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WITH THE PROVISIONS OF CIC SECTIONS 735.5(a), (b) and (c)]**

**REPORT OF ALL VIOLATIONS ALLEGED IN THE MARKET CONDUCT
EXAMINATION OF THE RATING AND UNDERWRITING PRACTICES OF THE**

**MERCURY INSURANCE GROUP
(NAIC GROUP #0660)**

AS OF MAY 31, 2007

ADOPTED ON FEBRUARY 18, 2010

STATE OF CALIFORNIA



**DEPARTMENT OF INSURANCE
MARKET CONDUCT DIVISION
FIELD RATING AND UNDERWRITING BUREAU**

NOTICE REGARDING CONFIDENTIALITY

The provisions of Section 735.5(a), (b), and (c) of the California Insurance Code describe the Commissioner's authority and exercise of discretion in the use and/or publication of any final or preliminary examination report or other associated documents. Section 12938 of the California Insurance Code requires the publication of certain legal documents and examination reports.

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DEPARTMENT OF INSURANCE

CONSUMER SERVICES AND MARKET CONDUCT BRANCH
FIELD RATING & UNDERWRITING BUREAU
45 Fremont Street, 22nd Floor
San Francisco, CA 94105



February 18, 2010

The Honorable Steve Poizner
Insurance Commissioner
State of California
45 Fremont Street
San Francisco, California 94105

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under Sections 730 and 1857.2 of the California Insurance Code, an examination was made of the rating and underwriting practices and procedures in California of the **MERCURY INSURANCE GROUP** (NAIC Group #0660), comprised in California of:

MERCURY CASUALTY COMPANY (NAIC #11908, CDI #1952-1)

MERCURY INSURANCE COMPANY (NAIC #27553, CDI #2143-6)

CALIFORNIA AUTOMOBILE INSURANCE COMPANY (NAIC #38342, CDI #2343-2)

CALIFORNIA GENERAL UNDERWRITERS INSURANCE COMPANY, INC.

(NAIC #31046, CDI #3136-9)

and

AMERICAN MERCURY INSURANCE COMPANY (NAIC #16810, CDI #2253-3).

The Companies subject to this examination are hereinafter referred to as either Mercury Casualty Company (MCC), Mercury Insurance Company (MIC), California Automobile Insurance Company (CAIC), California General Underwriters Insurance Company, Inc. (CGUICI), and American Mercury Insurance Company (AMIC) individually, or collectively as Mercury, or the Companies. The California Department of Insurance will be referred to as the Department.

CGUICI and AMIC had only nominal premium writings in California. Therefore, these companies were subject to only limited review, and no policies issued in these companies were examined.

FOREWORD

This examination covered the rating and underwriting practices of the aforementioned Companies during the period from March 1, 2007 through May 31, 2007. The examination was made to discover, in general, if these and other operating procedures of the Companies conform to provisions of the California Insurance Code (CIC), the California Code of Regulations (CCR), and other applicable insurance law.

This report contains all alleged violations of laws that were identified during the examination. A separate report containing only alleged violations, if any, of CIC § 790.03 and its implementing regulations is made available for public inspection and is published on the Department's internet site at www.insurance.ca.gov, pursuant to § 12938 of the California Insurance Code. No violations of CIC § 790.03 or its implementing regulations were cited during this examination.

This report is written in a "report by exception" format. This report does not present a comprehensive overview of the subject insurer's practices. The report contains only a summary of pertinent information about the lines of business examined and of the non-compliant or problematic activities or results that were discovered during the course of the examination, along with the insurer's proposals for correcting the deficiencies. In the event that a non-compliant activity was not discovered during the examination, the insurer remains responsible for correcting that practice. Failure to identify, comment on, or criticize non-compliant activities in this state or other jurisdictions does not constitute acceptance of such activities.

Alleged violations identified in this report, any criticisms of practices, and the Companies' responses, if any, have not undergone a formal administrative or judicial process.

SCOPE OF THE EXAMINATION

To accomplish the foregoing, the examination included:

1. A review of the rates, rating plans, forms, and underwriting rules made or adopted by the Companies for use in California, including a review of records of data, statistics, or information maintained by the Companies in support of or relating to such rates, forms, and rules.
2. A review of the application of such rates, forms, and rules by means of an examination of policy files and related records.
3. A review of the Companies' advertising materials, which consisted of print advertisements distributed through direct mail, media commercials, and the Companies' internet site at www.mercuryinsurance.com.
4. A review of the Department's market analysis results, a review of any consumer complaints and inquiries received by the Department about these Companies in the year prior to the start of the examination, a review of prior market conduct examination reports on these Companies, and a review of any prior enforcement actions by the Department regarding these Companies.

The examination was conducted at Mercury's branch office in Westlake Village, California.

EXECUTIVE SUMMARY

This examination included a review of policies that were issued, renewed, cancelled, non-renewed, or declined during the period of March 1, 2007 through May 31, 2007, referred to as the “review period,” and a review of the Companies’ general practices and procedures related to rating, underwriting, advertising and marketing, and risk selection. The examiners reviewed 343 in-force policies and 242 terminated and declined policies. In the course of the examination, the examiners identified 27 rating errors, 18 non-rating errors, and 12 termination transaction errors. Within the scope of this report, 54 general practices were alleged as being in violation of California law. A total of \$77,853 in premium has been returned to consumers as a result of this examination.

The main areas of non-compliance identified in this examination included the failure to implement objective and specific eligibility guidelines across all lines of business. In the Companies’ commercial lines programs, the main areas on non-compliance included the use of unfiled rates and the non-renewal of risks based on the agents’ requests. In personal lines, the misapplication of credits, the failure to provide a specific reason for policy cancellation and non-renewal, and the improper application of accident surcharges are three of the primary areas of concern.

RESULTS OF THE REVIEW OF MARKET ANALYSIS,
CONSUMER COMPLAINTS AND INQUIRIES, PREVIOUS EXAMINATIONS,
AND PRIOR ENFORCEMENT ACTIONS

The Companies were the subject of 296 consumer complaints between June 1, 2006 and June 1, 2007. With Mercury Insurance Company, many of the complaints were due to failure to return premium in a timely manner following policy cancellation. With Mercury Casualty Company, several complaints were due to the application of a policy surcharge for an accident that appeared on a Comprehensive Loss Underwriting Report (CLUE) without first conducting an investigation. The examiner focused on these areas in the course of the policy review.

The most recent examination of rating and underwriting practices of Mercury Insurance Group included a review period of January 1, 2001 through August 31, 2002. The primary areas of non-compliance identified in the examination report were allowing the placement of statutory good drivers in programs without consistently providing such drivers adequate advice about different premium, coverage, and payment options available to them in other programs; cancelling personal automobile policies without consistently availing applicants of the opportunity to exclude ineligible non-good drivers; requiring a supporting automobile policy to purchase a homeowners policy; using driving record violation information in some cases in which there was only a Failure to Appear with respect to the offense; and preventing insureds from making changes to their policy coverages and from re-applying for coverage due to past non-renewals for personal lines. For commercial lines, a significant area of noncompliance noted was the failure to consistently provide 30 days advance notice of cancellation for commercial automobile insureds. Following the 2002 examination and the identification of the abovementioned issues, Mercury Insurance Group was the subject of an enforcement action taken by the Department on June 2, 2006 which resulted in a Stipulation and

Order and a penalty of \$300,000. The examiners focused on these areas during the current exam, noting that personal automobile risks which become ineligible due to a non-good driver are only informed that they may reapply for coverage with the non-good driver excluded, rather than allowing an the exclusion as a means of continuing coverage under the current policy. This issue is discussed in the final section of this report. It was also noted that the Companies are considering unresolved Failure to Appears in the determination of eligibility for personal automobile programs, preventing insureds from making changes to their personal automobile policy coverages by instructing Agents not to increase Mercury's exposure in any way, and failing to provide adequate notice of cancellation for commercial multiple peril insureds. These issues are discussed in the final section of this report. Additionally, other repeat criticisms, or similar criticisms, from both the 2002 and the 1998 examination were made in the current examination. Each criticism which has been previously made is so noted in the Summary of Exam Results section of this report.

METHOD OF DOING BUSINESS

Mercury writes business in California through approximately 1,019 agents and 227 brokers, though the Companies discontinued doing business through brokers in January 2009. All commercial lines underwriting functions are performed at either the Rancho Cucamonga, California or the Brea, California locations, while personal lines underwriting functions are performed at various locations throughout the State. Claims processing centers for all lines of business are also located throughout California. The Companies' underwriting and claims processing centers are located in San Diego, Sacramento, Brea, Camarillo, Rancho Cucamonga, Santa Clarita, and San Clemente.

Managing General Agents

Mercury does not utilize managing general agents.

AUTHORIZED CLASSES OF BUSINESS

The Companies are authorized to transact the following classes of business in California:

<u>Class No.</u>	<u>Class Of Insurance</u>	<u>MIC</u>	<u>MCC</u>	<u>CAIC</u>	<u>CGUICI</u>	<u>AMIC</u>
2.	Fire	X	X	X		X
3.	Marine	X	X	X		X
5.	Surety	X	X	X		X
6.	Disability	X	X	X		
7.	Plate Glass	X	X	X		X
8.	Liability	X	X	X	X	X
10.	Common Carrier Liability	X		X		X
11.	Boiler and Machinery	X		X		
12.	Burglary	X	X	X		X
13.	Credit	X		X		
14.	Sprinkler	X	X	X		
15.	Team and Vehicle	X		X		X
16.	Automobile	X	X	X	X	X
18.	Aircraft	X		X		
20.	Miscellaneous	X	X	X		X

PREMIUM AND LOSS EXPERIENCE STUDY

The following tables show the California premium and loss experience for each Mercury company by line of business for calendar year 2006, based on data from the Statutory Page 14 of the Annual Statement filed with the Department. (No table is shown for CGUICI as no figures were reported for this Company in 2006.) The “Mercury Insurance Group, Consolidated” table includes combined California premium and loss experience for all companies. The loss ratio for each line is calculated by dividing Direct Losses Incurred by Direct Premiums Earned. (Figures with no meaning due to division by zero are indicated as “NM,” as are calculations including a negative premium earned. All ratios are capped at 999%.)

