Harvey Rosenfield, SBN 123082
Pamela Pressley, SBN 180362
CONSUMER WATCHDOG
6330 San Vicente Blvd., Suite 250
Los Angeles, CA 90048
Tel. (310) 392-0522
Fax (310) 392-8874
harvey@consumerwatchdog.org
pam@consumerwatchdog.org

Attorneys for CONSUMER WATCHDOG

BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF CALIFORNIA

In the Matter of the Rulemaking Hearing re: Complete Property and Casualty Rate Applications.	File No.: REG-2019-00025 **CONSUMER WATCHDOG'S REQUEST FOR COMPENSATION**

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I. INTRODUCTION

Consumer Watchdog submits this Request for Compensation ("Request") pursuant to Insurance Code section 1861.10, subdivision (b), and the intervenor regulations, California Code of Regulations, title 10 ("10 CCR"), § 2661.1 et seq. in the above-captioned rulemaking proceeding before the California Department of Insurance ("CDI" or "Department").

Consumer Watchdog has long urged the Commissioner to amend the regulations to eliminate references to outdated rate application forms and adopt clear, unambiguous standards setting forth all information the Commissioner requires to be submitted with a complete rate application under section 1861.05(b) and to be made public under section 1861.07, including underwriting rules, in order to determine whether proposed rates and rules comply with Proposition 103. In many individual rate proceedings leading up to the initiation of this rulemaking, Consumer Watchdog has challenged insurers' failure to file a complete rate application, particularly when they attempt to shield models and related information, rating rules, and underwriting guidelines from public scrutiny. To address these issues, Consumer Watchdog's participation in this proceeding was aimed at ensuring that the proposed amendments would provide much-needed clarity and lead to a more efficient and effective public rate review process for consumers, the Department, and the insurance industry.

Consumer Watchdog participated in each phase of this rulemaking proceeding commencing with the notice of workshop issued in 2021 and including the formal rulemaking hearing held in 2024. At each stage of the proceeding, Consumer Watchdog was one of the only participants providing oral testimony and detailed written comments on behalf of consumers and policyholders, based on its unique experience in reviewing hundreds of rate applications and participating in over 150 rate proceedings over the last two decades. Through the oral testimony, written comments, and proposed drafts of regulatory language submitted by its advocates, Consumer Watchdog presented legal issues, evidence, and arguments in its oral and written comments regarding the proposed regulations that were separate and distinct from those raised by the other participants, especially the insurance industry representatives that attended, participated, and actively opposed or sought to weaken many of the consumer protections of the regulations, particularly with regard to information they seek to shield from public view. Consequently, the Commissioner had all this information provided by Consumer

Watchdog when making his decision to adopt the final regulations that would not have been available had Consumer Watchdog not participated. As a result, Consumer Watchdog substantially contributed to the Commissioner's adoption of the final regulations.

This Request for Compensation ("Request") seeks compensation in the amount of $81,312.00 for the substantial contribution made by Consumer Watchdog to the final regulations adopted by the Commissioner, including time spent preparing this request, through November 26, 2024. This Request is based on the facts and circumstances of this matter as summarized in Section III below and in the supporting exhibits, the record in this matter, and the accompanying Declaration of Pamela Pressley ("Pressley Decl."). In light of its substantial contribution and the time necessary to meaningfully participate in the proceedings, as discussed further below, the compensation sought by Consumer Watchdog is unquestionably reasonable.

II. CONSUMER WATCHDOG IS ELIGIBLE TO SEEK COMPENSATION IN THIS PROCEEDING AND ITS REQUEST IS TIMELY

The intervenor regulations provide, in part:

> A petitioner, intervenor or participant whose Petition to Intervene or Participate has been granted and who has been found eligible to seek compensation may submit to the Public Advisor, within 30 days after the service of the order, decision, regulation or other action of the Commissioner in the proceeding for which intervention was sought, or at the requesting petitioner's, intervenor's or participant's option, within 30 days after the conclusion of the entire proceeding, a request for an award of compensation.

(10 CCR § 2662.3(a).) Consumer Watchdog is a longtime participant and intervenor in Department proceedings and a nationally recognized consumer advocacy organization with particular expertise in the interpretation and implementation of Proposition 103. The Insurance Commissioner has found Consumer Watchdog eligible to seek compensation in departmental proceedings, pursuant to 10 CCR § 2662.2, for over thirty years—most recently on August 2, 2024. This determination is valid as of July 12, 2024 in proceedings commenced within two years and succeeded the prior determinations to the same effect issued by the Commissioner.[1] The Commissioner granted Consumer Watchdog's Amended Petition to Participate in this rulemaking proceeding on September 24, 2024. (Ruling

[1] Consumer Watchdog's current Finding of Eligibility succeeded prior determinations issued on July 26, 2022, effective as of July 12, 2022; August 25, 2020, effective as of July 12, 2020; July 12, 2018; July 14, 2016; July 24, 2014; July 24, 2012; July 2, 2010; August 25, 2008; July 14, 2006; July 2, 2004; June 20, 2002; October 1, 1997; September 26, 1995; September 27, 1994; and September 13, 1993.

Granting Consumer Watchdog's Amended Petition to Participate, Sept. 24, 2024, at 4; Exh. B hereto.) Thus, Consumer Watchdog is eligible to seek compensation in this matter.

Pursuant to 10 CCR § 2662.3, a request for an award of compensation is to be submitted "within 30 days after the service of the order, decision, regulation or other action of the Commissioner in the proceeding for which intervention was sought," or "within 30 days after the conclusion of the entire proceeding." (*Ibid*.) The regulation adopted in this proceeding was approved by the Office of Administrative Law ("OAL") and filed with the Secretary of State on October 8, 2024 and became effective on that date. (Pressley Decl., ¶ 28, Exh. 9.) On October 31, 2024, Consumer Watchdog contacted the Public Advisor to request an extension of 30 days, until December 9, 2024, to submit this Request. The extension was granted by the Public Advisor the following day. (Pressley Decl., ¶ 30, Exh. 10.) Therefore, this Request is timely pursuant to 10 CCR § 2662.3 and the granted extension.

III. STATEMENT OF FACTS AND PROCEDURAL HISTORY

Over the course of the last two decades, Consumer Watchdog has repeatedly called to the attention of the Commissioner and the CDI the delays in rate proceedings caused by insurance companies' failure to meet the "complete rate application" requirement of Proposition 103 (section 1861.05(b)), particularly when they attempt to shield models, rating rules, and underwriting guidelines from public scrutiny. Both in rate proceedings in which it has participated and this rulemaking proceeding, Consumer Watchdog has consistently advocated for regulatory amendments to provide much-needed clarity regarding the information that must be submitted and made public as part of a complete rate application with the end goal of a more efficient and effective public rate review process in which consumers and their representatives can effectively participate.

On February 23, 2021, the Commissioner issued an "Invitation to Workshop Regarding Amendments to Complete Rate Application Regulations" ("Invitation") to be held on April 6, 2021 seeking to provide "interested and affected persons an opportunity to present statements or comments regarding the contemplated regulation changes." (Pressley Decl., ¶ 16, Exh. 4.) The Invitation was accompanied by a draft of the text of the proposed regulatory changes, which included proposed changes to sections 2643.3, 2644.27, 2648.1, 2648.2, and 2648.4 of Title 10 of the California Code of Regulations ("February 23, 2021 Regulation Text"). (*Ibid.*)

In preparation for the workshop, Consumer Watchdog reviewed the proposed regulation amendments, consulted with its actuaries and other consumer advocates in developing proposed changes to clarify and strengthen the proposed regulations, and drafted its written comments to include both its overarching analysis of the need for the amendments, its analysis on the CDI's proposed regulation text, and specific proposed edits to each section. (Pressley Decl., ¶ 17.)

Consumer Watchdog's Senior Staff Attorney Pamela Pressley actively participated and provided oral comments at the April 6, 2021 workshop on behalf of Consumer Watchdog. (Pressley Decl., ¶ 18.) Ms. Pressley testified that in rate proceedings in which Consumer Watchdog has participated, when companies fail to file complete underwriting guidelines with their initial rate or rule applications or otherwise attempt to shield portions of their rating and eligibility criteria from public disclosure, consumers are deprived of their statutory right to a period of 45 days in which to review the complete application before the deadline to request a hearing under section 1861.05(c). And when consumers do file petitions for hearing to challenge to these violations, a vast amount of time and resources of the Department, consumer group petitioners, and insurers is consumed by fighting over whether the insurer will comply with public disclosure requirements in order to allow a complete review of the application. (*Ibid*.) Consumer Watchdog also recommended adding "models" used for determining rates, premiums, and eligibility to the items required to be submitted as part of a complete rate application under Section 2648.4, subdivisions (b) and (c). Insurers often claim that documentation relating to complex catastrophe models allowed under section 2644.4 for the earthquake line and fire following earthquake exposure in other lines and other models used to determine premiums and eligibility for homeowners insurance is proprietary and confidential. This precludes the Commissioner and the public's ability to fully evaluate whether the rates, premiums, and eligibility guidelines developed using such models comply with Proposition 103. (*Ibid*.)

Following the workshop, Consumer Watchdog submitted its final written comments to the Department. (Pressley Decl., ¶ 19, Exh. 5.)

As stated in the CDI's Invitation: "the Commissioner will consider public comments received in this workshop discussion as he contemplates regulatory changes that may be proposed in a Notice of Proposed Action." (Pressley Decl., ¶ 20, Exh. 4, p. 2.)

On February 9, 2024, CDI issued a "Notice of Proposed Action and Notice of Public Hearing on Complete Property and Casualty Rate Applications" ("Notice") to be held March 26, 2024. (Pressley Decl., ¶ 21, Exh. 6.) The Invitation was accompanied by an amended draft of the text of the proposed regulatory changes to sections 2643.3, 2644.27, 2648.1, 2648.2, and 2648.4 of Title 10 of the California Code of Regulations ("February 9, 2024 Regulation Text"). (*Ibid*.) The February 9, 2024 Regulation Text incorporated "models" into the items required to be submitted as part of a complete rate application in section 2648.4 as advocated by Consumer Watchdog. (*Ibid.*)

In preparation for the public rulemaking hearing, Consumer Watchdog reviewed the proposed regulation amendments, consulted with other consumer advocates, and drafted its written comments on the CDI's proposed February 9, 2024 Regulation Text, and presented section-by-section comments and proposed edits. (Pressley Decl., ¶ 22.)

On March 26, 2024, Consumer Watchdog's Senior Staff Attorney Pamela Pressley actively participated and provided oral testimony at the rulemaking hearing on behalf of Consumer Watchdog. (Pressley Decl., ¶ 23.)

Consumer Watchdog also submitted its written comments the same day. (Pressley Decl., ¶ 24, Exh. 7.)

These comments became part of the rulemaking record, as stated in the CDI's Notice: "under the California Public Records Act (Government Code Section 6250, et seq.), any written and oral comments . . . become part of the public record and can be released to the public upon request." (Pressley Decl., ¶ 25; Exh. 6 at p. 3.)

Consumer Watchdog was one of only two consumer groups that participated in the rulemaking hearing, and the only consumer group that provided specific provision-by-provision comments and proposed edits to the February 9 Regulation Text. (Pressley Decl., ¶ 26.)

On September 12, 2024, CDI submitted the final regulation and supporting file, including the Final Statement of Reasons incorporating the Department's Summary of and Response to Comments, to OAL. (Pressley Decl., ¶ 27, Exh. 8.)

In its Summary of and Response to Comments, the Department summarized and responded to each of Consumer Watchdog's comments, including comments supporting the regulation text and those

comments suggesting edits to make the regulation clearer and compliant with Prop 103. (Pressley Decl., ¶ 28, Exh. 8, pp. 29–51, 145–151.)

On October 8, 2024, the final regulation text and rulemaking record was filed by OAL with the Secretary of State with an effective date of October 8, 2024. (Pressley Decl., ¶ 29, Exh. 9.)

IV. CONSUMER WATCHDOG IS ENTITLED TO AN AWARD OF ITS REASONABLE ADOVACY FEES AND EXPENSES

A. Consumer Watchdog Made a Substantial Contribution to the Commissioner's Final Decision.

To encourage full public participation in insurance proceedings before the Department and the courts, Proposition 103 requires awards of reasonable advocacy and witness fees and expenses for persons who represent the interests of consumers and who make a "substantial contribution" to decisions or orders by the Commissioner or a court. Insurance Code section 1861.10(b), states:

> The commissioner or a court shall award reasonable advocacy and witness fees and expenses to any person who demonstrates that (1) the person represents the interests of consumers, and, (2) that he or she has made a substantial contribution to the adoption of any order, regulation or decision by the commissioner or a court.

(emphasis added.) As the emphasized language makes clear, when the statutory criteria are met, an award of reasonable advocacy fees and expenses is mandatory. This provision affords insurance consumers the ability to have their interests represented on an equal basis with the interests of insurers and promotes consumer participation in the enforcement of Proposition 103. (See *Econ. Empowerment Found. v. Quackenbush* ("*EEF*") (1997) 57 Cal.App.4th 677, 686 [the purpose of intervenor fees is to encourage consumer participation].) Per the voters' instruction, the mandate of section 1861.10(b), like all of the provisions of Proposition 103, must be "liberally construed and applied in order to fully promote its underlying purposes." (Prop. 103, § 8.) Thus, the courts have held that section 1861.10(b) should be applied in a manner "which best facilitates compensation." (*EEF*, *supra*, 57 Cal.App.4th at 686.)

As the Court of Appeal held in *State Farm General Insurance Company v. Lara* (*SFG*) (2021) 71 Cal.App.5th 197, a party's entitlement to fees under section 1861.10(a) "requires a significant, distinct contribution, but not more" (*id*. at 214), as Proposition 103's fee statute "was intended to encourage consumer participation more broadly" than other fee schemes. (*Id*. at 216.)

Regulations promulgated by the Commissioner provide guidance for the determination of whether consumer representatives made a "substantial contribution" in departmental proceedings. The regulations provide as follows:

> "Substantial Contribution" means that the intervenor substantially contributed, as a whole, to a decision, order, regulation, or other action of the Commissioner by presenting relevant issues, evidence, or arguments which were separate and distinct from those emphasized by the Department of Insurance staff or any other party, such that ***the intervenor's participation resulted in more relevant, credible, and non-frivolous information being available for the Commissioner to make his or her decision than would have been available to a Commissioner had the intervenor not participated.*** A substantial contribution may be demonstrated without regard to whether a petition for hearing is granted or denied.

(10 CCR § 2661.1(k), emphasis added.)

The detailed summary of this proceeding presented in section III above, the accompanying Pressley Declaration, and the record in this proceeding make clear that Consumer Watchdog has met the substantial contribution requirement. CWD's counsel are veterans of over a hundred administrative proceedings concerning Proposition 103 since the law's passage, including rate, rulemaking, noncompliance, and primary jurisdiction proceedings to enforce its provisions. They have also litigated challenges to Proposition 103 in the civil courts and participated in all the cases that led to landmark judicial decisions.

Consumer Watchdog's substantial contribution in this rulemaking proceeding, as detailed in section III above and in the accompanying Pressley Declaration and further evidenced by the record in this matter, is demonstrated by at least the following:

- participating in and providing testimony at the Department's April 2021 workshop regarding the Department's proposed February 23, 2021 Regulation Text from Consumer Watchdog's unique perspective as an intervenor in over 150 rate proceedings, including discussion of the impact of insurers' failure to file complete applications and proposed changes to add clarity and consistency to the regulation text;
- submitting detailed written comments and section-by-section proposed edits on the Department's February 23, 2021 Regulation Text (Pressley Decl., Exh. 5); Consumer Watchdog was the only participant to advocate that models be included in the enumerated information required to be submitted as part of a complete rate application, and this amendment was adopted in the

Department's February 9, 2024 Regulation Text;

- participating in and providing testimony at the March 26, 2024 public hearing regarding the CDI's proposed regulations; Consumer Watchdog was one of only two consumer groups that participated in the rulemaking hearing, and the only consumer group that provided specific provision-by-provision comments and proposed edits to the February 9, 2024 Regulation Text; and
- submitting detailed written comments and proposed edits on the Department's February 9, 2024 Regulation Text. (Pressley Decl., Exh. 7.)

In sum, Consumer Watchdog's separate and distinct presentation of relevant issues, evidence, and arguments provided in written and oral comments of its attorneys resulted in more relevant, credible, and non-frivolous information being available to the Commissioner in making his final decision adopting the final regulations than if Consumer Watchdog had not participated. In contrast to the insurance industry's comments, Consumer Watchdog provided comments supporting the necessity of the regulation and proposed amendments to strengthen its requirements. Regardless of whether the CDI agreed with or adopted Consumer Watchdog's positions and proposed changes, the Commissioner had this information available, in counterbalance to the industry's comments, in determining to adopt the final text of the regulation. Thus, Consumer Watchdog clearly meets the "substantial contribution" requirement as set forth in the regulations.

B. Consumer Watchdog's Requested Fees Are Reasonable.

When a consumer representative makes a "substantial contribution," as here, Insurance Code section 1861.10(b) requires payment of all of a consumer representative's "reasonable advocacy and witness fees and expenses." (Emphasis added.) As *SFG* held, "section 1861.10(b) requires only that advocacy fees be 'reasonable,' within the usual meaning of the term in the fees context: fair and appropriate under the circumstances." (*SFG*, *supra*, 71 Cal.App.5th at 218.) That means, in general, parties "who qualify for a fee should recover compensation for all the hours reasonably spent." (*Ibid*., quotations omitted.) Indeed, *SFG* recognizes that "California law requires that attorney fee awards be 'fully compensatory'" (*ibid*., quoting *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1133), and that permitting "recovery of all reasonable fees" under section 1861.10(b) supports Proposition 103's

consumer participation purposes "by encouraging intervention in the first place and ensuring intervenors can vigorously represent consumers once involved" (*id.* at 219).

For its substantial contribution, Consumer Watchdog requests reasonable advocacy fees in the amount of $81,312.00 for the work of its advocates Harvey Rosenfield and Pamela Pressley. The requested fees, including the total hours of work performed, and the hourly rates of each Consumer Watchdog attorney are summarized in the attached Exhibit A, "Summary of Fees." The procedural history of this matter set forth in section III above and supported by the Pressley Declaration demonstrates the reasonableness of the compensation requested in light of the amount of work performed.

As required by the regulations, the specific tasks performed by Consumer Watchdog's attorneys are set forth in its detailed time records attached as Exhibit 1a to the Pressley Declaration. (See Pressley Decl., ¶ 3 & Exh. 1a.) These time records were maintained contemporaneously and reflect the actual time spent and actual work performed, billed to the tenth of an hour, by all Consumer Watchdog staff who worked on this matter. (Pressley Decl., ¶ 6.) In preparing their respective time records for this request, Consumer Watchdog's staff exercised billing judgment and eliminated time entries where appropriate. (Pressley Decl., ¶ 5.) Consumer Watchdog submits that the time expended and work performed in the proceeding, as reflected in the time records, was reasonable and appropriate, and was necessary to represent the interests of consumers in this proceeding. (*Ibid.*)

The 2024 hourly rates of Consumer Watchdog's counsel set forth in Exhibit A are also eminently reasonable and are actually substantially lower than prevailing market rates. The intervenor regulations specify, "[t]he compensation awarded ***shall equal*** the market rate of the services provided." (10 CCR § 2662.6(b), emphasis added.) "Market rate" is defined as the "prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas ***at the time of the Commissioner's decision awarding compensation for attorney advocates***, non-attorney advocates, or experts with similar experience, skill and ability." (10 CCR § 2661.1(c)(1), emphasis added.)

The qualifications and experience of Consumer Watchdog's attorneys who performed work in this matter, Pamela Pressley and Harvey Rosenfield, are summarized in the Pressley Declaration. (Pressley Decl., ¶¶ 9–14.) The Declaration of Richard M. Pearl ("Pearl Decl."), attached as Exhibit 2 to

the Pressley Declaration, confirms that the requested rates for Consumer Watchdog's counsel are consistent with, if not below, prevailing market rates.[2] Mr. Pearl is a recognized expert on attorneys' fees issues under California law. (See Pressley Decl., Exh. 2 [Pearl Decl.], ¶¶ 3–9.) The Pearl Declaration shows that Consumer Watchdog counsel's 2024 rates are well within, if not below, the range of non-contingent rates charged by California attorneys in the Los Angeles area of equivalent experience, skill, and expertise for comparable services. (See *id.*, ¶¶ 10–19.) The Commissioner has also approved fee awards for Consumer Watchdog based on the same hourly rates that Consumer Watchdog's legal staff is currently using in 2024 for work done in 2020–2023. (Pressley Decl., ¶ 7.)

Finally, this Request also includes the time expended preparing the instant Request for Compensation. This is also reasonable because the regulations permit reimbursement for preparation of a request for an award of compensation. (10 CCR § 2661.1(d).) Preparing such a request requires the intervenor to perform a comprehensive review of the record, review the regulations, cite to the record in this proceeding, review billing and expense records, and prepare the Request and supporting documents.

V. CONCLUSION

Consumer Watchdog respectfully requests that the Insurance Commissioner award it compensation for its substantial contribution to the final regulations adopted in the above-referenced proceeding through November 26, 2024 in the amount of $81,312.00.

DATED: November 27, 2024

Respectfully submitted,
Harvey Rosenfield
Pamela Pressley

CONSUMER WATCHDOG

By: Pamela Pressley
Pamela Pressley
Attorneys CONSUMER WATCHDOG

[2] The Pearl Declaration was filed on April 15, 2022 in connection with a State Farm writ matter arising out of a rate proceeding and is equally applicable to this proceeding, given that Consumer Watchdog's 2022 rates are within the range of rates considered reasonable for attorneys with comparable experience at that time.

VERIFICATION OF PAMELA PRESSLEY

1. I am Senior Staff Attorney for Consumer Watchdog. If called as a witness, I could and would testify competently to the facts stated in this verification.

2. I personally oversaw the preparation of the attached pleading entitled "Consumer Watchdog's Request for Compensation" filed in these proceedings.

3. All of the factual matters alleged therein are true of my own personal knowledge, or I believe them to be true based upon the information available to me from Consumer Watchdog's files regarding these proceedings.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 27, 2024 at Los Angeles, California.

Pamela Pressley

Pamela Pressley

EXHIBIT A

EXHIBIT A

SUMMARY OF FEES AND EXPENSES

File No. REG-2019-00025

ITEMS	**COST**
Consumer Watchdog's Fees	
(Detailed in billing records attached as Exhibit 1a to Pressley Decl.)	
Harvey Rosenfield @ $695 per hour, 30.1 hours	$20,919.50
Pamela Pressley @ $595 per hour, 101.5 hours	$60,392.50
TOTAL ADVOCACY FEES AND WITNESS FEES:	**$81,312.00**

EXHIBIT B

BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF CALIFORNIA

In the Matter of the Petition to Participate of CONSUMER WATCHDOG, Petitioner.	Intervenor Participation File # IP-2024-00012 ORDER GRANTING CONSUMER WATCHDOG'S AMENDED PETITION TO PARTICIPATE in the Proposed Regulatory Action Regarding Complete Property and Casualty Rate Applications Regulatory File #: REG-2019-00025

As set forth below, the California Insurance Commissioner Ricardo Lara (Commissioner) grants Petitioner Consumer Watchdog's (Petitioner) Amended Petition to Participate and Notice of Intent to Seek Compensation (Amended Petition) in the above proceeding concerning the Proposed Regulatory Action regarding Complete Property and Casualty Rate Applications.

I. APPLICABLE LAW

In November 1988, California voters approved Proposition 103, which made changes in the regulation of automobile insurance, as well as the approval of premium rates for property and casualty lines of insurance in California. (Ins. Code §§ 1861.01, et seq.) Proposition 103 also allows for public participation through consumer intervention. (Ins. Code § 1861.10.) The Commissioner has implemented Proposition 103's statutory provisions concerning consumer participation through regulations. (California Code of Regulations, Title 10, §§ 2661.1, et seq.) Cal. Code Regs. § 2661.2, permits intervention if the intervenor's issues are relevant to the issues of the proceeding:

> Any person shall be permitted to intervene in any proceeding on any rate application or in any proceeding subject to Chapter 9 of Part 2 of Division 1 of the California Insurance Code if the issues to be raised by the intervenor or participant are relevant to the issues of the proceeding…

Intervenors may be awarded with reasonable advocacy fees if they demonstrate they (1) represent the interests of consumers, and (2) have made a substantial contribution to the adoption of "any order, regulation or decision" by the commissioner. (Ins. Code § 1861.10.)

II. RELEVANT PROCEDURAL HISTORY

On or about April 6, 2021, the Commissioner held a workshop concerning complete property and casualty insurance rate applications.

On February 9, 2024, the Commissioner issued a Notice of Proposed Action and Notice of Public Hearing concerning regulatory amendments specifying what data should be initially included in a complete rate application. The Commissioner held the public hearing on March 26, 2024.

On July 18, 2024, the Petitioner submitted its verified Petition to Participate, and Notice of Intent to Seek Compensation (Petition). The Petition asserted, among other things, the regulatory amendments must (A) include all criteria, guidelines, systems, manuals, models, and algorithms an insurer uses to accept, examine, inspect, cancel, non-renew, reunderwrite, or rate a risk or to modify coverage options as part of a complete rate application, (B) establish clear guidelines for what information must be submitted and made public in accordance with sections 1861.05(b) and 1861.07, and (C) remove references to certain outdated rate application forms and exhibits, while retaining or incorporating by reference a baseline set of exhibits and data required for a complete rate application. (Petition, pp. 3-4.) The Petition included comments and proposed amendments to CDI's February 9, 2024 proposed regulation text. (Petition, Exh. B.) The Petition stated Petitioner's "participation in these proceedings *did not* unreasonably delay these proceedings or any other proceedings before the Insurance Commissioner." (Petition at p. 5, emphasis added.) The Petition cited Insurance Code section 1861.10, subdivision (a) and Cal. Code Regs. sections 2661.2 and 2661.4 as authority for intervention. (Petition, p. 5.) The Petition directed attention to the portions of the Insurance Code that authorize intervention in "any proceeding permitted or established pursuant to this chapter" and to "enforce any provision of this article." (See *Ibid.*) "Specifically . . . Consumer Watchdog seeks to participate in this rulemaking proceeding to enforce Insurance Code sections 1861.05(a) and 1861.07 and 10 CCR § 2632.1 et seq." (*Ibid.*) The Petition further stated it intended to seek compensation in this proceeding and

submitted its Preliminary Budget for purposes of participation in the total sum of $104,200. (Petition, Exh. A.)

On August 26, 2024, the Commissioner issued the Order Denying Consumer Watchdog's Petition to Participate ("Order"). The Order found that the Petition failed to accurately affirm the statement required by 10 CCR section 2661.3(b). (Order, p. 3.) The Order further found the Petition failed to establish that enforcement of Proposition 103 was a cognizable authority for intervention in this proceeding. (*Ibid.*) The Order noted that Petitioner's preliminary budget for a matter of this type appeared remarkably high and invited Petitioner to reconsider the amounts of the preliminary budget. (*Ibid.*) The Order denied the Petition with leave to amend. (*Id.* at 3.)

On September 9, 2024, the Petitioner submitted the Petition to Amend Its Petition to Participate (Petition to Amend), and Amended Petition to Participate and Notice of Intent to Seek Compensation (Amended Petition). The Amended Petition makes changes to comply with 10 CCR section 2661.3(b), but the Petition to Amend complains that enforcing the language of 10 CCR section 2661.3(b) constitutes "a hyper-technical interpretation of the regulation in order to discourage or deny Consumer Watchdog's right of public participation under Proposition 103." (Petition to Amend, p. 3; Amended Petition, p. 5.) Petitioner also makes amendments to the alleged authority for intervention. (Petition to Amend, p. 4; Amended Petition, p. 5.) Petitioner does not seem to dispute the Order's observation that Petitioner's preliminary budget appears remarkably high, but instead urges that the amount of estimated costs disclosed in a preliminary budget cannot serve as a ground for denying intervention. (Petition to Amend, p. 5.)

III. FINDINGS

The Amended Petition meets the requirements set forth in Cal. Code Regs. §§ 2652.1 through 2652.3, inclusive.

The Commissioner finds 10 CCR section 2661.3(b) unambiguously requires here that a participant state it "will" participate "without delaying" any proceeding before the Commissioner. (See Cal. Code Regs., §§ 2661.4 [incorporating § 2661.3(b)], 2652.4.) To the extent the Petition to Amend may be understood to argue the Commissioner should excuse Petitioner's noncompliance with section 2661.3(b) to preserve Petitioner's right of participation, the

Commissioner finds Petitioner has failed to provide any evidence supporting an alleged infringement upon its rights, and rejects Petitioner's legal argument as contrary to law. Insofar as the Amended Petition does attempt to come into compliance with 10 CCR section 2661.3(b), the Commissioner finds the Amended Petition correctly states the affirmation required by 10 CCR section 2661.3(b).

The Petition complies with Cal. Code Regs. § 2661.4.

IV. ORDER

1. For the foregoing reasons, Petitioner's Amended Petition to Intervene is **Granted**. Intervention is granted consistent with section III, *supra*, of this Order.

2. This Order Granting the Amended Petition to Intervene is based on facts presently before the Commissioner. The relevance of the specific issues raised in the Petition and the specific issues on which Petitioner is specifically authorized to intervene may be impacted by evidence deduced during the course of these proceedings and any further pleadings, including any amended pleading filed by the Department. Any disputes concerning the continued relevance of specific issues may be raised by the trier of fact and/or any party.

3. This Ruling Granting the Amended Petition to Intervene does not ensure compensation or compensation at the rates sought. Petitioner must show substantial contribution to the proceedings and document and substantiate the hourly rate being sought in the Request for Compensation, including but not limited to, the attorneys' hourly rate and the reasonableness of the fees and expenses, before compensation will be awarded. In order to receive compensation in this matter, Petitioner must comply with all of the relevant provisions of Insurance Code section 1861.10 and 10 CCR sections 2661.1, et seq. A separate Decision regarding compensation, if any, will be issued on the basis of Petitioner's substantial contribution to the proceeding.

Dated: September 24, 2024

RICARDO LARA
Insurance Commissioner

By _____
Lucy Wang
Deputy Commissioner and Special Counsel

PROOF OF SERVICE
In the Matter of the Petition to Participate of
CONSUMER WATCHDOG,
Petitioner
Case No. IP-2024-00012

I am over the age of eighteen years and am not a party to the within action. I am an employee of the Department of Insurance, State of California, employed at 1901 Harrison Street, 4th Floor, Oakland, California 94612. On September 24, 2024, I served the following document(s):

ORDER GRANTINGING CONSUMER WATCHDOG'S AMENDED PETITION TO PARTICIPATE in the Proposed Regulatory Action Regarding Complete Property and Casualty Rate Applications - Regulatory File #: REG-2019-00025

on all persons named on the attached Service List, by the method of service indicated, as follows:

If **U.S. MAIL** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for mailing by U.S. Mail. Under that practice, outgoing items are deposited, in the ordinary course of business, with the U.S. Postal Service on that same day, with postage fully prepaid, in the city of Oakland and the county of Alameda, California.

If **OVERNIGHT SERVICE** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items for overnight delivery, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for overnight delivery. Under that practice, outgoing items are deposited, in the ordinary course of business, with an authorized courier or a facility regularly maintained by one of the following overnight services in the city of Oakland and the county of Alameda, California: Express Mail, UPS, Federal Express, or Golden State overnight service, with an active account number shown for payment.

If **FAX SERVICE** is indicated, by facsimile transmission this date to fax number stated for the person(s) so marked.

If **PERSONAL SERVICE** is indicated, by hand delivery this date.

If **INTRA-AGENCY MAIL** is indicated, by placing this date in a place designated for collection for delivery by Department of Insurance intra-agency mail.

If **EMAIL** is indicated, by electronic mail transmission this date to the email address(es) listed.

Executed this date at Oakland, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Christine Warren

SERVICE LIST
In the Matter of the Petition to Participate of
CONSUMER WATCHDOG, Petitioner
Case No. IP-2024-00012

Name/Address	Phone/Fax Numbers	Method of Service
Harvey Rosenfield Pamela Pressley CONSUMER WATCHDOG 6440 San Vicente Blvd, Suite 250 Los Angeles, CA 90048 harvey@consumerwatchdog.org pam@consumerwatchdog.org	Tel: (310) 392-0522 Fax: (310) 861-0862	Via EMAIL
Lisbeth Landsman-Smith Rate Enforcement Bureau CALIFORNIA DEPARTMENT OF INSURANCE 300 Capitol Mall, 17th Floor Sacramento, CA 95814 Lisbeth.Landsman@insurance.ca.gov Nikki.McKennedy@insurance.ca.gov	Tel: (916) 492-3561 Fax: (510) 238-7830	Via EMAIL
Elsa Carre Rate Enforcement Bureau CALIFORNIA DEPARTMENT OF INSURANCE 1901 Harrison Street, 4th Floor Oakland, CA 94612 Elsa.Carre@insurance.ca.gov	Tel: (415) 538-4461 Fax: (510) 238-7830	Via EMAIL
Richard Holober Douglas Heller CONSUMER FEDERATION OF CALIFORNIA EDUCATION FOUNDATION 273 Delmar Way San Mateo, CA 94403 holober@consumercal.org douglassheller@ymail.com	Tel: (650) 307-7033 Fax: N/A	Via EMAIL

PROOF OF SERVICE
BY OVERNIGHT OR U.S. MAIL, FAX TRANSMISSION,
EMAIL TRANSMISSION AND/OR PERSONAL SERVICE

State of California, City of Los Angeles, County of Los Angeles

I am employed in the City and County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 6330 South San Vicente Boulevard, Suite 250, Los Angeles, California 90048, and I am employed in the city and county where this service is occurring.

On November 27, 2024, I caused service of true and correct copies of the document entitled

CONSUMER WATCHDOG'S REQUEST FOR COMPENSATION

upon the persons named in the attached service list, in the following manner:

1. If marked FAX SERVICE, by facsimile transmission this date to the FAX number stated to the person(s) named.

2. If marked EMAIL, by electronic mail transmission this date to the email address stated.

3. If marked U.S. MAIL or OVERNIGHT or HAND DELIVERED, by placing this date for collection for regular or overnight mailing true copies of the within document in sealed envelopes, addressed to each of the persons so listed. I am readily familiar with the regular practice of collection and processing of correspondence for mailing of U.S. Mail and for sending of Overnight mail. If mailed by U.S. Mail, these envelopes would be deposited this day in the ordinary course of business with the U.S. Postal Service. If mailed Overnight, these envelopes would be deposited this day in a box or other facility regularly maintained by the express service carrier, or delivered this day to an authorized courier or driver authorized by the express service carrier to receive documents, in the ordinary course of business, fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 27, 2024 at Los Angeles, California.



Kaitlyn Gentile

Service List

Nikki McKennedy Lisbeth Landsman-Smith Elsa Carre Rate Enforcement Bureau **California Department of Insurance** 1901 Harrison Street, 6th Floor Oakland, CA 94612 Tel. (415) 538-4500 Fax (510) 238-7830 Nikki.McKennedy@insurance.ca.gov Lisbeth.Landsman@insurance.ca.gov Elsa.Carre@insurance.ca.gov	☐ FAX ☐ U.S. MAIL ☐ OVERNIGHT MAIL ☐ HAND DELIVERED ☒ EMAIL
Margaret Hosel Public Advisor Tina Warren Office of the Public Advisor **California Department of Insurance** 300 Capitol Mall, 17th Floor Sacramento, CA 95814 Tel. (916) 492-3705 Fax (510) 238-7830 Margaret.Hosel@insurance.ca.gov Tina.Warren@insurance.ca.gov	☐ FAX ☐ U.S. MAIL ☐ OVERNIGHT MAIL ☐ HAND DELIVERED ☒ EMAIL

Harvey Rosenfield, SBN 123082
Pamela Pressley, SBN 180362
CONSUMER WATCHDOG
6330 San Vicente Blvd., Suite 250
Los Angeles, CA 90048
Tel. (310) 392-0522
Fax (310) 392-8874
harvey@consumerwatchdog.org
pam@consumerwatchdog.org

Attorneys for CONSUMER WATCHDOG

BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF CALIFORNIA

In the Matter of the Rulemaking Hearing re: Complete Property and Casualty Rate Applications.	File No.: REG-2019-00025 **DECLARATION OF PAMELA PRESSLEY IN SUPPORT OF CONSUMER WATCHDOG'S REQUEST FOR COMPENSATION**

I, Pamela Pressley, declare:

1. I am over eighteen years of age and Senior Staff Attorney for participant Consumer Watchdog. This declaration is submitted in support of Consumer Watchdog's Request for Compensation in the above-captioned rulemaking proceeding. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would testify competently to the facts stated herein.

2. Consumer Watchdog is a nonprofit, tax-exempt consumer research, education, litigation, and advocacy organization. Consumer Watchdog advocates on behalf of consumers before regulatory agencies, the Legislature, and the courts.

Consumer Watchdog's Billed Hours and Hourly Rates Are Reasonable and in Compliance with the Regulations.

3. Attached as Exhibit 1a are true and correct printouts of detailed time billing reports showing the tasks performed and hours expended by each Consumer Watchdog attorney in this rulemaking proceeding, including Pamela Pressley and Harvey Rosenfield.[1]

4. As a nonprofit, public interest organization, Consumer Watchdog conducts its education and advocacy efforts as a public interest service. Therefore, consistent with the decisions of the California Supreme Court and the United States Supreme Court and the intervenor regulations applicable to this proceeding (see 10 CCR § 2661.1(c)), Consumer Watchdog's policy is to seek prevailing market rates in all fee award applications. Consumer Watchdog has consistently been awarded prevailing market hourly rates in fee awards by the Commissioner and the courts.

5. I have reviewed Consumer Watchdog's time billing records and believe that the hours and fees listed were necessary and reasonable. In preparing their respective time records for this submission, Consumer Watchdog's attorneys exercised billing judgment by eliminating time entries where appropriate. The time expended and work performed in the proceeding for which Consumer Watchdog seeks compensation, as reflected in the time records, was reasonable and appropriate, and the minimum required to effectively participate in the proceeding.

[1] Pursuant to a prior request of the Public Advisor, attached as Exhibit 1b is a list of all persons identified in the billing reports.

6. Based upon Consumer Watchdog's time billing reports attached hereto as Exhibit 1a, after eliminating time entries as noted above, Consumer Watchdog's attorneys have incurred 131.6 hours in this proceeding through November 26, 2024. The billing reports detail the tasks performed, are based on contemporaneous daily time records maintained by Consumer Watchdog's attorneys, and are billed in tenth-of-an-hour increments.

7. The 2024 hourly rates sought by Consumer Watchdog for its attorneys are $595 for Pamela Pressley and $695 for Harvey Rosenfield. The hourly rates for Consumer Watchdog attorneys who worked on the proceeding are consistent with the prevailing market rates for attorneys of similar experience, qualifications, and expertise in insurance regulatory law. The Commissioner has issued decisions in 2021–2024 awarding fees to Consumer Watchdog based on the same hourly rates Consumer Watchdog's legal staff is currently using in 2024 for work done in 2020–2023 (e.g., Decision Awarding Compensation, Oct. 18, 2024, *In the Matter of the Rate Applications of Farmers Insurance Exchange, Mid-Century Insurance Company, and Truck Insurance Exchange*, File No. PA-2023-00022, pp. 14–15 [attached hereto as Exh. 3]; Decision Awarding Compensation, July 12, 2023, *In the Matter of the Rate Applications of Farmers Insurance Exchange, Fire Insurance Exchange, and Mid-Century Insurance Company*, File No. PA-2022-00007, p. 16; Decision Awarding Compensation, Oct. 6, 2021, *In the Matter of the Rate Applications of Farmers Insurance Exchange, Fire Insurance Exchange, and Mid-Century Insurance Company*, File No. PA-2020-00006, p. 10; Decision Awarding Compensation, Feb. 14, 2022, *In the Matter of the Rate Application of Homesite Insurance Company of California*, File No. PA-2020-00003, p. 9; Decision Awarding Compensation, Feb. 16, 2022, *In the Matter of the New Program Applications of Farmers Insurance Exchange and Fire Insurance Exchange*, File No. PA-2020-00004, p. 9.) Consumer Watchdog arrived at the hourly rates of its attorneys and paralegal based on the experience and qualifications of its attorneys, information obtained from other attorneys working at several reputable law firms in Los Angeles and San Francisco, the opinion of attorneys' fees expert Richard M. Pearl, and historical rates awarded or paid for Consumer Watchdog attorneys' professional services in civil and administrative proceedings. Mr. Pearl is a recognized expert on attorneys' fees

issues in the California market.[2] His attached declaration evidences the reasonableness of Consumer Watchdog's hourly rates. (See Exh. 2, Declaration of Richard M. Pearl in Support of Intervenor Consumer Watchdog's Motion for Attorneys' Fees and Expenses ["Pearl Decl.], ¶¶ 10–19.)[3] In his declaration, Mr. Pearl concludes that Consumer Watchdog's rates are "well within, if not below, the range of non-contingent market rates charged by comparably qualified Los Angeles Area attorneys for reasonably similar work." (Pearl Decl., ¶ 19.) Mr. Pearl's declaration contains substantial details on attorneys' fees and hourly rates and shows that Consumer Watchdog's 2024 rates are within the market rates charged by attorneys with similar experience level and skill.

8. In this proceeding, Consumer Watchdog attorneys performed the following general tasks:

- Reviewed the CDI's February 23, 2021 and February 9, 2024 proposed draft regulations and consulted with its actuaries and other consumer advocates in developing proposed changes to clarify and strengthen the proposed regulations;
- Drafted and provided oral and written comments on the Department's February 23, 2021 proposed Regulation Text in connection with the public workshop held in April 2021;
- Drafted and provided oral testimony and written comments at the March 2024 public rulemaking hearing regarding the Department's February 9, 2024 Proposed Regulation Text; and
- Drafted, reviewed, and edited Consumer Watchdog's Request for Compensation ("Request"), including this supporting declaration and exhibits.

Harvey Rosenfield

9. Harvey Rosenfield is the author of Proposition 103, the insurance reform initiative enacted by the voters on November 8, 1988. He is also the founder of, and presently counsel to,

[2] Richard M. Pearl is the author of the Continuing Education of the Bar's treatise on attorneys' fees in California.

[3] The Pearl Declaration was filed on April 15, 2022 in connection with a State Farm writ matter arising out of a rate proceeding and is equally applicable to this proceeding, given that Consumer Watchdog's 2024 rates are within the range of rates considered reasonable for attorneys with comparable experience at that time.

Consumer Watchdog.[4] He is an attorney with over 45 years of experience in insurance regulatory and litigation matters. As discussed in greater detail below, he has participated in every major lawsuit to enforce the initiative's provisions, including *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216, *Amwest Surety Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243, *Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473, *Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968, *The Foundation for Taxpayer and Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th 1354, *Association of California Insurance Companies v. Poizner* (2009) 180 Cal.App.4th 1029, *Mercury Casualty Company v. Jones* (2017) 8 Cal.App.5th 561, and *Mercury Ins. Co. v. Lara* (2019) 35 Cal.App.5th 82, among others.

10. Mr. Rosenfield has represented Consumer Watchdog as counsel to provide his expertise in numerous insurance matters before the courts and administrative agencies on behalf of Consumer Watchdog. Notable instances include:

a. *In the Matter of the Rating Practices of Farmers Insurance Exchange and Mid-Century Insurance Company*, CDI File No: NC-2017-00003, a formal inquiry initiated by the Insurance Commissioner, on its own motion and in response to a request by the Los Angeles Superior Court in *Harris et al. v. Farmers Ins. Exchange and Mid-Century Ins. Co.* (Case No. BC579498), into allegations that Farmers had engaged in price optimization in violation of Proposition 103. The CDI inquiry was terminated in 2020, prior to the scheduled evidentiary hearing, as a result of a settlement between the two parties in that civil action.

b. *Villanueva v. Fidelity Nat'l Title Co.*, No. S252035 (Cal. Sup. Ct., filed Oct. 17, 2018), in which he represented Consumer Watchdog, Consumer Federation of America, and Consumer Federation of California as amicus curiae. This case concerned whether California consumers have the right to hold title insurance companies accountable for overcharges and other wrongdoing under Insurance Code section 12414.26. While Proposition 103 does not apply to title insurance, the Court of Appeal erred in relying on two appellate cases that incorrectly concluded that there is no private right of action under Proposition 103. In a March 18, 2021 published Opinion, the California Supreme Court

[4] The organization was previously known as the Foundation for Taxpayer and Consumer Rights.

agreed with positions taken by amici Consumer Watchdog, et. al. to reverse the Court of Appeal's judgment and remand for further proceedings.

c. *Mercury Insurance Company v. Lara* (2019) 35 Cal.App.5th 82, in which he joined me to successfully defend against a petition for writ of mandate by Mercury, resulting in the Court of Appeal upholding a $27.6 million civil penalty against Mercury for violations of Proposition 103's prior approval requirement and its prohibition against unfair rate discrimination (Insurance Code sections 1861.01 and 1861.05).

d. *Mercury Casualty Company v. Jones* (2017) 8 Cal.App.5th 561, in which he joined me in representing Consumer Watchdog as Intervenor to successfully defend against petitions for writ of mandate by Mercury and insurance trade associations seeking to vacate the Commissioner's decision ordering Mercury to lower its homeowner rates, and challenging the Commissioner's application and interpretation of the Proposition 103 prior approval regulations.

e. *In the Matter of the Rate Application of State Farm General Insurance Company*, File No. PA-2015-00004, an administrative proceeding before the Department which resulted in an order requiring State Farm to lower its homeowners' rates overall by 7%, saving consumers $78.6 million, and issue an additional $110 million in refunds. (The administrative orders in that matter are presently on appeal.)

f. *Association of California Insurance Companies v. Poizner* (2009) 180 Cal.App.4th 1029, in which he joined me in representing Consumer Watchdog as Intervenor to successfully defend against a petition for writ of mandate by insurance trade associations seeking to invalidate the Commissioner's amendments to the intervenor regulations that clarified the scope of a proceeding under Proposition 103.

g. *Allstate Insurance Co. v. Poizner* (Super. Ct. S.F. County, 2008, No. CPF-08-50821), in which he joined me in representing Consumer Watchdog as Intervenor to successfully defend against Allstate's petition for a stay of the Commissioner's order requiring Allstate to lower its private passenger auto insurance rates by 15.9% (*In the Matter of the Rate Application of Allstate Insurance Co. and Allstate Indemnity Co.*, File No. 2007-00004 (Cal. Ins. Comm'r, Mar. 14, 2008)).

h. *Fogel v. Farmers Group, Inc.*, (2008) 160 Cal.App.4th 1403, in which Consumer Watchdog submitted an amicus brief to the Court of Appeal arguing against Farmers' request that the judiciary adopt the "filed rate doctrine" to immunize challenges to insurance company misconduct; the court concluded that the doctrine was not "analogous" to provisions of Proposition 103.

i. *American Insurance Association, et al. v. Garamendi* and *California Farm Bureau Federation v. Garamendi* (Super. Ct. Sacramento County, 2007, Nos. 06AS03053 and 06AS03036 (consolidated)), representing Consumer Watchdog as an intervenor in a successful motion for summary judgment against insurer plaintiffs who challenged the Insurance Commissioner's regulations enforcing Insurance Code section 1861.02(a). That statute requires that automobile insurance premiums be based primarily on the policyholder's driving safety record, and not where one lives.

j. *In the Matter of the Rates, Rating Plans, or Rating Systems of Farmers Ins. Exch., Fire Ins. Exch., and Mid-Century Ins. Co.* (Cal. Ins. Comm'r, Aug. 8, 2007), a "non-compliance" administrative proceeding against Farmers Insurance in which Consumer Watchdog intervened, alleging that the company had been misapplying its own rating guidelines to overcharge certain homeowners policyholders based on the number of claims they made or how far they lived from a fire hydrant. Farmers agreed to refund its policyholders $1.4 million for the overcharges, pay a $2 million penalty to the CDI, and use rating practices that comply with the law.

k. *The Found. for Taxpayer and Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th 1354, in which Consumer Watchdog brought a successful writ of mandate action to invalidate an insurer-sponsored amendment to Proposition 103 that purported to authorize a rating factor based on prior insurance with any carrier, a violation of Insurance Code section 1861.02(c).

l. *Poirer v. State Farm Mutual Automobile Insurance Co.* (B165389) 2004 WL 2325837 (unpublished decision), in which Consumer Watchdog submitted an amicus brief arguing that Proposition 103 prohibited auto insurers from considering a driver's lack of prior insurance as a rating factor.

m. *Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968, in which Consumer Watchdog submitted an amicus brief arguing that Proposition 103 prohibited auto insurers from considering a driver's lack of prior insurance as a rating factor. After conducting a thorough statutory

analysis, the Court of Appeal concluded that Proposition 103 created a private right of action and authorized consumers to bring civil actions against insurance companies for violations of Proposition 103.

n. Class action and representative lawsuits to enforce Insurance Code section 1861.02(c)'s prohibition against surcharging motorists with an absence of prior insurance (*Proposition 103 Enforcement Project v. GEICO*, Case No. BC266220; *Proposition 103 Enforcement Project v. Interinsurance Exch. of the Auto. Club*, Case No. BC266218; and *Landers v. Interinsurance Exch. of the Auto. Club*, JCCP No. 4438).

o. *State Farm Mutual Automobile Ins. Co. v. Garamendi* (2004) 32 Cal.4th 1029, in which Consumer Watchdog filed an amicus curiae brief in support of Proposition 103's disclosure requirements. The Supreme Court rejected an industry challenge to Department of Insurance regulations requiring the public disclosure of insurance redlining data submitted to the Insurance Commissioner.

p. *Mitchell v. Allstate Ins. Co.* (Super. Ct. L.A. County, 2003, No. BC212492), in which Consumer Watchdog successfully objected to a class action settlement that resolved a challenge to the insurance company's improper consideration of a motorist's prior insurance.

q. *Spanish Speaking Citizens Found. v. Low* (2000) 85 Cal.App.4th 1179, the appeal in a writ of mandate challenge to a regulation promulgated by Insurance Commissioner Quackenbush, which authorized insurers to use zip code as the primary determinant of automobile insurance premiums in violation of Insurance Code section 1861.02(a).

r. *Proposition 103 Enforcement Project v. Chuck Quackenbush* (Super. Ct. L.A. County, 1999, No. BC202283), which was a successful writ of mandate action against former Insurance Commissioner Quackenbush to require that the Commissioner not approve any insurer's rate application prior to the expiration of the 45-day period in which a consumer may petition for a rate hearing as required by Insurance Code section 1861.05.

s. *Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473, which successfully invalidated an illegal legislative amendment to Proposition 103 that would have decreased the amount of refunds owed to policyholders under the initiative's rate rollback provision.

t. *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216, in which the California Supreme Court upheld insurance rate regulations enforcing Proposition 103's prohibition against excessive or inadequate rates.

u. *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, in which the California Supreme Court issued a decision upholding Proposition 103 against a constitutional challenge by the insurance industry.

v. Numerous rulemaking proceedings implementing Proposition 103's prior approval and automobile rating factor and public participation requirements, including: (1) the Gender Nondiscrimination rulemaking matter (REG-2018-00020), supporting the removal of gender as an optional rating factor; (2) the Intervenor Regulations rulemaking matter (RH-06092874), adopting amendments to update and clarify the regulations implementing Insurance Code 1861.10's public participation requirements; (3) the Mileage Verification rulemaking matter (RH-06091489), implementing amendments to the Automobile Rating Factors regulations to provide requirements for verified mileage programs; (4) the Prior Approval rulemaking matter (RH-05042749), adopting, among other amendments, the generic determinations included in the prior approval ratemaking formula pertaining to profit and expense provisions; (5) the Automobile Rating Factors rulemaking matter (RH-03029826, Cal. Dept. of Ins., June 2, 2005), in which Consumer Watchdog and other groups successfully petitioned for, and the Commissioner adopted, amendments to section 2632.8 of title 10 of the California Code of Regulations requiring that insurers base automobile insurance premiums primarily on how one drives and not on other optional factors such as zip code and marital status as required by Insurance Code section 1861.02(a); (6) the Persistency Rulemaking matter (Persistency Rulemaking, RH-402 (Cal. Dept. of Ins., April 18, 2003)); and (7) a rulemaking matter adopting regulations to prevent insurers from requiring that motorists show proof of prior insurance to verify their accident record in violation of Insurance Code section 1861.02(c) (Accident Verification Rulemaking, RH 01015532 (Cal. Dept. of Ins., Sept. 3, 2003)), among others. In each of these proceedings, Consumer Watchdog received compensation pursuant to Section 1861.10, subd. (b), from the Proposition 103 Fund maintained by the Department.

w. *Thompson v. Transamerica Life Ins. Co.*, 18-05422 (C.D. Cal., filed June 18, 2018), in which he served as co-lead class counsel, reaching a class action settlement with Transamerica for universal life policy overcharges in 2017–2018; under that settlement, Transamerica agreed to pay up to $88 million in account value credits to policies in effect and those for which death claims were pending as of December 31, 2019. On August 31, 2020, the U.S. District Court in Los Angeles held a hearing on the motion for final approval of the settlement.

x. *Feller v. Transamerica Life Ins. Co.*, No. 16-01378 (C.D. Cal., filed Feb. 28, 2016), in which he served as co-lead class counsel, settling a class action lawsuit on behalf of universal life insurance policyholders whose costs had unexpectedly and illegally skyrocketed, requiring Transamerica to repay more than $150 million in overcharges and freeze future increases for five years.

y. Multiple class action cases in which insurance providers dramatically reduced the number of doctors in their individual health plan networks and misrepresented these changes to consumers, leaving patients without adequate coverage and higher out-of-pocket costs, including *Anthem Blue Cross Affordable Care Act Cases*, JCCP No. 4805 (2019); *Lehman v. Health Net* (Super. Ct. L.A. County, 2019, No. BC567361); *Davidson v. Cigna Health and Life Ins. Co.*, No. BC558566 (Super. Ct. L.A. County, filed Sept. 24, 2014); and *Blue Shield of Cal. Affordable Care Act Cases*, JCCP No. 4800 (filed Sept. 23, 2014).

z. *Taub v. Blue Cross of Cal.* (Super. Ct. L.A. County, 2017, No. BC457809) and *Kassouf v. Blue Cross of Cal.* (Super. Ct. L.A. County, 2017, No. BC473408) (consolidated), which garnered a settlement of $8.3 million on behalf of insurance customers whose deductibles were increased mid-year by Anthem Blue Cross, resulting in higher out-of-pocket costs.

aa. *Consumer Watchdog et al. v. Department of Managed Health Care et al.* (2014) 225 Cal.App.4th 862, a writ case which held that the Department of Managed Health Care can no longer uphold a health plan's denial of coverage for autism treatment provided or supervised by a nationally board-certified individual on the basis that the provider is not licensed.

bb. *Fairbanks v. Farmers New World Life Ins. Co.* (2009) 46 Cal.4th 56, in which Consumer Watchdog argued that Proposition 103 did not apply to life insurance.

11. I am informed through the Pearl Declaration and conversations with attorneys in the Los Angeles and San Francisco Bay Areas discussing their billing rates that $695 per hour is a very reasonable rate in 2024 for the professional services of an attorney with experience and qualifications comparable to Mr. Rosenfield's.

Pamela Pressley

12. I am an attorney with 29 years of professional experience advocating on behalf of consumers. For over 16 years I served as Consumer Watchdog's Litigation Director, and I now serve as its Senior Staff Attorney. During this time, my legal work with Consumer Watchdog has focused primarily on insurance regulatory and litigation matters before the Department and the courts, and particularly on the enforcement and implementation of Proposition 103. Several of these matters involved issues of first impression before the courts in which I was primarily responsible for litigating the matters through trial and on appeal. Examples include:

a. *State Farm General Insurance Company v. Lara* (2021) 71 Cal.App.5th 197, in which I served as co-lead counsel representing Consumer Watchdog as a respondent and defendant to successfully defend against a challenge by State Farm to the substantial contribution standard for intervenor fee awards under Insurance Code section 1861.10(b).

b. *Mercury Ins. Co. v. Lara* (2019) 35 Cal.App.5th 82, in which I served as lead counsel representing Consumer Watchdog as Intervenor to successfully defend against a petition for writ of mandate by Mercury, resulting in the Court of Appeal upholding a $27.6 million civil penalty against Mercury for violations of Proposition 103's prior approval requirement and prohibition against unfair rate discrimination (sections 1861.01 and 1861.05) based on its agents charging unapproved fees in addition to the approved premium amounts on over 180,000 insurance transactions over a four-year period from 1999–2004.

c. *Mercury Casualty Company v. Jones* (2017) 8 Cal.App.5th 561, in which I served as lead counsel representing Consumer Watchdog as Intervenor to successfully defend against petitions for writ of mandate by Mercury and insurance trade associations seeking to vacate the Commissioner's decision ordering Mercury to lower its homeowner rates and challenging the Commissioner's application and interpretation of regulations relating to the standard and process for obtaining a

confiscation variance and limiting the amount of institutional advertising that insurers may include in their premium calculations.

d. *Association of California Insurance Companies v. Poizner* (2009) 180 Cal.App.4th 1029, in which I served as lead counsel representing Consumer Watchdog as Intervenor to successfully defend against a petition for writ of mandate by insurance trade associations seeking to invalidate the Commissioner's amendments to the intervenor regulations clarifying the scope of a rate proceeding.

e. *Allstate Insurance Co. v. Poizner* (Super. Ct. S.F. County, 2008, No. CPF-08-50821), in which I served as lead counsel representing Consumer Watchdog as Intervenor to successfully defend against Allstate's petition for a stay of the Commissioner's order requiring Allstate to lower its private passenger auto insurance rates by 15.9%, and served as supervising counsel in the rate proceeding that led to that rate decrease order, *In the Matter of the Rate Application of Allstate Insurance Co. and Allstate Indemnity Co.*, File No. 2007-00004 (Cal. Ins. Comm'r, Mar. 14, 2008).

f. *American Insurance Association v. Garamendi* and *California Farm Bureau Federation v. Garamendi* (Super. Ct. Sacramento County, 2007, Nos. 06AS03053 and 06AS03036 (consolidated)), in which I served as lead counsel representing Consumer Watchdog as an intervenor in a successful motion for summary judgment against insurer plaintiffs upholding the Insurance Commissioner's regulations (see paragraph (p)(4), below) enforcing Insurance Code section 1861.02(a), which requires that automobile insurance premiums be based primarily on one's driving safety record, and not where one lives.

g. A successful writ of mandate action to invalidate an insurer-sponsored amendment to Proposition 103 that purported to allow a rating factor based on prior insurance with any carrier in violation of Insurance Code section 1861.02(c) (*The Found. for Taxpayer and Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th 1354). In that proceeding, I participated in overall strategy discussions, drafted and edited pleadings and the appellate brief, performed legal research, appeared at all court hearings, and argued the case before the Court of Appeal, among other tasks.

h. Class action and representative lawsuits to enforce Insurance Code section 1861.02(c)'s prohibition against surcharging motorists with an absence of prior insurance (*Proposition 103 Enforcement Project v. GEICO*, Case No. BC266220; *Proposition 103 Enforcement*

Project v. Interinsurance Exch. of the Automobile Club, Case No. BC266218; *Landers v. Interinsurance Exch. of the Auto. Club*, JCCP No. 4438; and *Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968), which resulted in settlements that required the insurers to make refunds to affected auto policyholders.

i. *Mitchell v. Allstate Ins. Co.* (Super. Ct. L.A. County, 2003, No. BC212492), in which I drafted all Consumer Watchdog pleadings submitted to the Court and the Department and made court appearances on Consumer Watchdog's behalf, successfully objecting to the class action settlement.

j. The appeal in writ of mandate challenge to a regulation promulgated by Insurance Commissioner Quackenbush, which authorized insurers to use zip code as the primary determinant of automobile insurance premiums in violation of Insurance Code section 1861.02(a). (*Spanish Speaking Citizens Found. v. Low* (2000) 85 Cal.App.4th 1179.)

k. A successful writ of mandate action against former Insurance Commissioner Quackenbush to require that the Commissioner not approve any insurer's rate application prior to the expiration of the 45-day period in which a consumer may petition for a rate hearing as required by Insurance Code section 1861.05. (*Proposition 103 Enforcement Project v. Chuck Quackenbush* [Super. Ct. L.A. County, 1999, No. BC202283].)

l. Two successful noncompliance proceedings before the CDI: *In the Matter of Mercury Ins. Co., Mercury Cas. Co., and California Auto. Ins. Co.* (Cal. Ins. Comm'r, Feb. 6, 2015), in which I represented Consumer Watchdog as Intervenor, resulting in a $27.5 million penalty against Mercury for its illegal brokers fees charges; and *In the Matter of the Rates, Rating Plans, or Rating Systems of Farmers Ins. Exch., Ins. Exch., and Mid-Century Ins. Co.* (Cal. Ins. Comm'r, Aug. 8, 2007) in which I served as lead counsel representing Consumer Watchdog as Intervenor against Farmers Insurance, alleging that the company had been misapplying its own rating guidelines to overcharge certain homeowners policyholders based on the number of claims they made or how far they lived from a fire hydrant. According to the 2007 settlement approved by the Commissioner, Farmers refunded its policyholders $1.4 million for the overcharges, was ordered to pay a $2 million penalty to the CDI, will use rating practices that comply with the law, had to review its computer data to find and refund any other policyholders who were overcharged, and was subject to another review of its practices in 2008.

m. Successful rate challenges before the CDI to insurers' earthquake and homeowners rate hikes in which I served as lead counsel for Consumer Watchdog, resulting in combined savings of over $790 million, including PA-04041210, PA-2007-00008, and PA-2007-00019, regarding the earthquake insurance rates of Safeco, GeoVera, and Fireman's Fund; and PA06093080, PA06093078, PA06092759/PA-2006-00016, PA-2006-00006, and PA-2007-00017, regarding the homeowners rates of Safeco, Fire Insurance Exchange, State Farm, Allstate, and Fireman's Fund.

n. CDI hearings regarding Low Cost Auto Insurance Program ("LCAIP") proposed rates in 2003, 2005, 2006, 2012, 2014, 2015, 2016, and 2020. In 2012, Consumer Watchdog's participation and comments contributed to the Commissioner's decision requiring the California Automobile Assigned Risk Pool ("CAARP") to implement an overall rate decrease for the LCAIP of -2.8%, 11.1% *lower than* the overall +8.3% rate increase requested by CAARP. In 2014, Consumer Watchdog's participation and comments contributed to the Commissioner's decision requiring CAARP to implement an overall LCAIP rate of +2.2%, 5.4% *lower than* the overall +7.6% rate increase requested by CAARP, resulting in an overall savings of $140,000 in annual premiums. In 2015, Consumer Watchdog's participation resulted in an approved rate that was 10.5% ***lower*** than the rate requested by CAARP for a savings of nearly $318,000 in annual premiums, and in 2016 Consumer Watchdog's participation contributed to an approved rate that was 5.8% lower than requested, resulting in $237,000 in savings. In 2020, after Consumer Watchdog submitted comments, CAARP withdrew its requested +3.8% rate increase, resulting in a savings of $259,000 in annual premiums.

o. Numerous other successful challenges to automobile, homeowners, and medical malpractice insurers' rate applications before the Department since 2003, resulting in collective savings to consumers of over $6 billion. Examples include *In the Matter of the Rate Application of CSAA Ins. Exch.*, PA-2023-00021 (Cal. Ins. Comm'r 2024), resulting in annual savings of $525 million in auto insurance premiums; *In the Matter of the Rate Applications of GEICO Ind. Co., GEICO Cas. Co., GEICO Gen. Ins. Co., and Gov't Emps. Ins. Co.*, PA-2023-00013 (Cal. Ins. Comm'r 2023), resulting in annual savings of $356 million in auto insurance premiums; *In the Matter of the Rate Application of State Farm Mut. Auto. Co.*, PA-2023-00012 (Cal. Ins. Comm'r 2023), resulting in annual savings of $151.7 million in auto insurance premiums; *In the Matter of the Rate Application of State Farm Gen.*

Ins. Co., PA-2023-00007 (Cal. Ins. Comm'r 2023), resulting in annual savings of $199.7 million in homeowners insurance; *In the Matter of the Rate, Rule, and Form Application of Pacific Specialty Ins. Co.*, PA-2020-00009 (Cal. Ins. Comm'r 2023), resulting in annual savings of $6.3 million in homeowners insurance; *In the Matter of the Rate Application of Allstate Northbrook Ind. Co.*, PA-2023-00014 (Cal. Ins. Comm'r 2023), resulting in annual savings of $149.5 million in auto insurance premiums; *In the Matter of the Rate Application of State Farm Gen. Ins. Co.*, PA-2023-00006 (Cal. Ins. Comm'r 2023), resulting in annual savings of $21.5 million in renters insurance; *In the Matter of the Rate Application of Farmers Ins. Exch., Fire Ins. Exch., and Mid-Century Ins. Co.*, PA-2023-00009 (Cal. Ins. Comm'r 2023), resulting in annual savings of $276 million in renters, condo, and homeowners insurance; *In the Matter of the Rate Application of Farmers Ins. Exch., Mid-Century Ins. Co., and Truck Ins. Exch.*, PA-2023-00008 (Cal. Ins. Comm'r 2023), resulting in annual savings of $535 million in auto insurance premiums; *In the Matter of the Rate Application of CSAA Ins. Exch.*, PA-2023-00004 (Cal. Ins. Comm'r 2023), resulting an annual savings of $192.4 million in auto insurance premiums; *In the Matter of the Rate Application of Allstate Ins. Co.*, PA-2021-00005 (Cal. Ins. Comm'r 2023), resulting in annual savings of $2.8 million in homeowners insurance; *In the Matter of the Rate Applications of First Nat'l Ins. Co. of Am., Safeco Ins. Co. of Am., and Safeco Ins. Co. of Ill.*, PA-2022-00002 (Cal. Ins. Comm'r 2023), resulting in annual savings of $7.8 million in homeowners multiple peril insurance; *In the Matter of the Rate Applications of Garrison Prop. and Cas. Ins. Co. and USAA-Ca. Ins. Co.*, PA-2021-00004 (Cal. Ins. Comm'r 2023), resulting in annual savings of $8.47 million in homeowners, unit-owners, renters contents, and renters liability insurance; *In the Matter of the Rate Applications of Farmers Ins. Exch., Fire Ins. Exch., and Mid-Century Ins. Co.*, PA-2022-00007 (Cal. Ins. Comm'r 2023), resulting in annual savings of $121 million in homeowners multiple peril insurance; *In the Matter of the Rate Application of Med. Ins. Exch. of Cal.*, PA-2021-00003 (Cal. Ins. Comm'r 2023), resulting in annual savings of $1.41 million in medical professional liability insurance; *In the Matter of the Rate Applications of Farmers Ins. Exch., Fire Ins. Exch., and Mid-Century Ins. Co.*, PA-2021-00007 (Cal. Ins. Comm'r 2022), resulting in annual savings of $6.05 million in fire, allied lines, and other liabilities insurance; *In the Matter of the Rate and Rating Plan Application of CSAA Ins. Exch.*, PA-2021-00002 (Cal. Ins. Comm'r 2021), resulting in annual savings of $14.75 million in

homeowners insurance; *In the Matter of the New Program Applications of Farmers Insurance Exchange and Fire Ins. Exch.*, PA-2020-00004 (Cal. Ins. Comm'r 2021), resulting in annual savings of $2.478 million in renters and condominium insurance; *In the Matter of the Rate Application of Homesite Ins. Co. of Am.*, PA-2020-00003 (Cal. Ins. Comm'r 2021), resulting in annual savings of $9.28 million in homeowners insurance; *In the Matter of the Rate Application of Am. Cas. Co. of Reading, Penn.*, PA-2020-00007 (Cal. Ins. Comm'r 2020), resulting in annual savings of $1.12 million in medical malpractice insurance; *In the Matter of the Rate Application of NORCAL Mut. Ins. Co.*, PA-2020-00002 (Cal. Ins. Comm'r 2020), resulting in annual savings of $5.2 million in medical malpractice insurance; *In the Matter of the Rate Application of Esurance Prop. and Cas. Ins. Co.*, PA-2020-00001 (Cal. Ins. Comm'r 2020), resulting in annual savings of over $26.7 million in auto insurance premiums; *In the Matter of the Rate and Rating Plan Application of Pacific Specialty Ins. Co.*, PA-2019-00003 (Cal. Ins. Comm'r 2020), resulting in annual savings of $5.95 million in homeowners insurance; *In the Matter of the Rate and Rating Plan Applications of Pacific Specialty Ins. Co.*, PA-2019-00001 (Cal. Ins. Comm'r 2020), resulting in annual savings of $800,000 in renters, mobile home, and condo owners insurance; *In the Matter of the Rate and Class Plan Applications of Liberty Mut. Fire Ins. Co.*, PA-2017-00007 and PA-2018-00001 (Cal. Ins. Comm'r 2018), resulting in annual savings of $3 million in auto insurance premiums; *In the Matter of the Rate and Class Plan Applications of GEICO Cas. Co.*, PA-2017-00005 and PA-2017-00006 (Cal. Ins. Comm'r 2017), resulting annual savings of $9.3 million in auto insurance premiums; *In the Matter of the Rate Applications of Allstate Ins. Co. and Allstate Indem. Co.*, PA-2015-00009 (Cal. Ins. Comm'r 2016), resulting in a savings of $34.2 million in annual homeowners insurance premiums; *In the Matter of the Rate Application of State Farm Gen. Ins. Co.*, PA-2015-00004, which resulted in an order requiring State Farm to lower its homeowners' rates overall by 7%, saving consumers $78.6 million, and issue an additional $110 million in refunds; *In the Matter of the Rate Application of Mercury Ins. Co.*, PA-2014-00010 (Cal. Ins. Comm'r 2015), resulting in savings of $7 million in annual auto insurance premiums; *In the Matter of the Rates and Rate Applications of United Services Auto. Ass'n, Garrison Prop. and Cas. Ins. Co. and USAA Gen. Ins. Co.*, PA-2013-00009, PA-2013-00009, and PA-2013-00010 (Cal. Ins. Comm'r 2014), resulting in annual savings of $40.5 million in homeowners insurance premiums; *In the Matter of the Rate Application of*

State Farm Gen. Ins. Co., PA-2013-00012 (Cal. Ins. Comm'r 2014), resulting in $86 million in savings for annual homeowners insurance premiums; *In the Matter of the Rate Application of Mercury Cas. Co.*, PA-2013-00004 (Cal. Ins. Comm'r 2013), resulting in over $11 million of savings per year in homeowners insurance premiums; *In the Matter of the Rate Application of Allstate Ins. Co., Allstate Indem. Co., and Northbrook Indem. Co.*, PA-2013-00003 (Cal. Ins. Comm'r 2013), resulting in over $92 million in savings per year in auto insurance premiums; *In the Matter of the Rates and Rating Plan Application of GEICO Indem. Co., GEICO Gen. Ins. Co. and Gov't Emp. Ins. Co.*, PA-2013-00002 (Cal. Ins. Comm'r 2013), resulting in savings of $9.4 million in annual auto insurance premiums; *In the Matter of the Rate Application of Progressive West Ins. Co.*, PA-2012-00008 (Cal. Ins. Comm'r 2013), resulting in savings of almost $1.5 million in annual auto insurance premiums; *In the Matter of the Rate Application of Coast Nat'l Ins. Co.*, PA-2012-00007 (Cal. Ins. Comm'r 2013), resulting in $10.9 million in annual auto insurance premium savings; *In the Matter of the Rate Applications of State Farm Mut. Auto. Co.*, PA-2012-00006 (Cal. Ins. Comm'r 2013), resulting in auto insurance premium savings of $69 million per year; *In the Matter of the Rate Application of Mercury Cas. Co.*, PA-2009-00009 (Cal. Ins. Comm'r 2013), resulting in savings of over $16 million per year in homeowners insurance premiums; *In the Matter of the Rate Application of State Farm Gen. Ins. Co.*, PA-2011-00010 (Cal. Ins. Comm'r 2013), resulting in savings of over $157 million per year in homeowners insurance premiums; *In the Matter of the Rate Application of Interinsurance Exch. of the Auto. Club*, PA-2012-00009 (Cal. Ins. Comm'r 2013), resulting in annual auto insurance premium savings of $70 million; *In the Matter of the Rate Application of Fed. Ins. Co., et al.*, PA-2012-00002 (Cal. Ins. Comm'r 2012), resulting in savings of over $4.2 million per year in earthquake insurance premiums; *In the Matter of the Rate Application of Chartis Prop. and Cas.*, PA-2011-000015 (Cal. Ins. Comm'r 2012), resulting in savings of over $7.6 million per year in earthquake insurance premiums; *In the Matter of the Rate Application of NORCAL Mut. Ins. Co.*, PA-2011-00007 (Cal. Ins. Comm'r 2012), resulting in savings of $2.8 million per year in medical malpractice insurance premiums; *In the Matter of the Rate Application of The Doctors Co.*, PA-2011-00006 (Cal. Ins. Comm'r 2012), resulting in savings of $5.6 million per year in medical malpractice insurance premiums; *In the Matter of the Rates of California State Auto. Ass'n Inter-Insurance Bureau*, PA-2010-00014 (Cal. Ins. Comm'r 2012), resulting in annual homeowners

insurance premium savings of $52 million; *In the Matter of the Rate Application of Med. Protective Co.*, PA-2011-00008 (Cal. Ins. Comm'r 2011), resulting in annual premium savings of $2.5 million; *In the Matter of the Rate Application of Explorer Ins. Co.*, PA-2007-00013 (Cal. Ins. Comm'r 2008), resulting in annual auto insurance premium savings of $8.2 million; *In the Matter of the Rate Application of the Med. Protective Co.*, PA-05045074 (Cal. Ins. Comm'r 2005), resulting in savings of $2 million per year in medical malpractice insurance premiums; *In the Matter of the Rate Application of Am. Cas. Co.*, File No. PA-04039736 (Cal. Ins. Comm'r 2005), resulting in savings of $1.6 million per year in medical malpractice insurance premiums; *In the Matter of the Rate Application of Med. Protective Co.*, PA-04036735 (Cal. Ins. Comm'r 2004), resulting in savings of $3.9 million per year in medical malpractice insurance premiums; *SCPIE Indem. Co.*, PA-02025379 (Cal. Ins. Comm'r 2004), resulting in savings of $23 million per year in medical malpractice insurance premiums; and *In the Matter of the Rate Application of: NORCAL Mutual Insurance Co.*, PA 03032128 (Cal. Ins. Comm'r 2003), resulting in savings of $11.6 million per year in medical malpractice insurance premiums. In these proceedings, I was responsible for overall strategy, briefing, communication with expert witnesses and parties, discovery, and settlement negotiations, among other tasks.

p. Several rulemaking proceedings before the Department implementing Proposition 103's prior approval and automobile rating factor requirements including: (1) the Intervenor Regulations rulemaking matter (RH-06092874) adopting amendments to update and clarify the regulations implementing Insurance Code section 1861.10's public participation requirements; (2) the Mileage Verification rulemaking matter (RH-06091489) implementing amendments to the Automobile Rating Factors regulations to provide requirements for verified mileage programs; (3) the Prior Approval rulemaking matter (RH-05042749) adopting, among other amendments, the generic determinations included in the prior approval ratemaking formula pertaining to profit and expense provisions; (4) the Automobile Rating Factors rulemaking matter (RH-03029826, Cal. Dept. of Ins., June 2, 2005) in which Consumer Watchdog and other groups successfully petitioned for, and the Commissioner adopted amendments to, section 2632.8 of title 10 of the California Code of Regulations requiring that insurers base automobile insurance premiums primarily on how one drives and not on other optional factors such as zip code and marital status as required by Insurance Code section

1861.02(a); (5) the Persistency Rulemaking matter (*Persistency Rulemaking*, RH-402 (Cal. Dept. of Ins., April 18, 2003)); and (6) a rulemaking matter adopting regulations to prevent insurers from requiring that motorists show proof of prior insurance to verify their accident record in violation of Insurance Code section 1861.02(c) (*Accident Verification Rulemaking*, RH 01015532 (Cal. Dept. of Ins., Sept. 3, 2003)), among others. In these proceedings, I acted as Consumer Watchdog's lead counsel, participating in all strategy discussions and workshops, and preparing and presenting written and oral testimony at hearings, among other tasks.

