involved in the petition or application to which the Commissioner will be expected to direct particular attention, including the existence of emergency conditions or any request for the granting of interlocutory relief by way of an interim order in the proceeding.

(b) **Annexed materials.** There shall be attached to the petition or application and filed as part thereof any and all exhibits, sworn written testimony, data, models, illustrations and all other materials that the petitioner or applicant deems necessary or desirable to support the granting of the petition or application. In addition, such annexed materials shall also include such exhibits, sworn written testimony, and other data that any statute or the rules of practice may require for the lawful determination of the petition or application.

(c) **Additional evidence submitted.** The enumeration of required items herein set forth as the minimum evidentiary submission shall not preclude the submission of additional evidence with the petition or application.
(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-22. Original records

When so required, the petitioner or applicant shall furnish and make available for the use of the department the original books, papers, and documents from which any evidence supporting the granting of the petition or application is derived. Failure to furnish records as directed may be grounds for rejecting any component and, if appropriate, for the entry of a decision denying the petition or application.
(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-23. Fees

(a) All application fees or other charges required or authorized by law shall be paid to the Commissioner by check or money order made payable to the Treasurer, State of Connecticut, at the time that the application is filed, unless otherwise required by law.

(b) Except as otherwise provided by law, if the Commissioner finds that any application received from an applicant does not conform to law, the Commissioner may return it, with any fee that was submitted with it, to the applicant for correction.
(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-24. Date of filing, components, deficiencies

(a) The date of filing of any application with the department shall be the date that the application is received by the Commissioner.

(b) An application shall consist of all the required components and any special components set forth in the rules of practice.

(c) Any application or petition which is incomplete or not in conformity with the rules of practice may be rejected by the Commissioner.
(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-25. Reserved

Part 2

Special Provisions

Sec. 38a-8-26. Petition requesting the promulgation, amendment or repeal of regulations

(a) **General.** Any interested person may at any time petition the Commissioner requesting the promulgation, amendment or repeal of a regulation.

(b) **Form.** The petition shall conform to the general provisions of the rules of practice where applicable and, in addition, shall set forth clearly and concisely the text of the proposed regulation or amendment or the provisions sought to be repealed. The petition shall also state the facts and arguments on which the petitioner relies either in the petition or in a brief annexed thereto.

(c) **Decision on petition.** Not more than thirty (30) days after receipt of the petition, the Commissioner shall determine whether to deny the petition or to initiate regulation making proceedings in accordance with law.

(d) **Procedure on denial.** If the Commissioner denies the petition, the Commissioner shall give the petitioner notice in writing, stating the reasons for the denial.
(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-27. Petition for declaratory ruling

(a) **General.** The rules of practice set forth the procedure to be followed by the Commissioner in the disposition of requests for declaratory rulings as to the validity of any regulation, or the applicability of any statutory provision or of any regulation or order of the Commissioner.

(b) **Form of petition for declaratory ruling.** Any person may at any time request a declaratory ruling from the Commissioner with respect to the validity of any regulation, or applicability to such person of any statute, regulation or order enforced, administered or promulgated by the Commissioner. Such request shall be filed in accordance with the applicable provisions of the rules of practice and shall in addition:

(1) state clearly and concisely the substance and nature of the request;

(2) identify the statute, regulation or order concerning which the inquiry is made; and

(3) identify the particular aspect thereof to which the inquiry is directed. The request for an advisory ruling shall be accompanied by a statement of any supporting data, facts, and arguments that support the position of the person making the inquiry.

(c) **Notice to other persons.** The Commissioner may give notice to any person that such a declaratory ruling has been requested and may receive and consider data, facts, arguments, and opinions from persons other than the person requesting the ruling.

(d) **Decision on petition.** Not more than sixty days after receipt of a petition for declaratory ruling, the Commissioner in writing shall:

(1) issue a ruling declaring the validity of a regulation or the applicability of the provision of the general statutes, the regulation or final decision in question to the specified circumstances;

(2) order the matter set for specified proceedings, including a hearing;

(3) agree to issue a declaratory ruling by a specified date;

(4) decide not to issue a declaratory ruling and initiate regulation-making proceedings under sec. 4-168 of the Connecticut General Statutes, on the subject; or

(5) decide not to issue a declaratory ruling, stating the reasons for his or her action.