Mercury Insurance Group, Consolidated California Premium and Loss Experience by Line for the Year 2006

Line Of Coverage	Direct Premiums Written (\$)	Direct Premiums Earned (\$)	Direct Losses Incurred (\$)	Loss Ratio (%)
Fire	6,749,024	6,356,269	2,491,913	39%
Allied lines	1,141,528	1,080,793	44,431	4%
Homeowners multiple peril	196,753,111	185,769,726	54,857,413	30%
Commercial multiple peril (non-liability portion)	23,361,816	22,146,546	5,911,837	27%
Commercial multiple peril (liability portion)	7,169,052	6,813,154	2,515,049	37%
Earthquake	(222,428)	(153,184)	(34,348)	NM
Other liability	6,283,922	5,877,126	264,859	5%
Private passenger auto liability	1,099,482,633	1,080,770,426	526,343,593	49%
Commercial auto liability	66,304,643	64,930,345	32,430,381	50%
Private pass auto physical damage	823,081,995	817,225,843	515,255,159	63%
Commercial auto physical damage	23,628,901	23,937,510	9,556,129	40%
Surety	3,213	3,062	0	0%
Aggregate write-ins for other lines of business	12,800,962	8,916,995	5,870,480	66%
TOTALS	\$2,266,538,372	\$2,223,674,611	\$1,155,506,896	52%

Mercury Insurance Company
California Premium and Loss Experience by Line for the Year 2006

Line Of Coverage	Direct Premiums Written (\$)	Direct Premiums Earned (\$)	Direct Losses Incurred (\$)	Loss Ratio (%)
Private passenger auto liability	727,603,018	713,136,642	344,601,846	48%
Private pass. auto physical damage	564,803,766	557,232,702	336,663,788	60%
TOTALS	\$1,292,406,784	\$1,270,369,344	\$681,265,634	54%

Mercury Casualty Company
California Premium and Loss Experience by Line for the Year 2006

Line Of Coverage	Direct Premiums Written (\$)	Direct Premiums Earned (\$)	Direct Losses Incurred (\$)	Loss Ratio (%)
Fire	6,749,024	6,356,269	2,491,913	39%
Allied lines	1,141,528	1,080,793	44,431	4%
Homeowners multiple peril	196,753,111	185,769,726	54,857,413	30%
Commercial multiple peril (non-liability portion)	23,361,816	22,146,546	5,911,837	27%
Commercial multiple peril (liability portion)	7,169,052	6,813,154	2,515,049	37%
Earthquake	(222,428)	(153,184)	(34,348)	NM
Other liability	6,283,922	5,877,126	264,859	5%
Private passenger auto liability	252,311,149	252,455,134	123,139,954	49%
Commercial auto liability	66,304,643	64,930,345	32,430,381	50%
Private pass auto physical damage	178,510,230	182,110,355	116,885,053	64%
Commercial auto physical damage	23,628,901	23,937,510	9,556,129	40%
TOTALS	\$761,990,948	\$751,323,774	\$348,062,671	46%

California Automobile Insurance Company

California Premium and Loss Experience by Line for the Year 2006

Line Of Coverage	Direct Premiums Written (\$)	Direct Premiums Earned (\$)	Direct Losses Incurred (\$)	Loss Ratio (%)
Private passenger auto liability	119,568,466	115,178,650	58,601,793	51%
Private pass. auto physical damage	79,767,999	77,882,786	61,706,318	79%
TOTALS	\$199,336,465	\$193,061,436	\$120,308,111	62%

American Mercury Insurance Company

California Premium and Loss Experience by Line for the Year 2006

Line Of Coverage	Direct Premiums Written (\$)	Direct Premiums Earned (\$)	Direct Losses Incurred (\$)	Loss Ratio (%)
Surety	3,213	3,062	0	0%
Aggregate write-ins for other lines of business	12,800,962	8,916,995	5,870,480	66%
TOTALS	\$12,804,175	\$8,920,057	\$5,870,480	66%

LINES OF BUSINESS REVIEWED

The Mercury Insurance Group examination included a review of Private Passenger Automobile, including the California Automobile Assigned Risk Plan and the California Low Cost Automobile Insurance Program, Homeowners, Commercial Automobile, and Commercial Multiple Peril business.

Private Passenger Automobile

Rates Filed: June 28, 2006

Rate Page Edition: November 13, 2006

Mercury Insurance Group provides voluntary private passenger automobile policies through three separate companies: Mercury Insurance Company, Mercury Casualty Company, and California Automobile Insurance Company. MIC is only available to California Good drivers, whereas MCC and CAIC are available to all drivers, subject to the Companies' eligibility guidelines. The MIC base rate is 13.5% lower than those of MCC and CAIC. MCC and CAIC policies, which have identical coverages, rates, and eligibility guidelines, provide slightly more coverage than the MIC policy form. Each underwriting company offers its own, differing payment plan options. All companies offer the same discounts: a Good Driver Discount; a Good Student Discount; Group Discounts for Engineers, Scientists, Educators, the California Medical Association, the Los Angeles County Bar Association, and Certified Public Accountants; a discount for Multiple Automobiles on a policy; a discount for Multiple Policies with the Group; a Mature Driver Discount; Anti-Theft Device Discounts; and a Persistency Discount. Mercury relies on its agents to ensure that insureds are informed of all coverage and payment plan options, and that they are placed in the company which best suits their needs.

California Automobile Assigned Risk Plan (CAARP)

Insurers that sell private passenger automobile policies are required by law to accept risks that are assigned to them by the California Automobile Assigned Risk Plan (CAARP). CAIC issues policies assigned by CAARP using the rates, rating plans, and forms prescribed by the Plan.

California Low Cost Automobile Insurance Program

Mercury issues California Low Cost Automobile Insurance Program policies submitted by brokers using the rates, rating plans, and forms prescribed by the Program. These policies are written in CAIC.

Homeowners

HO-3: Rates Filed: September 27, 2002; Rate Page Edition: December 15, 2002

HO-4: Rates Filed: October 1, 2003; Rate Page Edition: October 1, 2003

HO-6: Rates Filed: October 1, 2003; Rate Page Edition: October 1, 2003

Umbrella: Rates Filed: March 9, 2005; Rate Page Edition: August 11, 2005

Mercury provides residential property and liability coverages under its Standard and Superior HO-3 policies for homeowners, and its Standard and Superior HO-6 policies for condominium owners. Eligibility for the Standard and Superior policies is identical, and all policies are issued by Mercury Casualty Company. The base rates of the Superior policies are 15% higher than those of the Standard policies, and coverages are broadened accordingly. Both program tiers offer several optional coverages, including umbrella, a range of deductibles, and increased coverage limits. MCC offers credits for fire/burglary alarms, newer homes (HO-3 only), gated communities, increased deductibles, persistency (HO-3 only), roof construction (HO-3 only), dwelling area (HO-3 only), and multiple policies.

Mercury also offers a HO-4 Renters Policy, issued by Mercury Casualty Company. Credits are offered under this policy for fire/burglary alarms, gated communities, increased deductibles, and multiple policies.

Commercial Automobile

Rates Filed: October 8, 2003

Rate Page Edition: May 1, 2004

Mercury offers three types of commercial automobile policies – Policy Type 2, Policy Type 3, and Policy Type 4 – all issued in Mercury Casualty Company. Policy Type 2 is the preferred policy, with approximately a 17% downward deviation in the base rate from Policy Type 3, and approximately a 45% downward deviation in the base rate from Policy Type 4. Eligibility for each policy type is based on the type of operation and driver characteristics, but all risks are required to carry coverage for workers' compensation, and for general liability if the vehicles have attached equipment. Mercury's target market for this line of business includes small commercial auto risks and fleets, specializing in artisan occupations, such as construction, pool cleaning, electrical, plumbing, appliance repair, gardening, and landscaping.

Commercial Multiple Peril

Businessowners (BOP)

Rates Filed: March 29, 2002

Rate Page Edition: July 1, 2002

Commercial Multiple Peril Package

Rates Filed: March 29, 2002

Rate Page Edition: July 1, 2002

Mercury offers a commercial multiple peril package policy and a businessowners policy, both written in Mercury Casualty Company.

The businessowners policy is designed for smaller-sized risks in certain eligible classifications, which include Print & Graphic Design, Office Contents, Retail & Service, Apartments, and Lessor's Risk. Each BOP provides liability and property coverages. In addition, the policy for each specific classification is endorsed with additional coverages, tailored to suit the

needs of each operation.

All other risks are written as commercial multiple peril package policies under one of two plans, Basic or Comprehensive. The Basic Plan policy is written on a named perils coverage form, while the Comprehensive Plan policy is written on a special coverage form, including theft.

DETAILS OF THE CURRENT EXAMINATION

The following sections of the report provide summary information regarding the policy review, and regarding the statutes and regulations that were cited during the examination.

POLICY REVIEW RESULTS

The policy sample was reviewed to determine if the Companies were properly and consistently applying their adopted rates, rating plans and underwriting rules at the individual policy level. The policies were selected at random from the Companies' listing of policies issued, renewed, non-renewed, cancelled, or declined during the period of March 1, 2007 through May 31, 2007. The results of this review are listed below on the In-Force Policies table and the Terminated and Declined Transactions table.

The In-Force Policies table shows the number of policies reviewed, the number of policies with individual rating errors, the number of policies with non-rating errors, and the error ratios by program and company resulting from this examination. In general, policies containing rating errors that result in premium overcharges are corrected by policy endorsement, and refunds are made to the policyholder. Policies with errors that result in undercharges are marked for corrective action at the next policy renewal date. Non-rating errors include forms, documentation, and other errors not affecting premium. (Errors that result in premium changes under \$5 or 1% of the policy premium, whichever is greater, are counted as non-rating errors.)

The Terminated and Declined Transactions table shows the number of termination transactions reviewed per line of business. These include policies which had been cancelled, non-renewed, or declined. The number of policies with errors noted in the termination transaction is shown, as well as the overall ratio of terminations with errors.

MERCURY INSURANCE GROUP

Policy Review Result Summary Tables

In-Force Policies

Program	No. of Policies Reviewed	No. with Rating Errors	Rating Error Ratio %	No. with Non-Rating Errors	Non-Rating Error Ratio %
Private Passenger Automobile – MIC, MCC, CAIC					
Total Private Passenger Auto	143	14	9.8%	4	2.8%
Homeowners – MCC					
Total Homeowners	100	2	2%	4	4%
Commercial Automobile – MCC					
Total Commercial Auto	50	3	6%	5	10%
Commercial Multiple Peril – MCC					
Total Comm'l Multiple Peril	50	8	16%	5	10%
TOTALS	343	27	7.9%	18	5.2%

Terminated and Declined Transactions

Program	No. of Policies Reviewed	No. with Errors	Error Ratio %
Private Passenger Automobile – MIC, MCC, CAIC			
Declined, Non-Renewed, Cancelled			
Total Private Passenger Automobile	119	5	4.2%
Homeowners – MCC			
Declined, Non-Renewed, Cancelled			
Total Homeowners	51	3	5.9%
Commercial Automobile – MCC			
Declined, Non-Renewed, Cancelled			
Total Commercial Automobile	30	2	6.7%
Commercial Multiple Peril – MCC			
Declined, Non-Renewed, Cancelled			
Total Commercial Multiple Peril	42	2	4.8%
TOTALS	242	12	5.0%

GENERAL PRACTICES REVIEW RESULTS

The examination included a review of the rates, rating plans, forms, and underwriting rules made or adopted by Mercury for use in California. The table below identifies the provisions of the California Insurance Code (CIC), the California Code of Regulations (CCR), or other pertinent law for which violations were alleged or to which reference was made during the examination. A total of 42 laws were cited based on the insurer's errors and general practices. Each law listed on the following table may be due to a general practice which affects many policyholders. One practice can also violate multiple laws or occur across multiple companies within an insurer group.

SUMMARY OF RELEVANT LAWS

	Code Citation	Description of Law
1.	CIC § 332	Each party to a contract of insurance shall communicate to the other, in good faith, all the facts within his knowledge which are material to the
2.	CIC § 381	Required contents of a policy; (a) through (f).
3.	CIC § 677.2(c)	The notice of cancellation for commercial insurance shall be given at least 30 days prior to the effective date of cancellation.
4.	CIC § 790.06	The Commissioner may determine a practice to be unfair or deceptive in accordance with this section.
5.	CIC § 791.10(e)	An adverse underwriting decision and the specific reasons for such a decision shall be provided in writing by the insurance institution at the time of the decision.
6.	CIC § 1857	Documentation must be maintained in support of rates charged.
7.	CIC § 1861.01(c)	Insurance rates for most property and casualty lines must be approved by the Commissioner prior to their use.