13. Prior to my employment with Consumer Watchdog, I served for two years as CALPIRG's lead consumer attorney and for one year as a staff attorney for The Center for Law in the Public Interest in Los Angeles, litigating in the areas of civil rights, justice, and consumer issues. I am a 1995 graduate of Pepperdine University School of Law and was admitted to the California State Bar in November 1995.

14. I am informed through the Pearl Declaration and conversations with attorneys in the Los Angeles and San Francisco Bay Areas discussing their billing rates that $595 per hour is a very reasonable rate in 2024 for the professional services of an attorney with experience and qualifications comparable to mine.

Consumer Watchdog's Fees

15. In accordance with the well-established standards set forth by the California Supreme Court for private-attorney-general statutes, the "lodestar" is the product of each attorney's reasonable hours, at that attorney's prevailing market rate, plus expenses. Consumer Watchdog's attorneys are responsible for entering their contemporaneous time billing records into the organization's time billing software. The time billing software is then used to multiply each attorney's billed hours by that individual's prevailing market rate. The lodestar component of Consumer Watchdog's attorney fees for work performed in this proceeding for which compensation is requested totals $81,312.00 as follows:

Attorney	**Total Hours**	**Hourly Rate**	**Total Lodestar**
Pamela Pressley	101.5	$595.00	$60,392.50
Harvey Rosenfield	30.1	$695.00	$20,919.50
Total	131.6		$81,312.00

Facts Regarding This Proceeding and Consumer Watchdog's Substantial Contribution

16. On February 23, 2021, the Commissioner issued an "Invitation to Workshop Regarding Amendments to Complete Rate Application Regulations" ("Invitation") to be held on April 6, 2021 seeking to provide "interested and affected persons an opportunity to present statements or comments regarding the contemplated regulation changes." (Exh. 4 hereto.) The Invitation was accompanied by a draft of the text of the proposed regulatory changes, which included proposed changes to sections 2643.3, 2644.27, 2648.1, 2648.2, and 2648.4 of Title 10 of the California Code of Regulations ("February 23, 2021 Regulation Text"). (*Ibid.*)

17. In preparation for the workshop, Consumer Watchdog reviewed the proposed regulation amendments, consulted with its actuaries and other consumer advocates in developing proposed changes to clarify and strengthen the proposed regulations, and drafted its written comments to include both its overarching analysis of the need for the amendments, its analysis on the CDI's proposed regulation text, and specific proposed edits to each section.

18. Consumer Watchdog's Senior Staff Attorney Pamela Pressley actively participated and provided oral comments at the April 6, 2021 workshop on behalf of Consumer Watchdog. Ms. Pressley testified that in rate proceedings in which Consumer Watchdog has participated, when companies fail to file complete underwriting guidelines with their initial rate or rule applications or otherwise attempt to shield portions of their rating and eligibility criteria from public disclosure, consumers are deprived of their statutory right to a period of 45 days in which to review the complete application before the deadline to request a hearing under section 1861.05(c). And when consumers do file petitions for hearing to challenge to these violations, a vast amount of time and resources of the Department, consumer group petitioners, and insurers is consumed by fighting over whether the insurer will comply with public disclosure requirements in order to allow a complete review of the application. Consumer Watchdog also recommended adding "models" used for determining rates, premiums, and eligibility to the items required to be submitted as part of a complete rate application under Section 2648.4, subdivisions (b) and (c). Insurers often claim that documentation relating to complex catastrophe models allowed under section 2644.4 for the earthquake line and fire following earthquake exposure in other lines and other models used to determine premiums and eligibility for homeowners insurance is

proprietary and confidential. This precludes the Commissioner and the public's ability to fully evaluate whether the rates, premiums, and eligibility guidelines developed using such models comply with Proposition 103.

19. Following the workshop, Consumer Watchdog submitted its final written comments to the Department. (Exh. 5 hereto.)

20. As stated in the CDI's Invitation: "the Commissioner will consider public comments received in this workshop discussion as he contemplates regulatory changes that may be proposed in a Notice of Proposed Action." (Exh. 4 hereto, p. 2.)

21. On February 9, 2024, CDI issued a "Notice of Proposed Action and Notice of Public Hearing on Complete Property and Casualty Rate Applications" to be held March 26, 2024. (Exh. 6 hereto.) The Invitation was accompanied by an amended draft of the text of the proposed regulatory changes to sections 2643.3, 2644.27, 2648.1, 2648.2, and 2648.4 of Title 10 of the California Code of Regulations ("February 9, 2024 Regulation Text"). (*Ibid*.) The February 9, 2024 Regulation Text incorporated "models" into the items required to be submitted as part of a complete rate application in section 2648.4 as advocated by Consumer Watchdog. (*Ibid.*)

22. In preparation for the public rulemaking hearing, Consumer Watchdog reviewed the proposed regulation amendments, consulted with other consumer advocates, and drafted its written comments on the CDI's proposed February 9, 2024 Regulation Text, and presented section-by-section comments and proposed edits.

23. On March 26, 2024, Consumer Watchdog's Senior Staff Attorney Pamela Pressley actively participated and provided oral testimony at the rulemaking hearing on behalf of Consumer Watchdog.

24. Consumer Watchdog also submitted its written comments the same day. (Exh. 7 hereto.)

25. These comments became part of the rulemaking record, as stated in the CDI's Notice: "under the California Public Records Act (Government Code Section 6250, et seq.), any written and oral comments . . . become part of the public record and can be released to the public upon request." (Exh. 6 hereto, p. 3.)

26. Consumer Watchdog was one of only two consumer groups that participated in the rulemaking hearing, and the only consumer group that provided specific provision-by-provision comments and proposed edits to the February 9 Regulation Text.

27. On September 12, 2024, CDI submitted the final regulation and supporting file, including the Final Statement of Reasons incorporating the Department's Summary of and Response to Comments, to OAL. (Exh. 8 hereto.)

28. In its Summary of and Response to Comments, the Department summarized and responded to each of Consumer Watchdog's comments, including comments supporting the regulation text and those comments suggesting edits to make the regulation clearer and compliant with Prop 103. (Exh. 8 hereto, pp. 29–51, 145–151.)

29. On October 8, 2024, the final regulation text and rulemaking record was filed by OAL with the Secretary of State with an effective date of October 8, 2024. (Exh. 9 hereto.)

30. On October 31, 2024, Consumer Watchdog contacted the Public Advisor to request an extension of 30 days, until December 9, 2024, to submit this Request. The extension was granted by the Public Advisor the following day. (Exh. 10 hereto.)

Executed on November 27, 2024 at Los Angeles, California.

Pamela Pressley

Pamela Pressley

EXHIBIT 1a

Consumer Watchdog Time Report
Complete Property & Casualty Rate Application Rulemaking, REG-2019-00025

Pamela Pressley

Date	Description	Hours	Total
2/23/21	review and forward CDI notice (.2); email K Gentile re same (.1)	0.3	$178.50
3/1/21	review draft regs, H Rosenfield comments re same; email K Gentile re file	0.6	$357.00
3/2/21	teleconference with H Rosenfield re draft regulations, workshop	0.3	$178.50
3/15/21	review regulations (1.4); review rate filing instructions, regs, answer H Rosenfield comments (1.5); comment on regs (.8)	3.7	$2,201.50
3/16/21	review regs, draft comments	0.7	$416.50
3/25/21	prepare for call (.5), review draft teleconference with H Rosenfield re regs (1.0)	1.5	$892.50
3/29/21	review notice, draft text (.3); review emails, calendar, notice (.1); draft comments (5.0)	5.4	$3,213.00
3/30/21	draft comments	4	$2,380.00
3/31/21	review draft comments (.5); review comments, email H Rosenfield re same (.3)	0.8	$476.00
4/1/21	set call, review emails (.3); review comments (.7)	1	$595.00
4/2/21	review H Rosenfield edits (.2); teleconference with H Rosenfield re edits (.6); draft comments (3.0)	3.8	$2,261.00
4/5/21	review K Gentile email (.1); review/edit comments (1.5); email N McKennedy (.1); email K Gentile re comments (.2); prepare for workshop (2.0); teleconference with N McKennedy and CDI re workshop logistics (.2); teleconference with H Rosenfield re same (.2); prepare/review comments (.3)	4.6	$2,737.00
4/6/21	prepare for workshop (1.2); participate in workshop, follow-up call with H Rosenfield (1.3); edit comments, teleconference with H Rosenfield re same, finalize comments, email K Gentile re comments (2.7)	5.2	$3,094.00
4/7/21	review H Rosenfield email re notes/comments (.1); review R Frazier email, email H Rosenfield and C Balber re same (.2); email N McKennedy re comments (.2)	0.5	$297.50
4/8/21	review and edit comments (1.4); follow up emails to H Rosenfield and K Gentile (.2); review emails (.1); email R Frazier re comments (.3); review industry comments (1.7)	3.7	$2,201.50
4/9/21	email re ADCIA comments, review same	0.8	$476.00
4/16/21	review and reply to H Rosenfield email re industry comments	0.1	$59.50
9/29/22	review and reply to N McKennedy email (.1); teleconference with N McKennedy re status (.3)	0.4	$238.00
2/9/24	review draft regulation text, email team re same (.3); review R Mellino email re regs (.1)	0.4	$238.00
2/12/24	emails re complete rate app regs (.2); conference with H Rosenfield re same (.1); review notice, text of regulations (1.0)	1.3	$773.50
2/13/24	review draft regulations	1.1	$654.50
2/13/24	teleconference with R Mellino, H Rosenfield re proposed regulations (1.4); review emails re same (.1)	1.5	$892.50
2/14/24	review and reply to K Gentile email re draft comments (.3); email K Gentile re comments (.1); review K Gentile email (.1)	0.5	$297.50
2/21/24	teleconference with H Rosenfield	0.2	$119.00
2/29/24	review and reply to H Rosenfield email re proposed reg (.6); review and edit comments (2.0); review and reply to H Rosenfield email (.2); email H Rosenfield re underwriting guidelines questions (.7); email re draft comments (.1)	3.6	$2,142.00
3/1/24	edit comments (1.8); draft comments (.8)	2.6	$1,547.00
3/4/24	email H Rosenfield, R Mellino re comments, set meeting (.2); conference with H Rosenfield and R Mellino re same (1.3); review same (.1)	1.6	$952.00
3/5/24	edit comments	3.4	$2,023.00
3/6/24	review emails (.1); edit comments (1.3)	1.4	$833.00
3/8/24	teleconference with H Rosenfield (.3); draft comments (.7); edit comments (2.5)	3.5	$2,082.50

3/11/24	edit comments	1.8	$1,071.00
3/14/24	draft/edit comments (2.0); edit comments (4.0)	6	$3,570.00
3/15/24	edit comments	3.5	$2,082.50
3/15/24	review draft comments (.1); conference with H Rosenfield and R Mellino re draft comments (1.0)	1.1	$654.50
3/18/24	edit comments per H Rosenfield edits (1.3); edit comments (2.5); conference with H Rosenfield re same (.5)	4.3	$2,558.50
3/19/24	teleconference with H Rosenfield re comments (.3); edit comments, email to C Balber (.4); review comments, email D Heller (.2)	0.9	$535.50
3/20/24	emails re comments, D Heller, register for hearing (.5);	0.5	$297.50
3/25/24	emails with D Heller, C Balber, review comments (.5); edit comments (4.0)	4.5	$2,677.50
3/26/24	text H Rosenfield re comments (.1); emails re CFC comments (.2); teleconference with D Heller re same (.1); teleconference with H Rosenfield re same (.1); teleconference with C Balber re same (.1); prepare oral comments, finalize written comments (3.0); participate in rulemaking, email CDI written comments (2.0); teleconference with H Rosenfield re same (.25)	5.9	$3,510.50
7/15/24	email M Arami re expense report (.1); review petition to participate (.2)	0.3	$178.50
7/17/24	edit petition to participate	1.3	$773.50
7/18/24	edit draft petition to participate, email K Gentile re same (.6); review final petition (.3)	0.9	$535.50
10/14/24	conference with K Gentile re request for compensation	0.1	$59.50
10/15/24	email K Gentile re request for compensation	0.1	$59.50
11/5/24	reply to K Gentile email re request for compensation	0.2	$119.00
11/14/24	edit request for compensation	1.8	$1,071.00
11/15/24	email K Gentile re time report (.1); review time entries (1.5)	1.6	$952.00
11/15/24	edit request for compensation	1.5	$892.50
11/20/24	edit request for compensation	2.7	$1,606.50
11/21/24	edit request for compensation, email K Gentile re same	0.7	$416.50
11/25/24	review/edit request for compensation (.6); conference with K Gentile re same, edit same (.3); conference with K Gentile re edits to request for compensation, exhibits (.1); review and edit reviewised request for compensation (.5)	1.5	$892.50
11/26/24	review expense report (.2); email K Gentile re request for compensation (.1); review and edit final request for compensation and declaration (1.5)	1.8	$1,071.00
	Pamela Pressley Total:	**101.5**	**$60,392.50**

Harvey Rosenfield

Date	Description	Hours	Total
3/2/21	Microsoft Teams conference with Consumer Watchdog team (.1)	0.1	$69.50
3/15/21	Forward annotations/comments on draft reg to Pam Pressley (.1)	0.1	$69.50
3/24/21	Review Pam Pressley email with comments on draft, review same (.4); Reply to set call (.1)	0.5	$347.50
3/25/21	Telephone conference with Pam Pressley to discuss edits and comments to draft text (1.2)	1.2	$834.00
4/2/21	Review and comment on draft Consumer Watchdog comments (1.5); Telephone conference with Pam Pressley re same (.6)	2.1	$1,459.50
4/6/21	Review draft comments for workshop (.2); Email Pam Pressley re question in comments, review reply (.1); Attend zoom workshop (.9); Review Consumer Watchdog comments, annotate, telephone conferences with Pam Pressley, further edits to comments, forward to Pam Pressley (1.4); Further telephone conference with Pam Pressley re same (.2); Westlaw research re cases (.4)	3.2	$2,224.00
4/7/21	Review and email Pam Pressley notes from workshop, and request submissions to CDI (.2); Email J Flanagan and Pam Pressley research request (.1); Reply re PIF request and further team email re same (.2)	0.5	$347.50
4/8/21	Email re corrected comments to CDI (.1)	0.1	$69.50

4/8/21	Review industry workshop comments (.8)	0.8	$556.00
4/9/21	Review APCIA comment (.1); Review research re CDI authority (.2); Telephone conference with J Flanagan re research (.2)	0.5	$347.50
2/9/24	Review team email re CDI notice of public hearing, reply (.2): Skim CDI proposed reg, ISOR (.3)	0.5	$347.50
2/11/24	Review and annotate draft ISOR and other docs from CDI, email Consumer Watchdog re possible issues (2.8)	2.8	$1,946.00
2/13/24	Review notes on draft reg in preparation for call with Consumer Watchdog (.2); Microsoft Teams conference with Pam Pressley and Ryan Mellino re same (1.4); Telephone conference with K Gentile to create template for comments (.1)	1.7	$1,181.50
2/25/24	Draft comments on proposed amendments, email with cover notes to Consumer Watchdog (4.2)	4.2	$2,919.00
2/26/24	Follow up with Doug Heller re workshop (.1)	0.1	$69.50
2/28/24	Telephone conference with Doug Heller re joinder in comments, discuss draft (.9); Email Consumer Watchdog re CFC. CFA and issuer in reg re new business (.2)	1.1	$764.50
2/29/24	Review Pam Pressley analysis in response to previous email re application of the draft reg and further email with team on that (.4); Email from Ryan Mellino correcting prior comparison doc, clarify (.1)	0.5	$347.50
3/4/24	Skim Pam Pressley edit to draft comments (.2); Discussion with with her and Ryan Mellino re revised draft of same (1.3); Further review all Pam Pressley edits (.2); Review Ryan Mellino email re current reg (.1)	1.8	$1,251.00
3/8/24	Telephone conference with Pam Pressley re Consumer Watchdog comments on reg (.3); Memo to file (.1)	0.4	$278.00
3/15/24	Review Pam Pressley edits to draft Consumer Watchdog comments on text, email her re same (.9); Microsoft Teams conference with Pam Pressley and Ryan Mellino re same (.9); Microsoft Teams conference with Ryan Mellino re edits (.1)	1.9	$1,320.50
3/17/24	Review and revise draft of Consumer Watchdog comments to latest text, email Pam Pressley and Ryan Mellino re same (3.0)	3	$2,085.00
3/18/24	Email and discussion with C Balber re outreach from CFC re draft reg (.2); Discuss edits to draft comments with Pam Pressley (.4); Review further edits from Pam Pressley, reply to her email (.5);	1.1	$764.50
3/19/24	Email Pam Pressley re draft (.1); Telephone conferences with Pam Pressley to review edits to draft comments (.3); Memo to file (.2); Further review of draft and email with Pam Pressley (.2)	0.8	$556.00
3/20/24	Email K Gentile to sign up for workshop testimony, follow up with Pam Pressley and C Balber (.2); Telephone conference with Pam Pressley re issues in text (.2); Forward Doug Heller article re same (.1)	0.5	$347.50
3/25/24	Review Consumer Watchdog email with CFA re comments on draft reg, telephone conference with C Balber re same, further email with Doug Heller (.4);	0.4	$278.00
3/26/24	Telephone conference with Pam Pressley re workshop (.2)	0.2	$139.00
	Harvey Rosenfield Total:	**30.1**	**$20,919.50**
	Consumer Watchdog Total:	**131.6**	**$81,312.00**

EXHIBIT 1b

Identification and Association of Individuals Referenced in Billing Records

Consumer Watchdog
Maryam Arami, Staff Accountant
Carmen Balber, Executive Director
Jerry Flanagan, former Litigation Director
Kaitlyn Gentile, Paralegal
Ryan Mellino, Staff Attorney
Pamela Pressley, Senior Staff Attorney
Harvey Rosenfield, Of Counsel

California Department of Insurance
Nikki McKennedy, Senior Staff Attorney

Personal Insurance Federation of America
Rex Frazier, President

Consumer Federation of America
Douglas Heller, Director of Insurance

EXHIBIT 2

HARVEY ROSENFIELD (SBN 123082)
PAMELA PRESSLEY (SBN 180362)
CONSUMER WATCHDOG
6330 South San Vicente Boulevard, Suite 250
Los Angeles, California 90048
Telephone: (310) 392-0522
Facsimile: (310) 392-8874
harvey@consumerwatchdog.org

MICHAEL J. STRUMWASSER (SBN 58413)
BRYCE A. GEE (SBN 222700)
JULIA MICHEL (SBN 331864)
STRUMWASSER & WOOCHER LLP
10940 Wilshire Boulevard, Suite 2000
Los Angeles, California 90024
Telephone: (310) 576-1233
Facsimile: (310) 319-0156
bgee@strumwooch.com

Attorneys for Respondent Consumer Watchdog

IN THE SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

STATE FARM GENERAL INSURANCE COMPANY,

Petitioner and Plaintiff,

v.

RICARDO LARA, in his official capacity as the Insurance Commissioner of the State of California; and DOES 1-50,

Respondent and Defendant,

CONSUMER WATCHDOG,

Respondent and Defendant.

Case No. 37-2016-00041750-CU-MC-CTL

DECLARATION OF RICHARD M. PEARL IN SUPPORT OF CONSUMER WATCHDOG'S MOTION FOR ATTORNEYS' FEES AND EXPENSES

Date Action Filed: November 28, 2016

Date: August 26, 2022
Time: 11:00 a.m.
Dept.: C-69
Judge: Hon. Katherine A. Bacal

DECLARATION OF RICHARD M. PEARL

I, Richard M. Pearl, declare as follows:

1. I am a member in good standing of the California State Bar. I am in private practice as the principal of my own law firm, the Law Offices of Richard M. Pearl, in Berkeley, California. I specialize in issues relating to court-awarded attorneys' fees, including: the representation of parties in fee litigation and appeals; serving as an expert witness; and serving as a mediator and arbitrator in disputes concerning attorneys' fees and related issues. I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would competently testify thereto. I make this declaration in support of Defendant and Respondent Consumer Watchdog's Motion for Attorneys' Fees and Expenses in the appeal in the above-referenced action. Specifically, I have been asked by counsel for Consumer Watchdog ("Consumer Watchdog Counsel")[1] to render my opinion as to the reasonableness of the hourly rates they have requested for their work on the appeal in this matter and do so here.

2. To form my opinion as to the reasonableness of the attorneys' fees Consumer Watchdog Counsel request for their work in this case, I have reviewed the Court of Appeal's opinion, documents that describe the history of this matter, counsel's qualifications and experience, the nature and quality of the work required by this case, the results achieved, and the hourly rates that Counsel request. I also have consulted with Ms. Pressley about this motion and the underlying facts of the case.

MY BACKGROUND AND EXPERIENCE

3. Briefly summarized, my background is as follows: I am a 1969 graduate of Berkeley School of Law (then Boalt Hall), University of California, Berkeley, California. I took the California Bar Examination in August 1969 and learned that I had passed it in November of that year, but because I was working as an attorney in Atlanta, Georgia for the Legal Aid Society of Atlanta (LASA), I was not admitted to the California Bar until January 1970. I worked for LASA

[1] Consumer Watchdog Counsel refers to Harvey Rosenfield and Pamela Pressley and their outside co-counsel with the law firm Strumwasser & Woocher, LLP.

until the summer of 1971, when I went to work in California's Central Valley for California Rural Legal Assistance, Inc. (CRLA), a statewide legal services program. From 1977 to 1982, I was CRLA's Director of Litigation, supervising more than fifty attorneys. In 1982, I went into private practice, first in a small law firm, then as a sole practitioner. Martindale Hubbell rates my law firm "AV." I also have been selected as a Northern California "Super Lawyer" in Appellate Law for 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022. A true and correct copy of my Resume is attached as **Exhibit A.**

4. Since 1982, the focus of my legal work has been in general civil litigation and appellate practice, with an emphasis on cases and appeals involving court-awarded attorneys' fees. I have lectured and written extensively on court-awarded attorneys' fees. I have been a member of the California State Bar's Attorneys' Fees Task Force and have testified before the State Bar Board of Governors and the California Legislature on attorneys' fee issues. I am the author of *California Attorney Fee Awards* (3d Ed., Cal. CEB 2010) ("Cal. Fee Awards") and its cumulative annual Supplements between 2011 and March 2022. I also was the author of California Attorney Fee Awards, 2d Ed. (Cal. Cont. Ed. of Bar 1994), and its 1995 through 2008 annual Supplements. Several courts have referred to this treatise as "[t]he leading California attorney fee treatise." *Calvo Fisher & Jacob LLP v. Lujan*, 234 Cal.App.4th 608, 621 (2015); *see also, e.g.*, *Int'l Billing Servs., Inc. v. Emigh*, 84 Cal.App.4th 1175, 1193 (2000) ("the leading treatise"); *Stratton v. Beck*, 30 Cal.App.5th 901, 911 (2019) ("a leading treatise"); *Orozco v. WPV San Jose, LLC*, 36 Cal.App.5th 375, 409 (2019) ("a leading treatise on California attorney's fees"). It also has been cited by the California Supreme Court and Court of Appeal on many occasions, including the Court of Appeal in this case. (Sl. Op. at 36). *See also Graham v. DaimlerChrylser Corp.*, 34 Cal.4th 553, 576, 584 (2004); *Lolley v. Campbell*, 28 Cal.4th 367, 373 (2002); *In re Conservatorship of Whitley*, 50 Cal.4th 1206, 1214–15, 1217 (2010); *Sonoma Land Trust v. Thompson,* 63 Cal.App.5th 978, 986 (2021); *Yost v. Forestiere*, 51 Cal.App.5th 509, 530 n. 8 (2020); *Highland Springs Conference & Training Ctr. v. City of Banning*, 42 Cal.App.5th 416, 428 n. 11 (2019); *Sweetwater Union High Sch. Dist. v. Julian Union Elementary Sch. Dist.*, 36 Cal.App.5th 970, 988 (2019); *Hardie v. Nationstar Mortg. LLC*, 32 Cal. App. 5th 714, 720 (2019); *Syers Props III, Inc. v. Rankin*, 226

Cal.App.4th 691, 698, 700 (2014). California Superior Courts also cite the treatise with approval. *See, e.g., Davis v. St. Jude Hosp.*, No. 30201200602596CUOECX, 2018 WL 7286170, at *4 (Orange Cty. Super. Ct. Aug. 31, 2018); *Hartshorne v. Metlife, Inc.*, No. BC576608, 2017 WL 1836635, at *10 (Los Angeles Super. Ct. May 02, 2017). Federal courts also have cited it. *See In re Hurtado*, Case No. 09-16160-A-13, 2015 WL 6941127 (E.D. Cal. Nov. 6, 2015); *TruGreen Companies LLC v. Mower Brothers, Inc.*, 953 F. Supp. 2d 1223, 1236 nn.50, 51 (D. Utah 2013). I also authored the 1984 through 1993 annual Supplements to the predecessor treatise, *CEB's California Attorney's Fees Award Practice*. In addition, I authored a federal manual on attorneys' fees entitled "Attorneys' Fees: A Legal Services Practice Manual," published by the Legal Services Corporation. I also co-authored the chapter on "Attorney Fees" in Volume 2 of CEB's Wrongful Employment Termination Practice, 2d Ed. (1997).

5. More than 95% of my practice is devoted to issues involving court-awarded attorneys' fees. I have appeared as counsel in over 200 attorneys' fee applications in state and federal courts, primarily representing other attorneys. I also have briefed and argued more than 40 appeals, at least 30 of which have involved attorneys' fees issues. I have won five cases in the California Supreme Court involving court-awarded attorneys' fees: (1) *Maria P. v. Riles*, 43 Cal. 3d 1281 (1987), which upheld a C.C.P. section 1021.5 fee award based on a preliminary injunction obtained against the State Superintendent of Education, despite the fact that the case ultimately was dismissed under C.C.P. section 583; (2) *Delaney v. Baker*, 20 Cal. 4th 23 (1999), which held that heightened remedies, including attorneys' fees, are available in suits against nursing homes under California's Elder Abuse Act; (3) *Ketchum v. Moses*, 24 Cal. 4th 1122 (2001), which reaffirmed that contingent risk multipliers are an essential consideration under California attorney fee law (note that in *Ketchum,* I was primary appellate counsel in the Court of Appeal and "second chair" in the California Supreme Court); (4) *Flannery v. Prentice*, 26 Cal. 4th 572 (2001), which held that under California law, in the absence of an agreement to the contrary, statutory attorneys' fees belong to the attorney whose services they are based upon; and (5) *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), which held, *inter alia,* that the "catalyst" theory of fee recovery remained viable under California law and that lodestar multipliers could be applied to fee motion

work. In that case, I represented trial counsel in both the Court of Appeal (twice) and California Supreme Court, as well as on remand in the trial court. I also represented and argued on behalf of *amicus curiae* in *Conservatorship of McQueen*, 59 Cal. 4th 602 (2014), which held that attorneys' fees incurred for appellate work were not "enforcement fees" subject to California's Enforcement of Judgments law; I presented the argument relied upon by the Court. Along with Richard Rothschild of the Western Center on Law and Poverty, I also prepared and filed an *amicus curiae* brief in *Vasquez v. State of California,* 45 Ca1. 4th 243 (2009). An expanded list of reported decisions in cases I have handled is set out in **Exhibit A** at pages 4-8.

6. I have been retained by various governmental entities, including the California Attorney General's office and the California Department of Fair Housing and Employment, to consult with them and serve as their expert regarding their affirmative attorney fee claims. *See*, *e.g.*, *In re Tobacco Cases I*, 216 Cal. App. 4th 570, 584 (2013); *Dep. of Fair Employ. and Hous. v. Law Sch. Admission Council, Inc.*, 2018 WL 5791869 (N.D. Cal. No. 12-cv-08130, filed Nov. 5, 2018).

7. I am frequently called upon to opine about the reasonableness of attorneys' fees, and numerous federal and state courts have relied on my testimony on those issues. For example:

a. Most recently, in *Wit v. United Behavioral Health* (N.D. Cal. Jan. 5, 2022) ___F.Supp.3d __, 2022 WL 45057, at *7, the court's fee Order states that "the Court places significant weight on Pearl's opinion that the rates charged by all of the timekeepers listed above are reasonable and 'in line with the standard hourly noncontingent rates charged by Bay Area law firms that regularly engage in civil litigation of comparable complexity.'… Pearl has extensive experience in the area of attorney billing rates in this district and has been widely relied upon by both federal and state courts in Northern California (including the undersigned) in determining reasonable billing rates." (Citations omitted).

b. In *Human Rights Defense Center v. County of Napa*, 2021 U.S.Dist.LEXIS 59778 *; 2021 WL 1176640 (N.D. Cal. No. 20-cv-01296-JCS, Doc. 50, filed March 28, 2021), the Court expressly stated that it had "place[d] significant weight on the opinion of Mr. Pearl that the rates charged by all of the timekeepers listed above are reasonable and in line with the rates charged by law firms that engage in federal civil litigation in the San Francisco Bay Area. Mr. Pearl has

extensive experience in the area of attorney billing rates in this district and has been widely relied upon by both federal and state courts in Northern California [] in determining reasonable billing rates." 2021 U.S.Dist.LEXIS 59778, at *32.

c. Subsequently, in *Andrews v. Equinox Holdings, Inc.,* N.D. Cal. No. 20-cv-00485-SK, Oder on Motion for Attorney Fees and Costs filed November 9, 2021 (Doc. 110), the court quoted the above language from the *Human Rights Defense Center* case and concluded the same: "This Court similarly finds Pearl's opinions well supported and persuasive." Order at p. 4:13-19.

d. Similarly, in *Sonoma Land Trust v. Thompson, supra,* 63 Cal.App.5th 978, 986 (2021), the Court of Appeal expressly held that my expert declaration provided evidentiary support for the trial court's fee determination.

e. Lastly, my declaration was cited favorably by the Second District of the Court of Appeal in *Wood v. Los Angeles County Waterworks Dist. No. 40 (Antelope Valley Groundwater Cases)*, 2021 Cal.App. Unpub. LEXIS 5506 (2nd Dist., Div. 2021).

8. In addition to the *Sonoma Land Trust* and *Antelope Valley Groundwater* cases, the following California appellate and reported trial court cases also have referenced my testimony favorably:

- *Kerkeles v. City of San Jose*, 243 Cal.App.4th 88 (2015);
- *Laffitte v. Robert Half Int'l Inc*., 231 Cal.App.4th 860 (2014), *aff'd* (2016) 1 Cal.5th 480;
- *Habitat and Watershed Caretakers v. City of Santa Cruz*, 2015 Cal. App. Unpub. LEXIS 7156 (2015);
- *In re Tobacco Cases I*, 216 Cal.App.4th 570 (2013);
- *Heritage Pacific Financial, LLC v. Monroy*, 215 Cal.App.4th 972 (2013);
- *Wilkinson v. South City Ford*, 2010 Cal. App. Unpub. LEXIS 8680 (2010);
- *Children's Hospital & Medical Center v. Bonta*, 97 Cal.App.4th 740 (2002);
- *Church of Scientology v. Wollersheim*, 42 Cal.App.4th 628 (1996).

- *Kaku v. City of Santa Clara,* No. 17CV319862, 2019 WL 331053, at *3 (Santa Clara Cty. Super. Ct. Jan. 22, 2019), *aff'd* 59 Cal. App. 5th 385, 431 (2020);
- *Davis v. St. Jude Hosp.*, No. 30201200602596CUOECX, 2018 WL 7286170, at *4 (Orange Cty. Super. Ct. Aug. 31, 2018);
- *Hartshorne v. Metlife, Inc.*, No. BC576608, 2017 WL 1836635, at §*10 (Los Angeles Super. Ct. May 2, 2017).

Many other trial courts also have relied on my testimony in unreported fee awards.

9. In addition to the *Wit*, *Andrews*, and *Human Rights Defense Center* cases, the following reported federal decisions also have referenced my testimony favorably:

- *Antoninetti v. Chipotle Mexican Grill, Inc.*, No. 08-55867 (9th Cir. 2012), Order filed Dec. 26, 2012, at 6;
- *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010) (the expert declaration referred to is mine);
- *Independent Living Center of S. Cal. v. Kent*, 2020 U.S.Dist.LEXIS 13019 (C.D. Cal. 2020);
- *Ridgeway v. Wal-Mart Stores, Inc.*, 269 F. Supp. 3d 975 (N.D. Cal. 2017), *aff'd* 269 F.3d 1066 (9th Cir. 2020);
- *Beaver v. Tarsadia Hotels*, 2017 U.S.Dist.LEXIS 160214 (S.D. Cal. 2017);
- *Notter v. City of Pleasant Hill*, 2017 U.S.Dist.LEXIS 197404, 2017 WL 5972698 (N.D. Cal. 2017);
- *Villalpondo v. Exel Direct, Inc.*, 2016 WL 1598663 (N.D. Cal. 2016);
- *State Compensation Insurance Fund v. Khan et al.*, Case No. SACV 12-01072-CJC(JCGx) (C.D. Cal.), Order Granting in Part and Denying in Part the Zaks Defendants' Motion for Attorneys' Fees, filed July 6, 2016 (Dkt. No. 408);
- *In re Cathode Ray Tube Antitrust Litig.*, Master File No. 3:07-cv-5944 JST, MDL No. 1917 (N.D. Cal. 2016) 2016 U.S. Dist. LEXIS 24951 (Report And Recommendation Of Special Master Re Motions (1) To Approve Indirect Purchaser Plaintiffs' Settlements With the Phillips, Panasonic, Hitachi, Toshiba,

Samsung SDI, Technicolor, And Technologies Displays Americas Defendants, and (2) For Award Of Attorneys' Fees, Reimbursement Of Litigation Expenses, And Incentive Awards To Plaintiffs' Representative), Dkt. 4351, dated January 28, 2016, *adopted in relevant part,* 2016 U.S. Dist. LEXIS 88665;

- *Gutierrez v. Wells Fargo Bank*, 2015 U.S. Dist. LEXIS 67298 (N.D. Cal. 2015);
- *Holman v. Experian Information Solutions, Inc.*, 2014 U.S. Dist. LEXIS 173698 (N.D. Cal. 2014);
- *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. M 07-1827 SI, MDL No. 1827 (N.D. Cal.), Report and Recommendation of Special Master Re Motions for Attorneys' Fees And Other Amounts By Indirect-Purchaser Plaintiffs' Plaintiffs And State Attorneys General, Dkt. 7127, filed Nov. 9, 2012, adopted in relevant part, 2013 U.S. Dist. LEXIS 49885 (N.D. Cal. 2013) ("*TFT-LCD (Flat Panel)* Report & Recommendation");
- *Walsh v. Kindred Healthcare*, 2013 U.S. Dist. LEXIS 176319 (N.D. Cal. 2013);
- *A.D. v. California Highway Patrol*, 2009 U.S. Dist. LEXIS 110743, at *4 (N.D. Cal. 2009), *rev'd on other grounds*, 712 F.3d 446 (9th Cir. 2013), *reaffirmed and additional fees awarded on remand*, 2013 U.S. Dist. LEXIS 169275 (N.D. Cal. 2013);
- *Hajro v. United States Citizenship & Immigration Service*, 900 F.Supp.2d 1034, 1054 (N.D. Cal 2012);
- *Rosenfeld v. United States Dep't of Justice*, 904 F. Supp. 2d 988, 1002 (N.D. Cal. 2012);
- *Stonebrae, L.P. v. Toll Bros., Inc.*, 2011 U.S. Dist. LEXIS 39832, at *9 (N.D. Cal. 2011) (thorough discussion), *aff'd* 2013 U.S. App. LEXIS 6369 (9th Cir. 2013);
- *Armstrong v. Brown*, 2011 U.S. Dist. LEXIS 87428 (N.D. Cal. 2011);
- *Lira v. Cate*, 2010 WL 727979 (N.D. Cal. 2010);

- *Californians for Disability Rights, Inc. v. California Dep't of Transportation*, 2010 U.S. Dist. LEXIS 141030 (N.D. Cal. 2010);
- *Nat'l Federation of the Blind v. Target Corp.*, 2009 U.S. Dist. LEXIS 67139 (N.D. Cal. 2009);
- *Prison Legal News v. Schwarzenegger*, 561 F.Supp.2d 1095 (N.D. Cal. 2008) (an earlier motion);
- *Bancroft v. Trizechahn Corp.*, No. CV 02-2373 SVW (FMOx), Order Granting Plaintiffs Reasonable Attorneys' Fees and Costs In the Amount of $168,886.76, Dkt. 278 (C.D. Cal. Aug. 14, 2006);
- *Willoughby v. DT Credit Corp.*, No. CV 05-05907 MMM (CWx), Order Awarding Attorneys' Fees After Remand, Dkt. 65 (C.D. Cal. July 17, 2006);
- *Oberfelder v. City of Petaluma*, 2002 U.S. Dist. LEXIS 8635 (N.D. Cal. 2002), *aff'd* 2003 U.S. App. LEXIS 11371 (9th Cir. 2003).

Summary of Opinion and Overview of Declaration

10. My review of Consumer Watchdog Counsel's declarations shows that their lodestar is based on each attorney's requested 2022 hourly rate. See paragraph 11, *infra*. I have examined each attorney's requested lodestar rate, along with each attorney's experience and background and work product here. Based on that review, in my opinion the rates requested by Consumer Watchdog Counsel are well within, if not at the low end of, the range of hourly rates charged by comparably qualified attorneys in the Los Angeles Area performing similar work and with those that other San Diego and Los Angeles area courts have found reasonable for attorneys with comparable litigation experience performing similar services.[2]

[2] I have not been asked to express an opinion regarding the reasonableness of the number of hours, the tasks performed, or the lodestar multiplier that are a component of Consumer Watchdog's fee request because Consumer Watchdog Counsel do not believe expert opinion on those issues is necessary. I agree, and the absence of any testimony from me on the reasonableness of the number of hours spent, the tasks performed, or the requested lodestar multiplier does not in any way reflect a negative view of their reasonableness.

Consumer Watchdog Counsel's Hourly Rates Are Reasonable.

11. I am aware that Consumer Watchdog Counsel request the following hourly rates for their work on appeal this matter:

Consumer Watchdog[3]

Harvey Rosenfield (admitted CA Bar in 1979)	$695
Pamela M. Pressley (admitted CA Bar in 1995)	$595

Strumwasser & Woocher LLP[4]

Michael J. Strumwasser (admitted CA Bar in 1973)	$900
Bryce Gee (admitted CA Bar in 2002)	$800
Julia Michel (admitted WA Bar in 2019/CA Bar in 2020)	$495

12. Under California law, Consumer Watchdog Counsel's hourly rates are reasonable if they are "within the range of reasonable rates charged by and judicially awarded comparable attorneys for comparable work." *Children's Hosp. & Med. Ctr. v. Bonta,* 97 Cal.App.4th 740, 783 (2002).

13. Through my writing and practice, I have become familiar with the non-contingent market rates charged by attorneys in California and elsewhere. This familiarity has been obtained in several ways: (a) by handling attorneys' fee litigation; (b) by discussing fees with other attorneys; (c) by obtaining declarations regarding prevailing market rates in cases in which I represent attorneys seeking fees; and (d) by reviewing attorneys' fees applications and awards in other cases, as well as surveys and articles on attorneys' fees in the legal newspapers and treatises. I also have testified before trial courts and arbitrators on numerous occasions, and have submitted expert

[3] These are discounted rates billed by Consumer Watchdog counsel in Proposition 103 matters before the Department of Insurance. In other civil matters, Consumer Watchdog counsel charge higher market rates commensurate with attorneys of comparable experience in civil litigation. It is my understanding that these are the same hourly rates that this Court found reasonable in 2020 for work performed in the trial court proceedings.

[4] These rates are discounted from Strumwasser & Woocher LLP's standard commercial rates in civil litigation. It is my understanding that the hourly rates requested for Strumwasser & Woocher's attorneys are also based on the rates previously approved by this Court, adjusted only to account for inflation since the Court's prior fee award was issued in 2020.

testimony by declaration on hundreds of occasions: each of those efforts require me to be aware of the hourly rates being charged in the relevant community.

14. Here, I have reviewed Consumer Watchdog Counsel's qualifications, backgrounds, experience, work product, and the results they have achieved. Based on the information I have gathered, some of which is set forth below, it is my opinion that the rates requested by Consumer Watchdog Counsel are well within, if not at the low end of, the range of the non-contingent market rates charged by Los Angeles area attorneys of reasonably comparable experience, skill, and reputation for reasonably comparable services. Several factors support my opinion:

15. *First*, it is my understanding that Consumer Watchdog Counsel's requested hourly rates have been found reasonable and awarded in numerous cases. This is a highly probative fact. See *Margolin v. Regional Planning Comm'n,* 134 Cal.App.3d 999, 1005 (1982).

16. *Second*, my opinion also is based on the numerous findings of reasonable hourly rates made by San Diego Area and Los Angeles Area courts, which also are highly probative. *See Children's Hosp. & Med. Ctr. v Bontá*, 97 Cal.App.4th at 783. Those findings are summarized in **Exhibits B (San Diego Area) and C (Los Angeles Area)** attached hereto. For example:

- In *Campbell v. Barnes*, Orange County Superior Court No. 30-2020-01141117-CU-WM-CXC, Order Granting Petitioners' Motion for an Award of Attorneys' Fees, filed January 20, 2022, a case challenging inadequacies in the County jail's response to the Covid epidemic, the court found the following hourly rates reasonable:

LAW SCHOOL GRADUATION YEAR	**RATES**
Munger, Tolles & Olson LLP	
2003	$1,210
2013	$850
2015	$750
2016	$700
2017	$650
2018	$550
Non-Attorneys	
Automated Litig. Analyst	
Litigation Analyst	$250
Paralegals	$250
ACLU	
1988, 2000, and 2003	$1,210

2007	$950
2009	$900
2015	$750
2016	$700
2017	$650
Non-Attorney	
Senior Investigator	$250
Schonbrun, Seplow, Harris, Hoffman, And Zeldes LLP	
1976	$1,000
2016	$450
2016	$600
2019	$440
1975	$1,025
1976	$930
1979	$995
2015	$570

- In *Independent Living Center of S. Cal. v. Kent*, 2020 U.S. Dist. LEXIS 13019 (C.D. Cal. 2020), an action challenging the State's right to alter reimbursement rates for Medi-Cal providers, the court found the following 2019 hourly rates reasonable (plus a 1.5 lodestar multiplier):

LAW SCHOOL GRADUATION YEAR	**RATES**
1975	$1,025
1976	$965
1979	$1,025
2007	$815
2011	$800
2015	$640
2016	$600
2019	$440
1975	$1,025
1976	$930
1979	$995
2015	$570

- In *The Kennedy Commission v. City of Huntington Beach*, Los Angeles County Superior Court No. 30-2015-00801675, Ruling on Submitted Matter filed July 8, 2021, a writ of mandate action challenging a land use amendment adopted by the City of Huntington Beach, the court found the following 2020 hourly rates reasonable (prior to application of a 1.4 lodestar multiplier):

2020 Rates:

Years of Experience	Rates
38	$910
40	$900
26	$815
23	$750
16	$710
14	$680
10	$565
7	$500
6	$475
5	$450
2	$365

- In an earlier ruling in the same case, the court found the following hourly rates reasonable for the Plaintiffs' private *pro bono* law firm (prior to application of a 1.4 multiplier) [5]:

2016 Rates:

Bar Admission Year	Rates
2001	$900
2014	$450

2015 Rates:

Bar Admission Year	Rates
2001	$875
2014	$400

- In *Rea v. Blue Shield*, Los Angeles County Superior Court No. BC468900, Fee Order filed November 13, 2020, a class action challenging Blue Shield's practices

[5] The initial *Kennedy Commission* fee award was remanded in conjunction with the reversal of the merits. 2017 Cal.App.Unpub.LEXIS 7488 (2017).

regarding mental health claims, the court found that $900 per hour was reasonable for Plaintiffs' three lead attorneys, with 35, 37, and 44 years of experience. It also applied a 1.5 multiplier.

Consumer Watchdog Counsel's hourly rates here are well within, if not at the low end of, the range of rates found reasonable in these cases and the others set out in **Exhibits B and C.**

Hourly Rates Charged by Other Law Firms

17. *Third,* Consumer Watchdog Counsel's rates also are well within the range of the standard hourly non-contingent rates charged by numerous Los Angeles Area law firms that regularly engage in civil litigation of comparable complexity. A chart showing the hourly rates charged by numerous Los Angeles area law firms, as stated in court filings, depositions, surveys, or other reliable sources, is attached hereto as **Exhibit D**. The rates requested here are well in line with those rates. For example, in 2021, Munger, Tolles & Olson billed a 31-year attorney at $1,725 per hour and a 12-year attorney at $995 per hour. In 2019, Pearson Simon & Warshaw, a Plaintiffs' class action firm, billed attorneys with 23-38 years of experience at $1,150 per hour; rates have generally increased at least 10-12% since 2019. Again, Consumer Watchdog's Counsel's rates are well within this range.

Hourly Rate Surveys and Articles

18. Counsel's requested rates also are supported by several surveys and articles describing legal rates, including the following:

- The 2020 Mid-Year Real Rate Report compiled by Wolters Kluwer surveyed the hourly rates charged in the second quarter of 2020 by hundreds of Los Angeles area attorneys, relevant excerpts of which are attached hereto as **Exhibit E.** The real market rates of Los Angeles area attorneys who practice "litigation" are surveyed at page 28, which describes the Second Quarter 2020 rates charged by 387 Los Angeles partners and 478 associates who practiced "Litigation." For that category, the Third Quartile rate was **$940** per hour for "Partners" and **$740** for "Associates". Likewise, page 34 of the Report describes the rates charged by 365 Los Angeles partners with

"21 or more years of experience" and 199 attorneys with "Fewer than 21 years". For those categories, the Third Quartile Los Angeles rates were **$1,047** per hour for attorneys with 21 or more years of experience and **$912** for attorneys with fewer than 21 years. Moreover, in my experience, since the Second Quarter of 2020, most Los Angeles Area firms have raised their rates by at least 3-6%.[6] Given the exceptional experience, expertise, and skills possessed by Consumer Watchdog Counsel, it is my opinion that rates exceeding the Third Quartile figures are readily justifiable and consistent with the Los Angeles legal marketplace.

- Consumer Watchdog Counsel's rates also are consistent with the "Adjusted Laffey Matrix" (laffeymatrix.com), which is based on a survey of hourly rates charged in the Baltimore-Washington, D.C. area. This survey is frequently used across the country, with adjustments for differences in cost of living, to evaluate the reasonableness of hourly rates. For March 2022, the Adjusted Laffey Matrix lists a current rate of **$919** per hour attorneys who have been out of law school for 20+ years, **$764** per hour for attorneys who have been out of law school for 11-19 years, **$676** for attorneys who have been out of law school for 8-10 years, $**468** per hour for attorneys who have been out of law school for 4-7 years, and **$381** per hour for attorneys who have been out of law school for 1-3 years. Measured under that survey, counsel's rates here, as adjusted for the Los Angeles Area market, would be 2.08% higher than these figures. See https://www.uscourts.gov/careers/compensation/judiciary-salary-plan-pay-rates (as

[6] Listed billing rates, court awards, and published articles show that over the past four years, Los Angeles area rates have risen an average of 4-6% per year. For example, in *Planned Parenthood Federation of America, Inc. v. Center for Medical Progress*, 2020 U.S. Dist. LEXIS 241035, at *13 (N.D. Cal. Dec. 22, 2020), the district court applied a 25% rate increase for the period from 2016 to 2020. Similar rate increases in the legal marketplace have been observed by commentators. *See, e.g.*, *Aggressive Billing Rate Increases Appear Likely, but Can Clients Stomach It?* Maloney, The American Lawyer (Jan. 24, 2022) (rates rose "nearly 4%" in 2021; Simons, *Big Law Should Raise Partner Billing Rates 10+ Percent Now*, The Recorder (Nov. 15, 2018) at 3 ("In a normal year, partner rates would go up around 5 or 6 percent").

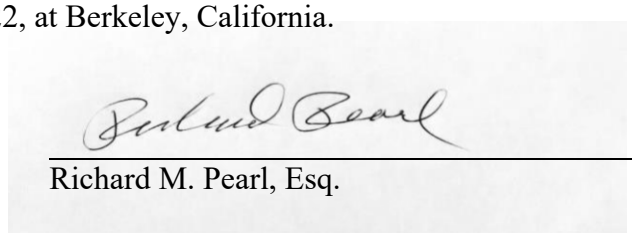
of Jan. 2022, 2.08% differential between Washington D.C. Area and Los Angeles Area rates).

- The 2018 Peer Monitor Public Rates survey, attached hereto as **Exhibit F**, shows that Consumer Watchdog Counsel's rates here are well within, if not below, the range of hourly rates billed by other top-flight Los Angeles area law firms. For example, 18 Los Angeles area attorneys were listed as billing from $1,125 to $1,475 per hour. And again, rates have increased at least 12-16% since 2018.

19. The preceding hourly rates data supports my opinion that Consumer Watchdog Counsel's rates are well within, if not below, the range of non-contingent rates charged by comparably qualified Los Angeles Area attorneys for reasonably similar work.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 8th day of April, 2022, at Berkeley, California.



Richard M. Pearl, Esq.

EXHIBIT A

RESUME OF RICHARD M. PEARL

RICHARD M. PEARL
LAW OFFICES OF RICHARD M. PEARL
1816 Fifth Street
Berkeley, CA 94710
(510) 649-0810
(510) 548-3143 (facsimile)
rpearl@interx.net (e-mail)

EDUCATION

University of California, Berkeley, B.A., Economics (June 1966)
Berkeley School of Law (formerly Boalt Hall), Berkeley, J.D. (June 1969)

BAR MEMBERSHIP

Member, State Bar of California (admitted February 1970)
Member, State Bar of Georgia (admitted June 1970) (inactive)
Admitted to practice before all California State Courts; the United States Supreme Court; the United States Court of Appeals for the District of Columbia and Ninth Circuits; the United States District Courts for the Northern, Central, Eastern, and Southern Districts of California, for the District of Arizona, and for the Northern District of Georgia; and the Georgia Civil and Superior Courts and Court of Appeals.

EMPLOYMENT

LAW OFFICES OF RICHARD M. PEARL (April 1987 to Present): Civil litigation practice (AV rating), with emphasis on court-awarded attorney's fees, class actions, and appellate practice. Selected Northern California "Super Lawyer" in Appellate Law for 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, and 2021.

QUALIFIED APPELLATE MEDIATOR, APPELLATE MEDIATION PROGRAM, California Court of Appeal, First Appellate District (October 2000 to 2013) (program terminated).

ADJUNCT PROFESSOR, HASTINGS COLLEGE OF THE LAW (January 1988 to 2014): Taught *Public Interest Law Practice*, a 2-unit course that focused on the history, strategies, and issues involved in the practice of public interest law.

PEARL, McNEILL & GILLESPIE, Partner (May 1982 to March 1987): General civil litigation practice, as described above.

CALIFORNIA RURAL LEGAL ASSISTANCE, INC. (July 1971 to September 1983) (part-time May 1982 to September 1983):

Director of Litigation (July 1977 to July 1982)
Responsibilities: Oversaw and supervised litigation of more than 50 attorneys in CRLA's 15 field offices; administered and supervised staff of 4-6 Regional Counsel; promulgated litigation policies and procedures for program; participated in complex civil litigation.

Regional Counsel (July 1982 to September 1983 part-time)
Responsibilities: Served as co-counsel to CRLA field attorneys on complex projects; provided technical assistance and training to CRLA field offices; oversaw CRLA attorney's fee cases; served as counsel on major litigation.

Directing Attorney, Cooperative Legal Services Center (February 1974 to July 1977) (Staff Attorney February 1974 to October 1975)
Responsibilities: Served as co-counsel on major litigation with legal services attorneys in small legal services offices throughout California; supervised and administered staff of four senior legal services attorneys and support staff.

Directing Attorney, CRLA McFarland Office (July 1971 to February 1974) (Staff Attorney July 1971 to February 1972)
Responsibilities: Provided legal representation to low income persons and groups in Kern, King, and Tulare Counties; supervised all litigation and administered staff of ten.

HASTINGS COLLEGE OF THE LAW, Instructor, Legal Writing and Research Program (August 1974 to June 1978)
Responsibilities: Instructed 20 to 25 first year students in legal writing and research.

CALIFORNIA AGRICULTURAL LABOR RELATIONS BOARD, Staff Attorney, General Counsel's Office (November 1975 to January 1976, while on leave from CRLA)
Responsibilities: Prosecuted unfair labor practice charges before Administrative Law Judges and the A.L.R.B. and represented the A.L.R.B. in state court proceedings.

ATLANTA LEGAL AID SOCIETY, Staff Attorney (October 1969 to June 1971)
Responsibilities: Represented low-income persons and groups as part of 36-lawyer legal services program located in Atlanta, Georgia.

PUBLICATIONS

Pearl, *California Attorney Fee Awards, Third Edition* (Cal. Cont. Ed. Bar 2010) and February 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, and March 2021 Supplements

Pearl, *California Attorney Fee Awards, Second Edition* (Cal. Cont. Ed. Bar 1994), and 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, and 2008 Supplements

Graham v. DaimlerChrysler Corp. and *Tipton-Whittingham v. City of Los Angeles*, Civil Litigation Reporter (Cal. Cont. Ed. Bar Feb. 2005)

Current Issues in Attorneys' Fee Litigation, California Labor and Employment Law Quarterly (September 2002 and November 2002)

Flannery v. Prentice: Shifting Attitudes Toward Fee Agreements and Fee-Shifting Statutes, Civil Litigation Reporter (Cal. Cont. Ed. Bar Nov. 2001)

A Practical Introduction to Attorney's Fees, Environmental Law News (Summer 1995)

Wrongful Employment Termination Practice, Second Edition (Cal. Cont. Ed. Bar 1997) (co-authored chapter on "Attorney Fees")

California Attorney's Fees Award Practice (Cal. Cont. Ed. Bar 1982) (edited), and 1984 through 1993 Supplements

Program materials on attorney fees, prepared as panelist for CEB program on Attorneys' Fees: Practical and Ethical Considerations in Determining, Billing, and Collecting (October 1992)

Program materials on Attorney's Fees in Administrative Proceedings: California Continuing Education of the Bar, prepared as panelist for CEB program on Effective Representation Before California Administrative Agencies (October 1986)

Program materials on Attorney's Fees in Administrative Proceedings: California Continuing Education of the Bar, prepared as panelist for CEB program on Attorneys' Fees: Practical and Ethical Considerations (March 1984)

Settlors Beware/The Dangers of Negotiating Statutory Fee Cases (September 1985) Los Angeles Lawyer

Program Materials on Remedies Training (Class Actions), sponsored by Legal Services Section, California State Bar, San Francisco (May 1983)

Attorneys' Fees: A Legal Services Practice Manual (Legal Services Corporation 1981)

PUBLIC SERVICE

Member, Attorneys' Fee Task Force, California State Bar

Member, Board of Directors, California Rural Legal Assistance Foundation

REPRESENTATIVE CASES

ACLU of N. Cal. v. DEA
(N.D. Cal. 2012) 2012 U.S.Dist.LEXIS 190389

Alcoser v. Thomas
(2011) 2011 Cal.App.Unpub.LEXIS 1180

Arias v. Raimondo
(2018) 2018 U.S.App.LEXIS 7484

Boren v. California Department of Employment
(1976) 59 Cal.App.3d 250

Cabrera v. Martin
(9th Cir. 1992) 973 F.2d 735

Camacho v. Bridgeport Financial, Inc.
(9th Cir. 2008) 523 F.3d 973

Campos v. E.D.D.
(1982) 132 Cal.App.3d 961

Center for Biological Diversity v. County of San Bernardino
(2010) 185 Cal.App.4th 866

Children & Families Commission of Fresno v. Brown
(2014) 228 Cal.App.4th 45

Committee to Defend Reproductive Rights v. A Free Pregnancy Center
(1991) 229 Cal.App.3d 633

David C. v. Leavitt
(D. Utah 1995) 900 F.Supp. 1547

Delaney v. Baker
(1999) 10 Cal.4th 23

REPRESENTATIVE CASES (cont.)

Dixon v. City of Oakland
(2014) 2014 U.S.Dist.LEXIS 169688

Employment Development Dept. v. Superior Court (Boren)
(1981) 30 Cal.3d 256

Environmental Protection Info. Ctr. v Department of Forestry & Fire Protection
(2010) 190 Cal.App.4th 217

Environmental Protection Information Center, Inc. v. Pacific Lumber Co.
(N.D. Cal. 2002) 229 F. Supp.2d 993, *aff'd* (9th Cir. 2004) 103 Fed. Appx. 627

Flannery v Prentice
(2001) 26 Cal. 4th 572

Graham v. DaimlerChrysler Corp.
(2004) 34 Cal. 4th 553

Guerrero v. Cal. Dept. of Corrections etc.
(2016) 2016 U.S.Dist.LEXIS 78796, *aff'd in relevant part,* (9th Cir. 2017) 701 Fed.Appx. 613

Heron Bay Home Owners Assn. v. City of San Leandro
(2018) 19 Cal.App.5th 376

Horsford v. Board of Trustees of Univ. of Calif.
(2005) 132 Cal.App.4th 359

Ketchum v. Moses
(2001) 24 Cal.4th 1122

Kievlan v. Dahlberg Electronics
(1978) 78 Cal.App.3d 951, *cert. denied* (1979)
440 U.S. 951

Lealao v. Beneficial California, Inc.
(2000) 82 Cal.App.4th 19

Lewis v. California Unemployment Insurance Appeals Board
(1976) 56 Cal.App.3d 729

REPRESENTATIVE CASES (cont.)

Local 3-98 etc. v. Donovan
(N.D. Cal. 1984) 580 F.Supp. 714,
aff'd (9th Cir. 1986) 792 F.2d 762

Mangold v. California Public Utilities Commission
(9th Cir. 1995) 67 F.3d 1470

Maria P. v. Riles
(1987) 43 Cal.3d 1281

Martinez v. Dunlop
(N.D. Cal. 1976) 411 F.Supp. 5,
aff'd (9th Cir. 1977) 573 F.2d 555

McQueen, Conservatorship of
(2014) 59 Cal.4th 602 (argued for *amici curiae*)

McSomebodies v. Burlingame Elementary School Dist.
(9th Cir. 1990) 897 F.2d 974

McSomebodies v. San Mateo City School Dist.
(9th Cir. 1990) 897 F.2d 975

Molina v. Lexmark International
(2013) 2013 Cal.App. Unpub. LEXIS 6684

Moore v. Bank of America
(9th Cir. 2007) 2007 U.S. App. LEXIS 19597

Moore v. Bank of America
(S.D. Cal. 2008) 2008 U.S. Dist. LEXIS 904

Mora v. Chem-Tronics, Inc.
(S.D. Cal. 1999) 1999 U.S. Dist. LEXIS 10752,
5 Wage & Hour Cas. 2d (BNA) 1122

Nadaf-Rahrov v. Nieman Marcus Group
(2014) 2014 Cal.App. Unpub. LEXIS 6975

Orr v. Brame
(9th Cir. 2018) 727 Fed.Appx. 265, 2018 U.S.App.LEXIS 6094

REPRESENTATIVE CASES (cont.)

Orr v. Brame
(9th Cir. 2019) 793 Fed.Appx. 485

Pena v. Superior Court of Kern County
(1975) 50 Cal.App.3d 694

Ponce v. Tulare County Housing Authority
(E.D. Cal 1975) 389 F.Supp. 635

Ramirez v. Runyon
(N.D. Cal. 1999) 1999 U.S. Dist. LEXIS 20544

Ridgeway v. Wal-Mart Stores, Inc., 269 F. Supp. 3d 975 (N.D. Cal. 2017), *aff'd on merits (fees not appealed)* 269 F.3d 1066 (9th Cir. 2020)

Robles v. Employment Dev. Dept.
(2019) 38 Cal.App.5th 191

Rubio v. Superior Court
(1979) 24 Cal.3d 93 (amicus)

Ruelas v. Harper
(2015) 2015 Cal.App. Unpub.LEXIS 7922

Sokolow v. County of San Mateo
(1989) 213 Cal. App. 3d. 231

S.P. Growers v. Rodriguez
(1976) 17 Cal.3d 719 (amicus)

Swan v. Tesconi
(2015) 2015 Cal.App. Unpub. LEXIS 3891

Tongol v. Usery
(9th Cir. 1979) 601 F.2d 1091,
on remand (N.D. Cal. 1983) 575 F.Supp. 409,
revs'd (9th Cir. 1985) 762 F.2d 727

Tripp v. Swoap
(1976) 17 Cal.3d 671 (amicus)

REPRESENTATIVE CASES (cont.)

