DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-5

PROPERTY AND CASUALTY

Proposed Amended Regulation 5-1-10

Rate and Rule Filing Submission Requirements Property and Casualty Insurance

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109~~, 10,~~ 10-3-1110, 10-4-404, and 10-4-404.5, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to ensure that property and casualty insurance rates are not excessive, inadequate or unfairly discriminatory by establishing the requirements for rate and rule filings.

Section 3 Applicability

This regulation applies to all rate filings submitted by companies operating in the s~~S~~tate of Colorado as defined in Section 4. The following lines of business, however, are specifically excluded from the requirements of this regulation: reinsurance, ocean marine, life, health, surplus lines, commercial policies as defined in Regulation 5-1-13 and credit insurance subject to the requirements of Regulation 4-9-2.

Section 4 Definitions

A. "Classification System" or "Classification" means the plan, system, or arrangement for recognizing differences in exposure.

B. "Company" means all licensed property and casualty insurance companies, ~~including Pinnacol Assurance the Colorado Compensation Insurance Authority,~~ to include an entity created pursuant to CRS 8-45-101 and 8-45-117. It does not include captive insurance companies

licensed under Article 6 of Title 10 or self-insurance pools licensed under Article 44 of Title 8, Section 115.5 of Article 10 of Title 24, or Section 102 of Article 13 of Title 29.

C. "Expense Multiplier" means the portion of the rate that includes provisions for expenses, other than loss adjustment expenses, profit and investment income.

D. "On-Rate Level Premium" is the premium that would have been generated if the present rates had been in effect during the entire period under consideration.

E. "Premium" means the amount of money charged a policyholder for an insurance policy.

F. "Prior Approval" is a filing procedure that requires a rate, rule or loss cost change to be affirmatively approved by the Commissioner prior to distribution, release to producers, collection of premium, advertising, or any other use of the rate, rule or loss cost.

G. "Qualified Actuary" is a person who meets the requirements of Regulation 1-1-1.

H. "Rate" means the cost of insurance per exposure unit. Rates must include an adjustment to account for expenses, profit, and variations in loss experience, but are prior to any application of individual risk variations based on loss or expense considerations.

I. "Rating Manual" means the rates, schedule of rates, rating plans, rating classifications, territories, rating rules, and any other information which the company uses to determine the final dollar charge for insurance coverage.

J. "Trend" or "Trending" means any procedure for projecting losses to the average date of loss, or of projecting premium or exposures to the average date of writing.

Section 5 Rules

All rate, rule and loss cost filings shall be submitted electronically by licensed companies, rating organizations and advisory organizations (except for conditions provided by regulation). Failure to supply the information required in Subsections 5(A)(4), 5(A)(5), 5(A)(7), and 5(B)(4) of this regulation would render the filing incomplete. Incomplete filings will be ~~returned~~ rejected on or before the ~~15th~~ 30th ~~business~~ calendar day after receipt. Incomplete filings are not reviewed for substantive content. All filings that are not returned on or before the ~~15th~~ 30th calendar day after receipt will be considered complete. Filings may be reviewed for substantive content, and if reviewed, any deficiency will be identified and communicated to the filing insurer on or before the ~~30th~~ 45th business day after receipt. Correction of any deficiency, ~~including deficiencies identified~~ after the ~~30th~~ 60th business day, will be required on a prospective basis, and no penalty will be applied to a non willful violation identified in this manner. Nothing in this Section 5 shall render a rate filing subject to prior approval by the Division of Insurance unless otherwise subject to prior approval as provided by statute.

A. Rate Filings General Requirements

1. Required Submissions: All companies must submit rate filings whenever there is a new program, new product, or the rates charged to the new or renewal policyholders change. Included in this requirement are changes due to periodic recalculation of experience or projections, or a change in rate calculation methodology. All companies writing

homeowners and private passenger automobile insurance must submit a rate filing on at least an annual basis to support the continued use of trend and other ratings factors. These rate filings must contain detailed support demonstrating that the assumptions continue to be appropriate, and that rates are not excessive, inadequate or unfairly discriminatory.