	Code Citation	Description of Law
8.	CIC § 1861.02(b)(2)	The rate charged for a Good Driver Discount policy shall comply with subdivision (a) and shall be at least 20% below the rate of the insured would otherwise have been charged for the same coverage.
9.	CIC § 1861.02(b)(1)	Every person who meets the criteria of CIC Section 1861.025 shall be qualified to purchase a Good Driver Discount Policy from the insurer of their choice.
10.	CIC § 1861.025	This section sets forth the criteria in which a person is qualified to purchase a Good Driver Discount policy.
11.	CIC § 1861.03(c)(1)	Notwithstanding any other provision of law, a notice of cancellation or non-renewal of a policy for automobile insurance shall be effective only if it is based on one or more of the following reasons: (A) nonpayment of premium; (B) fraud or material misrepresentation affecting the policy or the insured; (C) a substantial increase in the hazard insured against.
12.	CIC § 1861.05(a)	Rates shall not be excessive, inadequate, or unfairly discriminatory.
13.	CIC § 10101	Insurers must provide a copy of the California Residential Property Insurance disclosure statement at time of application and at initial renewal.
14.	CIC § 10102	The Residential Property Insurance disclosure statement shall contain the language as included in this section. Insurers shall provide the disclosure statement to the insured on an every-other-year basis at the time of the renewal.
15.	CIC § 11580.07	No insurer which is admitted to issue a policy of automobile insurance shall require any insured to purchase or maintain automobile collision coverage for the insured motor vehicle as a condition to the issuance or maintenance of comprehensive coverage for such vehicle, unless the policy requires the purchase of both coverages.
16.	CIC § 11624(e)	CAARP Plan rates shall not be inadequate, excessive, or unfairly discriminatory.
17.	CIC § 11628(c)(1)	No admitted insurer shall fail or refuse to accept an application for motor vehicle liability insurance, or cancel that insurance, solely for the reason that the applicant or insured is employed in a specific occupation, or is in on active duty with the US Armed Forces.

	Code Citation	Description of Law
18.	CIC § 11628.5	No admitted insurer shall fail or refuse to accept an application from a handicapped person for insurance, or to issue or cancel that insurance under conditions less favorable to handicapped persons than non-handicapped persons; nor shall a handicap itself constitute a higher rate, premium, or charge.
19.	CIC § 11628.7	No admitted insurer shall fail or refuse to accept an application from a blind person for insurance (a driver exclusion may be required); nor shall the insurer cancel that insurance solely on the basis that the operators of the insured vehicle are changed frequently.
20.	CIC § 11629.77(a)	A low-cost automobile insurance policy issued pursuant to the program shall only be cancelled for the reasons outlined in subsections (1) through (4).
21.	CCR § 2360.0(b)	“Eligibility Guidelines” are specific, objective factors, or categories of specific, objective factors, which are selected and/or defined by an insurer, and which have a substantial relationship to an insured’s loss exposure.
22.	CCR § 2360.2	Insurers shall maintain objective, specific eligibility guidelines for every line of insurance offered for sale to the public.
23.	CCR § 2360.3	An insurer shall charge each insured the lowest premium for which the insured qualifies.
24.	CCR § 2360.4	It shall be the insurer’s responsibility to determine the lowest premium for which each insured qualifies. If the insurer delegates this responsibility to its agent, the insurer shall remain responsible for the agent’s determination.
25.	CCR § 2360.6	The insurer shall keep documentation in the underwriting file for every policy, identifying all information which the insurer considered in determining the premium charged.
26.	CCR § 2632.5	This section outlines the rating factors allowable by California Law.
27.	CCR § 2632.5(c)(1)(A)	The first mandatory rating factor should be determined from the public record of traffic violation convictions available from the DMV.

	Code Citation	Description of Law
28.	CCR § 2632.5(c)(1)(B)	Principally at-fault accidents shall be determined pursuant to CIC § 2632.13.
29.	CCR § 2632.12(b)	If a good driver is not eligible to purchase a good driver discount policy because of the driving safety record or years of driving experience of any other person, the good driver shall be eligible to purchase a good driver discount policy which excludes such other persons from coverage.
30.	CCR § 2632.13(c)	A driver may be considered principally at-fault in an accident if the driver's actions or omissions were at least 51% of the proximate cause of the accident.
31.	CCR § 2632.13(f)	If a driver has insurance that provided coverage for an accident, a subsequent insurer which did not provide coverage at the time of the accident and to whom an application for the issuance of a policy of insurance is made, or from whom a renewal policy is offered, may not consider the driver to be principally at-fault for the accident unless one of the three circumstances outlined in this section applies.
32.	CCR § 2632.13(g)	If a driver did not have insurance that provided coverage for an accident, and if no other insurer of any person involved in the accident made a determination that any other driver was at least 51% of the proximate cause of the accident, an insurer to whom an application for the issuance or renewal of a policy of automobile insurance is made may consider a driver to be principally at-fault if the insurer has sufficient information to make that determination. For the purpose of this Subsection, the following shall apply: (1) through (3).
33.	CCR § 2632.13(i)	Notwithstanding any other provision in this section, in determining a driver's at-fault accident history, a driver's declaration, under penalty of perjury, attesting to his or her at-fault accident history, shall be sufficient proof of that accident history in the absence of contrary information from an independent source. If an insurer discovers that the declaration contains fraudulent or material misrepresentation, the insurer may use that information to rate the policy, may cancel the policy pursuant to CIC Sections 661 and 1861.03(c)(1) and take any other action authorized by law.
34.	CCR § 2632.14(a)(1)	Every insurer is required to offer to sell to a good driver a good driver discount policy that contains only the minimum limits of liability coverage required by California law.

	Code Citation	Description of Law
35.	CCR § 2632.14(a)(2)	Every insurer is required to offer to sell to a good driver a good driver discount policy that contains comprehensive coverage or collision coverage, or both such coverages, in addition to liability coverage.
36.	CCR § 2632.14(a)(3)	Every insurer is required to offer to sell to a good driver a good driver discount policy that contains any of the limits of coverage, the types of coverage, and amounts of deductibles that the insurer offers to sell to the public.
37.	CCR § 2632.14(b)	Insurers shall offer and sell good driver discount policies under the same terms and conditions and with the same options and services that the insurer offers and sells to the public, including, but not limited to, terms for payment of premiums.
38.	CCR § 2632.19(f)	If a substantial increase in hazard insured against exists because of the violation points or circumstances of any person other than the insured, then a substantial increase in hazard insured against shall not exist of the insured excludes such other person from coverage.
39.	CCR § 2644.50	As a means to determine whether a rate previously approved remains in compliance with the statutory standard set forth in CIC § 1861.05(a), the Commissioner may require an insurer operating with a rate approved three years ago or longer in the homeowners multiple peril and private passenger automobile liability and physical damage lines of business to file a rate application.
40.	CAARP Manual Rule 24.F.1	This manual rule outlines penalty point assignments for accidents.
41.	CAARP Manual Section 37.6	Written notices and renewal questionnaires sent to the applicant or insured and producer of record requesting information pertinent to the underwriting if the Plan policy or issuance of a renewal policy must include a statement, in both English and Spanish, advising the insured that failure to provide the requested information within the time required may result in additional charges, cancellation, or nonrenewal of the Plan policy.
42.	CLCAIP Manual Section 33.B.1	A low-cost automobile insurance policy issued pursuant to the program shall only be cancelled for the reasons outlined in subsections (a) through (d).

SUMMARY OF EXAMINATION RESULTS

During the Mercury Insurance Group examination, 54 general practices were alleged as being in violation of California law. In response to each of the Department's allegations of non-compliance, the Companies were required to identify remedial or corrective action that was or will be taken to correct the deficiency. Regardless of actions taken or proposed by the insurer in this report, it is the insurer's obligation to ensure that compliance with California law is maintained continuously. Any non-compliant practice identified in this report may extend to other jurisdictions. The Companies were asked if they intend to take corrective action in all jurisdictions where applicable. In response, the Companies stated, "The states in which we operate outside California have their own set of unique regulations and their own regulatory bodies (i.e. Department of Insurance). We will comply with the regulations in the individual states and any other issues, identified by the local Department of Insurance."

A total of \$77,853 in premium has been returned to consumers as a result of this examination. Mercury's implementation of corrective actions based on this examination will continue to be reviewed by the Field Rating and Underwriting Bureau.

Private Passenger Automobile

1. The following deficiencies were noted in the application forms used for MIC, MCC, and CAIC for private passenger auto business:
 - a. The application forms do not request the information necessary to determine accident chargeability, or if bodily injury was involved. The failure to collect such information creates the potential for an improper accident surcharge, and thus may result in excessive rates.
CIC § 1861.05(a); CCR §2632.13(c)
 - b. Regarding convictions for alcohol related incidents, hit-and-run, reckless driving, manslaughter, or refusal to submit to an intoximeter test, the application forms ask for the applicant's lifetime experience. Requesting information beyond the period of

time relevant to the rating of the policy may lead to unfair rating practices.
CIC §§ 1861.025 and 1861.05(a); CCR Section 2632.5

Summary of Insurer Response: Regarding item a., Mercury stated that its applications do require accident details, and that agents are instructed to provide chargeability and injury information as a part of the description. To clarify, the Companies have agreed to amend the application to specifically request the information necessary to determine and document that accidents are principally at-fault and thus chargeable, and will provide a copy of the amended application to the Department for review prior to implementation. Additionally, the Companies have agreed to modify the applications and manual to only request information regarding the convictions outlined in item b. above to the previous 10 years.

Summary of Department's Evaluation of Insurer Response: With respect to item b., Mercury indicated that it would limit requests for information to the previous 10 years; however, with exception to alcohol-related offenses, the period of time relevant to the rating of the policy is only three years. Additionally, Mercury has not indicated when the new application and manual revision mentioned above for item a. will be completed. Therefore these are unresolved issues that may result in administrative action.

2. Mercury Insurance Company renewal offers fail to disclose to insureds that Mercury Insurance Group also provides automobile insurance policies through Mercury Casualty Company and California Automobile Insurance Company. Though MIC offers the lowest rates, MCC and CAIC policies provide coverage that is broader than that provided by the MIC policy. The failure to consistently offer all programs to all insureds may result in the dissimilar treatment of similar risks, and fails to meet the requirement that a good driver be offered all coverages and options that are available to the public, and the option to select from the insurer of his or her choice. A similar criticism was raised in the 2002 examination, and was included in the enforcement action taken following the examination. Mercury's continued failure to fully disclose the availability of all programs to all eligible risks at renewal violates the terms of the 2006 order that resulted from that action.

CIC §§ 1861.02(b)(1) and 1861.05(a); CCR § 2632.14(b)

Summary of Insurer Response: MIC stated that it will modify its renewal offers to include disclosure of the availability of the MCC and CAIC programs. The amended offer notice will be put into use upon implementation of the rate and class plan filings that are currently pending approval with the Department. A sample of the amended renewal offer will be submitted to the Department for review prior to its implementation, with an expected submission date of March 1, 2010.

Summary of Department's Evaluation of the Insurer's Response: Mercury has not provided the date by which it will take the corrective action. Therefore this is an unresolved issue that may result in administrative action.

3. With respect to Mercury Insurance Group's Telephone Report, the following deficiencies were noted:

- a. The policy review disclosed that Mercury is inconsistent in its practices surrounding its Telephone Interviews and follow-up surveys. For instance, it was noted that, upon failure to complete the Telephone Interview, some insureds were sent follow-up surveys, whereas others were not and coverage was simply continued. Upon failure to complete the follow-up survey, if sent, it was noted that some insureds were non-renewed, whereas others were not. Additionally, the review revealed that Mercury may waive an interview for some insureds, but does not provide any guideline or rule as to when such a waiver is granted. The lack of consistency with this procedure, and the lack of a rule or guideline with respect to waivers, may result in the dissimilar treatment of similar risks. This is a repeat criticism from the 2002 examination. This issue was included in the enforcement action that was taken following the 2002 examination, and Mercury's continued failure to employ its telephone survey process in a consistent manner violates the terms of the 2006 order that resulted from that action.

CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

- b. Following the 1998 rating and underwriting examination of the Mercury Insurance Group, the Companies agreed to amend the telephone report and follow-up survey with respect to accidents to request the information necessary to determine chargeability, and to determine whether the incident involved bodily injury. Mercury amended the telephone report, but failed to address the follow-up survey. The failure to collect the information necessary to determine accident chargeability creates the potential for an improper accident surcharge, and thus may result in excessive rates.

CIC § 1851.05(a); CCR § 2632.13(c)

Summary of Insurer Response: Mercury neglected to address its failure to amend the follow-up survey, which it agreed to do following the 1998 rating and underwriting examination of the Mercury Insurance Group. However, as its final resolution to the items noted above, Mercury stated that the telephone report process, including the follow-up survey, was eliminated in March 2009.

4. The following deficiencies were noted with respect to Mercury Insurance Group's application of accident surcharges:
 - a. The policy review and multiple consumer complaints revealed that Mercury charges for accidents that do not meet the statutory definition of principally at-fault based solely on an insured's Comprehensive Loss and Underwriting Exchange (CLUE) report, without first taking the steps required by CCR § 2632.13, subsections (f), (g), and (i), to determine whether the insurer may charge for those accidents. If an insured's CLUE report indicates that an incident involved bodily injury, Mercury will charge two points for the accident and withhold the Good Driver Discount that may have otherwise applied. The practices of charging for accidents which do not meet the statutory definition of principally at-fault, and automatically applying a bodily injury accident surcharge if bodily injury is indicated on an insured's CLUE report are in contravention of current regulations and may result in the application of

excessive rates. These are repeat criticisms from the 1998 and 2002 examinations. CIC §§ 1861.02(b)(2) and 1861.05(a); CCR §§ 2632.5(c)(1)(B), 2632.13(c), 2632.13(f), 2632.13(g), and 2632.13(i)

- b. The policy review disclosed that, in instances when an insured's Motor Vehicle Report (MVR) discloses an accident and an accident inquiry is made, it is Mercury's practice to charge for a two-point bodily injury accident if no response to the inquiry is received. This practice may lead to the improper charging of a bodily injury accident in instances where the accident only resulted in property damage, and thus may result in excessive rates. A similar criticism was raised in the 1998 examination.
CIC § 1861.05(a); CCR §§ 2632.5(c)(1)(B), 2632.13(c), 2632.13(f), and 2632.13(g)

Summary of Insurer Response: With respect to item a., Mercury stated that accidents indicated as chargeable and the presence of injuries, if any, on the CLUE report can be acted upon without additional verification, and asserts that the Department has no statutory or regulatory authority to mandate otherwise. Mercury also stated that it will charge for incidents listed as at-fault on the CLUE report, regardless of the dollar amount, because the amount paid or reserved is not necessarily reflective of the actual amount paid. Regarding item b. above, MCC and CAIC have agreed to charge one violation point in such situations, effective immediately. For insureds with MIC, failure to respond to a request for accident details will result in policy cancellation. Mercury noted that, at the time of the review, insureds with MCC and CAIC would have only been affected by this practice with respect to Good Driver Discount eligibility, as there was no difference in the surcharge for a property damage-only accident versus a bodily injury accident.

Summary of Department's Evaluation of Insurer Response: The Companies have not agreed to amend the practice outlined in item a. above. Therefore this item remains unresolved and may result in administrative action.

5. When a risk requires a SR22 financial responsibility filing, it is Mercury Insurance Group's practice to apply a 15% surcharge to the liability, medical, and uninsured motorist bodily injury portions of the policy premium. This surcharge, however, was not filed with and approved by the Department. Additionally, the application of a surcharge based on a financial responsibility filing is not an allowable rating factor. Thus, this practice results in excessive rates.
CIC §§ 1861.01(c) and 1861.05(a); CCR § 2632.5

Summary of Insurer Response: Mercury stated that the Broad Form filing guarantees liability coverage for all vehicles owned or operated by the insured, including those normally excluded from coverage under the terms of the policy. It applies a 15% surcharge to account for this increased exposure, and that this surcharge was included in the rate filing that was in effect at the time of the exam. Regardless, the new rating plan that has been filed and is currently pending approval with the Department does not include this surcharge.

Summary of Department's Evaluation of Insurer Response: Mercury has not corrected past harm that resulted from this violation. As noted above, the Department's records show that the

manual pages containing this 15% surcharge were not filed or approved. Therefore this is an unresolved issue that may result in administrative action.

6. The examination revealed the following deficiencies with respect to Mercury Insurance Group's Notices of Non-renewal and Cancellation:
 - a. Mercury's Notice of Non-renewal does not consistently state the specific reason for termination, and rather contains language instructing insureds to write to Mercury for an explanation of the adverse underwriting decision. This practice is contradictory to current code, and is a repeat criticism from the 1998 examination.
CIC § 791.10(e)
 - b. It was noted that Mercury's Notices of Non-renewal and Cancellation include the statement, "Good drivers not eligible for a Good Driver Discount policy solely because of another driver's ineligibility may resubmit with such other driver excluded;" the Companies do not offer a California Good Driver the option to exclude the unacceptable driver in order to continue coverage as written, and thus are cancelling and non-renewing Good Drivers for reasons which do not constitute a substantial increase in hazard insured against as defined by current regulation. Similar criticisms were raised in the 1998 and 2002 examinations. Following the 2002 examination, and as part of the 2006 order that resulted from the enforcement action taken with respect to that exam, Mercury agreed to make an offer of acceptability to the consumer via messaging on the cancellation and non-renewal notices. Requiring the insured to re-apply following exclusion as opposed to allowing continuation of coverage does not fully comply with the terms of the 2006 order.
CIC §§ 1861.02(b)(1) and 1861.03(c)(1); CCR §§ 2632.12(b) and 2632.19(f)
 - c. The U-63 memo provided to producers upon an adverse underwriting decision often includes incorrect or misleading wording such as: "Do not resubmit without Company approval," "All Good Drivers may be resubmitted," "Do not submit until Good Driver," and, similar to the C-coding practice prohibited by the June 2, 2006 Stipulation and Order by the Department, "Do not increase our exposure in any way." These statements set pre-conditions that are more restrictive than the "take all comers" provision set forth in current code, and may reduce the likelihood of an individual re-applying for a policy when he or she becomes eligible to do so. Additionally, the practice of limiting an insured's coverage options, and their ability to make policy changes, is considered unfairly discriminatory and may lead to the dissimilar treatment of similar risks. This is a repeat criticism from the 1998 examination. A similar criticism was raised in the 2002 examination, but of practices noted in the Homeowners line of business, and was included in the enforcement action taken following this exam, and the order that resulted.
CIC §§ 1861.02(b)(1) and 1861.05(a)

Summary of Insurer Response: Mercury acknowledged the criticism in item a. above, and indicated that additional instruction has been provided to underwriters, via a bulletin issued on

June 29, 2009, to ensure compliance with California law. Where the pre-programmed reasons do not accurately represent the reason for the adverse action, the underwriter has been instructed to manually insert the reason. The verbiage on the notice which instructs insureds to contact the Companies for the specific reason for termination will be removed when the rate and class plan filing currently pending with the Department is approved and implemented.

Regarding item b., Mercury states that good drivers are required to be offered a Good Driver Discount policy, and that its current practice complies with this requirement.

Regarding item c., Mercury states that the underwriters have been instructed as of January 21, 2010 that no restrictions will be made to the agents in terms of the ability to resubmit or make policy changes in the event that an adverse underwriting decision has been made.

Summary of Department's Evaluation of Insurer Response: With respect to item b. above, Mercury has not proposed any change to address the requirements outlined in CIC § 1861.03(c)(1) and CCR §§ 2632.12(b) and 2632.19(f). In addition, Mercury has not provided a date by which it will make the changes needed to correct the problem identified in item a. Therefore, these are unresolved issues that may result in administrative action.

7. The following Mercury Insurance Group rules and eligibility guidelines with respect to optional coverages and limits are not in compliance with California law with respect to statutory Good Drivers:
 - a. The rule found on page 19 of the Agent's Manual under "Combination of Coverages" requires an insured to carry comprehensive coverage in order to purchase collision coverage. This rule is contradictory to the provisions of current regulation with respect to California Good Drivers.
CCR § 2632.14(a)(2)
 - b. Per Mercury's underwriting rules, individuals insured under both a private passenger auto policy and a commercial auto policy through Mercury must have similar limits of liability on both policies. And, if provided by the commercial auto policy, the Uninsured Motorist Bodily Injury limits of both policies must match. This rule is contradictory to the provisions of current regulation with respect to California Good Drivers, and restricts the Good Driver's ability to select the limits he or she desires.
CCR §§ 2632.14(a)(1) and 2632.14(a)(3)

Summary of Insurer Response: Mercury stated that it is only required to offer to Good Drivers the same terms and conditions, and the same options and services that it offers to the general public, not preferential or different terms and conditions.

Summary of Department's Evaluation of Insurer Response: Mercury has not agreed to make changes to its procedures to ensure compliance with the cited regulation, therefore these items remain unresolved and may result in administrative action.

8. Mercury's Fifteen Plus Program, a sub-program within MIC, MCC, and CAIC tailored for vehicles over fifteen model years old for which physical damage coverage is desired, includes a rule which requires insureds to carry comprehensive and collision coverages on their policy. This rule is not in compliance California law with respect to all drivers, as Mercury cannot require collision coverage in order to purchase comprehensive coverage, and it places requirements on California Good Drivers that are prohibited by current regulation. CIC § 11580.07; CCR § 2632.14(a)(2)

Summary of Insurer Response: The Companies maintain that this Program rule complies with California law, as the policy terms and conditions offered to Good Drivers are consistent with those offered to the general public. Since the policy review, however, the Fifteen Plus Program has been replaced with a program to cover vehicles built prior to 1975 (current ISO rating symbols are used for 1975 and newer vehicles). This program does not require that the insured carry comprehensive and collision coverages on the vehicle, but if desired, it still requires that the coverages be purchased together.

Summary of Department's Evaluation of Insurer Response: Though Mercury has eliminated the Fifteen Plus Program, the replacement Program remains deficient with respect to the cited code and regulation. Therefore this is an unresolved issue that may result in administrative action.

9. Mercury's application and guidelines instruct producers to submit risks with medical impairments as non-bound with a description of the impairment, the date the impairment occurred, and a description of any compensating vehicle or sensory equipment that the applicant may have, and indicates that a medical examination may be required. The guidelines also instruct producers to submit non-bound drivers who have been treated for a mental illness or have been confined in a mental institution during the last 10 years. These guidelines, however, do not specify what will be considered by underwriting upon submission, which may result in the dissimilar treatment of similar risks. Further, California law prohibits discrimination against such applicants who hold a valid California Driver's License, and requires compliance with the "take all comers" provision of Proposition 103 for Good Drivers. CIC §§ 1861.02(b)(1), 1861.025, 1861.05(a), 11628.5 and 11628.7; CCR §§ 2360.0(b) and 2360.2

Summary of Insurer Response: The Companies stated that the manual, guidelines and application will be clarified to make the sole requirement valid licensing with the implementation of the upcoming rate change that is pending approval by the Department.