United States (Davis) v. City and County of San Francisco
(N.D. Cal. 1990) 748 F.Supp. 1416, *aff'd in part and revs'd in part sub nom Davis v. City and County of San Francisco* (9th Cir. 1992) 976 F.2d 1536, *modified on rehearing* (9th Cir. 1993) 984 F.2d 345

United States v. City of San Diego
(S.D.Cal. 1998) 18 F.Supp.2d 1090

Vasquez v. State of California
(2008) 45 Cal.4th 243 (*amicus*)

Velez v. Wynne
(9th Cir. 2007) 2007 U.S. App. LEXIS 2194

AUGUST 2021

EXHIBIT B

EXHIBIT B

Rates Found Reasonable by San Diego Area Courts

The following hourly rates have been found reasonable by various San Diego area courts for reasonably similar services in the San Diego area:

(1) In *Herring v. Maddow,* 2021 U.S. Dist. LEXIS 23163 (S.D. Cal. 2021), an anti-SLAPP fee award, the court found the following 2020 hourly rates reasonable: $1,050-1,150 per hour for attorneys with 30+ years of experience; $720 per hour for a senior associate with 10+ years of experience; and $470 per hour for associates with 3 years legal experience.

(2) In *In re Easysaver Rewards Litigation,* 2020 U.S. Dist.LEXIS 77483 (S.D. Cal. 2020), a coupon class action settlement, the court found reasonable 2019 rates of $850 and $825 reasonable for partners at San Diego's Cohelan, Khoury and Singer; $675 per hour for a Cohelan Khoury associate; and $795 for partners at San Diego's Patterson Law Group.

(3) In *Corona v. Remington Lodging & Hospitality, LLC*, 2019 U.S.Dist.LEXIS 68116 (S.D.Cal. 2019), a wage and hour class action, the court found that counsel's usual billing rates -- $750 for 33-year attorney and $550 for a 14-year attorney – were reasonable.

(4) In *San Diego Comic Convention v. Dan Farr Productions, No. 14cv1865-AJB-JMA,* 2019 U.S. Dist. LEXIS 64418 (S.D. Cal. Apr. 15, 2019) *attorney fees aff'd by* 807 F. App'x 674 (9th Cir. Apr. 20, 2020), a trademark infringement case, the court found reasonable the hourly rates of $760 for partners with 28-29 years of experience, $685 for a partner with 14 years of

experience, $585 for attorney with 16 years of experience, and $545 for an associate with 5 years of experience;,

(5) In *Youngevity Int'l, Corp. v. Smith*, No. 16-CV-00704-BTMJLB, 2018 U.S. Dist. LEXIS 77659, 2018 WL 2113238, at *5 (S.D. Cal. May 7, 2018), the court found that "Courts in this district have held a range of rates from $450-750 per hour reasonable for a senior partner in a variety of litigation contexts and specialties."

(6) In *Weinstein v. Mortgage Contracting Services, LLC*, 2018 U.S.Dist.LEXIS 182718 (S.D.Cal. 2018), a wage and hour class action, the court found that $750 was a reasonable rate for a 41-year attorney, $625 per hour for 2005 Bar Admittees, and $450 per hour for a 10-year attorney.

(7) In *Lewis v. County of San Diego,* 2017 U.S.Dist.LEXIS 203457 (S.D. Cal. 2017), an unlawful search action against county social workers, the court awarded a 25-year attorney with 19 years of civil rights practice $600 per hour, a 4-year attorney $250 per hour, and $100 per hour for paralegal work.

(8) In *Beaver v. Tarsadia Hotels,* 2017 U.S.Dist.LEXIS 160214 (S.D. Cal. 2017), a consumer class action, the court approved, as part of the lodestar cross-check for a common fund award, hourly rates that included $875 for a 40-year attorney, $725 for a 25-year attorney, $650 for a 16-year attorney, and $400 for a seven year attorney.

(9) In *Dilts v. Penske Logistic, LLC,* 2017 WL 2620664 (S.D. Cal. 2017), a wage and hour class action based in part on the UCL, the court awarded San Diego's Cohelen Khoury & Singer rates

of $750 per hour for a 33-year attorney, $550 for a 22-year attorney, and $170-200 for paralegal work.

(10) In *Makaef v. Trump University, LLC,* 2015 U.S.Dist.LEXIS 46749 (S.D. Cal. 2015), a fee award for a successful anti-SLAPP motion under California law and the subsequent appeals therefrom, the court found the following hourly rates reasonable for San Diego's Robins Geller Rudman & Dowd: $825 for a 20-year attorney, $660 for a 15-year attorney, and $360 for an 8-year associate. For San Diego's Zeldes Haeggquist & Eck, it found $600 and $690 per hour reasonable for 20-year attorneys.

(11) In *Hohnbaum v. Brinker Restaurants, Inc.,* San Diego County Superior Court No. GIC834348, Order and Judgment Granting Plaintiffs' Motion for Final Approval and Class Action Settlement and Motion for Award of Attorneys' Fees, Costs, Class Representative Service Payments, Claims Administration Exhibits, filed December 15, 2014, plaintiffs' requested hourly rates included rates of $850 per hour for San Diego attorneys with as little as 24 years' experience and paralegal rates of up to $195 per hour.

(12) In *Beltran v. D III Transportation Corp.*, San Diego Superior Court No. 77-2012-00099241-CU-OE-CTL, Order Granting (1) Final Approval of Class Settlement and Entering Judgment; and (2) Award of Attorneys' Fees and Costs etc., filed June 20, 2014, the court found $750 per hour reasonable for a 30-year San Diego attorney

(13) In *Chaikin v. Lululemon USA Inc*., 2014 WL 1245461 (S.D. Cal. 2014), a consumer class action, the court found the following hourly rates reasonable: 2000 Bar admittee - $650; 2002 Bar admittee - $500; 2007 Bar admittee - $500; and 2011 Bar admittee - $350.

(14) In *Reed v. 1-800 Contacts, Inc.,* 2014 WL 29011 (S.D. Cal. 2014), a consumer class action alleging violations of Penal Code §630 *et seq.,* the court found that $650 was a reasonable hourly rate for attorneys with 24 and 27 years of experience. It also found that a 2.9 lodestar multiplier was reasonable.

(15) In *Johansson-Dohrmann v. CBR Sys*., 2013 WL 3864341 (S.D. Cal. 2013), a representative action alleging invasion of privacy, the court found that lead class counsel's rate of $695 per hour was reasonable for a 20-year attorney. It also found that a 2.07 multiplier was reasonable.

(16) In *Hartless v. Clorox,* 273 F.R.D. 630, 644 (S.D. Cal. 2011), the Court found, *inter alia,* that class counsel's requested rates were consistent with the hourly rates found reasonable in numerous other class actions and with rates charged by other firms in the San Diego area, including rates of $795 per hour for a 25-year attorney and $675 per hour for an experienced partner. 273 F.R.D. at 644.

(17) In *Shames v. Hertz Corp.,* 2012-2 Trade Case. (CCH) ¶78,120 (S.D. Cal. 2012), the Court, relying on *Hartless,* found that plaintiffs' San Diego Counsel there were comparable in skill and experience to the attorneys whose rates were found reasonable in *Hartless* at *59-61.

(18) In *Briarwood Capital LLC v. HCC Investors LLC,* San Diego Superior Court No. GIC877446, on March 30, 2011, the court found that the 2009 hourly rates charged by the San Diego office of Bernstein Litowitz Berger & Grossman LLP -- $725 for partners, $490-550 for associates -- were reasonable. Similarly, in the same case, the court found that the 2009 rates charged by the Century City office of O'Melveny & Myers LLP, including rates of $860-950 for a 36-37 year attorney and $700-710 for 16-18 year attorneys also were reasonable for San Diego litigation.

EXHIBIT C

Pearl Declaration - Exhibit C

Rates Approved by Los Angeles Area Courts

- In *Campbell v. Barnes,* Orange County Superior Court No. 30-2020-01141117-CU-WM-CXC, Order Granting Petitioners' Motion for an Award of Attorneys' Fees, filed January 20, 2022, a case challenging inadequacies in the County jail's response to the Covid epidemic, the court found the following hourly rates reasonable:

LAW SCHOOL GRADUATION YEAR	**RATES**
Munger, Tolles & Olson LLP	
2003	$1,210
2013	$850
2015	$750
2016	$700
2017	$650
2018	$550
Non-Attorneys	
Automated Litig. Analyst	
Litigation Analyst	$250
Paralegals	$250
ACLU	
1988, 2000, and 2003	$1,210
2007	$950
2009	$900
2015	$750
2016	$700
2017	$650
Non-Attorney	
Senior Investigator	$250
Schonbrun, Seplow, Harris, Hoffman, And Zeldes LLP	
1976	$1,000
2016	$450
2016	$600
2019	$440
1975	$1,025
1976	$930
1979	$995
2015	$570

- In *Alvarez, et al. v. XPO Logistics Cartage, LLC et al.,* United States District Court, Central District of California, No. 2:18-cv-03736-RGK-E, Order re: Motions for Attorneys' Fees, Costs, and Incentive Awards, filed February 8, 2022, a wage and hour class action, the court found the following 2021 hourly rates reasonable as part of its lodestar cross-check:

YEARS OF EXPERIENCE	**RATES**
Sayas Law Firm	
35	$900
17 (Sr. Associate)	$695
Paralegals	$225-$350
Bush Gottlieb	
1980	$975
1989	$900
1994	$850
2012	$575
2014	$525
2016	$475
2018	$425
2020	$375
Law Clerks	$225
Paralegals	$225

- In *The Kennedy Commission v. City of Huntington Beach,* Los Angeles County Superior Court No. 30-2015-00801675, Ruling on Submitted Matter filed July 8, 2021, a writ of mandate action challenging a land use amendment adopted by the City of Huntington Beach, the court found the following hourly rates reasonable (prior to application of a 1.4 lodestar multiplier):

2020 Rates:	**Years of**	**Rates**
	38	$910
	40	$900
	26	$815
	23	$750

	16	$710
	14	$680
	10	$565
	7	$500
	6	$475
	5	$450
	2	$365

In an earlier ruling in the same case, the court found the following hourly rates reasonable for the Plaintiffs' private *pro bono* law firm (prior to application of a 1.4 multiplier) [1]:

2016 Rates:	**Bar Admission**	**Rates**
	2001	$900
	2014	$450
2015 Rates:	**Bar Admission**	**Rates**
	2001	$875
	2014	$400

- In *Rea v. Blue Shield*, Los Angeles County Superior Court No. BC468900, Fee Order filed November 13, 2020, a class action challenging Blue Shield's practices regarding mental health claims, in which the court found that $900 per hour was reasonable for plaintiffs' three lead attorneys, with 35, 37, and 44 years of experience. It also applied a 1.5 multiplier.
- In *Caldera v. State of California,* San Bernardino County Superior Court No. DS1000177, Ruling on Plaintiff's Motion for Attorney's

[1] The initial *Kennedy Commission* fee award was remanded in conjunction with the reversal of the merits. 2017 Cal.App.Unpub.Lexis 7488 (2017).

Fees filed October 23, 2020, an individual Fair Employment and Housing Act case, the court found that $825 per hour was a reasonable hourly rate in the Los Angeles legal marketplace for 26-year attorney's appellate work (before applying a 1.65 lodestar multiplier).

- In *Independent Living Center of S. Cal. v. Kent,* 2020 U.S.Dist.LEXIS 13019 (C.D. Cal. 2020), an action seeking to enjoin the challenging the State's right to alter reimbursement rates for Medi-Cal providers, the court found the following hourly rates reasonable (before applying a 1.5 lodestar multiplier):

2019 Rates:	**Law School Graduation Year**	**Rates**
	1975	$1,025
	1976	$965
	1979	$1,025
	2007	$815
	2011	$800
	2015	$640
	2016	$600
	2019	$440
2018 Rates:	**Law School Graduation Year**	**Rates**
	1975	$1,025
	1976	$930
	1979	$995
	2015	$570

- In *Lavinsky v. City of Los Angeles,* Los Angeles County Superior Court No. BC542245, Fee Award filed October 9, 2019, a class action challenge to a municipal tax, the court found the following hourly rates reasonable (before applying a 3.8 lodestar multiplier for contingent risk, etc.):

YEARS OF EXPERIENCE	RATE
25	$850
29	$800
17	$695
9	$475
5-7	$450
1	$295
Paralegal	$125

- In *Hadsell v. City of Baldwin Park,* Los Angeles County Superior Court No. BC 548 602, Notice of Ruling on Plaintiff's Motion for Attorneys' Fees filed June 25, 2019, the court found the following hourly rates reasonable (before applying a 1.5 multiplier):

CAL BAR ADMISSION DATE	RATE
1987	$1,100
1990	$1,100
2008	$800
2008	$650
2012	$550
2016	$500

- In *Pinter-Brown v. UCLA,* Los Angeles Superior Court No. BC624838, Fee Order filed August 3, 2018, the court found the following 2018 hourly rates reasonable:

CAL BAR ADMISSION DATE	RATE
1990	$1,100
2008	$675
2012	$500
2016	$400
2015	$350
2016	$325
2017	$300

- In *Wishtoyo Foundation et al v. United Water Conservation Dist.,* 2019 U.S.Dist.LEXIS 39927 (C.D. Cal. 2019), an environmental action under the federal Endangered Species Act, the court found the following hourly rates reasonable:

	Bar Admittance or Law School Graduation	2018 Rates
	1986	$840
		$780
		$735
		$720
		$670
		$600
		$425
		$680
	Paralegals	$200-250

- In *Monster, LLC, et al., v. Beats Electronics, LLC et al.*, Los Angeles Superior Court Case No. BC595235 (2017), Order Granting Defendant and Cross-Complainant Beats Electronics, LLC's Motion for Attorneys' Fees and Costs, filed June 27, 2018, a commercial dispute, the court found the following hourly rates reasonable for Beats' attorneys' work on the successful jury trial that

determined the amount of reasonable attorneys' fees Monster would be required to pay as damages:

Boies, Schiller & Flexner	**Bar Admittance or Law School Graduation**	**2016/2017 Rates**
Partners:	1986	$960/$1,049
	2006	$920/$972
	2000	$880
	2001	$880
	2002	$830
	1999	$830
	2004	$740 (2015); $760 (2016)
	2006	$680
	2007	$650/$714
	2009	$600/$800
Associates:	2004	$680
	2009	$610
	2013	$460/$533
	2013	$490
	2010	$630
	2011	$480/$602
	2014-2015	$420
Non-Attorneys Timekeepers:		$190-284

Gibson Dunn & Crutcher	**Bar Admittance or Law School Graduation**	**2017 Rates**
	1987	$852 (through Aug. 2017) $956 (from Sept. 2017)
	2008	$592 (through Aug. 2017) $696 (from Sept. 2017)
	2013	$404 (through Aug. 2017) $600 (from Sept. 2017)
	2015	$520
	2016	$472
	1997	$960
	2006	$736
	1987	$944
Non-Attorneys Timekeepers:		$216-$335

- In *Nozzi v. Housing Authority,* 2018 U.S.Dist.LEXIS 26049 (C.D.

Cal. 2018), tenant class action, the court approved the following hourly rates as reasonable:

Kaye McLane Bednarski & Litt	**Bar Admittance or Law School Graduation**	**2017 Rates**
	1969	$1,150
	1992	$750
	1993	$765
	2008	$730
	Sr. Paralegal	$335
	Jr. Paralegal	$150
	Law Clerk	$200

- In *Monster, LLC, et al., v. Beats Electronics, LLC et al.*, Los Angeles Superior Court Case No. BC595235 (2017), the same commercial dispute listed above, the court found the following 2017 rates to be reasonable for Beats's co-defendants who had obtained relief by summary judgment (see Order Granting Motions for Attorneys' Fees, filed October 12, 2017, p. 2):

	Bar Admittance or Law School Graduation	**2016 Rates (unless otherwise noted)**
Partners:	1966	$1,000 (2015); 1,245 (2016)
	1977	$1,110 (2015)
	1981	$910
	1985	$995
	1992	$875-885
	1995	$910
	2002	$750
Of Counsel:	1976	$705
Associates:	2009	$615 (2015); $660 (2016)
Non-Attorneys Timekeepers:		$380-90

- In *The Kennedy Commission v. City of Huntington Beach,* Los Angeles County Superior Court No. 30-2015-00801675, Order Granting Petitioners' Motion for Attorneys' Fees Pursuant to California Code of Civil Procedure § 1021.5, filed July 13, 2016, a writ of mandate action challenging a

land use amendment adopted by the City of Huntington Beach, the court found the following hourly rates reasonable for the Plaintiffs' private *pro bono* law firm (prior to application of a 1.4 multiplier)[2]:

2016 Rates:	**Bar Admission**	**Rates**
	2001	$900
	2014	$450
2015 Rates:	**Bar Admission**	**Rates**
	2001	$875
	2014	$400

- In *Willits et al v. City of Los Angeles,* No. CV 10-5782 CCBM (RZx) (C.D. Cal.), Order Granting Motion for Attorneys' Fees and Costs, filed August 25, 2016 (Dkt. No. 418), a class action lawsuit against the City of Los Angeles by persons with mobility disabilities under the Americans with Disabilities Act and the Rehabilitation Act of 1973 challenging the inaccessibility of the City's sidewalks, the court found the following 2015 hourly rates reasonable:

Law School	**Rates**
1976	$1,115.60
1977 (associate)	700
1981	795
1987	680-775
1993	750
1999	644-695

[2] The *Kennedy Commission* fee award was remanded in conjunction with the reversal of the merits. 2017 Cal.App.Unpub.Lexis 7488 (2017).

2001	625
2003	550
2006	525 —
2007	450
2008	473
2009	450
2010	350-400
2011	300-385
2012	300
2013	300-325
Paralegals and Law	110-250
Case Assistants	220-230
Docket Clerk	230

- In *State Compensation Insurance Fund v. Khan et al,* Case No. SACV 12-01072-CJC(JCGx) (C.D. Cal.), Order Granting in Part and Denying in Part the Zaks Defendants' Motion for Attorneys' Fees, filed July 6, 2016 (Dkt. No. 408), a multi-defendant RICO action, the court found the following hourly rates reasonable:

Years of Experience	Rates
22	$890
20	$840
5	$670
4	$560
Paralegals	$325-340
Case Assistants	$220-230

Docket Clerk	$230

- In *ScripsAmerica, Inc. Ironridge Global LLC et al,* Case No. CV 14-03962-SJO (AGRx) (C.D. Cal.), Order Granting Defendant Ironridge GlobalLLC, John Kirkland, Brendan O'Neill's Motion for Attorney's Fees, filed January 12, 2016 (Dkt. No. 50), a contract dispute, the court found the following 2015 hourly rates reasonable:

Years of Experience	**Rates**
37	$950
11	$700
4	$450
Paralegals	$200-350

- In *Perfect 10, Inc. v. Giganews, Inc.,* 2015 U.S. Dist. LEXIS 54063 (C.D. Cal. 2015), filed March 24, 2015, *affirmed* 847 F.3d 657 (9th Cir. 2017), a copyright infringement action, the court found the following 2015 hourly rates reasonable:

Years of Experience	**2015 Rate**
29	$825-930
18	$750
17	$705-750
12	$610-640
11	$660-690

10	670

9	660-690
8	470-525
7	640
5	375-560
4	350-410
3	505
2	450
1	360-370
Paralegals	240-345
Discovery Support	245-290

- In *Rodriguez v. County of Los Angeles,* 96 F.Supp.3d 990 (C.D. Cal. 2014), Order Granting Plaintiffs' Motion for Attorneys' Fees, filed December 29, 2014, *affirmed* 891 F.3d 779 (9th Cir. May 30, 2018), a civil rights action on behalf of five county jail prisoners, the district court found the following hourly rates reasonable, plus a 2.0 lodestar multiplier for merits work performed on the plaintiffs' California cause of action; the entire award was affirmed on appeal:

Years of Experience	**Rate**
45	$975
28	700-775
26	775
10	600
6	500
Senior Paralegal	295
Other Paralegals	175-235
Law Clerk	250

- In *Doe v. United Healthcare Insurance Co., et al.,* No. SACV13-0864 DOC(JPRx) (C.D. Cal.), Order Granting Attorney's Fees and Costs, filed October 15, 2014, a multi-Plaintiff consumer action, the court found the following hourly rates reasonable:

Whatley Kallas

Years of Experience	Rate
36	$950
27	900
32	800
33	750
21	700
10	600
4	400
2	375
Paralegal	225

Consumer Watchdog

Years of Experience	Rate
35	$925
19	650
4	425

- In *Pierce v. County of Orange,* 905 F. Supp. 2d 1017 (C.D. Cal. 2012), a civil rights class action brought by pre-trial detainees, the court approved a lodestar based on the following 2011 rates:

Years of Experience	**Rate**
42	$850

32	825
23	625
18	625
Law Clerks	250
Paralegals	250

EXHIBIT D

Pearl Decl. - Exhibit D

Rates Charged by Los Angeles Area Law Firms

Ahdoot & Wolfson		
2019 Rates	**Years of Experience**	**Rate**
	25	$850
	29	$800
	17	$695
	9	$475
	5-7	$450
	1	$295
	Paralegal	$125

Arnold & Porter Kaye Scholar LLP		
2021 Rates	**Level**	**Rates**
	Partners	$750-$1,150
	Senior Counsel	$910-$1,280
	Associates	$545-$910
	Paralegals	$390-$405
2015 Rates:	**Level**	**Rates**
	Partners	Up to $1,085
	Associates	Up to $710

2014 Rates:	Years of Experience	Rates
	49	$995
	45	$720
	39	$655
2013 Rates:	**Level**	**Rates**
	Average Partner	$815
	Highest Partner	$950
	Lowest Partner	$670
	Average Associate	$500
	Highest Associate	$610
	Lowest Associate	$345

The Arns Law Firm LLP		
2020 Rates:	**Years of Experience**	**Rates**
	1975	$950
	2010	$575
	2013	$525

Bush Gottlieb		
2021 Rates:	**Law School Graduation Date**	**Rates**
	1980	$975

	1989	$900
	1994	$850
	2012	$575
	2014	$525
	2016	$475
	2018	$425
	2020	$375
	Law Clerks	$225
	Paralegals	$225
2019 Rates:	**Class Year**	**Rates**
Lawyers:	1980	$900
	1989	$900
	1974	$850
	2002	$725
	2006	$625
	2013	$450
	2014	$425
	2015	$400
	2016	$375
Law Clerks/Support Staff:		$200

Cooley LLP		
2021 Rates:	**Years of Experience**	**Rates**
	27 (Partner)	$1,415
	27 (Special Counsel)	$1,210
2020 Rates	**Years of Experience**	**Rates**
	26 (Partner)	$1,275
	26 (Special Counsel)	$1,140
	12 (Associate)	$1,120
2017 Rates:	**Years of Experience**	**Rates**
	22	$905
2014 Rates:	**Years of Experience**	**Rates**
	31	$1,095
	17	$770
	9	$685
2013 Rates:	**Years of Experience**	**Rates**
	30	$1,035
	16	$710
	8	$645

Crowell & Moring		
2020 Rate:	**Years of Experience**	**Rate**
	27	$1,090

Law Offices of James DeSimone		
2020 Rate:	**Years of Experience**	**Rate**
	33	$1,000
Dordick Law		
2019 Rates:	**Bar Admission Year**	**Rates**
	1987	$1,100

Duane Morris LLP		
2018 Rates:	**Bar Admission Year**	**Rates**
	1973	$1,005
	2008	$605
	2011	$450
	2017	$355
	Sr. Paralegal	$395
2016 Rates:	**Years of Experience**	**Rates**
	43	$880
	41	$880
	26	$720
	25	$695
Galipo, Law Offices of		
2019 Rates:	**Bar Admission Year**	**Rates**
	1989	$1,000

Gibson Dunn & Crutcher LLP		
2021 Rates:	**Years of Experience**	**Rates**
	33	$1,355
	29	$1,185
	5	$905
	Other Staff	$280
2020 Rates:	**Level**	**Rates**
	Senior Partners	$1,395 – 1,525
	Senior Associate	$960
	Mid-level Associate	$740
	Paralegals	$480
2017 Rates:	**Bar Admittance or Law School Graduation**	**Rates**
	1987	$956
	1987	$944
	1997	$960
	2006	$736
	2008	$*592/$696
	2013	$$600
	2015	$520
	2016	$472
Non-Attorney		$216-$335
2016 Rates	**Bar Admittance**	**Rates**
	1987	$852
	2010	$540
	2013	$404
2015 Rates	**Years of Experience**	**Rates**
	37	$1,125

	23	$955
	3	$575

Hadsell, Stormer, Richardson & Renick		
2019 Rates:	**Years of Experience**	**Rates**
	46	$1,150
	17	$750
	10	$575
	7	$500
	6	$475
2015 Rates:	**Years of Experience/Level**	**Rates**
	42	$1,050
	20	$750
	26	$700
	16	$650
	13	$600
	5	$425
	4	$375
	Law Clerks	$225
	Paralegals	$175-250
2012 Rates:	**Years of Experience**	**Rates**
	38	$825

	33	$775
	22-23	$625
	17	$600
	12	$525
	10	$425
	4	$275
	3	$250

Hagens Berman Sobol Shapiro LLP		
2017 Rates:	**Levels**	**Rates**
	Senior Attorney	$950
	Other Partners	$578-$760
	Associates	$295-$630

Hooper, Lundy & Bookman		
2019 Rates:	**Law School Graduation Year**	**Rates**
	1975	$1,025
	1976	$965
	1979	$1,025
	2007	$815

	2011	$800
	2015	$640
	2016	$600
	2019	$440
2018 Rates:	**Law School Graduation Year**	**Rates**
	1975	$1,025
	1976	$930
	1979	$995
	2015	$570

Jones Day		
2020 Rates:	**Years of Experience e**	**Rates**
	1st	$413.25
2018 Rates:		
	30+	$1,025
2016 Rates:	**Bar Admission Year**	**Rates**
	2001	$900
	2004	$850 (partner)
	2004	$657.70 (assoc.)
	2014	$450
2015 Rates:	**Bar Admission Year**	**Rates**

	2001	$875
	2014	$400

Kaye, McLane, Bednarski & Litt		
2019 Rates:	**Graduation Year**	**Rates**
	1969	$1,200
	1993	$800
	2008	$600-$700
	2006	$700
	Paralegals	$125-360
	Law Clerks	$225
2017 Rates:	**Graduation Year**	**Rates**
	1969	$1,150
	1992	$750
	1993	$765
	2008	$730
	Sr. Paralegal	$335
	Jr. Paralegal	$150
	Law Clerk	$200
2014 Rates:	**Years of Experience**	**Rates**
	45	$975
	28	$700-775

	26	$775
	10	$600
	6	$500
	Senior Paralegal	$295
	Other Paralegal	$175-235
	Law Clerk	$250

Kirkland & Ellis		
2021 Rates:	**Title**	**Rates**
	Partners	$1,085-$1,895
	Associates	$625-$1,195
	Paraprofessionals	$255-$475
2020 Rates:	**Title**	**Rates**
	Partners	$1,075-$1,845
	Associates	$610-$1,165
	Paraprofessionals	$245-$460
2017 Rates:	**Years of Experience**	**Rates**
	20	$1,165
	9	$995
	8	$965
	5	$845
	4	$845

	3	$810
	2	$555

Latham & Watkins		
2016 Rates:	Average Partner	$1,185.83
	Highest Partner	$1,595
	Lowest Partner	$915
	Average Associate	$754.62
	Highest Associate	$1,205
	Lowest Associate	$395

Michelman & Robinson LLP		
2018 Rates:	**Bar Admission Date**	**Rates**
	Partners	$995
	Senior Associate	$580
	Associate	$480

Milbank, Tweed, Handley & McCloy LLP		
2016 Rates:	**Bar Admission Date**	**Rates**
	1983	$1,025
	1984	$1,350
	1992	$1,350
	2002 (Associate)	$915

Morrison Foerster LLP		
2021 Rates:	**Law School Graduation Year**	**Rate**
	2002	$1,200
	2011	$1,075
	2014	$925
	2018	$745
	Paralegal	$295
2020 Rates:	**Law School Graduation Year**	**Rate**
	2002	$1,125
	2011	$975
	2014	$810
	2018	$640
	Paralegal	$275
2018 Rates:	**Years of Practice**	**Rates**
	40	$1,050
	22	$950
	11	$875
	3	$550
	Paralegal	$325
2017 Rates:	**Bar Admission Date**	**Rates**

	2007	$608
	2012	$575
2016 Rates:	**Bar Admission Date**	**Rates**
	1975	$1,025
	1999	$975
	1993	$975
2013 Rates:	**Level**	**Rates**
	Average Partner	$865
	Highest Partner	$1,195
	Lowest Partner	$595
	Average Associate	$525
	Highest Associate	$725
	Lowest Associate	$230

Munger, Tolles & Olson		
2021 Rates	**Law School Grad. Year**	**Rate**
	1991	$1,725
	2003	$1,210
	2009	$995
	2013	$1,040
	2015	$995
	2016	$825

	2017	$880
	2018	$805
	Paralegal	$420-475
	Automated Litig. Analyst	$540-570
2020 Rates:		
	1991	$1,610
	2001	$950
	2009	$920
	2016	$725
	Paralegal (42 years' experience)	$345
2016 Rates (unless otherwise noted):	**Bar Admittance or Law School Graduation**	**Rates**
Partners:	1966	$1,000 (2015); 1,245 (2016)
	1977	$1,110 (2015)
	1981	$910
	1985	$995
	1992	$875-885
	1995	$910
	2002	$750
Of Counsel:	1976	$705

Associates:	2009	$615 (2015); $660 (2016)
Non-Attorneys Timekeepers:		$380-90

O'Melveny & Myers		
2019 Rates:	**Level**	**Rate**
	Senior Partner	$1,250
	Partner (1998 Bar Admittee)	$1,050
	3rd Year Associate	$640
	2nd Year Associate	$565
2016 Rates:	**Bar Admission Date**	**Rates**
	1985	$1,175
	2004	$895
	2005	$780
	2007	$775
	2010	$725
	2011	$700
	2012	$655
	2013	$585
	2014	$515
	2015	$435
2013 Rates:	**Level**	**Rates**

	Average Partner	$715
	Highest Partner	$950
	Lowest Partner	$615

Orrick Herrington & Sutcliffe		
2014 Rates:	**Level**	**Rates**
	Average Partner	$845
	Highest Partner	$1,095
	Lowest Partner	$715
	Average Associate	$560
	Highest Associate	$710
	Lowest Associate	$375

Paul Hastings LLP		
2020 Rates:	**Years of Experience**	**Rates**
	25	$1,425
	7	$885
	5	$775
	3	$645
	Research assistant	$335
2016 Rates:	**Bar Admission Date**	**Rates**
	1973	$1,175
	1997	$895
	1990	$750
2014 Rates:	**Level**	**Rates**
	Average Partner	$815
	Highest Partner	$900
	Lowest Partner	$750
	Average Associate	$540
	Highest Associate	$755
	Lowest Associate	$350

Pearson Simon & Warshaw LLP		
2019 Rates:	**Years of Experience**	**Rates**
	23-38	$1,150

	10	$900
	Of Counsel	$825
	6	$500
	4	$450
	Paralegals	$225
2018 Rates:	**Years of Experience**	**Rates**
	22-37	$1,050
	9	$650
	Of Counsel	$725
	5	$450
	3	$400
2017 Rates:	**Years of Experience**	**Rates**
	35-36	$1,035
	8	$520
	4	$400
	2	$350

Proskauer Rose LLP		
2016 Rates:	**Bar Admission Date**	**Rates**
	1974	$1,475
	1983	$1,025
	1979	$950

	2007	$850
	2013	$495
	2015	$440-445

Quinn Emanuel Urquhart & Sullivan		
2018 Rates:	**Law School Graduation Yr.**	**Rates**
	1980	$1,135
	2016	$630
2013 Rates:	**Level**	**Rates**
	Average Partner	$915
	Highest Partner	$1,075
	Lowest Partner	$810
	Average Associate	$410
	Highest Associate	$675
	Lowest Associate	$320

Reed Smith LLP		
2020 Rates:	**Years of Experience**	**Rates**
	22	$930
	16	$780
	14	$840
	Paralegals	$250

2014 Rates:	**Years of Experience**	**Rates**
	37	$830
	18	$695
	15	$585
	6	$485
	5	$435
2013 Rates:	**Years of Experience**	**Rates**
	Partners	
	36	$830
	30	$805
	17	$610-615
	14	$570
	Associates	
	8	$450-535
	6	$495

Ropes & Gray		
2016 Rates:	**Level**	**Rates**
	Partner	$880-1,450
	Counsel	$605-1,425
	Associate	$460-1050
	Paralegals	$160-415

Schonbrun, DeSimone, Seplow, Harris & Hoffman		
2021 Rates:	**Law School Grad. Yr.**	**Rates**
	1975	$1,025
	1976	$1,000
	1976	$930
	2016	$600
	2016	$450
	2019	$440
2019 Rates:	**Years of Experience**	**Rates**
	43	$1,050
2014 Rates:	**Years of Experience**	**Rates**
	29	$750
	24	$700
2012 Rates:	**Years of Experience**	**Rates**
	27	$695
	22	$630

Shegarian Law		
2018 Rates:	**Years of Experience**	**Rate**
	29	$1,100
	10	$675
	6	$500

Skadden, Arps, Slate, Meagher & Flom		
2013 Rates:	**Level**	**Rates**
	Average Partner	$1,035
	Highest Partner	$1,150
	Lowest Partner	$845
	Average Associate	$620
	Highest Associate	$845
	Lowest Associate	$340

Law Office of Carol Sobel		
2020 Rate:	**Years of Experience**	**Rate**
	42	$1,050
2019 Rate:	**Years of Experience**	**Rate**
	41	$1,000
2015 Rates:	**Years of Experience**	**Rate**
	37	$875

Wilson Sonsini Goodrich & Rosati PC		
2017 Rates:	**Bar Admission Date**	**Rates**
	2000	$950

Winston & Strawn		
2019 Rates:	**Level**	**Rates**
	Partners:	
		$1,515
		$1,245
		$1,105
		$1,025
	Associates:	
		$825
		$660
		$615
2018 Rates:	**Level**	**Rates**
	Partners:	
		$1,445
		$1,185
		$1,050
		$820
	Associates:	
		$765
		$585
	Paralegals:	$170-340
	Litigation Support Mgr.	$275

	Review Attorneys	$85
2017 Rates:	**Level**	**Rates**
	Partners:	
		$1,365
		$1,120
		$990
	Associates:	
		$760
		$690
		$645
		$520
		$495
	Paralegals:	$165-295
2016 Rates:	**Level**	**Rates**
	Partners:	
		$1,290
		$1,095
		$965
		$960
		$885
	Associates:	
		$715

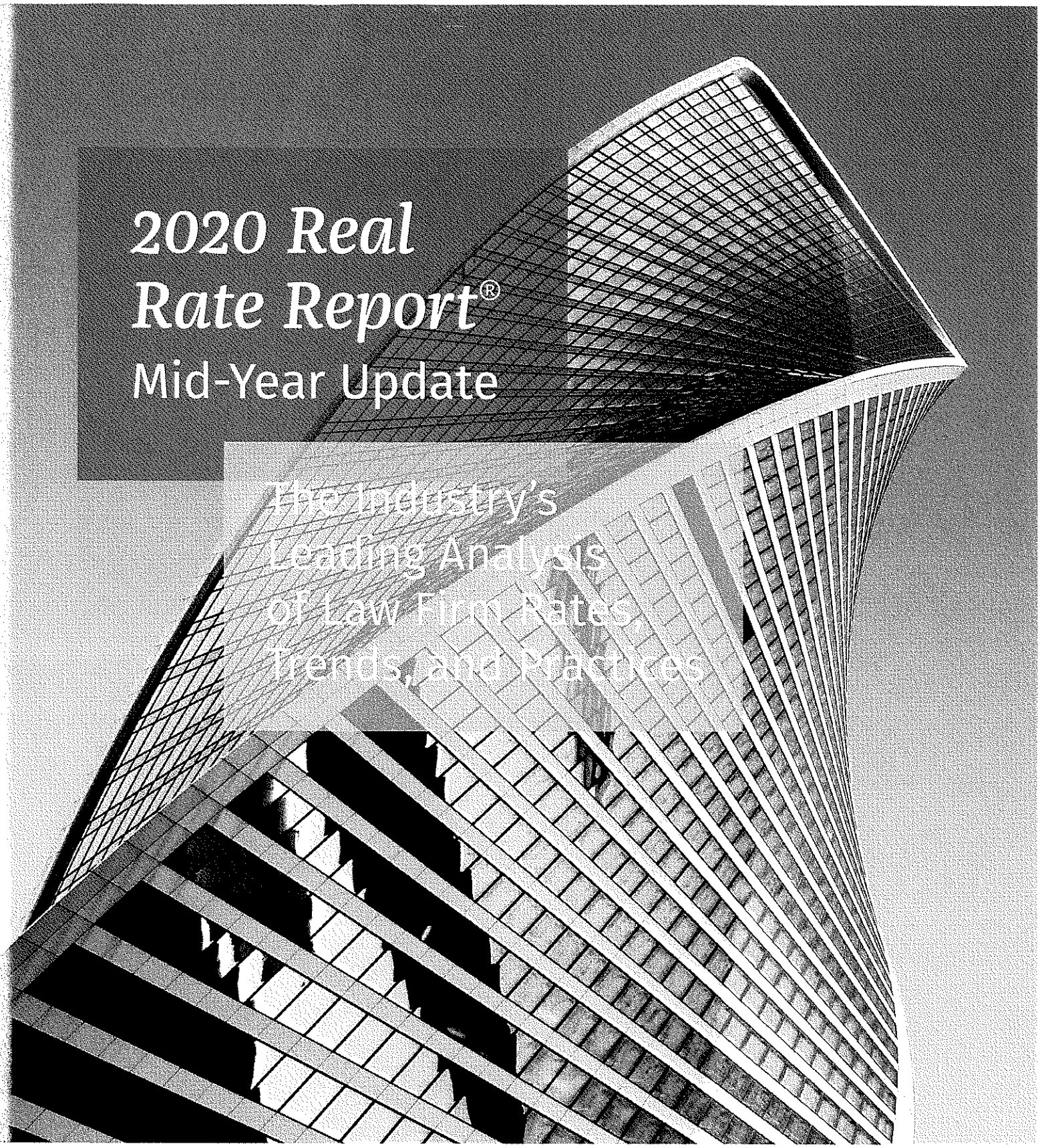
		$615
		$575
		$470
	Paralegals:	$170-280
	Litigation Support Mgr.:	$250

EXHIBIT E

2020 Real Rate Report®

Mid-Year Update

The Industry's Leading Analysis of Law Firm Rates, Trends, and Practices



Wolters Kluwer

When you have to be right

Report Editor

Jeffrey Solomon
Senior Director, Product Management Legal Analytics, Wolters Kluwer's ELM Solutions

Lead Data Analysts

Gary Clark
Data Engineer
Wolters Kluwer's ELM Solutions

Pankaj Saha
Data Engineer
Wolters Kluwer's ELM Solutions

ELM Solutions Creative

David Andrews
Senior Graphic Designer
Wolters Kluwer's ELM Solutions

Contributing Analysts and Authors

Joel Surdykowski
LegalVIEW Product Manager
Wolters Kluwer's ELM Solutions

Deniece Bushell
Senior Product Marketing Manager
Wolters Kluwer's ELM Solutions

Executive Sponsor

Jonah Paransky
Executive Vice President and General Manager
Wolters Kluwer's ELM Solutions

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ELM Solutions, a Wolters Kluwer business
20 Church Street
Hartford, CT 06103 United States
ATTN: Marketing
+1-860-549-8795

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A Letter to Our Readers

Welcome to the Wolters Kluwer's ELM Solutions Real Rate Report®, the industry's leading data-driven benchmark report for lawyer rates.

Welcome to the Wolters Kluwer's ELM Solutions 2020 Mid-Year Real Rate Report®, the industry's leading data-driven benchmark report for lawyer rates. Our Real Rate Report has been a useful data analytics resource to the legal industry since its inception in 2010 and continues to evolve even in the current environment.

The Real Rate Report is powered by Wolters Kluwer's ELM Solutions LegalVIEW® data warehouse, the world's largest source of legal performance benchmark data, which has grown to include over $140 billion in anonymized legal data.

As with past Real Rate Reports, all of the data analyzed are from corporations' and law firms' e-billing and time management solutions. We have included lawyer and paralegal rate data filtered by specific practice and sub-practice areas, metropolitan areas, and types of matters to give legal departments and law firms greater ability to pinpoint areas of opportunity.

So far, 2020 has been an unprecedented year with the global pandemic causing disruption to health, economies, and society. Many industry sectors have been impacted by COVID-19, and the legal industry is no exception. Our business intelligence experts have observed downward but uneven trends in law firm billing activity and intend to continue to track the legal industry response. We strive to make the Real Rate Report a valuable and actionable reference tool for legal departments and law firms.

In our current environment, the need for a reliable and comparative data source for rates has never been more important. As always, we welcome your comments and suggestions on what information would make this publication more valuable to you. We thank you for making Wolters Kluwer's ELM Solutions your trusted partner for legal industry domain expertise, data, and analytics and look forward to continuing to provide market-leading, expert solutions that deliver the best business outcomes for collaboration among legal departments and law firms.

Sincerely,



Jonah Paransky
Executive Vice President and General Manager
Wolters Kluwer's ELM Solutions

Report Use Considerations

2020 Mid-Year Real Rate Report

- Examines law firm rates over time
- Itemizes rates by location, experience, firm size, areas of expertise, industry, and timekeeper role (i.e., partner, associate, and paralegal)
- Identifies variables that drive rates up or down

All the analyses included in the report derive from the actual rates charged by law firm professionals as recorded on invoices submitted and approved for payment.

Examining real, approved rate information, along with the ranges of those rates and their changes over time, highlights the role these variables play in driving aggregate legal cost and income. The analyses can energize questions for both corporate clients and law firm principals.

Clients might ask whether they are paying the right amount for different types of legal services, while law firm principals might ask whether they are charging the right amount for legal services and whether to modify their pricing approach.

Some key factors[1] that drive rates[2]:

- **Geographic location** - Lawyers in urban and major metropolitan areas tend to charge more when compared with lawyers in rural areas or small towns.
- **Degree of difficulty** - The cost of representation will be higher if the case is particularly complex or time-consuming; for example, if there are a large number of documents to review, many witnesses to depose, and numerous procedural steps, the case is likely to cost more (regardless of other factors like the lawyer's level of experience).
- **Experience and reputation** - A more experienced, higher-profile lawyer is often going to charge more, but absorbing this higher cost at the outset may make more sense than hiring a less expensive lawyer who will likely take time and billable hours to come up to speed on unfamiliar legal and procedural issues.
- **Overhead** - The costs associated with the firm's support network (paralegals, clerks, and assistants), document preparation, consultants, research, and other expenses.

Additional analysis was performed to examine the impact of rates on law firm invoices relative to an e-billing providers' business model. It should be noted that there are several industry-standard business models that e-billing providers use to charge law firms and other legal service providers to submit invoices and perform other transactions through their systems. The three main model types are:

- Client pay, where the corporate client pays a subscription for the matter and spend solution.
- Law firm pay, where the law firm pays a subscription or usage fee based on the invoices submitted.
- Hybrid, which is a combination of a client pay and law firm pay.

1 **Source: 2018 RRR.** Factor order validated in multiple analyses since 2010
2 **David Goguen, J.D., University of San Francisco School of Law (2017) Guide to Legal Services Billing** Retrieved from https://www.lawyers.com/legal-info/research/guide-to-legal-services-billing-rates.html

Report Use Considerations

The data shows that the law firm pay model has become normative in the industry – 85%+ of Wolters Kluwer's ELM Solutions clients' law firms participate in a law firm pay or hybrid model. In addition, 99% of the Am Law 200 law firms participate in at least one law firm pay model paying 1% or more on the invoices submitted, and 97% of the Am Law 200 pay 2%.

The analysis performed then examined law firm rates from firms who participated in one of those law firm pay/hybrid models versus those who are in a client pay model. The analysis showed no statistical difference in rates, suggesting that the business model that the firm participates in does not impact the rates the firm charges to their corporate client.

Effects of COVID-19

Additional analyses were performed to assess any trends and potential effects of COVID-19 on rates and other measures. Across all industries, we see a decline of 7% in the number of new matters being opened. Legal spend is down 5%. Activity varies by industry with spend decreasing only 1% in the technology sector but up to 30% for consumer services.

In some instances, we see more than expected increases in attorney rates. Among the possible reasons for this are:

- Potential opportunistic billing created by the pandemic. Dislocations in the supply chain in some segments of the market which allow firms to charge more for services.
- Law firms may have reduced staff to cut expenses. The data in the mid-year report shows a slight increase in the number of billing partners and a decrease in billing paralegals. Be on guard for opportunistic pricing and weigh your outside counsel relationships accordingly.

Overall, the data in the 2020 Mid-Year Real Rate Report provides corporate counsel with an understanding of the rates they can expect to pay for a given matter type, division, industry, or practice area and offers in-depth analyses on key drivers of rates to help make informed selection decisions. For law firms, it provides a relative benchmark to ensure that pricing for legal services remains competitive.

Wolters Kluwer's ELM Solutions research shows: you can evaluate these rates with confidence they are not affected by e-billing pricing models; you should stay sensitized to potential Covid influences on rates and activity in some markets and guard against overpaying.

Section I: High-Level Data Cuts

Cities

By Matter Type

Q2 2020 -- Real Rates for Partners and Associates **Trend Analysis (Mean)**

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	Q2 2020	Q2 2019	Q2 2018
			49	$317	$400	$483	$413	$419	$386
			35	$190	$251	$321	$264	$268	$264
			57	$383	$441	$525	$446	$426	$413
			31	$236	$262	$301	$276	$263	$269
			57	$319	$353	$385	$368	$344	$338
			57	$135	$225	$251	$202	$236	$182
			28	$297	$353	$483	$375	$347	$350
			11	$281	$300	$378	$350	$292	$312
			12	$145	$208	$404	$265	$225	$248
			14	$304	$345	$365	$368	$349	$359
			82	$373	$443	$514	$456	$454	$409
			80	$275	$308	$340	$306	$294	$270
			109	$385	$430	$532	$458	$445	$443
			100	$225	$277	$320	$283	$279	$259
			15	$150	$150	$150	$170	$170	$206
			21	$250	$360	$563	$429	$391	$356
			19	$247	$280	$313	$284	$273	$261
			27	$300	$400	$495	$432	$490	$482
			22	$236	$292	$337	$281	$289	$289
			11	$235	$250	$250	$272	$286	$268
			14	$215	$250	$362	$297	$251	$269
			387	$425	$660	$940	$694	$673	$650
			478	$350	$535	$740	$548	$524	$501
			583	$564	$795	$1,085	$837	$803	$771
			834	$432	$605	$794	$629	$608	$595
			17	$301	$349	$391	$351	$348	$340
			21	$180	$210	$260	$218	$218	$212
			14	$223	$245	$250	$237	$204	$221
			18	$361	$415	$478	$423	$422	$429
			16	$290	$365	$425	$360	$344	$351
			20	$285	$321	$357	$327	$337	$349
			12	$195	$213	$225	$215	$235	$229

Section I: High-Level Data Cuts

Cities

By Years of Experience

Q2 2020 -- Real Rates for Partners **Trend Analysis (Mean)**

City	Years of Experience	n	First Quartile	Median	Third Quartile	Q2 2020	Q2 2019	Q2 2018
		31	$300	$329	$400	$346	$337	$343
		70	$266	$350	$448	$354	$360	$356
		14	$390	$455	$495	$460	$438	$414
		17	$338	$425	$487	$421	$358	$383
		39	$424	$502	$730	$561	$525	$482
		19	$275	$300	$425	$363	$359	$345
		73	$502	$675	$828	$691	$673	$652
		78	$533	$795	$973	$787	$664	$667
		32	$297	$384	$420	$367	$366	$338
		56	$378	$465	$551	$459	$450	$423
		22	$296	$342	$357	$330	$322	$303
		18	$295	$370	$440	$384	$348	$369
		11	$300	$325	$460	$384	$333	$360
		51	$328	$396	$440	$386	$369	$353
		68	$411	$500	$600	$511	$500	$449
		18	$250	$475	$675	$485	$491	$452
		12	$230	$250	$275	$273	$266	$278
		199	$450	$655	$912	$683	$685	$641
		365	$528	$731	$1,047	$797	$743	$723
		12	$338	$380	$410	$371	$394	$360
		11	$286	$290	$365	$317	$303	$311
		17	$325	$400	$425	$373	$368	$371
		44	$375	$508	$615	$479	$471	$390
		107	$350	$546	$726	$541	$530	$482
		20	$260	$343	$439	$410	$372	$366
		36	$378	$458	$611	$516	$407	$402
		60	$416	$520	$599	$506	$465	$430
		120	$399	$605	$743	$590	$582	$493
		22	$360	$409	$457	$398	$361	$353
		43	$418	$457	$514	$456	$433	$438
		34	$301	$348	$442	$367	$341	$327
		48	$290	$360	$463	$376	$362	$336
		514	$630	$1,010	$1,273	$965	$939	$889
		1126	$598	$949	$1,330	$977	$964	$929

Section I: High-Level Data Cuts

Cities

By Years of Experience

Q2 2020 -- Real Rates for Associates **Trend Analysis (Mean)**

City	Years of Experience	n	First Quartile	Median	Third Quartile	Q2 2020	Q2 2019	Q2 2018
		25	$272	$300	$325	$295	$290	$247
		29	$269	$295	$311	$295	$277	$271
		17	$250	$288	$330	$285	$282	$286
		47	$397	$476	$581	$483	$479	$455
		138	$395	$565	$699	$557	$510	$462
		207	$350	$536	$811	$585	$573	$549
		20	$265	$325	$350	$336	$339	$279
		39	$240	$381	$491	$383	$373	$306
		16	$256	$294	$315	$299	$284	$285
		16	$295	$364	$403	$354	$361	$435
		26	$312	$355	$418	$368	$363	$321
		29	$295	$378	$508	$379	$384	$331
		18	$225	$266	$297	$268	$259	$257
		20	$226	$253	$305	$261	$244	$236
		22	$238	$325	$369	$304	$276	$234
		153	$385	$513	$647	$536	$501	$517
		286	$404	$589	$826	$613	$586	$549
		564	$410	$693	$945	$697	$702	$678
		16	$281	$305	$348	$326	$304	$276
		60	$300	$325	$395	$342	$329	$339
		158	$305	$355	$430	$378	$363	$338
		170	$310	$450	$514	$449	$429	$397
		11	$213	$275	$315	$275	$236	$278
		21	$251	$335	$393	$320	$297	
		36	$275	$355	$425	$345	$327	$317
		40	$265	$356	$474	$372	$349	$335
		14	$251	$285	$309	$277	$264	$299
		45	$293	$336	$388	$336	$310	$321
		51	$332	$415	$458	$389	$359	$366
		15	$350	$417	$450	$393	$381	$330
		15	$200	$224	$245	$222	$203	$185
		11	$231	$290	$378	$314	$324	$313
		33	$288	$365	$545	$412	$419	$453

EXHIBIT F

PEER MONITOR

INSIGHT. ADVANTAGE. COMPETITIVE INTELLIGENCE.

PUBLIC RATES

In a time when the legal market continues to face fluctuating demand and challenges containing expenses, it's critical that your firm stays on top of the latest billing trends and maintains fair, competitive rates while maximizing revenue.

Take Action to Inform Your Firm

Public Rates is a dynamic, web-based billing rate service that gives you anytime access to accurate, court reported, hourly rate data, with details drilling down to the named timekeeper.

It empowers you to quickly and easily slice and analyze rates across user-selected combinations of various attributes, sort targeted record results, view quartile and median rates for searched data, and more.

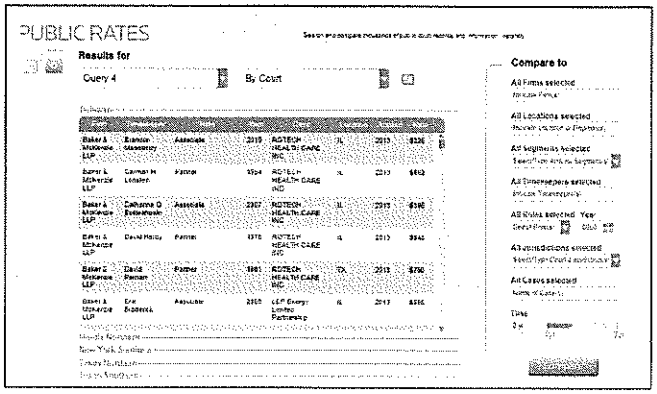
Then Take Your Rate Analysis One Step Further

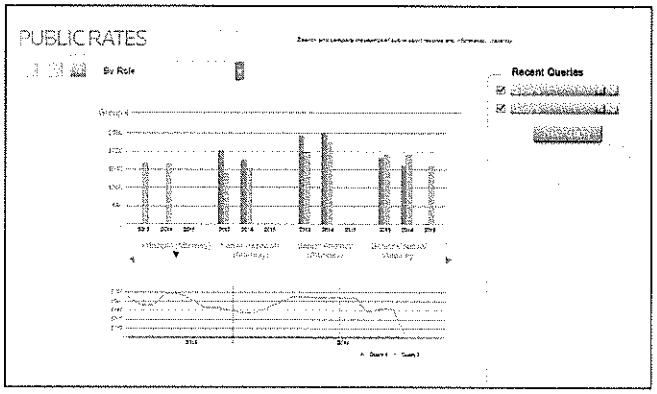
As efficient as it is intuitive, **Public Rates** offers deeper billing evaluation with query comparison that allows for firm-to-firm, case-to-case, or even person-to-person rate examination.

What's more, you can quickly and easily find critical insights with features such as click sorting, query naming, and auto-saved search history.

Use Public Rates to:

- Determine optimal rates and profit opportunities
- Justify rates submitted to courts on fee applications
- Track lawyer performance
- Get pricing transparency in the marketplace





Get Critical, Actionable Data

Search reported hourly rates by:

- Timekeeper
- Year of admission
- Firm
- Segment
- Location
- Jurisdiction
- Role
- Year of filing
- Case
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CONTACT US TODAY:

Ruth Bowen
ruth.bowen@thomsonreuters.com | 651.687.6891

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California Rates (January–May 2018)

Title	Professional	Firm	Graduated	Admitted	State	Rate	Hours	Total
Partner	David M. Nemecek	Kirkland & Ellis LLP	2003	2003	CA	$1,395	2.4	$3,348.00
Partner	Leslie A. Plaskon	Paul Hastings LLP	1988	1988	CA	$1,275	260	$331,500.00
Partner	Thomas B. Walper	Munger Tolles & Olson LLC	1980	1980	CA	$1,225	166.7	$204,207.50
Partner	Jeffrey B Greenberg	Latham & Watkins LLP	1996	1996	CA	$1,175	3.3	$3,877.50
Partner	Mark E. McKane	Kirkland & Ellis LLP	1997	1997	CA	$1,175	79.1	$92,942.50
Partner	Paul D Tanaka	Kirkland & Ellis LLP	2003	2003	CA	$1,145	1.1	$1,259.50
Partner	Annie Kim	Proskauer Rose LLP	2004	2004	CA	$1,125	22.1	$24,862.50
Partner	Jonathan Benloulou	Proskauer Rose LLP	2006	2006	CA	$1,125	2.9	$3,262.50
Partner	Robert J Frances	Latham & Watkins LLP	2001	2001	CA	$1,125	1.7	$1,912.50
Partner	Dean A. Ziehl	Pachulski Stang Ziehl Young Jones &	1978	1978	CA	$1,050	73.3	$76,965.00
Partner	James I. Stang	Pachulski Stang Ziehl Young Jones &	1980	1980	CA	$1,050	111.4	$116,970.00
Partner	Alan J. Kornfeld	Pachulski Stang Ziehl Young Jones &	1987	1987	CA	$1,025	78.9	$80,872.50
Partner	Stephen D. Rose	Munger Tolles & Olson LLC	1991	1991	CA	$1,025	63.9	$65,497.50
Partner	Unger Sean	Paul Hastings LLP	2004	2004	CA	$1,025	103.2	$105,780.00
Partner	Stefanie I Gitler	Kirkland & Ellis LLP	2009	2009	CA	$995	225.1	$223,974.50
Partner	Tate Eric A.	Morrison & Foerster LLP	1995	1995	CA	$990	0.3	$297.00
Partner	Michael Esser	Kirkland & Ellis LLP	2009	2009	CA	$965	542.6	$523,609.00
Associate	Campbell Gavin	Kirkland & Ellis LLP	2012	2012	CA	$950	227.7	$216,315.00
Partner	David M. Bertenthal	Pachulski Stang Ziehl Young Jones &	1993	1989	CA	$950	107.7	$102,315.00
Associate	Olsen Katrina	Kirkland & Ellis LLP	2014	2014	CA	$950	4.6	$4,370.00
Partner	Janie F. Schulman	Morrison & Foerster LLP	1987	1987	CA	$925	0.2	$185.00
Associate	Jacob Johnston	Kirkland & Ellis LLP	2013	2013	CA	$905	5	$4,525.00
Partner	Kenneth H. Brown	Pachulski Stang Ziehl Young Jones &	1981	1977	CA	$895	5.9	$5,280.50
Partner	Kevin S. Allred	Munger Tolles & Olson LLC	1986	1986	CA	$875	209.7	$183,487.50
Partner	Knudsen Erik G.	Morrison & Foerster LLP	2007	2007	CA	$875	269.4	$235,725.00
Counsel	Adam Lin	Orrick, Herrington & Sutcliffe LLP	2004	2004	CA	$850	3	$2,550.00
Associate	Austin Klar	Kirkland & Ellis LLP	2013	2013	CA	$845	173	$146,185.00
Associate	Michael Saretsky	Kirkland & Ellis LLP	2015	2015	CA	$835	237.2	$198,062.00
Of Counsel	Harry D. Hochman	Pachulski Stang Ziehl Young Jones &	1987	1987	CA	$825	69.1	$57,007.50
Of Counsel	Lloyd W. Aubry	Morrison & Foerster LLP	1975	1975	CA	$825	1.6	$1,320.00
Partner	Seth Goldman	Munger Tolles & Olson LLC	2002	2002	CA	$825	260.5	$214,912.50
Of Counsel	Victoria A. Newmark	Pachulski Stang Ziehl Young Jones &	1996	1996	CA	$825	1.6	$1,320.00
Of Counsel	Yana S. Johnson	Morrison & Foerster LLP	1999	1999	CA	$825	3.2	$2,640.00
Associate	Austin Klar	Kirkland & Ellis LLP	2013	2013	CA	$810	23.3	$18,873.00
Associate	Cynthia Castillo	Kirkland & Ellis LLP	2015	2015	CA	$810	178.8	$144,828.00
Associate	Kevin Chang	Kirkland & Ellis LLP	2014	2014	CA	$810	8.4	$6,804.00
Of Counsel	Nardali Ali U.	Morrison & Foerster LLP	2008	2008	CA	$795	4.4	$3,498.00
Associate	Ramin Montazeri	Latham & Watkins LLP	2016	2016	CA	$795	10.9	$8,665.50
Associate	Lee Muhyung	Proskauer Rose LLP	2015	2015	CA	$780	37.5	$29,250.00
Of Counsel	Jeffrey L. Kandel	Pachulski Stang Ziehl Young Jones &	1984	1984	CA	$750	10.7	$8,025.00
Of Counsel	Bradley R. Schneider	Munger Tolles & Olson LLC	2004	2004	CA	$735	88.9	$65,341.50
Associate	Curtis Kelly M	Proskauer Rose LLP	2016	2016	CA	$730	39.6	$28,908.00
Associate	Cynthia Castillo	Kirkland & Ellis LLP	2015	2015	CA	$725	30.3	$21,967.50
Associate	Joanna A Gorska	Latham & Watkins LLP	2014	2014	CA	$725	2.4	$1,740.00
Counsel	Elissa A. Wagner	Pachulski Stang Ziehl Young Jones &	2001	2001	CA	$695	5	$3,475.00
Associate	Benjamin Butterfield	Morrison & Foerster LLP	2014	2014	CA	$660	883.2	$582,912.00
Partner	David M. Eaton	Kilpatrick Townsend & Stockton LLP	1996	1996	CA	$660	5.3	$3,498.00
Associate	Ankur Sharma	Kirkland & Ellis LLP	2016	2016	CA	$645	16.4	$10,578.00
Associate	Maxwell Coll	Kirkland & Ellis LLP	2016	2016	CA	$630	15	$9,450.00
Associate	Brashears Travis C	Proskauer Rose LLP	2016	2016	CA	$595	8.3	$4,938.50
Associate	Sadeghi Sam	Paul Hastings LLP	2016	2016	CA	$585	22.9	$13,396.50
Associate	Jenny Pierce	Kirkland & Ellis LLP	2016	2016	CA	$555	1.2	$666.00
Associate	Meg A Webb	Kirkland & Ellis LLP	2017	2017	CA	$555	1.4	$777.00

Associate	Peter E. Boos	Munger Tolles & Olson LLC	2014	2014	CA	$550	88.05	$48,427.50
Associate	Floyd Amani Solange	Morrison & Foerster LLP	2014	2014	CA	$540	3.9	$2,106.00
Associate	Glock Jana	Morrison & Foerster LLP	2015	2015	CA	$540	22.2	$11,988.00
Associate	Kerry C. Jones	Morrison & Foerster LLP	2014	2014	CA	$540	11.5	$6,210.00
Associate	Roumiantseva Dina	Morrison & Foerster LLP	2014	2014	CA	$540	5	$2,700.00
Associate	Scheinok Brittany	Morrison & Foerster LLP	2015	2015	CA	$485	27.2	$13,192.00
Associate	Coleman Matthew	Ropes & Gray LLP	2014	2014	CA	$450	2.5	$1,125.00
Associate	Tobyn Yael Aaron	Morrison & Foerster LLP	2016	2016	CA	$435	26.4	$11,484.00

California Rates (June–December 2018)

Title	Professional	Firm	Graduated	Admitted	State	Rate	Hours	Total
Partner	Kenneth Klee	Klee, Tuchin, Bogdanoff & Stern, LLP	1975	1974	CA	$1,475	46.4	$68,440.00
Partner	Eric Reimer	Milbank Tweed Hadley & McCloy LLP	1987	1987	CA	$1,465	7.9	$11,573.50
Partner	Gregory A. Bray	Milbank Tweed Hadley & McCloy LLP	1984	1984	CA	$1,465	234.1	$342,956.50
Partner	Madden P.C. Rick C	Kirkland & Ellis LLP	1995	1995	CA	$1,445	31.2	$45,084.00
Partner	David M. Nemecek	Kirkland & Ellis LLP	2003	2003	CA	$1,395	2.4	$3,348.00
Partner	Browning P.C. Marc D	Kirkland & Ellis LLP	1998	1998	CA	$1,375	4.2	$5,775.00
Partner	Isaac M Pachulski	Pachulski Stang Ziehl Young Jones &	2014	2014	CA	$1,295	0.7	$906.50
Partner	Walker Elizabeth W	Sidley Austin LLP	1984	1984	CA	$1,250	3.7	$4,625.00
Partner	David Stern	Klee, Tuchin, Bogdanoff & Stern, LLP	1975	1975	CA	$1,245	67.4	$83,913.00
Partner	Michael Tuchin	Klee, Tuchin, Bogdanoff & Stern, LLP	1990	1990	CA	$1,245	191.1	$237,919.50
Partner	Richard M. Pachulski	Pachulski Stang Ziehl Young Jones &	1979	1979	CA	$1,245	274.7	$342,001.50
Partner	Dennis Arnold	Gibson Dunn & Crutcher, LLP	1976	1975	CA	$1,210	65.2	$78,892.00
Partner	Cromwell Montgomery	Gibson Dunn & Crutcher, LLP	1997	1997	CA	$1,205	0.9	$1,084.50
Partner	Oscar Garza	Gibson Dunn & Crutcher, LLP	1990	1990	CA	$1,205	116.1	$139,900.50
Partner	Austin V Schwing	Gibson Dunn & Crutcher, LLP	2000	2000	CA	$1,155	0.7	$808.50
Partner	Douglas Michael Fuchs	Gibson Dunn & Crutcher, LLP	2007	2007	CA	$1,155	53.5	$61,792.50
Partner	Annie Kim	Proskauer Rose LLP	2004	2004	CA	$1,125	11.6	$13,050.00
Partner	Jonathan Benloulou	Proskauer Rose LLP	2006	2006	CA	$1,125	2.9	$3,262.50
Partner	James I. Stang	Pachulski Stang Ziehl Young Jones &	1980	1980	CA	$1,095	63.4	$69,423.00
Partner	Farshad E. More	Gibson Dunn & Crutcher, LLP	2003	2003	CA	$1,080	0.8	$864.00
Partner	Jesse I. Shapiro	Gibson Dunn & Crutcher, LLP	2000	2000	CA	$1,080	10.9	$11,772.00
Partner	David Fidler	Klee, Tuchin, Bogdanoff & Stern, LLP	1998	1997	CA	$1,075	237.9	$255,742.50
Special	Brian Stern	Milbank Tweed Hadley & McCloy LLP	2003	2003	CA	$1,065	7.5	$7,987.50
Special	Haig Maghakian	Milbank Tweed Hadley & McCloy LLP	2002	2002	CA	$1,065	264.8	$282,012.00
Partner	Jesse A. Cripps Jr.	Gibson Dunn & Crutcher, LLP	2011	2011	CA	$1,045	16.2	$16,929.00
Partner	Mehta Anjna	Kirkland & Ellis LLP	2000	2000	CA	$1,045	10.9	$11,390.50
Of Counsel	Richard J. Gruber	Pachulski Stang Ziehl Young Jones &	1982	1982	CA	$1,025	9.1	$9,327.50
Partner	Samuel Newman	Gibson Dunn & Crutcher, LLP	2001	2001	CA	$1,010	326.5	$329,765.00
Partner	Debra I. Grassgreen	Pachulski Stang Ziehl Young Jones &	1992	1992	CA	$995	15.7	$15,621.50
Associate	Jessica Dombroff	Milbank Tweed Hadley & McCloy LLP	2009	2009	CA	$995	13.3	$13,233.50
Partner	Katherine V.A Smith	Gibson Dunn & Crutcher, LLP	2015	2015	CA	$995	0.6	$597.00
Partner	Matthew B Dubeck	Gibson Dunn & Crutcher, LLP	2017	2017	CA	$995	44.1	$43,879.50
Partner	Robert J. Pfister	Klee, Tuchin, Bogdanoff & Stern, LLP	2001	2001	CA	$995	123.3	$122,683.50
Partner	David M. Bertenthal	Pachulski Stang Ziehl Young Jones &	1993	1989	CA	$975	6.5	$6,337.50
Partner	Jeffrey N. Pomerantz	Pachulski Stang Ziehl Young Jones &	1989	1989	CA	$975	66.5	$64,837.50
Associate	Campbell Gavin	Kirkland & Ellis LLP	2012	2012	CA	$950	336.5	$319,675.00
Partner	Henry C. Kevane	Pachulski Stang Ziehl Young Jones &	1986	1986	CA	$950	4.8	$4,560.00
Associate	Olsen Katrina	Kirkland & Ellis LLP	2014	2014	CA	$950	4.6	$4,370.00
Partner	Stanley E. Goldich	Pachulski Stang Ziehl Young Jones &	1980	1980	CA	$925	7	$6,475.00
Associate	Najeh Baharun	Milbank Tweed Hadley & McCloy LLP	2013	2013	CA	$910	28.3	$25,753.00
Partner	David M. Guess	Klee, Tuchin, Bogdanoff & Stern, LLP	2005	2005	CA	$895	84.5	$75,627.50
Partner	Maria Sountas	Klee, Tuchin, Bogdanoff & Stern, LLP	2006	2006	CA	$895	23.2	$20,764.00
Partner	Whitman L. Holt	Klee, Tuchin, Bogdanoff & Stern, LLP	2005	2005	CA	$895	54.7	$48,956.50
Associate	Allison Balick	Gibson Dunn & Crutcher, LLP	2009	2009	CA	$875	5.4	$4,725.00
Associate	Caldon Brendan W	Kirkland & Ellis LLP	2007	2007	CA	$875	1.5	$1,312.50
Associate	Daniel B. Denny	Gibson Dunn & Crutcher, LLP	2005	2005	CA	$875	436.1	$381,587.50
Associate	Douglas G. Levin	Gibson Dunn & Crutcher, LLP	2009	2009	CA	$875	205.2	$179,550.00
Associate	Genevieve G. Weiner	Gibson Dunn & Crutcher, LLP	2007	2007	CA	$875	93.7	$81,987.50
Partner	Maxim B. Litvak	Pachulski Stang Ziehl Young Jones &	1997	1997	CA	$875	89.6	$78,400.00
Associate	Melissa Leigh Barshop	Gibson Dunn & Crutcher, LLP	2006	2006	CA	$875	5	$4,375.00
Associate	Jonathan Schaefler	Gibson Dunn & Crutcher, LLP	2016	2016	CA	$860	1.9	$1,634.00
Partner	Joshua M. Fried	Pachulski Stang Ziehl Young Jones &	1995	1995	CA	$850	74.1	$62,985.00
Of Counsel	Gurule Julian I	Klee, Tuchin, Bogdanoff & Stern, LLP	2007	2007	CA	$825	39.3	$32,422.50

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Associate	Ian T. Long	Gibson Dunn & Crutcher, LLP	2015	2015	CA	$820	140	$114,800.00
Associate	Goldberg Zachary	Milbank Tweed Hadley & McCloy LLP	2016	2016	CA	$790	162.4	$128,296.00
Associate	Lee Muhyung	Proskauer Rose LLP	2015	2015	CA	$780	28.2	$21,996.00
Partner	Jamie L. Edmonson	Venable LLP	1996	1996	CA	$765	180.3	$137,929.50
Associate	Tiffany X. Phan	Gibson Dunn & Crutcher, LLP	2013	2013	CA	$760	8.7	$6,612.00
Of Counsel	Erin Gray	Pachulski Stang Ziehl Young Jones &	1992	1991	CA	$750	9.9	$7,425.00
Partner	Justin D. Yi	Klee, Tuchin, Bogdanoff & Stern, LLP	2009	2009	CA	$750	3.9	$2,925.00
Associate	Chapple Catherine L.	Morrison & Foerster LLP	2012	2012	CA	$725	4	$2,900.00
Associate	Jonathan M. Weiss	Klee, Tuchin, Bogdanoff & Stern, LLP	2012	2012	CA	$725	195.4	$141,665.00
Of Counsel	William Ramseyer	Pachulski Stang Ziehl Young Jones &	1980	1980	CA	$725	18.8	$13,630.00
Associate	Sarah A. Carnes	Cooley LLP	2014	2014	CA	$710	146.1	$103,731.00
Associate	Latta R T	Jones Day	2011	2011	CA	$700	194.5	$136,150.00
Associate	Samuel M. Kidder	Klee, Tuchin, Bogdanoff & Stern, LLP	2012	2012	CA	$675	88.6	$59,805.00
Associate	Thomas H Alexander	Gibson Dunn & Crutcher, LLP	2015	2015	CA	$660	23.7	$15,642.00
Associate	Sasha M. Gurvitz	Klee, Tuchin, Bogdanoff & Stern, LLP	2014	2014	CA	$625	114.9	$71,812.50
Associate	Robert J. Smith	Klee, Tuchin, Bogdanoff & Stern, LLP	2016	2016	CA	$600	35.8	$21,480.00
Associate	Brashears Travis C	Proskauer Rose LLP	2016	2016	CA	$595	8.3	$4,938.50
Associate	Matthew S Coe-Odess	Gibson Dunn & Crutcher, LLP	2016	2016	CA	$595	16.9	$10,055.50
Associate	Katherine A Lau	Gibson Dunn & Crutcher, LLP	2017	2017	CA	$525	97.7	$51,292.50
Associate	Tran J L	Jones Day	2015	2015	CA	$525	60.2	$31,605.00
Associate	Nicholas A. Koffroth	Venable LLP	2012	2012	CA	$515	94.9	$48,873.50
Associate	Liu R Q	Jones Day	2015	2015	CA	$475	34.2	$16,245.00
Associate	Stuart B W	Jones Day	2013	2013	CA	$475	208.6	$99,085.00
Associate	Doyle A M	Jones Day	2017	2017	CA	$450	6.5	$2,925.00
Associate	Udenka Honieh	Brown Rudnick LLP	2017	2017	CA	$375	1	$375.00

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EXHIBIT 3

BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF CALIFORNIA

In the Matter of the Requests for Compensation of	) FILE NO. RFC-2024-006
	)
	)
CONSUMER WATCHDOG,	) **DECISION AWARDING**
	) **COMPENSATION**
	)
	) *In the Matter of the Rate Applications of*
	) *Farmers Insurance Exchange,*
Intervenor.	) *Mid-Century Insurance Company, &*
	) *Truck Insurance Exchange*
	)
	)
	) Rate Application Nos. 23-2949; 23-2949-A
	) 23-2949-B; 23-2950; 23-2950-A; 23-2950-
	) B; 23-4951; 23-4951-A; 23-4951-B
	)
	) Prior Approval File No. PA-2023-00022

INTRODUCTION

California law requires that the rates used for calculating premiums on certain classes of insurance be approved by the Insurance Commissioner before they are put into use.[1] In the parlance of the insurance industry and government regulators, this is colloquially known as *prior approval rate regulation*.[2] Independent parties representing the interests of consumers may intervene and participate in the rate approval process, separate and apart from the Rate Enforcement Bureau, the regulatory unit established in the Department of Insurance (Department) by the Commissioner that is responsible for prior approval compliance.[3]

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[1] Ins. Code, § 1861.01, subd. (c); Cal. Code Regs., tit. 10, § 2644.1; *Amwest Surety Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243, 1259.