(e) **Provision for hearing.** If the Commissioner deems a hearing necessary or helpful in determining any issue concerning the request for a declaratory ruling, the Commissioner shall schedule such hearing and give such notice thereof as shall be appropriate. The provisions of Article IV, Parts 1 and 2, of the rules of practice, shall govern the practice and procedure of the Commissioner in any hearing concerning a declaratory ruling.

(f) **Decision on petition, ruling denied.** If the Commissioner determines that a declaratory ruling will not be rendered, the Commissioner shall notify the person so inquiring that the request has been denied not later than thirty (30) days after the Commissioner's determination.

(g) **Decision on petition, ruling granted.** If the Commissioner renders a declaratory ruling, a copy of the ruling shall be sent to the person requesting it and to that person's attorney, if any, and to any other person who has filed a written request for a copy with the Commissioner.

(Effective September 25, 1992; amended February 1, 2001)

Secs. 38a-8-28—38a-8-29. Reserved

ARTICLE IV

HEARINGS

Part I

General Provisions

Sec. 38a-8-30. Calendar of hearings

The Commissioner shall maintain a docket of all proceedings of the Department. The Commissioner shall maintain a hearing calendar of all proceedings that are to receive a hearing. Proceedings shall be placed on the hearing calendar in the order in which the proceedings are listed on the docket of the department, unless otherwise ordered by the Commissioner. The Department shall maintain a calendar of scheduled hearings. The Department shall give notice by mail of each hearing, at least one week prior to the date set for such hearing, to any person who has filed a written request for such notice with the Department, except that the Department may give notice as it deems practical of hearings called less than seven days prior to the date set for such hearing. Any request for notice filed pursuant to this section shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests shall be filed within thirty days after January 1 of each year pursuant to section 1-227 of the Connecticut General Statutes. The charge for fulfilling the requests of those persons who have requested written notice of hearings is $20.00 per year.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-31. Public hearing; hearing location; recording, broadcasting or photographing hearings

(a) Unless otherwise provided by statute, all hearings shall be open to the public.

(b) Unless by statute or by direction of the Commissioner a different place is designated, all hearings of the department shall be held at Hartford at the Office of the Commissioner.

(c) At any public hearing, the Commissioner or presiding officer may direct that any recording, radio, television or broadcasting equipment is to be placed in a stationery location and handled in such a manner as possible so as not to disturb the proceedings or create a safety hazard.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-32. Notice of hearings

Notice of a hearing shall include but not be limited to the following:

(1) A statement of the time, place, and nature of the hearing;

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) A reference to the particular sections of the statutes and regulations involved;

(4) A short and plain statement of fact describing the nature of the hearing and the principal facts to be asserted therein, except that in the case of applications and petitions, the Commissioner may refer to or annex the application or petition.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-33. Appearance and representation

(a) **Taking appearances.** Parties shall enter their appearance at the beginning of the proceedings or at such time as may be designated by the Commissioner by giving their names and addresses and stating their positions or intentions in the proceedings.

(b) **Representation of parties.** (1) An individual who is a party to a proceeding may represent himself or herself. A bona fide officer designated by a partnership, corporation, association, or an employee of a governmental subdivision or agency which is a party to a proceeding, may represent that party's interest in the proceeding.

(2) A person may be represented in any proceeding by an attorney at law admitted to practice in this state. An attorney admitted to practice in the highest court of any other state may also be allowed to represent any person in a proceeding before the Commissioner in the discretion of the Commissioner upon application.

(3) An attorney or other authorized representative of a party shall file a Notice of Appearance with the Commissioner in the following form:

STATE OF CONNECTICUT

INSURANCE DEPARTMENT

In the Matter of:

Docket No. _____

NOTICE OF APPEARANCE

Please enter my appearance in the above-designated matter on behalf of _____.

I am authorized to accept service on behalf of said participant in this matter.

_____
Signature

_____
Name (Printed)

_____
P.O. address

_____
City, state and zip code

_____
Telephone number (including area code)

After filing a notice of appearance, copies of all pleadings, notices, rulings, or decisions shall be served on the person named in the notice of appearance.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-34. Consolidation of proceedings

Proceedings involving related questions of law or fact may be consolidated at the direction of the Commissioner.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-35. Ex parte communications

(a) Unless required for the disposition ex parte of matters authorized by law, neither the Commissioner nor any presiding officer shall communicate directly or indirectly with any person or party concerning any issue of fact or law involved in any contested case that has been commenced under these rules, except upon notice and opportunity for all parties to participate.

