

FAQ: Mitigation in Rating Plans and Wildfire Risk Models Regulation



Insurance Commissioner Ricardo Lara is enforcing his new insurance pricing and transparency regulation, California Code of Regulations (CCR) § 2644.9, recognizing and rewarding wildfire safety and mitigation efforts made by homeowners and businesses. Commissioner Lara's regulation requires insurance companies to submit new rate filings incorporating wildfire safety standards created by the Department, and to establish a process for releasing wildfire risk determinations to residents and businesses. This FAQ is intended to assist insurance companies with complying with this regulation. Information for consumers in accessing discounts and benefits of this regulation will be posted to the [Safer from Wildfires](#) page on our public website.

Required Rate Filings

Q: What is the latest date for an insurance company that is currently utilizing an existing rating plan that segments rates based upon a policyholder or applicant's wildfire risk through a rate differential or a surcharge, to submit a rate application that brings the rating plan into compliance with the regulation?

A: On or up to April 12, 2023.

Q: How will the review of a rate application required by April 12, 2023, be handled if an insurance company has an existing rate application with the Department? Can an existing rate application be modified to include the factors required by the regulation? Or can the insurance company submit a separate, second rate application?

A: An existing rate application may be modified to meet the requirements of the regulation. Alternately, the insurance company may submit a separate, second rate application by April 12, 2023, in order to meet the requirements of the regulation. If a separate, second rate application is submitted and the existing rate application has not yet been approved, or has been approved but its rates are not yet in effect, any rate impact associated with the second rate application will be identified on the Department's Public Notice list in relation to the rate level applicable and the rates in effect at the time the second rate application is submitted. A second rate application that is simple in nature with no rate impact may end up being approved prior to an existing rate application. Any rate application submitted on or after March 1, 2023 in order to comply with section 2644.9(d) shall be revenue neutral and shall not include proposals or amendments to existing rates or rules that are outside of section 2644.9(d). Please review Bulletin 2023-2 for more details.

Q: If a company has an existing rate application and submits a second rate application to achieve compliance with the regulation, will the two rate applications be reviewed in order?

A: Each rate application submitted will be reviewed on its own merits, and more than likely in the order in which they were received. If a second rate application is submitted and the first rate application has not yet been approved, or has been approved but its rates are not yet in effect, any rate impact associated with the second rate application will be identified on the Department's Public Notice list in relation to the rate level applicable and the rates in effect at the time the second rate application is submitted. A second rate application that is simple in nature with no rate impact may end up being approved prior to an existing rate application.

Q: Will the rate applications submitted pursuant to the regulation be subject to standard review, timelines, and scrutiny? Will these rate applications receive priority review or be reviewed by a smaller dedicated staff?

A: The rate applications submitted pursuant to the regulation will be subject to the standard prior approval rate filing timelines and the standard filing allocation and review process under Proposition 103. These rate applications are important for the Department in terms of review and approval in order to ensure that the wildfire mitigation discounts required by the regulation are available to consumers and businesses as quickly as possible to help incentivize efforts to reduce the risk of loss by wildfire.

Q: If an insurance company chooses to modify an existing program to no longer apply or use a rate that is developed with, determined by, or relies upon, in whole or in part a rating plan that segments, creates a rate differential, or surcharges the premium based upon a policyholder or applicant's wildfire risk, what type of filing (e.g. rate, rule) would need to be submitted?

A: Modification of an existing program to no longer apply or use a rate, meaning a different rate would be used, would require a rate filing.

Q: If an insurance company does not apply or use a rate that is developed with, determined by or relies upon, in whole or in part, a rating plan that segments, creates a rate differential, or surcharges the premium based upon a policyholder or applicant's wildfire risk score, does the regulation apply?

A: No. However, it is the insurance company's responsibility to demonstrate that its rating plan is in compliance with the regulation and/or that it is not subject to the regulation. Note that territorial rate segmentation that recognizes varying levels of wildfire risk, whether explicit or not, will be considered to be subject to the regulation.