[2] Ins. Code, § 1861.05, subd. (a); *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216, 243, *as modified on denial of reh'g* (Sept. 29, 1994).

[3] Ins. Code, § 1861.10, subd. (a).

In the matter presented here, Consumer Watchdog intervened in Farmers Insurance Exchange, Mid-Century Insurance Company and Truck Insurance Exchange (Farmers) Rate Change Applications[4] (Applications), which sought an overall 6.9% rate increase to their auto line for their three, separate occupation-based groups—Regular Program, Business and Professional Group I, and Business and Professional Group II. Consumer Watchdog now makes a Request for an Award of Compensation (RFC) based on their intervention.[5] In the RFC, Consumer Watchdog requests advocacy and witness fees totaling $19,508.50.[6] Consumer Watchdog urges the Chief Administrative Law Judge (CALJ or Chief Judge) to grant the fees and expenditures in full, contending that such an award is proper because Consumer Watchdog met or exceeded all procedural and substantive prerequisites necessary for receiving such relief.[7]

Consumer Watchdog's fees and expenditures are permissible because Consumer Watchdog made a substantial contribution by raising five distinct issues with Farmers' Applications, propounding information requests, preparing an actuarial analysis and rate template, contributing to the overall rate negotiations.[8] This resulted in more relevant, credible, and non-frivolous information being available to the Commissioner in making the decision approving the Applications. Accordingly, as is consistent with this decision, an award of $19,508.50, is appropriate.

The RFC is GRANTED.

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[4] Rate Application Nos. File Nos. 23-2949, 23-2949-A, 23-2949-B; 23-2950, 23-2950-A, 23-2950-B; 23-4951, 23-4951-A, and 23-4951-B.
[5] Ins. Code, § 1861.10, subd. (b); Cal. Code Regs., tit. 10, § 2662.3, subd. (a).
[6] Consumer Watchdog Request for Compensation (RFC), p. 2; Exh. A.
[7] Ins. Code, § 1861.10, subd. (b); Cal. Code Regs., tit. 10, §§ 2662.5, 2662.3, subds. (a),(b).
[8] RFC at pp. 4-6.

PROCEDURAL AND FACTUAL BACKGROUND

I. Prior Approval History and Purpose

In November 1988, California voters passed the Insurance Rate Reduction and Reform Act, better known as Proposition 103. Proposition 103 fundamentally changed insurance regulation in California. Prior to Proposition 103's passage, California was an "open rate" jurisdiction, under which insurance carriers set rates without the Insurance Commissioner's (Commissioner) prior or subsequent approval.[9] Proposition 103 altered this system in order "to protect consumers from arbitrary insurance rates and practices, to encourage a competitive insurance marketplace, to provide for an accountable Insurance Commissioner, and to ensure that insurance is fair, available and affordable for all Californians."[10] To that end, Proposition 103 added Insurance Code article 10, which provides the Commissioner with broad authority over insurance rates, guarantees public rate hearings and expressly precludes the Commissioner from approving rates that are "excessive, inadequate, unfairly discriminatory or otherwise in violation" of the Insurance Code.[11]

Proposition 103's other central objective was to "enable consumers to permanently unite to fight against insurance abuse" by promoting consumer participation in the rate review process.[12] Accordingly, it encouraged consumer groups to "initiate or intervene in any proceeding permitted or established pursuant this chapter, challenge any action of the commissioner under this article, and enforce any provision of this article."[13] To further that participation, the initiative provided consumer groups with advocacy fees for any work that

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[9] *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, 812; *20th Century Ins. Co. v. Garamendi* (1984) 8 Cal.4th 216, 240.
[10] *State Farm Mutual Automobile Ins. Co. v. Garamendi* (2004) 32 Cal.4th 1029, 1041; *Farmers Ins. Exchange v. Superior Court* (2006) 137 Cal.App.4th 842, 853.
[11] Ins. Code, § 1861.05, subds. (a) and (c).
[12] *State Farm Mutual Automobile Ins. Co. v. Garamendi*, 32 Cal 4th at p. 1045.
[13] Ins. Code, § 1861.10, subd. (a).

substantially contributed to the Commissioner's decision on a rate applications.[14]

It is against this backdrop that the following proceeding was undertaken.

II. Rate Application & Intervention

On or about September 27, 2023, Farmers filed the Applications with the Department, seeking approval of an overall 6.9% rate increase to their auto line of insurance for their three separate occupation-based groups—Regular Program, Business and Professional Group I, and Business and Professional Group II.[15] On October 13, 2023, the Department notified the public of Farmers' Applications, as required by statute.[16]

After the Applications were publicly noticed, Consumer Watchdog and its actuaries reviewed the Applications and determined the proposed rate change was excessive and/or unfairly discriminatory in violation of Insurance Code section 1861.10, subdivision (a).[17]

On November 27, 2023, Consumer Watchdog filed its Petition for Hearing, and Petition to Intervene (Petition) including the issues on which it would provide evidence to show why Farmers' proposed rates were excessive and/or unfairly discriminatory. .[18] The Petition raised a number of issues. Specifically. Consumer Watchdog's Petition alleged that Farmers' frequency and severity trend selections resulted in excessive net trends which overstated the projected losses, causing an inflated rate indication. Consumer Watchdog's preliminary analysis indicated no rate increase was warranted, particularly for Bodily Injury, Property Damage, and Collision.[19] Consumer Watchdog also noted the average of the 8- and 12-point fits produced excessive net trends which overstated the projected losses, causing an inflated rate indication, and that

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[14] Ins. Code, § 1861.10, subd. (b).
[15] RFC, 3:17-20; see also, Declaration of Pamela Pressley in Support of Consumer Watchdog's Request for Compensation (Pressley Decl.) at ¶ 24.
[16] Pressley Decl. at ¶ 24.
[17] Pressley Decl. at ¶ 25.
[18] Pressley Decl. at ¶ 27; Exh. 5.
[19] Pressley Decl. at ¶ 27; Petition for Hearing at ¶ 8a.

Farmers used incurred loss development in the rate templates, which yielded higher ultimate loss and DCCE than paid development across all coverages; more than 10% higher for all coverages combined.[20] Additionally, the intervenor alleged that Farmers had failed to provide sufficient information in the filing to support the claim that roughly 30% of advertising expenses over the last three years had been institutional, and asserted that Farmers' use of occupation to create three separate base rate tiers for their Regular Program and Business and Professional Groups I and II violated Insurance Code sections 1861.05(a) and 1861.02(a), and California Code of Regulations, title 10. § 2632.5(d).[21]

On December 11, 2023, the Department contacted the Parties via email to schedule a 3-way conference call to discuss the filing, before intervention had been granted. The Commissioner granted Consumer Watchdog's Petition to Intervene on the Applications the same day, finding "[a]s to the allegations related to loss and premium trends, Variance 8D, loss development, excluded expenses related to excessive payments to affiliates, and separate base rate tiers for affinity groups, the Petition complies with relevant provisions of 10 CCR section 2661.3. The Commissioner finds that these specific issues raised in the Petition are relevant to the issues of this proceeding.[22]

On December 15, 2023, based on its actuary's preliminary analysis, Consumer Watchdog circulated rate templates with its proposed indications showing overall rate decreases were justified and a rate template comparison chart showing the differences between Consumer Watchdog's selections and Farmers' selections for trends and loss development. Consumer Watchdog's indications did not include Variance 8D because it believed that "appropriate

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[20] Pressley Decl. at ¶¶ 28, 29; Petition for Hearing at ¶¶ 8b, 8c.
[21] Pressley Decl. at ¶¶ 30, 31; Petition for Hearing at ¶¶ 8d, 8e.
[22] Pressley Decl. at ¶ 32; Exh. 6.

selections can be made from the available point fits."[23]

On December 18, 2023, the Department circulated a three-way comparison of the Parties' indications.[24] Later that day, the Parties held a three-way call during which the Parties discussed the issues raised by Consumer Watchdog's Petition and Consumer Watchdog's actuary explained his analysis and differences between his selections and calculations and Farmers on trend and loss development. On the call, counsel for Farmers asserted that per statute, Farmers had a right to a decision on its rate application within 60 days (the day after Consumer Watchdog was granted intervention), despite the fact that Farmers had waived the 60-day and 180-day deemer provisions in Insurance Code section 1861.05 in a response letter to the Department posted in SERFF on November 27, 2023.[25]

On December 19, 2023, Consumer Watchdog submitted 15 Requests for Information to Farmers. Specifically, Consumer Watchdog requested additional support for the use of the average of the 8- and 12-point trend fits under Variance 8D; detailed, numerical support for the use of the incurred loss development method in the Applications; details about what was driving the indicated rate need; a discussion of the general type of risk profiles that would receive the larger and smaller premium changes as a result of the filing; an explanation of other actions being taken by the company, in addition to rate revision filings, to address overall profitability and growth plans; premium, paid loss, and incurred loss data by month going back to January 2018 for Farmers' PPA business, split out by new business and renewals; and a discussion of all measures taken by Farmers in the last five years to limit access to their automobile insurance products; an explanation for any material increase/decrease in the in-force policy

[23] RFC. Exh. B.
[24] RFC Exh. C.
[25] Pressley Decl. at ¶ 36.

count/exposures over the past several years.[26] Consumer Watchdog also sought the overall company strategy with writing business in California as well as what differentiates Farmers' product from other competitors in the marketplace; a complete detailed description of any agreements and payments between Farmers and affiliated companies from 2019 to 2022; a complete, detailed description of the methodology used by Farmers to separate advertising expenses into institutional and noninstitutional expenses; all data, documents, correspondence, and analyses provided in response to CDI Bulletins related to COVID; with regard to Comprehensive coverage, any data, analyses, or exhibits Farmers had dealing with losses by cause of loss; what portion of the proposed rate change for comprehensive was due to catalytic converter theft claims; and an explanation of how the Applications took into account AB 1740 and SB 1087 in deriving the rate change.[27]

On December 20, 2023, Farmers responded to each of Consumer Watchdog's Requests for Information. Farmers provided support for using the average of the 8- and 12-point trend fits under Variance 8D; provided support for the use of incurred loss development for liability and first-party bodily injury lines; explained that the main drivers of their indicated rate need were increase in mileage driven, elevated claim severity, attorney representation rate, and adverse development due to subrogation demand; explained that Farmers always focused on validating rating and underwriting accuracy on all risks and also continues to explore and increase options for agents to place private passenger auto policies with other carriers through their in-house brokerage; provided earned premium, Paid Loss, and Incurred Loss data by month going back to January 2018; and confirmed that they continued to give full access to their Farmers Auto

[26] RFC Exh. E; Pressley Decl. at ¶ 37.
[27] *Ibid.*

program for Good Driver policies.[28]

Later that same day, Consumer Watchdog responded to Farmers' responses with updated rate templates based on Farmers' updated information. Consumer Watchdog stated that Farmers' substantive response to the loss development question had convinced its staff actuary to move to the Incurred method for BI and UM, but that he did not find PD or MED to be particularly "long-tailed" based on the data, so those were left as paid development. Consumer Watchdog's updated indications came to a roughly +.8% increase, including +2.2% for Group 0, -1.5% for Group 1, and -1.2% for Group 2.[29]

On December 21, 2023, Farmers responded to Consumer Watchdog's December 20 email and rate templates by stating that Consumer Watchdog's indication was "far below the 6.9% rate increase Farmers needs to move toward (but not achieve) rate adequacy." Farmers requested that the Commissioner deny Consumer Watchdog's petition and approve the Applications subject to the program and coverage adjustments necessary to apply the CDI's selected factors[30]

On December 22, 2023, the Commissioner issued an order denying Consumer Watchdog's Petition for Hearing after the Parties "were unable to resolve the Applications by stipulation."[31] In approving the Applications, the Order responded to each of the issues raised by Consumer Watchdog and concluded that the Department had "considered *all allegations, contentions and evidence submitted by the Parties to date, including Petitioner's requests for information and Applicants' responses thereto*" to reach its determination that overall rate changes of 6.8% for Group I and 6.9% for Regular and Group II were justified.

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[28] RFC Exh. F; Pressley Decl. at ¶ 38.
[29] RFC Exh. G.
[30] RFC Exh. H; Pressley Decl. at ¶ 40.
[31] Pressley Decl. at ¶ 41; Exh. 7.

III. Request for Compensation

On February 9, 2024, Consumer Watchdog filed a Request for Compensation (RFC) with the Commissioner, pursuant to Insurance Code section 1861.10, subdivision (b), seeking advocate fees for work performed by Consumer Watchdog employees Pamela Pressley, Benjamin Powell, Ben Armstrong and Kaitlyn Gentile.[32]

Ms. Pressley is an attorney with over 26 years of consumer advocacy experience, and Mr. Powell is an attorney with seven years of experience, who began his career as a law clerk at Consumer Watchdog.[33] Ben Armstrong, FAAS, MAAA is a staff actuary at Consumer Watchdog. In this capacity, Mr. Armstrong performs independent analysis of insurers rate filings, including assessments of their accuracy and actuarial soundness. Mr. Armstrong is a Fellow of the Casualty Actuarial Society and a Member of the American Academy of Actuaries.[34] Ms. Gentile is a paralegal with over 14 years of litigation experience.[35]

The Request for Compensation seeks compensation for 17.8 hours of Ms. Pressley's time at the rate of $595 per hour, 10 hours of Mr. Powell's time at the rate of $350 per hour, 10.3 hours of Mr. Armstrong's time at $425 per hour, and 5.2 hours of Ms. Gentile's time at the rate of $200 per hour, for a total of $19,508.50.[36]

Consumer Watchdog supported the Request for Compensation with a declaration by Ms. Pressley and Richard M. Pearl, Esq, an expert in court-awarded attorneys' fees.[37] The hours billed are limited to time spent on Farmers' Applications, including preparation of the Request for Compensation.[38]

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[32] Consumer Watchdog requested, and received, an extension of time to file its RFC.
[33] *Id.* at ¶¶ 9, 13, 16
[34] *Id.* at ¶ 26.
[35] *Id.* at ¶ 22.
[36] *Id.* at ¶ 20.
[37] *Id.* at Exh. 2.
[38] *Id.* at Exh. 1a.

Farmers did not file a response to Consumer Watchdog's RFC.

APPLICABLE LAW

I. Statutory and Regulatory Rules Governing Compensation for Public Participation

To promote enforcement and public participation, Insurance Code section 1861.10, subdivision (a) authorizes consumers and their representatives to initiate and intervene in rate proceedings to enforce Article 10's provisions. The Insurance Code and the intevenor regulations provide that an intervenor must be compensated for their participation if substantive and procedural requirements are met.[39]

A. Substantive Requirements

Insurance Code section 1861.10, subdivision (b) provides that the Commissioner shall award reasonable advocacy and witness fees and expenses to persons demonstrating that (1) they "represent the interests of consumers," and (2) they have "made a substantial contribution to the adoption of any order, regulation, or decision by the commissioner[.]" The Regulations contain substantially identical requirements.[40]

An intervenor represents the interests of consumers if it "represents the interests of individual insurance consumer[s], or the intervenor is a group organized for the purpose of consumer protection as demonstrated by, but is not limited to, a history of representing consumers in administrative, legislative or judicial proceedings."[41]

An intervenor makes a substantial contribution if the intervenor "substantially contributed, as a whole, to a decision, order, regulation, or other action of the Commissioner by presenting relevant issues, evidence, or arguments which were separate and distinct from those

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[39] Cal. Code Regs., tit. 10, §§ 2662.1 to 2662.8.
[40] Cal. Code Regs., tit. 10, § 2662.5, subd. (a).
[41] Cal. Code Regs., tit. 10, § 2661.1, subd. (j).

emphasized by the Department of Insurance staff or any other party, such that the intervenor's participation resulted in more relevant, credible, and non-frivolous information being available for the Commissioner to make his or her decision than would have been available to a Commissioner had the intervenor not participated."[42] A substantial contribution may be demonstrated without regard to whether a petition for hearing is granted or denied.[43]

B. Procedural Requirements

The Regulations set forth various procedural requirements for claiming intervenor compensation. The intervenor must obtain the Commissioner's approval of a petition to intervene, and intervenor must be found eligible to seek compensation by the Commissioner's Public Advisor. [44] In addition, the intervenor must submit a request for an award of compensation within 30 days after the Commissioner's decision or action in the proceeding for which intervention was sought, or within 30 days after conclusion of the entire proceeding.[45] The request for compensation must be verified and include detailed descriptions of the services and expenditures, legible time and billing records, and a description of the intervenor's substantial contribution.[46]

Any objection to the RFC by the insurance carrier must be filed within 15 days.[47]

C. Payment and Amount of Compensation Award

Where an intervenor's advocacy occurs in response to an insurer's rate application, the insurer must pay the intervenor's reasonable advocacy fees, witness fees and expenses.[48] Time

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[42] Cal. Code Regs., tit. 10, § 2661.1, subd. (k).
[43] *Ibid.*
[44] Cal. Code Regs., tit. 10, § 2662.3.
[45] *Ibid.*
[46] *Ibid.*
[47] Cal. Code Regs., tit. 10 2662.3, subd. (e).
[48] Ins. Code, § 1861.10, subd. (b).

spent preparing the intervenor's request for compensation may be included in those amounts.[49]

The intervenor's advocacy and witness fees must not exceed "the prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas at the time of the Commissioner's decision awarding compensation for attorney advocates, non-attorney advocates, or experts with similar experience, skill and ability."[50]

Where an intervenor meets the requirements for compensation, the Commissioner may award a reduced amount only in limited circumstances. Regulations section 2662.5(b) provides:

> To the extent the substantial contribution claimed by a petitioner, intervenor or participant duplicates the substantial contribution of another party to the proceeding and was not authorized in the ruling on the Petition to Intervene or Participate, the petitioner's, intervenor's or participant's compensation may be reduced. Participation by the Department of Insurance staff does not preclude an award of compensation, so long as the petitioner's, intervenor's, or participant's substantial contribution to the proceeding does not merely duplicate the participation by the Department of Insurance's staff. In assessing whether there was duplication, the Commissioner will consider whether or not the petitioner, intervenor or participant presented relevant issues, evidence, or arguments which were separate and distinct from those presented by any party or the Department of Insurance staff.

DISCUSSION

I. Consumer Watchdog Satisfied the Requirements for Compensation

Consumer Watchdog's Request for Compensation satisfies both the statutory and regulatory substantive and procedural requirements for intervenor compensation. In addition, Consumer Watchdog's attorney and expert witness fees are reasonable. Accordingly, the Request for Compensation must be granted.

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[49] Cal. Code Regs., tit. 10, § 2661.1(d).
[50] Cal. Code Regs., tit. 10, § 2661.1(c).

A. Consumer Watchdog Represented the Interests of Consumers and Made a Substantial Contribution to the Commissioner's Decision

Consumer Watchdog satisfied the requirements of Insurance Code section 1861.10, subdivision (b) and Regulations section 2662.5 to "represent the interests of consumers" and to make "a substantial contribution" to the Commissioner's action in connection with Applications. Consumer Watchdog has a history of participation in Department proceedings and is a nationally recognized consumer advocacy group. In addition, on July 12, 2022, the Commissioner issued Consumer Watchdog a Finding of Eligibility stating "Consumer Watchdog represents the interests of consumers, and on those grounds, the Commissioner hereby finds Consumer Watchdog eligible to seek compensation in Department proceedings pursuant to [Insurance Code section] 1861.02 *et seq.*"[51]

As to substantial contribution, Consumer Watchdog's Petition raised five distinct and separate issues, including (1) Farmers' frequency and severity trend selections resulted in excessive e net trends which overstated the projected losses, causing an inflated rate indication; (2) the average of the 8- and 12-point fits produced excessive net trends which overstated the projected losses, causing an inflated rate indication; (3) Farmers used incurred loss development in the rate templates, which yielded higher ultimate loss and DCCE than paid development across all coverages; (4) Farmers failed to provide sufficient information in the filing to support the claim that roughly 30% of advertising expenses over the last three years had been institutional; and (5) Farmers' use of occupation to create three separate base rate tiers for their Regular Program and Business and Professional Groups I and II violated sections 1861.05(a) and

[51] Finding of Consumer Watchdog's of Eligibility to Seek Compensation, dated July 12, 2022. That Finding was succeeded by the Commissioner's Finding of Eligibility to Seek Compensation, dated Aug. 25, 2020, File No. IE-2020-0002, p. 4. Consumer Watchdog's eligibility is effective until July 2022.

1861.02(a), and 10 CCR§ 2632.5(d).[52] Consumer Watchdog issued multiple requests for information and their intervention resulted in numerous responses from Farmers, all of which provided additional significant information in evaluating the rate application. In addition, Consumer Watchdog's attorneys and actuaries participated in discussions with the Parties, and their actuary prepared a written analysis and rate template, that served as the backdrop of settlement negotiations.

As such, Consumer Watchdog made a substantial contribution to the Commissioner's ultimate decision.

B. Consumer Watchdog Met the Procedural Requirements for Compensation

The Commissioner approved Consumer Watchdog's Petition to Intervene on July 26, 2022, and the Public Advisor found Consumer Watchdog eligible to seek compensation.[53] Consumer Watchdog submitted a timely request for compensation and the request was verified.[54] It included detailed descriptions of the services and expenditures, legible time and billing records, and a description of Consumer Watchdog's substantial contribution.[55] Accordingly, Consumer Watchdog met the procedural requirements for compensation.

C. Consumer Watchdog's Requested Fees Are Reasonable

Consumer Watchdog billed at hourly rates of $595 for Ms. Pressley, an attorney with over 26 years of consumer advocacy experience, $350 for Mr. Powell, at attorney with seven years' experience, $450 for Mr. Armstrong, an experienced actuary, and $200 for Ms. Gentile, a paralegal with over 14 years of litigation experience.[56] These rates are consistent with the current prevailing private sector rates for advocates in Los Angeles with similar experience, skill and

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[52] Cal. Code Regs., tit. 10, § 2661.1, subd. (k).
[53] Finding of Consumer Watchdog's of Eligibility to Seek Compensation, Aug. 25, 2020, File No. IE-2020-0002.
[54] Request for Compensation at p. 11.
[55] Request for Compensation at pp. 5-8; Pressley Decl., Exh. 1a.
[56] Powell Decl. at ¶¶ 7, 9, 12.

ability.[57]

Consumer Watchdog billed a total of 43.3 hours in connection with the Applications, including 17.8 hours for Ms. Pressley, 10 hours for Mr. Powell, 10.3 hours for Mr. Armstrong, and 5.2 hours for Ms. Gentile.[58] That time is reasonable for the work Consumer Watchdog performed reviewing the Applications, preparing the Petition, engaging with its expert witness, preparing the Compensation Request, and engaging in related conferences, calls, correspondence and negotiations over three months. None of Consumer Watchdog's advocacy fees were excessive for the nature and quality of work performed. Nor did that work duplicate the Department's participation, since Consumer Watchdog first raised most of the relevant the issues and arguments. As such, Consumer Watchdog's advocacy and expert witness fees are reasonable.

III. Conclusions

Consumer Watchdog is entitled to advocacy and expert witness fees in the amount of $19,508.50, pursuant to Insurance Code section 1861.10, subdivision (b) and the regulations thereunder. Because Consumer Watchdog's advocacy was in response to Farmers' Applications, Farmers must pay the award.[59]

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[57] See Powell Decl., Exh. 2 [fee expert declaration].
[58] RFC.
[59] Ins. Code, § 1861.10, subd. (b).

ORDER

1. Consumer Watchdog is hereby awarded $19,508.50 in advocacy and expert witness fees in connection with Farmers' rate applications (Prior Approval File No. PA-2023-00022).

2. Farmers shall pay the award no later than 30 days after the date of this Decision and shall notify the Department's Office of the Public Advisor upon making payment.[60]

Date: October 18, 2024

RICARDO LARA
Insurance Commissioner

By: _____
Hon. Kristin L. Rosi
Chief Administrative Law Judge
Administrative Hearing Bureau

[60] Jon Phenix, Public Advisor, 300 Capitol Mall, Sacramento, CA. jon.phenix@insurance.ca.gov.

PROOF OF SERVICE

Case Name/Number: In the Matter of the Request for Compensation of
CONSUMER WATCHDOG
File No. **RFC-2024-06**

I, Camille E. Johnson, declare that:

I am employed by the California Department of Insurance, Administrative Hearing Bureau, in the City of Oakland and County of Alameda. I am over the age of eighteen (18) years and not a party to this action. My business address is 1901 Harrison Street, 3rd Floor, Oakland, CA 94612.

I am readily familiar with the business practices of the California Department of Insurance for collecting and processing correspondence for mailing, electronic filing and electronic mail. On February 12, 2024, I served **ORDER AWARDING COMPENSATION** regarding the **Matter of the Request for Compensation of CONSUMER WATCHDOG.**

X **(By U.S. Mail)** on those identified parties in said action, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013.

_____ **(By Intra-Agency Mail)** on those identified parties in said action, by placing this correspondence in a place designated for collection for delivery by Department of Insurance intra-agency mail.

_____ **(By facsimile transmission)** on those identified parties in said action, by transmitting said document(s) from our office by facsimile machine Fax Number to facsimile machine number(s) shown below. Following the transmission, I received a "Transmission Report" from our fax machine indicating that the transmission had been transmitted without error.

X **(By Email)** on those identified parties in said action, in accordance with Code of Civil Procedure §1013, by emailing true copies thereof at the address set forth below.

SEE ATTACHED PARTY SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Oakland, California, on October 18, 2024

C. E. JOHNSON
(Print Name)



(Signature)

PARTY SERVICE LIST

Name/Address	Method of Service
Harvey Rosenfield, SBN 123082 Pamela Pressley, SBN 180362 Benjamin Powell, SBN 311624 **CONSUMER WATCHDOG** 6330 San Vicente Boulevard, Suite 250 Los Angeles, CA 90048 Tel No.: (310) 392-0522 Fax No.: (310) 392-8874 harvey@consumerwatchdog.org pam@consumerwatchdog.org ben@consumerwatchdog.org kaitlyn@consumerwatchdog.org	(via Email & U. S. Mail)
Richard De La Mora Victoria McCarthy Alissa Vreman Adam Morris **FARMERS INSURANCE EXCHANGE** 6301 Owensmouth Avenue Woodland Hills, CA 91367 Tel. No.: (818) 865-0433 Richard.delamora@farmersinsurance.com Victoria.mccarthy@farmersinsurance.com Alissa.vreman@farmersinsurance.com Adam.morris@farmersinsurance.com	(via Email & U. S. Mail)
Melissa Wurster Daniel Wade Rate Enforcement Bureau Legal Division, Rate Enforcement Bureau **CALIFORNIA DEPARTMENT OF INSURANCE** 1901 Harrison Street, 6TH Floor Oakland, CA 94612 Tel. No.: (415) 538-4111 Fax No.: (415) 904-5490 Melissa.Wurster@insurance.ca.gov Daniel.Wade@insurance.ca.gov Tina.Warren@insurance.ca.gov	(via Email & Intra-agency)

NON-PARTY

Jon Phenix
Public Advisor
Tina Warren
Office of the Public Advisor
CALIFORNIA DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
Tel No.: (916) 492-3705 (via Email)
Fax No.: (510) 238-7830
John.Phenix@insurance.ca.gov

PROOF OF SERVICE

Case Name/Number: In the Matter of the Request for Compensation of
CONSUMER WATCHDOG
File No. **RFC-2024-06**

I, Camille E. Johnson, declare that:

I am employed by the California Department of Insurance, Administrative Hearing Bureau, in the City of Oakland and County of Alameda. I am over the age of eighteen (18) years and not a party to this action. My business address is 1901 Harrison Street, 3rd Floor, Oakland, CA 94612.

I am readily familiar with the business practices of the California Department of Insurance for collecting and processing correspondence for mailing, electronic filing and electronic mail. On February 12, 2024, I served **ORDER AWARDING COMPENSATION** regarding the **Matter of the Request for Compensation of CONSUMER WATCHDOG.**

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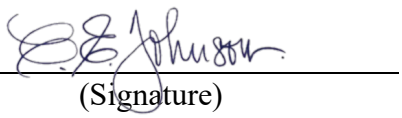
_____ **(By facsimile transmission)** on those identified parties in said action, by transmitting said document(s) from our office by facsimile machine Fax Number to facsimile machine number(s) shown below. Following the transmission, I received a "Transmission Report" from our fax machine indicating that the transmission had been transmitted without error.

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SEE ATTACHED PARTY SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Oakland, California, on October 18, 2024

C. E. JOHNSON
(Print Name)


(Signature)

PARTY SERVICE LIST

Name/Address	Method of Service
Harvey Rosenfield, SBN 123082 Pamela Pressley, SBN 180362 Benjamin Powell, SBN 311624 **CONSUMER WATCHDOG** 6330 San Vicente Boulevard, Suite 250 Los Angeles, CA 90048 Tel No.: (310) 392-0522 Fax No.: (310) 392-8874 harvey@consumerwatchdog.org pam@consumerwatchdog.org ben@consumerwatchdog.org kaitlyn@consumerwatchdog.org	(via Email & U. S. Mail)
Richard De La Mora Victoria McCarthy Alissa Vreman Adam Morris **FARMERS INSURANCE EXCHANGE** 6301 Owensmouth Avenue Woodland Hills, CA 91367 Tel. No.: (818) 865-0433 Richard.delamora@farmersinsurance.com Victoria.mccarthy@farmersinsurance.com Alissa.vreman@farmersinsurance.com Adam.morris@farmersinsurance.com	(via Email & U. S. Mail)
Melissa Wurster Daniel Wade Rate Enforcement Bureau Legal Division, Rate Enforcement Bureau **CALIFORNIA DEPARTMENT OF INSURANCE** 1901 Harrison Street, 6TH Floor Oakland, CA 94612 Tel. No.: (415) 538-4111 Fax No.: (415) 904-5490 Melissa.Wurster@insurance.ca.gov Daniel.Wade@insurance.ca.gov Tina.Warren@insurance.ca.gov	(via Email & Intra-agency)

NON-PARTY

Jon Phenix
Public Advisor
Tina Warren
Office of the Public Advisor
CALIFORNIA DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
Tel No.: (916) 492-3705 (via Email)
Fax No.: (510) 238-7830
John.Phenix@insurance.ca.gov

EXHIBIT 4

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th floor
Sacramento, CA 95814

February 23, 2021 REG-2019-00025

INVITATION TO WORKSHOP REGARDING AMENDMENTS TO COMPLETE RATE APPLICATION REGULATIONS

The California Department of Insurance will conduct a workshop to discuss contemplated amendments to California Code of Regulations, Title 10, Chapter 5, Subchapter 4.8, Article 3, section 2643.3; Article 4, section 2644.27; and Article 8, sections 2648.1, 2648.2, and 2648.4.

You are invited to participate in the workshop discussions. The purpose of this discussion is to provide interested and affected persons an opportunity to present statements or comments regarding the contemplated regulation changes.

Although the Department ordinarily prefers in-person participation, due to unique circumstances, during this pandemic, the Department will use a virtual web conferencing format for this workshop.

Exempt Rulemaking

Pursuant to Government Code section 11340.9(g), this proceeding is exempt from the rulemaking provisions of the Administrative Procedure Act.

Date, Time and Location

Date: April 6, 2021
Time: 1:00 p.m. The virtual workshop shall continue until all in attendance wishing to provide comments have commented, or 5:00 p.m., whichever is earlier.

Location: Link to Register for the Web-based Virtual Format:
https://us02web.zoom.us/webinar/register/WN_s6ssP5i5SgGf8PrvA-SqMQ

Attendance.
To increase public participation and improve the quality of regulations, interested parties are invited to attend the virtual meeting and offer comment, if they so choose.

The moderated call-in line to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact persons for these hearings (listed below) in order to review available accommodations, if necessary.

Please direct all inquiries regarding this workshop to the contact persons named below.

Regulation Text. For purposes of promoting discussion, a draft of the text of the proposed regulatory changes is attached. Participants should be prepared to present specific comments on

the attached draft regulation text during the workshop. Participants are also invited to submit written statements and are encouraged to provide supporting documents and materials as well.

This is Not a Formal Public Hearing on Proposed Regulations. Please be advised that participation in this workshop will be in addition to, and not in substitution for, any participation in any formal rulemaking process that may follow. This invitation to the workshop discussion does not constitute a Notice of Proposed Action. Consequently, comments (oral or written) received in connection with this workshop discussion will not be included in any record of rulemaking that may follow. Similarly, the Department is not required to respond to comments received in connection with the workshop discussion. For this reason, if you wish to have comments included in any rulemaking file that may follow, or if you wish to have the California Department of Insurance respond to your comments as part of the process by which it adopts these regulation amendments, you must present your comments during the public comment period according to the procedures outlined in any Notice of Proposed Action. Again, comments submitted in connection with this workshop discussion will not be considered in any subsequent rulemaking proceeding unless they are resubmitted after the Notice of Proposed Action is issued. However, the Commissioner will consider public comments received in this workshop discussion as he contemplates regulatory changes that may be proposed in a Notice of Proposed Action.

Contact Persons. All substantive questions and concerns regarding the contemplated regulations and/or this workshop discussion should be directed to Nikki McKennedy. If possible, due to unique circumstances, please submit any written comments via electronic mail to Nikki.McKennedy@insurance.ca.gov by April 6, 2021.

Logistical Inquiries
Kathryn Taras, Analyst
California Department of Insurance
300 Capitol Mall, 16th floor
Sacramento, CA 95814
Phone: (916) 492-3675
CDIRegulations@insurance.ca.gov

Substantive Inquiries
Nikki McKennedy, Attorney IV
California Department of Insurance
1901 Harrison Street
Oakland, CA 94612
Phone: (415) 538-4162
Nikki.McKennedy@insurance.ca.gov

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

WORKSHOP DRAFT TEXT OF REGULATION

COMPLETE PROPERTY AND CASUALTY RATE APPLICATION

February 23, 2021 **REG-2019-00025**

TITLE 10. INVESTMENT
CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 4.8. REVIEW OF RATES
ARTICLE 3. GENERAL PROVISIONS

Amend Section 2643.3. Total Aggregate Earned Premiums.

(a) The determination whether rates are excessive or inadequate is made on the basis of the aggregate earned premiums the rates are expected to produce. Thus, the proposed and approved rates are required to reflect the actual distribution of premiums, including discounts, dividends, credits, and other rating factors affecting aggregate premiums. Rates that are neither excessive nor inadequate may still be unlawful and disapproved if they are unfairly discriminatory or otherwise violate chapter 9 (commencing with section 1851) of part 2 of division 1 of the Insurance Code.

(b) Complete ~~R~~rate applications ~~(Form CAR-1 (last revised 1/94))~~ shall be filed on a line-by-line basis, as set forth in ~~s~~Section 2642.7. ~~The~~ A complete rate application shall include the information required by Section 2648.4, and shall be accompanied by the insurer's rating and rating rule manual, rating plan, all policy forms to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line. The Commissioner shall require the filing of such other information as he or she deems necessary to review the application.

(c) The earned premium of retrospectively rated and loss-sensitive insurance shall be the manual premium.

NOTE: Authority cited: Sections 1861.01 and 1861.05, Insurance Code; *20th Century v. Garamendi* (1994) 8 Cal.4th 216. Reference: Sections 1861.01 and 1861.05, Insurance Code; *Calfarm Insurance Company v. Deukmejian* (1989) 48 Cal.3d 805.

TITLE 10. INVESTMENT

CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 4.8. REVIEW OF RATES
ARTICLE 4. DETERMINATION OF REASONABLE RATES

Amend Section 2644.27. Variance Request.

(a) A request that the maximum permitted earned premium or minimum permitted earned premium should be adjusted is referred to as a "variance request."

(b) Requests for variances shall be filed with the Rate Regulation Branch, ~~Filing Bureau on pages 11a and 11b of the Prior~~ together with the insurer's ~~Approval~~ complete ~~R~~rate ~~A~~application pursuant to ~~s~~Section 2648.4. All such variance requests shall specifically:

(i) identify each and every variance request;

(ii) identify the extent or amount of the variance requested and the applicable component of the ratemaking formula;

(iii) set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied; and

(iv) identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change to the component of the ratemaking formula.

(c) Requests for variances shall be filed at the same time as the ~~prior approval~~ insurer's complete rate application to which it applies or after the filing of the complete rate application and before any final determination regarding that application. Public notice of all variance requests shall be provided as set forth in California Insurance Code ~~S~~sections 1861.05, subdivision (c) and 1861.06.

(d) A variance request shall be deemed approved sixty days after public notice unless:

(i) a consumer or his or her representative requests a hearing within forty-five days of public notice and the Commissioner grants the hearing, or determines not to grant the hearing and issues written findings in support of that decision, or

(ii) the Commissioner on his or her own motion determines to hold a hearing.

(e) Variance requests shall be determined in conjunction with the related prior approval application or rate hearing thereon.

(f) The following are the valid bases for requesting a variance:

(1) That the insurer should be allowed relief from the efficiency standard for bona fide loss-prevention and loss-reduction activities as set forth below.

(A) The insurer meeting the qualifications set forth below may obtain an increase in the applicable efficiency standard by the amount of its "Allocated Costs" for its Special Investigations Unit ("SIU") expense for the most recent year. The term SIU as used in this section has the same meaning as that term has in Section 2698.30, subdivision (o). The term "Allocated Costs" means those costs set forth in subsection (iii) and attributable to investigations of claims made on the line of insurance subject to Insurance Code section 1861.05, subdivision (b) for which the variance is sought.

(i) An insurer may recover its "Allocated Costs" for its SIU expenses only in its approved rate filing for the line of insurance affected by the SIU investigation costs.

(ii) Affiliated insurers who utilize the same SIU unit may recover the portion of their "Allocated Costs" for their SIU expenses attributable to investigations of claims made on the line of insurance in the rate application only in one approved rate application for the line affected by the Allocated SIU costs. The term "Affiliated Insurers" has the same meaning as that term has in Insurance Code ~~S~~section 1215.

(iii) The only recoverable SIU expenses are those expended for investigators whose sole duties are investigation of insurance fraud, software dedicated solely to analysis of data for indications of insurance fraud, training of employees whose sole duty is the investigation of fraud and equipment to be used solely by the insurer's SIU. The recoverable expenses do not include the costs of employing or other costs for adjustors or underwriters.

(iv) The only recoverable SIU expenses are for SIU's dedicated to investigation of insurance fraud within the State of California or for the portion of an SIU's operations within California. The burden of demonstrating the amount of SIU expenses, and that those expenses are for the investigation of insurance fraud within the State of California is the insurers.

(v) An insurer may recover the "Allocated Costs" of retaining an independent contractor to perform SIU services as described in sub-paragraph (iii). The variance shall be calculated by multiplying the fees paid for the independent agency with whom the insurer contracts by the percentage of referrals of claims made on the line of insurance for which the rate application and variance application are made and that the contracted agency investigates in California on behalf of the insurer seeking the variance.

(vi) No expense that is included within the Defense and Cost Containment Expense portion of an insurer's complete rate application can be included in whole or in part as the basis for a variance based on SIU expenses. The terms "Defense and Cost Containment Expense" or "DCCE" when used with regard to any variance have the same meaning as those terms have in ~~s~~Section 2644.23, subdivision (c).

(vii) An insurer that asserts that payments to: (1) an independent contractor; or (2) an SIU owned by an Affiliated Insurer; or (3) an SIU independent of an insurer, but which is owned directly or indirectly, in whole or part by the insurer applying for a variance or by an Affiliated Insurer, shall in its variance request, provide the Department of Insurance with documentation showing the costs of investigation for the purported "Allocated Costs" claimed in the variance request. The payments constituting the basis for the variance must be bona fide payments for

investigation of individual cases of suspected insurance fraud. It shall be the burden of the insurer to demonstrate that the costs are bona fide costs for investigation of insurance fraud in the State of California.

(B) An insurer meeting the qualifications set forth below will be allowed to recover its expenses for the most recent year for dedicated loss prevention programs such as brush clearance, driver education, risk management, hazard mitigation or accident prevention. Loss prevention expenses do not include SIU expenses under subsection (A).

(i) An insurer may recover its "Allocated Costs" for its loss prevention expenses only in its approved rate for the line of insurance affected by the loss prevention expenses.

(ii) The insurer must provide documentation detailing the loss prevention program, what additional costs are being incurred and what losses are being prevented.

(iii) Recoverable loss prevention expenses are those expended for employees whose duties are loss prevention, software dedicated to loss prevention, and equipment to be used for loss prevention. Recoverable loss prevention expenses do not include the routine and customary costs of marketing or employing underwriters or adjusters.

(iv) The only loss prevention expenses recoverable are for loss prevention programs dedicated to loss prevention in the State of California or for the portion of the program within California. The burden of demonstrating the amount of loss prevention costs, and that those costs are expended for loss prevention in the State of California is on the insurer.

(2) That the insurer should be allowed relief from the efficiency standard due to any or all of the following:

(A) Higher quality of service, as demonstrated by objective measures of consumer satisfaction; or

(B) Demonstrated superior service to underserved communities, as defined in ~~s~~Section 2646.6; or

(C) Significantly smaller or larger than average California policy premium, including any applicable fees. These fees include but are not limited to: policy fees, installment fees, endorsement fees, inspection fees, cancellation fees, reinstatement fees, late fees, SR-22, and other similar charges.

(3) That the insurer should be authorized leverage factor different from the leverage factor determined pursuant to ~~s~~Section 2644.17 on the basis that the insurer either writes at least 90% of its direct earned premium in one line or writes at least 90% of its direct earned premium in California and its mix of business presents investment risks different from the risks that are typical of the line as a whole. The leverage factor shall be adjusted by multiplying it by 0.85. The surplus ratio in ~~s~~Section 2644.22 shall likewise be divided by 0.85. If an insurer writes at least 90% of its direct earned premium in one line and writes at least 90% of its direct earned premium in California, the insurer will only be authorized one leverage factor adjustment of 0.85.

(4) That the insurer should be granted relief from operation of the efficiency standard for a line of insurance in which the insurer has never previously written over $1 million in earned premiums annually and in which the insurer has made or is making a substantial investment in order to enter the market. Any such request shall be accompanied by a proposed amortization schedule to distribute the start-up investment.

(5) That the minimum permitted earned premium should be lowered on the basis of the insurer's certification, and the Commissioner's finding, that the rate will not cause the insurer's financial condition to present an undue risk to its solvency and will not otherwise be in violation of the law.

(6) That the insurer's financial condition is such that its maximum permitted earned premium should be increased in order to protect the insurer's solvency. Any application for authorization under this subsection shall include:

(A) A showing of the insurer's condition, based on generally accepted standards such as the National Association of Insurance Commissioners' Insurance Regulatory Information System;

(B) A plan to restore the financial condition;

(C) A showing that, consistent with the claimed condition, the insurer has reduced or foregone dividends to stockholders or policyholders; and

(D) A plan to reduce rates once the insurer's condition is restored, in order to compensate consumers for excessive charges.

(7) That the loss development formula in ~~s~~Section 2644.6 does not produce an actuarially sound result because

(A) There is not enough data to be credible;

(B) There are not enough years of data to fully calculate the development to ultimate;

(C) There are changes in the insurer's reserving or claims closing practices that significantly affect the data; or

(D) There are changes in coverage or other policy terms that significantly affect the data; or

(E) There are changes in the law that significantly affect the data; or

(F) There is a significant increase or decrease in the amount of business written or significant changes in the mix of business.

(8) That the trend formula in ~~s~~Section 2644.7 does not produce the most actuarially sound result because

(A) There is a significant increase or decrease in the amount of business written or significant changes in the mix of business;

(B) There are not enough years of data to calculate the trend factor;

(C) There is a significant change in the law affecting the frequency or severity of claims;

(D) It can be shown that a trend calculated over a period of at least 4 quarters other than a period permitted pursuant to ~~s~~Section 2644.7, subdivision (b) is more reliable prospectively;

(E) There are changes in the insurer's claims closing practices that significantly affect the data; or

(F) There are changes in coverage or other policy terms that significantly affect the data.

(9) That the maximum permitted earned premium would be confiscatory as applied. This is the constitutionally mandated variance articulated in *20th Century v. Garamendi* (1994) 8 Cal.4th 216 which is an end result test applied to the enterprise as a whole. Use of this variance requires a hearing pursuant to 2646.4.

(g) If there is more than one actuarial analysis of a variance, each of which is based on reliable data and utilizes methods which are shown by qualified expert evidence to be generally accepted as sound by the actuarial community and the appropriate methods for the particular variance, then the variance shall be granted, denied or calculated utilizing the actuarial proposition that results in the soundest actuarial result.

(h) Notwithstanding any other section of these regulations, the aggregate total adjustment to the efficiency standard for all variances combined shall not exceed the difference between the insurer's most recent year total expense ratio excluding defense and cost containment expenses and the efficiency standard.

NOTE: Authority cited: Sections 1861.01 and 1861.05, Insurance Code; and *20th Century v. Garamendi* (1994) 8 Cal.4th 216. Reference: Sections 1861.01 and 1861.05, Insurance Code; and *Calfarm Insurance Company v. Deukmejian* (1989) 48 Cal.3d 805.

TITLE 10. INVESTMENT
CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 4.8. REVIEW OF RATES
ARTICLE 8. TIMELINES FOR SCHEDULING AND COMMENCING HEARINGS

Amend Section 2648.1. Scope.

~~(a)~~ Except as provided for herein, this article applies to rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b), and proceedings commenced by the issuance of a notice of hearing, or other notice or order commencing a proceeding on a rate application issued by the Commissioner pursuant to Insurance Code ~~S~~section 1861.05, subdivision (c).

~~(b) This article shall not apply to applications for exemption from Insurance Code Section 1861.01(a), file and use rate applications filed prior to November 8, 1989, or applications for rate changes pursuant to Insurance Code Section 1861.05 which are filed prior to July 1, 1993. Refiling of applications for rate changes pursuant to Insurance Code Section 1861.05 shall be made by filing the Department cover sheet entitled "Cover Sheet for Re-Filing of Application for Approval of Insurance Rates," Department form number CA-RA1, dated May 1, 1993, which is incorporated by reference. In addition, for those applications which were submitted with data that is no longer current, updated data must also be submitted with the cover sheet.~~

NOTE: Authority cited: Sections 1861.05 and 1861.055 California Insurance Code. Reference: Sections 1861.05 and 1861.055, California Insurance Code.

Amend Section 2648.2. Receipt of Rate ~~Change~~ Application By Commissioner.

(a) For the purpose of Insurance Code ~~S~~section 1861.05, subdivision (c), a rate ~~change~~ application shall be considered to have been received by the Commissioner on the date that it is received by the Department's Rate Filing Bureau.

(b) Within 14 days of receipt, the Commissioner shall review rate applications for completeness as required by Insurance Code ~~S~~section 1861.05, subdivision (b). If the application includes ~~the forms and exhibits listed in the Filing Checklist, as provided in~~ all information and materials required by Section 2648.4, ~~and the data required therein,~~ it is complete. If the Commissioner determines that the application is not complete because it does not include ~~such forms, exhibits, or the data required therein,~~ all information and materials required by Section 2648.4 for a complete application, notice stating the grounds for incompleteness will be given to the insurer within the 14 day period and the application will be rejected. Within 10 days of the date that such notice is given, the insurer may request a hearing on the rejection.

(c) The hearing shall be held within 10 days of receipt of the request by the Department's Rate Enforcement Bureau. The scope of the hearing shall be limited to the completeness of the application.

(d) If, after a hearing, an application is determined to have been complete when filed, then the 180 day period specified in Insurance Code ~~S~~section 1861.05, subdivision (c) shall have commenced on the date the application was first filed. If the application is determined to be incomplete, then it shall remain rejected.

(e) Rejection of an application for incompleteness shall not bar the refiling of a complete application.

(f) Public notice required by Insurance Code ~~S~~section 1861.05, subdivision (c) shall be made within 10 days after the Commissioner determines that an application is complete.

NOTE: Authority cited: Sections 1861.05 and 1861.055, California Insurance Code. Reference: Sections 1861.05 and 1861.055, California Insurance Code.

Amend Section 2648.4. Complete Application.

(a) ~~In order to be complete,~~ Pursuant to Insurance Code section 1861.05, subdivision (b), every insurer that desires to change any rate must file a complete rate application which must include the ~~following~~information required by Insurance Code section 1861.05, subdivision (b), and all information as the commissioner may require in order to perform a complete analysis of a rate application, including but not limited to the exhibits, data, information, and documentation specified by Sections 2641.1 through 2643.8 and Sections 2644.1 through 2644.28. A complete rate application shall also include all of the materials described in subdivisions (b) through (d) of this Section 2648.4.

(b) A complete rate application shall include any and all criteria, guidelines, ~~or~~ systems, manuals, and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

Specifically, the complete rate application includes, without limitation, any and all of the following:

(1) An insurer's eligibility guidelines as defined in Sections 2360.0 through 2360.7;

(2) Any and all criteria, guidelines, systems, manuals, and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed, or restrict the coverages offered, in specific geographic areas such as ZIP codes, counties, or territories, for any reason, including over-concentration; and

(3) Any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

(c) A complete rate application shall also include any and all criteria, guidelines, systems, manuals, and algorithms an insurer, agent, broker, or underwriter relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules.

(d) A complete rate application shall also include a complete and entire copy of any and all written and electronic descriptions of all of the materials described in subdivisions (a) through (c) of this section.

(e) Pursuant to Insurance Code section 1861.05, subdivision (b), the Commissioner may, in order to perform a complete analysis of a rate application previously deemed complete pursuant to section 2648.2, subdivision (b), require the insurer to submit additional information, forms, templates, exhibits, data and documentation during the Commissioner's review of the application.

~~, which are incorporated by reference application for approval (form CA-RA1, 5-1-96 ed.), duplicate of form CA-RA1 for return copy, self-addressed envelope with sufficient postage to return the duplicate copy of CA-RA1, Rate/Rule/Underwriting Rule Submission Data Sheet (form CA-RA2, 5-1-96 ed.), Line of Business (form CA-RA3, 5-1-96 ed.), Filing Checklist (form CA-RA4, 5-1-96 ed.), Ratemaking Data (form CA-RA5, 5-1-96 ed.), Reconciliation Report (form CA-RA6, 5-1-96 ed.), Additional Data Required by Statute (form CA-RA7, 5-1-96 ed.), Miscellaneous Data (form CA-RA8, 5-1-96 ed.), Filing History (to be labeled Exhibit 1), Rate Level History (to be labeled Exhibit 2), Premium Adjustment Factor (to be labeled Exhibit 3), Premium Trend Factor (to be labeled Exhibit 4), Allocated Loss Adjustment Expense (to be labeled Exhibit 5), Loss Development Factors (to be labeled Exhibit 6), ALAE Development Factors (to be labeled Exhibit 7), Loss Trend, ALAE Trend, and Expense Trend (to be labeled Exhibit 8), Catastrophe Adjustment (to be labeled Exhibit 9), Policy Term Distribution (to be labeled Exhibit 10), Credibility Adjustment (to be labeled Exhibit 11), Data Availability Report (to be labeled Exhibit 12), Interjurisdictional Expense Allocations (to be labeled Exhibit 13), Unallocated Loss Adjustment Expense (to be labeled Exhibit 14), Other Expense Items (to be labeled Exhibit 15), Ancillary Income (to be labeled Exhibit 16), Federal Income Tax Rate (to be labeled Exhibit 17), Projected Investment Income Ratio (to be labeled Exhibit 18), Loss Reserves, Loss Adjustment Expense Reserves, and Unearned Premium Reserves (to be labeled Exhibit 19), Insurer's Ratemaking Calculations (to be labeled Exhibit 20), Rate Distribution (to be labeled Exhibit 21), Rate Classification Relativities (to be labeled Exhibit 22), New Program (to be labeled Exhibit 23), Group Filing (to be labeled Exhibit 24), rating rules, and rate pages. The application must also contain a summary and explanation of the purpose for the filing. The Filing Instructions (forms CA-IA1–CA-I8, 5-1-96, ed.) for these forms and exhibits are incorporated by reference.~~

~~(b) Notwithstanding the completeness determination, the Commissioner may later require the submission of relevant underwriting rules and other relevant documents from an applicant in order to perform a complete analysis of an application.~~

~~(c) Requests for variances as authorized by section 2644.27 shall be on the following form:~~

~~STATE OF CALIFORNIA Insurer Name~~
~~DEPARTMENT OF INSURANCE Line of Business~~

~~Request for Variance~~

~~1. Identify each variance requested.~~

~~2. Identify the extent or amount of the variance requested and the applicable efficiency standard, rate of return, loss development factors or trend which will result if the variance is granted.~~

~~3. Set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied.~~

~~4. Identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change in the applicable efficiency standard, rate of return, loss development factors or trend that is being proposed.~~

NOTE: Authority cited: Sections 1861.01 and 1861.055, Insurance Code. Reference: Sections 1861.05, 1861.07 and 1861.055, Insurance Code.

EXHIBIT 5

Comments of Consumer Watchdog

California Department of Insurance Workshop Regarding Complete Rate Application Regulations

REG-2019-00025

April 6, 2021

Consumer Watchdog submits the following comments in response to the workshop draft text of regulations regarding complete rate applications noticed by the California Department of Insurance (the "Department" or "CDI") on February 23, 2021 and the related April 6, 2021 workshop.

I. General Comments on the Need for the February 23, 2021 Draft Regulation

The workshop draft regulations ("February 23 draft text") noticed by the CDI provide much-needed clarity to the outdated sections of the Commissioner's regulations specifying the information that is required to be filed with the Department and made publicly available as part of a complete rate application. Consumer Watchdog urges the Department to move forward swiftly with the formal rulemaking proceeding to notice and adopt final regulations incorporating our proposed amendments.

Proposition 103 requires insurance companies to open their books and justify applications for rate changes before they go into effect. California law states that "[n]o rate shall be approved or remain in effect which is excessive, inadequate, unfairly discriminatory or otherwise in violation of this chapter." (Ins. Code § 1861.05(a).) Section 1861.05(b) states that "[t]he applicant shall have the burden of proving that the requested rate change is justified and meets the requirements of this article."

A critical component of this "prior approval" framework is public scrutiny of the regulatory system established by the voters. Thus, the measure authorizes and encourages consumers to monitor, initiate, and participate in all rate proceedings at the Department and in the courts. (Ins. Code §§ 1861.05(a); 1861.10(a).) Insurance Code section 1861.05(c) requires the Commissioner to notify the public of an application submitted by an insurance company seeking a rate change. Section 1861.05(c) also provides consumers with the right to request within 45 days of public notice that the agency conduct a hearing on any rate application. And section 1861.07 requires that "*[a]ll* information provided to the commissioner pursuant to this article shall be available for public inspection." (Emphasis added.)

In order for the Commissioner and the public to effectively review and analyze insurers' proposed rate changes, Insurance Code section 1861.05(b) requires any insurance company

seeking a rate change to file a "complete rate application," including specified data and "such other information as the commissioner may require."

An insurance company's underwriting rules, rating rules, eligibility guidelines, systems, manuals, models, and algorithms (when authorized)—that are used to determine whether an insurance company will sell insurance to a person, and how much that person will pay—are a vital component of the rate review process, as the Department's General Counsel confirmed in a legal opinion letter issued on August 10, 2018:

> Because underwriting rules determine the types of risks to be insured and the coverages to be offered, underwriting rules must be analyzed in connection with the rate review process to evaluate the reasonableness of a proposed rate in relation to the specific risks to be insured and coverages to be offered to determine whether such rates are ["]excessive, inadequate[,] unfairly discriminatory[, or otherwise in violation of this chapter."] (Ins. Code §1861.05(a).)[1]

Consistent with the Department's August 10, 2018 opinion letter, the Commissioner's rate application form (including the templates), exhibits, and filing instructions currently require that "a ***complete*** copy of the underwriting guidelines must be submitted with ***all rate filings***, regardless of line of business, whether or not a change to those guidelines is being proposed." (Prior Approval Rate Filing Instructions, State of California Department of Insurance, Jan. 6, 2020 Edition ["2020 filing instructions"], pp. 6, 11, 32 [emphasis in original].) An application is not "complete" absent compliance with this requirement. (*Id*. at 4; see also current 10 CCR § 2648.4 incorporating the Rate Filing Instructions by reference.) "Underwriting guidelines provided to the Commissioner in connection with an Application for approval of property and casualty rates pursuant to Insurance Code section 1861.05 must be available for public inspection

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[1] https://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf at 2. The General Counsel's opinion letter defined "underwriting rules" to include "any rule or factor used by an insurer in the process of examining, accepting, or rejecting insurance risks, and classifying those risks selected in order to charge the proper premium for each. 'Underwriting rules' shall also include, but not be limited to, the 'eligibility guidelines' insurers must maintain pursuant to 10 CCR section 2360.2.4." (*Ibid*.) 10 CCR section 2360.0(b) defines "Eligibility Guidelines" as "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." Section 2360.2 requires an insurer to "maintain eligibility guidelines for every line of insurance offered for sale to the public" and further provides, "[t]he Eligibility Guidelines shall be sufficiently detailed to determine the appropriate rating plan for the insured. An insured or applicant who meets the eligibility guidelines shall qualify to purchase the insurance."

pursuant to Insurance Code section 1861.07." (*Id*. at 7.)[2] Even though the Department's current rate application forms, exhibits, and prior approval rate filing instructions clearly and properly require underwriting guidelines to be filed with all rate applications, current 10 CCR § 2648.4 incorporates the outdated 1996 rate application form, exhibits, and filing instructions. Therefore, it is necessary to amend and update this regulation through this rulemaking.

The Department's August 10, 2018 opinion letter reiterated that "[i]f an insurer fails to submit its underwriting rules with each rate application or denominates its underwriting rules as confidential and not subject to public disclosure, such rate application would not include and make available for public inspection all information required by the Commissioner . . . to evaluate fully the requested rate change."[3] The opinion concluded that "underwriting rules filed in connection with a rate application pursuant to Insurance Code section 1861.05(b) must be available for public inspection pursuant to Insurance Code section 1861.07 regardless of whether such underwriting rules are marked 'confidential,' 'proprietary,' or 'trade secret.'"[4]

Notwithstanding these unequivocal legal requirements imposed on every insurance company doing business in California and the General Counsel's opinion letter, many insurance companies have continued to refuse to publicly file a complete set of their underwriting guidelines or other documents describing models and algorithms (where authorized), or other criteria used to determine eligibility, rates, or premiums, claiming such information is confidential, proprietary, and/or trade secret.

For example, State Farm General Insurance Company ("State Farm") failed to publicly disclose its underwriting guidelines with its February 15, 2018 application for a 6.7% increase in its homeowner, condo, and renter insurance rates (File No. 18-1196, Proceeding No. PA-2018-00002); its August 31, 2018 application for a 6.7% increase in its homeowner, condo, and renter

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[2] Consumer Watchdog notes that these documents have not been adopted as regulations and therefore do not have the force of law, which is why the regulations must clearly spell out the information required as part of a complete rate application. Since insurance companies use the filing instructions as a guide to completing rate applications, however, it is critical that they accurately conform to the law and governing regulations. Unfortunately, the filing instructions presently contain numerous flaws and conflicting provisions. As one example: the 2020 prior approval filing instructions assert that "[a]n Application with full rate support may subsequently be required at the discretion of the Department if it determines that the changes to underwriting guidelines may have a material impact on rates." (2020 filing instructions, p. 9.) Proposition 103 requires prior approval of *all* rate changes. Nothing in Proposition 103 limits the prior approval requirement to proposed changes that have a "*material impact* on rates." Nor does Proposition 103 give the Commissioner or the Department the authority to decide if an application is required.

[3] https://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf at 3.

[4] *Id* at 4.

insurance rates (File No.: 18-4896); and its 2018 auto symbols class plan (File No, 18-4906-CP, Proceeding No. PA-2018-00004).[5]

The company asserted that the General Counsel's August 10, 2018 opinion letter was not a regulation (citing Ins. Code § 12921.9(b)) and that it conflicted with the regulation on the books. Consumer Watchdog challenged State Farm's legal violations in each of the foregoing rate proceedings, and after over two years of tenacious advocacy, finally reached stipulations with the Department and State Farm requiring that the company use only underwriting guidelines that have been publicly filed with the Department, and to publicly file its complete underwriting guidelines contemporaneously with all future rate and rule applications without marking such documents as confidential, proprietary, or trade secret.

State Farm insisted upon including a provision in the stipulation, however, that it be allowed to terminate the stipulation if the Department changes its interpretation of the law with respect to requiring underwriting guidelines to be filed with rate applications. This underscores why the Department needs to adopt a clear regulation specifying that such guidelines must be filed and made publicly available as part of a complete rate application, rather than relying on the Department's rate filing instructions or the General Counsel's opinion letter.

Other companies have also failed to file complete underwriting guidelines by claiming that certain portions of their eligibility guidelines are confidential and refusing to provide them with their public rate applications filed with the Department. For example, in a rule change application filed by Farmers Insurance Exchange ("Farmers") on March 13, 2020 seeking to change its homeowners eligibility guidelines by using a combination of scores generated from FireLine and a new wildfire risk model called Z-FIRE (File Nos.: 20-865, 20-865-A, 20-865-B; Proceeding No. PA-2020-00006), the company failed to file a document referred to as its "Combined Wildfire Eligibility Guidelines" containing the very information it would be relying on under the new rule to refuse coverage. In response to Consumer Watchdog's petition for hearing challenging Farmers' violations of sections 1861.05 and 1861.07 by failing to justify its proposed rule change and file a complete set of its proposed eligibility guidelines, Farmers claimed that the guidelines contained Farmers' "internal, confidential, and proprietary information." Only after several rounds of correspondence by Consumer Watchdog and the Department on the issue did Farmers finally file its Combined Wildfire Eligibility Guidelines in August 2020, almost five months after it had filed its original rule change application.

As these proceedings illustrate, when companies like State Farm, Farmers, and others fail to file complete underwriting guidelines with their initial rate or rule applications or otherwise attempt to shield portions of their rating and eligibility criteria from public disclosure, consumers are deprived of their statutory right to a period of 45 days in which to review the complete application before the deadline to request a hearing under section 1861.05(c). Moreover, when consumers do file petitions for hearing to challenge to these violations, a vast amount of time and

[5] State Farm also failed to file its *complete* underwriting guidelines in its subsequent 2019 homeowner rate increase application (File No. 19-2063, Proceeding No. 2019-00006) as well as its 2019 auto rate and symbols class plan applications (File Nos. 19-544 and 19-3657-CP).

resources of the Department, consumer group petitioners, and insurers is consumed by fighting over whether the insurer will comply with public disclosure requirements in order to allow a complete review of the application. These same insurance companies and their lobbying organizations often complain that the prior approval review process is too time-consuming, but their obstinance in refusing to disclose all the information upon which their applications rely is typically responsible for much of the delay in processing their applications. These challenges demonstrate the need for clear, unambiguous regulations setting forth all information the Commissioner requires to be submitted with a complete rate application under section 1861.05(b) and made public under section 1861.07 in order to determine whether proposed rates and underwriting rules comply with Proposition 103.

In Part II below, Consumer Watchdog provides its provision-by-provision comments on the February 23 draft text and proposed edits to clarify and/or amend certain provisions. We believe that with these additional changes, the proposed regulations should be swiftly adopted in a formal rulemaking hearing.

II. Comments on Specific Provisions of Proposed Regulations[6]

A. Section 2643.3. Total Aggregate Earned Premiums.

CDI's Proposed Draft Text

(a) The determination whether rates are excessive or inadequate is made on the basis of the aggregate earned premiums the rates are expected to produce. Thus, the proposed and approved rates are required to reflect the actual distribution of premiums, including discounts, dividends, credits, and other rating factors affecting aggregate premiums. Rates that are neither excessive nor inadequate may still be unlawful and disapproved if they are unfairly discriminatory or otherwise violate chapter 9 (commencing with section 1851) of part 2 of division 1 of the Insurance Code.

(b) Complete Rrate applications ~~(Form CAR 1 (last revised 1/94))~~ shall be filed on a line-by-line basis, as set forth in ~~s~~Section 2642.7. ~~The~~ A complete rate application shall include the information required by Section 2648.4, and shall be accompanied by the insurer's rating and rating rule manual, rating plan, all policy forms to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line. The Commissioner shall require the filing of such other information as he or she deems necessary to review the application.