(b) Any hearing officer or presiding officer and the Commissioner may severally communicate with each other ex parte and may have the aid and advice of such members of the staff as are assigned to assist them in such contested case. This

rule shall not be construed to preclude such necessary routine communications as are necessary to permit the staff to investigate facts and to audit the applicable records of any party in a contested case at any time before, during, and after the hearing thereof.

(c) Unless required for the disposition of ex parte matters authorized by law, no party or intervenor in a contested case, and no person who has a direct or indirect interest in the outcome of the case, shall communicate, directly or indirectly, in connection with any issue in that case, with the Commissioner, a hearing officer or with any employee or agent of the Insurance Department assigned to assist the hearing officer or Commissioner in such case, without notice and opportunity for all parties to participate in the communication.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-36. Continuance of hearing

On motion of the Commissioner, or presiding officer, or that of any party, the hearing may be adjourned or continued on such terms as the Commissioner or presiding officer may require.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-37. Amendment of notice of hearing

The Commissioner may amend any notice of hearing to incorporate additional matters or allegations and may continue or postpone the hearing for such reasonable time as justice requires to allow the parties to respond to such additional matters or allegations.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-38. Pre-hearing conference

(a) The Commissioner or presiding officer may, in his or her discretion, order counsel or any party to meet for a pre-hearing conference. Such conference also may be held with one or more persons participating by telephone or other remote means.

(b) At a pre-hearing conference, the Commissioner or presiding officer may consider and take action with respect to any or all of the following: (1) simplification and clarification of the issues; (2) exchange of witnesses and exhibit list and copies of exhibits; (3) stipulations, admissions of fact, and stipulations concerning the contents, authenticity, or admissibility into evidence of documents; (4) matters of which official notice may be taken; (5) the schedule for exchanging pre-hearing motions or briefs, if any; (6) the method of service and filing of papers by the parties; (7) determination of hearing dates; (8) amendments to the complaint or answers thereto; (9) such other matters as may aid in the orderly and expeditious disposition of the proceeding.

(c) With respect to Insurance Department enforcement proceedings, an initial pre-hearing conference, unless determined by the presiding officer to be unnecessary or premature, shall be held within twenty-one days after filing of an answer, or after the expiration of the second period provided for filing an answer as set forth in section 38A-8-61(d) of the Regulations of Connecticut State Agencies. When a complaint names multiple respondents, the twenty-one day period shall commence from the later of (1) the date on which the last timely answer was filed, or (2) if one or more respondents have failed to answer, from the expiration of the second period provided for filing an answer in section 38a-8-61(d) of the Regulations of Connecticut State Agencies.

(d) At or following the conclusion of any conference held pursuant to this section, the presiding officer or hearing officer shall enter a written ruling or order that recites any agreements reached and any procedural determinations made by the hearing officer.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-39. Rules of evidence

The following rules of evidences shall be applied at hearings:

(1) **General.** Any oral or documentary evidence may be received but the presiding officer shall, as a matter of policy, exclude irrelevant, immaterial or unduly repetitious evidence. The allegations and facts as stated in the Notice of Hearing or complaint issued in Insurance Department enforcement proceedings shall determine the relevance of evidence at the hearing. The Commissioner or presiding officer shall give effect to the rules of privilege recognized by law in Connecticut. Subject to these requirements and subject to the right of any party to cross-examine, any testimony may be received in written form.

(2) **Documentary evidence.** Documentary evidence may be received at the discretion of the Commissioner or presiding officer in the form of copies or excerpts, if the original is not readily available. Upon request by any party an opportunity shall be granted to compare the copy with the original which shall be subject to production by the person offering such copies, within the provisions of section 52-180 of the Connecticut General Statutes.

(3) **Cross examination.** Such cross examination may be conducted as the presiding officer shall find to be required for a full and true disclosure of the facts.

(4) Facts noticed, department records. The Commissioner or presiding officer, on his or her own initiative or at the request of any party, may take notice of judicially cognizable facts, including prior decisions and orders of the Commissioner or the department, and generally recognized technical or scientific facts within the Department's specialized knowledge.