Lines of Insurance

Q: Does the regulation apply to all lines of insurance with property coverage?

A: The regulation applies to any line of insurance, personal or commercial, where the insurance company in rating the building being evaluated applies or uses a rate that is developed with, determined by or relies upon, in whole or in part, a rating plan that segments, creates a rate differential, or surcharges the premium based upon a policyholder or applicant's wildfire risk.

Q: Does the regulation apply to surplus lines?

A: The regulation is mandated for insurers licensed by the Department. It is expected that surplus lines insurers will also incorporate similar wildfire mitigation discounts to encourage surplus lines policyholders and applicants to mitigate their properties from wildfire risk.

Q: Does the regulation apply to tenant policies?

A: If the insurer in writing a tenant policy applies or uses a rate that is developed with, determined by or relies upon, in whole or in part, a rating plan that segments, creates a rate differential, or surcharges the tenant's premium based upon a tenant policyholder or tenant applicant's wildfire risk, the insurer shall comply with section 2644.9. Thus whether or not the regulation applies to policies involving tenants of a building depends on how the insurer rates the tenant, and if the insurer is basing the tenant policy premium on any aspect of wildfire risk considerations.

Mandatory and Optional Mitigation Factors

Q: Must an insurance company's rating plan reflect a separate, individual discount or credit for each mitigation factor?

A: Yes. An insurance company's rating plan must contain a separate, individual discount or credit for each mandatory mitigation factor identified in the regulation. For each optional mitigation factor used by the insurance company in its rating plan, whether the optional factor is identified in the regulation or not specified in the regulation, there must also be a separate, individual discount or credit applied.

Q: Can an insurance company's rating plan reflect the combination of any mandatory and/or optional mitigation factors for the purposes of providing a discount or credit?

A: As a threshold matter, the regulation requires that each and every mandatory factor within the insurer's rating plan be accounted for on its own so that a discount is provided for each factor individually. That does not, however, preclude an insurer from offering greater discounts for the combination of factors or the totality of all factors.

Q: Some mitigation factors would necessitate some manner of verification that the mitigation action has been completed or remains current. In what ways could an insurance company complete such verification?

A: An insurance company would follow the underwriting process it has publicly filed with the Department. An insurance company can submit specific underwriting verification processes as part of its filed underwriting guidelines or it can accept the policyholder's or applicant's responses as originally submitted to the insurer or information contained on an insurer's questionnaire or application if the insurer does not wish to perform an inspection or otherwise verify that a mitigation action has been completed or remains current.

Q: Can an insurance company introduce wildfire mitigation discounts for the mandatory factors rather than directly adjusting the policyholder's or applicant's wildfire risk score?

A: Yes. Discounts or credits rather than the use of models and wildfire risk scores can be used to address the mandatory and optional factors. A policyholder's or applicant's wildfire risk score or other wildfire risk classification may need to be directly adjusted should under regulation's right to appeal process it is determined a revision or update to that score or classification is required.

Q: Does the list of optional mitigation factors reflect the only other permissible factors related to wildfire risk that may be used in an insurer's rating plan and/or a wildfire risk model, or are other factors allowed?

A: An insurer may use a rating plan which incorporates other factors that the insurer demonstrates are substantially related to risk of wildfire loss. Examples of other optional mitigation factors are identified in CCR § 2644.9(e), but optional factors are not limited to those identified in CCR § 2644.9(e). Also refer to CCR § 2644.9(e)(7).

Verification of Mitigation

Q: Does an insurance company need to verify that the wildfire mitigation actions have been completed for every existing policyholder, or can the insurance company implement a process to verify that the wildfire mitigation actions have been completed for new business only?