2. Timing and Submission: Unless a filing is specifically identified as requiring prior approval, by statute, all filings are classified as file and use. All companies are to file ~~a transmittal sheet,~~ appropriate Colorado Rate and Rule Submission Form(s) (Form A is required for all filings and loss cost filings require a form B, C and/or D, as appropriate) with the rates prior to distribution, release to producers, collection of premium, advertising, or any other use of the rate. Additionally, all personal lines, medical malpractice, commercial lines, and workers compensation insurance require the rating data to be submitted with the filing. The Division of Insurance may also request rating data for other lines of business along with appropriate supporting data. All filings must be submitted to the rates and forms section of the Division of Insurance. In the case of rates requiring prior approval, if a rate increase has been implemented without Division of Insurance approval, corrective actions may be ordered, including fines, refunds to policyholders, and/or rate credits.

3. Withdrawn or Returned Filings: Filings that have either been withdrawn by the filer or returned by the Division of Insurance as incomplete, and subsequently resubmitted, will be considered new filings and must have a new filing date and effective date (new effective date if the date has ~~traspired~~expired). If a filing is withdrawn or returned, the rates may not be used or distributed.

4. ~~Duplicates and Return Postage~~Submission of rates, rules and loss cost filings: All filings must be submitted ~~in duplicate, and include a self addressed envelope, with sufficient prepaid postage and large enough to contain the duplicate copies other than electronic filings submitted,~~ electronically in a format made available by the Division of Insurance. ~~electronically through the System for Electronic Rate and Form Filings (SERFF) system.~~ These filings must be ~~collated~~ submitted, by company, so that each ~~copy of the~~ filing contains all required documents. Required documents include (at a minimum) the cover letter and filing forms A, B, C and D, if appropriate. If the company fails to comply with these requirements, then the company will be notified that the filing has been rejected as incomplete. If a filing is rejected due to lack of completeness, then the rates may not be used or distributed.

5. Company Specific: A separate filing must be submitted for each company. A single filing which is made for more than one company or for a group of companies is not permitted.

6. Required Inclusions: The level of detail and the degree of consistency incorporated in the experience records of the company are vital factors in the presentation and review of rate filings. Every personal lines, commercial lines, medical malpractice and workers compensation rate filing shall be accompanied by sufficient information to support the reasonableness of the rate. Valid company experience should be used whenever possible. This information may include the company's experience and judgment; the experience or data of other insurers or organizations relied on by the company; the interpretation of any statistical data relied on by the company; descriptions of methods

used in making the rates; and any other similar information. In addition, the Commissioner may request any information necessary to adequately support the rate request.

7. Each rate filing must include:

a. Required Forms: A fully completed ~~transmittlal sheet and the~~ Rate and Rule Filing Submission Form A and loss cost filing forms B, C and/or D (when appropriate) are required. These forms are available from the Division of Insurance and are contained in a separately published Bulletin.

b. Summary: The filing must include a brief written summary of the reason for the rate filing; the methodology used to develop the rate change; marketing method; premium classes; product description; and any relevant considerations which have a material effect upon the ratemaking methodology.

c. Territorial Factors: The initial personal lines, medical malpractice, commercial lines, and workers compensation insurance filings must clearly display and adequately support all territorial factors and definitions, and any subsequent personal lines, medical malpractice, commercial lines, and workers compensation insurance filings must clearly display and adequately support all changes in territorial factors and definitions.

d. Side-by-Side Comparison: A "side-by-side comparison" including the proposed change(s) must be ~~available upon separate request by the Division of Insurance~~included in the filing. The "side-by-side comparison" should include three columns: the first containing the current rates, rating factor, ~~or~~ rating variable, or rules; the second containing the proposed rates, rating factor, rating variable, or rules; and the third containing the percentage increase or decrease of each proposed change(s). If the proposed rates are not replacing existing rates, then the filing must specifically ~~so~~ state.

e. Loss Offsets: For all lines of business for which the ultimate loss payments are expected to be affected by the subsequent collection of salvage or subrogation amounts, or through the coordination of benefits, such anticipated reductions must be considered, either implicitly or explicitly, in the rate making process. ~~he anticipated loss ratio shall be submitted on all rat and loss cost filings, with all the necessary support to show how the loss ratio was arrived at.~~

f. Loss Ratios: The filing must state the anticipated loss ratio for the period the rates are projected to be applicable. This should be stated on an incurred basis as the ratio of incurred losses to earned premiums. Incurred losses may include loss adjustment expenses, but the filing must clearly identify the components of the ratio. The anticipated loss ratio shall be submitted on all rate and loss cost filings, with all the necessary support to show how the loss ratio was developed.