(5) **Facts, noticed, procedure**. Parties shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing, or by an appropriate reference in preliminary reports or otherwise of the material noticed. The Commissioner shall nevertheless employ the department's experience, technical competence, and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making findings of the facts and arriving at a decision in any contested case.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-40. Filing of added exhibits and testimony

Upon order of the presiding officer before, during or after the hearing of a case, any party or intervenor shall prepare and file added exhibits and written testimony. Any party or intervenor filing added exhibits or testimony shall deliver copies of such to all other parties and intervenors, and shall file a certification regarding such delivery.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-41. Uncontested disposition of case

Unless precluded by law, any contested case may be resolved by stipulation, agreed settlement, consent order or default upon order of the Commissioner. Upon such disposition a copy of the order of the Commissioner shall be served on each

party in accordance with section 38a-8-18(d) of the Regulations of Connecticut State Agencies.
(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-42. The record in contested cases

The record in a contested case shall include:

(1) All motions, applications, petitions, complaints, responsive pleadings, bills of particulars, notices of hearing, and intermediate rulings;

(2) The evidence received and considered by the presiding officer;

(3) Questions and offers of proof, objections, and the presiding officer's rulings thereon during the hearing;

(4) The decision, opinion or report by the presiding officer or the Commissioner.
(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-43. Proposal for decision

(a) The Commissioner shall proceed in the following manner in contested cases where the Commissioner has not heard the case or read the record. The decision of the presiding officer shall not be adopted by the Commissioner until the presiding officer's proposal for decision is served upon all of the parties and until an opportunity has been afforded to each party and intervenor affected by the proposed decision to file exceptions, to present briefs, and to make oral argument before the Commissioner.

(b) The proposal for decision served upon the parties shall state the hearing officer's reasons therefor and each issue of law or fact necessary for the proposed decision.

(c) Compliance with this section may be waived by a written stipulation of the parties.
(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-44. Final decision

All final decisions and orders of the Commissioner concluding a contested case shall be in writing or orally stated and shall be made a part of the record of such case. The Commissioner shall serve a copy of the final decision on each party and intervenor in the manner required by the rules of practice and by chapter 54 of the Connecticut General Statutes. With the consent in writing of the respondent and notice to all others concerned, an order may be entered without holding of any hearing or the making of any findings of fact or conclusion of law.
(Effective September 25, 1992; amended February 1, 2001)

Secs. 38a-8-45—38a-8-46. Reserved

Part 2

Special Provisions: Hearings on Applications and Petitions

Sec. 38a-8-47. General provisions

(a) The Commissioner shall hold a hearing on any application or petition where required by law and may in his or her discretion hold a hearing on any application or petition presented to the Commissioner where he or she deems a hearing to be necessary for a complete consideration of the matter.

(b) In addition to the general provisions of this article governing hearings, the following special provisions, sections 38a-8-48 to 38a-8-53, inclusive, of the Regula-

tions of Connecticut State Agencies shall apply to all hearings on applications and petitions filed with the Commissioner.
(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-48. Party and intervenor status

(a) In issuing the notice of hearing, the Commissioner shall designate as parties those persons known to the Commissioner whose legal rights, duties or privileges are being determined. All other persons proposing to be named or admitted as parties or intervenors shall apply for such designation in the manner hereinafter described. No other person shall be or have standing before the Commissioner as a party or intervenor.

(b) The Commissioner or presiding officer shall grant a person status as a party in a contested case if the Commissioner or presiding officer finds that:

(1) such person has submitted a written petition to the the Insurance Department and mailed copies to all parties, at least five days before the date of hearing; and

(2) the petition states facts that demonstrate that the petitioner's legal rights, duties or privileges shall be specifically affected by the Commissioner's decision in the contested case.

(C) the Commissioner or presiding officer may grant a person status as an intervenor in a contested case if the Commissioner or presiding officer finds that:

(1) such person has submitted a written petition to the Insurance Department and mailed copies to all parties, at least five days before the date of hearing; and

(2) the petition states facts that demonstrate that the petitioner's participation is in the interests of justice and will not impair the orderly conduct of the proceedings.