(c) The earned premium of retrospectively rated and loss-sensitive insurance shall be the manual premium.

[6] All of Consumer Watchdog's proposed additions to CDI's draft regulation text are in **bold/underline** and all deletions are in **bold/strikethrough**.

CWD Comment

Consumer Watchdog supports the Department's proposed changes to this section of the regulations. Our proposed edits make clear that a complete rate application shall include all of the items specified in Section 2648.4, which we believe should contain a complete list of all information and documentation required to be filed in order for an application to be complete. To avoid repetition of items in that list, we move reference to some of those items from 2643.3 to 2648.4. This change is consistent with Insurance Code section 1861.05(b), which states: "A complete rate application shall include all data referred to in Sections 1857.7, 1857.9, 1857.15 [repealed], and 1864 *and* such other information as the commissioner may require." (Emphasis added.)

CWD Proposed Edits to Section 2643.3

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(b) Complete ~~R~~rate applications ~~(Form CAR 1 (last revised 1/94))~~ shall be filed on a line-by-line basis, as set forth in ~~s~~Section 2642.7. ~~The~~ A complete rate application shall include **all** the information required by Section 2648.4**~~, and shall be accompanied by the insurer's rating and rating rule manual, rating plan, all policy forms, to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line. The Commissioner shall require the filing of such other information as he or she deems necessary to review the application~~**.

B. Section 2644.27. Variance Request.

CWD Comment

Consumer Watchdog supports the Commissioner's proposed changes to Section 2644.27 and has no suggested edits at this time.

C. Section 2648.1. Scope.

CDI's Proposed Draft Text

~~(a)~~ Except as provided for herein, this article applies to rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b), and proceedings commenced by the issuance of a notice of hearing, or other notice or order commencing a proceeding on a rate application issued by the Commissioner pursuant to Insurance Code ~~S~~section 1861.05, subdivision (c).

~~(b) This article shall not apply to applications for exemption from Insurance Code Section 1861.01(a), file and use rate applications filed prior to November 8, 1989, or applications for rate changes pursuant to Insurance Code Section 1861.05 which are filed prior to July 1, 1993. Refiling of applications for rate changes pursuant to Insurance Code Section 1861.05 shall be made by filing the Department cover sheet entitled "Cover Sheet for Re Filing of Application for Approval of Insurance Rates," Department form number CA RA1, dated May 1, 1993, which is~~

~~incorporated by reference. In addition, for those applications which were submitted with data that is no longer current, updated data must also be submitted with the cover sheet~~.

CWD Comment

Consumer Watchdog supports the Commissioner's proposed changes to Section 2648.1 and has no suggested edits at this time.

D. Section 2648.2. Receipt of Rate Application By Commissioner.

CDI's Proposed Draft Text

(a) For the purpose of Insurance Code ~~S~~section 1861.05, subdivision (c), a rate ~~change~~ application shall be considered to have been received by the Commissioner on the date that it is received by the Department's Rate Filing Bureau.

(b) Within 14 days of receipt, the Commissioner shall review rate applications for completeness as required by Insurance Code ~~S~~section 1861.05, subdivision (b). If the application includes ~~the forms and exhibits listed in the Filing Checklist, as provided in~~ all information and materials required by Section 2648.4, ~~and the data required therein~~, it is complete. If the Commissioner determines that the application is not complete because it does not include ~~such forms, exhibits, or the data required therein,~~ all information and materials required by Section 2648.4 for a complete application, notice stating the grounds for incompleteness will be given to the insurer within the 14 day period and the application will be rejected. Within 10 days of the date that such notice is given, the insurer may request a hearing on the rejection.

(c) The hearing shall be held within 10 days of receipt of the request by the Department's Rate Enforcement Bureau. The scope of the hearing shall be limited to the completeness of the application.

(d) If, after a hearing, an application is determined to have been complete when filed, then the 180 day period specified in Insurance Code ~~S~~section 1861.05, subdivision (c) shall have commenced on the date the application was first filed. If the application is determined to be incomplete, then it shall remain rejected. Rejection of an application for incompleteness shall not bar the refiling of a complete application.

(e) Public notice required by Insurance Code ~~S~~section 1861.05, subdivision (c) shall be made within 10 days after the Commissioner determines that an application is complete.

CWD Comment

Consumer Watchdog proposes that the term "materials" in proposed Section 2648.2(b) should be changed to "documentation" as used in proposed Section 2648.4(a), or else deleted. The term "information" is sufficient to convey that a complete rate application shall include all information required by Section 2648.4 and any other such information as the Commissioner may require pursuant to his authority under Insurance Code section 1861.05(b).

Additionally, Consumer Watchdog believes the Commissioner should promptly notify the public of a notice of an incomplete application and any subsequent hearing on that notice.

CWD Proposed Edits to Section 2648.2

(b) Within 14 days of receipt, the Commissioner shall review rate applications for completeness as required by Insurance Code ~~S~~section 1861.05, subdivision (b). If the application includes ~~the forms and exhibits listed in the Filing Checklist, as provided in~~ all information and ~~**materials**~~ **documentation** required by Section 2648.4, ~~and the data required therein~~, it is complete. If the Commissioner determines that the application is not complete because it does not include ~~such forms, exhibits, or the data required therein,~~ all information ~~**and materials**~~ **documentation** required by Section 2648.4 for a complete application, notice stating the grounds for incompleteness will be given to the insurer within the 14 day period and the application will be rejected. Within 10 days of the date that such notice is given, the insurer may request a hearing on the rejection.

(e) Public notice **of the application as** required by Insurance Code ~~S~~section 1861.05, subdivision (c) shall be made within 10 days after the Commissioner determines that an application is complete.

(f) Notice of an incomplete application pursuant to subdivision (b) of this section and notice of any hearing on a rejection of an application for incompleteness pursuant to subdivision (b) of this section shall be made public by the Commissioner, as required by Insurance Code sections 1861.05 and 1861.06.

E. Section 2648.4. Complete Application.

CDI's Proposed Draft Text

(a) ~~In order to be complete~~, Pursuant to Insurance Code section 1861.05, subdivision (b), every insurer that desires to change any rate must file a complete rate application which must include the f~~ollowing~~information required by Insurance Code section 1861.05, subdivision (b), and all information as the commissioner may require in order to perform a complete analysis of a rate application, including but not limited to the exhibits, data, information, and documentation specified by Sections 2641.1 through 2643.8 and Sections 2644.1 through 2644.28. A complete rate application shall also include all of the materials described in subdivisions (b) through (d) of this Section 2648.4.

(b) A complete rate application shall include any and all criteria, guidelines, ~~or~~ systems, manuals, and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

Specifically, the complete rate application includes, without limitation, any and all of the following:

(1) An insurer's eligibility guidelines as defined in Sections 2360.0 through 2360.7;

(2) Any and all criteria, guidelines, systems, manuals, and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed, or restrict the coverages offered, in specific geographic areas such as ZIP codes, counties, or territories, for any reason, including over-concentration; and

(3) Any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

(c) A complete rate application shall also include any and all criteria, guidelines, systems, manuals, and algorithms an insurer, agent, broker, or underwriter relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules.

(d) A complete rate application shall also include a complete and entire copy of any and all written and electronic descriptions of all of the materials described in subdivisions (a) through (c) of this section.

(e) Pursuant to Insurance Code section 1861.05, subdivision (b), the Commissioner may, in order to perform a complete analysis of a rate application previously deemed complete pursuant to section 2648.2, subdivision (b), require the insurer to submit additional information, forms, templates, exhibits, data and documentation during the Commissioner's review of the application.

~~, which are incorporated by reference: application for approval (form CA RA1, 5 1 96 ed.), duplicate of form CA RA1 for return copy, self addressed envelope with sufficient postage to return the duplicate copy of CA RA1, Rate/Rule/Underwriting Rule Submission Data Sheet (form CA RA2, 5 1 96 ed.), Line of Business (form CA RA3, 5 1 96 ed.), Filing Checklist (form CA RA4, 5 1 96 ed.), Ratemaking Data (form CA RA5, 5 1 96 ed.), Reconciliation Report (form CA RA6, 5 1 96 ed.), Additional Data Required by Statute (form CA RA7, 5 1 96 ed.), Miscellaneous Data (form CA RA8, 5 1 96 ed.), Filing History (to be labeled Exhibit 1), Rate Level History (to be labeled Exhibit 2), Premium Adjustment Factor (to be labeled Exhibit 3), Premium Trend Factor (to be labeled Exhibit 4), Allocated Loss Adjustment Expense (to be labeled Exhibit 5), Loss Development Factors (to be labeled Exhibit 6), ALAE Development Factors (to be labeled Exhibit 7), Loss Trend, ALAE Trend, and Expense Trend (to be labeled Exhibit 8), Catastrophe Adjustment (to be labeled Exhibit 9), Policy Term Distribution (to be labeled Exhibit 10), Credibility Adjustment (to be labeled Exhibit 11), Data Availability Report (to be labeled Exhibit 12), Interjurisdictional Expense Allocations (to be labeled Exhibit 13), Unallocated Loss Adjustment Expense (to be labeled Exhibit 14), Other Expense Items (to be labeled Exhibit 15), Ancillary Income (to be labeled Exhibit 16), Federal Income Tax Rate (to be labeled Exhibit 17), Projected Investment Income Ratio (to be labeled Exhibit 18), Loss Reserves, Loss Adjustment Expense Reserves, and Unearned Premium Reserves (to be labeled Exhibit 19), Insurer's Ratemaking Calculations (to be labeled Exhibit 20), Rate Distribution (to~~

~~be labeled Exhibit 21), Rate Classification Relativities (to be labeled Exhibit 22), New Program (to be labeled Exhibit 23), Group Filing (to be labeled Exhibit 24), rating rules, and rate pages. The application must also contain a summary and explanation of the purpose for the filing. The Filing Instructions (forms CA IA1 CA I8, 5 1 96, ed.) for these forms and exhibits are incorporated by reference.~~

~~(b) Notwithstanding the completeness determination, the Commissioner may later require the submission of relevant underwriting rules and other relevant documents from an applicant in order to perform a complete analysis of an application.~~

~~(c) Requests for variances as authorized by section 2644.27 shall be on the following form:~~

~~STATE OF CALIFORNIA Insurer Name~~
~~DEPARTMENT OF INSURANCE Line of Business~~

~~Request for Variance~~

~~1. Identify each variance requested.~~

~~2. Identify the extent or amount of the variance requested and the applicable efficiency standard, rate of return, loss development factors or trend which will result if the variance is granted.~~

~~3. Set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied.~~

~~4. Identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change in the applicable efficiency standard, rate of return, loss development factors or trend that is being proposed.~~

CWD Comment

Consumer Watchdog supports the Department's proposed amendments to Section 2648.4 to eliminate references to outdated rate application forms, exhibits, and filing instructions and replace with clear references to all the information and documentation that the Commissioner requires to be submitted as part of a complete rate application pursuant to his authority under Insurance Code section 1861.05(b).

Consumer Watchdog recommends making clear in Section 2648.4(a) that a complete rate application must be filed when an insurer seeks to change any rate, rating or underwriting rule, or eligibility guideline. Section 1861.05 applies not only to rate change applications, but also prohibits rates from "remain[ing] in effect" that are "excessive, inadequate, unfairly discriminatory, or otherwise in violation of" Proposition 103 (emphasis added). As discussed in Section I above, underwriting guidelines are used to determine eligibility

and rating and therefore are inextricably linked to rates, as the Department confirmed in its August 10, 2018 Legal Opinion letter.[7]

More specifically, the rate review process encompasses the review of rate, rule, form, and class plan filings for compliance with Proposition 103 and California law, which indisputably *requires* scrutiny and analysis of underwriting guidelines and rules. The determination of whether such a rule or guideline has an impact on rates must not be left to the company. A complete rate application is thus necessary to properly evaluate whether a proposed change to a rating or underwriting rule or eligibility guideline will result in a rate that is excessive, inadequate, unfairly discriminatory, or otherwise in violation of Proposition 103 or California law.

Subdivision (a) should also include a reference to the current rate application form template as published by the Department and made available on its public website, since it specifies all the data and "exhibits" that must be included in the rate application, which are not expressly specified in the referenced regulation sections.

Consumer Watchdog also recommends adding "models" and "scores" used for determining rates, premiums, and eligibility to the list of information required as part of a complete rate application under Section 2648.4. Insurers often claim that documentation relating to complex catastrophe models allowed under Section 2644.4 for the earthquake line and fire following earthquake exposure in other lines and other models used to determine premiums and eligibility for homeowners insurance is proprietary and confidential. Shielding this information from the public precludes the Commissioner's and the public's ability to fully evaluate whether the rates, premiums, and eligibility and renewal guidelines developed using such models comply with Proposition 103 and defeats the initiative statute's transparency requirements. Accordingly, such models and scores, if they are allowed to be used, must be publicly filed as part of a complete rate application, or else the rate application must be deemed incomplete or use of the model disallowed for purposes of the review required by Insurance Code section 1861.05 and this regulation.

Additionally, the language "written and electronic descriptions of" in proposed subdivision (d) is unclear and Consumer Watchdog suggests changing to "written and electronic documents describing… ."

Finally, consistent with Insurance Code section 1861.07, the regulation should make clear that all information required to be filed with the Commissioner as part

[7] See https://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf at 2.

of a complete rate application must be publicly available and not marked as confidential, proprietary, or trade secret.

CWD Proposed Edits to Section 2648.4

(a) ~~In order to be complete,~~ Pursuant to Insurance Code section 1861.05, subdivision (b), every insurer that desires to change any rate**, rating rule, or any guideline or criteria used to determine whether to accept, cancel, or non-renew a risk** must file a complete rate application which must include the ~~following~~ **following** information**:**

(1) the information required by Insurance Code section 1861.05, subdivision (b)**;** ~~**, and all information as the commissioner may require in order to perform a complete analysis of a rate application including but not limited to**~~

(2) the exhibits, data, information, and documentation specified by Sections 2641.1 through 2643.8 and Sections 2644.1 through 2644.28~~.~~ **and the rate application form, exhibits, and templates available on the Department's public website;**~~**A complete rate application shall also include all of the materials described in subdivisions (b) through (d) of this Section 2648.4.**~~

~~**(b)**~~**(3)** ~~**A complete rate application shall include**~~ **a complete set of, and any proposed changes to,** any and all criteria, guidelines, ~~or~~ systems, manuals, **models, scores, policy forms** and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

Specifically, the information required by this subdivision (a)(3) shall include ~~**the complete rate application includes, without limitation,**~~ **a complete set of, and any proposed changes to,** any and all of the following:

~~**(1)**~~**(A)** An insurer's eligibility guidelines as defined in Sections 2360.0 through 2360.7;

~~**(2)**~~**(B)**Any and all criteria, guidelines, systems, manuals, **models, scores, policy forms,** and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed, or restrict the coverages offered, in specific geographic areas such as ZIP codes, counties, or territories, for any reason, including over-concentration; and

~~**(3)**~~**(C)** Any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options~~.~~**;**

~~**(c)**~~**(4)**~~**A complete rate application shall also include**~~ any and all criteria, guidelines, systems, manuals, **models, scores, policy forms,** and algorithms an insurer, agent, broker, or underwriter **uses, consults, reviews, or** relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules~~.~~**;**

~~(d)~~(5) ~~A complete rate application shall also include~~ a complete and entire copy of any and all written and electronic **documents describing ~~descriptions of~~** all of the ~~materials~~**information and documentation** described in subdivisions (a)**(1)** through **~~(c)~~(a)(4)** of this section.

~~(e)~~(b) Pursuant to Insurance Code section 1861.05, subdivision (b), the Commissioner may, in order to perform a complete analysis of a rate application previously deemed complete pursuant to section 2648.2, subdivision (b), require the insurer to submit **any such** additional information, **including but not limited to** forms, templates, exhibits, data and documentation during the Commissioner's review of the application.

***

(c) Pursuant to Insurance Code section 1861.07, all information and documentation required to be submitted to the Department as part of a complete rate application pursuant to subdivisions (a) through (e) of this section shall be made available for public inspection and shall not be marked as confidential, proprietary or trade secret.

PROOF OF SERVICE
BY OVERNIGHT OR U.S. MAIL, FAX TRANSMISSION,
EMAIL TRANSMISSION AND/OR PERSONAL SERVICE

State of California, City of Los Angeles, County of Los Angeles

I am employed in the City and County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 6330 South San Vicente Boulevard, Suite 250, Los Angeles, California 90048, and I am employed in the city and county where this service is occurring.

On April 8, 2021, I caused service of true and correct copies of the document entitled

CORRECTED CONSUMER WATCHDOG COMMENTS ON CALIFORNIA DEPARTMENT OF INSURANCE WORKSHOP REGARDING COMPLETE RATE APPLICATION REGULATIONS, REG-2019-00025

upon the persons named in the attached service list, in the following manner:

1. If marked FAX SERVICE, by facsimile transmission this date to the FAX number stated to the person(s) named.

2. If marked EMAIL, by electronic mail transmission this date to the email address stated.

3. If marked U.S. MAIL or OVERNIGHT or HAND DELIVERED, by placing this date for collection for regular or overnight mailing true copies of the within document in sealed envelopes, addressed to each of the persons so listed. I am readily familiar with the regular practice of collection and processing of correspondence for mailing of U.S. Mail and for sending of Overnight mail. If mailed by U.S. Mail, these envelopes would be deposited this day in the ordinary course of business with the U.S. Postal Service. If mailed Overnight, these envelopes would be deposited this day in a box or other facility regularly maintained by the express service carrier, or delivered this day to an authorized courier or driver authorized by the express service carrier to receive documents, in the ordinary course of business, fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 8, 2021 at Los Angeles, California.

Kaitlyn Gentile

Service List

Nikki McKennedy
California Department of Insurance
1901 Harrison Street, 6th Floor
Oakland, CA 94612
Tel. (415) 538-4111
Fax (415) 904-5490
Nikki.McKennedy@insurance.ca.gov

☐ FAX
☐ U.S. MAIL
☐ OVERNIGHT MAIL
☐ HAND DELIVERED
☒ EMAIL

EXHIBIT 6

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th floor
Sacramento, CA 95814

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

COMPLETE PROPERTY AND CASUALTY RATE APPLICATIONS

February 9, 2024 **REG-2019-00025**

Exempt Rulemaking

Pursuant to Government Code section 11340.9(g), this proceeding is exempt from the rulemaking provisions of the Administrative Procedure Act.

SUBJECT OF PROPOSED RULEMAKING

Notice is given that California Insurance Commissioner Ricardo Lara will hold a public hearing to consider amending California Code of Regulations, Title 10, Chapter 5, Subchapter 4.8, Article 3, section 2643.3; Article 4, section 2644.27; and Article 8, sections 2648.1, 2648.2, and 2648.4, to specify the materials and information that must be included initially in a complete rate filing application submitted to Insurance Commissioner Ricardo Lara pursuant to the authority granted by Insurance Code sections 1861.01, 1861.05, and 1861.055.

PUBLIC HEARING

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, concerning these regulations, as follows:

Date:	**March 26, 2024**
Time:	**3:00 p.m.** The public hearing shall continue until all in attendance wishing to provide comments have commented, or 5:00 pm
Location:	https://us06web.zoom.us/webinar/register/WN_sjprsYhsRGab-cbokWmtiQ

The telephonic call-in line that is available to access the public hearing is accessible to persons with hearing impairment. Persons with sight or hearing impairments are requested to notify one of the contact persons for this hearing (listed below) in order to review available accommodations, if necessary.

PRESENTATION OF WRITTEN COMMENTS; CONTACT PERSONS

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end on **March 26, 2024.** Please direct all written comments to the following contact person:

Lisbeth Landsman, Attorney IV
Rate Enforcement Bureau
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
Phone: (916) 492-3561
Email: CDIRegulations@insurance.ca.gov

The above contact person may be directly contacted with any questions regarding the substance of the proposed action at the following email address: Lisbeth.Landsman@insurance.ca.gov.

The following contact person may also serve as a backup to the contact person listed above:

Elsa Carre
Rate Enforcement Bureau
1901 Harrison Street
Oakland, CA 94612
Phone: (415) 538-4461
Email: Elsa.Carre@insurance.ca.gov

All other inquiries, including procedural questions related to submitting comments or participating in the hearing, should be addressed to the following contact person.

Kathryn Taras
Office of the Special Counsel
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
Phone: (916) 492-3675
Email: CDIRegulations@insurance.ca.gov

Please note that under the California Public Records Act (Government Code Section 6250, et seq.), any written and oral comments, and associated contact information included in such comments (e.g., electronic or physical address, phone number, etc.) become part of the public record and can be released to the public upon request.

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact person at the address listed above, no later than **March 26, 2024.** Any written materials received after that time may not be considered.

COMMENTS TRANSMITTED BY E-MAIL

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: CDIRegulations@insurance.ca.gov.

Comments sent to e-mail addresses other than that which is designated in this notice will not be accepted. Comments sent by e-mail are subject to the deadline set forth above for written comments.

AUTHORITY AND REFERENCE

The proposed regulations will implement the provisions of Insurance Code sections 1861.01, 1861.05 (b), and 1861.055, which also provide the rulemaking authority for this action.

INFORMATIVE DIGEST

Summary of Existing Law

Proposition 103 is codified in Insurance Code sections 1861.01 et seq., and requires, *inter alia*, that no insurance rate subject to its terms shall be inadequate, excessive, or unfairly discriminatory. To help determine whether rates are excessive, inadequate, or unfairly discriminatory, Insurance Code section 1861.05 requires any insurer desiring to change its rates for property and casualty insurance to file a complete rate application with the Insurance Commissioner for his review and approval prior to using the proposed rates. Additionally, Proposition 103 encourages public participation in the rate-making process and allows consumer representatives to intervene in the review of rate filings. A complete rate application contains certain data specified by statute as well as such other information as the Commissioner may require. The Commissioner first adopted regulations specifying what data should be initially included in a complete rate application in 1993.

Effect of Proposed Action

The proposed amendments will amend the regulations specifying what data should be initially included in a complete rate application. Including all materials with the initial rate application filing will provide the public the time and opportunity necessary to decide whether or not to intervene. The amendments will also reduce unnecessary delays the Department has encountered in reviewing rate applications.

Policy Statement Overview

In order to conduct a full review to make sure insurance rates are not excessive, inadequate, or unfairly discriminatory, the Department has proposed regulations to update and make clear what information must be included initially in a complete rate application. Materials to be contained in initial rate filings include: any and all criteria, guidelines, systems, manuals, and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed; any method or set of standards, parameters, rules, requirements or procedures that is used by an

insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk; and any and all criteria, guidelines, systems, manuals, models and algorithms an insurer, agent, broker, or underwriter relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules. Currently, the Commissioner already requires these materials and insurers usually provide them at some point during the rate application review process. However, the timing of the submission of materials can impact the public availability of some data and create unnecessary delays in the rate approval process.

Benefits Anticipated

The benefits anticipated to result from the adoption of the proposed amendments to these regulations include increased clarity for insurers and the public regarding what documents and information are required to be submitted in a complete rate application. Specifically, a complete rate application shall, in addition to the documentation, materials, data, forms, templates, and exhibits required by Insurance Code section 1861.05(b) and Regulations 2644.1 et seq., include any and all criteria, guidelines, or systems, manuals, models and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options. These amendments will eliminate confusion among insurers about what materials are required as part of an initial rate application. The amendments are anticipated to reduce delays in the rate application process that occur when insurers do not initially make all materials available as well as any delays caused by disputes over what exactly is required in an initial complete rate application. Clarifying the requirements for a complete rate application will also provide insurers with greater certainty that their initial rate applications will be accepted.

The regulation amendments will also increase openness and transparency in the governmental rate application process by making clear that all rate application materials are to be made public. Timely submission of an initial complete rate application will allow consumer representatives the opportunity to decide whether to intervene and better allow Department staff to more quickly process and review rate applications. Additionally, the timely submission of all information required in a complete rate application should better allow the Department and the public to determine more expeditiously whether any insurance rate is excessive, inadequate, or unfairly discriminatory, which will benefit the public through increased prevention of discrimination and the promotion of fairness and social equity.

Consistency or Compatibility with Existing State Regulations

The proposed amendments are not inconsistent or incompatible with any other existing regulations. These proposed amendments specifically address the contents of a complete rate

application submitted for purposes of complying with Proposition 103, which no other state regulations do.

NOT MANDATED BY FEDERAL LAW OR REGULATIONS

These regulations are not mandated by federal law. There are no existing federal regulations or statutes comparable to these proposed regulations as no federal statutes or regulations address property and casualty insurance rating factors.

OTHER STATUTORY REQUIREMENTS

The Department evaluated whether there were other requirements prescribed by statute applicable to these regulations by reviewing statutes and regulations relating to this issue, and determined that there were no such requirements.

LOCAL MANDATE

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

FISCAL IMPACT

The proposed regulation is not anticipated to have a fiscal impact on the Department or any other state agency. While the regulation may result in slightly faster intake and less follow-up on some rate applications, it is not expected to result in a measurable monetary fiscal savings. There are no anticipated costs relating to the review of additional materials, because nearly all of the materials are already submitted at some point during the rate application review. The regulation, by clarifying all materials required to be submitted as part of an initial rate application, may change the timing of the Department's review of some documents, but it is not expected to impose additional costs.

The Department has determined that the proposed regulation will not impose a cost to any local agency or school district that requires reimbursement under Government Code section 17500 et seq., nor will it result in other nondiscretionary costs or savings to local agencies.

HOUSING COSTS

The proposed regulations will have no significant effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has made an initial determination that the adoption of the proposed amendments of the regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other

states. The businesses that will be affected are insurance companies writing property and casualty policies in California.

The Department has determined that, at a minimum, such insurers must include as part of their initial complete rate applications certain materials, information, and documents that demonstrate whether the requested rate is appropriate and not excessive, inadequate, or unfairly discriminatory. Such materials, information, and documents include, without limitation, insurers' historical data supporting an estimate of the projected losses, expenses, and investment income expected during the projected rating period, as well as information regarding how insurers determine whether to accept and write certain risks, including, without limitation, any and all criteria, guidelines, systems, manuals, models and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed; any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk; and any and all criteria, guidelines, systems, manuals, models and algorithms an insurer, agent, broker, or underwriter relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules. Currently, the Commissioner already instructs insurers to submit the materials described above, and insurers usually provide them at some point during the rate application review process. These regulations specify that all necessary materials are included in a complete rate application at the time it is initially submitted, not later during the rate application review process.

The Department has considered proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

(i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.

(ii) Consolidation or simplification of compliance and reporting requirements for businesses.

(iii) The use of performance standards rather than prescriptive standards.

(iv) Exemption or partial exemption from the regulatory requirements for businesses.

STATEMENT OF RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Below is a summary of the results of the Economic Impact Assessment pursuant to Government Code sections 11346.3(b)(1)(A) through (D). Detailed analysis of the conclusions follows.

A. The proposed regulations are estimated to have a minimal effect, a gain of 142.6 jobs within the State of California. The net impact of the regulation on employment is

expected to be less than one-thousandth of a percent of the projected total civilian employment in California (76.4 / 18,605,400 = 0.0004%).

B. The proposed regulations are estimated to have a minimal effect, a loss of 219 jobs within the State of California. The net impact of the regulation on employment is expected to be less than one-thousandth of a percent of the projected total civilian employment in California (76.4 / 18,605,400 = 0.0004%).

C. The average direct benefit to an impacted insurer of $833,000 ($20 million / 24 firms), is not anticipated to have a significant impact on the creation of new businesses in California.

D. The $193 estimated direct cost ($11.5 million / 59,706 businesses) to a typical business is not expected to affect the elimination of existing businesses in California.

E. The average direct benefit to an impacted insurer is estimated to be $833,000 ($20 million / 24 firms), it is not anticipated that the proposed regulation will impact the ability of businesses located in California to expand. Additionally, the $193 estimated cost ($11.5 million / 59,706 businesses) to a typical impacted business is not expected to affect the ability of businesses located in California to expand. The small estimated net impact on total output suggests that the regulation will have a minimal impact on the California economy as a whole.

F. The proposed regulations are expected to result in a benefit to the welfare of California insurance consumers by ensuring rate applications are approved in a more timely and expeditious fashion, and the resulting insurance rates are not excessive, inadequate, or unfairly discriminatory.

POTENTIAL COST IMPACT ON REPRESENTATIVE PERSON OR BUSINESSES

The estimated cost on a typical impacted business in California is $193 ($11.5 million / 59,706 businesses).

The proposed regulation is estimated to result in an aggregate cost of $8.5 million to residential insurance policyholders (individuals) per year. Without knowing which companies might be affected in any given year, the Department can't estimate with certainty the average impact to individuals.

BUSINESS REPORT

The Department finds that it is necessary for the health, safety or welfare of the people of the state that the regulation apply to businesses.

IMPACT ON SMALL BUSINESSES

The proposed amendments to regulations are projected to have a beneficial direct impact on insurers as discussed in the foregoing analysis, and by law insurance companies are not considered small businesses (Government Code § 11342.610(b)(2)).

According to the small business definition in Government Code Section 11342.610, the Department estimated the number of small businesses potentially impacted by the proposed regulation. The Department's analysis included removing industries that were designated as not small businesses and using available business size data to estimate the number of small businesses in the manufacturing sector. For all other industry sectors, the Department used receipt data published by the US Census to estimate the percentage of small businesses by industry sector. However, this is not a perfect match, as the Census data only identified firms with receipts greater than $1,000,000, whereas the Government Code often cites a higher gross receipt threshold for small businesses (e.g. agriculture is $1,000,000, but services are $2,000,000). As a result, the Department's estimate likely somewhat overstates the number of small businesses impacted.

The Department estimates that approximately 40,400 small businesses may be adversely impacted by the proposed regulation. This represents approximately 3.4 percent of all business establishments in the state (excluding In-Home Supportive Services (IHSS)). The monetary impact to small businesses is likely to be somewhat lower than the $193 average for all impacted businesses, but actual costs will be dependent upon the location of the business, the amount of insurance purchased, and coverage options. This extra cost to businesses represents a commercial insurance rate increase that was coming, but because this regulation will eliminate delays and speed up the rate approval process, the increased insurance bill will be due sooner.

ALTERNATIVES INFORMATION

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which this action is proposed; would be as effective and less burdensome to affected private persons than the proposed action; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy underlying Insurance Code section 11736.5.

AVAILABILITY STATEMENTS

The Department has prepared an Initial Statement of Reasons that sets forth the reasons for the proposed action. Upon request, the Initial Statement of Reasons will be made available for inspection and copying. Requests for the Initial Statement of Reasons or questions regarding this proceeding should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the express terms of the proposed action, the Initial Statement of Reasons, the Economic Impact Assessment, and all the information upon which the proposed action is based, and any supplemental information, including any reports,

documentation and other materials related to the proposed action that is contained in the rulemaking file. The documents described above may be inspected in person or provided electronically. Please direct such requests to the contact person above.

MODIFIED TEXT

If the amended regulations adopted by the Department differ from those which have originally been made available but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these amended regulations prior to adoption from the contact person listed above.

FINAL STATEMENT OF REASONS

Once it has been prepared, the Final Statement of Reasons will be part of the file for this proceeding. The documents described above may be inspected in person or provided electronically. Please direct such requests to the contact person above.

INTERNET ACCESS

Documents concerning proposed regulations are available on the Department's website at the following link: https://legaldocs.insurance.ca.gov/publicdocs/RegulationList

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

INITIAL STATEMENT OF REASONS

COMPLETE PROPERTY AND CASUALTY RATE APPLICATIONS

February 9, 2024 **REG-2019-00025**

Exempt Rulemaking

Pursuant to Government Code section 11340.9(g), this proceeding is exempt from the rulemaking provisions of the Administrative Procedure Act.

INTRODUCTION

California Insurance Commissioner Ricardo Lara will hold a public hearing to consider amending California Code of Regulations, Title 10, Chapter 5, Subchapter 4.8, Article 3, section 2643.3; Article 4, section 2644.27; and Article 8, sections 2648.1, 2648.2, and 2648.4, to specify the materials and information that must be included initially in a complete rate filing application submitted to Insurance Commissioner Ricardo Lara pursuant to the authority granted by Insurance Code sections 1861.01, 1861.05, and 1861.055. The date, time and location for the public hearing, as well as applicable contact information, are set forth in the Notice of Proposed Action and Notice of Public Hearing for this rulemaking.

STATEMENT OF THE PROBLEM

Proposition 103 is codified in Insurance Code sections 1861.01 et seq., and requires, inter alia, that no insurance rate subject to its terms shall be inadequate, excessive, or unfairly discriminatory. To help determine whether rates are excessive, inadequate, or unfairly discriminatory, Insurance Code section 1861.05 requires any insurer desiring to change its rates for property and casualty insurance file a complete rate application with the Insurance Commissioner for review and approval prior to using the proposed rates. Additionally, Proposition 103 encourages public participation in the rate-making process and allows consumer representatives to intervene in the review of rate filings. A complete rate application contains certain data specified by statute as well as such other information as the Commissioner may require.

The Commissioner adopted regulations specifying what materials, information, and documents should be initially included in a complete rate application more than twenty-five years ago. These existing regulations currently need to be updated to eliminate references to forms that are no longer required and to make clear what documents, materials, and information are currently required to be included in a complete rate application. Because the existing regulations are outdated and unclear, insurers may potentially be confused and uncertain regarding what

materials are presently required as part of an initial complete rate application and may therefore not initially make all required materials available when submitting a rate application. Also, under the existing regulations, the Department has limited time and opportunity to reject proposed rate applications when initially filed as incomplete. This may lead to delays in the rate review and approval process that occur when insurers do not initially make all materials available and delays caused by disputes over what exactly is required in an initial complete rate application. Additionally, under Insurance Code section 1861.05, subdivision (c), the Commissioner is required to provide public notice of rate applications submitted by insurers, and consumer representatives have 45 days after public notice to determine whether they want to request a hearing on the rate applications. Under the existing regulations, if insurers do not provide all required materials as part of the initially submitted rate application, consumer representatives may not have sufficient opportunity to review all necessary materials as part of a complete rate application when initially submitted in order to timely decide whether to intervene in the rate review process.

SPECIFIC PURPOSE AND REASONABLE NECESSITY OF ADOPTING REGULATIONS

How These Regulation Amendments Will Achieve the Goal of Increasing Expediency and Transparency in the Prior Rate Approval Process

In order to comply with Proposition 103's mandate that property and casualty insurance rates shall not be excessive, inadequate, or unfairly discriminatory, the Commissioner must conduct a full review of an insurer's complete rate application prior to any rates taking effect. The Department has proposed regulations to update and make clear what information must be included initially in a complete rate application. Based on the Department's experience with reviewing and approving Proposition 103 rate applications, the Department has determined that, at a minimum, insurers must include as part of their initial complete rate applications certain materials, information, and documents that demonstrate whether the requested rate is appropriate and not excessive, inadequate, or unfairly discriminatory. Such materials, information, and documents include, without limitation, insurers' historical data supporting an estimate of the projected losses, expenses, and investment income expected during the projected rating period, as well as information regarding how insurers determine whether to accept and write certain risks, including, without limitation, any and all criteria, guidelines, systems, manuals, models and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed; any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk; and any and all criteria, guidelines, systems, manuals, models and algorithms an insurer, agent, broker, or underwriter relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules.

Currently, the Commissioner already instructs insurers to submit the materials described above, and insurers usually provide them at some point during the rate application review process. But these regulations are necessary to ensure that all necessary materials are included in a complete rate application at the time it is initially submitted, not later during the rate application review

process. This timing issue is important because failure to include all required materials as part of an initial rate application may cause delays in the Department's rate application review process and may also impact consumer representatives' ability to review all necessary materials within the 45-day public notice period in order to determine whether to request a hearing on the rate application. Thus, the timing of the submission of materials may create unnecessary delays in the rate approval process and impact the public availability of some data. The proposed amendments will update and clarify the regulations specifying what materials, information, and documents should be initially included in a complete rate application. By clarifying what materials, information, and documents are required to be initially submitted, these amendments will help reduce unnecessary delays in the rate review and approval process that occur when insurers do not initially make all materials available and delays caused by disputes over what exactly is required in an initial complete rate application. Additionally, by clarifying what materials, information, and documents are required to be initially submitted as part of a complete rate application, these amendments will provide consumer representatives more opportunity to timely review all of the materials, information, and documents required as part of a complete rate application in order to decide whether to intervene in the rate review process. Finally, by clarifying the steps that must be taken to submit a complete rate application to the Department before the clock on reviewing the application begins, the amendments will eliminate lengthy exchanges of communications about incomplete applications before the rate review process may actually begin. Accordingly, these amendments will reduce unnecessary delays in the rate review and approval process so that insurers will be able to implement appropriate rates more quickly and will also ensure that the rate review and approval process be transparent and open to public participation for the reasons stated above. The specific purpose of each adoption and the rationale for the Commissioner's determination that each adoption is necessary to carry out the purpose for which it is proposed is set forth below.

[Amend] Section 2643.3. Total Aggregate Earned Premiums.

(b):
Complete ~~R~~rate applications ~~(Form CAR-1 (last revised 1/94))~~ shall be filed on a line-by-line basis, as set forth in ~~s~~Section 2642.7. ~~The application shall be accompanied by the insurer's rating and rating rule manual, rating plan, all policy forms to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line~~. The Commissioner shall require the filing of such other information as the Commissioner deems necessary to review the application.

The existing regulation is unclear and out-of-date and may potentially cause confusion and uncertainty among insurers regarding what materials the Commissioner requires as part of a complete rate application when initially submitted because it requires insurers to file a form that no longer exists as part of a complete rate regulation. Additionally, some of the existing language in the regulation is an incomplete recitation of the requirements set forth in related regulations. The purpose of this amendment is to update the regulation by removing the reference to the form that no longer exists and the language that is an incomplete recitation of the requirements set forth in related regulations. This amendment is reasonably necessary to prevent confusion and uncertainty regarding whether a complete rate application should include the nonexistent form, to eliminate any confusion and uncertainty as to which regulation sets forth the complete recitation of the required information, documents, and materials for a complete rate

application, and to prevent potential disputes over exactly what is required in an initial complete rate application. Reducing confusion and uncertainty as well as potential disputes regarding the contents of a complete rate application will help decrease unnecessary delays in the rate review and approval process.

In this amendment, the "s" in "Section" has been capitalized. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of a specific section of the California Code of Regulations.

[Amend] Section 2644.27. Variance Request.

(b):
Requests for variances shall be filed with the Rate Regulation Branch, ~~Filing Bureau on pages 11a and 11b of the Prior~~ together with the insurer's ~~Approval~~ complete ~~R~~rate ~~A~~application. All such variance requests shall specifically:

The existing regulation is unclear and out-of-date and may potentially cause confusion and uncertainty among insurers regarding when and how insurers should submit requests for variances because currently the regulation specifies that insurers should submit requests for variances by filling out certain specified pages on a form that has subsequently been changed and renamed. Further, the existing regulation is potentially unclear and confusing because it refers to the "prior approval application" and "rate application," which are nondefined, nonstatutory and/or incomplete terms. The purpose of this amendment is to update the regulation by removing the references to the changed and outdated form and to replace the outdated references with the phrase "complete rate application" to make clear that although there is no longer a specific form being referenced in the regulation, insurers are still required to submit their requests for variances together with the "complete rate application" they submit to request prior approval to change their rates per Insurance Code section 1861.05, subdivision (b). These amendments are reasonably necessary to prevent confusion and uncertainty regarding whether insurers are required to submit requests for variances as part of a complete rate application, as well as to prevent potential disputes over exactly what is required in an initial complete rate application. Reducing confusion and uncertainty as well as potential disputes regarding the contents of a complete rate application will help decrease unnecessary delays in the rate review and approval process.

In this amendment, the words "Filing Bureau" have been replaced with the words "Regulation Branch." This nonsubstantive change identifies that, though the branch of the Department to which requests for variances shall be filed has not changed, it has been renamed.

(c):
Requests for variances shall be filed at the same time as the ~~prior approval~~ insurer's complete rate application to which it applies or after the filing of the complete rate application and before any final determination regarding that application. Public notice of all variance requests shall be provided as set forth in California Insurance Code ~~S~~sections 1861.05, subdivision (c) and 1861.06.

The existing regulation is potentially unclear and confusing because it refers to the "prior approval application" and "rate application," which are nondefined, nonstatutory and/or incomplete terms. The purpose of the amendments is to make clear that requests for variances are to be filed concurrently with the "complete rate application" that an insurer is statutorily required to submit to the Commissioner per Insurance Code section 1861.05, subdivision (b) when it seeks a change in its rates. The changes are reasonably necessary to conform the language in this regulation to the language in the authorizing statute and related regulations and to ensure that there is no confusion and uncertainty regarding when requests for variances are required to be filed. Reducing confusion and uncertainty regarding the contents of a complete rate application will help decrease unnecessary delays in the rate review and approval process.

In this amendment, the "S" in "Sections" has been made lowercase. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of specific sections of the California Insurance Code. The word "subdivision" has also been inserted. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of a specific section of the California Insurance Code.

(e)
Variance requests shall be determined in conjunction with the related ~~prior approval~~ complete rate application or rate hearing thereon.

The existing regulation is potentially unclear and confusing because it refers to the "prior approval application," which is a nondefined, nonstatutory and/or incomplete term. The purpose of this amendment is to update the regulation to replace the outdated references with the generic phrase "complete rate application."

(f)(1)(A):
The insurer meeting the qualifications set forth below may obtain an increase in the applicable efficiency standard by the amount of its "Allocated Costs" for its Special Investigations Unit ("SIU") expense for the most recent year. The term SIU as used in this section has the same meaning as that term has in Section 2698.30, subdivision (p). The term "Allocated Costs" means those costs set forth in subsection (iii) and attributable to investigations of claims made on the line of insurance subject to Insurance Code section 1861.05, subdivision (b) for which the variance is sought.

In this amendment, the word "subdivision" has been inserted in two places. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of a specific section of the California Code of Regulations and the California Insurance Code.

(f)(1)(A)(ii):
Affiliated insurers who utilize the same SIU unit may recover the portion of their "Allocated Costs" for their SIU expenses attributable to investigations of claims made on the line of insurance in the rate application only in one approved rate application for the line affected by the Allocated SIU costs. The term "Affiliated Insurers" has the same meaning as that term has in Insurance Code ~~S~~section 1215.

In this amendment, the "S" in "Section" has been made lowercase. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of specific sections of the California Insurance Code.

(f)(1)(A)(vi):
No expense that is included within the Defense and Cost Containment Expense portion of an insurer's complete rate application can be included in whole or in part as the basis for a variance based on SIU expenses. The terms "Defense and Cost Containment Expense" or "DCCE" when used with regard to any variance have the same meaning as those terms have in ~~s~~Section 2644.23, subdivision (c).

The existing regulation is potentially unclear and confusing because it refers to the "rate application," which is an incomplete term. The purpose of the amendment adding the word "complete" is to make clear that the reference is to the "complete rate application" that an insurer is statutorily required to submit to the Commissioner per Insurance Code section 1861.05, subdivision (b) when it seeks a change in its rates. The changes are reasonably necessary to conform the language in this regulation to the language in the authorizing statute and related regulations and to ensure that there is no confusion and uncertainty regarding what type of rate application is being referenced in the regulation. Reducing confusion and uncertainty regarding the contents of a complete rate application will help decrease unnecessary delays in the rate review and approval process.

In this amendment, the "s" in "Section" has been capitalized. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of a specific section of the California Code of Regulations. The word "subdivision" has also been inserted. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of a specific section of the California Code of Regulations.

(f)(2)(B):
Demonstrated superior service to underserved communities, as defined in ~~s~~Section 2646.6; or

In this amendment, the "s" in "Section" has been capitalized. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of a specific section of the California Code of Regulations.

(f)(3):
That the insurer should be authorized leverage factor different from the leverage factor determined pursuant to ~~s~~Section 2644.17 on the basis that the insurer either writes at least 90% of its direct earned premium in one line or writes at least 90% of its direct earned premium in California and its mix of business presents investment risks different from the risks that are typical of the line as a whole. The leverage factor shall be adjusted by multiplying it by 0.85. The surplus ratio in ~~s~~Section 2644.22 shall likewise be divided by 0.85. If an insurer writes at least 90% of its direct earned premium in one line and writes at least 90% of its direct earned premium in California, the insurer will only be authorized one leverage factor adjustment of 0.85.

In this amendment, the "s" in "Section" has been capitalized in two places. These nonsubstantive amendments make stylistic changes to the formatting of the citations of specific sections of the California Code of Regulations.

(f)(7):
That the loss development formula in ~~s~~Section 2644.6 does not produce an actuarially sound result because
(A) There is not enough data to be credible;

(B) There are not enough years of data to fully calculate the development to ultimate;

(C) There are changes in the insurer's reserving or claims closing practices that significantly affect the data; ~~or~~

(D) There are changes in coverage or other policy terms that significantly affect the data; ~~or~~

(E) There are changes in the law that significantly affect the data; or

(F) There is a significant increase or decrease in the amount of business written or significant changes in the mix of business.

In this amendment, the "s" in "Section" has been capitalized. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of a specific section of the California Code of Regulations. In addition, two "or's" have been deleted as a grammatical correction.

(f)(8):
That the trend formula in ~~s~~Section 2644.7 does not produce the most actuarially sound result because

In this amendment, the "s" in "Section" has been capitalized. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of a specific section of the California Code of Regulations.

(f)(8)(D):
It can be shown that a trend calculated over a period of at least 4 quarters other than a period permitted pursuant to ~~s~~Section 2644.7, subdivision (b) is more reliable prospectively;

In this amendment, the "s" in "Section" has been capitalized and the word "subdivision" has been inserted. These nonsubstantive amendments make stylistic changes to the formatting of the citation of a specific section of the California Code of Regulations.

[Amend] Section 2648.1. Scope.

(a):
~~(a) Except as provided for herein, t~~This article applies to complete rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b), and proceedings commenced by the issuance of a notice of hearing, or other notice or order commencing a proceeding on a rate

application issued by the Commissioner pursuant to Insurance Code ~~S~~section 1861.05, subdivision (c).

The existing regulation provides that Article 8 applies only to proceedings pursuant to Insurance Code section 1861.05, subdivision (c) unless otherwise specified. This language is unclear and potentially confusing, because proceedings pursuant to Insurance Code section 1861.05, subdivision (c), involve complete rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b). The purpose of removing the phrase, "[e]xcept as provided herein," and adding the phrase, "complete rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b)," is to make clear that Article 8 applies both to complete rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b) as well as complete rate applications that lead to proceedings commenced pursuant to Insurance Code section 1861.05, subdivision (c). These changes are reasonably necessary to conform the language in this regulation to the language in related regulations and the authorizing statute and to reduce any potential confusion regarding whether Article 8 applies to complete rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b) in addition to proceedings commenced pursuant to Insurance Code section 1861.05, subdivision (c). Conforming the language in this regulation to the language in related regulations and authorizing statute as well as reducing potential confusion regarding the contents of a complete rate application will help decrease unnecessary delays in the rate review and approval process.

In this amendment, the "S" in "section" has been changed to lowercase. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of a specific section of the California Insurance Code.

The deletion of "Except as provided herein," which referenced subsection (b) below, is has been deleted because subsection (b) that contained the exceptions referenced has been deleted.

(b):
~~(b) This article shall not apply to applications for exemption from Insurance Code Section 1861.01(a), file and use rate applications filed prior to November 8, 1989, or applications for rate changes pursuant to Insurance Code Section 1861.05 which are filed prior to July 1, 1993. Refiling of applications for rate changes pursuant to Insurance Code Section 1861.05 shall be made by filing the Department cover sheet entitled "Cover Sheet for Re-Filing of Application for Approval of Insurance Rates," Department form number CA-RA1, dated May 1, 1993, which is incorporated by reference. In addition, for those applications which were submitted with data that is no longer current, updated data must also be submitted with the cover sheet.~~

The existing regulation is unclear and out-of-date and may potentially cause confusion and uncertainty among insurers regarding what materials the Commissioner requires as part of a complete rate application when initially submitted because it references old rate applications filed prior to July 1, 1993, that are no longer pending at this time, including by requiring insurers to provide updated data for these applications that are no longer pending. The purpose of this amendment is to update the regulation by removing references to applications that are no longer pending, including removing the requirement to provide updated data for outdated applications. This amendment is reasonably necessary to prevent confusion and uncertainty as well as

potential disputes regarding the status of applications that are no longer pending and whether insurers have any continuing obligations regarding these pre-1993 applications.

The existing regulation is unclear and out-of-date and may potentially cause confusion and uncertainty among insurers regarding what materials the Commissioner requires as part of a complete rate application when initially submitted because it requires insurers to file a form that no longer exists as part of a complete rate regulation. The purpose of this amendment is to update the regulation by removing references to the no longer applicable required form document. This amendment is reasonably necessary to prevent confusion and uncertainty as well as potential disputes regarding whether a complete rate application should include the nonexistent form.

Reducing confusion and uncertainty as well as potential disputes regarding the contents of a complete rate application will help decrease unnecessary delays in the rate review and approval process.

[Amend] Section 2648.2. Receipt of Rate ~~Change~~ Application By Commissioner.

(a):
For the purpose of Insurance Code ~~S~~section 1861.05, subdivision (c), a complete rate ~~change~~ application shall be considered to have been received by the Commissioner on the date that ~~it is~~ all information, materials, and documents required by Section 2648.4 as part of a complete rate application have been ~~received by~~ delivered to the Department's Rate Regulation ~~Branch~~Filing ~~Bureau~~ by means of submittal using the System for Electronic Rate and Form Filing (SERFF). The existing regulation is potentially unclear and confusing because it refers to "a rate change application," which is a nondefined, nonstatutory term. The purpose of the amendments removing the word "change" and adding the word "complete" is to make clear that the "application" referenced in Insurance Code section 1861.05, subdivision (c), is the same as the "complete rate application" that an insurer is required to submit per Insurance Code section 1861.05, subdivision (b), when it seeks a change in its rates. The changes are reasonably necessary to conform the language in this regulation to the language in related regulations and the authorizing statute and to ensure that there is no confusion and uncertainty regarding the type of application being referred to in the regulation. Conforming the language in this regulation to the language in related regulations and authorizing statute and reducing confusion and uncertainty regarding the contents of a complete rate application will help decrease unnecessary delays in the rate review and approval process.

Further, the regulation now specifies the steps that must be taken to submit a complete rate application to the Department before the clock on reviewing the application begins. This is intended to incentivize insurers to avoid making piecemeal submissions, which result in a lengthy exchange of communications about incomplete applications before the rate review process may actually begin. The Department expects insurance companies to provide the Department with an initial submission of the complete information needed to make an expeditious determination.

In this amendment, the "s" in "Section" has been changed to lowercase and the word "subdivision" has been inserted. These nonsubstantive amendments make stylistic changes to the formatting of the citation of a specific section of the California Insurance Code.

In this amendment, the words "Filing Bureau" have been replaced with the words "Regulation Branch." This nonsubstantive change identifies that, though the branch of the Department to which requests for variances shall be filed has not changed, it has been renamed.

(b):
Within 30 days of being delivered pursuant to subdivision(a) of this Section 2648.2 ~~receipt~~, the Commissioner shall review rate applications for completeness as required by Insurance Code ~~S~~section 1861.05, subdivision (b). If the application includes ~~the forms and exhibits listed in the Filing Checklist, as provided in~~all information, materials and documentation required by Section 2648.4, ~~and the data required therein,~~ it is complete. If the Commissioner determines that the application is not complete because it does not include ~~such forms, exhibits, or the data required therein,~~ all information, materials and documentation required by Section 2648.4 for a complete application, notice stating the grounds for incompleteness will be given to the insurer within the ~~14~~ 30 day period and the application will be rejected. Within 10 days of the date that such notice is given, the insurer may request a hearing on the rejection.

The existing regulation is potentially unclear and confusing because it requires insurers to submit "forms and exhibits" identified in a document that no longer exists, as part of a complete rate application. The purpose of the amendments deleting the phrase "the forms and exhibits listed in the Filing Checklist, as provided in" and replacing it with "all information, materials and documentation required by" is to update the regulation by removing the reference to the checklist document that no longer exists and to clarify that, instead of referring to the nonexistent document, insurers should refer directly to the related regulation to determine what information, materials, and documentation are required for a complete rate application. This amendment is reasonably necessary to prevent confusion and uncertainty regarding whether a complete rate application should consist of forms and exhibits identified in a document that no longer exists, to clarify that insurers should instead refer directly to the related regulation to determine what information, materials, and documentation are required for a complete rate application, and to prevent potential disputes over exactly what is required in an initial complete rate application. Reducing confusion and uncertainty as well as potential disputes regarding the contents of a complete rate application will help decrease unnecessary delays in the rate review and approval process.

The existing regulation does not clearly indicate that a rate application must be delivered for purposes of determining completeness. It conflates delivery with receipt. However, a complete rate application is not received until the Commissioner has determined it is complete within the time frame given. The regulation also increases the amount of time for determining whether the regulation is complete to account for the burden on limited resources.

In this amendment, the "s" in "Section" has been changed to lowercase and the word "subdivision" has been inserted. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of a specific section of the California Insurance Code.

(d):
If, after a hearing, an application is determined to have been complete when filed, then the 180 day period specified in Insurance Code ~~S~~section 1861.05, subdivision (c) shall have commenced on the date the application was first filed. If the application is determined to be incomplete, then it shall remain rejected.

The existing regulation is potentially unclear because it does not identify the specific subdivision of the section of the California Insurance Code that is being referenced. The purpose of the amendment adding "subdivision (c)" is to clarify the regulation by identifying specific subdivision of the Insurance Code section that the regulation cites. This amendment is reasonably necessary to prevent any potential confusion regarding the specific subdivision that is being referenced in the cited section of the California Insurance Code. Reducing any potential confusion regarding the cited authority will help decrease unnecessary delays in the rate review and approval process.

In this amendment, the "s" in "Section" has been changed to lowercase. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of a specific section of the California Insurance Code.

(f):
Public notice of the complete rate application as required by Insurance Code ~~S~~section 1861.05, subdivision (c) shall be made within 10 days after the Commissioner determines that an application is complete.

The existing regulation is potentially unclear because it does not specify that the public notice required in Insurance Code section 1861.05, subdivision (c), relates to the complete rate application referenced in Insurance Code section 1861.05, subdivision (a). The purpose of the amendment adding "of the complete rate application" is to clarify that the Department is required to give public notice of the complete rate application per the authorizing statute. This amendment does not change when public notice is required under this regulation; rather, it conforms the language in the regulation to the language in the authorizing statute and therefore seeks to reduce potential confusion and uncertainty. Reducing any potential confusion and uncertainty regarding what the Department is required to give public notice of will help decrease unnecessary delays in the rate review process.

The existing regulation is potentially unclear because it does not identify the specific subdivision of the section of the California Insurance Code that is being referenced as requiring the public notice. The purpose of the amendment adding "subdivision (c)" is to identify the specific subdivision of the cited Insurance Code section that the regulation references. This amendment is reasonably necessary to prevent any potential confusion regarding the authority for requiring the public notice and the specific subdivision that is being referenced in the cited section of the California Insurance Code. Reducing any potential confusion regarding the cited authority will help decrease unnecessary delays in the rate review and approval process.

In this amendment, the "s" in "Section" has been changed to lowercase and the word "subdivision" has been inserted. This nonsubstantive amendment makes a stylistic change to the formatting of the citation of a specific section of the California Insurance Code. The words "of the application" have also been inserted.

[Amend] Section 2648.4. Complete Rate Application.

(a):
~~In order to be complete,~~ Pursuant to Insurance Code section 1861.05, subdivision (b), every insurer that desires to change any rate must file a complete rate application which must include the ~~following~~information required by Insurance Code section 1861.05, subdivision (b), and all information as the Commissioner may require in order to perform a complete analysis of a rate application, including but not limited to the exhibits, data, information, materials and documentation specified by Sections 2641.1 through 2643.8 and Sections 2644.1 through 2644.28. A complete rate application shall also include all of the materials described in subdivisions (b) through (e) of this Section 2648.4 as those sections may from time to time be amended. A complete rate application shall also include all of the materials described in subdivisions (b) through (e) of this Section 2648.4. ~~forms, exhibits, data and documentation, which are incorporated by reference application for approval (form CA-RA1, 5-1-96 ed.), duplicate of form CA-RA1 for return copy, self-addressed envelope with sufficient postage to return the duplicate copy of CA-RA1, Rate/Rule/Underwriting Rule Submission Data Sheet (form CA-RA2, 5-1-96 ed.), Line of Business (form CA-RA3, 5-1-96 ed.), Filing Checklist (form CA-RA4, 5-1-96 ed.), Ratemaking Data (form CA-RA5, 5-1-96 ed.), Reconciliation Report (form CA-RA6, 5-1-96 ed.), Additional Data Required by Statute (form CA-RA7, 5-1-96 ed.), Miscellaneous Data (form CA-RA8, 5-1-96 ed.), Filing History (to be labeled Exhibit 1), Rate Level History (to be labeled Exhibit 2), Premium Adjustment Factor (to be labeled Exhibit 3), Premium Trend Factor (to be labeled Exhibit 4), Allocated Loss Adjustment Expense (to be labeled Exhibit 5), Loss Development Factors (to be labeled Exhibit 6), ALAE Development Factors (to be labeled Exhibit 7), Loss Trend, ALAE Trend, and Expense Trend (to be labeled Exhibit 8), Catastrophe Adjustment (to be labeled Exhibit 9), Policy Term Distribution (to be labeled Exhibit 10), Credibility Adjustment (to be labeled Exhibit 11), Data Availability Report (to be labeled Exhibit 12), Interjurisdictional Expense Allocations (to be labeled Exhibit 13), Unallocated Loss Adjustment Expense (to be labeled Exhibit 14), Other Expense Items (to be labeled Exhibit 15), Ancillary Income (to be labeled Exhibit 16), Federal Income Tax Rate (to be labeled Exhibit 17), Projected Investment Income Ratio (to be labeled Exhibit 18), Loss Reserves, Loss Adjustment Expense Reserves, and Unearned Premium Reserves (to be labeled Exhibit 19), Insurer's Ratemaking Calculations (to be labeled Exhibit 20), Rate Distribution (to be labeled Exhibit 21), Rate Classification Relativities (to be labeled Exhibit 22), New Program (to be labeled Exhibit 23), Group Filing (to be labeled Exhibit 24), rating rules, and rate pages. The application must also contain a summary and explanation of the purpose for the filing. The Filing Instructions (forms CA-IA1 -CA-I8, 5-1-96, ed.) for these forms and exhibits are incorporated by reference.~~

The existing regulation is potentially unclear and confusing because it refers to a "rate application" which is an incomplete term. The purpose of the amendment adding "complete" and removing the phrase, "[i]n order to be complete," is to make clear that this regulation applies to

the "complete rate application" that an insurer is statutorily required to submit to the Commissioner per Insurance Code section 1861.05, subdivision (b) when it seeks a change in its rates. The changes are reasonably necessary to conform the language in this regulation to the language in the authorizing statute and related regulations and to ensure that there is no confusion and uncertainty regarding when this regulation applies.

The existing regulation is unclear and may potentially cause confusion and uncertainty as well as potential disputes regarding whether insurers are required to provide the information specified by the Commissioner as part of an initial complete rate application, because it does not identify the source and scope of the Commissioner's authority to require such information for an initial complete rate application. The purpose of the amendment adding in the references to Insurance Code section 1861.05, subdivision (b) is to update the regulation by conforming the language regarding the Commissioner's authority to the authorizing statute and related regulations and to make clear the source and scope of the Commissioner's authority. This amendment is reasonably necessary to reduce any potential confusion and uncertainty as well as potential disputes regarding whether insurers should provide the identified information, because it clarifies that the Commissioner has authority to require insurers to do so.

The existing regulation is unclear and out-of-date and may potentially cause confusion and uncertainty among insurers regarding what materials the Commissioner requires as part of a complete rate application when initially submitted because it requires insurers to file forms that no longer exist as part of a complete rate regulation. The purpose of this amendment is to update the regulation by removing references to the forms that no longer exist and therefore are no longer required as part of a complete rate application. This amendment is reasonably necessary to prevent confusion and uncertainty and potential disputes regarding whether a complete rate application should include the nonexistent forms.

The existing regulation is unclear and may potentially cause confusion and uncertainty among insurers regarding what materials the Commissioner requires as part of a complete rate application when initially submitted because, other than the list of required forms that no longer exist, it does not otherwise specify what information, materials, and documents the Commissioner requires as part of an initially submitted complete rate application. The purpose of this amendment is to update the regulation by specifying that a complete rate application must include the statutorily required information per Insurance Code section 1861.05, subdivision (b), the information already specified in existing related regulations, and the newly specified information set forth in the amended subdivisions (b) through (d), the specific purpose of each adoption and the rationale for the Commissioner's determination that each adoption is necessary to carry out the purpose for which it is proposed is set forth below. This amendment is reasonably necessary to eliminate any confusion and uncertainty regarding the contents of an initial complete rate application and as to which regulations set forth the complete recitation of the required information, documents, and materials for a complete rate application, and to prevent potential disputes over exactly what is required in an initial complete rate application.

Reducing confusion and uncertainty as well as potential disputes regarding the application of this regulation and the contents of an initial complete rate application will help decrease unnecessary delays in the rate review and approval process.

(b):
~~Notwithstanding the completeness determination, the Commissioner may later require the submission of relevant underwriting rules and other relevant documents from an applicant in order to perform a complete analysis of an application.~~A complete rate application shall include any and all criteria, guidelines, ~~or~~ systems, manuals, models and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

The existing regulation is unclear and may potentially cause confusion and uncertainty among insurers regarding what materials the Commissioner requires as part of a complete rate application when initially submitted because it does not specify what information, materials, and documents the Commissioner requires as part of an initially submitted complete rate application. The purpose of the amendment is to update the regulation by specifying that a complete rate application must include the statutorily required information per Insurance Code section 1861.05, subdivision (b), the information already specified in existing related regulations, and the newly specified information set forth in the amended subdivisions (b) through (d).

This amendment is reasonably necessary to eliminate any confusion and uncertainty regarding the contents of an initial complete rate application and as to which regulations set forth the complete recitation of the required information, documents, and materials for a complete rate application, and to prevent potential disputes over exactly what is required in an initial complete rate application.

Reducing confusion and uncertainty as well as potential disputes regarding the application of this regulation and the contents of an initial complete rate application will help decrease unnecessary delays in the rate review and approval process.

Specifically, the complete rate application shall include, without limitation, a complete set of, and any proposed changes to, any and all of the following:

(1) An insurer's eligibility guidelines as defined in Sections 2360.0 through 2360.7;

(2) Any and all criteria, guidelines, systems, manuals, models and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed, or restrict the coverages offered, in specific geographic areas such as ZIP codes, counties, or territories, for any reason, including over-concentration; and

(3) Any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

The discussion below with respect to the purpose, problems addressed, and description of reasonable necessity regarding the amendments of this subdivision (b), and including subdivisions (b)(1) through (b)(3) of this regulation is expressly incorporated here in its entirety by reference.

In order to fully evaluate an insurer's request to change its rates and determine whether the requested rate change is appropriate and not excessive, inadequate, or unfairly discriminatory, the Commissioner must be able to review all information that may have a potential impact on the requested rate during the projected rating period. Relevant here, the general criteria, guidelines, systems, manuals, models and/or algorithms that an insurer uses to determine whether to accept or reject new and renewal business and to determine an applicant's or insured's coverage or coverage options may loosely be referred to as "underwriting guidelines." The underwriting guidelines that an insurer uses to determine whether to accept or reject new and renewal business, and/or to determine an applicant's or insured's coverage or coverage options, and any proposed changes to them, may impact its existing and expected book of business and therefore the covered exposures, and thus may have a prospective rate impact. For example, if an insurer's underwriting guidelines currently permit it to underwrite a certain type of risk, then its historic losses likely reflect the inclusion of insureds with that type of risk characteristic. But if the insurer then proposes changing its rules to exclude that type of risk prospectively, then its historic loss experience may not accurately reflect its predicted future loss experience, which in turn may impact the Commissioner's evaluation of the insurer's request for a prospective rate change.

Because such underwriting guidelines and proposed changes thereto may have a rate impact as described above, the Commissioner currently instructs insurers to submit such information as part of their initial complete rate applications. Insurers do not always timely and/or fully comply with this instruction, however. This causes unnecessary delays in the rate review process. It also improperly impacts consumer participation in the prior rate approval process, by potentially preventing consumer representatives from being able to timely review all necessary information during the 45-day public notice period in order to determine whether to request a hearing on the rate application.

The existing regulation may be causing confusion, uncertainty, and potential disputes regarding what constitutes "underwriting guidelines" and/or whether such information is required to be submitted as part of an initial complete rate application, because it states that insurers may be required to submit additional information, i.e., "relevant underwriting rules and other relevant documents," after the initial complete rate application has been submitted but while the rate application review process is ongoing. The language in the regulation is specifically outdated, unclear and confusing because (1) the term "underwriting guidelines" in the regulation is undefined and may be subject to differing interpretations; and (2) the regulation states that insurers may be asked to submit "relevant underwriting rules and other relevant documents" not as part of the initial complete rate application but "later" during the pendency of the rate application review process.

As to the first issue, the purpose of these amendments is to update the regulation by removing the potentially confusing language, "Notwithstanding . . . application[]," including the overly vague phrase "relevant underwriting rules and other relevant documents," and replacing this language with new language that specifically delineates what type of underwriting information may have a rate impact such that insurers are required to submit it as part of an initial complete rate application. Specifically, the amendment specifies that insurers are required to provide all of the

following types of general rules and guidelines that may be used to determine whether to accept or reject new and renewal business and to determine coverage issues, both existing and proposed changes thereto, as part of an initial complete rate application, so that the Commissioner may evaluate them as part of the prior rate approval process:

- Any and all criteria, guidelines, systems, manuals, models and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options;
- An insurer's "eligibility guidelines," as defined in existing and related regulations including Sections 2360.0 through 2360.7;
- Any and all criteria, guidelines, systems, manuals, models and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed, or restrict the coverages offered, in specific geographic areas such as ZIP codes, counties, or territories, for any reason, including over-concentration; and
- Any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

The purpose of these amendments is also to promote consistency and to provide a broad description of what may constitute "underwriting guidelines," in order to assist insurers in including all required information and documents as part of a complete rate application when initially submitted. Currently there is no definition of the term "underwriting guidelines" in the regulations, and based on the Department's experience and industry practice, there may be multiple different interpretations of the term. Sections 2360.7 through 2360.7 are the existing regulations adopted in 1995 that establish the general rating guidelines to comply with Insurance Code section 1861.05, subdivision (b). However, there is no clarity in the definition of "eligibility guidelines" or specificity regarding what documents and/or information that may have an impact on the requested rate and therefore must be provided with a complete rate application when initially submitted. For instance, Section 2360.0(b) defines "eligibility guidelines" as "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." Further, Section 2360.2 requires "detailed" eligibility guidelines, but does not specify what information, documents or class of documents must be submitted by the insurer when the application is first filed. The same lack of clarity and specificity exists with the documents and information required to back up the requested rates in Section 2360.7, which states:
"The insurer shall keep documentation in the underwriting file for every insurance policy issued to every insured, identifying all information which the insurer considered in determining the Premium charged to the insured. This documentation shall be maintained at all times during which a policy is in force and for at least three years from the policy inception date."

Thus, the purpose of these amendments is to ensure the Commissioner has all information and data regarding actual or potential impacts to an insurer's requested rate change, regardless of its nomenclature. Each of the paragraphs added in Section (b), (b)(2) and (b)(3) of this amendment sets forth information that the Department has already been requiring for years in the Department's filing instructions for all filings requesting changes in rates, rules, or underwriting

guidelines. The Department has found that the information and documents requested in this amendment have or potentially have a rate impact. Not all insurers, however, initially file all the information requested in the Department's instructions, which causes delays in the review process. As discussed above, Sections 2360.0 through 2360.7 set forth the general guidelines but lack clarity and specificity regarding all information and documents needed to evaluate an insurer's request to change its rates and determine whether the requested rate change is appropriate and not excessive, inadequate, or unfairly discriminatory.

This amendment is reasonably necessary to ensure the Commissioner is able to review relevant underwriting materials that may have a rate impact as part of an initial complete rate application and to reduce any uncertainty and confusion as well as potential disputes regarding the correct interpretation of the overly broad, undefined, subjective term "underwriting guidelines" by replacing it with a more clearly delineated, detailed description of the types of eligibility and underwriting information, materials, and documents, and proposed changes thereto, that may have an impact on the requested rate and that therefore the Commissioner requires to be submitted as part of an initial complete rate application. Reducing confusion and uncertainty as well as potential disputes regarding the contents of an initial complete rate application will help decrease unnecessary delays in the rate review and approval process.