Summary of Department's Evaluation of Insurer Response: Mercury's response does not clearly indicate that these risks will no longer be required to be submitted non-bound. Further, Mercury has not provided a date by which it will make the changes needed to correct the problem. Therefore, this is an unresolved issue that may result in administrative action.

10. The following eligibility guidelines are not in compliance with California law:

- a. Non-good drivers who have uncleared “Failures to Appear” for chargeable citations are considered to be ineligible for coverage under a Mercury Insurance Group policy. As the failure to appear in court does not bear a substantial relationship to an insured’s loss exposure, this rule is in violation of current regulation. A similar criticism was made in the 2002 examination. At that time Mercury was observed to be non-renewing policies due to Failures to Appear, and provided explanations of its practices that indicated that Failures to Appear were used in assigning the driving safety record rating factor. This issue was included in the enforcement action that was taken following the 2002 examination. Mercury’s use of Failures to Appear for eligibility violates the terms of the 2006 order that resulted from that action.
CCR §§ 2360.0(b) and 2360.2
- b. The Companies preclude from purchasing coverage non-good drivers with a major conviction during the past 5 years in the following occupations: Bartender, Liquor Store Owner, Painter, and Cocktail Waitress/Waiter. Additionally, Artisans are only considered acceptable provided certain criteria are met, and the number of utility vehicles they insure cannot exceed the number of relative residents who are Artisans. Good Drivers are not excluded from the Artisan rule requirements. California law prohibits insurers from using an applicant’s occupation for the purposes of eligibility; the practice of doing so allows for the dissimilar treatment of similar risks. Additionally, the above mentioned occupations do not bear a substantial relationship to an insured’s loss exposure, and thus cannot be used in the determination of eligibility. Finally, the Artisan rule may also preclude someone who meets the statutory Good Driver definition from being able to purchase coverage.
CIC §§ 1861.05(a), 1861.02(b)(1), 1861.025 and 11628(c)(1); CCR §§ 2360.0(b) and 2360.2
- c. Risks in which more than one household resident has a major conviction are considered to be ineligible for coverage, unless all convictions are greater than five years old. However, the characteristics of a third party household resident do not bear a substantial relationship to the insured’s loss exposure. Therefore, the use of such for the determination of driver eligibility is contradictory to California law, and creates the potential for the unfair treatment of similar risks.
CIC § 1861.05(a); CCR §§ 2360.0(b), 2360.2, and 2632.5(c)(1)(A)

Summary of Insurer Response: Regarding item a. above, Mercury states that according to the Department of Motor Vehicles, the number of Failures to Appear on a driver’s record is equivalent to violation point counts for the purpose of predicting the likelihood of future accidents. Regarding item b. Mercury agreed to remove this restriction from the underwriting manual with the implementation of the rate and class plan filing that is currently pending with the Department. Lastly, regarding item c., Mercury has agreed to modify this requirement so that only major citations for the listed operators will be used for eligibility purposes. This change will also be part of the implementation of the rate and class plan filing that is currently pending with the Department.

Summary of Department's Evaluation of Insurer Response: Mercury has not agreed to discontinue using Failures to Appear for eligibility purposes. In addition, Mercury has not provided a date by which it will make the changes needed to correct the problems identified in items b. and c. Therefore, these are unresolved issues that may result in administrative action.

11. The following practices were noted during the policy review, though are not prescribed in the Companies' rules or guidelines:
 - a. The policy review revealed that Mercury conducts a Person Search on some risks, while not on others, in order to determine if there are additional household residents. This type of search or underwriting vehicle is not mentioned in the Companies' Agent's and Underwriting Manuals, and there is no rule or guideline as to when and on whom such a search should be made.
 - b. The examination disclosed that the Companies request marriage certificates for couples whose last names differ from one another, though this requirement is not prescribed in the guidelines.

Increasing the extent to which an insured is underwritten by conducting additional searches and making additional requests without a written rule or guideline in place which defines when and how such underwriting is to transpire allows for the dissimilar treatment of similar risks.

CIC § 1861.05(a)

Summary of Insurer Response: Regarding item a., the Companies have now established criteria for when Person Searches will be ordered, specifically when the insured will be contacted to verify usage due to excess vehicles identified, in the case of fleet risks with more than one additional vehicle in excess of the number of reported drivers, and when a permissive user loss has occurred. Regarding item b., the practice of requesting marriage certificates for couples with differing last names was discontinued effective January, 2007. Agents were notified of the change by bulletin in January 2007.

Summary of Department's Evaluation of Insurer's Responses: Regarding item a., it is unclear how the procedure explained for "fleet" policies will be applied to personal auto risks. In addition, it is not clear from the response provided that Mercury will have controls in place to ensure that policies will not be up-rated, cancelled, or non-renewed as a result of the People Search or the resulting contact to the insured in a manner that is unfair or non-compliant with the law. Therefore this is an unresolved issue that may result in administrative action.

California Automobile Assigned Risk Plan

12. The CAARP Plan of Operations mandates that renewal questionnaires sent to the insured and producer of record requesting information pertinent to the issuance of a renewal policy include a statement, both in English and Spanish, advising the insured that failure to provide the requested information within the timeframe provided may result in additional charges,

cancellation, or non-renewal of the Plan policy. The renewal questionnaire sent to insureds by CAIC, however, does not include such a statement in Spanish.

CAARP Plan of Operations § 37.6

Summary of Insurer Response: Beginning October 1, 2007, CAIC has provided a notice to insureds which includes the required wording in Spanish.

13. The CAARP offers a named non-owner policy to individuals who do not own an automobile. Per the CAARP Plan of Operations, a non-owner financial responsibility (FR) rate, as opposed to the standard non-owner rate, is applied to risks required to file evidence of financial responsibility, risks not required to file evidence of financial responsibility but are furnished with an automobile for his/her regular use, and risks afforded the use of a vehicle owned by a member of the household provided there is no liability insurance afforded to such individual on a direct primary basis. During the course of the policy review, it was noted that if CAIC discovers that there are vehicles in the insured's household, the FR rate is applied without further investigation. Applying the FR rate without first gathering the information necessary to determine if it is correct for the risk may be considered unfairly discriminatory as it may lead to the dissimilar treatment of similar risks, and may result in excessive rates.

CIC § 11624(e)

Summary of Insurer Response: CAIC stated that, going forward, it will issue policies at the non-FR rate and memo to have the insured provide a policy declarations for each vehicle in the household showing that the insured is listed as a driver. If the insured is unable to provide this proof, it will charge the FR rate. This new process went into effect October 1, 2007. Mercury corrected the rating on the example identified in the policy review, and was not able to identify any additional instances in which the insured had been incorrectly charged the FR rate.

14. In instances where an applicant's motor vehicle report discloses an accident that the CLUE report does not reflect, it is Mercury's practice to send a written request to the applicant for further details regarding the incident before applying a surcharge. If no response is received, CAIC applies two violation points, charging the insured for an accident involving bodily injury (BI). The CAARP Manual discusses assignable penalty points, but does not indicate that a bodily injury accident may be assumed if an applicant fails to respond to an accident inquiry. Additionally, charging for a BI accident without first gathering the information necessary to determine whether the incident in fact involved bodily injury may be considered unfairly discriminatory as it may lead to the dissimilar treatment of similar risks, and may result in excessive rates.

CIC § 11624(e); CAARP Plan of Operations § 24.F.1

Summary of Insurer Response: CAIC stated that the cited CAARP rule section is silent on whether to assign one or two points, and thus it would seem its current procedure is not in violation. CAIC further stated that it is obviously left up to the participating company to decide. However, Mercury stated that it is willing to amend its procedures going forward. If the applicant's motor vehicle report discloses an accident that the CLUE report does not reflect, CAIC will send an inquiry to the insured to obtain additional information. If the insured fails to

respond to the inquiry, a notice of cancellation will be issued; a surcharge will no longer be added.

California Low Cost Automobile Insurance Program

15. Per the CLCAIP Manual, in order to qualify for the California Low Cost Automobile Insurance Program, a driver must not have had any at-fault accidents involving bodily injury or death in the past three years. If it is determined that a risk is not eligible for the Program within 20 days, the application and premium deposit shall be returned to the producer and coverage is deemed to be void from inception. Upon assignment, CAIC orders motor vehicle records (MVRs) and CLUE reports to verify eligibility for the Program. If an accident appears on a driver's MVR, but not on the CLUE report, CAIC issues the policy, then sends a request to the insured to provide additional information regarding the accident to determine whether or not the incident involved bodily injury. If the insured fails to respond to the inquiry, or responds adversely outside of the 20-day period allotted to determine eligibility, CAIC sends a Notice of Cancellation of the policy. Per current Code, as well as the Program Manual, a policy may only be cancelled if the policy was obtained through fraud or material misrepresentation, the insured fails to pay any premiums, or other insurance is obtained through the voluntary market. The insurer's failure to determine eligibility within the 20-day period allotted does not constitute grounds for cancellation.

CIC § 11629.77(a); CLCAIP Manual § 33.B.1

Summary of Insurer Response: Effective immediately, CAIC will discontinue cancelling policies if eligibility is not established within 20 days.

Homeowners

16. The policy review revealed an inconsistency in obtaining evidence of prior insurance. MCC's eligibility guidelines state that evidence of prior insurance must be submitted with the application, however eight out of 53 (15%) new policies were written without evidence of prior insurance. Failure to adhere to the established underwriting guidelines creates the potential for unfair discrimination.

CIC § 1861.05(a)

Summary of Insurer Response: MCC responded that it does not follow this eligibility requirement and will remove this guideline. A bulletin will be sent to all agents advising them of this change by February 22, 2010.

17. The underwriting manual indicates that agents must call MCC for approval before binding homeowners policies with Coverage A limits in excess of \$1,000,000. However, there are no guidelines in place that indicate the criteria considered by underwriting when determining whether such policies should be approved. During the policy review, there were two instances in which homeowners policies were written in excess of the \$1,000,000 maximum Coverage A limit, however the files do not contain documentation reflecting the criteria considered by

underwriting in deciding to approve the risks. The lack of specific guidelines is considered to be in violation of current regulation, and creates the potential for unfair discrimination. Additionally, the lack of supporting documentation is in violation of current Code. CIC §§ 1857 and 1861.05(a); CCR §§ 2360.0(b), 2360.2, and 2360.6

Summary of Insurer Response: MCC stated that \$1,000,000 is the binding limit for producers. The established new business eligibility guidelines also are to be applied by underwriting when submissions are made in these cases. No additional criteria are used to determine eligibility. A bulletin has been issued to all homeowners underwriters reminding them of this process for homes with limits in excess of \$1,000,000.

18. The policy review found that MCC's Eligibility and Binding Rules do not include specific guidelines regarding new business risks with loss experience, nor are there guidelines in place for renewing policies with losses. Currently, the guidelines state to call for underwriting approval before binding risks with two or more closed claims in the past three years, or risks that have experienced a liability loss in the past three years, but they do not provide the criteria considered by underwriting, which must be specifically related to the insured's loss exposure, when determining whether such policies should be approved. Failure to implement guidelines which can be consistently applied upon evaluation of such risks may lead to the dissimilar treatment of similar risks.

CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

Summary of Insurer Response: Mercury stated that one liability loss or more than one non-liability loss which indicates an increased possibility of future losses is unacceptable. Increased probability of loss occurs when there is more than one loss from the same cause of loss which indicates that the property is not adequately maintained or repaired. Increased probability of loss also occurs when there are single or multiple hazards that have not been remediated by the insured. On or about May 2009, MCC included the following wording in its manual: "Please call underwriting with details when the risk has more than one loss; or single or multiple unremediated hazards." As of January 21, 2010, a memo was also issued to all homeowners underwriters that outlines the manner in which accounts with loss history are to be evaluated.