(d) The five-day requirement in subsections (a) and (b) of this section may be waived at any time by the Commissioner or presiding officer on a showing of good cause.

(e) If a petition is granted pursuant to subsection (c) of this section, the Commissioner or presiding officer may limit the intervenor's participation to designated issues in which the intervenor has a particular interest as demonstrated by the petition and shall define the intervenor's rights to inspect and copy records, physical evidence, papers and documents, to introduce evidence, and to argue and cross-examine on those issues. The Commissioner or presiding officer may further restrict the participation of an intervenor in the proceedings, including the rights to inspect and copy records, to introduce evidence and to cross-examine, so as to promote the orderly conduct of the proceedings.
(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-49. Petition to be designated a party or intervenor

The petition to be designated a party or intervenor as required by section 38a-8-48 of the Regulations of Connecticut State Agencies shall include the following:

(1) the petitioner's name and address;

(2) a legal description of the petitioner;

(3) the identity of the individual on whom papers are to be served during the course of the contested case;

(4) a description of the facts that demonstrate that the petitioner's legal rights, duties or privileges shall be specifically affected by the Department's decision in the contested case; and

(5) a description of the facts that demonstrate that the petitioner's participation is in the interests of justice and will not impair the orderly conduct of the proceedings.
(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-50.

Repealed, February 1, 2001

Sec. 38a-8-51. Procedure concerning added parties

(a) **Notice of designation.** In the event that the Commissioner grants any petitioner status as a party or intervenor after service of the initial notice of hearing in a contested case, the Commissioner or presiding officer shall give notice thereof to all parties theretofore designated or admitted. The form of the notice shall be a copy of the order of the department naming or admitting such added party and a copy of any petition filed by such added party requesting designation as a party. Service of such notice shall be in the manner provided in these rules.

(b) **Public comment.** In any hearing on a petition, the Commissioner or the presiding officer may allow interested persons who do not wish to be made parties to present comments either orally or in writing. Such comments shall be made available to all parties and petitioners, and shall be given the same weight as legal argument. The presiding officer may require any such statement to be given under oath or affirmation.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-52. Hearing procedure

(a) **Order of presentation.** In hearings on petitions, the party that shall open and close the presentation of any part of the matter shall be the petitioner. In a case where the direct testimony has already been submitted in written form as provided by the rules of practice, the hearing shall open with the direct testimony being read for the benefit of those present or, at the discretion of the Commissioner or presiding officer, the hearing shall open with the cross-examination of persons who have given written testimony. In the event any person has given written testimony and is not available for such cross-examination at the time and place directed by the Commissioner or presiding officer, all of such written testimony may be discarded and removed from the record at the discretion of the Commissioner or presiding officer.

(b) **Limiting number of witnesses.** To avoid unnecessary cumulative evidence, the Commissioner or the presiding officer may limit the number of witnesses or the time for the testimony upon a particular issue in the course of any hearing pertaining to a petition for party or intervenor status.

(c) **Limitation of direct case.** The direct case of any petitioner shall consist substantially of the written statement of the petition, and the exhibits and other materials annexed thereto unless the Commissioner or presiding officer shall rule otherwise for good cause shown. All prepared written testimony filed with the petition shall be received in evidence with the same force and effect as though it were stated orally by the witnesses, provided that each such witness shall be present at the hearing at which such prepared written testimony is offered, shall adopt such written testimony under oath, and shall be made available for cross-examination as directed by the Commissioner or presiding officer. Prior to its admission, such written testimony shall be subject to objections by any party. The Department, any party or intervenor may waive the attendance of such witness at the hearing. Where the attendance at the hearing of all witnesses is waived by all parties, intervenors and the Department, the matters at issue in the hearing may be decided solely on the basis of the prepared written testimony.

(d) The Commissioner or presiding officer may by order, require any party or other participant that proposes to offer substantive, technical or expert testimony,

to prefile such testimony in written form on such date before or during the public hearing as the Commissioner or presiding officer shall direct. Such prefiled written testimony shall be received in evidence with the same force and effect as though it were stated orally by the witnesses who have given the evidence, provided that each witness shall be present at the hearing at which the prefiled written testimony is offered, shall adopt the written testimony under oath, and shall be made available for cross-examination as directed by the Commissioner or presiding officer. Prior to its admission, such written testimony shall be subject to objections by any party.