A: For an existing policyholder or new applicant that has taken or completed a mitigation action that is to be taken into account and reflected in the rating of that policyholder or applicant, the verification of the mitigation action is at the discretion of the insurance company. Further, in the event that the policyholder or applicant has completed a mitigation measure on the subject property since the time of the last application to or renewal by the insurer, the insurer is required to provide an updated wildfire risk score or classification to the policyholder or applicant no later than thirty (30) days following the submission to the insurer of the policyholder or applicant's request that the insurer provide a revised wildfire risk score or wildfire risk classification. And per CCR § 2644.9(i), should a policyholder or applicant appeal their wildfire risk score or other wildfire risk classification, the insurer will need to take into account the completed wildfire mitigation actions of the policyholder or applicant in assessing the need to update or revise the policyholder's or applicant's wildfire risk score or other wildfire risk classification.

Q: Upon each policy renewal, does an insurance company need to verify that the wildfire mitigation actions have been completed or remain current?

A: The frequency of verification of wildfire mitigation actions is at the discretion of the insurance company. In the event that the policyholder or applicant has completed a mitigation measure on the subject property since the time of the last application to or renewal by the insurer, the insurer is required to provide an updated wildfire risk score or classification to the policyholder or applicant no later than thirty (30) days following the submission to the insurer of the policyholder or applicant's request that the insurer provide a revised wildfire risk score or wildfire risk classification.

Wildfire Risk Models Used by Insurers

Q: What is meant by Wildfire Risk Models being available for public inspection?

A: As with any other filing submitted to the Department, filings submitted in response to this regulation will be subject to the public inspection to the extent required by California Insurance Code § 1861.07.

Q: Will the modeling portions be reviewed by the Department or by a consulting actuary?

A: The modeling portions may be reviewed by the Department or they may be reviewed by a consulting actuary.

Q: Can an insurance company propose the use of a new model in rating that incorporates all of the mandatory mitigation factors and any of the optional mitigation factors in order to comply with the regulation?

A: Yes, keeping in mind that whether or not a model is used, a policyholder or applicant who mitigates their property in accordance with any single wildfire mitigation action identified in the regulation must receive a reduced premium for such action. It is the insurance company's rating plan, which may or may not incorporate the use of a model, that must reflect the reduction of losses due to the wildfire mitigation actions that have been taken and provide a corresponding discount for each and every mandatory factor.

Community-level Mitigation

Q: The California Board of Forestry's Fire Risk Reduction Community List for 2022 appears to include the entirety of Los Angeles County. Does that mean that any risk located in Los Angeles County is considered within a Fire Risk Reduction Community and should be eligible for some type of discount?

A: Yes.

Q: How is the California Board of Forestry's Fire Risk Reduction Community List created? How does the qualification criteria for getting on the Board of Forestry's Fire Risk Reduction Community List compare to the Firewise designation?

A: The Fire Risk Reduction Community List (ca.gov), as mandated by Public Resources Code section 4290.1, is "a list of local agencies located in a state responsibility area or a very high fire hazard severity zone...that meet best practices for local fire planning." The List is developed and maintained by the Board of Forestry, with the first iteration available on this page -- (Fire Risk Reduction Community List (ca.gov)) -- no later than July 1, 2022 and updated every two years thereafter.

Details of list eligibility and the application process can be found in CCR §§ 1268.00-1268.04.

For more information on the List and its use, including by the Fire Prevention Grants Program, please see these FAQs. Please send any questions not addressed in the FAQs to LandUsePlanning@bof.ca.gov.

Commercial Insurance

Q: Does the regulation only apply to single location commercial property policies?

A: No. Whether a commercial property policy covers a single location or multiple locations, the regulation applies if the insurance company, in rating the commercial property or properties being evaluated at one or multiple locations, applies or uses a rate that is developed with, determined by or relies upon, in whole or in part, a rating plan that segments, creates a rate differential, or surcharges the premium based upon a policyholder or applicant's wildfire risk. The only exception is when wildfire risk is not considered in rating a property or properties at any location in the policy. See CCR § 2644.9(n).