19. There is ambiguity in MCC's Ineligible Risks guideline which states, "Risks with a combination of objective, non-discriminatory adverse underwriting factors that relate to the risk of loss." This guideline does not provide an explicit list of characteristics considered upon request for underwriting approval. The failure to maintain eligibility guidelines that are specific, objective, and substantially related to an insured's loss exposure is in contravention of current regulation, and may result in the dissimilar treatment of similar risks.

CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

Summary of Insurer Response: Mercury stated that it will remove this guideline. A bulletin communicating this change will be sent to all agents by February 22, 2010.

20. Risks with trampolines are ineligible unless the application is for a HO3 policy and is accompanied by a signed P57 endorsement, which excludes coverage for liability associated with the trampoline. The Trampoline Liability Exclusion form includes a statement that it applies to the policy, or any continuation, renewal, or replacement of the policy by the insured, or the reinstatement within 30 days of any lapse thereof. The policy review found that this endorsement is sent at each renewal, requiring the insured's signature, and contains a notice which states that the failure to respond within 30 days may result in cancellation or non-renewal of the insurance policy. Since the initial signed exclusion applies continuously unless the policy lapses for more than 30 days, this procedure may be considered unfair or misleading as the insured is not required, under the language of the endorsement, to re-sign the endorsement at each renewal, and the policy is not actually subject to cancellation or non-renewal for the failure to do so. In addition, the failure to return the P57 endorsement to MCC within 30 days does not establish valid grounds for cancellation, nor non-renewal.

CIC § 790.06

Summary of Insurer Response: MCC responded that the process of annually requesting a signature was a system coding error, and that the endorsement forms are no longer sent with each renewal. Additionally, the use of the language regarding returning the form within 30 days to avoid cancellation is an error. The system was corrected to remove this language.

21. MCC's May 12, 2002 rate filing includes a rating variable for dog ownership. The filing indicates that a rating factor of 1.10 applies if the insured owns a dog or dogs, while a factor of 1.00 applies if no dog is owned. MCC's standard homeowners premium includes coverage for dog bite liability, and the rating variable accounts for the increased exposure to loss due to this peril for an insured who owns a dog. The policy review showed that contrary to the filing, MCC applies the 1.10 factor to every policy, regardless of whether a dog is owned, unless the insured signs a Dog Liability Exclusion coverage endorsement. This fails to comply with the filed and approved rating plan, and may also result in the application of excessive rates for individuals who do not own dogs.

Although the application asks if the insured wishes to sign the Dog Liability Exclusion, it cannot be determined what explanation is given to the insured regarding how this exclusion affects coverage, or how the failure to sign the exclusion affects the premium. This may result in further dissimilar treatment of similar risks, and may result in MCC's failure to communicate to policyholders all facts within its knowledge which are material to the contract, and may be determined to be an unfair practice.

Finally, the Dog Liability Exclusion form that MCC was using included a statement that it applies to the policy, or any continuation, renewal, or replacement of the policy by the insured, or the reinstatement within 30 days of any lapse thereof. However, the policy review found that this endorsement was being sent at each renewal, requiring the insured's signature. This procedure may be considered unfair or misleading as the insured is not required, under the terms of the endorsement, to re-sign the endorsement at each renewal. Further, MCC's application of the Dog Ownership Surcharge for failing to return a signed exclusion is in

contravention of current regulation as insurers are ultimately responsible for charging an insured the lowest premium for which he or she qualifies, and may result in excessive rates. CIC §§ 332, 790.06, 1861.01(c), and 1861.05(a); CCR §§ 2360.3 and 2360.4

Summary of Insurer Response: MCC stated that whether the premium differential is labeled a surcharge or a discount is a semantic issue, and that the standard premium includes coverage for dog bite claims. The term “surcharge” is a technical term referring to an increased charge over a basic premium level, but to the insured in any given context (that is, dog ownership), it is thought of more readily as a discount in return for the dog exclusion. Regarding the annual request for signature on the exclusion endorsement, MCC advised the Department that this was a coding error, and that the system has been corrected to no longer send the endorsement at each renewal.

Summary of Department's Evaluation of Insurer Response: MCC has not revised its rating procedure to comply with its filing regarding the dog ownership rating variable. Because it continues to utilize the exclusion procedure instead of applying the rating factor as filed, MCC continues to charge potentially excessive rates for insureds who do not own dogs, and continues to fail to communicate to policyholders all facts within its knowledge which are material to the contract. Mercury has not agreed to correct past harm to consumers who were overcharged due to this practice. This is an unresolved issue that may result in administrative action.

22. The following deficiencies were noted with respect to MCC’s application of credits:

- a. The examination revealed that MCC did not apply its rating rules in a consistent manner, misapplying the Premises Alarm Credit and Gated Community Credit. In two instances, MCC failed to apply the Premises Alarm Credit to new risks meeting the definition(s) of fire/burglar alarm, whereas in other instances, the credit was applied to new risks not meeting the definition(s). This credit was also noted on six renewals, when the risks were ineligible. Regarding the Gated Community Credit, there were six instances where the credit was applied to condominium and homeowners risks without supporting documents, as required by the guidelines, and multiple instances where the credit for homeowners risks is only supported by a photo or inspection report that does not specifically confirm that the surrounding fence is at least six feet tall, or that there is a uniformed guard on duty at all times. The inconsistent application of the filed rating plan may be considered unfairly discriminatory as it may result in the dissimilar treatment of similar risks. A similar criticism was made in the 2002 examination. Further, in response to that examination report, MCC stated that it intended to remove the Gated Community Credit for condominium risks through a filing submitted on February 1, 2003, but the filing was later withdrawn due to other issues. The discount was never removed, but it has not been applied to all eligible risks, resulting in the dissimilar treatment of similar risks.

CIC §§ 1857 and 1861.05(a); CCR § 2360.6

- b. The policy review revealed that an insured can renew their policy with up to a 30 day lapse, or rewrite a policy within 30 days of cancellation, and still retain the Renewal Credit, however the current guidelines do not reflect this practice. The failure to adopt and implement guidelines that can be applied in a consistent manner creates the potential for unfair discrimination.

CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

Summary of Insurer Response: With respect to item a., MCC advised that the Premises Alarm issue is a training issue, and provided the Department with a copy of the Alarm Coding Reminder, dated October 10, 2007, which refers agents to the Alarm Coding sheet for correct underwriting codes. Regarding the Gated Community credit, MCC stated that there is no longer a six-foot fence requirement for homeowners risks, and the manual was corrected to reflect this effective May 2009. Additionally, the requirement for documentation to support this discount will be reiterated to agents and underwriting staff. For tenant and condominium risks, MCC will submit a filing to remove the Gated Community discount for both new and existing business. This filing will be submitted once the filing that is currently pending with the Department has been approved. To address rating accuracy for in-force policies, all HO-3 policyholders will receive a letter with their next renewal that outlines eligibility for the credits at issue, and will advise the insured to contact Mercury to receive the credit if the home qualifies. Regarding item b., MCC stated that this is consistent with its general practice, and has added this provision to its manual effective May 2009.

Summary of Department's Evaluation of Insurer Response: Mercury has not yet provided a date by which it will make the new filing that will eliminate the gated community credit for HO-4 and HO-6 risks. Therefore, item a. is an unresolved issue that may result in administrative action.

23. MCC's Standard homeowners policy limits tool losses by theft to \$1,000, but provides the option to increase that limit to a maximum of \$2,500, but not to exceed \$1,000 per item. The Superior homeowners policies do not have any special limits of liability or restrictions on tool coverage, unless the insured is employed as an artisan, gardener, installer, or works in a construction trade occupation, in which case MCC sends a P-2 Tool Limitation Endorsement form to the insured limiting coverage for the theft of tools to \$1,000; MCC does not offer insureds in the abovementioned employment classifications the option to increase their tool coverage limit as is offered through the Standard homeowners policy. Because the Superior policy generally provides broader coverage than the Standard policy, the above referenced insureds who want additional tool coverage may be limited to purchasing the Standard policy at a higher premium for the same coverage enhancements. This practice creates potential for the dissimilar treatment of similar risks.

CIC § 1861.05(a)

Summary of Insurer Response: MCC stated that it will add to the Superior policy the option to increase tool coverage limits for the above mentioned occupations to \$2,500 at its next rate filing. MCC has agreed to submit this filing following the approval of the rate filing that is currently pending with the Department.

Summary of Department's Evaluation of Insurer Response: Mercury has not yet provided a date by which it will make the new filing that allow increased tool coverage limits to be purchased with the Superior policy. Therefore, this is an unresolved issue that may result in administrative action.

24. If requested, Mercury writes Homeowner and Umbrella coverages as a package. The policy review revealed three instances in which the entire policy package was non-renewed for failure to meet the umbrella underwriting requirements, despite the fact that the insured's eligibility for a homeowners policy remained unchanged. In these instances, stand-alone homeowners policies were not offered. The non-renewal of a homeowners policy, as well as the insured's inability to purchase a stand-alone homeowners policy, must be based on reasons which are substantially related to the insured's homeowners loss exposure, as provided by CCR Section 2360.0(b). The non-renewal of a policy despite the insured's eligibility is considered unfairly discriminatory, and further, as it is MCC's expressed procedure to write stand-alone policies in these instances, the failure to have controls in place to ensure that this procedure is followed creates the potential for unfair discrimination.

CIC § 1861.05(a)

Summary of Insurer Response: MCC advised the Department that there is nothing to preclude a producer from re-writing a stand-alone homeowners policy, and, as it is standard procedure, an instruction reminding agents to do so has been added to the agent's memo. The Underwriting Manual was also updated in MCC's May 2009 filing.

25. The examination disclosed that MCC's notices of non-renewal and cancellation do not state the specific reason for termination. Failure to provide a specific reason for non-renewal and cancellation is in violation of current code. This criticism was noted in the Private Passenger Automobile and Commercial Multiple Peril portions of the 1998 examination.

CIC § 791.10(e)

Summary of Insurer Response: Mercury responded that the notices noted during the review were processed before its system had the ability to add a specific reason, but that it is now able to do this. This change took effect February 14, 2007. Further, additional instruction has been provided to underwriting staff to ensure compliance with the cited code.

26. The homeowners policy's replacement cost agreement includes acceptance of MCC's yearly adjustment of Coverage A, and therefore it is MCC's procedure to apply the inflation/MSB factor annually at renewal. The policy review found that, in some cases, when the inflation/MSB factor is applied, the new limit is rounded up to the nearest thousand. However, there were other instances noted when limits were not rounded. Inconsistency in the application of the inflation/MSB factor is considered unfairly discriminatory as it may lead to the dissimilar treatment of similar risks.

CIC § 1861.05(a)

Summary of Insurer Response: Mercury explained that upon application of the inflation/MSB factor to the Coverage A limit, in instances where the Coverage B, C, and D limits are at the exact percentage of the prior Coverage A limit as included in the policy, the dwelling limit gets rounded up to the next thousand. In instances where the Coverage B, C, and D limits are above the included percentages of the prior Coverage A limit, the new MSB value is not rounded. Mercury stated that its system will be reprogrammed to always round the Coverage A amount up to the next nearest \$1,000 upon application of the inflation/MSB factor at renewal.