(e) The Commissioner or presiding officer may allow oral testimony or arguments to be presented by telephone or other electronic means, provided the testimony or arguments are amplified so that the public attending such hearing may hear such testimony or arguments.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-53. Reserved

Part 3

Special Provisions: Hearings in Enforcement Proceedings

Sec. 38a-8-54. General

In addition to the general provisions of this article governing hearings, the following special provisions shall apply to all proceedings instituted by the Commissioner for the revocation or suspension of any license, in any proceeding where a fine may be imposed, and in any proceeding under sections 38a-815 to 38a-819, inclusive, of the Connecticut General Statutes alleging unfair practices.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-55. Hearings — licenses, fines

Except as provided in section 38a-8-56 of the Regulations of Connecticut State Agencies or any provision of the Connecticut General Statutes, no license may be revoked or suspended nor any fine imposed for violation of any provision within title 38a of the Connecticut General Statutes or the Regulations of Connecticut State Agencies without prior notice and an opportunity to be heard.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-56. Suspension pending proceedings

If the Commissioner finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in his or her order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined by the Commissioner.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-57. Hearings — unfair practices

Proceedings instituted by the Commissioner alleging unfair practices under sections 38a-815 to 38a-819, inclusive, of the Connecticut General Statutes and Regulations promulgated thereunder shall be conducted in accordance with the provisions of said sections as supplemented by the rules of practice.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-58. Intervention — unfair practices proceeding

The Commissioner shall permit any person to intervene in any proceeding under sections 38a-817 and 38a-818 of the Connecticut General Statutes in accordance with section 38a-8-49 of the Regulations of Connecticut State Agencies.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-59. Notice — time

Unless a greater or lesser time is required by statute or regulation with regard to any proceeding subject to this section, notice shall be given to the respondent at least thirty (30) days prior to a hearing.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-60. Complaint

(a) **Complaint issuance.** All enforcement proceedings instituted by the Commissioner for the revocation or suspension of any license or imposition of a fine, or both, shall be initiated by serving on each respondent a complaint which shall specify in reasonable detail the conduct alleged to constitute a violation of any regulation or statutory provision which the Commissioner has jurisdiction to enforce and contain the information required by section 38a-8-32 of the Regulations of Connecticut State Agencies and section 4-177 of the Connecticut General Statutes.

(b) **Amendments to complaint.** The Insurance Department may file and serve an amended complaint that includes new matters of fact or law once as a matter of course at any time before the respondent answers the complaint. Otherwise, upon motion by the Department, the presiding officer may permit the Insurance Department to amend the complaint to include new matters of fact or law, after considering whether the Insurance Department has shown good cause for the amendment and whether any respondent will suffer any unfair prejudice if the amendment is allowed.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-61. Answer

(a) **Form, content, affirmative defenses.** The respondent in any enforcement proceeding shall file an answer to the complaint with the Commissioner no later than twenty (20) days after service of the complaint. An answer shall specifically admit, deny, or state that the respondent does not have and is unable to obtain sufficient information to admit or deny each allegation in the complaint. When a respondent intends to deny only part of an allegation, the respondent shall specify so much of it as is admitted and deny only the remainder. A statement of a lack of information shall be deemed a denial. Any allegation not denied in whole or in part shall be deemed admitted. Any affirmative defense shall be asserted in the answer.

(b) **Amendments to answer.** Upon motion by a respondent, the presiding officer may, after considering good cause shown by the respondent and any unfair prejudice which may result to any other party, permit an answer to be amended.

(c) **Extension of time to answer amended complaint.** If a complaint is amended pursuant to section 38a-8-60(b) of the Regulations of Connecticut State Agencies, the time for filing an answer or amended answer shall be the greater of the original time period within which the respondent is required to respond, or fourteen days after service of the amended complaint. If any respondent has already filed an answer, such respondent shall have fourteen days after service of the amended complaint, unless otherwise ordered by the presiding officer within which to file an amended answer.