g. Rate History: The filing must include a chart showing the rate changes implemented in at least the three years immediately prior to the date of the filing.

h. Data Requirements: The personal lines, medical malpractice, commercial lines, and workers compensation filing must, at a minimum, include past and prospective loss experience, loss costs or pure premium rates, and premiums. The Division of Insurance may also request rating data for other lines of business along with appropriate supporting data for any line of business. This information shall be submitted on a Colorado-only basis for at least three years, if available, and on a national, regional or other appropriate basis if the Colorado data is not fully credible. The loss data must be on an incurred basis including both the accrued and unaccrued portions of the liability and reserve (e.g., case, bulk and IBNR reserves) as of the valuation date. Premiums and/or exposure data must be stated on both an actual and on-rate level basis.

i. Development of expected loss or pure premium: The personal lines, medical malpractice, commercial lines, and workers compensation filing must adequately support all material assumptions and methodologies used to develop the expected losses or pure premiums. Material assumptions and methodologies may include but are not necessarily limited to:

(1) Catastrophic losses: The filing must clearly identify the degree to which the underlying data was adjusted for catastrophic or large losses and must describe the method (if any) used to prospectively provide for catastrophic losses.

(2) Trend: The filing must discuss and adequately support any trends or trending assumptions (whether applied to loss, premium or exposure data) that are used.

(3) Credibility: The filing must discuss the credibility of the data, and the source, applicability, and use of collateral data.

(4) Investment Income: The filing must describe how anticipated investment income will be used to reduce the prospective rate.

(5) Exposure base: If the exposure base to which the rate is applied is subject to inflationary or other trend, then the filing must either demonstrate that the loss trend has made due consideration for the offsetting exposure trend, or that the changing exposure trend has been adequately taken into account in the development of the prospective rates.

j. Expense Provision: The personal lines, medical malpractice, commercial lines, and workers compensation filing must clearly describe the amount of the fixed and/or variable expense provision and how this provision is to be accounted for in the final rate. This justification must include a statement that the expense provision has been adjusted to appropriately reflect Colorado requirements and reflects the operating methods of the company and any Colorado-specific anticipated expenses. Specifically, the provision for taxes, licenses and fees varies according to the jurisdiction and according to the existence of a regional or home office which qualifies as a Home or Regional Home Office under

Regulation 2-1-2 and Section 10-3-209(b)(I)(B), C.R.S. The expense provision in the filing must accurately reflect any such Colorado-specific expense.

k. Provision for Profit and Contingencies: The personal lines, medical malpractice, commercial lines, and workers compensation filing must identify the amount or percentage of the provision for profit and contingencies and how this provision is added to the final rate. Investment income shall be considered from unearned premium reserves, reserves from incurred losses, and reserves from incurred but not reported (IBNR) losses. Detailed support must be provided for any proposed profit load in excess of 7% after taxes for private passenger automobile and homeowners insurance.

B. Additional Rate Filing Requirements by Line

The following subsections set forth the requirements by separate lines of business that must be complied with in addition to the above general requirements.

1. Type I Lines: Type I filings are defined in Section 10-4-401, C.R.S. All filings for Type I lines of business require prior approval**.**

2. Rate Modification Plans: Rate modification plans are rating plans or procedures which provide a listing of various risk characteristics or conditions and a range of modification factors which may be applied for these characteristics or conditions to the manual rate of a particular insurance risk. Rate modification plans are regulated by Colorado Regulation 5-1-11. All requirements of Regulation 5-1-11 should be observed, in addition to the requirements of this regulation, whenever a rate modification plan is filed.

3. Adoption of Advisory or Rating Organization Rates: Each company adopting pure premium rates must file their final loss cost multiplier. If the company requests that its final loss cost multiplier which includes the pure premium rate modification remains on file without change, it will remain in effect until the company withdraws it, files revised pure premium rate adjustments, files expense adjustments or makes an independent filing. However, any company ~~who~~ that delays, modifies, or fails to adopt a subsequent filing made by the rating or advisory organization must promptly make an appropriate filing with the Division of Insurance.

   If the rating or advisory organization prints and distributes the pure premium rates, any company ~~who~~ that adopts those pure premiums with or without modification is not required to file its final rate pages with the Division of Insurance, even if the company chooses to print and distribute final rate pages based solely upon the application of its filed final loss cost multiplier for its own use. If the rating or advisory organization does not print the pure premium rates in its manual, then the company must submit its final rates to the Division of Insurance.

