

December 16, 2025

Commissioner Michael Conway
Colorado Department of Regulatory Agencies
Division of Insurance
1560 Broadway, Suite 850
Denver, CO 80202

Sent via email

RE: NAMIC Comments on Draft Study on Smoke, Soot and Ash from HB 24-1315.

Commissioner Conway:

The National Association of Mutual Insurance Companies (NAMIC) would like to provide comments on the draft study created in response to HB 24-1315, *Colorado Wildfire Remediation Analysis Residential Premises and Insurance Impacts Report*.

NAMIC consists of more than 1,400 member companies, including six of the top 10 property/casualty insurers in the United States. The association supports local and regional mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

To start, NAMIC believes the goal of any discussion regarding wildfire claim and underwriting best practices is to keep wildfire coverage both available and affordable as much as possible. The wildfire peril remains challenging as more structures are built in the Colorado wildland urban interface (WUI). Because of this goal, we are deeply troubled by this draft study and would like to raise a summary of our concerns, urging the Division to rethink its current approach.

The Draft Study Reflects a Lack of Understanding of the Insurance Market

The draft study's treatment of insurance issues reveals a troubling disconnect between its technical ambitions and a credible understanding of how the homeowners' insurance market functions. Drawing on a purely qualitative "weight of evidence" approach, the draft study repeatedly opines that premiums "may not increase," coverages will remain "fully available," and increased sampling, testing, and reporting costs will be "offset (perhaps completely)" by various speculative efficiencies, all without conducting a data call, performing actuarial analysis, or providing any empirical support for these assertions.

To the extent the draft study includes analysis on "the extent to which cleaning, repair and remediation of [affected] properties should be covered by homeowners [sic] insurance" as required by HB 24-1315, that analysis should necessarily include the impacts of mandating such coverage and processes

suggested by the draft study. Such critical analysis is noticeably absent, with a few notable exceptions.

First, on page 2:

“This study found that while initial costs would increase for sampling, establishing a standardized approach may ultimately result in lower overall insurance costs due to the more streamlined process and the lessening of conflicts between policyholders and insurance carriers.”

The draft study does not make clear what information the authors used to support this assertion. Moreover, the authors’ choice of the word “may” is instructive here, as it is clearly done to hedge against the possibility that “establishing a standardized approach” recommended in the draft study will not, in fact, “ultimately result in lower overall insurance costs.”

Perhaps the more troubling assertions can be found in Section 5.1.4 on page 46, which we believe requires significant consideration by objective parties. Some of the assertions include:

“While it was only possible to conduct a qualitative evaluation. [sic] the study found that current fire/smoke coverages are fully available for Homeowners Insurance, that premiums may not increase as a result of the methods proposed in this report, and that there is no reason to expect a reduction in available coverages.”

NAMIC has deep reservations about this assertion. Will the Division, as the regulator of solvency, assert “premiums may not increase as a result of the methods proposed in this report” or speculate “there is no reason to expect a reduction in available coverages” when, as acknowledged in the draft study, the researchers have not conducted any meaningful research into the impacts of their recommendations?

“Given these parameters, the study found that these increased [sampling, testing and reporting] costs will be offset (perhaps completely) by increased claims handling efficiencies and accuracy, lower legal expenses/damages/related costs, and savings with ALE.”

Again, there is no citation, nor reference, nor hint of any authoritative source to give readers any indication that this is remotely accurate.

“This study finds that the proposed methods may not have an adverse impact on coverage availability or premium costs. The study concluded that increased initial costs are thought to be offset by improved efficiencies in administration of claims, fewer disputes, lower legal costs, less testing through the life of the claim, and shorter ALE durations. These savings areas, while not known in their full details, are understood to be substantial.”

NAMIC struggles to comprehend these assertions were made with, as best we can tell, no input from insurance experts at calculating such things. We would submit it is extremely difficult to determine whether savings are “substantial” when they are “not known in their full details.”

“As more information is developed on such things as COCs that may serve as surrogates for cleanup, state supported cleanup standards, and increased understanding of long-term health effects, it is expected these protocols may serve to lower potential insurance costs by bringing more certainty to the residential wildland/range and WUI fire cleanup process.”