(d) **Failure to answer, default.** If a respondent does not file an answer within the time required, the insurance department shall send a second notice to the respondent requiring an answer within fourteen days after service of the second notice. The second notice shall state that failure of the respondent to reply within the period specified shall allow the presiding officer, in the exercise of his or her discretion, pursuant to section 38a-8-62 of the Regulations of Connecticut State Agencies to: (1) treat as admitted by the respondent the allegations in the complaint; and (2) issue a default decision against the respondent. If the respondent fails to file an answer with the Insurance Department within the time required, the presiding officer may issue a default decision against the respondent pursuant to section 38a-8-62 of the Regulations of Connecticut State Agencies.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-62. Default decisions

The Commissioner or presiding officer may issue a default decision against a respondent that fails to answer the complaint within the time afforded under section 38a-8-61 of the Regulations of Connecticut State Agencies, or a party that fails to appear at a pre-hearing conference held pursuant to section 38a-8-38 of the Regulations of Connecticut State Agencies of which the party has due notice, or a party that fails to appear at any duly noticed hearing. If the defaulting party is the respondent, the Commissioner or presiding officer may deem the allegations against the respondent admitted. If the defaulting party is the insurance department, the Commissioner or presiding officer may issue a default decision ordering that the complaint be dismissed.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-63. Reopened hearing

A respondent may, for good cause shown, file a motion to set aside a decision rendered by default no later than sixty (60) days of the entry thereof. If a default was entered for failure of the respondent to file an answer, the respondent shall submit said answer with the motion to reopen. Upon a showing of good cause, the Commissioner may grant said motion and shall schedule the hearing at the earliest date convenient to the Commissioner.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-64. Conduct of enforcement hearing

(a) Unless modified by the Commissioner or the presiding officer, the order of proof in enforcement proceedings shall be as follows:

(1) evidence of the violations alleged;

(2) cross-examination of the department's witnesses;

(3) evidence by respondent and his witnesses;

(4) cross-examination of respondent and his witnesses;

(5) such rebuttal or other evidence on behalf of the department or other party in interest as may be allowed by the Commissioner.

(b) At the discretion of the Commissioner or presiding officer, the parties may be ordered to file proposed findings of facts and conclusions of law, or post-hearing briefs, or both. The Commissioner or presiding officer may order that such proposed findings and conclusions be filed together with, or as part of, post-hearing briefs.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-65. Jurisdictional objections

Objections to the jurisdiction of the Insurance Department may be made to the Commissioner at any time prior to the final decision.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-66. Reserved

ARTICLE V

APPEALS TO COMMISSIONER

Sec. 38a-8-67. Appeals under Sections 38a-329 and 38a-328-14

(a) **General.** This section and section 38a-8-68 of the Regulations of Connecticut State Agencies set forth the procedure to be followed in the disposition of appeals to the Commissioner pursuant to section 38a-329 of the Connecticut General Statutes and section 38a-328-14 of the Regulations of Connecticut State Agencies.

(b) **Time limit for appeal.** Appeals to the Commissioner under this section shall be made no later than thirty (30) days after the date notice was mailed of the final action, decision or ruling of the Connecticut Automobile Insurance Assigned Risk Plan, the Connecticut Insurance Placement Facility (Fair Plan), the Connecticut Worker's Compensation Insurance Plan or other residual market mechanism authorized under section 38a-329 of the Connecticut General Statutes to provide insurance coverage for applicants who are in good faith entitled to but are unable to procure the insurance through ordinary methods. Appeals to the Commissioner under this section that are filed beyond the appeal period as established by this section, will be accepted only in the discretion of the Commissioner.

(c) **Form of appeal.** All appeals to the Commissioner shall be in writing and conform to the general provisions of the Regulations of Connecticut State Agencies where applicable and, in addition, shall set forth clearly and concisely the basis for disputing the action, decision or ruling, together with all pertinent documents or exhibits attached thereto.

(d) **Scope of appeal.** Appeals made to the Commissioner under this section shall be limited to a review for compliance with applicable statutes, regulations, and the forms, procedure, rates, rating plans and rules of the Connecticut Automobile Insurance Assigned Risk Plan, the Connecticut Insurance Placement Facility (Fair Plan), the Connecticut Worker's Compensation Insurance Plan or other residual market mechanism established pursuant to Section 38a-329 of the Connecticut General Statutes.