Summary of Department's Evaluation of Insurer Response: The examples provided by MCC to show how the rounding process was being applied indicate that in cases in which the original limits for Coverages B, C, and D were above the exact percentages of Coverage A as included in the policy, the original increases to those limit percentages are not preserved when the inflation factor is applied to the Coverage A limit, and in fact, the limits for those coverages are reduced at renewal. MCC has failed to propose a resolution to these issues; they remain unresolved and may result in administrative action.

27. MCC implemented its most recent Homeowners rate change on December 15, 2002. Subsequent filings made between 2003 and 2007 were for forms and rules only. Per current regulation, the Commissioner may require an insurer transacting homeowners business with a rate approved three years ago or longer to file a rate application as a means to determine whether a rate previously approved remains in compliance with the statutory standard set forth to ensure that rates are not inadequate, excessive, or unfairly discriminatory.
CIC § 1861.05(a); CCR § 2644.50

Summary of Insurer Response: MCC stated that rate filing number 08-9086 was filed and approved by the Department on July 17, 2008 to be implemented on August 15, 2008. MCC further stated that an additional filing was made in May 2009, and thus it is in compliance with the cited California laws.

Commercial Automobile

28. MCC's manual states, "If the combined loss ratio for the past two or three years exceeds 65%, please contact the Underwriting Department before quoting or binding," however there are no guidelines in place which delineate the criteria considered by underwriting when assessing a risk. Current code requires insurers to adopt eligibility guidelines which are specific, objective, and substantially related to the insured's loss exposure; the failure to do so creates the potential for unfair discrimination.
CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

Summary of Insurer Response: Mercury stated that it believes it has been consistent and objective in the decisions underwriters have made regarding risks of this type. To address the Department's concern, Mercury stated that it will revise its manual to be more specific regarding how risks with loss ratios exceeding 65% are to be evaluated. Mercury will continue

to require documentation in the underwriting file to support the decisions made. Mercury stated that it intends to have the amended manual in place by March 15, 2010.

29. MCC's Binding Requirements instruct agents to contact underwriting for approval with respect to risks that have been in business for less than two years, as well as for certain risks requesting a \$1,000,000 combined single liability limit, but do not indicate the criteria considered by the Underwriting Department when assessing eligibility. Current code requires insurers to adopt eligibility guidelines which are specific, objective, and substantially related to the insured's loss exposure; the failure to do so creates the potential for unfair discrimination.
CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

Summary of Insurer Response: MCC stated that it removed this guideline effective August 19, 2008.

30. MCC's manual contains a rule which states, "The company may require the insured to lower the Bodily Injury and Property Damage Liability limits for certain drivers due to age, driving record or a combination of both when there are four or more vehicles on the policy. On risks that have less than four vehicles, we may require the limits to be reduced on all vehicles on the policy." However, this rule does not clearly define when the Reduction in Limits endorsement is imposed on insureds, or what characteristics a risk must actually exhibit for the endorsement to be required.
CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

Summary of Insurer Response: Mercury stated that the Reduction in Limits endorsement is no longer imposed on insureds at new business, and that a bulletin was sent to agents on August 19, 2008 informing them of this change. The underwriting manual was updated to reflect this change and was filed with the Department. The amended manual was implemented effective September 1, 2009. In addition, Mercury stated that it has confirmed that there are no in-force policies with this endorsement attached.

31. The policy review revealed that, if an agent requests to be removed from a risk, the policy will be non-renewed with a termination reason of, "Per agent's request due to insured's very difficult to work with." However, an agent's desire to be removed from a risk has no bearing on the insured's loss exposure, and thus cannot solely qualify a risk as ineligible.
CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

Summary of Insurer Response: Mercury agreed to modify its procedure in these situations, indicating that it will contact the insured directly, explain the issue, and offer assistance in moving the insured to a different Mercury agent. An internal bulletin was issued to underwriting staff on August 19, 2008 outlining this procedural change.

32. The review found that Mercury non-renews risks which exceed the maximum tank trailer capacity, however the underwriting manual does not specify a maximum tank trailer capacity.

The failure to adopt and implement eligibility guidelines which can be applied in a consistent manner is in contravention of current regulation, and may lead to the dissimilar treatment of similar risks.

CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

Summary of Insurer Response: MCC stated that an internal bulletin was sent to agents and underwriting staff on August 19, 2008 that specified maximum eligible tank trailer capacity. Mercury also amended and filed the underwriting manual to reflect this change. The amended manual was effective as of September 1, 2009.

33. MCC's fleet rating rules indicate that the class (service, retail, commercial) is to be the same for all vehicles on a policy. The policy review revealed, however, that not all vehicles are rated in the same class, though there is no rule in the manual which allows for exceptions. Failure to adhere to MCC's rating rules may result in the dissimilar treatment of similar risks.

CIC § 1861.05(a)

Summary of Insurer Response: MCC stated that it was never its intention to rate all vehicles on each policy using the same class, and that the wording in the manual may have caused confusion and misunderstanding. Mercury has revised the wording in the manual, which has been filed as of September 1, 2009, to clarify that each vehicle will be classified according to usage and size.

34. For renewal policies, the earned premium as of the date the policy renewal is processed is used in determining the experience rating credit. During the policy review, it was noted that the insured's payment plan had an impact on the earned premium used. For example, if an insured selected a one-payment plan and the premium was paid in full, the entire term premium would be used in the experience rating calculation, even though renewals process 60 days prior to the effective date of the renewal policy. If that same insured selected a ten-payment plan, only the premium paid to date on the current policy would be used in the calculation. This discrepancy could lead to a lower loss ratio for an insured that pays in full, resulting in a higher experience rating credit. This inconsistent method of determining the earned premium used in calculating experience rating credits may lead to the dissimilar treatment of risks with similar loss experience.

CIC Section 1861.05(a)

Summary of Insurer Response: MCC responded that, at the time a renewal is processed, the renewal underwriter calculates the experience credit on policies paid in-full based on losses for the period ending 60 days prior to policy expiration and for premiums for the period ending on the renewal date. For policies on a payment plan with monies still due, the same number of months for premiums and losses were used in the calculation. To address this concern, MCC is amending its procedures to include in the experience period the same number of months and premiums in the calculations for all payment plans to ensure that risks paid in-full do not receive an artificially low loss ratio, and that all risks are treated in a consistent manner. An internal bulletin was issued on February 27, 2009 to implement this procedure.

35. The policy review revealed that MCC did not have a rule in place regarding the selection of a rating band for a zip code not yet included in the automated rating system because it was newly added or created. The failure to have a rule which addresses the addition of new zip codes with respect to the rating band factors used may result in the dissimilar treatment of similar risks.

CIC § 1861.05(a)

Summary of Insurer Response: Mercury stated that it has updated its underwriting rules to address this situation. A rule has been added that instructs agents who are unable to obtain a quote due to a zip code not in the system will refer to underwriting. Mercury's Actuarial Department will look at the physical location, identify the zip code it has been split from, and determine whether to assign the rating band for zip code from which it was split or to assign the rating band for a neighboring zip code. Record will be kept of the assignments, and the rating band definitions updated at the time of MCC's next rate filing. Mercury has communicated this process to all agents.

Summary of Department's Evaluation of Insurer's Response: MCC has not yet indicated that it will include this methodology in its rate filing. Therefore this is an unresolved issue that may result in administrative action.

36. Based on the filing applicable at the time of the exam, as well as the current filing with the Department, MCC's Multi-Policy Discount is to be "applied entirely to the commercial auto policy premium." However, the policy review revealed that the discount was not applied to the towing and labor and rental car coverage premiums. Failure to adhere to the filed rating plan is in violation of current code, and creates the potential for the dissimilar treatment of similar risks.

CIC §§ 1861.01(c) and 1861.05(a)

Summary of Insurer Response: MCC confirmed that its system was programmed to exclude towing and labor and rental car reimbursement coverage premiums upon application of the multi-policy discount, explaining that it was never the intent to apply this discount to these coverages. As of September 1, 2009, MCC has clarified the Coverage section of the manual to reflect MCC's intent. MCC will also correct the Discount section of the manual and will file this change with the Department by March 15, 2010.

Commercial Multiple-Peril

37. With respect to MCC's general underwriting rules and guidelines, the following deficiencies were noted:

- a. MCC's manual contains a guideline which states that any applicant with a bankruptcy in the past five years is not eligible, and any applicant with a lien of more

than \$1,000 may not be eligible, instructing the agent/broker to call the commercial property department for approval before submitting the application. The application, however, does not contain any questions pertaining to bankruptcies or liens. Additionally, the manual does not list the criteria considered by underwriting once contacted regarding applicants with liens. The failure to maintain eligibility guidelines that are specific and objective, and that can be applied in a consistent manner is in contravention of current regulation, and may lead to unfair discrimination. Additionally, the failure to include material underwriting questions on the application creates the potential for similar risks to be treated dissimilarly.
CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

- b. The manual contains a guideline which refers agents/brokers to the underwriting department for approval with respect to risks with a loss exceeding \$7,500, but does not specify what is considered by underwriting in determining eligibility. The failure to maintain specific and objective eligibility guidelines that can be applied in a consistent manner is in violation of current regulation, and creates the potential for unfair discrimination.
CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2
- c. There is ambiguity in the ineligibility guideline which states, “Risks with a combination of objective, non-discriminatory adverse underwriting factors that relate to the risk of loss.” This guideline does not provide an explicit list of characteristics considered upon request for underwriting approval. The failure to adopt eligibility guidelines that are specific and objective, and that can be applied in a consistent manner is in violation of current regulation, and allows for unfair discrimination.
CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

Summary of Insurer Response: MCC responded, with respect to item a., that the guideline will be removed from the underwriting manual. Regarding item b., MCC stated that it will update its underwriting manual to delineate the criteria considered by underwriting upon submission, which includes frequency and severity of the loss and the steps taken to prevent any future losses, the loss ratio in combination with the size of the risk, and the condition and maintenance of the property. With respect to item c., MCC stated that it will remove the guideline from its underwriting manual. All underwriting manual changes were made by January 1, 2010. An agent’s bulletin will be issued by February 28, 2010 advising them of the changes.

- 38. MCC’s General Underwriting Rules indicate that a Dun & Bradstreet (D & B) Financial Report is required for each risk, but the policy review revealed that not all files contained a D & B report. Failure to adhere to the underwriting guidelines may lead to the dissimilar treatment of similar risks.
CIC § 1861.05(a)

Summary of Insurer Response: MCC stated that if a report is unavailable for any given risk, it previously relied on the word of the insured that there are no liens or bankruptcies. To ensure future consistency in the treatment of similar risks, MCC agreed to discontinue this process and remove this guideline from its manual. The underwriting manual was updated to reflect this

change as of January 1, 2010, and information on the revision will be included in the agent's bulletin to be issued by February 28, 2010.

39. The manual section pertaining to MCC's Offices Program contains a guideline which states "Offices Not Otherwise Classified Above – Refer to Company," however there is no indication of what is considered by underwriting upon referral. Failure to adopt eligibility guidelines that are specific and objective, and that can be applied consistently to all applicants is in violation of current regulation, and allows for the dissimilar treatment of similar risks.
CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

Summary of Insurer Response: MCC responded that if it receives a risk that is not specifically acceptable per its guidelines and it is not familiar with the operation, or it is not considered a "lower exposure risk," typically it will be declined. It has now developed underwriting guidelines which have been added to its manual. Information on the revised guidelines will be included in the agent's bulletin to be issued by February 28, 2010.