As to the second issue, the purpose of this amendment is to remove the phrases "[n]otwithstanding the completeness determination" and "later" and to update the regulation to make clear that the specified underwriting materials must be submitted as part of an initial complete rate application and not subsequently during the rate application review process. This amendment is reasonably necessary to reduce unnecessary delays in the rate application review process, and to ensure that consumer representatives have the ability to timely review all necessary materials that may have a rate impact, including without limitation the specified materials herein, as part of an initially submitted complete rate application during the 45-day public notice review period, in order to determine whether to request a hearing on the rate application.

(c):

~~(c) Requests for variances as authorized by section 2644.27 shall be on the following form:~~
~~STATE OF CALIFORNIA Insurer Name~~
~~DEPARTMENT OF INSURANCE Line of Business~~
~~Request for Variance~~

~~1. Identify each variance requested.~~

~~2. Identify the extent or amount of the variance requested and the applicable efficiency standard, rate of return, loss development factors or trend which will result if the variance is granted.~~

~~3. Set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied.~~

~~4. Identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change in the applicable efficiency standard, rate of return, loss development factors or trend that is being proposed.~~

A complete rate application shall also include any and all criteria, guidelines, systems, manuals, models and algorithms, and any proposed changes thereto, an insurer, agent, broker, or underwriter uses or relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules.

The existing regulation is unclear and out-of-date and may potentially cause confusion and uncertainty among insurers regarding what materials the Commissioner requires as part of a complete rate application when initially submitted because it references a form that no longer exists and requires insurers to file a form that is no longer required as part of a complete rate regulation. The purpose of this amendment is to update the regulation by removing the reference to the form that no longer exists and the form language that is no longer required. This amendment is reasonably necessary to prevent confusion and uncertainty regarding whether a complete rate application should include the nonexistent form and to prevent potential disputes over exactly what is required in an initial complete rate application. Reducing confusion and uncertainty as well as potential disputes regarding the contents of a complete rate application will help decrease unnecessary delays in the rate review and approval process.

In order to fully evaluate an insurer's request to change its rates and determine whether the requested rate change is appropriate and not excessive, inadequate, or unfairly discriminatory, the Commissioner must be able to review all information that may have a potential impact on the requested rate during the projected rating period. The criteria, guidelines, systems, manuals, models and algorithms, and any proposed changes thereto, that an insurer, or its agent, broker, or underwriter, uses to determine an applicant's or insured's rate, rating rules, and coverages, including optional coverage rates and rules, may have an overall impact on the prospective rate requested, because such criteria, guidelines, systems, manuals, models and algorithms affect the amount of premium an insurer may expect to receive or the amount of losses an insurer may expect to incur during the prospective rating period. For example, if an insurer proposes to change its existing rating rules to increase or decrease the amount of premium expected to be paid by prospective applicants and renewing insureds, this change may impact the Commissioner's evaluation of the insurer's request for a future rate change. As another example, if an insurer's current guidelines state that a risk is eligible for coverage based on a wildfire score of 0-10 but the insurer proposes changing its eligibility guidelines to risks with wildfire scores of 0-3, this change may reduce the insurer's expected losses during the prospective rating period and impact the Commissioner's evaluation of the insurer's request for a future rate change. The existing regulation does not expressly state that insurers are required to submit the criteria, guidelines, systems, manuals, models and algorithms, and any proposed changes thereto, that an insurer, or its agent, broker, or underwriter, uses to determine an applicant's or insured's rate, rating rules, and coverages, including optional coverage rates and rules, as part of an initial complete rate application. Although the Commissioner currently instructs insurers to submit such information as part of an initial complete rate application, insurers do not always timely and/or fully comply with this instruction. This causes unnecessary delays in the rate review process. It also improperly impacts consumer participation in the prior rate approval process, by

potentially preventing consumer representatives from being able to timely review all necessary information during the 45-day public notice period in order to determine whether to request a hearing on the rate application.

The purpose of this amendment is to update the regulation and make clear that insurers are required to submit such criteria, guidelines, systems, manuals, models and algorithms as part of an initial complete rate application. This amendment is reasonably necessary to ensure the Commissioner is able to review relevant materials that may have a rate impact as part of an initial complete rate application, to reduce any uncertainty and confusion as well as potential disputes regarding the contents of an initial complete rate application, and to ensure that consumer representatives have the ability to timely review all necessary materials that may have a rate impact, including without limitation the specified materials herein, as part of an initially submitted complete rate application during the 45-day public notice review period, in order to determine whether to request a hearing on the rate application. Reducing confusion and uncertainty as well as potential disputes regarding the contents of an initial complete rate application will help decrease unnecessary delays in the rate review and approval process.

(d):
(d) A complete rate application shall also include a complete and entire copy of any and all written and electronic descriptions of all of the materials described in subdivisions (a) through (c) of this section.

The discussion with respect to the purpose, problems addressed, and description of reasonable necessity set forth above regarding the amendments of subdivisions (a) through (c) of this regulation is expressly incorporated here in its entirety by reference.

The existing regulation and amendments to subdivisions (a) through (c) may cause confusion, uncertainty, and potential disputes regarding how to fully comply with the Commissioner's requirements for an initial complete rate application, because the existing regulation and amendments do not specify: (1) in what format, i.e. written or electronic, insurers should provide the materials required by these amendments as part of an initial complete rate application; and (2) whether insurers should create new descriptions of the required materials or provide copies of existing materials. Currently the Commissioner instructs insurers to include any and all of the materials described in subdivisions (a) through (c) above as part of an initial complete rate application, but insurers do not always timely and/or fully comply with this instruction. By way of example, sometimes insurers create new materials intended to describe the subdivision (a) through (c) information, but these new materials may be incomplete or lacking in detail needed for the Commissioner's ability to properly review the rate change request. This incomplete compliance causes unnecessary delays in the rate review process. It also improperly impacts consumer participation in the prior rate approval process, by potentially preventing consumer representatives from being able to timely review all necessary information during the 45-day public notice period in order to determine whether to request a hearing on the rate application.

The purpose of this amendment is to make clear that insurers should provide both written and electronic copies of any and all existing materials that are called for by this regulation and

amendments to it, specifically including subdivisions (a) through (c). This amendment is reasonably necessary to reduce unnecessary delays in the rate application review process, and to ensure that consumer representatives have the ability to timely review all necessary materials that may have a rate impact, including without limitation the specified materials herein, as part of an initially submitted complete rate application during the 45-day public notice review period, in order to determine whether to request a hearing on the rate application.

(e):
(e) Pursuant to Insurance Code section 1861.05, subdivision (b), the Commissioner may, in order to perform a complete analysis of a rate application that was previously deemed complete pursuant to section 2648.2, subdivision (b) but has not yet been approved, require the insurer to submit additional information, forms, templates, exhibits, data and documentation during the Commissioner's review of the application.

The existing regulation and amendments in subdivisions (a) through (d) above specify the required information, forms, templates, exhibits, data, and documents that insurers are required to submit only as part of an initial complete rate application. Pursuant to Insurance Code section 1861.05, subdivision (b), insurers have a continuing obligation to provide "such other information as the commissioner may require" during the rate application review process, even after the initial complete rate application has been submitted. Often during the rate application review process Department staff have additional questions and requests for information that must be resolved in order for the Commissioner to be able to determine whether to approve the requested rate. Based on the existing regulation and amendments in subdivisions (a) through (d) above, however, insurers may be confused and uncertain regarding whether they have any continuing obligation to provide additional requested information.

The purpose of the amendment is to make clear that, even after an initial complete rate application has been submitted, insurers have a continuing obligation to provide "such other information as the commissioner may require" during the rate application review process. Without this amendment, there may be confusion, uncertainty, and potential disputes regarding whether insurers have any such continuing obligation to potentially provide additional information that the Commissioner may require, which may cause unnecessary delays in the rate application review process. This amendment is reasonably necessary to reduce any such confusion, uncertainty, and potential disputes regarding the contents of an initial complete rate application, which will help decrease unnecessary delays in the rate review and approval process.

ECONOMIC IMPACT ANALYSIS

Economic Overview of the Proposed Regulation

To determine whether rates are excessive, inadequate, or unfairly discriminatory, Proposition 103 requires any insurer desiring to change its rates for property and casualty insurance to file a complete rate application with the Insurance Commissioner for review and approval prior to using the proposed rates. The amendments in the proposed regulations specify what materials must be included initially in a complete rate filing application submitted to the Commissioner for their review. Including all materials with the initial rate application filing will provide the public the time and opportunity necessary to decide whether or not to intervene. The amendments will

also give the Department sufficient time to review any and all materials, reducing unnecessary delays.

Establishing a Baseline and Impacted Entities

Materials to be contained in initial rate filings include: any and all criteria, guidelines, systems, manuals, models and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed; any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk; and any and all criteria, guidelines, systems, manuals, models and algorithms an insurer, agent, broker, or underwriter relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules. Currently, the Commissioner already requires these materials and insurers usually provide them at some point during the rate application review process. However, the timing of the submission of materials can impact the public availability of some documents and create unnecessary delays in the rate approval process.

The 2022 Property and Casualty Premium and Loss Summary displays a total of 602 property and casualty insurers operating in California; this represents the universe of companies that must comply with the proposed regulations.[1] However, as mentioned above, many insurers already provide the materials in accordance with the proposed regulations. The regulation is only anticipated to result in an economic impact when insurers, who previously submitted an incomplete filing, alter the timing of when they submit some materials so that their initial rate filing is now complete.

As per the California Code of Regulations section 2648.2 the Department has 14 days to review a rate application for completeness. In 2023, the Department found that 24 rate filings were rejected because they were found to be incomplete. The Department expects that these filings are the ones most likely to benefit from the proposed regulation.

Benefits Anticipated from the Proposed Regulation

The Department's proposed regulations provide clarity as to what documents and information are required to be included in a complete rate application. Specifically, a complete rate application shall, in addition to the documentation, data, forms, templates, and exhibits required by Insurance Code section 1861.05(b) and Regulations 2644.1 et seq., include any and all criteria, guidelines, or systems, manuals, models and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options. These amendments will eliminate confusion among insurers about what materials are required as part of an initial rate application. The amendments are anticipated to reduce delays in the rate application process that occur when insurers do not initially make all materials available, as well as any delays caused by disputes over what exactly is required in an initial complete rate application. Clarifying the requirements for a complete rate

[1] California Department of Insurance. 2022 California P&C Premium and Loss Summary. https://www.insurance.ca.gov/01-consumers/120-company/04-mrktshare/2022/upload/Prop103MktShrHistorical2022.pdf. Accessed January 10, 2024.

application will also provide insurers with greater certainty that their initial rate application will be accepted.

The regulation amendments will also increase transparency in the rate application process by making clear that all rate application materials are to be made public. Timely submission of an initial complete rate application will allow consumer representatives the opportunity to decide whether to intervene and better allow Department staff to more quickly process and review rate applications. Additionally, the timely submission of all information required in a complete rate application should better allow the Department to determine more expeditiously whether any insurance rate is excessive, inadequate, or unfairly discriminatory.

The proposed regulations are estimated to lead to the faster processing of approximately 24 rate applications, annually. Due in part to California's recent wildfires, the majority of rate applications in property lines currently request rate increases. Therefore, the faster processing of rate applications is expected to primarily benefit insurance companies, at least initially.

Table 1. Estimated Benefit of Reducing Delays

Rejected Rate Filings that are Re-filed	**Personal**	**Commercial**
Average rate change amount approved	$34,000,000	$2,000,000
Number of rejected rate filings	1	23
Average delay (year)	0.25	0.25
Estimated Monetary Benefit	**$8,500,000**	**$11,500,000**

Table 1 uses data from 2023 to estimate the monetary benefit of reducing delays in the rate approval process. The data for 2023 is the most current and also reflects losses from wildfires in previous years, making it a good proxy for what to expect going forward. The average premium impacted is based on the average of all rate filings that were approved in 2023, for both personal and commercial insurance filings. The rejected rate filings are the total number of rate filings that were rejected for being incomplete in 2023. The Department estimated that the average delay caused by the initial rate filing missing information is three months, or one-quarter of a year.

The estimated direct monetary benefit to insurance companies is expected to be the average impacted premium, multiplied by the number of rejected filings, multiplied by the delay, for both personal and commercial filings. The total monetary benefit for insurance companies is estimated to be $20 million ($8,500,000 + $11,500,000).

Costs Anticipated from the Proposed Regulation

The Department estimates that 24 rate filings were delayed because information was missing from the initial filing. Insurers who previously submitted incomplete applications are now expected to benefit from having their rate increases processed sooner. Conversely, insurance consumers and California businesses may be affected by rate increases that were processed more promptly than in prior years because the initial rate application process is no longer delayed. The Department expects that the total amount that personal lines insurance consumers will end up paying as a result of reduced delays in the rate application process is $8.5 million.

Additionally, California businesses are estimated to pay an additional $11.5 million in premiums because some commercial rate filing applications will be processed more quickly. To estimate the number of impacted businesses, the Department considered multiple sources. First, the Department counted all business establishments in the state. However, this proposed regulation will only impact businesses that purchase commercial insurance policies. The Tax Foundation estimates that about 73 percent of all U.S. businesses are sole proprietorships.[2] Additionally, a survey conducted by McKinsey & Company found that about 40 percent of sole proprietorships do not have commercial coverage.[3] As a result, the Department estimates that about 30 percent (.73 x .40) of all businesses do not have a commercial insurance policy. Additionally, this proposed regulation is not expected to impact all businesses with commercial policies. The total number of commercial filings rejected for incomplete documentation as a percentage of approved filings in 2023 was 7.2 percent. Based on this information, it was assumed that 7.2 percent of commercial rate applications would be impacted by a delay.

The Department assumes that the impacted businesses are located throughout the state and that the distribution of impacted policies by industry and size of business is roughly similar to the economy as a whole. Therefore, the Department, assuming a random distribution of both affected insurers and businesses, estimates that 7.2 percent of businesses in each industry will be impacted (except for Social Assistance where an adjustment was necessary to account for the large number of business establishments in California's IHSS, or In-Home Supportive Services Program).

The estimated impacts represent initial annual averages. If a business is impacted one year, they may not be impacted the next year, as the same insurers may not be affected every year. Additionally, if future insurance rates drop impacted businesses would see a benefit by having reduced rates implemented faster. Initially the Department estimates that 5 percent of all business establishments (excluding IHSS), or 59,700 businesses will be impacted by this regulation, annually. The detailed estimates for impacted establishments by industry are included in Appendix A: Estimated California Business Impacts by Industry.

Fiscal Impact on the Department

The proposed regulation is not anticipated to have a fiscal impact on the Department. While the regulation may result in slightly faster intake and less follow-up on some rate applications, it is not expected to result in a measurable monetary fiscal savings. There are no anticipated costs relating to the review of additional materials, because nearly all of the materials are already submitted at some point during the rate application review. The regulation, by clarifying all materials required to be submitted as part of an initial rate application, may change the timing of the Department's review of some documents, but this is not expected to impose additional costs.

[2] Pomerleau, Kyle. The Tax Foundation. An Overview of Pass-through Businesses in the United States. January 21, 2015. https://taxfoundation.org/overview-pass-through-businesses-united-states/. Accessed December 1, 2020.
[3] McKinsey & Company. Small Commercial Insurance: A Bright Spot in the U.S. Property Casualty Market. Published March 2016. https://www.mckinsey.com/~/media/McKinsey/Industries/Financial%20Services/Our%20Insights/Small%20Commercial%20Insurance/McKinsey_Small%20Commercial%20Insurance_US_2016.pdf. Accesses December 1, 2020.

Results of the Economic Impact Assessment

Below is a summary of the results of the Economic Impact Assessment pursuant to Government Code sections 11346.3(b)(1)(A) through (D). A detailed analysis of the results follows.

A. The proposed regulations are estimated to have a minimal effect, a gain of 142.6 jobs within the State of California. The net impact of the regulation on employment is expected to be less than one-thousandth of a percent of the projected total civilian employment in California (76.4 / 18,605,400 = 0.0004%).
B. The proposed regulations are estimated to have a minimal effect, a loss of 219 jobs within the State of California. The net impact of the regulation on employment is expected to be less than one-thousandth of a percent of the projected total civilian employment in California (76.4 / 18,605,400 = 0.0004%).
C. The average direct benefit to an impacted insurer of $833,000 ($20 million / 24 firms), is not anticipated to have a significant impact on the creation of new businesses in California.
D. The $193 estimated direct cost ($11.5 million / 59,706 businesses) to a typical business is not expected to affect the elimination of existing businesses in California.
E. The average direct benefit to an impacted insurer is estimated to be $833,000 ($20 million / 24 firms), it is not anticipated that the proposed regulation will impact the ability of businesses located in California to expand. Additionally, the $193 estimated cost ($11.5 million / 59,706 businesses) to a typical impacted business is not expected to affect the ability of businesses located in California to expand. The small estimated net impact on total output suggests that the regulation will have a minimal impact on the California economy as a whole.
F. The proposed regulations are expected to result in a benefit to the welfare of California insurance consumers by ensuring rate applications are approved in a more timely and expeditious fashion, and the resulting insurance rates are not excessive, inadequate, or unfairly discriminatory.

The Economic Impact on Jobs, Businesses, and the State Economy

The Department evaluated the potential changes in economic variables, including output and employment, which could result from the proposed regulation. Employment and total output effects were assessed using the Regional Input-Output Modeling System (RIMS II) multipliers.[4] The RIMS multipliers are used to estimate the economic impacts resulting from changes to demand and work best as a modeling tool during periods of economic stability. The RIMS model is dependent on assumptions that predict how households and businesses will react to economic stimuli. The impact of major events that cause supply shocks to the economy are not modeled by RIMS, and may result in changes to the initial demand assumptions.

[4] U.S. Department of Commerce, Bureau of Economic Analysis: Tables 1.5 and 2.5. Regional Input-Output Modeling System (RIMS II) Multipliers (2012/2020). RIMS II multipliers calculate how changes in economic activity result in new rounds of spending. For example, building a new road requires increased production of asphalt and concrete, causing an increase in mining. Workers who benefit from increased hours will spend more, perhaps by eating out. RIMS multipliers estimate that a new $1 million road creates 8.6 new jobs and increases total output by $1.9 million. Similarly, a decrease in initial economic activity will lead to a decrease in jobs and total output.

In the following analysis, detailed industry level RIMS II multipliers from Table 1.5 were used to assess the indirect and induced impacts resulting from targeted economic impacts on insurers and households. For broader, more widespread impacts resulting from changes to commercial insurance premiums, summary industry level RIMS II multipliers from Table 2.5 were used to assess indirect and induced economic impacts. The detailed RIMS multipliers (Table 1.5) were chosen to increase the accuracy of estimates directly resulting from changes impacting insurers and households, whereas the summary RIMS multipliers were used to better match available business establishment by industry data that was needed to make estimates regarding the proposed regulation's impact on California businesses.

Creation or Elimination of Jobs within the State

The job impact estimates are based on aggregated data presented as full-time equivalents, not necessarily full-time jobs. The Department expects there will be statewide impacts to overall employment because of the direct impacts on insurers, California businesses, and private households. Some insurers are expected to benefit monetarily by having the rate application process sped up. First, the job gains for insurers were calculated using the RIMS II multiplier from the detailed industry Table 1.5, for Insurance Carriers, except Direct Life Insurance. Because the complete rate application regulation does not impact direct life insurance carriers, this detailed multiplier is the most accurate available to measure the indirect and induced benefits of the regulation. However, direct life insurers may experience cost impacts similar to all other businesses who have commercial property and casualty policies that are impacted by the regulation. Any such cost impacts are estimated in Appendix A. The RIMS II multiplier for insurers is a ratio of 7.1279 jobs gained throughout the economy for every one million dollars in added benefits. The ratio multiplied by the estimated total direct benefit of the regulation ($20 million), equals the projected number of jobs gained, which is 142.6 (7.1279 x 20).

While standard RIMS II modeling projects a gain of some insurance company jobs, there is an offset because costs are assumed to accrue to households and California businesses who must now pay the new increased rate sooner, because the proposed regulation is likely to eliminate delays in the rate application process. Using the private household RIMS II multiplier from Table 1.5 of 7.2293, the projected aggregate cost of $8.5 million is expected to result in a loss of 61.4 jobs (8.5 x 7.2293). The remaining anticipated job impacts were calculated using RIMS multipliers from Table 2.5, that aggregates detailed industry data into summary level industries. The Department estimates that the $11.5 million impact on California businesses will result in the loss of up to 157.6 jobs, as calculated in Appendix A. As a result, the regulation is projected to result in a net job loss of 76.4 jobs in California (142.6 - 61.4 - 157.6).

The proposed regulation is expected to have a minimal effect on total statewide employment. According to the Department of Finance, the projected total civilian employment for 2024 is more than 18.6 million jobs in California.[5] When dividing the projected number of jobs lost by the number of people employed in in California, the result is that the proposed regulations would not affect even one-thousandth of a percent of the total employment in California (76.4 / 18,605,400 = 0.0004%).

[5] California Department of Finance. https://dof.ca.gov/forecasting/Economics/economic-forecasts-u-s-and-california/. California Economic Forecast MR 2023-24. Accessed December 15, 2023.

Creation of New Businesses or the Elimination of Existing Businesses, and the Expansion of Businesses

To address Government Code sections 11346.3(b)(1)(B) and (C) and determine the effect of the proposed regulation on the creation of new businesses, the elimination of existing businesses, and the expansion of businesses within the state, the Department uses a broad approach. Factors affecting the creation, elimination, and expansion of businesses are intertwined and very similar, so they are analyzed together.

The Department calculated the effect of the regulation on California's total economic output. Output measures the total market value, including the value of all intermediary goods and services, used in the production of a final good or service. The RIMS II multiplier from Table 1.5 for output of 1.9410 represents a $1.94 million total economic impact (accounting for all direct, indirect, and induced costs/benefits) for every one million dollars of direct impact on insurers. Multiplying the direct benefit of the regulation by the RIMS II output multiplier results in an estimated gain to total economic output of $38.8 million (1.9410 x $20 million). There is also an offsetting decrease to total economic output because of the estimated $8.5 million direct cost to households and $11.5 million cost to businesses. Using the private household RIMS II multiplier from Table 1.5 for output of 1.2055 the projected loss to output is $10.2 million (8.5 x 1.2055). The projected loss to total output resulting from the $11.5 million cost to businesses is estimated to be $23.7 million, calculated using summary level industry RIMS multipliers from Table 2.5, and are shown in Appendix A. The regulation is projected to result in a net gain to California output, when factoring in all expected impacts, of $4.9 million (38.8 – 10.2 – 23.7).

The calculated net impact on total output represents a very small share of California's total economic output. This suggests that the regulation will have very little impact on insurance companies or the California economy as a whole. The regulation is not likely to lead to a measurable impact on the creation or elimination of existing businesses, or the ability of existing businesses to expand.

Health and Welfare Effects, the Impact on Worker Safety and Environmental Effects

The Department also assessed whether, and to what extent, the proposed regulation might affect the other criteria set forth in Government Code sections 11346.3(b)(1)(D).

Worker Safety and Environmental Effects

Compliance with the proposed regulation does not change the job responsibilities of employees in the affected industries in a way that would impact their safety. Thus, the proposed regulation will neither increase nor decrease worker safety. The Department also concludes that there will be no measurable effect on the state's environment.

Health and Welfare Effects

The proposed regulations are expected to result in a benefit to the welfare of California insurance consumers by ensuring rate applications are approved timely and expeditiously, and the resulting insurance rates are not excessive, inadequate, or unfairly discriminatory.

Adverse Impact on Small Business

The proposed regulation is projected to have a beneficial direct impact on insurers as discussed in the foregoing analysis. By law insurance companies are not considered small businesses (Government Code § 11342.610(b)(2)).

According to the small business definition in Government Code Section 11342.610, the Department estimated the number of small businesses potentially impacted by the proposed regulation. The Department's analysis included removing industries that were designated as not small businesses and using available business size data to estimate the number of small businesses in the manufacturing sector. For all other industry sectors, the Department used receipt data published by the US Census to estimate the percentage of small businesses by industry sector.[6] However, this is not a perfect match, as the Census data only identified firms with receipts greater than $1,000,000, whereas the government code often cites a higher gross receipt threshold for small businesses (e.g. agriculture is $1,000,000, but services are $2,000,000). As a result, the Department's estimate likely somewhat overstates the number of small businesses impacted.

The Department estimates that approximately 40,400 small businesses may be adversely impacted by the proposed regulation. This represents approximately 3.4 percent of all business establishments in the state (excluding IHSS). The monetary impact to small businesses is likely to be somewhat lower than the $193 average for all impacted businesses, but actual costs will be dependent upon the location of the business, the amount of insurance purchased, and coverage options. This extra cost to businesses represents a commercial insurance rate increase that was coming, but because this regulation will eliminate delays and speed up the rate approval process, the increased insurance bill will be due sooner. The detailed small business establishment estimates by industry can be found in full in Appendix A.

Analysis of Alternatives to the Proposed Regulation

Alternative 1: An insurer changing any rate, rating rule, or any guideline or criteria used to determine whether to accept, cancel, or non-renew a risk, regardless of whether the change would have any rate impact, must file a complete rate application.

This alternative would require insurers to file a complete rate application any time they change any rating rule or underwriting guideline, regardless of whether the change had any rate impact.

Reasons for rejecting Alternative #1

There are some changes to insurers' rating forms or underwriting guidelines that are administrative in nature or do not have any impact on rating. Currently, the Department does not require a complete rate application for all rule and form changes without rate impacts. This alternative would significantly increase Department and insurance company costs, without providing a commensurate corresponding benefit.

[6] U.S. Census Bureau, Annual Business Survey. Receipts Size of Firm Statistics for Employer Firms by Sector, Sex, Ethnicity, Race, and Veteran Status for the U.S., States and Metro Areas: 2021. https://data.census.gov/table/ABSCS2021.AB2100CSA03?q=AB2100CSA03. Accessed December 21, 2023.

Alternative 2: Exempt commercial lines from the proposed regulations.
This alternative would exempt commercial lines from the filing requirements in the proposed regulations.

Reasons for rejecting Alternative #2
Commercial lines insurance offers coverage to more sophisticated policyholders with more complex risks, lower risk of harm, and heterogeneous risk. However, not all commercial policyholders are large, sophisticated companies with complex and detailed policies, so the information required in the proposed regulation is needed to protect all businesses.

The required information is needed to conduct a full review of an insurance company rate filing to determine whether or not the rates are excessive, inadequate, or unfairly discriminatory. The Department's rate filing review and approval process is similar for both residential and commercial insurance, and the Department performs the same type of analysis on both types of rate filings. Therefore, it is necessary for the same information to be included. Exempting commercial insurers from the regulation would eliminate the Department's anticipated benefit of quicker rate filing approvals for commercial insurers.

Appendix A: Estimated California Business Impacts by Industry

Industry	Rims II Output Multiplier [A]	RIMS II Employment Multiplier [A]	California Business Establishments [B]	Estimated Number of Businesses with Insurance	Estimated Number of Impacted Business	Estimated Number of Impacted Small Businesses	Estimated Direct Cost Impact by Industry	Estimated Statewide Employment Losses	Estimated Statewide Loss to Output
Farms	1.9431	11.2308	16,249	11,374	819	570	$157,739	1.8	$306,503
Forestry, fishing, and related activities	2.0490	22.4905	520	364	26	1	$5,048	0.1	$10,343
Oil and gas extraction	1.6911	7.3453	125	88	6	0	$1,213	0.0	$2,052
Mining (except oil and gas)	1.7993	6.2334	279	195	14	0	$2,708	0.0	$4,873
Support activities for mining	1.9402	7.9857	408	286	21	0	$3,961	0.0	$7,685
Utilities	1.6119	4.4011	1,696	1,187	85	0	$16,464	0.1	$26,539
Construction	2.1154	12.0944	91,044	63,731	4,589	3,024	$883,821	10.7	$1,869,635
Wood product manufacturing	1.8927	8.8048	1,114	780	56	15	$10,814	0.1	$20,468
Nonmetallic mineral product manufacturing	1.9227	7.4789	1,260	882	64	16	$12,232	0.1	$23,518
Primary metal manufacturing	1.7547	6.0778	499	349	25	6	$4,844	0.0	$8,500
Fabricated metal product manufacturing	1.8600	7.9574	6,475	4,533	326	45	$62,857	0.5	$116,914
Machinery manufacturing	1.8697	6.4767	3,121	2,185	157	36	$30,297	0.2	$56,647
Computer and electronic product manufacturing	1.8028	6.8600	4,527	3,169	228	184	$43,946	0.3	$79,227
Electrical equipment, appliance, and component manufacturing	1.8042	6.5473	1,226	858	62	17	$11,902	0.1	$21,473
Motor vehicles, bodies and trailers, and parts manufacturing*	1.6652	5.2291	878	615	44	44	$8,523	0.0	$14,193
Other transportation equipment manufacturing*	1.8829	6.5446	1022	715	52	51	$9,921	0.1	$18,681
Furniture and related product manufacturing	1.9470	9.4042	1,989	1,392	100	16	$19,308	0.2	$37,594
Miscellaneous manufacturing	1.8395	7.7625	4,100	2,870	207	60	$39,801	0.3	$73,214
Food and beverage and tobacco product manufacturing	2.0611	8.2597	8,024	5,617	404	167	$77,894	0.6	$160,547
Textile mills and textile product mills	1.8708	8.9723	923	646	47	26	$8,960	0.1	$16,763
Apparel, leather, and allied product manufacturing	2.0445	15.4993	2,205	1,544	111	21	$21,405	0.3	$43,763
Paper manufacturing	1.7029	5.6726	461	323	23	6	$4,475	0.0	$7,621
Printing and related support activities	1.9361	10.3311	3,133	2,193	158	7	$30,414	0.3	$58,885
Petroleum and coal products manufacturing	1.4648	3.3835	205	144	10	27	$1,990	0.0	$2,915
Chemical manufacturing	1.7497	5.0444	2,631	1,842	133	54	$25,541	0.1	$44,689
Plastics and rubber products manufacturing	1.7370	5.9811	1,308	916	66	26	$12,698	0.1	$22,056

Industry	Rims II Output Multiplier [A]	RIMS II Employment Multiplier [A]	California Business Establishments [B]	Estimated Number of Businesses with Insurance	Estimated Number of Impacted Business	Estimated Number of Impacted Small Businesses	Estimated Direct Cost Impact by Industry	Estimated Statewide Employment Losses	Estimated Statewide Loss to Output
Wholesale trade	1.9691	8.3393	64,263	44,984	3,239	1,302	$623,841	5.2	$1,228,405
Motor vehicle and parts dealers	1.9243	11.9183	10,855	7,599	547	292	$105,376	1.3	$202,776
Food and beverage stores	2.0247	17.0073	18,731	13,112	944	504	$181,833	3.1	$368,158
General merchandise stores	2.0152	16.8739	6,208	4,346	313	167	$60,265	1.0	$121,446
Other retail	2.0246	14.9568	71,450	50,015	3,601	1,921	$693,610	10.4	$1,404,282
Air transportation	1.9675	6.9457	596	417	30	21	$5,786	0.0	$11,383
Rail transportation	1.9850	6.8957	12	8	1	0	$116	0.0	$231
Water transportation	2.2011	8.0846	173	121	9	6	$1,679	0.0	$3,697
Truck transportation	2.2783	11.9520	21,895	15,327	1,104	762	$212,548	2.5	$484,249
Transit and ground passenger transportation	2.2891	27.2954	2,065	1,446	104	72	$20,046	0.5	$45,888
Pipeline transportation	2.1499	10.6831	119	83	6	4	$1,155	0.0	$2,484
Other transportation and support activities	2.2311	15.8851	7,745	5,422	390	270	$75,186	1.2	$167,746
Warehousing and storage	2.1857	12.6095	2,526	1,768	127	88	$24,521	0.3	$53,597
Publishing industries (except Internet)	1.8604	7.2252	8,538	5,977	430	300	$82,884	0.6	$154,197
Motion picture and sound recording industries	1.9644	9.0205	12,716	8,901	641	447	$123,442	1.1	$242,490
Broadcasting (except Internet) and telecommunications	2.0885	8.4773	5,370	3,759	271	189	$52,130	0.4	$108,873
Data processing, hosting, and other information services	2.0872	7.0023	4,868	3,408	245	171	$47,257	0.3	$98,634
Monetary Authorities-central bank, credit intermediation, and related services	1.9042	7.5934	18,652	13,056	940	0	$181,067	1.4	$344,787
Securities, commodity contracts, and other financial investments and related activities	2.3448	13.4203	15,939	11,157	803	612	$154,730	2.1	$362,810
Insurance carriers and related activities	2.0117	7.6744	18,882	13,217	952	725	$183,299	1.4	$368,743
Funds, trusts, and other financial vehicles	2.8188	15.0175	927	649	47	36	$8,999	0.1	$25,366
Real estate	1.6115	7.5763	58,585	41,010	2,953	2,373	$568,721	4.3	$916,494
Rental and leasing services and lessors of nonfinancial intangible assets	1.8960	7.1017	6,524	4,567	329	264	$63,333	0.4	$120,078
Professional, scientific, and technical services	2.1320	11.9364	176,419	123,493	8,892	6,928	$1,712,609	20.4	$3,651,283
Management of companies and enterprises	2.1518	9.9201	4,725	3,308	238	28	$45,869	0.5	$98,700
Administrative and support services	2.1588	18.2566	55,675	38,973	2,806	2,126	$540,472	9.9	$1,166,771
Waste management and remediation services	1.9636	8.8170	2,812	1,968	142	107	$27,298	0.2	$53,602
Educational services	2.0403	17.1593	18,421	12,895	928	703	$178,824	3.1	$364,855

Industry	Rims II Output Multiplier [A]	RIMS II Employment Multiplier [A]	California Business Establishments [B]	Estimated Number of Businesses with Insurance	Estimated Number of Impacted Business	Estimated Number of Impacted Small Businesses	Estimated Direct Cost Impact by Industry	Estimated Statewide Employment Losses	Estimated Statewide Loss to Output
Ambulatory health care services	2.1043	12.7590	93,140	65,198	4,694	3,357	$904,168	11.5	$1,902,641
Hospitals	2.1778	12.0650	922	645	46	0	$8,950	0.1	$19,492
Nursing and residential care facilities	2.1791	18.2625	10,247	7,173	516	369	$99,474	1.8	$216,764
Social assistance**	2.1828	24.8554	84,586	59,210	4,263	3,049	$821,129	20.4	$1,792,360
Performing arts, spectator sports, museums, and related activities	1.9396	19.7242	23,858	16,701	1,202	951	$231,604	4.6	$449,220
Amusement, gambling, and recreation industries	2.0095	15.7475	9,180	6,426	463	366	$89,116	1.4	$179,079
Accommodation	1.9800	12.1134	7,389	5,172	372	254	$71,730	0.9	$142,025
Food services and drinking places	2.1225	18.6248	83,527	58,469	4,210	2,874	$810,849	15.1	$1,721,026
Other services	2.1151	13.9822	100,674	70,472	5,074	4,358	$977,305	13.7	$2,067,098
Total Impacts on California Businesses			**1,184,636**	**829,245**	**59,706**	**40,413**	**$11,500,000**	**157.6**	**$23,717,026**

* Total Business Establishments for the listed detailed industries are from the Quarterly Census of Employment and Wages.[7]

** This analysis assumes that an elderly or disabled person receiving in-home services would not have a commercial insurance policy subject to the proposed regulations. As a result, 500,000 business establishments were excluded from the Social assistance total and not considered in this analysis because they are part of the In-Home Supportive Services (IHSS) program.[8]

[A] U.S. Department of Commerce, Bureau of Economic Analysis: Table 2.5 Regional Input-Output Modeling System (RIMS II) Multipliers (2012/2020).

[B] California Employment Development Department, Labor Market Information Division. Third Quarter Payroll and Number of Businesses by Size Category, Third Quarter 2022. https://www.labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Data.html. Accessed December 21, 2023.

[7] California Employment Development Department, Labor Market Information Division. Quarterly Census of Employment and Wages. https://labormarketinfo.edd.ca.gov/qcew/CEW-Detail_NAICS.asp?MajorIndustryCode=1013&GeoCode=06000000&Year=2022&OwnCode=50&Qtr=00. Accessed December 22, 2020.

[8] California Department of Social Services, In-Home Supportive Services Program. https://www.cdss.ca.gov/inforesources/ihss/ihss-providers/orientation-process. Accessed December 15, 2023.

SPECIFIC ACTIONS AND PROCEDURES PRESCRIBED

The adoption of these regulations will require insurance companies to follow the Department's procedures for the submission of complete rate applications and to include all information required by existing and proposed regulations. The proposed regulations also make clear that insurers are required to submit any and all criteria, guidelines, systems, manuals, models and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options as part of an initial complete rate application. Finally, the proposed regulations require insurers to submit both written and electronic versions of all required information and documents as part of an initial complete rate application. These regulations are reasonably necessary because in order to fully evaluate an insurer's request to change its rates and determine whether the requested rate change is appropriate and not excessive, inadequate, or unfairly discriminatory, the Commissioner must be able to review all information that may have a potential impact on the requested rate during the projected rating period.

IDENTIFICATION OF STUDIES, REPORTS, DOCUMENTS

The Department has not relied upon any studies, reports, or specific documents in determining that these regulatory amendments are necessary and reasonable.

REASONABLE ALTERNATIVES

See above in the Analysis of Alternatives to the Proposed Regulation. No alternatives that are less burdensome and equally effective in achieving the purposes of the proposed regulations in a manner that achieves their purpose have been proposed.

PERFORMANCE STANDARD CONSIDERED

The Commissioner considered alternatively imposing a performance standard but rejected this alternative because it would be less likely than the proposed regulations to clarify the contents of a complete rate application, and would particularly be less likely to do so in a uniform, timely manner without creating an uneven playing field for insurers.

PRE-NOTICE PUBLIC DISCUSSIONS

The Commissioner conducted prenotice public discussions on April 6, 2021. Interested and affected parties were given an opportunity to present statements or comments with respect to the proposed amendments.

ANTICIPATED BENEFITS FROM THE REGULATORY ACTION

The benefits anticipated to result from the adoption of the proposed amendments to these regulations include increased clarity for insurers and the public regarding what documents and information are required to be submitted in a complete rate application. Specifically, a complete rate application shall, in addition to the documentation, materials, data, forms, templates, and

exhibits required by Insurance Code section 1861.05, subdivision (b) and Regulations 2644.1 et seq., include any and all criteria, guidelines, or systems, manuals, models and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options. These amendments will eliminate confusion among insurers about what materials are required as part of an initial rate application. The amendments are anticipated to reduce delays in the rate application process that occur when insurers do not initially make all materials available as well as any delays caused by disputes over what exactly is required in an initial complete rate application. Clarifying the requirements for a complete rate application will also provide insurers with greater certainty that their initial rate applications will be accepted.

The regulation amendments will also increase transparency in the rate application process by making clear that all rate application materials are to be made public. Timely submission of an initial complete rate application will allow consumer representatives the opportunity to decide whether to intervene and better allow Department staff to more quickly process and review rate applications. Additionally, the timely submission of all information required in a complete rate application should better allow the Department and the public to determine more expeditiously whether any insurance rate is excessive, inadequate, or unfairly discriminatory.

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

TEXT OF REGULATION

COMPLETE PROPERTY AND CASUALTY RATE APPLICATION

February 9, 2024 **REG-2019-00025**

TITLE 10. INVESTMENT
CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 4.8. REVIEW OF RATES
ARTICLE 3. GENERAL PROVISIONS

Amend Section 2643.3. Total Aggregate Earned Premiums.

(a) The determination whether rates are excessive or inadequate is made on the basis of the aggregate earned premiums the rates are expected to produce. Thus, the proposed and approved rates are required to reflect the actual distribution of premiums, including discounts, dividends, credits, and other rating factors affecting aggregate premiums. Rates that are neither excessive nor inadequate may still be unlawful and disapproved if they are unfairly discriminatory or otherwise violate chapter 9 (commencing with section 1851) of part 2 of division 1 of the Insurance Code.

(b) Complete ~~R~~rate applications ~~(Form CAR-1 (last revised 1/94))~~ shall be filed on a line-by-line basis, as set forth in ~~s~~Section 2642.7. ~~The application shall be accompanied by the~~ rating manual, ~~rating plan, all policy forms to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line~~. The Commissioner shall require the filing of such other information as the Commissioner deems necessary to review the application.

(c) The earned premium of retrospectively rated and loss-sensitive insurance shall be the manual premium.

NOTE: Authority cited: Sections 1861.01 and 1861.05, Insurance Code; *20th Century v. Garamendi*~~,~~ (1994) 8 Cal.4th 216 ~~(1994)~~. Reference: Sections 1861.01 and 1861.05, Insurance Code; *Calfarm Insurance Company v. Deukmejian* (1989) 48 Cal.3d 805.

TITLE 10. INVESTMENT

CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 4.8. REVIEW OF RATES
ARTICLE 4. DETERMINATION OF REASONABLE RATES

Amend Section 2644.27. Variance Request.

(a) A request that the maximum permitted earned premium or minimum permitted earned premium should be adjusted is referred to as a "variance request."

(b) Requests for variances shall be filed with the Rate Regulation Branch, ~~Filing Bureau on pages 11a and 11b of the Prior~~ together with the insurer's ~~Approval~~ complete ~~R~~rate ~~A~~application. All such variance requests shall specifically:

(i) identify each and every variance request;

(ii) identify the extent or amount of the variance requested and the applicable component of the ratemaking formula;

(iii) set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied; and

(iv) identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change to the component of the ratemaking formula.

(c) Requests for variances shall be filed at the same time as the ~~prior approval~~ insurer's complete rate application to which it applies or after the filing of the complete rate application and before any final determination regarding that application. Public notice of all variance requests shall be provided as set forth in ~~California~~ Insurance Code ~~S~~sections 1861.05, subdivision (c), and 1861.06.

(d) A variance request shall be deemed approved sixty days after public notice unless:

(i) a consumer or a consumer's representative requests a hearing within forty-five days of public notice and the Commissioner grants the hearing, or determines not to grant the hearing and issues written findings in support of that decision, or

(ii) the Commissioner on the Commissioner's own motion determines to hold a hearing.

(e) Variance requests shall be determined in conjunction with the related ~~prior approval~~ complete rate application or rate hearing thereon.

(f) The following are the valid bases for requesting a variance:

(1) That the insurer should be allowed relief from the efficiency standard for bona fide loss-prevention and loss-reduction activities as set forth below.

(A) The insurer meeting the qualifications set forth below may obtain an increase in the applicable efficiency standard by the amount of its "Allocated Costs" for its Special Investigations Unit ("SIU") expense for the most recent year. The term SIU as used in this section has the same meaning as that term has in Section 2698.30, subdivision (pe). The term "Allocated Costs" means those costs set forth in subsection (iii) and attributable to investigations of claims made on the line of insurance subject to Insurance Code section 1861.05, subdivision (b) for which the variance is sought.

(i) An insurer may recover its "Allocated Costs" for its SIU expenses only in its approved rate filing for the line of insurance affected by the SIU investigation costs.

(ii) Affiliated insurers who utilize the same SIU unit may recover the portion of their "Allocated Costs" for their SIU expenses attributable to investigations of claims made on the line of insurance in the rate application only in one approved rate application for the line affected by the Allocated SIU costs. The term "Affiliated Insurers" has the same meaning as that term has in Insurance Code Ssection 1215.

(iii) The only recoverable SIU expenses are those expended for investigators whose sole duties are investigation of insurance fraud, software dedicated solely to analysis of data for indications of insurance fraud, training of employees whose sole duty is the investigation of fraud and equipment to be used solely by the insurer's SIU. The recoverable expenses do not include the costs of employing or other costs for adjustors or underwriters.

(iv) The only recoverable SIU expenses are for SIU's dedicated to investigation of insurance fraud within the State of California or for the portion of an SIU's operations within California. The burden of demonstrating the amount of SIU expenses, and that those expenses are for the investigation of insurance fraud within the State of California, is the insurer's.

(v) An insurer may recover the "Allocated Costs" of retaining an independent contractor to perform SIU services as described in sub-paragraph (iii). The variance shall be calculated by multiplying the fees paid for the independent agency with whom the insurer contracts by the percentage of referrals of claims made on the line of insurance for which the rate application and variance application are made and that the contracted agency investigates in California on behalf of the insurer seeking the variance.

(vi) No expense that is included within the Defense and Cost Containment Expense portion of an insurer's complete rate application can be included in whole or in part as the basis for a variance based on SIU expenses. The terms "Defense and Cost Containment Expense" or "DCCE" when used with regard to any variance have the same meaning as those terms have in sSection 2644.23, subdivision (c).

(vii) An insurer that asserts that payments to: (1) an independent contractor; or (2) an SIU owned by an Affiliated Insurer; or (3) an SIU independent of an insurer, but which is owned directly or indirectly, in whole or part by the insurer applying for a variance or by an Affiliated Insurer, shall in its variance request, provide the Department of Insurance with documentation showing the costs of investigation for the purported "Allocated Costs" claimed in the variance request. The payments constituting the basis for the variance must be *bona fide* payments for

investigation of individual cases of suspected insurance fraud. It shall be the burden of the insurer to demonstrate that the costs are *bona fide* costs for investigation of insurance fraud in the State of California.

(B) An insurer meeting the qualifications set forth below will be allowed to recover its expenses for the most recent year for dedicated loss prevention programs such as brush clearance, driver education, risk management, hazard mitigation or accident prevention. Loss prevention expenses do not include SIU expenses under subsection (A).

(i) An insurer may recover its "Allocated Costs" for its loss prevention expenses only in its approved rate for the line of insurance affected by the loss prevention expenses.

(ii) The insurer must provide documentation detailing the loss prevention program, what additional costs are being incurred and what losses are being prevented.

(iii) Recoverable loss prevention expenses are those expended for employees whose duties are loss prevention, software dedicated to loss prevention, and equipment to be used for loss prevention. Recoverable loss prevention expenses do not include the routine and customary costs of marketing or employing underwriters or adjusters.

(iv) The only loss prevention expenses recoverable are for loss prevention programs dedicated to loss prevention in the State of California or for the portion of the program within California. The burden of demonstrating the amount of loss prevention costs, and that those costs are expended for loss prevention in the State of California, is on the insurer.

(2) That the insurer should be allowed relief from the efficiency standard due to any or all of the following:

(A) Higher quality of service, as demonstrated by objective measures of consumer satisfaction; or

(B) Demonstrated superior service to underserved communities, as defined in ~~s~~Section 2646.6; or

(C) Significantly smaller or larger than average California policy premium, including any applicable fees. These fees include but are not limited to: policy fees, installment fees, endorsement fees, inspection fees, cancellation fees, reinstatement fees, late fees, SR-22, and other similar charges.

(3) That the insurer should be authorized leverage factor different from the leverage factor determined pursuant to ~~s~~Section 2644.17 on the basis that the insurer either writes at least 90% of its direct earned premium in one line or writes at least 90% of its direct earned premium in California and its mix of business presents investment risks different from the risks that are typical of the line as a whole. The leverage factor shall be adjusted by multiplying it by 0.85. The surplus ratio in ~~s~~Section 2644.22 shall likewise be divided by 0.85. If an insurer writes at least 90% of its direct earned premium in one line and writes at least 90% of its direct earned premium in California, the insurer will only be authorized one leverage factor adjustment of 0.85.

(4) That the insurer should be granted relief from operation of the efficiency standard for a line of insurance in which the insurer has never previously written over $1 million in earned premiums annually and in which the insurer has made or is making a substantial investment in order to enter the market. Any such request shall be accompanied by a proposed amortization schedule to distribute the start-up investment.

(5) That the minimum permitted earned premium should be lowered on the basis of the insurer's certification, and the Commissioner's finding, that the rate will not cause the insurer's financial condition to present an undue risk to its solvency and will not otherwise be in violation of the law.

(6) That the insurer's financial condition is such that its maximum permitted earned premium should be increased in order to protect the insurer's solvency. Any application for authorization under this subsection shall include:

(A) A showing of the insurer's condition, based on generally accepted standards such as the National Association of Insurance Commissioners' Insurance Regulatory Information System;

(B) A plan to restore the financial condition;

(C) A showing that, consistent with the claimed condition, the insurer has reduced or foregone dividends to stockholders or policyholders; and

(D) A plan to reduce rates once the insurer's condition is restored, in order to compensate consumers for excessive charges.

(7) That the loss development formula in ~~s~~Section 2644.6 does not produce an actuarially sound result because

(A) There is not enough data to be credible;

(B) There are not enough years of data to fully calculate the development to ultimate;

(C) There are changes in the insurer's reserving or claims closing practices that significantly affect the data; ~~or~~

(D) There are changes in coverage or other policy terms that significantly affect the data; ~~or~~

(E) There are changes in the law that significantly affect the data; or

(F) There is a significant increase or decrease in the amount of business written or significant changes in the mix of business.

(8) That the trend formula in ~~s~~Section 2644.7 does not produce the most actuarially sound result because

(A) There is a significant increase or decrease in the amount of business written or significant changes in the mix of business;

(B) There are not enough years of data to calculate the trend factor;

(C) There is a significant change in the law affecting the frequency or severity of claims;

(D) It can be shown that a trend calculated over a period of at least 4 quarters other than a period permitted pursuant to ~~s~~Section 2644.7, subdivision (b) is more reliable prospectively;

(E) There are changes in the insurer's claims closing practices that significantly affect the data; or

(F) There are changes in coverage or other policy terms that significantly affect the data.

(9) That the maximum permitted earned premium would be confiscatory as applied. This is the constitutionally mandated variance articulated in *20th Century v. Garamendi* (1994) 8 Cal.4th 216 which is an end result test applied to the enterprise as a whole. Use of this variance requires a hearing pursuant to 2646.4.

(g) If there is more than one actuarial analysis of a variance, each of which is based on reliable data and utilizes methods which are shown by qualified expert evidence to be generally accepted as sound by the actuarial community and the appropriate methods for the particular variance, then the variance shall be granted, denied or calculated utilizing the actuarial proposition that results in the soundest actuarial result.

(h) Notwithstanding any other section of these regulations, the aggregate total adjustment to the efficiency standard for all variances combined shall not exceed the difference between the insurer's most recent year total expense ratio excluding defense and cost containment expenses and the efficiency standard.

NOTE: Authority cited: Sections 1861.01 and 1861.05, Insurance Code; and *20th Century v. Garamendi*~~,~~ (1994) 8 Cal.4th 216 ~~(1994)~~. Reference: Sections 1861.01 and 1861.05, Insurance Code; and *Calfarm Insurance Company v. Deukmejian* (1989) 48 Cal.3d 805.

TITLE 10. INVESTMENT
CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 4.8. REVIEW OF RATES
ARTICLE 8. TIMELINES FOR SCHEDULING AND COMMENCING HEARINGS

Amend Section 2648.1. Scope.

~~(a) Except as provided for herein, t~~This article applies to complete rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b), and proceedings commenced by the issuance of a notice of hearing, or other notice or order commencing a proceeding on a rate application issued by the Commissioner pursuant to Insurance Code ~~S~~section 1861.05, subdivision (c).

~~(b) This article shall not apply to applications for exemption from Insurance Code Section 1861.01(a), file and use rate applications filed prior to November 8, 1989, or applications for rate changes pursuant to Insurance Code Section 1861.05 which are filed prior to July 1, 1993. Refiling of applications for rate changes pursuant to Insurance Code Section 1861.05 shall be made by filing the Department cover sheet entitled "Cover Sheet for Re-Filing of Application for Approval of Insurance Rates," Department form number CA-RA1, dated May 1, 1993, which is incorporated by reference. In addition, for those applications which were submitted with data that is no longer current, updated data must also be submitted with the cover sheet.~~

NOTE: Authority cited: Sections 1861.05 and 1861.055, ~~California~~ Insurance Code. Reference: Sections 1861.05 and 1861.055, ~~California~~ Insurance Code.

Amend Section 2648.2. Receipt of Rate ~~Change~~ Application By Commissioner.

(a) For the purpose of Insurance Code ~~S~~section 1861.05, subdivision (c), a complete rate ~~change~~ application shall be considered to have been received by the Commissioner on the date that ~~it is~~ all information, materials, and documents required by Section 2648.4 as part of a complete rate application have been ~~received by~~ delivered to the Department's Rate Regulation Branch~~Filing Bureau~~ by means of submittal using the System for Electronic Rate and Form Filing (SERFF).

(b) Within ~~14~~30 days of being delivered pursuant to subdivision (a) of this Section 2648.2~~receipt~~, the Commissioner shall review rate applications for completeness as required by Insurance Code ~~S~~section 1861.05, subdivision (b). If the application includes ~~the forms and exhibits listed in the Filing Checklist, as provided in~~all information, materials and documentation required by Section 2648.4, ~~and the data required therein,~~ it is complete. If the Commissioner determines that the application is not complete because it does not include ~~such forms, exhibits, or the data required therein,~~all information, materials and documentation required by Section 2648.4 for a complete rate application, notice stating the grounds for incompleteness will be given to the insurer within the ~~14~~30 day period and the application will be rejected. Within 10 days of the date that such notice is given, the insurer may request a hearing on the rejection.

(c) The hearing shall be held within 10 days of receipt of the request by the Department's Rate Enforcement Bureau. The scope of the hearing shall be limited to the completeness of the application.

(d) If, after a hearing, an application is determined to have been complete when filed, then the 180 day period specified in Insurance Code ~~S~~section 1861.05, subdivision (c) shall have commenced on the date the application was first filed. If the application is determined to be incomplete, then it shall remain rejected.

(e) Rejection of an application for incompleteness shall not bar the refiling of a complete application.

(f) Public notice of the complete rate application as required by Insurance Code ~~S~~section 1861.05, subdivision (c) shall be made within 10 days after the Commissioner determines that an application is complete.

NOTE: Authority cited: Sections 1861.05 and 1861.055, ~~California~~ Insurance Code. Reference: Sections 1861.05 and 1861.055, ~~California~~ Insurance Code.

Amend Section 2648.4. Complete Rate Application.

(a) ~~In order to be complete,~~ Pursuant to Insurance Code section 1861.05, subdivision (b), every insurer that desires to change any rate must file a complete rate application which must include the ~~following~~information required by Insurance Code section 1861.05, subdivision (b), and all information as the C~~c~~ommissioner may require in order to perform a complete analysis of a rate application, including but not limited to the exhibits, data, information, materials and documentation specified by Sections 2641.1 through 2643.8 and Sections 2644.1 through 2644.28 as those sections may from time to time be amended. A complete rate application shall also include all of the materials described in subdivisions (b) through (e) of this Section 2648.4. ~~forms, exhibits, data and documentation, which are incorporated by reference: application for approval (form CA-RA1, 5-1-96 ed.), duplicate of form CA-RA1 for return copy, self-addressed envelope with sufficient postage to return the duplicate copy of CA-RA1, Rate/Rule/Underwriting Rule Submission Data Sheet (form CA-RA2, 5-1-96 ed.), Line of Business (form CA-RA3, 5-1-96 ed.), Filing Checklist (form CA-RA4, 5-1-96 ed.), Ratemaking Data (form CA-RA5, 5-1-96 ed.), Reconciliation Report (form CA-RA6, 5-1-96 ed.), Additional Data Required by Statute (form CA-RA7, 5-1-96 ed.), Miscellaneous Data (form CA-RA8, 5-1-96 ed.), Filing History (to be labeled Exhibit 1), Rate Level History (to be labeled Exhibit 2), Premium Adjustment Factor (to be labeled Exhibit 3), Premium Trend Factor (to be labeled Exhibit 4), Allocated Loss Adjustment Expense (to be labeled Exhibit 5), Loss Development Factors (to be labeled Exhibit 6), ALAE Development Factors (to be labeled Exhibit 7), Loss Trend, ALAE Trend, and Expense Trend (to be labeled Exhibit 8), Catastrophe Adjustment (to be labeled Exhibit 9), Policy Term Distribution (to be labeled Exhibit 10), Credibility Adjustment (to be labeled Exhibit 11), Data Availability Report (to be labeled Exhibit 12), Interjurisdictional Expense Allocations (to be labeled Exhibit 13), Unallocated Loss Adjustment Expense (to be labeled Exhibit 14), Other Expense Items (to be labeled Exhibit 15), Ancillary Income (to be labeled Exhibit 16), Federal Income Tax Rate (to be labeled Exhibit 17), Projected Investment Income Ratio (to be labeled Exhibit 18), Loss Reserves, Loss Adjustment Expense Reserves, and Unearned Premium Reserves (to be labeled Exhibit 19), Insurer's Ratemaking Calculations (to be labeled Exhibit 20), Rate Distribution (to be labeled Exhibit 21), Rate Classification Relativities (to be labeled Exhibit 22), New Program (to be labeled Exhibit 23), Group Filing (to be labeled Exhibit 24), rating rules, and rate pages. The application must also~~

~~contain a summary and explanation of the purpose for the filing. The Filing Instructions (forms CA-IA1 -CA-I8, 5-1-96, ed.) for these forms and exhibits are incorporated by reference.~~

(b) ~~Notwithstanding the completeness determination, the Commissioner may later require the submission of relevant underwriting rules and other relevant documents from an applicant in order to perform a complete analysis of an application.~~A complete rate application shall include any and all criteria, guidelines, systems, manuals, models and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

Specifically, the complete rate application shall include, without limitation, a complete set of, and any proposed changes to, any and all of the following:

(1) An insurer's eligibility guidelines as defined in Sections 2360.0 through 2360.7;

(2) Any and all criteria, guidelines, systems, manuals, models and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed, or restrict the coverages offered, in specific geographic areas such as ZIP codes, counties, or territories, for any reason, including over-concentration; and

(3) Any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

(c) ~~Requests for variances as authorized by section 2644.27 shall be on the following form:~~

~~STATE OF CALIFORNIA — Insurer Name~~
~~DEPARTMENT OF INSURANCE — Line of Business~~

~~Request for Variance~~

~~1. Identify each variance requested.~~

~~2. Identify the extent or amount of the variance requested and the applicable efficiency standard, rate of return, loss development factors or trend which will result if the variance is granted.~~

~~3. Set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied.~~

~~4. Identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change in the applicable efficiency standard, rate of return, loss development factors or trend that is being proposed.~~

~~xx-xx-06 ed. — CA-RA9~~

A complete rate application shall also include any and all criteria, guidelines, systems, manuals, models and algorithms, and any proposed changes thereto, an insurer, agent, broker, or underwriter uses or relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules.

(d) A complete rate application shall also include a complete and entire copy of any and all written and electronic descriptions of all of the materials described in subdivisions (a) through (c) of this section.

(e) Pursuant to Insurance Code section 1861.05, subdivision (b), the Commissioner may, in order to perform a complete analysis of a rate application that was previously deemed complete pursuant to section 2648.2, subdivision (b) but has not yet been approved, require the insurer to submit additional information, forms, templates, exhibits, data and documentation during the Commissioner's review of the application.

NOTE: Authority cited: Sections 1861.01 and 1861.055, Insurance Code. Reference: Sections 1861.05, 1861.07 and 1861.055, Insurance Code.

EXHIBIT 7

Comments of Consumer Watchdog

California Department of Insurance Rulemaking Hearing Regarding Complete Rate Application Regulations

REG-2019-00025

March 26, 2024

Consumer Watchdog submits these comments in response to the California Department of Insurance (the "Department" or "CDI") February 9, 2024 notice of public hearing and text of regulations regarding complete property and casualty rate applications.

Consumer Watchdog has served as a public watchdog with regard to insurance rates and insurer rollback liabilities under Proposition 103 by: monitoring rollback settlements and the status of the rollback regulations; reviewing and challenging rate filings made by insurers seeking excessive rates in over 150 rate proceedings before the CDI in the last 20 years; participating in rulemaking and adjudicatory hearings before the CDI; and educating the public concerning industry underwriting and rating practices, their rights under Proposition 103, and other provisions of state law. Consumer Watchdog has also initiated and intervened in actions in state court and appeared as amicus curiae in matters involving the interpretation and application of Proposition 103 and the Insurance Code.[1]

As a general matter, Consumer Watchdog endorses the proposed regulation amendments ("February 9 regulation text") making clear that all criteria, guidelines, systems, manuals, models, and algorithms an insurer uses to accept, examine, inspect, cancel, non-renew, re-underwrite, or rate a risk or to modify coverage options must be submitted as part of a complete rate application. These amendments are necessary to address delays caused by insurance companies' failure to meet the "complete rate application" requirement of Proposition 103 (section 1861.05(b)), particularly when they attempt to shield models, rating rules, and underwriting guidelines from public scrutiny. These provisions will provide much-needed clarity

[1] For example, *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805; *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216; *Amwest Surety Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243; *Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473; *Spanish Speaking Citizens' Found. v. Low* (2000) 85 Cal.App.4th 1179; *Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968; *State Farm Mut. Auto. Ins. Co. v. Garamendi* (2004) 32 Cal.4th 1029; *The Found. for Taxpayer and Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th 1354; *Ass'n of Cal. Ins. Cos. v. Poizner* (2009) 180 Cal.App.4th 1029; *Mercury Cas. Co. v. Jones* (2017) 8 Cal.App.5th 561; *Mercury Ins. Co. v. Lara* (2019) 35 Cal.App.5th 82; and *State Farm General Ins. Co. v. Lara* (2021) 71 Cal.App.5th 197.

and lead to a more efficient and effective public review process for consumers, the Department, and the insurance industry.

Consumer Watchdog also supports the provisions of the February 9 regulation text that are necessary to remove references to outdated rate application forms and exhibits. However, to further the goals of providing clarity and eliminating delay, we believe the regulation should retain references to a baseline set of exhibits and data that are required as part of a complete rate application, or at a minimum, incorporate by reference the Department's standard rate application form, exhibits, and templates as published on the Department's website. We have also identified certain provisions in the February 9 regulation text that could be construed as ambiguous and should be clarified in order for the amendments to comply with the express language of Proposition 103, including public notice of initial filings and public disclosure of all information required to be filed as part of a complete application. Consumer Watchdog's comments on specific provisions of the February 9 regulation text and proposed edits that would render them in compliance with Proposition 103 are included in Section III below.[2]

I. The Rulemaking Is Not Exempt from the Public Notice and Hearing Protections of the California Administrative Procedure Act.

The Department's February 9 Notice asserts that this rulemaking proceeding is exempt from the Administrative Procedure Act (APA) rulemaking requirements. Although it appears that the Department intends to follow the APA rulemaking requirements in adopting the proposed regulations, Consumer Watchdog objects to invoking the exception when it clearly does not apply. The APA is a foundational set of consumer and taxpayer protections against government overreach. It requires all agencies of the State of California to adopt regulations in accordance with proscribed procedures and standards through a public hearing process.

The APA specifies a very limited number of exceptions from these consumer protections. The Notice cites Government Code section 11340.9, subdivision (g), which exempts "[a] regulation that establishes or fixes rates, prices, or tariffs." The proposed amendments do not "establish" or "fix" rates or prices in any way. Rather, the proposed amendments instruct insurance companies on what *information* they must include in an application submitted pursuant to Proposition 103's prior approval requirements. An *amendment* that merely specifies the data required to be submitted in connection with an application does not become a rate setting amendment merely because it is part of a regulation that pertains to rates. That would be like saying that a regulation that pertains to procedures for how tax returns are filed establishes a tax.

[2] We must note that the Commissioner's March 14, 2024 notice of a workshop and proposed draft regulations to allow the use of catastrophe models in setting insurance rates (REG-2023-0010) is not addressed in the comments below. Consumer Watchdog will comment on those proposed regulations as part of that workshop but reserves its rights in this rulemaking proceeding should those proposed cat model regulations ultimately require a different interpretation of these proposed regulations.

Moreover, even if an agency could bootstrap a filing requirement into a regulation that "establishes or fixes" "rates" or "prices," Proposition 103, and the current regulations that implement it, do not do so. Proposition 103 places the responsibility on insurance companies to maintain reasonable rates and to propose, and seek the Commissioner's approval for, the proposed rate. The Commissioner does not, by regulation or otherwise, "establish" or "fix" a rate, nor set the rate, but rather approves or rejects the rate selected by each applicant. (*20th Century*, *supra*, 8 Cal.4th 216, 284–85 ["Through the ratemaking formula, the Insurance Commissioner does not himself 'set' rates for insurers. Rather, he simply determines the rate or rates that the individual insurer may itself set within the constraints of Proposition 103 as construed in *Calfarm*"].)

Furthermore, exempting the proposed amendments is inconsistent with Proposition 103's public policy purposes of public participation and public transparency. Proposition 103 could not be clearer as to the importance of public scrutiny and participation in its ongoing implementation (Ins. Code §§ 1861.07; 1861.10(a)).

Particularly now, when the insurance industry has fomented insurance shortages across the state and is threatening further widespread economic disruption unless Commissioner Lara rolls back current regulatory requirements, it is crucial that the APA's bedrock protections against arbitrary government action be respected.

II. General Comments on the Need for the February 9 Regulation Text

Proposition 103 requires insurance companies to open their books and justify applications for rate changes before they go into effect. California law states that "[n]o rate shall be approved or remain in effect which is excessive, inadequate, unfairly discriminatory or otherwise in violation of this chapter." (Ins. Code § 1861.05(a).) Section 1861.05(b) states that "[t]he applicant shall have the burden of proving that the requested rate change is justified and meets the requirements of this article."

A critical component of this "prior approval" framework is public scrutiny of the regulatory system established by the voters and the opportunity to independently challenge unlawful or discriminatory practices. Thus, the measure authorizes and encourages consumers to monitor, initiate, and participate in all rate proceedings at the Department and in the courts. (Ins. Code §§ 1861.05(a); 1861.10(a).) Insurance Code section 1861.05(c) requires the Commissioner to notify the public of an application submitted by an insurance company seeking a rate change. Section 1861.05(c) also provides consumers with the right to request within 45 days of public notice that the agency conduct a hearing on any rate application. And section 1861.07 requires that "*[a]ll* information provided to the commissioner pursuant to this article shall be available for public inspection." (Emphasis added.)

In order for the Commissioner and the public to effectively review and analyze insurers' proposed rate changes, Insurance Code section 1861.05(b) requires any insurance company seeking a rate change to file a "complete rate application," including specified data and "such other information as the commissioner may require."

As the Commissioner himself has pointed out, obtaining insurance company compliance has proved to be a serious impediment to the thorough, expeditious review of filings. Insurance Commissioner Lara testified recently that, in response to his inquiries about the reason for rate review delays, CDI analysts told him that 80% of the time, "we're waiting on them [insurance companies] to respond to the information that we need."

In a recent report on the public participation process, Consumer Watchdog reviewed 35 challenges Consumer Watchdog completed between January 2019 and October 2023 and identified at least eight challenges that were significantly delayed by the insurance company applicant, by up to 19 months.[3] The report noted that the insurers' failure to file all of the information required as part of a complete rate application, and their refusal to cooperate with requests from CDI and Consumer Watchdog for information that is needed to assess the validity of the proposed rate, are significant reasons for the lengthy delays in the review process about which insurance companies constantly complain—but for which they are primarily responsible. (*Ibid*.)

The February 9 regulation text addresses a number of substantive and technical issues that have made the application review process inefficient and subject to abuse and delays.

First, it clarifies the insurance companies' obligations under the voters' mandate. In particular, the proposed regulation text recognizes that insurance companies wish to use artificial intelligence, models, and software algorithms to make eligibility and underwriting decisions and *requires these to be publicly filed as part of a complete rate application*. Insurers routinely claim that documentation relating to cat models allowed under Section 2644.4 for the earthquake line and fire following earthquake exposure in other lines and other models used to determine premiums and eligibility for homeowners insurance, such as wildfire risk models allowed under Section 2644.9, is proprietary and confidential. As pointed out in Consumer Watchdog's 2021 comments on the previous draft, shielding models and software algorithms from the public precludes the Commissioner's and the public's ability to fully evaluate the model, its projections, and whether and the rates, premiums, and eligibility and renewal guidelines developed using such models comply with Proposition 103, and defeats the initiative statute's transparency requirements. Accordingly, any such models, if they are allowed to be used, must be publicly filed as part of a complete rate application just as the Commissioner's regulation pertaining to wildfire risk models requires (10 CCR § 2644.9(c), (f)), or else the rate application must be deemed incomplete or use of the model disallowed for purposes of the review required by Insurance Code section 1861.05 and this regulation.