We do not believe protocols can be expected to “lower potential insurance costs” when there is an admitted need for “more information [to be] developed on such things.”

The Draft Study Fails to Provide Confidence in Its Technical Recommendations

This lack of rigor – or at a minimum, a failure to cite sources and authorities – gives us little confidence that the scientific portions of the draft study are any more reliable. Borrowing from OSHA’s guidance in developing standards for residences while also conceding OSHA’s “prevue [sic] does not include homeowners or other non-employed individuals” (pg. 13) seems counterintuitive, even to the non-scientist or engineer. Moreover, the reliance on the Rocky Mountain Association of Public Insurance Adjusters’ “Fire Protocol” exacerbates these concerns. Using standards developed by those with a vested interest in the outcome in the use of the standards creates an inherent conflict of interest.

The Institute of Inspection Cleaning and Restoration Certification (IICRC)’s recent report increases NAMIC’s concerns. The IICRC is a non-profit organization led by a Board of industry leaders in the science and restoration space whose mission is to establish and advance globally recognized standards, credentials, and certifications for the inspection, cleaning and restoration industries. The IICRC, the Restoration Industry Association, and the Cleaning Industry Research Institute International published a Technical Guide for Wildfire Restoration V.2, which refutes many of the findings and conclusions in this draft study. Their report states:

“It has come to the attention of our organizations that a growing unfunded sentiment is emerging, suggesting that homes affected by wildfire smoke and its byproducts are categorically uncleanable and unrestorable. According to this viewpoint, wildfire damaged homes should be stripped down to the studs and rebuilt. This position is unsupported; it is not grounded in science, established work standards, or represented by the common, reasonably prudent and proven restoration practices utilized in the restoration community.”¹

The draft study further states:

“For structures that have not sustained direct flame, radiant heat damage, or hot turbulent smoke plume impact, restoration is overwhelmingly a matter of thorough and professional

¹ “Technical Guide for Wildfire Restoration V.2,” pg. 3. <https://bit.ly/3N3ICN1>

NAMIC's additional concerns regarding the technical aspects of the draft study include:

- Testing all homes where there is a “potential” of the presence of “chemicals of concern” regardless of the distance to the fire will result in an untold number of claims. According to the IICRC, the single most important factor in determining the scope of restoration is the property’s distance to the fire. Not only does the draft study not take into account the distance to the fire, the study explicitly states that it should not be a factor.

Why is distance to the fire important? Because beyond 0.6 to 6.2 miles from the fire, the smoke plume has cooled and heavier particles have fallen out. The primary impact over this distance is the infiltration of fine chemically aged particulate matter which are often non-damaging to most building materials and can be effectively removed.

- At certain distances, there may not even be smoke, but there could be an allegation that the property contains “chemicals of concern” that resulted from a wildfire. These properties could be hundreds of miles from the actual burn zone of a fire. According to the draft study, all “potential” losses must be tested to the exacting protocol which the study states may cost from \$12,520 to \$19,720. There could be thousands of homes that claim they had the potential to have “chemicals of concern” as a result of a wildfire, or any other fire. The cost of testing of these homes alone, prior to one dollar being paid for any actual damage, could dramatically impact the homeowners’ insurance industry. Please note that the actual cost of testing is likely to be significantly higher than the cost stated in the draft given the inevitable surge demand for testers and industrial hygienists after any wildfire event.
- The fire does not even need to be one that burns a significant number of homes, or even one that took place in Colorado. If a Canadian wildfire caused there to be hazy smoke over Colorado, the protocols of the draft study seem to indicate that anyone in the state could make a claim for smoke damage, given that there is a “potential” that “chemicals of concern” were deposited on their property. And if there were “chemicals of concern” in greater than 50% of the floor space, the protocols would require the home and all its contents to be totaled. This assumes that any area of a home that has any indication of a “chemical of concern” must be taken down to the studs and rebuilt. This ignores the opinions of the actual scientists and remediation experts that indicate that in most cases those homes can be effectively cleaned and remediated.
- The draft study acknowledges that many of these “chemicals of concern” already exist in most homes, due to reasons other than a fire. Off gassing of building material can cause chemicals of concern. Lighting a fire in a fireplace, a neighbor with a fire pit, a barbeque grill could all deposit “chemicals of concern.”