   The final loss cost multiplier must include a provision for expenses (expense multiplier) and may include an adjustment to the pure premium rate (pure premium rate modification). The final loss cost multiplier is a combination of these two adjustments:

   a. Expense Multiplier:

(1) The required expense multiplier must provide for the company's actual production expense, general expense, profit and contingencies with the investment income offset provisions, taxes, licenses and fees, and any other necessary expense. The description of the expense components must be made on the appropriate filing form. Companies ~~who~~ that adopt advisory pure premium rates may vary the expense provision by individual classification, grouping, or subline of insurance only to the extent that the actual expenses of the company do in fact differ by these separate classifications, groupings or sublines. Companies may use variable and/or fixed expense provisions to establish the appropriate expense provision in the final loss cost multiplier.

(2) The expense multiplier shall make provision only for expenses. No implicit or explicit provision for actual or anticipated differences in the pure premium rate may be included in the development of the expense multiplier.

b. Pure Premium Rate Modifications: A company may file for modification of the pure premium rates based on its own anticipated experience. This modification must be made on the appropriate filing form. Supporting actuarial or statistical documentation is required to adequately support the reasonableness of any modifications of the advisory pure premium rate.

4. Medical Malpractice:

As required by Section 10-4-403(2.1), C.R.S., medical malpractice filings shall include an analysis and opinion of a qualified actuary. The analysis and opinion must discuss the impact, if any, of the following on the rates:

a. Tort reform legislation.

b. Risk management activities.

c. Underwriting standards and practices.

d. Any other activity designed to reduce rates or rate increases or the cost of administration and determination of claims.

The qualified actuary must state an opinion as to whether the rates are excessive, inadequate or unfairly discriminatory.

C. Rule Filing General Requirements

1. Required Forms: A fully completed ~~NAIC transmittal sheet and Rate Rule~~ Filing ~~Submission~~ Form A is required. ~~These~~ Filing forms are available from the Division of Insurance and are contained in a separately published Bulletin or the SERFF website and may be duplicated by insurers.

2. Every property and casualty insurance company, including those writing workers' compensation and title insurance, is required by this regulation to provide a list of minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

3. Companies may adopt, by reference, rating and/or advisory organization insurance rating plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals, and modifications of any of the foregoing. A completed copy of the appropriate filing form prescribed by the Commissioner in a separate Bulletin must accompany the filing.

4. Each rule filing must identify the kind of insurance, (e.g., Type II), and must be consistent with the rate filing procedure defined for that type of insurance. Each filing must be accompanied by a completed copy of the appropriate filing form prescribed by the Commissioner in a separate Bulletin.

5. Each rule filing must include a side-by-side comparison of any change proposed. If the proposed rules are not replacing existing rules used by the filer, then the filer must so state in the filing.

D. Prohibited Practices

The Division of Insurance has determined that certain rating practices lead to excessive, inadequate or unfairly discriminatory rates and are unfair methods of competition and/or unfair or deceptive acts or practices in the business of insurance. Therefore, in accordance with Section 10-3-1110(1), C.R.S., it is considered an unfairly discriminatory practice for a company to include, in any component of a rate, any amount intended to recover losses or expenses incurred in another state or jurisdiction due to any referendum, law or regulation which requires a general reduction in rates. This subsection shall not prohibit the use of national, regional or other industry data as a necessary and actuarially supportable supplement ~~to not~~ to Colorado data that is not fully credible.

Section 6 Severability

Noncompliance with this regulation constitutes a violation of Section 10-3-1104, C.R.S., and subjects the noncomplying entity to the sanctions specified in Section 10-3-1108, C.R.S., and all other sanctions and penalties allowed by law**,** including the imposition of fines and the suspension or revocation of insurance licenses.

Section 7 Enforcement

Noncompliance with this Regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines, issuance of cease and desist orders, and/or suspensions or revocation of insurance licenses.

Section 8 Effective date

This regulation is effective ~~March 2, 2002~~March 1, 2009.

Section 9 History

Regulation 91-1, effective March 1, 1991.
Re-codified as Regulation 5-1-10 on June 1, 1992.
Regulation repealed and re-promulgated, effective February 1, 1999.
Amended regulation, effective January 1, 2000.
Amended regulation, effective March 2, 2002.
Amended regulation, effective March 1, 2009.