(e) **Decision, hearing.** No later than thirty (30) days after receipt of the written appeal, the Commissioner shall review the matter in accordance with subsection (d) of this section, and affirm or reverse the decision or ruling from which appeal to the Commissioner was taken. When the Commissioner deems it necessary to decide the matter, the Commissioner in his or her discretion may solicit additional information from the appellant or the manager or committee designated to operate the particular plan or residual market mechanism, and in his or her discretion hold a hearing to hear and receive testimony.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-68. Reserved

ARTICLE VI

INFORMAL COMPLAINTS ALLEGING VIOLATIONS OF THE INSURANCE LAWS OR REGULATIONS

Sec. 38a-8-69. Form

The Commissioner will accept informal complaints alleging violations of title 38a of the Connecticut General Statutes or the regulations promulgated thereunder from any person. Although no form of informal complaint is required, it is requested that such complaints clearly state the name, address, and telephone number of the complainant; the name, address, and telephone number of the person complained of; a brief description of the facts relied upon; and, if the complaint concerns a rate, policy form or document of any kind, that it be identified or a copy attached to the complaint. It is also requested that any person filing a complaint indicate whether they will be available to testify with regard to such complaint if formal proceedings thereon are instituted by the Commissioner.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-70. Disposition of informal complaints

Where the Commissioner, in his or her discretion, determines that an informal complaint alleges a violation of title 38a of the Connecticut General Statutes or regulations promulgated thereunder, and where the Commissioner determines that the complaint appears to be susceptible to informal adjustment, a copy or a statement of the substance thereof will be transmitted to each person complained of in an endeavor to have it satisfied by correspondence and thus obviate the need for formal proceedings.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-71. Reserved

ARTICLE VII

REGULATIONS

Sec. 38a-8-72. Notice of intent to adopt regulations

Prior to the adoption of any regulation, the Commissioner shall give such notice as is required by section 4-168 of the Connecticut General Statutes or other applicable statutes.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-73. Request for advance notice of regulation adoption proceedings

(a) **Filing and form.** Any person or group may file a request with the Commissioner for advance notice of regulation adoption proceedings. The request shall be clearly titled "Request for Advance Notice of Regulation Adoption Proceedings" and shall state in order:

(1) the name of the person or group making the request,

(2) the address of the person or group to which responses should be mailed; and

(3) the date of the request.

(b) **Time and form of notice.** The Commissioner shall give at least thirty (30) days' notice of the adoption of a regulation. The notice shall include:

(1) either a statement of the terms or of the substance of the proposed regulation or description sufficiently detailed so as to apprise persons likely to be affected of the issues and subjects involved in such proposed regulation;

(2) a statement of the purposes for which the regulation is proposed;

(3) a reference to the statutory authority for such proposed regulation; and

(4) the time when, the place where, and the manner in which interested persons may present their views thereon, and such additional information as may be required by law.

(c) **Effective period.** The request for advance notice of regulation adoption proceeding shall be in effect only for the calendar year in which it was filed and all requests shall expire on December 31 each year.

(d) **Fees.** The fee for providing advance notice of regulation adoption proceedings shall be $20.00 per year and each request shall be accompanied by a check or money order payable to the Treasurer, State of Connecticut.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-74. Submission of data, views, and argument

All interested persons may submit data, views, and arguments in writing to the Commissioner not more than thirty (30) days after notice of intent to adopt the regulation has been published. Oral presentations may be allowed by the Commissioner in his or her discretion, but an opportunity to present oral argument shall be granted if requested by fifteen (15) persons, by a governmental subdivision or agency, or by an association having not less than fifteen (15) members, provided notice of such request is made to the Commissioner no later than fourteen (14) days after the date of publication of the notice of intent to adopt regulations in the Connecticut Law Journal. The Commissioner, in his or her discretion, may require that the oral argument be recorded or transcribed at the expense of the persons making oral argument or that a written summary be provided which shall be open to inspection by the public.

(Effective September 25, 1992; amended February 1, 2001)

Sec. 38a-8-75. Availability of regulations

All the regulations and currently pending proposed regulations of the Commissioner shall be available for inspection during normal business hours at the Commissioner's principal office. Copies of all such regulations shall be available to any person on request. The Commissioner may charge a reasonable fee for each copy in accordance with the Freedom of Information Act, chapter 14 of the Connecticut General Statutes.

(Effective September 25, 1992; amended February 1, 2001)