40. Multiple risks were declined for various reasons which were not supported by MCC's Lessor's Risk Program ineligibility guidelines. In one instance, a restaurant applicant was declined due to a high percentage of problematic tenants, but the eligibility guidelines are vague regarding restaurants in a multi-tenant risk and fail to provide the point at which a risk is no longer eligible. In another instance, an applicant was declined due to lack of an approved rating schedule for subterranean parking, however underground parking ineligibility only pertains to office buildings over three stories. Additionally, an applicant was declined due to the storage of kiddie ride equipment and an auto repair shop being difficult tenants, but there are no ineligibility guidelines to support that decision. The failure to adopt eligibility guidelines that can be applied in a consistent manner is in contravention of current regulation, and may lead to the dissimilar treatment of similar risks.
CIC § 1861.05(a); CCR §§ 2360.0(b) and 2360.2

Summary of Insurer Response: MCC stated that it has amended its underwriting manual to include detailed eligibility guidelines which more clearly define what is eligible and what is ineligible for the Lessor's Risk Program. This was completed September 19, 2007.

41. With respect to the Apartment Program, MCC does not have a rule in its manual indicating that buildings used for storage, recreation, and laundry are to be rated using the 1-4 unit rate, though it stated that this is its procedure. In one instance, an apartment building was rated using the 3-4 unit rate, however the rate applied to its central storage building was for 5-10 units. Failure to have a rating rule in the manual which can be applied consistently may lead to the dissimilar treatment of similar risks, and may result in excessive rates.
CIC § 1861.05(a)

Summary of Insurer Response: MCC stated that it needs to clarify its manual in this regard by adding an "other structures" section which includes buildings used for storage, laundry,

parking, and recreation. It indicated that the manual will be updated to reflect that the rates to be used for such structures are those used for buildings with 1-4 units, and that the revision will be completed no later than January 1, 2010.

42. The policy review revealed that, when provided, MCC fails to include loss of earnings coverage details on its American Legion Veteran's of Foreign Wars and Other Social Groups Program policy declarations pages. Current code mandates that insurers include risks insured against on its declarations pages.

CIC § 381

Summary of Insurer Response: MCC stated that it now includes this information on the declarations pages for all "American Legion" policies that have loss of earnings coverage. This new process was implemented effective September 19, 2007.

43. MCC's underwriting manual contains a guideline stating that "full insurance to value is required on business personal property and the building" for Businessowners Policies. Regarding apartment risks, the manual states that each "risk must be written at 100% insurance to value." However, the policy review disclosed a lack of supporting documentation to confirm that a proper evaluation was made to determine that these eligibility guidelines were met. The failure to document insurance to value is a violation of the recordkeeping provisions set forth in current code and regulation. Additionally, failure to ensure that all eligibility guidelines are met for each risk may result in the dissimilar treatment of similar risks.

CIC §§ 1857 and 1861.05(a); CCR § 2360.6

Summary of Insurer Response: MCC stated that it orders a Marshall & Swift Report on all new business accounts with building coverage. It is currently 75% complete in the process of conducting a policy review to ensure that all applicable risks have a Marshall & Swift Report. It further stated that all policies include a 6% inflation guard for building coverage and a 4% inflation guard for business personal property.

44. MCC's filed rating plan for its Lessor's Risk Program indicates that risks with values which exceed \$750,000 for a one location policy or \$5,000,000 for a multiple location policy are to be written on a Special Multiple Peril (SMP) coverage form, and that risks with values which fall below the abovementioned thresholds are eligible for the Businessowner Policy (BOP) coverage form. The policy review revealed, however, that several risks were written on the BOP coverage form despite exceeding the values stated above. Failure to adhere to MCC's filed rating plan is in violation of current code. Additionally, as the BOP coverage form offers broader coverage than the SMP coverage form, deviation from MCC's filed rating plan allows for the dissimilar treatment of like risks.

CIC §§ 1861.01(c) and 1861.05(a)

Summary of Insurer Response: MCC stated that an internal decision was made in 2003 to move all SMP Lessor's Risks to BOP coverage forms, which essentially broadened the

insureds' coverage without changing their premiums. This process is in accordance with MCC's now-current guidelines, which have been filed and were implemented effective September 19, 2007.

45. MCC's filed Retail BOP Program rating plan does not include rates for retail risks with an occupancy of Insurance Agents. However, the policy review identified two cases in which such risks were written. Deviation from MCC's filed rating plan is a violation of current code, and may lead to the dissimilar treatment of similar risks.
CIC §§ 1861.01(c) and 1861.05(a)

Summary of Insurer Response: MCC stated that an internal decision was made to allow all Mercury-appointed agencies to be rated in the Retail BOP Program under "not otherwise classified," and has since decided to allow all insurance agencies to be rated in that Program. This class has been filed and was placed in the Retail BOP Program effective September 19, 2007.

46. The policy review revealed that when certain risks do not fit into any of Mercury's Office or BOP Programs, MCC may offer to provide a monoline property quote. This quote is attained by applying the package policy rate, which includes liability coverage, then simply excluding the liability coverage from the policy. In doing so, MCC is essentially charging for coverage that is not provided, which results in excessive premium.
CIC § 1861.05(a)

Summary of Insurer Response: MCC stated that it offers a mono-line commercial fire policy on risks that do not fit into any of the Office or BOP Programs. Three of its BOP Program rates are composite rates; those composite rates are also used as its package rates, which has been the same approach since the Program's inception. MCC stated that it has evaluated the composite rates and has come to the conclusion that the liability portion of the written premium is 10%. Therefore, MCC has agreed to refund 10% of the total written premium dating back to Calendar year 2004, which results in a total refund of \$70,165. These refunds will be processed by February 28, 2010. MCC also stated that it will clarify the rating procedure for these risks in its next rate filing, which it will submit to the Department by March 15, 2010.

47. MCC provides coverage for earthquake sprinkler leakage in its Businessowner Policies, but has not filed the rates used with the Department. Similarly, owner's & contractor's protective liability coverage was provided to a risk, but the Commercial Property manual does not include the flat charge premium of \$88.00 that was used. Additionally, a liquor liability limit of \$1,000,000.00 was provided to a risk written in the American Legion Veteran's of Foreign Wars and Other Social Groups Program, but the maximum liquor liability limit offered in this program is \$500,000. The use of unfiled rates is a violation of current code, and may lead to the dissimilar treatment of risks with similar characteristics. A similar issue was raised in the 1998 examination.
CIC §§ 1861.01(c) and 1861.05(a)

Summary of Insurer Response: Mercury stated that the rates for earthquake sprinkler leakage coverage will be filed with the new manual no later than March 15, 2010, and the increased liquor liability coverage was filed with the Department and went into effect September 19, 2009. Additionally, regarding owners & contractor's protective liability coverage, MCC filed a miscellaneous rate for Property & Liability that went into effect September 19, 2009.

48. With respect to manufacturers and contactors liability for Metalworkers and Woodworkers, MCC's manual states that all policies with a payroll of \$100,000 or more, including policies where the payroll was \$100,000 or more, but has dropped below \$100,000 by 10%, are subject to a voluntary audit. The policy review revealed, however, that no audits have been performed since 2003. Failure to follow Mercury's guideline as outlined in the manual creates the potential for inadequate or excessive rates, and may lead to the dissimilar treatment of similar risks.

CIC § 1861.05 (a)

Summary of Insurer Response: MCC responded that it discontinued voluntary audits in 2003, but the manual had not been updated to reflect this. The manual was updated effective September 19, 2007.

49. For the Lessor's Risk Program, MCC offers a liability credit when the building owner is named as an additional insured on their tenant's liability policy, but there are no procedures in place to ensure that the availability of this credit is communicated to insureds. Current regulation states that insurers are ultimately responsible for determining the lowest premium for which each insured qualifies; the failure to do so may result in excessive rates.

CIC § 1861.05(a); CCR §§ 2360.3 and 2360.4

Summary of Insurer Response: MCC stated that all credits are listed in its underwriting manual, and that information regarding this credit will be added to the cover letter that goes out to insureds both at new business and at renewal. Mercury will be making a rate filing by March 15, 2010; once approved, it will implement the amended cover letter along with the new rates.

50. The policy review revealed that Mercury failed to consistently order and conduct regular inspections in accordance with its established procedure. Failure to adhere to established procedures may lead to the dissimilar treatment of similar risks.

CIC § 1861.05(a)

Summary of Insurer Response: MCC stated that its system was set up to automatically order inspections on suspense dates (future dates selected by underwriting) as part of a conversion to automated files, but it failed to do so. Mercury further stated that it is currently conducting a file review on each file to determine if an inspection was missed, and that it is 75% done with

this process. Additionally, MCC has a manual suspense system in place to ensure that no future inspections, as required per its guidelines, are missed.

51. A review of policies written in MCC's Artisan Program revealed a \$1 charge associated with a \$1,000 property damage liability deductible, however there is no mention of this rate in the manual. Further, the rates in the manual already contemplate a \$1,000 property damage liability deductible. The use of rates which have not been filed and approved by the Department is in violation of current code.

CIC § 1861.01(c)

Summary of Insurer Response: Mercury stated that its Artisan Program had a technical error which disallowed the property damage liability deductible from being properly displayed on the declarations page, and thus it was listed in the "manual premium" field. When this field is used, a \$1 premium charge is applied. MCC stated that this error has been corrected as of September 19, 2007 to allow the deductible to appear on the declarations page with no additional charge. As of January 1, 2010, MCC began applying a credit at renewal to all policies that had been overcharged due to this error and expects to have the process of processing all refunds completed by December 31, 2010.

Summary of Department's Evaluation of Insurer's Response: Mercury has not established a schedule for reporting the credit amounts to the Department. Therefore, this is an unresolved issue that may result in administrative action.

52. MCC failed to consistently provide the California Residential Property Disclosure for apartment risks with four or less units as required by current code. This is a repeat criticism from the 1998 examination.

CIC §§ 10101 and 10102

Summary of Insurer Response: MCC stated that previously the disclosure was not included with these policies, but is now included with all new business and renewal policies for residential buildings which are four or fewer units. This process was implemented on September 17, 2007.

53. MCC failed to consistently provide 30 day legal notice for cancellation as required by current code. This criticism was made in the Commercial Automobile portion of the 2002 examination and was included in the enforcement action taken following that exam, and the order that resulted.

CIC § 677.2(c)

Summary of Insurer Response: Mercury stated that some cancellations that were processed by underwriting to allow the required 30 days notice were not processed by the system until the following day, allowing only 29 days notice. Because of this, MCC's procedure has changed to allow for a minimum of 31 days in the event that its system does not process the cancellation

on the same day, taking into consideration weekends and holidays. This procedure took effect in September 2007.

54. The review revealed that MCC's manual is inconsistent with its forms regarding coinsurance, as well as with what is indicated to insureds on their declarations pages. A Businessowner Policy provision on form BP 00 02 indicates that an 80% coinsurance clause exists, but in the manual, the rates reflect a 90%-100% coinsurance clause. Also, declarations pages for policies reviewed indicated coinsurance as "N/A." The presence of rates in the manual which contemplate a 90%-100% coinsurance clause may allow for inadequate rates. In addition, the policy declarations page provides incorrect information to the insured regarding coverage terms.

CIC § 1861.05(a)

Summary of Insurer Response: MCC indicated that the coinsurance clause is applied as outlined in form BP 00 02, and that its rates are consistent in that regard. Additionally, to avoid confusion, "Coinsurance" was removed from Mercury's BOP declarations pages effective September 17, 2007. Mercury further explained that the inclusion of information in the manual regarding the 90% to 100% coinsurance clause appears to have been due to a clerical error. The manual was amended in June of 2009 to remove this reference.