The February 9 regulation text and the Initial Statement of Reasons recognizes that an insurance company's underwriting rules, rating rules, eligibility guidelines, systems, manuals, models, and algorithms (when authorized), as well as scores and policy forms that Consumer Watchdog proposes be added to the regulation text—that are used to determine whether an

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[3] Consumer Watchdog, *How Citizen Enforcement of Proposition 103 Has Saved Californians $5.5 Billion—And Why the Insurance Industry Hates It*, p. 28 (Feb. 2024), https://consumerwatchdog.org/wp-content/uploads/2024/01/Prop103CitizenEnforcement.pdf.

insurance company will sell insurance to a person, and how much that person will pay—are a vital component of the rate review process. As confirmed in the Initial Statement of Reasons:

> In order to fully evaluate an insurer's request to change its rates and determine whether the requested rate change is appropriate and not excessive, inadequate, or unfairly discriminatory, the Commissioner must be able to review all information that may have a potential impact on the requested rate during the projected rating period. Relevant here, the general criteria, guidelines, systems, manuals, models and/or algorithms that an insurer uses to determine whether to accept or reject new and renewal business and to determine an applicant's or insured's coverage or coverage options may loosely be referred to as "underwriting guidelines." The underwriting guidelines that an insurer uses to determine whether to accept or reject new and renewal business, and/or to determine an applicant's or insured's coverage or coverage options, and any proposed changes to them, may impact its existing and expected book of business and therefore the covered exposures, and thus may have a prospective rate impact. For example, if an insurer's underwriting guidelines currently permit it to underwrite a certain type of risk, then its historic losses likely reflect the inclusion of insureds with that type of risk characteristic. But if the insurer then proposes changing its rules to exclude that type of risk prospectively, then its historic loss experience may not accurately reflect its predicted future loss experience, which in turn may impact the Commissioner's evaluation of the insurer's request for a prospective rate change.

(Initial Statement of Reasons, p. 15.)

The February 9 regulation text and the Department's Initial Statement of Reasons are consistent with the Department's 2018 General Counsel legal opinion letter, which stated:

> Because underwriting rules determine the types of risks to be insured and the coverages to be offered, underwriting rules must be analyzed in connection with the rate review process to evaluate the reasonableness of a proposed rate in relation to the specific risks to be insured and coverages to be offered to determine whether such rates are ["]excessive, inadequate[,] unfairly discriminatory[, or otherwise in violation of this chapter."] (Ins. Code §1861.05(a).)[4]

[4] Kenneth B. Schnoll, Confidentiality of Underwriting Rules Filed with Rate Applications Pursuant to California Insurance Code section 186l .05(b), p. 2 (Aug. 10, 2018), https://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf. The General Counsel's opinion letter defined "underwriting rules" to include "any rule or factor used by an insurer in the process of examining, accepting, or rejecting insurance risks, and classifying those risks selected in order to charge the proper premium for each. 'Underwriting rules' shall also include, but not be limited to, the 'eligibility guidelines' insurers must maintain pursuant to 10 CCR section 2360.2.4." (*Ibid*.) 10 CCR section 2360.0(b) defines "Eligibility Guidelines" as "specific, objective factors,

Consistent with the Department's August 10, 2018 opinion letter, the Commissioner's current rate application form (including the templates), exhibits, and filing instructions require that "a ***complete*** copy of the underwriting guidelines must be submitted with ***all rate filings***, regardless of line of business, whether or not a change to those guidelines is being proposed." (Prior Approval Rate Filing Instructions, State of California Department of Insurance, June 5, 2023 Edition ["2023 filing instructions"], pp. 6, 11, 43 [emphasis in original].) An application is not "complete" absent compliance with this requirement. (*Id*. at 17, 20; see also current 10 CCR § 2648.4 incorporating the Rate Filing Instructions by reference.) "Underwriting guidelines provided to the Commissioner in connection with an Application for approval of property and casualty rates pursuant to Insurance Code section 1861.05 must be available for public inspection pursuant to Insurance Code section 1861.07." (*Id*. at 6.)

The Department's August 10, 2018 opinion letter reiterated that "[i]f an insurer fails to submit its underwriting rules with each rate application or denominates its underwriting rules as confidential and not subject to public disclosure, such rate application would not include and make available for public inspection all information required by the Commissioner . . . to evaluate fully the requested rate change."[5] The opinion concluded that "underwriting rules filed in connection with a rate application pursuant to Insurance Code section 1861.05(b) must be available for public inspection pursuant to Insurance Code section 1861.07 regardless of whether such underwriting rules are marked 'confidential,' 'proprietary,' or 'trade secret.'"[6]

Notwithstanding these unequivocal legal requirements imposed on every insurance company doing business in California and the General Counsel's opinion letter, many insurance companies have continued to refuse to publicly file a complete set of their underwriting guidelines or other documents describing models and algorithms (where authorized), or other criteria used to determine eligibility, rates, or premiums, claiming such information is confidential, proprietary, and/or trade secret.

For example, State Farm General Insurance Company ("State Farm") failed to publicly disclose its underwriting guidelines with its February 15, 2018 application for a 6.7% increase to its homeowner, condo, and renter insurance rates (File No. 18-1196, Proceeding No. PA-2018-00002); its August 31, 2018 application for a 6.7% increase to its homeowner, condo, and renter

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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." Section 2360.2 requires an insurer to "maintain eligibility guidelines for every line of insurance offered for sale to the public" and further provides, "The Eligibility Guidelines shall be sufficiently detailed to determine the appropriate rating plan for the insured. An insured or applicant who meets the eligibility guidelines shall qualify to purchase the insurance."

[5] Schnoll, *supra* note 4, at 3.

[6] *Id.* at 4.

insurance rates (File No. 18-4896); and its 2018 auto symbols class plan (File No. 18-4906-CP, Proceeding No. PA-2018-00004).[7]

The company asserted that the General Counsel's August 10, 2018 opinion letter was not a regulation (citing Ins. Code § 12921.9(b)) and that it conflicted with the regulation on the books. Consumer Watchdog challenged State Farm's legal violations in each of the foregoing rate proceedings, and after over two years of tenacious advocacy, finally reached stipulations with the Department and State Farm requiring that the company use only underwriting guidelines that have been publicly filed with the Department, and to publicly file its complete underwriting guidelines contemporaneously with all future rate and rule applications without marking such documents as confidential, proprietary, or trade secret.

Other companies have also failed to file complete underwriting guidelines by claiming that certain portions of their eligibility guidelines are confidential and refusing to provide them with their public rate applications filed with the Department. For example, in a rule change application filed by Farmers Insurance Exchange ("Farmers") on March 13, 2020 seeking to change its homeowners eligibility guidelines by using a combination of scores generated from FireLine and a new wildfire risk model called Z-FIRE (File Nos. 20-865, 20-865-A, 20-865-B; Proceeding No. PA-2020-00006), the company failed to file a document referred to as its "Combined Wildfire Eligibility Guidelines" containing the very information it would be relying on under the new rule to refuse coverage. In response to Consumer Watchdog's petition for hearing challenging Farmers' violations of sections 1861.05 and 1861.07 by failing to justify its proposed rule change and file a complete set of its proposed eligibility guidelines, Farmers claimed that the guidelines contained Farmers' "internal, confidential, and proprietary information." Only after several rounds of correspondence by Consumer Watchdog and the Department on the issue did Farmers finally file its Combined Wildfire Eligibility Guidelines in August 2020, almost five months after it had filed its original rule change application.

As these proceedings illustrate, when companies like State Farm, Farmers, and others fail to file complete underwriting guidelines with their initial rate or rule applications or otherwise attempt to shield portions of their rating and eligibility criteria from public disclosure, consumers are deprived of their statutory right to a period of 45 days in which to review the complete application before the deadline to request a hearing under section 1861.05(c), and the overall rate review process becomes significantly protracted.

Moreover, as noted previously, when consumers do file petitions for hearing to challenge to these violations, vast amounts of time and resources of the Department, consumer group petitioners, and insurers are consumed by fighting over whether the insurer will comply with public disclosure requirements in order to allow a complete review of the application. These same insurance companies and their lobbying organizations often complain that the prior approval review process is too time consuming, but their obstinance in refusing to disclose all the

[7] State Farm also failed to file its *complete* underwriting guidelines in its subsequent 2019 homeowner rate increase application (File No. 19-2063, Proceeding No. 2019-00006) as well as its 2019 auto rate and symbols class plan applications (File Nos. 19-544 and 19-3657-CP).

information upon which their applications rely is typically responsible for much of the delay in processing their applications.

The February 9 regulation text aims to provide clear direction by setting forth all information the Commissioner requires to be submitted with a complete rate application under section 1861.05(b) and made public under section 1861.07 in order to determine whether proposed rates and underwriting rules comply with Proposition 103.

A second important element of the February 9 regulation text is that it eliminates references in the current regulations to technical documents that are severely outdated. The Department's current regulations, and accompanying rate application forms, exhibits, and prior approval rate filing instructions, all expressly incorporate a 1996 rate application form, exhibits, and filing instructions. Therefore, it is necessary to amend and update the regulations to strike the outdated references, while also preserving the descriptions of the data and exhibits necessary for compliance.[8]

In Section III below, Consumer Watchdog provides its provision-by-provision comments on the February 9 regulation text and proposed edits to clarify and/or amend certain provisions to comply with Proposition 103. Critically, our amendments will ensure that consumers are notified of all rate change applications when filed, when an application is rejected as incomplete, when a hearing is noticed on that determination, and after an application is determined to be complete. Our proposed amendments also make clear that all information required to be filed with the Commissioner as part of a complete rate application must be publicly available and not marked as confidential, proprietary, or trade secret.

[8] Consumer Watchdog notes that these documents have not been adopted as regulations and therefore do not have the force of law, which is why the regulations must clearly spell out the information required as part of a complete rate application. Since insurance companies use the filing instructions as a guide to completing rate applications, however, it is critical that they accurately conform to the law and governing regulations. Unfortunately, the filing instructions presently contain numerous flaws and conflicting provisions. As one example: the 2023 prior approval filing instructions assert that "[a]n Application with full rate support may subsequently be required at the discretion of the Department if it determines that the changes to underwriting guidelines may have a material impact on rates." (2023 filing instructions, p. 4.) Proposition 103 requires prior approval of *all* rate changes. Nothing in Proposition 103 limits the prior approval requirement to proposed changes that have a "*material impact* on rates."

III. Comments on Specific Provisions of the February 9 Regulation Text[9]

A. Section 2643.3. Total Aggregate Earned Premiums.

CDI's Proposed February 9 Regulation Text

(b) Complete ~~R~~rate applications ~~(Form CAR-1 (last revised 1/94))~~ shall be filed on a line-by-line basis, as set forth in ~~s~~Section 2642.7. ~~The application shall be accompanied by the rating manual, rating plan, all policy forms to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line.~~ The Commissioner shall require the filing of such other information as the Commissioner deems necessary to review the application.

CWD Comment

Consumer Watchdog supports the Department's proposed changes to this section of the regulations. Our one technical edit, which appears in **bold** below, makes clear that a complete rate application shall include all of the items specified in Section 2648.4 (as amended through this rulemaking), which we believe should contain a complete list of all information and documentation required to be filed in order for an application to be complete. This amendment is consistent with Insurance Code section 1861.05(b), which states: "A complete rate application shall include all data referred to in Sections 1857.7, 1857.9, 1857.15 [repealed], and 1864 *and* such other information as the commissioner may require." (Emphasis added.)

CWD Proposed Edits to Section 2643.3

(b) Complete ~~R~~rate applications ~~(Form CAR-1 (last revised 1/94))~~ shall be filed on a line-by-line basis, as set forth in ~~s~~Section 2642.7**, and include the information required by Section 2648.4**. ~~The application shall be accompanied by the rating manual, rating plan, all policy forms to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line.~~ The Commissioner shall require the filing of such other information as the Commissioner deems necessary to review the application.

[9] All of Consumer Watchdog's proposed additions to CDI's draft regulation text are in **bold/underline** and all deletions are in **bold/strikethrough**.

B. Section 2644.27. Variance Request.

CDI's Proposed February 9 Regulation Text

(b) Requests for variances shall be filed with the Rate Regulation Branch, ~~Filing Bureau on pages 11a and 11b of the Prior~~ together with the insurer's ~~Approval~~ complete ~~R~~rate ~~A~~application. All such variance requests shall specifically:

…

(c) Requests for variances shall be filed at the same time as the ~~prior approval~~ insurer's complete rate application to which it applies or after the filing of the complete rate application and before any final determination regarding that application. Public notice of all variance requests shall be provided as set forth in ~~California~~ Insurance Code ~~S~~sections 1861.05, subdivision (c), and 1861.06.

…
(e) Variance requests shall be determined in conjunction with the related ~~prior approval~~ complete rate application or rate hearing thereon.

…
(vi) No expense that is included within the Defense and Cost Containment Expense portion of an insurer's complete rate application can be included in whole or in part as the basis for a variance based on SIU expenses. The terms "Defense and Cost Containment Expense" or "DCCE" when used with regard to any variance have the same meaning as those terms have in ~~s~~Section 2644.23, subdivision (c).

CWD Comment

Consumer Watchdog supports the CDI's technical, non-substantive changes to Section 2644.27. However, CDI's proposed amendment to subdivision (b) could be read to mean that requests for variances are made in a separate filing, rather than as part of the exhibits and templates that are required to be filed in a complete rate application. The proposed regulation text should be amended to make clear that any variance request is submitted as part of the complete rate application or as an amendment to the complete rate application. Also, subdivision (c) should be amended to follow the current practice and make clear that if a rate application is amended to include a variance request after the initial filing, the amended application with requested variance(s) will be subject to additional public notice pursuant to Insurance Code sections 1861.05(c) and 1861.06. Consumer Watchdog's proposed edits below (in **bold)** address these clarifications.

CWD Proposed Edits to Section 2644.27

(b) Requests for variances shall be filed with the Rate Regulation Branch, ~~Filing Bureau on pages 11a and 11b of the Prior~~ **~~together with~~ as part of** the insurer's ~~Approval~~

complete ~~R~~rate ~~A~~application **or as an amendment after the filing of the complete rate application and before any final determination regarding that application**. All such variance requests shall specifically:

…

(c) **~~Requests for variances shall be filed at the same time as the prior approval insurer's complete rate application to which it applies or after the filing of the complete rate application and before any final determination regarding that application.~~** Public notice of all **rate applications containing** variance requests shall be provided as set forth in ~~California~~ Insurance Code ~~S~~sections 1861.05, subdivision (c), and 1861.06. **If an application is amended to include a variance request after it has been publicly noticed, CDI shall provide public notice of the amended application with the variance request as set forth in Sections 1861.05, subdivision (c) and 1861.06.**

C. Section 2648.1. Scope.

CDI's Proposed February 9 Regulation Text

~~(a) Except as provided for herein, t~~This article applies to complete rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b), and proceedings commenced by the issuance of a notice of hearing, or other notice or order commencing a proceeding on a rate application issued by the Commissioner pursuant to Insurance Code ~~S~~section 1861.05, subdivision (c).

~~(b) This article shall not apply to applications for exemption from Insurance Code Section 1861.01(a), file and use rate applications filed prior to November 8, 1989, or applications for rate changes pursuant to Insurance Code Section 1861.05 which are filed prior to July 1, 1993. Refiling of applications for rate changes pursuant to Insurance Code Section 1861.05 shall be made by filing the Department cover sheet entitled "Cover Sheet for Re-Filing of Application for Approval of Insurance Rates," Department form number CA-RA1, dated May 1, 1993, which is incorporated by reference. In addition, for those applications which were submitted with data that is no longer current, updated data must also be submitted with the cover sheet.~~

CWD Comment

Consumer Watchdog proposes an additional edit to Section 2648.1(a) to conform to the regulations that specify a rate proceeding is commenced upon the filing of a petition for hearing as below.

CWD Proposed Edits to Section 2648.1(a)

~~(a) Except as provided for herein, t~~This article applies to complete rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b), and proceedings commenced by **the filing of a petition for hearing,** the issuance of a notice of hearing,

or other notice or order commencing a proceeding on a rate application issued by the Commissioner pursuant to Insurance Code ~~S~~section 1861.05, subdivision (c).

D. Section 2648.2. Receipt of Rate Application By Commissioner.

CDI's Proposed February 9 Regulation Text

(a) For the purpose of Insurance Code ~~S~~section 1861.05, subdivision (c), a complete rate ~~change~~ application shall be considered to have been received by the Commissioner on the date that ~~it is~~ all information, materials, and documents required by Section 2648.4 as part of a complete rate application have been ~~received by~~ delivered to the Department's Rate Regulation Branch~~Filing Bureau~~ by means of submittal using the System for Electronic Rate and Form Filing (SERFF).

(b) Within ~~14~~30 days of being delivered pursuant to subdivision (a) of this Section 2648.2~~receipt~~, the Commissioner shall review rate applications for completeness as required by Insurance Code ~~S~~section 1861.05, subdivision (b). If the application includes ~~the forms and exhibits listed in the Filing Checklist, as provided in~~all information, materials and documentation required by Section 2648.4, ~~and the data required therein,~~ it is complete. If the Commissioner determines that the application is not complete because it does not include ~~such forms, exhibits, or the data required therein,~~all information, materials and documentation required by Section 2648.4 for a complete rate application, notice stating the grounds for incompleteness will be given to the insurer within the ~~14~~30 day period and the application will be rejected. Within 10 days of the date that such notice is given, the insurer may request a hearing on the rejection.

(c) The hearing shall be held within 10 days of receipt of the request by the Department's Rate Enforcement Bureau. The scope of the hearing shall be limited to the completeness of the application.

(d) If, after a hearing, an application is determined to have been complete when filed, then the 180 day period specified in Insurance Code ~~S~~section 1861.05, subdivision (c) shall have commenced on the date the application was first filed. If the application is determined to be incomplete, then it shall remain rejected.

(e) Rejection of an application for incompleteness shall not bar the refiling of a complete application.

(f) Public notice of the complete rate application as required by Insurance Code ~~S~~section 1861.05, subdivision (c) shall be made within 10 days after the Commissioner determines that an application is complete.

CWD Comment

Since the passage of Proposition 103 thirty-five years ago, the Commissioner has issued a weekly public notice of rate filings—which is now made available upon request via email. The public notice marks the inception of the 45-day statutory public review period,

during which members of the public may review the application and request a public hearing if it believes the company has failed to justify its request.

The proposed regulation expands the timeline of the completeness review process from 14 to 30 days, which is not intended to trigger the 45-day statutory timeline for filing any petition for hearing. The stated purpose of the proposal is to avoid delay and inefficiency for the Department and a "consumer representative" when a company's application omits required information. The Department states that the newly specified filing requirements will make it easier for consumer representatives to decide whether to seek a hearing, and if they do, eliminate time-consuming efforts to obtain the missing information. (Initial Statement of Reasons, p. 3) Consumer Watchdog agrees with these goals.

We view this proposed 30-day completeness review process as ministerial and the review of the application during this time period as confined to confirming compliance with the new complete rate application requirements. That is the only way in which it would be compatible with Insurance Code section 1861.05(c), which requires "the commissioner [to] notify the public of any application by an insurer for a rate change," in order for members of the public to exercise their right to review and request a public hearing on the application. It would be a violation of Proposition 103 for the Commissioner, CDI, or an insurance company to conduct any substantive review of the application behind closed doors before the application is publicly noticed.

In other words, to be consistent with Proposition 103, the proposed regulation does not and cannot foreclose consumer intervenors from challenging any completeness determination, requesting further information relevant to review of the rate application, or raising any substantive issues once the rate application is determined to be complete and publicly noticed.

To harmonize the intent of the regulation with the plain language of the statute, the regulation should be amended to require immediate public notice when a rate application is initially submitted.

Similarly, the public should be notified of the outcome of the 30-day completeness review that the Commissioner has either determined the application is complete, or, if incomplete, whether the insurance company has requested a hearing on that decision.

The regulation should also make clear that if an application is ultimately determined to be incomplete, it must be rejected and withdrawn, and any subsequent refiling of an application that includes the information that was determined to be missing shall be subject to public notice pursuant to Insurance Code sections 1861.05(c) and 1861.06.

CWD Proposed Edits to Section 2648.2

(a) For the purpose of Insurance Code ~~S~~section 1861.05, subdivision (c), a complete rate ~~change~~ application shall be considered to have been received by the Commissioner on the

date that ~~it is~~ all information, materials, and documents required by Section 2648.4 as part of a complete rate application have been ~~received by~~ delivered to the Department's Rate Regulation Branch~~Filing Bureau~~ by means of submittal using the System for Electronic Rate and Form Filing (SERFF).

(b) **Within 5 days of a rate application being submitted on SERFF, the Commissioner shall notify the public of the submission.** Within ~~14~~30 days of being delivered pursuant to subdivision (a) of this Section 2648.2~~receipt~~, the Commissioner shall review rate applications for completeness as required by Insurance Code ~~S~~section 1861.05, subdivision (b). If the application includes ~~the forms and exhibits listed in the Filing Checklist, as provided in~~all information, materials and documentation required by Section 2648.4~~, and the data required therein,~~ it is complete. If the Commissioner determines that the application is not complete because it does not include ~~such forms, exhibits, or the data required therein,~~all information, materials and documentation required by Section 2648.4 for a complete rate application, notice stating the grounds for incompleteness will be given to the insurer **and the public** within the ~~14~~30 day period and the application **~~will~~shall** be rejected **and withdrawn**. Within 10 days of the date that such notice is given, the insurer may request a hearing on the rejection.

(c) The hearing shall be held within 10 days of receipt of the request by the Department's Rate Enforcement Bureau. The scope of the hearing shall be limited to the completeness of the application.

(d) If, after a hearing, an application is determined to have been complete when filed, then the 180 day period specified in Insurance Code ~~S~~section 1861.05, subdivision (c) shall have commenced on the date the application was first filed. If the application is determined to be incomplete, then it shall remain rejected.

(e) Rejection of an application for incompleteness shall not bar the refiling of a complete application.

(f) Public notice of the complete rate application as required by Insurance Code ~~S~~section 1861.05, subdivision (c) shall be made within 10 days after the Commissioner determines that an application is complete.

(g) The Commissioner shall notify the public of an incomplete application pursuant to subdivision (b) of this section and of any request for a hearing on a rejection of an application for incompleteness pursuant to subdivision (b) of this section.

E. Section 2648.4. Complete Rate Application.

CDI's Proposed February 9 Regulation Text

(a) ~~In order to be complete,~~ Pursuant to Insurance Code section 1861.05, subdivision (b), every insurer that desires to change any rate must file a complete rate application which must include

the ~~following~~information required by Insurance Code section 1861.05, subdivision (b), and all information as the C~~c~~ommissioner may require in order to perform a complete analysis of a rate application, including but not limited to the exhibits, data, information, materials and documentation specified by Sections 2641.1 through 2643.8 and Sections 2644.1 through 2644.28 as those sections may from time to time be amended. A complete rate application shall also include all of the materials described in subdivisions (b) through (e) of this Section 2648.4. ~~forms, exhibits, data and documentation, which are incorporated by reference: application for approval (form CA-RA1, 5-1-96 ed.), duplicate of form CA-RA1 for return copy, self-addressed envelope with sufficient postage to return the duplicate copy of CA-RA1, Rate/Rule/Underwriting Rule Submission Data Sheet (form CA-RA2, 5-1-96 ed.), Line of Business (form CA-RA3, 5-1-96 ed.), Filing Checklist (form CA-RA4, 5-1-96 ed.), Ratemaking Data (form CA-RA5, 5-1-96 ed.), Reconciliation Report (form CA-RA6, 5-1-96 ed.), Additional Data Required by Statute (form CA-RA7, 5-1-96 ed.), Miscellaneous Data (form CA-RA8, 5-1-96 ed.), Filing History (to be labeled Exhibit 1), Rate Level History (to be labeled Exhibit 2), Premium Adjustment Factor (to be labeled Exhibit 3), Premium Trend Factor (to be labeled Exhibit 4), Allocated Loss Adjustment Expense (to be labeled Exhibit 5), Loss Development Factors (to be labeled Exhibit 6), ALAE Development Factors (to be labeled Exhibit 7), Loss Trend, ALAE Trend, and Expense Trend (to be labeled Exhibit 8), Catastrophe Adjustment (to be labeled Exhibit 9), Policy Term Distribution (to be labeled Exhibit 10), Credibility Adjustment (to be labeled Exhibit 11), Data Availability Report (to be labeled Exhibit 12), Interjurisdictional Expense Allocations (to be labeled Exhibit 13), Unallocated Loss Adjustment Expense (to be labeled Exhibit 14), Other Expense Items (to be labeled Exhibit 15), Ancillary Income (to be labeled Exhibit 16), Federal Income Tax Rate (to be labeled Exhibit 17), Projected Investment Income Ratio (to be labeled Exhibit 18), Loss Reserves, Loss Adjustment Expense Reserves, and Unearned Premium Reserves (to be labeled Exhibit 19), Insurer's Ratemaking Calculations (to be labeled Exhibit 20), Rate Distribution (to be labeled Exhibit 21), Rate Classification Relativities (to be labeled Exhibit 22), New Program (to be labeled Exhibit 23), Group Filing (to be labeled Exhibit 24), rating rules, and rate pages. The application must also contain a summary and explanation of the purpose for the filing. The Filing Instructions (forms CA-IA1 -CA-I8, 5-1-96, ed.) for these forms and exhibits are incorporated by reference.~~

(b) ~~Notwithstanding the completeness determination, the Commissioner may later require the submission of relevant underwriting rules and other relevant documents from an applicant in order to perform a complete analysis of an application.~~A complete rate application shall include any and all criteria, guidelines, systems, manuals, models and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

Specifically, the complete rate application shall include, without limitation, a complete set of, and any proposed changes to, any and all of the following:
(1) An insurer's eligibility guidelines as defined in Sections 2360.0 through 2360.7;

(2) Any and all criteria, guidelines, systems, manuals, models and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed, or restrict the coverages

offered, in specific geographic areas such as ZIP codes, counties, or territories, for any reason, including over-concentration; and

(3) Any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

(c) ~~Requests for variances as authorized by section 2644.27 shall be on the following form:~~

~~STATE OF CALIFORNIA — Insurer Name~~
~~DEPARTMENT OF INSURANCE — Line of Business~~

~~Request for Variance~~

~~1. Identify each variance requested.~~

~~2. Identify the extent or amount of the variance requested and the applicable efficiency standard, rate of return, loss development factors or trend which will result if the variance is granted.~~

~~3. Set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied.~~

~~4. Identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change in the applicable efficiency standard, rate of return, loss development factors or trend that is being proposed.~~

~~xx-xx-06 ed. — CA-RA9~~

A complete rate application shall also include any and all criteria, guidelines, systems, manuals, models and algorithms, and any proposed changes thereto, an insurer, agent, broker, or underwriter uses or relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules.

(d) A complete rate application shall also include a complete and entire copy of any and all written and electronic descriptions of all of the materials described in subdivisions (a) through (c) of this section.

(e) Pursuant to Insurance Code section 1861.05, subdivision (b), the Commissioner may, in order to perform a complete analysis of a rate application that was previously deemed complete pursuant to section 2648.2, subdivision (b) but has not yet been approved, require the insurer to submit additional information, forms, templates, exhibits, data and documentation during the Commissioner's review of the application.

CWD Comment

Consumer Watchdog supports the Department's proposed amendments to Section 2648.4 to eliminate references to outdated rate application forms, exhibits, and filing instructions and replace with clear references to all the information and documentation that the Commissioner requires to be submitted as part of a complete rate application pursuant to his authority under Insurance Code section 1861.05(b).

Section 1861.05 applies not only to rate change applications, but also prohibits rates from "remain[ing] in effect" that are "excessive, inadequate, unfairly discriminatory, or otherwise in violation of" Proposition 103 (emphasis added).

More specifically, the rate review process encompasses the review of rate, rule, form, and class plan filings for compliance with Proposition 103 and California law, which the CDI acknowledges indisputably *requires* scrutiny and analysis of certain "materials, information, and documents that demonstrate whether the requested rate is appropriate and not excessive, inadequate, or unfairly discriminatory," or otherwise in violation of the law, including "without limitation, insurers' historical data supporting an estimate of the projected losses, expenses, and investment income expected during the projected rating period, as well as information regarding how insurers determine whether to accept and write certain risks, including, without limitation, any and all criteria, guidelines, systems, manuals, models and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed; any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk; and any and all criteria, guidelines, systems, manuals, models and algorithms an insurer, agent, broker, or underwriter relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules." (Initial Statement of Reasons, p. 2; see also *id.* at p. 15 ["In order to fully evaluate an insurer's request to change its rates and determine whether the requested rate change is appropriate and not excessive, inadequate, or unfairly discriminatory, the Commissioner must be able to review all information that may have a potential impact on the requested rate during the projected rating period"].) The determination of whether such information has an impact on rates cannot be left to the company. A complete rate application is thus necessary to properly evaluate whether a proposed change to any rating or underwriting rule or eligibility guideline will result in a rate that is excessive, inadequate, unfairly discriminatory, or otherwise in violation of Proposition 103 or California law. Accordingly, we read proposed Section 2648.4(a) as requiring that a complete rate application must be filed when an insurer seeks to change any rate, rating or underwriting rule, or eligibility guideline, and any such changes must not be implemented until the application has been approved.

As Consumer Watchdog proposed in its February 2021 comments, subdivision (a) should also include an express reference to the current rate application form, standard exhibits, rate templates, and checklists as published by the Department and made available on its public website, which insurers are required to fill out and file as part of a complete rate application. As drafted, the regulation text refers to all the data and "exhibits" that must be included in the rate application, but there are no exhibits specified in the referenced regulation sections.

As advocated in its February 2021 comments Consumer Watchdog supports the CDI's amendment of the proposed regulation text to include "models" used for determining rates, premiums, and eligibility as part of the data and information required as part of a complete rate application under Section 2648.4. We also continue to advocate explicitly including "scores" in the regulation text, even though the CDI makes clear in its Initial Statement of Reasons at page 18 that a change in wildfire risk scores would be a guideline change that would be required to be filed as part of a complete rate application.

The CDI must make clear in its Final Statement of Reasons and responses to public comment, consistent with Section 2644.9 and the February 9 regulation text that the actual model itself (and its output) "without limitation" is required to be filed and made publicly available as part of a complete rate application, not just documentation describing the model. As noted in Section II above, hiding this information from the public prevents the Commissioner and the public from being able to fully evaluate the model's projections and determine whether the resulting rates, premiums, and eligibility and renewal guidelines developed using such models comply with Proposition 103 in violation of Insurance Code sections 1861.05 and 1861.07.

Additionally, the language "written and electronic descriptions of" in proposed subdivision (d) is unclear and so, Consumer Watchdog suggests changing to "written and electronic documents describing . . . ."

Consumer Watchdog also welcomes subdivision (e), which for the avoidance of doubt confirms that the review for completeness does not in any way limit the obligation on insurance companies to provide further information during a rate proceeding that is necessary for the thorough evaluation of the rate application.

Finally, consistent with Insurance Code section 1861.07, the regulation should make clear that all information required to be filed with the Commissioner as part of a complete rate application must be publicly available and not marked as confidential, proprietary, or trade secret.

CWD Proposed Edits to Section 2648.4

(a) ~~In order to be complete,~~ Pursuant to Insurance Code section 1861.05, subdivision (b), every insurer that desires to change any rate**, rating rule, or any guideline or criteria used to determine whether to accept, cancel, or non-renew a risk** must file a complete rate application which must include the ~~following~~information required by Insurance Code section 1861.05, subdivision (b), and all information as the C~~c~~ommissioner may require in order to perform a complete analysis of a rate application, including but not limited to the exhibits, data, information, materials and documentation specified by Sections 2641.1 through 2643.8 and Sections 2644.1 through 2644.28 as those sections may from time to time be amended, **and the rate application form, exhibits, and templates available on the Department's public website**. A complete rate application shall also include all of the materials described in subdivisions (b) through (e) of this Section 2648.4. **[stricken text removed]**

(b) ~~Notwithstanding the completeness determination, the Commissioner may later require the submission of relevant underwriting rules and other relevant documents from an applicant in order to perform a complete analysis of an application.~~A complete rate application shall include any and all criteria, guidelines, systems, manuals, models**, model output,**~~**and**~~ algorithms**, scores, and policy forms,** the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

Specifically, the complete rate application shall include, without limitation, a complete set of, and any proposed changes to, any and all of the following:

(1) An insurer's eligibility guidelines as defined in Sections 2360.0 through 2360.7;

(2) Any and all criteria, guidelines, systems, manuals, models**, model output,** ~~**and**~~ algorithms**, scores, and policy forms,** an insurer uses to reduce, increase, or restrict the number of policies written or renewed, or restrict the coverages offered, in specific geographic areas such as ZIP codes, counties, or territories, for any reason, including over-concentration; and

(3) Any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

(c) **[stricken text removed]** A complete rate application shall also include any and all criteria, guidelines, systems, manuals, models**, model output,** ~~**and**~~ algorithms**, scores, rules, and policy forms,** and any proposed changes thereto, an insurer, agent, broker, or underwriter uses**, consults, reviews,** or relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules.

(d) A complete rate application shall also include a complete and entire copy of any and all written and electronic ~~**descriptions of**~~ **documents describing** all of the **data, information, and documentation set forth** ~~**materials described**~~ in subdivisions (a) through (c) of this section.

(e) Pursuant to Insurance Code section 1861.05, subdivision (b), the Commissioner may, in order to perform a complete analysis of a rate application that was previously deemed complete pursuant to section 2648.2, subdivision (b) but has not yet been approved, require the insurer to submit additional information, forms, templates, exhibits, data and documentation during the Commissioner's review of the application.

***

(f) Pursuant to Insurance Code section 1861.07, all information and documentation required to be submitted to the Department as part of a complete rate application pursuant to subdivisions (a) through (e) of this section shall be made available for public inspection and shall not be marked as confidential, proprietary or trade secret.

EXHIBIT 8

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

FINAL STATEMENT OF REASONS

COMPLETE PROPERTY AND CASUALTY RATE APPLICATION

September 12, 2024 **REG-2019-00025**

UPDATED INFORMATIVE DIGEST

All the information in the Informative Digest of the Notice of Proposed Action and Notice of Public Hearing dated February 9, 2024, remains accurate and requires no updating. There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action and Notice of Public Hearing.

TEXT OF REGULATIONS

The text of the regulations has not been updated or changed; the Text of the Regulations noticed on February 9, 2024, remains accurate and requires no updating.

UPDATE OF INFORMATION CONTAINED IN INITIAL STATEMENT OF REASONS

All the information provided in the Initial Statement of Reasons dated February 9, 2024, remains accurate and requires no updating. No material other than the transcript of the public hearing and this Final Statement of Reasons has been added to the rulemaking file since the time the rulemaking record was opened, and no additional material has been relied upon.

UPDATE OF STUDIES, REPORTS, DOCUMENTS

No material other than the transcript of the public hearing and this Final Statement of Reasons has been added to the rulemaking file since the time the rulemaking record was opened, and no additional material has been relied upon.

NOT MANDATED BY FEDERAL LAW OR REGULATIONS

These regulations are not mandated by federal law. No existing federal regulations or statutes are comparable to these proposed regulations, as no federal statutes or regulations address property and casualty insurance rating factors.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

As stated in the Notice of Proposed Action and Notice of Public Hearing, the Department has determined that the proposed regulations will not impose a cost to any local agencies or school

districts that require reimbursement under Government Code section 17500 et seq., nor will it result in other nondiscretionary costs or savings to local agencies.

ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESS

The Department's findings in its Notice of Proposed Action and Notice of Public Hearing and its Initial Statement of Reasons remain the same. No alternatives were proposed to the Department that would lessen any adverse economic impact on small businesses. As a matter of law, insurers are not small businesses, pursuant to subdivision (b)(2) of Government Code section 11342.610.

ALTERNATIVES DETERMINATION

The Department has determined that no alternative it considered would be more effective in carrying out the purpose for which the action is proposed, would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. No commenter proposed an alternative that would be more cost-effective than the proposed regulations, and that would carry out the purpose for which the action is proposed. There has been no change to the Analysis of Alternatives to the Proposed Regulation that appeared in the Initial Statement of Reasons.

SUMMARY OF AND RESPONSE TO COMMENTS

The Department received comments from the public in response to the Notice of Proposed Action and Notice of Public Hearing issued on February 9, 2024 and at the public hearing held on March 26, 2024. The public comments and the Department's responses are set forth below.

COMMENTS RECEIVED AND DEPARTMENT RESPONSE

List of Written Comments Received During the 45-day comment period ending March 26, 2024

1. Written Comment from United Policyholders (1)
2. Written Comment from United Policyholders (2)
3. Written Comment from Consumer Federation of California Education Foundation (1)
4. Written Comment from Consumer Federation of California Education Foundation (2)
5. Written Comment from Consumer Watchdog
6. Written Comment from Personal Insurance Federation of California
7. Written Comment from American Property Casualty Insurance Association
8. Written Comment from Pacific Association of Domestic Insurance Companies
9. Written Comment from Rural County Representatives of California
10. Written Comment from Verisk
11. Written Comment from California Building Industry Association, et al (1)
12. Written Comment from California Building Industry Association, et al (2)
13. Written Comment from Independent Insurance Agents and Brokers of California
14. Written Comment from Katie Oliver, United Policyholders (1)

15. Written Comment from Katie Oliver, United Policyholders (2)
16. Written Comment from Richard Holober, Consumer Federation of California Education Foundation
17. Written Comment from Yarissa Ramirez, Consumer Federation of California Education Foundation
18. Written Comment from Pam Pressley, Consumer Watchdog
19. Written Comment from Allison Adey, Personal Insurance Federation of California
20. Written Comment from Denneile Ritter, American Property Casualty Insurance Association
21. Written Comment from Shari McHugh, Pacific Association of Domestic Insurance Companies
22. Written Comment from Kara Cross, Verisk
23. Written Comment from Kyle Griffith, Bicker, Castillo, Fairbanks & Spitz Public Affairs (1)
24. Written Comment from Kyle Griffith, Bicker, Castillo, Fairbanks & Spitz Public Affairs (2)
25. Written Comment from Stephen L. Young, Independent Insurance Agents and Brokers of California
26. Written Comment from Staci Heaton, Rural County Representatives of California
27. Written Comment from Cliff Edens, Private Citizen Redacted
28. Written Comment from Cynthia Stewart, Private Citizen Redacted
29. Written Comment from Darlene Markey, Private Citizen Redacted
30. Written Comment from David Richardson, Private Citizen Redacted
31. Written Comment from Elaine Straw, Private Citizen Redacted
32. Written Comment from Fran Peace, Private Citizen (1) Redacted
33. Written Comment from Fran Peace, Private Citizen (2) Redacted
34. Written Comment from Fran Peace, Private Citizen 3 Redacted
35. Written Comment from Frank and Claudette Weismantel, Private Citizens Redacted
36. Written Comment from Guillermo A. A Cornejo, Private Citizen Redacted
37. Written Comment from Jaime Kern, Private Citizen Redacted
38. Written Comment from Jim Tygrett-DeNuzzi, Private Citizen Redacted
39. Written Comment from Jordan Clark, Private Citizen Redacted
40. Written Comment from Jovita Pattison, Private Citizen Redacted
41. Written Comment from Kathleen O'Hern, Private Citizen Redacted
42. Written Comment from Kim Dietz, Dietz Rentals
43. Written Comment from Larla Maloney, Private Citizen Redacted
44. Written Comment from Larry and Jennifer Mossi, Private Citizens Redacted
45. Written Comment from Liz Froneberger, Private Citizen Redacted
46. Written Comment from Mary Russel, Private Citizen Redacted
47. Written Comment from Patricia Eldred, Private Citizen Redacted
48. Written Comment from Randal P Raymaker, Private Citizen Redacted
49. Written Comment from Robyn Caywood, Private Citizen Redacted
50. Written Comment from Sora Oneiga, Private Citizen Redacted
51. Written Comment from Steven Murphy, Private Citizen Redacted
52. Written Comment from Larla Maloney, Private Citizen Redacted
53. Written Comment from Coral Moon, Private Citizen Redacted
54. Written Comments submitted via OneClickPolitics lobbying campaign (see all comments in Appendix A at the end of Final Statement of Reasons)

Written Comments Received During the 45-day comment period ending March 26, 2024 and Department Response

1. Written Comment from United Policyholders (1)

Testimony For REG-2019-00025 – "Complete Property and Casualty Rate Regulation"

United Policyholders[i] appreciates the opportunity to comment on the proposed regulations and thanks the CDI and Commissioner Lara for taking this step forward to not only improve the transparency of the rate approval process but also to add much needed new requirements specifying components critical to evaluation of a filing for a new rating plan or for a change to an existing rating plan.

Arguably these amendments are long overdue.

It is our belief that the proposed language for each of subsections 2648.4(a), (b), and (c) are essential to positioning the Department as well as consumers and consumer groups to have the necessary details regarding the proposed rate - not only to make a determination of the appropriateness of the rate, but to more readily determine if subsequent application of the rate is consistent with the approved application. This is a very important step forward.

> **Department Response**: These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

However, it is also our belief that the Department should go further in improving the prior approval process.

First, the process should require that the insurer file the policy form(s) that will be in effect if and when the proposed rates take effect. If the filing is for a rate change, the insurer should highlight the differences (if any) between the policy form(s) in effect during the historical loss period and the proposed forms. An explanation of the impact(s) of the change(s) to the policy forms should be addressed in the filing.

> **Department Response:** Policy forms are not among the items the Commissioner currently requires or necessarily needs to complete its review. To require policy forms in all rate applications as initially submitted would not be efficient for the review of the rate applications, especially where there are no material changes. However, under the regulations, the Commissioner may subsequently require the filing of policy forms if they are needed to complete the review of the rate application.

Second, if the filing is for a rate change, the process should require that the insurer file a detail of any changes to the criteria specified in proposed 2648.4(b)(1)(2) and (3) from those same rules and guidelines that were in effect during the historical loss period used to justify the filing.

For example, assume that much of an insurer's homeowners' line's catastrophic fire losses occurred in homes located in Fire Protection Class 10. Then consider whether the insurer has since nonrenewed most of those insureds as well as prohibited eligibility for new business. This would greatly impact the catastrophe adjustment that would be justified moving forward. Again, an explanation of the impact of the changes to the underwriting criteria for new or renewal business should be addressed in the filing.

The purpose of these enhancements would be to make clear the contrast between and changes in coverages, in eligibility for coverage, or in the composition in the insured population between the information relied upon to approve the rates in effect as compared to coverages and underwriting standards that will be in place during the tenure of the proposed rate. Further, the filing would then provide a more complete record for comparative information that could be used to validate subsequent filings.

> **Department Response:** Currently, the Commissioner already instructs insurers to submit the materials described. The Department's current review process does consider changes to eligibility guidelines, requiring that they be filed in every application, and that will not change. But the Commissioner does not require all insurers to specifically "file a detail of changes" to eligibility guidelines in the initial submission of all rate filings. Requiring insurers to specify changes that are self-evident would not be efficient. Notwithstanding, under the regulations, the Commissioner may subsequently require applicants to specifically identify new changes to eligibility guidelines if necessary to complete the review of rate applications.
> United Policyholders is aware that recent catastrophe losses have led insurers to file for significant rate increases for residential and commercial coverages. But we have also found that there have been many recent nonrenewals as well as restrictions on new business – arguably these would impact the future loss experience for the insurers involved and require filtering of the loss experience submitted to support subsequent rate increase filings.

This regulation, if adopted with the suggested amendments, will provide additional safeguards against changes in eligibility or coverage going unrecognized in the rate approval process.

Sincerely,
Amy Bach
Executive Director

> **Department Response:** These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

2. Written Comment from United Policyholders (2)

Testimony For REG-2019-00025 – "Complete Property and Casualty Rate Regulation"

United Policyholders[ii] appreciates the opportunity to comment on the proposed regulations and thanks the CDI and Commissioner Lara for taking this step forward to not only improve the transparency of the rate approval process but also to add much needed new requirements specifying components critical to evaluation of a filing for a new rating plan or for a change to an existing rating plan.

Arguably these amendments are long overdue.

It is our belief that the proposed language for each of subsections 2648.4(a), (b), and (c) are essential to positioning the Department as well as consumers and consumer groups to have the necessary details regarding the proposed rate - not only to make a determination of the appropriateness of the rate, but to more readily determine if subsequent application of the rate is consistent with the approved application. This is a very important step forward.

> **Department Response**: This comment restates United Policyholder's previous written comment and the Commissioner incorporates his prior response here.

However, it is also our belief that the Department should go further in improving the prior approval process.

First, the process should require that the insurer file the policy form(s) that will be in effect if and when the proposed rates take effect. If the filing is for a rate change, the insurer should highlight the differences (if any) between the policy form(s) in effect during the historical loss period and the proposed forms. An explanation of the impact(s) of the change(s) to the policy forms should be addressed in the filing.

> **Department Response**: This comment restates United Policyholder's previous written comment and the Commissioner incorporates his prior response here.

Second, if the filing is for a rate change, the process should require that the insurer file a detail of any changes to the criteria specified in proposed 2648.4(b0(1)(2) and (3) from those same rules and guidelines that were in effect during the historical loss period used to justify the filing.

For example, assume that much of an insurer's homeowners' line's catastrophic fire losses occurred in homes located in Fire Protection Class 10. Then consider whether the insurer has since nonrenewed most of those insureds as well as prohibited eligibility for new business. This would greatly impact the catastrophe adjustment that would be justified moving forward. Again, an explanation of the impact of the changes to the underwriting criteria for new or renewal business should be addressed in the filing.

The purpose of these enhancements would be to make clear the contrast between and changes in coverages, in eligibility for coverage, or in the composition in the insured population between the

information relied upon to approve the rates in effect as compared to coverages and underwriting standards that will be in place during the tenure of the proposed rate. Further, the filing would then provide a more complete record for comparative information that could be used to validate subsequent filings.

> **Department Response**: This comment restates United Policyholder's previous written comment and the Commissioner incorporates his prior response here.

United Policyholders is aware that recent catastrophe losses have led insurers to file for significant rate increases for residential and commercial coverages. But we have also found that there have been many recent nonrenewals as well as restrictions on new business – arguably these would impact the future loss experience for the insurers involved and require filtering of the loss experience submitted to support subsequent rate increase filings.

This regulation, if adopted with the suggested amendments, will provide additional safeguards against changes in eligibility or coverage going unrecognized in the rate approval process.

Sincerely,
Amy Bach
Executive Director

> **Department Response**: This comment restates United Policyholder's previous written comment and the Commissioner incorporates his prior response here.

3. Written Comment from Consumer Federation of California Education Foundation (1)

Advocates for CONSUMER FEDERATION OF CALIFORNIA EDUCATION FOUNDATION

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

Petition to Participate in a Proceeding Other Than a Rate Hearing,

REG-2019-00025
COMPLETE PROPERTY AND CASUALTY RATE APPLICATIONS

CONSUMER FEDERATION OF CALIFORNIA EDUCATION FOUNDATION'S PETITION TO PARTICIPATE AND NOTICE OF INTENT TO SEEK COMPENSATION

[Ins. Code § 1861.10; Cal. Code Regs, tit. 10, §§ 2661.2 and 2661.4]

Consumer Federation of California Education Foundation (CFCF) hereby requests that it be granted leave to participate in the above captioned proceeding pursuant to California Insurance Code (IC) Section 1861.10, which provides that "[a]ny person may initiate or intervene in any proceeding permitted or established pursuant to this chapter [Chapter 9 of Part 2 of Division 1 of the California Insurance Code] ... and enforce any provision of the article." The proceeding in this matter is a hearing to consider amendments to California Code of Regulations, Title 10, Chapter 5, Subchapter 4.8, Article 3, section 2643.3; Article 4, section 2644.27; and Article 8, sections 2648.1, 2648.2, and 2648.4, which address the filing of a complete rate application by any insurer desiring to change any rate. The hearing is authorized pursuant to IC Sections 1861.01, 1861.05 and 1861.055, provisions of the Insurance Code that establish the Commissioner's authority to determine whether any rate is excessive, inadequate, unfairly discriminatory or otherwise in violation of Chapter 9. The proceeding concerns, among other related matters, the format and contents of a complete rate application, and potential benefits to insurers, **policyholders, the Department**, and the public, including consumer representatives, of removing obsolete language, and eliminating potential confusion by clarifying information, including, among other things, the **criteria, guidelines, systems, manuals, models and algorithms** an insurer utilizes in an application to change any rate. These potential benefits include expediting the Department's processing and review of a rate application to determine whether any insurance rate is excessive, inadequate, or unfairly discriminatory, which is subject to Insurance Code Section 1861.05, making it a proceeding "permitted" and "established" pursuant to the chapter. The right of CFCF to participate is also authorized pursuant to 10 CCR §2661.1 *et seq*, including §2661.2, which states that "[a]ny person shall be permitted to intervene in any proceeding on any rate application or any proceeding subject to Chapter 9 of Part 2 of Division 1 of the California Insurance Code if the issues to be raised by the intervenor or participant are relevant to the issues of the proceeding." This is a proceeding subject to Chapter 9 of Part 2 of Division 1 of the California Insurance Code. As a recognized representative of consumers in California (see, for example, File No. IE-2022-0001, the July 5, 2022 Order of Insurance Commissioner Ricardo Lara finding that CFCF "represents the interests of

consumers"), CFCF will add both expertise and an efficient representation of California property and casualty policyholders who will be affected by this proceeding. The petition shows that:

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I. THE PROCEEDING

1. On or about February 23, 2021 Insurance Commissioner Ricardo Lara issued a public invitation to participate in a workshop concerning complete property and casualty insurance rate applications, and a workshop was held on or about April 6, 2021. On or about February 9, 2024 Commissioner Lara issued a Notice of Proposed Action and Notice of Proposed Hearing to be held on March 26, 2024, an Initial Statement of Reasons, and Text of Regulations (as proposed to be amended) regarding Complete Property and Casualty Rate Applications. The proposed amendments are of critical concern to consumers, and directly affect the ability of consumer representatives, including CFCF, to effectively participate by intervening in rate proceedings. CFCF will testify at this hearing, and if determined following this hearing, through future submissions of material in response to future consideration of the proposed amendments.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

II. PETITIONER

2. CFCF is a non-profit 501(c)(3) education and research foundation that advocates for consumer interests. Founded in 1999 as a charitable organization sponsored by the non-profit Consumer Federation of California, the CFCF has been a consumer research, education and advocacy organization for the past 23 years. The central purpose of this organization has been, and continues to be, to serve as an education and research organization, to promote educational programs and public forums in the field of consumer rights and other policy issues that may be of interest to consumers in order to improve the quality of life of all people, to represent consumers and the interests of consumers, including working people, families, retirees, children, utility ratepayers, insurance policyholders and others, for the purpose of participating in administrative, department and commission proceedings, regulatory proceedings, legislative advocacy, public awareness and advocacy campaigns, and litigation within the maximum legal limits allowed of a 501 (c)(3) tax-exempt corporation under Federal and California law.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

3. To achieve its consumer advocacy goals, the CFCF maintains officers and consultants to monitor legislative, regulatory and other public issues affecting California consumers in order to effectively represent consumers and promote or oppose policies and decisions that affect them. The primary business address of Consumer Federation of California Education Foundation is 273 Delmar Way, San Mateo, CA 94403 and the phone number is 650-307-7033. On July 5, 2022, CFCF was deemed eligible (effective June 20, 2022) to seek compensation in CDI proceedings pursuant to CIC section 1861.10 by order of Insurance Commissioner Ricardo Lara. The finding of eligibility renews prior determinations of eligibility and is effective for two years.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

III. VERIFICATION OF PARTICIPATION.

4. Consumer Federation of California Education Foundation will submit testimony and fully participate in all aspects of the proceeding. In accordance with 10 CCR §2661.3, CFCF verifies that it will be able to attend and participate in this proceeding without unreasonably delaying this proceeding or any other proceedings before the Insurance Commissioner.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

IV. PETITIONER'S INTEREST

5. CFCF's interest in the above captioned proceeding is to ensure that California policyholders have access to reasonably priced property and casualty insurance policies in California and are charged premiums that are not unfairly discriminatory, in accordance with Insurance Code Section 1861.05. Further, we believe that ensuring affordability and availability of insurance requires timely access by the public and consumer representatives to transparent and readily accessible complete rate applications, that California public policy encourages public participation in the rate making process, including through intervention by consumer representatives, and that any amendment of regulations should serve to promote, and should not erode, the participation of the public and consumer representatives in effectuating the consumer protection regulations that guide implementation of Section 1861.05.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

V. INTENT TO SEEK COMPENSATTION

6. Pursuant to CIC section 1861.10 and 10 CCR §2661.4, Consumer Federation of California Education Foundation intends to seek compensation in this proceeding. CFCF's estimated budget is attached as Exhibit A. CFCF has based this budget on the technical expertise and regulatory experience needed to address the issues of concern in the proceeding; its best estimate of the amount of time needed to participate in and contribute to the proceeding, taking into account both the amount of time that has already been spent by CFCF staff and consultants and an estimate of time needed to complete the tasks required for participation in a continuation of this potential rulemaking process, as advocated for in this Petition to Participate; CFCF's best estimate of the costs of travel to and from the hearing (for which we presume there to be no cost in light of virtual hearing provisions); and the past experience of CFCF's consultants in similar proceedings. The budget presented includes time spent to prepare CFCF's written comments and presentation during the March 26, 2024 hearing. Consumer Federation of California Education Foundation presents the attached budget as a preliminary estimate and reserves the right to amend the budget as time and other expenses required to participate in this proceeding become more certain, or in its request for final compensation. CFCF will give notice of such modifications as soon as it is practicable and will comply with 10 CCR §2661.3 (d) concerning budget revisions. We believe that this estimated budget is a reasonable reflection of the required staffing level and other expenses for a proceeding such as this.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

WHEREFORE, Consumer Federation of California Education Foundation requests that the Insurance Commissioner grant its petition to participate in the proceeding.

DATED: March 25, 2024

Respectfully submitted,

Richard Holober
Douglas Heller

Consumer Federation of California Education Foundation

By:

Richard Holober
for Consumer Federation of California Education Foundation

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

VERIFICATION OF RICHARD HOLOBER IN SUPPORT OF CONSUMER FEDERATION OF CALIFORNIA EDUCATION FOUNDATION'S PETITION TO PARTICIPATE AND NOTICE OF INTENT TO SEEK COMPENSATION

I, Richard Holober, verify:

1. I am the Treasurer of the Consumer Federation of California Education Foundation. If called as a witness, I could and would testify competently to the facts stated in this verification.

2. I personally prepared the pleading titled, "Consumer Federation of California Education Foundation's Petition to Participate and Notice of Intent to Seek Compensation" filed in this matter. All of the factual matters alleged therein are true of my own personal knowledge, or I believe them to be true after I conducted some inquiry and investigation.

3. Pursuant to California Code of Regulations, title 10, section 2661.3, Consumer Federation of California Education Foundation attaches as Exhibit A its estimated budget in this proceeding.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 26, 2024 at San Mateo, California.

Richard Holober

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

EXHIBIT A

PRELIMINARY BUDGET

ITEMS	ESTIMATED COST
1. Advocates	
Douglas Heller @ $350 per hour, 15 hours	$5,250
• Review and edit petition to participate and subsequent comments; confer with Consumer Federation of California Education Foundation (CFCF) staff regarding proceeding.	
Richard Holober @ $320 per hour, 30 hours	$9,600
• Draft and edit petition to participate; confer with Consumer Federation of California Education Foundation (CFCF) consultant regarding proceeding; conduct research, prepare oral and written comments for Hearing and subsequent hearings; participate in Commissioner's hearing and subsequent hearings; analyze and provide comments and testimony on proposed rules; prepare request for compensation.	
• Confer with CFCF advocate regarding proceeding; conduct research and analysis in support of CFCF comments; assist in preparation of testimony.	
2. Travel (presuming entirely virtual proceeding)	$0
Total Estimated Budget	$14,850.00

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

PROOF OF SERVICE
[BY OVERNIGHT OR U.S. MAIL, FAX TRANSMISSION, EMAIL TRANSMISSION AND/OR PERSONAL SERVICE]

State of California, City of Sacramento, County of Sacramento

I am employed in the City of Sacramento and County of Sacramento, State of California. I am over the age of 18 years and not a party to the within action. My business address 1225 Eighth Street, Suite 470, Sacramento, CA 95814, and I am employed in the city and county where this service is occurring.

On March 26, between 2:00 PM and 2:30 PM, I caused service of true and correct copies of the document entitled

CONSUMER FEDERATION OF CALIFORNIA EDUCATION FOUNDATION'S PETITION TO PARTICIPATE AND NOTICE OF INTENT TO SEEK COMPENSATION

upon the persons named in the attached service list, in the following manner:

1. If marked FAX SERVICE, by facsimile transmission this date to the FAX number stated to the person(s) named.

2. If marked EMAIL, by electronic mail transmission this date to the email address stated.

3. If marked U.S. MAIL or OVERNIGHT or HAND DELIVERED, by placing this date for collection for regular or overnight mailing true copies of the within document in sealed envelopes, addressed to each of the persons so listed. I am readily familiar with

the regular practice of collection and processing of correspondence for mailing of U.S. Mail and for sending of Overnight mail. If mailed by U.S. Mail, these envelopes would be deposited this day in the ordinary course of business with the U.S. Postal Service. If mailed Overnight, these envelopes would be deposited this day in a box or other facility regularly maintained by the express service carrier or delivered this day to an authorized courier or driver authorized by the express service carrier to receive documents, in the ordinary course of business, fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 26, 2024 at Sacramento, California.

Yarissa Ramirez

signature

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

SERVICE LIST

SERVICE LIST

Person Served	**Method of Service**

Kathryn Taras Office of the Special Counsel 300 Capitol Mall, 17th Floor Sacramento, CA 95814 Phone: (916) 492-3675 CDIRegulations@insurance.ca.gov Kathryn.Taras@insurance.ca.gov	____FAX _____U.S. MAIL _____OVERNIGHT MAIL _____HAND DELIVERED __X __EMAIL
Lisbeth Landsman-Smith Elsa Carre Rate Enforcement Bureau 300 Capitol Mall, 17th Floor Sacramento, CA 95814 Tel. No.: (916) 492-3561 Lisbeth.Landsman@insurance.ca.gov Elsa.Carre@insurance.ca.gov Tina.Warren@insurance.ca.gov	____FAX _____U.S. MAIL _____OVERNIGHT MAIL _____HAND DELIVERED __X __EMAIL
Lucy F. Wang Deputy Commissioner / Special Counsel California Department of Insurance 1901 Harrison Street Oakland, CA 94612 Email: lucy.wang@insurance.ca.gov Tel. No.: 415.538.4377	____FAX _____U.S. MAIL _____OVERNIGHT MAIL _____HAND DELIVERED __X __EMAIL
Jon Phenix Public Advisor Office of the Special Counsel California Department of Insurance 300 Capitol Mall, 17th Floor Sacramento, CA 95814 Tel. No.: (916) 492-3705 Fax No.: (510) 238-7830 Jon.Phenix@insurance.ca.gov	____FAX _____U.S. MAIL _____OVERNIGHT MAIL _____HAND DELIVERED __X __EMAIL

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Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

4. Written Comment from Consumer Federation of California Education Foundation (2)

Before the California Insurance Commissioner

RE: REG-2019-00025
COMPLETE PROPERTY AND CASUALTY RATE APPLICATIONS

Comments of Consumer Federation of California Education Foundation on Proposed Regulations

The non-profit Consumer Federation of California Education Foundation is pleased to submit these comments for the consideration of the Department of Insurance in the above-referenced matter.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

PURPOSE OF PROPOSED AMENDMENTS TO COMPLETE RATE APPLICATIONS

In its Initial Statement of Reasons, dated February 9, 2024, the Commissioner states that twenty-five years have passed since the Department adopted regulations specifying what materials, information, and documents should be included in a complete rate application, and that the regulations need to be updated to eliminate references to forms that are no longer required.

Further, the Department states that the regulations are unclear regarding which documents are required, causing insurer confusion when submitting an application, and that the Department faces unworkable time restrictions in its initial review of the completeness of a rate application. In combination, these problems may result in avoidable Department rejection of a rate application as incomplete, resulting in delays to insurers having to resubmit an application deemed initially incomplete, as well as potential disputes should an insurer contest the Department's determination that a rate application is incomplete. Additionally, consumer representatives have time limits in determining whether or not to intervene and may not have sufficient opportunity to review a rate application in a timely fashion if it is initially an incomplete submission.

The Initial Statement of Reasons states that in 2022, 602 property and casualty insurers operated in California. In 2023, the Department rejected 24 rate applications after determining that they were not complete. The proposed amendments would have had the most benefit to those 24 applications, had they been in effect, because the Department posits that other insurers are complying with the existing requirements and understand what materials are required on a complete rate application. The Department states that one of the rejected filings concerned a rate change application for a line of personal insurance. The remaining 23 rejected applications concerned a rate change for lines of commercial insurance. The Department states that the 2023 experience is a "good proxy for what to expect going forward" in each subsequent year, and

concludes that the proposed amendments will expedite the processing of approximately 24 rate applications each year.

> **Department Response:** This comment appears to be a summary of certain of the Commissioner's statements in the Initial Statement of Reasons for this rulemaking. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

PROPOSED AMENDMENTS

a) Elimination of obsolete forms

The Initial Statement of Reasons makes several references to amending current regulations to eliminate requirements for insurers to include various forms that are out-of-date and no longer required in a complete rate application. The document identifies four obsolete forms: 1) Filing Checklist (form CA-RA4, 5-1-96 ed.); 2) Line of Business Request for Variance; 3) Complete Rate Application, Form CAR-1, dated January 1994; and 4) Cover Sheet for Re-Filing of Application for Approval of Insurance Rate, Form CAR-RA1, dated May 1, 1993.

> **Department Response:** This comment appears to be a summary of certain of the Commissioner's statements in the Initial Statement of Reasons for this rulemaking. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

b) Replacement of All Other Required Forms with Reference to Insurance Code Requirements

In addition, the proposed amendments eliminate reference to all other forms required for a complete rate application, and replace these forms with a requirement that an insurer provide all information required by Insurance Code Section 1861.05 subdivision (b); the information required by the prior approval regulations (10 CCR §2644.1 - §2644.28); information described in the revised §2648.4, including any and all criteria, guidelines, systems, manuals, models and algorithms, and any proposed changes thereto, that an insurer, agent, broker, or underwriter uses or relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules; and a complete and entire copy of any and all written and electronic descriptions of all of the materials described in subdivisions (a) through (c) of this section.

The proposed amendments would eliminate 31 forms that current regulations require in a complete rate application. These include: (1) application for approval (form CA-RA1, 5-1-96 ed.) and duplicate of form CA-RA1 for return copy with self-addressed envelope with sufficient postage to return the duplicate copy of CA-RA1, (2) Rate/Rule/Underwriting Rule Submission Data Sheet (form CA-RA2, 5-1-96 ed.), (3) Line of Business (form CA-RA3, 5-1-96 ed.), (4) Ratemaking Data (form CA-RA5, 5-1-96 ed.), (5) Reconciliation Report (form CA-RA6, 5-1-96 ed.), (6) Additional Data Required by Statute (form CA-RA7, 5-1-96 ed.), (7) Miscellaneous Data (form CA-RA8, 5-1-96 ed.), (8) Filing History (to be labeled Exhibit 1), (9) Rate Level History (to be labeled Exhibit 2), (10) Premium Adjustment Factor (to be labeled Exhibit 3), (11)

Premium Trend Factor (to be labeled Exhibit 4), (12) Allocated Loss Adjustment Expense (to be labeled Exhibit 5), (13) Loss Development Factors (to be labeled Exhibit 6), (14) ALAE Development Factors (to be labeled Exhibit 7), (15) Loss Trend, ALAE Trend, and Expense Trend (to be labeled Exhibit 8), (16) Catastrophe Adjustment (to be labeled Exhibit 9), (17) Policy Term Distribution (to be labeled Exhibit 10), (18) Credibility Adjustment (to be labeled Exhibit 11), (19) Data Availability Report (to be labeled Exhibit 12), (20) Interjurisdictional Expense Allocations (to be labeled Exhibit 13), (21) Unallocated Loss Adjustment Expense (to be labeled Exhibit 14), (22) Other Expense Items (to be labeled Exhibit 15), (23) Ancillary Income (to be labeled Exhibit 16), (24) Federal Income Tax Rate (to be labeled Exhibit 17), (25) Projected Investment Income Ratio (to be labeled Exhibit 18), (26) Loss Reserves, Loss Adjustment Expense Reserves, and Unearned Premium Reserves (to be labeled Exhibit 19), (27) Insurer's Ratemaking Calculations (to be labeled Exhibit 20), (28) Rate Distribution (to be labeled Exhibit 21), (29) Rate Classification Relativities (to be labeled Exhibit 22), (30) New Program (to be labeled Exhibit 23), and (31) Group Filing (to be labeled Exhibit 24). In addition to these forms, the proposed amendments eliminate as a requirement for a complete rate application the insurer's rating rules, rate pages and a summary and explanation of the purpose for the filing. The proposed amendments also eliminate the Filing Instructions (forms CA-IA1 - CA-I8, 5-1-96, ed.) for these forms and exhibits.

> **Department Response:** This comment appears to be a summary of certain of the Commissioner's proposed regulatory amendments in this rulemaking. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

The Initial Statement of Reasons states that the use of existing forms adds to a lack of clarity for insurers desiring to include all the elements that are required for a rate application to be accepted by the Department as complete, and that the substitution of references to data and information required under Insurance Code Sections 1861.05, subdivision (b), and Section 2648.4 subdivisions (b) through (e), along with data related to underwriting guidelines, rules and algorithms, without the use of forms to furnish this information, aids an insurer in guaranteeing that a rate application is complete.

> **Department Response:** This comment appears to be a summary of certain of the Commissioner's proposed regulatory amendments in this rulemaking. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

ELIMINATION OF OBSOLETE FORMS MAKES SENSE

Government regulations are adopted to effectuate public policy as stated in law. Over the course of time, regulations may become stale. Periodic cleanup of obsolete language in regulations makes them current. Eliminating out-of-date reference to rate applications that were filed in the 1990's removes unnecessary words from the regulation. In addition, references to required forms that may have served a useful purpose in an earlier era, and that are no longer in use because they no longer advance a public policy purpose, should be eliminated to remove any uncertainty regarding whether an insurance rate application lacking these forms is complete. CFCF agrees

with elimination of obsolete forms referenced above, provided these forms are no longer germane to the Department's duty to assure that any rate is not excessive, inadequate, or unfairly discriminatory. Additionally, insofar as some exhibits or other forms that remain in use but are referred to by another name or number, it is reasonable to make corrections to the regulations to align the regulation with the current nomenclature.

Department Response: These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

WHOLESALE ELIMINATION OF SPECIFIC FORMS AND EXHIBITS REQUIREMENTS FROM THE REGULATION UNDERMINES CONSUMER REPRESENTATIVE PARTICIPATION

Department Response: One purpose of the amended regulation is to avoid referencing outdated documents. The current proposed regulation articulates that. The Commissioner intends to continue to provide forms for insurers to use but those forms are not within the scope of the present rulemaking. There is no evidence that eliminating references to specific obsolete forms and exhibits in the regulation will have any negative impact on consumer participation in rate proceedings.

Another purpose of the amended regulation is to clarify the categories of information and data that insurers must submit with their initial complete rate applications. This will support consumer participation in the rate-making process. At the time a complete rate application is initially submitted, there are no third-party consumer participants to the rate application. Removing references to outdated exhibits, templates, and other forms, and instead specifically identifying the categories of required information and data that insurers must provide will result in more complete rate applications when initially submitted. The commenter notes elsewhere that recently the Department has rejected very few rate applications at intake, but, based on the Department's experience reviewing rate applications, many more rate applications were subsequently determined to be lacking in required information after the intake and rejection period had passed. The amended regulation strengthens the Commissioner's ability to review rate applications when initially submitted to determine whether they are complete and, if not, to reject them at intake. Although the Department is able to require those insurers with rate applications lacking information to subsequently submit all necessary data during the rate review process, consumer representatives only have 45 days after the Department gives public notice of a rate application to determine whether to request intervention in the application. Thus clarifying the information required to be submitted initially as part of a complete rate application and strengthening the Commissioner's ability to review rate applications at intake will support consumer participation in the rate-making process, because consumer representatives will have more complete information during the public notice period to determine whether they want to request intervention.

Voter-enacted Proposition 103 encourages public participation in the ratemaking process. It allows consumer representatives to intervene in the review of rate filings and bring outside expertise and perspective to the rate approval process. Department of Insurance regulations implementing Proposition 103 should be designed with a consideration of their impact on consumer representative participation through the intervenor process. The Initial Statement of Reasons recognizes this integral component of the law. Its justification for the proposed amendments includes sixteen references to consumer representatives and consumer participation. It argues that because consumer representatives have only 45 days after public notice to determine whether they want to request a hearing on the rate applications, the failure of an insurer to provide all required materials as part of the initially submitted rate application could deprive consumer representatives of sufficient time to review all materials required as part of a complete rate application before the deadline to decide whether to intervene in the rate review process.