² “Technical Guide for Wildfire Restoration V.2,” pg. 4. <https://bit.ly/3N3ICN1>

- According to the draft study, “it can be assumed that many of the fire-related chemicals of concern also exist in homes that are unaffected by fires.” Yet, if there are chemicals of concern in 50% or more of the floor space in the house, the draft study states that the home and all contents must be totaled. To deal with the inevitability that these chemicals exist in almost all homes, the draft study recommends that background testing must be conducted to develop “Colorado specific residential background levels.” The draft leaves open how that will be accomplished or who will pay for that. It also does not indicate how those background levels will be determined. Given that we know that these chemicals exist in all homes, and that there are different reasons for why these chemicals exist (i.e., carpet, painting, floor stain, fireplaces, etc.), to be in any way meaningful, every house would need to be tested for background levels, as each home is unique. Moreover, the houses would need to be tested more than once. These background levels can change and a background level one day may be different the next week, month or year. Without having a background level just prior to the fire, any testing for these chemicals of concern, absent evidence of the fire — such as soot, char and ash — will be meaningless.

The Potential Impacts Upon the Colorado Insurance Marketplace Are Substantial

The challenges noted above are best encapsulated in Section 7.2, **Insurance Conclusions**, whereby the authors declare “the overall cost of insurance may decrease” if the draft study’s recommendations are adopted, then concluding as an afterthought “*we request comments from stakeholders on this potential recommendation*” (emphasis original). **NAMIC’s comment on this potential recommendation is to urge the Division and the authors to respectfully reconsider the conclusions pertaining to the impact these ideas will have on the marketplace.**

Homeowner insurers doing business in Colorado assume tremendous financial risks from a plethora of perils. Stewardship and solvency realities require insurers to remain sensitive to cost drivers which put upward pressure on rates and challenge the financial strength of insurers doing business in the state. Given that, NAMIC would point out there is a distinct – and critical – difference between being “biased to not pay for work that is outside of their policy coverages” (pg. 14) and being legally obligated to pay what is owed under the contract of insurance. Such assertions in the draft study signal a fundamental lack of understanding of how property insurance works.

Specifically, the premise that the protocols outlined in the draft study will somehow reduce insurance rates is not only fatally flawed but is the exact opposite of the likely impact the adoption of this study will have. As noted above, the number of homes that will likely have to be tested after a wildfire, even one that causes minimal to little damage, will as a result of these recommendations create substantial cost - potentially in the thousands, tens of thousands or even millions of dollars. Given that these “chemicals” can travel long distances and given that chemicals are already in most, if not all homes, the testing based on the “potential” that there might be a covered loss, regardless of distance, has the potential to exponentially drive loss ratios upward before one dime is paid for actual damages or remediation.

As opposed to the draft study conclusions that litigation will decrease, it is likely that litigation will explode. There will be disagreements as to who pays for the testing and whether a finding of chemicals was a result of the fire or was the result of background chemicals. There is likely to be a homeowner who claims their home - with no obvious signs of damage nor indication that the chemicals were from a wildfire - be totaled. And if the insurer does not agree, they may be subject to an unreasonable delay or claim denial.

If the draft study is adopted in its current state, the peril of wildfire will become far more challenging to insure. We are concerned this will further exacerbate affordability and availability concerns in the Colorado marketplace, which invariably means homeowners will increasingly look for insurance solutions in the surplus lines market or the Colorado FAIR plan.

Accordingly, NAMIC urges the Division to:

- Pause and reconsider the direction this draft study is going.
- Develop a new course, factoring in the impacts such recommendations will have on the marketplace.
- Report to the Legislature a full-spectrum analysis of the topic for further consideration.

NAMIC appreciates the opportunity to share this clarification. We hope you will reach out with any questions and we look forward to the December 18 stakeholder meeting on the same subject.

Sincerely,



Ward Tisdale
Regional Vice President – Southwest
National Association of Mutual Insurance Companies
wtisdale@namic.org