

**INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION  
OPERATING PROCEDURE  
FOR PROVIDING NOTICE OF OPT OUT OF UNIFORM STANDARD BY  
REGULATION AND FOR SUBMISSION AND CONSIDERATION OF PETITIONS  
FOR STAY OF UNIFORM STANDARD**

**§ 101. Purpose and Scope.**

In accordance with Article VII, Sections 4 through 6 and Article V Section 2.b.ii of the model Interstate Insurance Product Regulation Compact (“Compact”) as enacted into law by each state, the following establishes: (1) procedures for Compacting States to follow in providing notice to the Commission of the state’s determination to Opt Out of a Uniform Standard by regulation, and (2) procedures for Compacting States to submit and for the Commission to consider petitions for stay of a Uniform Standard while the Compacting State’s regulatory Opt Out is pending.

**§ 102. Definitions.**

Except as specifically defined herein, the terms as defined in Articles II and VII of the Compact shall have the same meaning in this Operating Procedure as if such definitions were set forth fully herein.

- (a) “Opt Out” means any action by a Compacting State to decline to adopt or participate in a promulgated Uniform Standard.

**§ 103. Notice of election to Opt Out by regulation.**

- (a) A Compacting State electing to Opt Out of a Uniform Standard by regulation must provide written notice to the Commission no later than ten (10) business days after the Uniform Standard is published following its adoption by the Commission or at the time the legislation enacting the Compact becomes effective in the Compacting State, whichever is later.
- (b) The notice shall be directed to the Executive Director of the Commission who shall timely notify all Commission members of the notice and post a copy of the notice on the Commission’s website. The Executive Director shall also timely notify the Chairs of the Legislative Committee and the Consumer and Industry Advisory Committees of the notice.

**Drafting Note:** The requirements for Opting Out of a Uniform Standard by regulation are set forth in Article VII.4 of the Compact. These requirements contemplate both an administrative hearing before the Commissioner of the Compacting State (or his or her lawful delegee) and the promulgation of a regulation, each of which should be done in accordance with the specific laws of the Compacting State applicable to administrative procedure and rulemaking.

**§ 104. Petitions for Stay of a Uniform Standard While Opt Out is Pending.**

- (a) A Compacting State that has formally initiated the process for opting out of a Uniform Standard by regulation by providing the notice required by Section 103(a) may petition the Commission to stay the effectiveness of the Uniform Standard in that state while the Compacting State's regulatory Opt Out is pending.
- (b) Petitions for stay shall describe with particularity the specific actions that the Compacting State has taken to initiate and pursue the regulatory Opt Out and shall explain why the regulatory Opt Out is likely to succeed.
- (c) Petitions for stay of a Uniform Standard must be submitted to the Commission at least fifteen (15) days before the effective date of the Uniform Standard. Petitions shall be submitted to the Executive Director of the Commission who shall distribute copies of the petition to all Commission members and post a copy of the petition for stay on the Commission's website. Upon submission of a petition for stay, the Chair of the Commission shall call an emergency meeting of the Commission for the purpose of considering the petition for stay.
- (d) The Commission may grant a petition for stay of a Uniform Standard if it determines that the Compacting State is pursuing the regulatory Opt Out in a reasonable manner and there is a likelihood of success.
- (e) Unless a shorter time period is ordered, a stay granted by the Commission shall postpone the effective date of the Uniform Standard in the Compacting State for a period of ninety (90) days from the initial effective date of the Uniform Standard. The Commission, by affirmative vote, may extend the period of stay by additional increments of ninety (90) days for a period of up to one (1) year from the initial effective date of the Uniform Standard.
- (f) It shall be the responsibility of the Compacting State to request extensions of a stay of a Uniform Standard by the Commission. Requests for extension of a stay must be made at least twenty (20) days prior to the expiration of the stay.
- (g) The Commission may not permit a stay of a Uniform Standard to remain in effect for more than one (1) year unless the Compacting State demonstrates extraordinary circumstances warranting the continuance of the stay. Requests for extension of a stay to exceed one (1) year shall be in writing and shall demonstrate the extraordinary circumstances warranting such an extension. Extraordinary circumstances may include the existence of a legal challenge which prevents the Compacting State from opting out.
- (h) The Commission may terminate a stay upon notice from the Compacting State that the Compacting State's rulemaking process has been terminated.

**§ 105. Adoption and Effective Date.**

This Operating Procedure was adopted by the Commission on March 28, 2008, pursuant to the procedures set forth in the Rule for Adoption, Amendment and Repeal of Rules for the Interstate Insurance Product Regulation Commission. This Operating Procedure is effective on May 12, 2008.