Q: For commercial lines, may an insurance company add the wildfire mitigation discounts to its schedule rating or individual risk modification rating plan and provide the discounts in that manner?

A: As long as the commercial rating plan as a whole takes into account and reflects the factors described in the regulation, and each mandatory factor individually receives a discount, the rating plan would satisfy the requirements of the regulation. Keep in mind, schedule rating is intended to allow an underwriter to apply subjective rating considerations to a risk. Wildfire mitigation actions taken in response to the regulations would be objective in nature, and thus the specific credits applied in recognition of wildfire risk mitigation actions taken would be applicable outside of the scope and purpose of a commercial schedule rating plan.

Q: Does the regulation apply to a commercial policy that insures a single location and the insurance company does not apply or use a rate that is developed with, determined by or relies upon, in whole or in part, a rating plan that segments, creates a rate differential, or surcharges the premium based upon a policyholder or applicant's wildfire risk?

A: No. However, it is the insurance company's responsibility to demonstrate that its rating plan is in compliance with the regulation. Note that territorial rate segmentation that recognizes varying levels of wildfire risk, whether explicit or not, will be considered to be subject to the regulation.

Other Requirements or Considerations

Q: The regulation under CCR § 2644.9(k)(3)(B) states that the insurance company shall provide the amount of premium reduction that the policyholder or applicant would realize as a result of performing each mitigation effort. With all of the different mitigation factors identified in the regulation, there are numerous resulting combinations of mitigation factors. Given all of the combinations, can the regulation be satisfied by providing the policyholder or applicant with averages or ranges of premium reduction?

A: CCR § 2644.9(k)(3)(B) should not be read in isolation. Rather, it should be read in conjunction with CCR §2644.9(k)(3)(A). When read together, if a policyholder or applicant has not taken a property-level mitigation measure or measures that could lower their wildfire risk score or classification, the insurance company must provide the amount of premium reduction the policyholder or applicant would realize if they were to take the property-level mitigation measure or measures that have not yet been taken. Since each and every property-level mitigation effort must be taken into account and reflected individually, the required premium reduction information is specific to each and every property-level mitigation effort. The insurance company's rating plan should be able to delineate the premium reduction associated with each and every property-level mitigation effort that could be taken by a policyholder or applicant.

Q: What is meant in the regulation where it says additional documentation may be requested?

A: As with any other filing submitted to the Department, after the filing has been submitted, additional documentation may be requested in order to perform a complete analysis of the filing.

Q: Are there plans to change the rate filing instructions?

A: The rate filing instructions are updated periodically as needed. Any revisions that are determined to be needed as a result of this regulation will be incorporated into the rate filing instructions.

Agents/Brokers

Q: Is it the insurer's responsibility to inform and train their agents/brokers about the regulations and how the discounts would be applied to consumers?

A: Yes. While the Department intends to separately advise all licensed P&C agents/brokers of these regulations, all insurers should also ensure that their agents/brokers are trained on these regulations.

Q: What obligations do agents/brokers have in complying with these regulations?

A: CCR § 2644.9(j) requires that a broker or agent who receives an oral or written appeal of the insurer's assignment of a wildfire risk score or other wildfire risk classification, to forward that appeal to the subject insurer no later than five (5) calendar days after receiving the appeal from the policyholder or applicant.

Policyholders/Consumers

Q: Will insurance companies be required to inform consumers of their discounts in association with this new regulation and their process for consumers to appeal their classification?

A: Yes, pursuant to CCR § 2644.9(k)(3)(B) insurers are required to provide the amount of premium reduction the policyholder or applicant would realize as a result of mitigation efforts in accordance with insurer's rating plan. Per CCR § 2644.9(i) insurers are required to notify the policyholder or the applicant the right to appeal their wildfire score or wildfire risk classification.

Q: Will the Department educate and inform consumers and businesses about this regulation, including the process for policyholders to appeal their risk score?

A: Yes.