> **Department Response:** This comment appears to be a summary of certain of the Commissioner's statements in the Initial Statement of Reasons for this rulemaking. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

In its Initial Statement of Reasons, the Department analyzes only one year of data on initial rate applications rejected as incomplete. It projects that this experience provides a sufficient basis to assume that future years will experience a similar rate of application rejection. The Initial Statement of Reasons lacks context to analyze the significance of these rejections. 602 insurers provide property and casualty insurance in California. Twenty four applications were rejected. It would be helpful to have data on the total number of rate applications that insurers filed in 2023. It would be much more helpful to look at the rate application rejection rate over a longer period, at least a three to five year period. Due to the market disruptions caused by COVID-19, the years between 2020 and 2022 may be anomalous. Many lines of coverage experienced decreased claim activity, skyrocketing insurance profits and, likely, a probable decrease in rate applications, especially in light of the Commissioner's pause on auto insurance rate increase approvals during the early years of the pandemic. A review of the most recent years prior to COVID-19 would likely provide a better basis to understand a longer trend of the rate at which insurance rate applications were rejected as incomplete.

> **Department Response:** This proposed regulation eliminates references to obsolete forms and exhibits in the regulation. While the Commissioner intends to continue to use forms, the use of forms is no longer within the scope of this regulation. In the Department's analysis, it is anticipated some companies would submit the required data up front instead of later on in the rate application process. Since the timing of data submission changes but the data submitted is expected to be similar, the proposed regulation is not anticipated to have a fiscal impact on the Department, or an adverse economic impact on insurance companies or consumer representatives. Nothing in this comment provides a basis for the Department to reconsider any of the conclusions reached in its analysis.

The information presented in the Initial Statement of Reasons does not identify how many different insurers' applications were rejected. It is not uncommon for an insurer to file several applications for rate increases in a calendar year. It would be helpful to know whether the 23 rejected commercial rate applications represent 23 different insurers, or whether a smaller number of insurers made the same errors over and over again in multiple applications filed in 2023. Without that additional information it is not possible to know if 23 separate commercial insurers were confused by the current regulations or if only a handful of insurers ran into difficulties filing complete applications. The 23 instances cited where a commercial line rate application was rejected combined amounted to two million dollars in premium rate increases, or an average rate increase request of $87,000 per rejected rate application.

> **Department Response:** This proposed regulation eliminates references to obsolete forms and exhibits in the regulation. While the Commissioner intends to continue to use forms, the use of forms is no longer within the scope of this regulation. In the Department's analysis, it anticipated some companies would submit the required data up front instead of later on in the rate application process. Since the timing of data submission changes but the data submitted is expected to be similar, the proposed regulation is not anticipated to have a fiscal impact on the Department, or an adverse economic impact on insurance companies or consumer representatives. Nothing in this comment provides a basis for the Department to reconsider any of the conclusions reached in its analysis.

The 2023 data identifies a single personal insurance rate application that the Department rejected as incomplete. Since 2013, the CFCF and its predecessor organization, the Consumer Federation of California, have successfully intervened in nineteen insurance rate cases. Each case concerned personal insurance. While Proposition 103 provides for consumer representative intervention in rate applications for commercial as well as personal lines of insurance, the actual experience of the past decade, and to the best of our knowledge of the entire history of Proposition 103's intervenor program, the vast majority of consumer representative intervention has related to personal lines of insurance filings. In its Initial Statement of Reasons, the Department identifies a single instance when consumer intervenors' interest in determining whether or not to intervene in a timely manner might have been frustrated by the Department's rejection of an initial rate application as incomplete.

> **Department Response:** This proposed regulation eliminates references to obsolete forms and exhibits in the regulation. While the Commissioner intends to continue to use forms, the use of forms is no longer within the scope of this regulation. In the Department's analysis, it anticipated some companies would submit the required data up front instead of later on in the rate application process. Since the timing of data submission changes but the data submitted is expected to be similar, the proposed regulation is not anticipated to have a fiscal impact on the Department, or an adverse economic impact on insurance companies or consumer representatives. Nothing in this comment provides a basis for the Department to reconsider any of the conclusions reached in its analysis.

COVID-19 caused the CFCF to focus more of its attention on matters of enforcement against

excessive rates. We have the desire to re-engage in participation in rate cases, especially as we hear from consumers suffering under extreme rate increases, even as some carriers are enjoying all-time high stock prices. It is important for the Department to understand the barriers to participation that consumer representatives face and to act in ways that do not make these barriers more insurmountable. These barriers help explain why only two non-profit consumer organizations have a record of participation in rate cases over the past decade, according to documentation provided on the Department website. The Department has acknowledged the benefits to the rate-setting process that consumer representative participation brings. It has also acknowledged that consumer groups have difficulties participating in Proposition 103 rate proceedings. In a January 13, 2017 article in the *Sacramento Bee*, Dan Goodell, assistant chief counsel stated that "we struggle with that" (getting more consumer organizations to participate). "There aren't that many consumer groups that are super-knowledgeable about consumer rate making or who want to become knowledgeable about consumer rate making."

> **Department Response:** This comment is neither objecting to the proposed text nor suggesting any changes, and therefore no further response is warranted.

As we will explain, amendments to the complete application regulation that reduce clarity and consistency in the form of submission of rate filing information will further strain the important and voter-mandated consumer intervention process. First, however, we believe it is important to provide context regarding the intervenor process and, particularly, the barriers to participation that already exist. The intervenor process provides for compensation to consumer organizations and other consumer representatives that make a substantial contribution to the rate decision by providing valuable technical input. Intervenor compensation may occur following the conclusion of a rate case. Throughout the pendency of a rate proceeding, the consumer organization bears all of the costs of participation, which may include payment to staff, consultants, experts, actuaries and attorneys. The timeline for intervention in a rate proceeding is typically one year to eighteen months or longer from the initial screening of a rate application before a determination is made on an intervenor's request for compensation, after which payment to the intervenor may be made.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

CFCF is currently awaiting a determination on a request for compensation in a rate proceeding that began when we initially reviewed an insurance rate application on September 29, 2022. On November 3, 2022, CFCF filed its petition to intervene in the matter. Following a protracted process under the Department's control and subject to the response time of the insurer seeking the rate hike, the parties entered into a stipulation to settle the matter on July 31, 2023. On September 5, 2023, CFCF petitioned the Department for intervenor funding for our contribution in this proceeding. On March 21, 2024, the Department issued an Order notifying CFCF of its finding that "all the information that is required [to consider the request] is received" and is now considered "submitted for decision." The order provided no insight into how many additional months the Department may take before it reaches a determination on the merits of our

intervenor compensation request. Department regulations require a determination on an intervenor compensation petition within 90 days (10, § 2662.6 (a)). In the instant matter, the Department had a deadline on or about December 5, 2023 to issue its decision. As of this writing, the decision is approximately 111 days overdue. This lengthy delay past the required determination date on an intervenor compensation petition has been standard procedure in our experience as an intervenor for over a decade.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

CFCF and other consumer organizations have limited financial resources. Delays in Department processing of intervenor petitions, followed by additional lengthy delays, in violation of Department rules, in determining an intervenor compensation request following the conclusion of the proceeding, militate against consumer representative participation. CFCF would desire to participate in more rate application cases, and the billions of dollars of additional savings to Californians in matters in which consumer organizations intervened serves as a testament to the value of participation. However, the costs we incurred over many months or years before we may receive compensation inhibits our capacity to participate. We have knowledge of the experience of another non-profit consumer representative that successfully intervened in one rate application a decade ago, and subsequently concluded that the esoteric expertise needed along with the length of time before a decision on a potential intervenor compensation award is issued for its intervenor expense made its participation in any other Department rate cases simply unviable.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

A substantial barrier to consumer representative intervention is the dearth of actuaries who will participate on the consumer side of insurance rate matters. Over a decade ago, the Department conducted outreach to actuaries and developed a list of consulting actuaries and firms that may work with intervenors. The list currently contains eleven names. Most of the names have not changed for a decade. The public would benefit if the Department renewed its outreach to refresh the list of consulting actuaries. CFCF talked to most of the actuaries who were on the list several years ago. We found that with very few exceptions, these actuaries expected to bill the consumer organization monthly for their services and expected to be paid promptly. Almost none would work in a manner that aligned the timing of their payment with the timing of the intervenor's compensation, should it be awarded, following the conclusion of a proceeding. Over the past decade, CFCF has worked with three actuaries that agreed to partial payment when services are rendered with a balance paid after the proceeding is closed. Despite being paid, however, lengthy delays in receiving balance payments ultimately led two actuarial firms to make the business decision to end their intervenor work.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

In order to effectively intervene and make responsible decisions as to when to present a consulting actuary with a rate filing that may be sufficiently problematic as to benefit from our intervention, CFCF developed a protocol for reviewing rate applications that would control our pre-award costs.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

We rely on our internal experts to conduct the preliminary review of rate filings. Our experts review dockets of rate applications, looking for certain characteristics that may flag a filing for further inspection. Among these are the size of the rate change requested, the number of policyholders affected, the total amount of the increase sought, and the market share of the insurer. While every policyholder has a right to a fair and legal rate, we do not typically challenge rates if our expected costs would not be substantially smaller than the savings we believe we could achieve, unless we also identify some other illegality or unfairness that demands attention and reform even if there is not as much net savings. After this initial identification of potential impact, we then examine the rate application in more detail.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

We review, for example, the rate template summary that every company files with a breakdown of the filing's calculated minimum and maximum permissible rate change by coverage and the rate change the applicant has selected for each coverage. We review the Excluded Expense Ratio data. We use Exhibit 2 to assess whether and how much rates have changed in recent months or years and we use Exhibit 1 to quickly find relevant prior filings that are useful especially when reviewing a proposed rate increase that is on the heels of a recently approved hike. We get a useful, high-level picture of the company's recent experience from the Additional Calendar Year Data Required By Statute template and look for abnormally high or an excess of fees in the Miscellaneous Fees template. We look closely at Exhibit 8, through which the Department demands a systematic evaluation of various potential methods for evaluating the loss trends that will be applied to the calculation of the final rates. When reviewing homeowners' insurance rate changes, we review Exhibit 9, looking for any oddities in the selection of data used to derive a catastrophe adjustment. All of these standard forms are created by the Department, several of them are prescribed by the current regulation, some are not. None of them would be specifically identified in regulation under the proposed rule.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

It is only after we have conducted this examination of forms and exhibits that we can reach a preliminary determination that a rate application may be excessive or unfairly discriminatory. Only at that point do we forward the suspect rate application to our actuary for a much more comprehensive examination of the file. The presentation of a rate application in a prescribed set of forms and exhibits is an absolute pre-condition for CFCF's participation in rate cases. It is our understanding that our actuary's more in-depth review of the application also is substantially facilitated by consistency of required forms and exhibits across rate filings.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Rate applications are dense. They include forms and exhibits that usually total hundreds of pages. A filing of that length must be organized into a uniform sequence and format. What deeply concerns CFCF about the proposed regulatory change – not just how it will potentially impact public intervention, but how it may impact the ability of Department staff to adequately and consistently review insurer filings – is that by eliminating, rather than updating, the list of prescribed forms and exhibits that an insurer must submit, there is the potential that insurers will seek to comply with the law and this regulation using bespoke documentation and methods for calculating and presenting its purported rate need. While we recognize that the proposed regulation cites the sections of the regulations that identify the information that must be included, it does not expressly state the format in which it is to be filed.

Department Response: One purpose of the amended regulation is to avoid referencing outdated documents. The current proposed regulation articulates that. While the Commissioner intends to continue to use forms, the use of forms is no longer within the scope of this regulation. There is no evidence that eliminating references to specific obsolete forms and exhibits in the regulation will have any negative impact on consumer participation or the Department in rate proceedings.

The proposed amendments appears to give insurers freedom to compose an application in any number of different and potentially obfuscating formats. Consistency in the structure of the application would no longer exist. The 602 insurers would be free to create 602 different application structures, and each insurer would be free to alter its format with each new application. The CFCF and other intervenors would face insurmountable burdens in mapping and deciphering the several hundred pages of an application to conduct its initial determination to flag suspect applications. This would add many hours and substantial additional cost to each initial review.

Department Response: One purpose of the amended regulation is to avoid referencing outdated documents. The current proposed regulation articulates that. The Commissioner intends to continue to provide forms for insurers to use, but those forms are not within the scope of the present rulemaking. There is no evidence that eliminating references to specific obsolete forms and exhibits in the regulation will have any negative impact on consumer participation in rate proceedings.

Consulting actuaries would similarly be burdened in conducting a lengthier and more costly analysis of applications that we forward for their review. Obfuscation in the presentation of applications results in added hours of analysis and substantial added costs, which consulting actuaries may be wary of accepting, given the possibility that some reviews must end at the investigation stage if it is determined that the application is appropriate. The proposed amendments would be burdensome on consumer representatives and would further stifle participation in rate proceedings by nonprofit organizations such as CFCF. It would likely reduce the chances that other consumer representatives would begin to participate in the future.

Department Response: One purpose of the amended regulation is to avoid referencing outdated documents. The current proposed regulation articulates that. The Commissioner intends to continue to provide forms for insurers to use, but those forms are not within the scope of the present rulemaking. There is no evidence that eliminating references to specific obsolete forms and exhibits in the regulation will have any negative impact on consumer participation in rate proceedings.

<u>DEPARTMENT REVIEW AND INSURER CERTAINTY UNDERMINED</u>

Consumer representatives are not the only party that would be adversely impacted by these proposed amendments. While the proposal increases the Department's initial review from fourteen days to thirty days, the Department would be rushed to examine the variety of application formats for completeness on time, or it would be obligated to accept as complete applications should its staff be overwhelmed by the limitless variety of formats that 602 insurers may choose to utilize. This could result in unnecessary Department requests for additional information after it accepted an application as complete due to the complexity of deciphering the application, when the insurer may have provided the information in the application but the Department may not have identified it in the unique and shifting manner that an insurer could furnish it under the proposed amendments. Presenting information in a prescribed set of forms and exhibits simplifies the Department's job of finding and evaluating data. The forms and exhibits that are currently required assist the Department's review. Obscuring the format of the application, which
the amendments enable, would only serve to create delay in the rate review and approval process, which is the opposite outcome of the streamlining rationale behind the amendments.

Department Response: One purpose of the amended regulation is to avoid referencing outdated documents. The current proposed regulation articulates that. The Commissioner intends to continue to provide forms for insurers to use, but those forms are not within the scope of the present rulemaking. There is no evidence that eliminating references to

specific obsolete forms and exhibits in the regulation will have any negative impact on the Department in rate proceedings.

Insurers may also be adversely impacted by the proposed amendments. Insurers deserve certainty of completeness when filing an application for a rate increase. Given the small number of cases that the Department rejected as incomplete in 2023, it is reasonable to conclude that most insurers have the experience and expertise they need currently to file a complete rate application. An insurance industry publication recently voiced industry concern that the proposed amendments would complicate, rather than simplify, the rate application process. "Insurers say regulations proposed by the California Insurance Commissioner Ricardo Lara add confusion to the vexing rate-filing process they were supposed to improve.... Insurance representatives claim the lack of detail adds more confusion about what they need to file." (*Property Insurance Report,* "California's Proposed Filing Regulations Lack Specificity," February 26, 2024, pages 1 and 12). Moreover, the possibility of individualized approaches to filings could prove competitively harmful to those companies that submit the most transparent and obviously compliant rate applications. It is likely that those most easily scrutinized will be most scrutinized and the benefit of excess will fall to those insurers willing to file most inscrutably.

Department Response: One purpose of the amended regulation is to avoid referencing outdated documents. The current proposed regulation articulates that. The Commissioner intends to continue to provide forms for insurers to use, but those forms are not within the scope of the present rulemaking. There is no evidence that eliminating references to specific obsolete forms and exhibits in the regulation will have any negative impact on insurers in rate proceedings.

ADDITIONAL WORKSHOPS AND HEARINGS

CFCF agrees with the elimination of obsolete language and the elimination of reference to forms that are out-of-date that do not provide information germane to the purposes of Proposition 103. We also are very pleased to see that the Department aims to clarify in regulations the requirement to submit eligibility guidelines and other manuals and models used by insurers that impact and are necessary to evaluate the proposed rates (proposed §2648.4 (b) and (c)). But CFCF disagrees with the wholesale repeal of a listing of required forms, exhibits and other data, as described above.

Department Response: One purpose of the amended regulation is to avoid referencing outdated documents. The current proposed regulation articulates that. The Commissioner intends to continue to provide forms for insurers to use, but those forms are not within the scope of the present rulemaking.

We request that the Department does not finalize the proposed regulation until it has analyzed a larger dataset to establish a more statistically valid determination of the extent of the incomplete rate application problem, after which – with public input – it has restored, updated, and improved the list of specific exhibits, templates, and other forms that must be submitted with every rate filing. Doing so would be in line with the stated goal of crafting amendments to increase the certainty of the completeness of rate applications without undermining consumer representative

participation or adversely impacting the Department's capacity to conduct its initial review of the application. Following such workshops and opportunities to comment, in which CFCF expects to participate, the Department would promulgate an edited set of proposed amendments for additional stakeholder comment.

> **Department Response:** This proposed regulation eliminates references to obsolete forms and exhibits in the regulation. While the Commissioner intends to continue to use forms, the use of forms is no longer within the scope of this regulation. In the Department's analysis, it anticipated some companies would submit the required data up front instead of later on in the rate application process. Since the timing of data submission changes but the data submitted is expected to be similar, the proposed regulation is not anticipated to have a fiscal impact on the Department, or an adverse economic impact on insurance companies or consumer representatives. Nothing in this comment provides a basis for the Department to reconsider any of the conclusions reached in its analysis.

CFCF appreciates the opportunity to provide these comments for the Department's consideration and we look forward to participating in the March 26, 2024 hearing and in any subsequent proceedings that the Department may establish.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Respectfully submitted,
Richard Holober, Treasurer
Consumer Federation of California Education Foundation

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

5. Written Comment from Consumer Watchdog

Comments of Consumer Watchdog

California Department of Insurance Rulemaking Hearing Regarding Complete Rate Application Regulations

REG-2019-00025

March 26, 2024

Consumer Watchdog submits these comments in response to the California Department of Insurance (the "Department" or "CDI") February 9, 2024 notice of public hearing and text of regulations regarding complete property and casualty rate applications.

Consumer Watchdog has served as a public watchdog with regard to insurance rates and insurer rollback liabilities under Proposition 103 by: monitoring rollback settlements and the status of the rollback regulations; reviewing and challenging rate filings made by insurers seeking excessive rates in over 150 rate proceedings before the CDI in the last 20 years; participating in rulemaking and adjudicatory hearings before the CDI; and educating the public concerning industry underwriting and rating practices, their rights under Proposition 103, and other provisions of state law. Consumer Watchdog has also initiated and intervened in actions in state court and appeared as amicus curiae in matters involving the interpretation and application of Proposition 103 and the Insurance Code.[iii]

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

As a general matter, Consumer Watchdog endorses the proposed regulation amendments ("February 9 regulation text") making clear that all criteria, guidelines, systems, manuals, models, and algorithms an insurer uses to accept, examine, inspect, cancel, non-renew, re-underwrite, or rate a risk or to modify coverage options must be submitted as part of a complete rate application. These amendments are necessary to address delays caused by insurance companies' failure to meet the "complete rate application" requirement of Proposition 103 (section 1861.05(b)), particularly when they attempt to shield models, rating rules, and underwriting guidelines from public scrutiny. These provisions will provide much-needed clarity and lead to a more efficient and effective public review process for consumers, the Department, and the insurance industry.

> **Department Response**: These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

Consumer Watchdog also supports the provisions of the February 9 regulation text that are necessary to remove references to outdated rate application forms and exhibits. However, to further the goals of providing clarity and eliminating delay, we believe the regulation should retain references to a baseline set of exhibits and data that are required as part of a complete rate application, or at a minimum, incorporate by reference the Department's standard rate application form, exhibits, and templates as published on the Department's website. We have also identified certain provisions in the February 9 regulation text that could be construed as ambiguous and should be clarified in order for the amendments to comply with the express language of Proposition 103, including public notice of initial filings and public disclosure of all information required to be filed as part of a complete application. Consumer Watchdog's comments on specific provisions of the February 9 regulation text and proposed edits that would render them in compliance with Proposition 103 are included in Section III below.[iv]

Department Response: One purpose of the amended regulation is to avoid referencing outdated documents. The current proposed regulation articulates that. The Commissioner intends to continue to provide forms for insurers to use, but those forms are not within the scope of the present rulemaking.

I. The Rulemaking Is Not Exempt from the Public Notice and Hearing Protections of the California Administrative Procedure Act.

The Department's February 9 Notice asserts that this rulemaking proceeding is exempt from the Administrative Procedure Act (APA) rulemaking requirements. Although it appears that the Department intends to follow the APA rulemaking requirements in adopting the proposed regulations, Consumer Watchdog objects to invoking the exception when it clearly does not apply. The APA is a foundational set of consumer and taxpayer protections against government overreach. It requires all agencies of the State of California to adopt regulations in accordance with proscribed procedures and standards through a public hearing process.

The APA specifies a very limited number of exceptions from these consumer protections. The Notice cites Government Code section 11340.9, subdivision (g), which exempts "[a] regulation that establishes or fixes rates, prices, or tariffs." The proposed amendments do not "establish" or "fix" rates or prices in any way. Rather, the proposed amendments instruct insurance companies on what *information* they must include in an application submitted pursuant to Proposition 103's prior approval requirements. An *amendment* that merely specifies the data required to be submitted in connection with an application does not become a rate setting amendment merely because it is part of a regulation that pertains to rates. That would be like saying that a regulation that pertains to procedures for how tax returns are filed establishes a tax.

Moreover, even if an agency could bootstrap a filing requirement into a regulation that "establishes or fixes" "rates" or "prices," Proposition 103, and the current regulations that implement it, do not do so. Proposition 103 places the responsibility on insurance companies to maintain reasonable rates and to propose, and seek the Commissioner's approval for, the proposed rate. The Commissioner does not, by regulation or otherwise, "establish" or "fix" a rate, nor set the rate, but rather approves or rejects the rate selected by each applicant. (*20th Century*, *supra*, 8 Cal.4th 216, 284–85 ["Through the ratemaking formula, the Insurance Commissioner does not himself 'set' rates for insurers. Rather, he simply determines the rate or rates that the individual insurer may itself set within the constraints of Proposition 103 as construed in *Calfarm*"].)

Furthermore, exempting the proposed amendments is inconsistent with Proposition 103's public policy purposes of public participation and public transparency. Proposition 103 could not be clearer as to the importance of public scrutiny and participation in its ongoing implementation (Ins. Code §§ 1861.07; 1861.10(a)).

Particularly now, when the insurance industry has fomented insurance shortages across the state and is threatening further widespread economic disruption unless Commissioner Lara rolls back current regulatory requirements, it is crucial that the APA's bedrock protections against arbitrary government action be respected.

Department Response: The proposed regulations are exempt from the APA because the Legislature expressly exempted from APA review a "regulation that establishes or fixes rates, prices, or tariffs." (Gov. Code, § 11340.9, subd. (g) (the "rate-setting exception").) The long-standing rate-setting exception was added to former Government Code section 11380 in 1945, subsequently renumbered section 11343(a)(1), and is currently numbered section 11340.9(g).

The California Supreme Court resolved questions regarding the Commissioner's authority to promulgate Proposition 103 regulations under the rate-setting exception in *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216 ("*20th Century*"). The Commissioner maintained that the regulations interpreting and implementing Proposition 103 were exempt from the APA review requirements as they came within the rate-setting exception (*20th Century,* at p. 248.) The Supreme Court agreed, stating:

> We believe that the Insurance Commissioner's position, as noted above, is well taken. The rate regulations – both generally and specifically as to rollbacks – do indeed come within the rate-setting exception, hence fall outside the OAL review requirement, and therefore are not invalid because of OAL disapproval. (*20th Century* at p. 270.)

There is no material distinction between the regulations exempted by the Supreme Court in *20th Century* and the current proposed regulations. Indeed, regulations are exempt from the APA whenever they comprise "an essential step" and "an integral part of the process" of fixing a rate. (See *Winzler & Kelly v. Dept. of Industrial Relations* (1981) 121 Cal.App.3d 120, 127-128; *Vector Resources, Inc. v. Baker* (2015) 237 Cal.App.4th 46, 58.) Proposition 103 specifically mandates that the first step for an insurer seeking to change its rates is to file a complete rate application with the Commissioner (Ins. Code, § 1861.05, subd. (b)), so the Commissioner cannot proceed to approve rates without a complete rate application that includes the information described by the proposed regulations. These proposed regulations are essential steps and an integral part of the rate approval process. They are therefore exempt from the rulemaking provisions of the APA.

II. General Comments on the Need for the February 9 Regulation Text

Proposition 103 requires insurance companies to open their books and justify applications for rate changes before they go into effect. California law states that "[n]o rate shall be approved or remain in effect which is excessive, inadequate, unfairly discriminatory or otherwise in violation of this chapter." (Ins. Code § 1861.05(a).) Section 1861.05(b) states that "[t]he applicant shall have the burden of proving that the requested rate change is justified and meets the requirements of this article."

A critical component of this "prior approval" framework is public scrutiny of the regulatory system established by the voters and the opportunity to independently challenge unlawful or discriminatory practices. Thus, the measure authorizes and encourages consumers to monitor, initiate, and participate in all rate proceedings at the Department and in the courts. (Ins. Code §§

1861.05(a); 1861.10(a).) Insurance Code section 1861.05(c) requires the Commissioner to notify the public of an application submitted by an insurance company seeking a rate change. Section 1861.05(c) also provides consumers with the right to request within 45 days of public notice that the agency conduct a hearing on any rate application. And section 1861.07 requires that "*[a]ll* information provided to the commissioner pursuant to this article shall be available for public inspection." (Emphasis added.)

In order for the Commissioner and the public to effectively review and analyze insurers' proposed rate changes, Insurance Code section 1861.05(b) requires any insurance company seeking a rate change to file a "complete rate application," including specified data and "such other information as the commissioner may require."

> **Department Response**: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

As the Commissioner himself has pointed out, obtaining insurance company compliance has proved to be a serious impediment to the thorough, expeditious review of filings. Insurance Commissioner Lara testified recently that, in response to his inquiries about the reason for rate review delays, CDI analysts told him that 80% of the time, "we're waiting on them [insurance companies] to respond to the information that we need."

> **Department Response:** This comment restates portions of the Initial Statement of Reasons for this rulemaking. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

In a recent report on the public participation process, Consumer Watchdog reviewed 35 challenges Consumer Watchdog completed between January 2019 and October 2023 and identified at least eight challenges that were significantly delayed by the insurance company applicant, by up to 19 months.[v] The report noted that the insurers' failure to file all of the information required as part of a complete rate application, and their refusal to cooperate with requests from CDI and Consumer Watchdog for information that is needed to assess the validity of the proposed rate, are significant reasons for the lengthy delays in the review process about which insurance companies constantly complain—but for which they are primarily responsible. (*Ibid*.)

> **Department Response**: These comments support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

The February 9 regulation text addresses a number of substantive and technical issues that have made the application review process inefficient and subject to abuse and delays.

First, it clarifies the insurance companies' obligations under the voters' mandate. In particular, the proposed regulation text recognizes that insurance companies wish to use artificial intelligence, models, and software algorithms to make eligibility and underwriting decisions and

requires these to be publicly filed as part of a complete rate application. Insurers routinely claim that documentation relating to cat models allowed under Section 2644.4 for the earthquake line and fire following earthquake exposure in other lines and other models used to determine premiums and eligibility for homeowners insurance, such as wildfire risk models allowed under Section 2644.9, is proprietary and confidential. As pointed out in Consumer Watchdog's 2021 comments on the previous draft, shielding models and software algorithms from the public precludes the Commissioner's and the public's ability to fully evaluate the model, its projections, and whether and the rates, premiums, and eligibility and renewal guidelines developed using such models comply with Proposition 103, and defeats the initiative statute's transparency requirements. Accordingly, any such models, if they are allowed to be used, must be publicly filed as part of a complete rate application just as the Commissioner's regulation pertaining to wildfire risk models requires (10 CCR § 2644.9(c), (f)), or else the rate application must be deemed incomplete or use of the model disallowed for purposes of the review required by Insurance Code section 1861.05 and this regulation.

> **Department Response**: These comments support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

The February 9 regulation text and the Initial Statement of Reasons recognizes that an insurance company's underwriting rules, rating rules, eligibility guidelines, systems, manuals, models, and algorithms (when authorized), as well as scores and policy forms that Consumer Watchdog proposes be added to the regulation text—that are used to determine whether an insurance company will sell insurance to a person, and how much that person will pay—are a vital component of the rate review process. As confirmed in the Initial Statement of Reasons:

> In order to fully evaluate an insurer's request to change its rates and determine whether the requested rate change is appropriate and not excessive, inadequate, or unfairly discriminatory, the Commissioner must be able to review all information that may have a potential impact on the requested rate during the projected rating period. Relevant here, the general criteria, guidelines, systems, manuals, models and/or algorithms that an insurer uses to determine whether to accept or reject new and renewal business and to determine an applicant's or insured's coverage or coverage options may loosely be referred to as "underwriting guidelines." The underwriting guidelines that an insurer uses to determine whether to accept or reject new and renewal business, and/or to determine an applicant's or insured's coverage or coverage options, and any proposed changes to them, may impact its existing and expected book of business and therefore the covered exposures, and thus may have a prospective rate impact. For example, if an insurer's underwriting guidelines currently permit it to underwrite a certain type of risk, then its historic losses likely reflect the inclusion of insureds with that type of risk characteristic. But if the insurer then proposes changing its rules to exclude that type of risk prospectively, then its historic loss experience may not accurately reflect its predicted future loss experience, which in turn may impact the Commissioner's evaluation of the insurer's request for a prospective rate change.

(Initial Statement of Reasons, p. 15.)

Department Response: These comments restate portions of the Initial Statement of Reasons for this rulemaking, support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

The February 9 regulation text and the Department's Initial Statement of Reasons are consistent with the Department's 2018 General Counsel legal opinion letter, which stated:

> Because underwriting rules determine the types of risks to be insured and the coverages to be offered, underwriting rules must be analyzed in connection with the rate review process to evaluate the reasonableness of a proposed rate in relation to the specific risks to be insured and coverages to be offered to determine whether such rates are ["]excessive, inadequate[,] unfairly discriminatory[, or otherwise in violation of this chapter."] (Ins. Code §1861.05(a).)[vi]

Consistent with the Department's August 10, 2018 opinion letter, the Commissioner's current rate application form (including the templates), exhibits, and filing instructions require that "a ***complete*** copy of the underwriting guidelines must be submitted with ***all rate filings***, regardless of line of business, whether or not a change to those guidelines is being proposed." (Prior Approval Rate Filing Instructions, State of California Department of Insurance, June 5, 2023 Edition ["2023 filing instructions"], pp. 6, 11, 43 [emphasis in original].) An application is not "complete" absent compliance with this requirement. (*Id*. at 17, 20; see also current 10 CCR § 2648.4 incorporating the Rate Filing Instructions by reference.) "Underwriting guidelines provided to the Commissioner in connection with an Application for approval of property and casualty rates pursuant to Insurance Code section 1861.05 must be available for public inspection pursuant to Insurance Code section 1861.07." (*Id*. at 6.)

The Department's August 10, 2018 opinion letter reiterated that "[i]f an insurer fails to submit its underwriting rules with each rate application or denominates its underwriting rules as confidential and not subject to public disclosure, such rate application would not include and make available for public inspection all information required by the Commissioner . . . to evaluate fully the requested rate change."[vii] The opinion concluded that "underwriting rules filed in connection with a rate application pursuant to Insurance Code section 1861.05(b) must be available for public inspection pursuant to Insurance Code section 1861.07 regardless of whether such underwriting rules are marked 'confidential,' 'proprietary,' or 'trade secret.'"[viii]

Department Response: These comments restate portions of the Initial Statement of Reasons for this rulemaking, the Commissioner's August 10, 2018, opinion letter, and provisions of the insurance code for this rulemaking. The comments support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

Notwithstanding these unequivocal legal requirements imposed on every insurance company doing business in California and the General Counsel's opinion letter, many insurance companies have continued to refuse to publicly file a complete set of their underwriting guidelines or other documents describing models and algorithms (where authorized), or other

criteria used to determine eligibility, rates, or premiums, claiming such information is confidential, proprietary, and/or trade secret.

For example, State Farm General Insurance Company ("State Farm") failed to publicly disclose its underwriting guidelines with its February 15, 2018 application for a 6.7% increase to its homeowner, condo, and renter insurance rates (File No. 18-1196, Proceeding No. PA-2018-00002); its August 31, 2018 application for a 6.7% increase to its homeowner, condo, and renter insurance rates (File No. 18-4896); and its 2018 auto symbols class plan (File No. 18-4906-CP, Proceeding No. PA-2018-00004).[ix]

The company asserted that the General Counsel's August 10, 2018 opinion letter was not a regulation (citing Ins. Code § 12921.9(b)) and that it conflicted with the regulation on the books. Consumer Watchdog challenged State Farm's legal violations in each of the foregoing rate proceedings, and after over two years of tenacious advocacy, finally reached stipulations with the Department and State Farm requiring that the company use only underwriting guidelines that have been publicly filed with the Department, and to publicly file its complete underwriting guidelines contemporaneously with all future rate and rule applications without marking such documents as confidential, proprietary, or trade secret.

> **Department Response:** These comments support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

Other companies have also failed to file complete underwriting guidelines by claiming that certain portions of their eligibility guidelines are confidential and refusing to provide them with their public rate applications filed with the Department. For example, in a rule change application filed by Farmers Insurance Exchange ("Farmers") on March 13, 2020 seeking to change its homeowners eligibility guidelines by using a combination of scores generated from FireLine and a new wildfire risk model called Z-FIRE (File Nos. 20-865, 20-865-A, 20-865-B; Proceeding No. PA-2020-00006), the company failed to file a document referred to as its "Combined Wildfire Eligibility Guidelines" containing the very information it would be relying on under the new rule to refuse coverage. In response to Consumer Watchdog's petition for hearing challenging Farmers' violations of sections 1861.05 and 1861.07 by failing to justify its proposed rule change and file a complete set of its proposed eligibility guidelines, Farmers claimed that the guidelines contained Farmers' "internal, confidential, and proprietary information." Only after several rounds of correspondence by Consumer Watchdog and the Department on the issue did Farmers finally file its Combined Wildfire Eligibility Guidelines in August 2020, almost five months after it had filed its original rule change application.

> **Department Response**: These comments support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

As these proceedings illustrate, when companies like State Farm, Farmers, and others fail to file complete underwriting guidelines with their initial rate or rule applications or otherwise attempt to shield portions of their rating and eligibility criteria from public disclosure, consumers are deprived of their statutory right to a period of 45 days in which to review the complete

application before the deadline to request a hearing under section 1861.05(c), and the overall rate review process becomes significantly protracted.

> **Department Response**: These comments support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

Moreover, as noted previously, when consumers do file petitions for hearing to challenge to these violations, vast amounts of time and resources of the Department, consumer group petitioners, and insurers are consumed by fighting over whether the insurer will comply with public disclosure requirements in order to allow a complete review of the application. These same insurance companies and their lobbying organizations often complain that the prior approval review process is too time consuming, but their obstinance in refusing to disclose all the information upon which their applications rely is typically responsible for much of the delay in processing their applications

> **Department Response**: These comments support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

The February 9 regulation text aims to provide clear direction by setting forth all information the Commissioner requires to be submitted with a complete rate application under section 1861.05(b) and made public under section 1861.07 in order to determine whether proposed rates and underwriting rules comply with Proposition 103.

> **Department Response**: These comments support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

A second important element of the February 9 regulation text is that it eliminates references in the current regulations to technical documents that are severely outdated. The Department's current regulations, and accompanying rate application forms, exhibits, and prior approval rate filing instructions, all expressly incorporate a 1996 rate application form, exhibits, and filing instructions. Therefore, it is necessary to amend and update the regulations to strike the outdated references, while also preserving the descriptions of the data and exhibits necessary for compliance.[x]

> **Department Response**: These comments support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

In Section III below, Consumer Watchdog provides its provision-by-provision comments on the February 9 regulation text and proposed edits to clarify and/or amend certain provisions to comply with Proposition 103. Critically, our amendments will ensure that consumers are notified of all rate change applications when filed, when an application is rejected as incomplete, when a hearing is noticed on that determination, and after an application is determined to be complete. Our proposed amendments also make clear that all information required to be filed with the Commissioner as part of a complete rate application must be publicly available and not marked as confidential, proprietary, or trade secret.

Department Response: The "provision-by-provision comments" do not appear to raise any new issues, evidence or arguments or make new information available to the Commissioner. In any case, this particular comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

III. Comments on Specific Provisions of the February 9 Regulation Text[xi]

A. Section 2643.3. Total Aggregate Earned Premiums.

CDI's Proposed February 9 Regulation Text

(b) Complete ~~R~~rate applications ~~(Form CAR-1 (last revised 1/94))~~ shall be filed on a line- by-line basis, as set forth in ~~s~~Section 2642.7. ~~The application shall be accompanied by the rating manual, rating plan, all policy forms to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line.~~ The Commissioner shall require the filing of such other information as the Commissioner deems necessary to review the application.

CWD Comment

Consumer Watchdog supports the Department's proposed changes to this section of the regulations. Our one technical edit, which appears in **bold** below, makes clear that a complete rate application shall include all of the items specified in Section 2648.4 (as amended through this rulemaking), which we believe should contain a complete list of all information and documentation required to be filed in order for an application to be complete. This amendment is consistent with Insurance Code section 1861.05(b), which states: "A complete rate application shall include all data referred to in Sections 1857.7, 1857.9, 1857.15 [repealed], and 1864 *and* such other information as the commissioner may require." (Emphasis added.)

CWD Proposed Edits to Section 2643.3

(b) Complete ~~R~~rate applications ~~(Form CAR-1 (last revised 1/94))~~ shall be filed on a line-by-line basis, as set forth in ~~s~~Section 2642.7**, and include the information required by Section 2648.4**. ~~The application shall be accompanied by the rating manual, rating plan, all policy forms to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line.~~ The Commissioner shall require the filing of such other information as the Commissioner deems necessary to review the application

Department Response: This addition would be redundant and unnecessary as 2648.4 already specifies what must be included in a complete rate application. If the required information is not submitted, the application will not be accepted.

B. Section 2644.27. Variance Request.

CDI's Proposed February 9 Regulation Text

(b) Requests for variances shall be filed with the Rate Regulation Branch, ~~Filing Bureau on pages 11a and 11b of the Prior~~ together with the insurer's ~~Approval~~ complete ~~R~~rate ~~A~~application. All such variance requests shall specifically:

…

(c) Requests for variances shall be filed at the same time as the ~~prior approval~~ insurer's complete rate application to which it applies or after the filing of the complete rate application and before any final determination regarding that application. Public notice of all variance requests shall be provided as set forth in ~~California~~ Insurance Code ~~S~~sections 1861.05, subdivision (c), and 1861.06.

…
(e) Variance requests shall be determined in conjunction with the related ~~prior approval~~ complete rate application or rate hearing thereon.

…
(vi) No expense that is included within the Defense and Cost Containment Expense portion of an insurer's complete rate application can be included in whole or in part as the basis for a variance based on SIU expenses. The terms "Defense and Cost Containment Expense" or "DCCE" when used with regard to any variance have the same meaning as those terms have in ~~s~~Section 2644.23, subdivision (c).

CWD Comment

Consumer Watchdog supports the CDI's technical, non-substantive changes to Section 2644.27. However, CDI's proposed amendment to subdivision (b) could be read to mean that requests for variances are made in a separate filing, rather than as part of the exhibits and templates that are required to be filed in a complete rate application. The proposed regulation text should be amended to make clear that any variance request is submitted as part of the complete rate application or as an amendment to the complete rate application. Also, subdivision (c) should be amended to follow the current practice and make clear that if a rate application is amended to include a variance request after the initial filing, the amended application with requested variance(s) will be subject to additional public notice pursuant to Insurance Code sections 1861.05(c) and 1861.06. Consumer Watchdog's proposed edits below (in **bold)** address these clarifications.

CWD Proposed Edits to Section 2644.27

(b) Requests for variances shall be filed with the Rate Regulation Branch, ~~Filing Bureau on pages 11a and 11b of the Prior~~ **~~together with~~ as part of** the insurer's

~~Approval~~complete ~~R~~rate ~~A~~application **or as an amendment after the filing of the complete rate application and before any final determination regarding that application**. All such variance requests shall specifically:

…

(c) **~~Requests for variances shall be filed at the same time as the prior approval insurer's complete rate application to which it applies or after the filing of the complete rate application and before any final determination regarding that application.~~** Public notice of all **rate applications containing** variance requests shall be provided as set forth in ~~California~~ Insurance Code ~~S~~sections 1861.05, subdivision (c), and 1861.06. **If an application is amended to include a variance request after it has been publicly noticed, CDI shall provide public notice of the amended application with the variance request as set forth in Sections 1861.05, subdivision (c) and 1861.06.**

Department Response: While a request for a variance must be filed with a rate application, not all insurers request variances, and variances are not always required. Accordingly, insurers are not always required to file a request for a variance to complete their rate application. The proposed regulation is clear that when the insurer wants to request a variance it must be filed with the rate application.

C. Section 2648.1. Scope.

CDI's Proposed February 9 Regulation Text

~~(a) Except as provided for herein, t~~This article applies to complete rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b), and proceedings commenced by the issuance of a notice of hearing, or other notice or order commencing a proceeding on a rate application issued by the Commissioner pursuant to Insurance Code ~~S~~section 1861.05, subdivision (c).

~~(b) This article shall not apply to applications for exemption from Insurance Code Section 1861.01(a), file and use rate applications filed prior to November 8, 1989, or applications for rate changes pursuant to Insurance Code Section 1861.05 which are filed prior to July 1, 1993. Refiling of applications for rate changes pursuant to Insurance Code Section 1861.05 shall be made by filing the Department cover sheet entitled "Cover Sheet for Re-Filing of Application for Approval of Insurance Rates," Department form number CA-RA1, dated May 1, 1993, which is incorporated by reference. In addition, for those applications which were submitted with data that is no longer current, updated data must also be submitted with the cover sheet.~~

CWD Comment

Consumer Watchdog proposes an additional edit to Section 2648.1(a) to conform to the regulations that specify a rate proceeding is commenced upon the filing of a petition for hearing as below.

CWD Proposed Edits to Section 2648.1(a)

~~(a) Except as provided for herein, t~~This article applies to complete rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b), and proceedings commenced by **the filing of a petition for hearing,** the issuance of a notice of hearing, or other notice or order commencing a proceeding on a rate application issued by the Commissioner pursuant to Insurance Code ~~S~~section 1861.05, subdivision (c).

Department Response: The purpose of the proposed regulation is to update the requirements for submission of a complete rate application. The Commissioner has determined it is in consumers' best interests to maintain the current scope of the proposed regulation and not to broaden its scope to address separate issues.

D. Section 2648.2. Receipt of Rate Application By Commissioner.

CDI's Proposed February 9 Regulation Text

(a) For the purpose of Insurance Code ~~S~~section 1861.05, subdivision (c), a complete rate ~~change~~ application shall be considered to have been received by the Commissioner on the date that ~~it is~~ all information, materials, and documents required by Section 2648.4 as part of a complete rate application have been ~~received by~~ delivered to the Department's Rate Regulation Branch~~Filing Bureau~~ by means of submittal using the System for Electronic Rate and Form Filing (SERFF).

(b) Within ~~14~~30 days of being delivered pursuant to subdivision (a) of this Section 2648.2~~receipt~~, the Commissioner shall review rate applications for completeness as required by Insurance Code ~~S~~section 1861.05, subdivision (b). If the application includes ~~the forms and exhibits listed in the Filing Checklist, as provided in~~all information, materials and documentation required by Section 2648.4, ~~and the data required therein,~~ it is complete. If the Commissioner determines that the application is not complete because it does not include ~~such forms, exhibits, or the data required therein,~~all information, materials and documentation required by Section 2648.4 for a complete rate application, notice stating the grounds for incompleteness will be given to the insurer within the ~~14~~30 day period and the application will be rejected. Within 10 days of the date that such notice is given, the insurer may request a hearing on the rejection.

(c) The hearing shall be held within 10 days of receipt of the request by the Department's Rate Enforcement Bureau. The scope of the hearing shall be limited to the completeness of the application.

(d) If, after a hearing, an application is determined to have been complete when filed, then the 180 day period specified in Insurance Code ~~S~~section 1861.05, subdivision (c) shall have commenced on the date the application was first filed. If the application is determined to be incomplete, then it shall remain rejected.

(e) Rejection of an application for incompleteness shall not bar the refiling of a complete application.

(f) Public notice of the complete rate application as required by Insurance Code ~~S~~section 1861.05, subdivision (c) shall be made within 10 days after the Commissioner determines that an application is complete.

CWD Comment

Since the passage of Proposition 103 thirty-five years ago, the Commissioner has issued a weekly public notice of rate filings—which is now made available upon request via email. The public notice marks the inception of the 45-day statutory public review period, during which members of the public may review the application and request a public hearing if it believes the company has failed to justify its request.

The proposed regulation expands the timeline of the completeness review process from 14 to 30 days, which is not intended to trigger the 45-day statutory timeline for filing any petition for hearing. The stated purpose of the proposal is to avoid delay and inefficiency for the Department and a "consumer representative" when a company's application omits required information. The Department states that the newly specified filing requirements will make it easier for consumer representatives to decide whether to seek a hearing, and if they do, eliminate time-consuming efforts to obtain the missing information. (Initial Statement of Reasons, p. 3) Consumer Watchdog agrees with these goals.

We view this proposed 30-day completeness review process as ministerial and the review of the application during this time period as confined to confirming compliance with the new complete rate application requirements. That is the only way in which it would be compatible with Insurance Code section 1861.05(c), which requires "the commissioner [to] notify the public of any application by an insurer for a rate change," in order for members of the public to exercise their right to review and request a public hearing on the application. It would be a violation of Proposition 103 for the Commissioner, CDI, or an insurance company to conduct any substantive review of the application behind closed doors before the application is publicly noticed.

In other words, to be consistent with Proposition 103, the proposed regulation does not and cannot foreclose consumer intervenors from challenging any completeness determination, requesting further information relevant to review of the rate application, or raising any substantive issues once the rate application is determined to be complete and publicly noticed.

To harmonize the intent of the regulation with the plain language of the statute, the regulation should be amended to require immediate public notice when a rate application is initially submitted.

Similarly, the public should be notified of the outcome of the 30-day completeness review that the Commissioner has either determined the application is complete, or, if incomplete, whether the insurance company has requested a hearing on that decision.

The regulation should also make clear that if an application is ultimately determined to be incomplete, it must be rejected and withdrawn, and any subsequent refiling of an application that includes the information that was determined to be missing shall be subject to public notice pursuant to Insurance Code sections 1861.05(c) and 1861.06.

CWD Proposed Edits to Section 2648.2

(a) For the purpose of Insurance Code ~~S~~section 1861.05, subdivision (c), a complete rate ~~change~~ application shall be considered to have been received by the Commissioner on the date that ~~it is~~ all information, materials, and documents required by Section 2648.4 as part of a complete rate application have been ~~received by~~ delivered to the Department's Rate Regulation Branch~~Filing Bureau~~ by means of submittal using the System for Electronic Rate and Form Filing (SERFF).

(b) **Within 5 days of a rate application being submitted on SERFF, the Commissioner shall notify the public of the submission.** Within ~~14~~30 days of being delivered pursuant to subdivision (a) of this Section 2648.2~~receipt~~, the Commissioner shall review rate applications for completeness as required by Insurance Code ~~S~~section 1861.05, subdivision (b). If the application includes ~~the forms and exhibits listed in the Filing Checklist, as provided in~~all information, materials and documentation required by Section 2648.4, ~~and the data required therein,~~ it is complete. If the Commissioner determines that the application is not complete because it does not include ~~such forms, exhibits, or the data required therein,~~all information, materials and documentation required by Section 2648.4 for a complete rate application, notice stating the grounds for incompleteness will be given to the insurer **and the public** within the ~~14~~30 day period and the application **~~will~~shall** be rejected **and withdrawn**. Within 10 days of the date that such notice is given, the insurer may request a hearing on the rejection.

> **Department Response:** Currently, the Commissioner does not inform the public until the Commissioner has accepted a complete rate application. The extension of time to review the rate application for completeness does not change that. Insurance Code Section 1861.05(c) only requires the Commissioner to provide 45 days public notice of a complete rate application. The Commissioner is not required to provide further notice. Moreover, SERFF is a publicly available resource. It would be redundant for the Commissioner to provide public notice of rate applications filed publicly on SERFF.

(c) The hearing shall be held within 10 days of receipt of the request by the Department's Rate Enforcement Bureau. The scope of the hearing shall be limited to the completeness of the application.

(d) If, after a hearing, an application is determined to have been complete when filed, then the 180 day period specified in Insurance Code ~~S~~section 1861.05, subdivision (c) shall have commenced on the date the application was first filed. If the application is determined to be incomplete, then it shall remain rejected.

(e) Rejection of an application for incompleteness shall not bar the refiling of a complete application.

(f) Public notice of the complete rate application as required by Insurance Code ~~S~~section 1861.05, subdivision (c) shall be made within 10 days after the Commissioner determines that an application is complete.

(g) The Commissioner shall notify the public of an incomplete application pursuant to subdivision (b) of this section and of any request for a hearing on a rejection of an application for incompleteness pursuant to subdivision (b) of this section.

Department Response: Insurance Code Section 1861.05(c) only requires the Commissioner to provide 45 days public notice of a rate application. Section 1861.05(b) specifies that such a rate application must be complete. The amendment does not change that. The Commissioner is not required to provide further notice concerning incomplete rate applications or requests for hearings concerning rejection of an application for completeness. This suggested language would slow down the Department's processing of rate applications and add a costly and unnecessary step to the process.

E. Section 2648.4. Complete Rate Application.

CDI's Proposed February 9 Regulation Text

(a) ~~In order to be complete,~~ Pursuant to Insurance Code section 1861.05, subdivision (b), every insurer that desires to change any rate must file a complete rate application which must include the ~~following~~information required by Insurance Code section 1861.05, subdivision (b), and all information as the C~~c~~ommissioner may require in order to perform a complete analysis of a rate application, including but not limited to the exhibits, data, information, materials and documentation specified by Sections 2641.1 through 2643.8 and Sections 2644.1 through 2644.28 as those sections may from time to time be amended. A complete rate application shall also include all of the materials described in subdivisions (b) through (e) of this Section 2648.4. ~~forms, exhibits, data and documentation, which are incorporated by reference: application for approval (form CA-RA1, 5-1-96 ed.), duplicate of form CA-RA1 for return copy, self-addressed envelope with sufficient postage to return the duplicate copy of CA-RA1, Rate/Rule/Underwriting Rule Submission Data Sheet (form CA-RA2, 5-1-96 ed.), Line of Business (form CA-RA3, 5-1-96 ed.), Filing Checklist (form CA-RA4, 5-1-96 ed.), Ratemaking Data (form CA-RA5, 5-1-96 ed.), Reconciliation Report (form CA-RA6, 5-1-96 ed.), Additional Data Required by Statute (form CA-RA7, 5-1-96 ed.), Miscellaneous Data (form CA-RA8, 5-1-96 ed.), Filing History (to be labeled Exhibit 1), Rate Level History (to be labeled Exhibit 2),~~

~~Premium Adjustment Factor (to be labeled Exhibit 3), Premium Trend Factor (to be labeled Exhibit 4), Allocated Loss Adjustment Expense (to be labeled Exhibit 5), Loss Development Factors (to be labeled Exhibit 6), ALAE Development Factors (to be labeled Exhibit 7), Loss Trend, ALAE Trend, and Expense Trend (to be labeled Exhibit 8), Catastrophe Adjustment (to be labeled Exhibit 9), Policy Term Distribution (to be labeled Exhibit 10), Credibility Adjustment (to be labeled Exhibit 11), Data Availability Report (to be labeled Exhibit 12), Interjurisdictional Expense Allocations (to be labeled Exhibit 13), Unallocated Loss Adjustment Expense (to be labeled Exhibit 14), Other Expense Items (to be labeled Exhibit 15), Ancillary Income (to be labeled Exhibit 16), Federal Income Tax Rate (to be labeled Exhibit 17), Projected Investment Income Ratio (to be labeled Exhibit 18), Loss Reserves, Loss Adjustment Expense Reserves, and Unearned Premium Reserves (to be labeled Exhibit 19), Insurer's Ratemaking Calculations (to be labeled Exhibit 20), Rate Distribution (to be labeled Exhibit 21), Rate Classification Relativities (to be labeled Exhibit 22), New Program (to be labeled Exhibit 23), Group Filing (to be labeled Exhibit 24), rating rules, and rate pages. The application must also contain a summary and explanation of the purpose for the filing. The Filing Instructions (forms CA-IA1 -CA-I8, 5-1-96, ed.) for these forms and exhibits are incorporated by reference.~~

(b) ~~Notwithstanding the completeness determination, the Commissioner may later require the submission of relevant underwriting rules and other relevant documents from an applicant in order to perform a complete analysis of an application.~~A complete rate application shall include any and all criteria, guidelines, systems, manuals, models and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

Specifically, the complete rate application shall include, without limitation, a complete set of, and any proposed changes to, any and all of the following:
(1) An insurer's eligibility guidelines as defined in Sections 2360.0 through 2360.7;

(2) Any and all criteria, guidelines, systems, manuals, models and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed, or restrict the coverages offered, in specific geographic areas such as ZIP codes, counties, or territories, for any reason, including over-concentration; and

(3) Any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

(c) ~~Requests for variances as authorized by section 2644.27 shall be on the following form:~~
~~STATE OF CALIFORNIA Insurer Name~~
~~DEPARTMENT OF INSURANCE Line of Business~~

~~Request for Variance~~

~~1. Identify each variance requested.~~

~~2. Identify the extent or amount of the variance requested and the applicable efficiency standard, rate of return, loss development factors or trend which will result if the variance is granted.~~

~~3. Set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied.~~

~~4. Identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change in the applicable efficiency standard, rate of return, loss development factors or trend that is being proposed.~~

~~xx-xx-06 ed. CA-RA9~~

A complete rate application shall also include any and all criteria, guidelines, systems, manuals, models and algorithms, and any proposed changes thereto, an insurer, agent, broker, or underwriter uses or relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules.

(d) A complete rate application shall also include a complete and entire copy of any and all written and electronic descriptions of all of the materials described in subdivisions (a) through (c) of this section.

(e) Pursuant to Insurance Code section 1861.05, subdivision (b), the Commissioner may, in order to perform a complete analysis of a rate application that was previously deemed complete pursuant to section 2648.2, subdivision (b) but has not yet been approved, require the insurer to submit additional information, forms, templates, exhibits, data and documentation during the Commissioner's review of the application.

CWD Comment

Consumer Watchdog supports the Department's proposed amendments to Section 2648.4 to eliminate references to outdated rate application forms, exhibits, and filing instructions and replace with clear references to all the information and documentation that the Commissioner requires to be submitted as part of a complete rate application pursuant to his authority under Insurance Code section 1861.05(b).

Section 1861.05 applies not only to rate change applications, but also prohibits rates from "remain[ing] in effect" that are "excessive, inadequate, unfairly discriminatory, or otherwise in violation of" Proposition 103 (emphasis added).

More specifically, the rate review process encompasses the review of rate, rule, form, and class plan filings for compliance with Proposition 103 and California law, which the CDI acknowledges indisputably *requires* scrutiny and analysis of certain "materials, information, and documents that demonstrate whether the requested rate is appropriate and not excessive, inadequate, or unfairly discriminatory," or otherwise in violation of the law, including "without limitation, insurers' historical data supporting an estimate of the

projected losses, expenses, and investment income expected during the projected rating period, as well as information regarding how insurers determine whether to accept and write certain risks, including, without limitation, any and all criteria, guidelines, systems, manuals, models and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed; any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk; and any and all criteria, guidelines, systems, manuals, models and algorithms an insurer, agent, broker, or underwriter relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules." (Initial Statement of Reasons, p. 2; see also *id.* at p. 15 ["In order to fully evaluate an insurer's request to change its rates and determine whether the requested rate change is appropriate and not excessive, inadequate, or unfairly discriminatory, the Commissioner must be able to review all information that may have a potential impact on the requested rate during the projected rating period"].) The determination of whether such information has an impact on rates cannot be left to the company. A complete rate application is thus necessary to properly evaluate whether a proposed change to any rating or underwriting rule or eligibility guideline will result in a rate that is excessive, inadequate, unfairly discriminatory, or otherwise in violation of Proposition 103 or California law. Accordingly, we read proposed Section 2648.4(a) as requiring that a complete rate application must be filed when an insurer seeks to change any rate, rating or underwriting rule, or eligibility guideline, and any such changes must not be implemented until the application has been approved.

As Consumer Watchdog proposed in its February 2021 comments, subdivision (a) should also include an express reference to the current rate application form, standard exhibits, rate templates, and checklists as published by the Department and made available on its public website, which insurers are required to fill out and file as part of a complete rate application. As drafted, the regulation text refers to all the data and "exhibits" that must be included in the rate application, but there are no exhibits specified in the referenced regulation sections.

> **Department Response:** As a substitute for the specific documents described in the current regulation that have become obsolete or may soon become obsolete, the Commissioner has amended the regulations to describe all the types of documents necessary for a complete rate application that will result in a review where rates are not excessive, inadequate, or unfairly discriminatory to comply with Insurance Code Section 1861.05. The use of such information remains unchanged in evaluating the rate application remains unchanged. Further descriptors are unnecessary.

As advocated in its February 2021 comments Consumer Watchdog supports the CDI's amendment of the proposed regulation text to include "models" used for determining rates, premiums, and eligibility as part of the data and information required as part of a complete rate application under Section 2648.4. We also continue to advocate explicitly including "scores" in the regulation text, even though the CDI makes clear in its Initial

Statement of Reasons at page 18 that a change in wildfire risk scores would be a guideline change that would be required to be filed as part of a complete rate application.

The CDI must make clear in its Final Statement of Reasons and responses to public comment, consistent with Section 2644.9 and the February 9 regulation text that the actual model itself (and its output) "without limitation" is required to be filed and made publicly available as part of a complete rate application, not just documentation describing the model. As noted in Section II above, hiding this information from the public prevents the Commissioner and the public from being able to fully evaluate the model's projections and determine whether the resulting rates, premiums, and eligibility and renewal guidelines developed using such models comply with Proposition 103 in violation of Insurance Code sections 1861.05 and 1861.07.

> **Department Response:** The addition of the term "model" is to require insurers to include data and information regarding those model components that are necessary to evaluate the application to determine whether the rate is excessive, inadequate, or unfairly discriminatory, as required by Insurance Code section 1861.05. That is the information that the Commissioner relies on in approving rates. The Commissioner disagrees that insurers are required to submit "the actual model itself (and its output)" as part of a complete rate application, either under these amendments or Section 2644.9. Moreover, the proposed regulation does not require insurers to use models in formulating a rating plan. Insurers may also use non-modeled data.

Additionally, the language "written and electronic descriptions of" in proposed subdivision (d) is unclear and so, Consumer Watchdog suggests changing to "written and electronic documents describing . . . ."

> **Department Response:** The comments do not explain why the commenter believes the current draft of the proposed text is unclear and the current amendments clearly reference the material required to be submitted in subdivisions (a) through (c).

Consumer Watchdog also welcomes subdivision (e), which for the avoidance of doubt confirms that the review for completeness does not in any way limit the obligation on insurance companies to provide further information during a rate proceeding that is necessary for the thorough evaluation of the rate application.

> **Department Response:** These comments support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

Finally, consistent with Insurance Code section 1861.07, the regulation should make clear that all information required to be filed with the Commissioner as part of a complete rate application must be publicly available and not marked as confidential, proprietary, or trade secret.

Department Response: This addition restates the statute and is unnecessary.

CWD Proposed Edits to Section 2648.4

(a) ~~In order to be complete,~~ Pursuant to Insurance Code section 1861.05, subdivision (b), every insurer that desires to change any rate**, rating rule, or any guideline or criteria used to determine whether to accept, cancel, or non-renew a risk** must file a complete rate application which must include the ~~following~~information required by Insurance Code section 1861.05, subdivision (b), and all information as the C~~c~~ommissioner may require in order to perform a complete analysis of a rate application, including but not limited to the exhibits, data, information, materials and documentation specified by Sections 2641.1 through 2643.8 and Sections 2644.1 through 2644.28 as those sections may from time to time be amended, **and the rate application form, exhibits, and templates available on the Department's public website**. A complete rate application shall also include all of the materials described in subdivisions (b) through (e) of this Section 2648.4. **[stricken text removed]**

Department Response: As a substitute for the specific documents described in the current regulation that have become obsolete or may soon become obsolete, the Commissioner has amended the regulations to describe all the types of documents necessary for a complete rate application that will result in a review where rates are not excessive, inadequate, or unfairly discriminatory to comply with Insurance Code Section 1861.05. The use of such information remains unchanged in evaluating the rate application remains unchanged. The current proposed language is sufficient to describe the filings required under Insurance Code section 1861.05. Further descriptors are unnecessary. The Commissioner amended the regulations to avoid referencing outdated documents. The current draft of the proposed regulations effectively removes references to specific documents to accomplish this. The Commissioner intends to continue to provide forms for insurers to use, but those forms are not within the scope of the present rulemaking.

(b) ~~Notwithstanding the completeness determination, the Commissioner may later require the submission of relevant underwriting rules and other relevant documents from an applicant in order to perform a complete analysis of an application.~~A complete rate application shall include any and all criteria, guidelines, systems, manuals, models**, model output,~~and~~** algorithms**, scores, and policy forms,** the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

Specifically, the complete rate application shall include, without limitation, a complete set of, and any proposed changes to, any and all of the following:

(1) An insurer's eligibility guidelines as defined in Sections 2360.0 through 2360.7;

(2) Any and all criteria, guidelines, systems, manuals, models**, model output, ~~and~~** algorithms**, scores, and policy forms,** an insurer uses to reduce, increase, or restrict the

number of policies written or renewed, or restrict the coverages offered, in specific geographic areas such as ZIP codes, counties, or territories, for any reason, including over-concentration; and

(3) Any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

Department Response: As a substitute for the specific documents described in the current regulation that have become obsolete or may soon become obsolete, the Commissioner has amended the regulations to describe all the types of documents necessary for a complete rate application that will result in a review where rates are not excessive, inadequate, or unfairly discriminatory to comply with Insurance Code Section 1861.05. The use of such information remains unchanged in evaluating the rate application remains unchanged. The current proposed language is sufficient to describe the filings required under Insurance Code section 1861.05. Further descriptors are unnecessary.

(c) **[stricken text removed]** A complete rate application shall also include any and all criteria, guidelines, systems, manuals, models**, model output, ~~and~~** algorithms**, scores, rules, and policy forms,** and any proposed changes thereto, an insurer, agent, broker, or underwriter uses**, consults, reviews,** or relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules.

Department Response: As a substitute for the specific documents described in the current regulation that have become obsolete or may soon become obsolete, the Commissioner has amended the regulations to describe all the types of documents necessary for a complete rate application that will result in a review where rates are not excessive, inadequate, or unfairly discriminatory to comply with Insurance Code Section 1861.05. The use of such information remains unchanged in evaluating the rate application remains unchanged. The current proposed language is sufficient to describe the filings required under Insurance Code section 1861.05. Further descriptors are unnecessary.

(d) A complete rate application shall also include a complete and entire copy of any and all written and electronic ~~**descriptions of**~~ **documents describing** all of the **data, information, and documentation set forth** ~~**materials described**~~ in subdivisions (a) through (c) of this section.

Department Response: The comments do not explain why the current draft of the proposed text is unclear and the current amendments clearly reference the material required to be submitted in subdivisions (a) through (c).

(e) Pursuant to Insurance Code section 1861.05, subdivision (b), the Commissioner may, in order to perform a complete analysis of a rate application that was previously deemed complete pursuant to section 2648.2, subdivision (b) but has not yet been approved, require the insurer to submit additional information, forms, templates, exhibits, data and documentation during the Commissioner's review of the application.

***

(f) Pursuant to Insurance Code section 1861.07, all information and documentation required to be submitted to the Department as part of a complete rate application pursuant to subdivisions (a) through (e) of this section shall be made available for inspection and shall not be marked as confidential, proprietary or trade secret.

Department Response: This addition restates the statute and is unnecessary.

6. Written Comment from Personal Insurance Federation of California

Members:
STATE FARM
LIBERTY MUTUAL PROGRESSIVE
MERCURY NATIONWIDE
FARMERS ALLSTATE
CONNECT
by American Family
KEMPER
INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB
(Automobile Club of Southern California)
CSAA
Associate Members:
NAMIC
CHUBB

RE: REG-2019-00025, AMENDMENTS TO COMPLETE RATE APPLICATION REGULATIONS

Dear Ms. Wang:

The Personal Insurance Federation of California (PIFC) submits the following comments to the California Department of Insurance (CDI) regarding the workshop draft regulation in the above-captioned matter (the "Proposal"). If the goal of the Proposal is to increase the certainty of what information is needed for CDI staff to process a filing in a timely manner, PIFC welcomes this effort.

Representing large insurers, PIFC recognizes that its member concerns are different than the issues that small- and medium-sized carriers face. Further, the experiences of carriers writing

heavily-regulated, personal lines insurance can be obscured by data about quick rate application approvals in general. Large, personal lines insurance carriers have an unnecessarily difficult rate review process in California that resembles no other state – in terms of both average processing times and the amount and consistency of information required for an approval.

Currently, significant confusion exists from rate filing to rate filing about what information CDI staff will request and require before approving a rate application. This uncertainty has been particularly acute in the last few years on residential property insurance filings where indicated rate increases have been large and undisputed, but other issues – typically, underwriting questions -- that are not subject to the CDI's prior approval authority have caused months of delay.

While our members understand the increased complexity and higher stakes associated with CDI review of large market share, personal lines carriers, we respectfully request serious consideration of how to improve the rate review process in a more robust manner than the Proposal.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

As drafted, the Proposal:

-adds more confusion than certainty to the rate review process and requires information without any linkage to the CDI's prior approval template;

> **Department Response**: The current draft of the proposed regulations effectively removes references to specific documents to accomplish this. The Commissioner intends to continue to provide forms for insurers to use, but those forms are not within the scope of the present rulemaking.

-increases the time from 14 days to 30 days for initial review of submitted Rate Applications for completeness by CDI,

> **Department Response:** These comments make no objections or recommendations to alter the proposed amendments. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

-attempts to regulate underwriting in a manner prohibited by law and which has already been subject to extensive litigation;

> **Department Response:** The commenter identifies no actual language in the proposed text that is prohibited by law. Thus, this comment has not identified or articulated an actual infirmity of the language of the proposed regulations. No further response is warranted.

-misses an opportunity to fix known, and understandable, sources of delay that reduce admitted market availability and price competition;

> **Department Response:** These comments make no objections or recommendations to alter the proposed amendments. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

-fails to address excessive CDI reliance on waiver of rights to timely review guaranteed by Proposition 103; and

> **Department Response:** These comments make no objections or recommendations to alter the proposed amendments. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

-raises the specter of procedural unfairness in adoption.

> **Department Response:** The commenter identifies no specific procedural unfairness. Thus, this comment has not identified or articulated a specific infirmity in the process. No further response is warranted.

<u>The Proposal Makes Filing Requirements More Confusing</u>

The proposed changes to §2648.4 add uncertainty to what constitutes a "complete" rate application. The Proposal would delete current regulation text that includes a specific set of known filing requirements/exhibits and, instead, add general, imprecise descriptions of "complete" information.

For instance, proposed §2648.4(b)'s introductory sentence contains no clear definition of a "complete" application. Instead, it reads: "Specifically, the complete rate application includes, <u>without limitation</u>, any and all of the following:" (emphasis added) The phrase "without limitation" fails to clarify what is required; rather, it allows CDI staff to continue supplementing the required information and "moving the goal posts" literally without limitation.

Another example is proposed §2648.4(b)(2), which defines the "complete" rate application, without limitation, to include the following:

> (2) Any and all criteria, guidelines, systems, manuals, and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed, or restrict the coverages offered, in specific geographic areas such as ZIP codes, counties, or territories, for any reason, including over-concentration; and

It is unknowable how far this required information extends. Do insurers have to turn over computer source code? Insurers have long submitted underwriting guidelines to the CDI, even those without rate impact, so the CDI should be explicit about what, if any, additional information it is seeking regarding the processes required to implement the guidelines.

The practical impact of this provision on the admitted market is worthy of consideration. If this regulation is imposed upon private passenger auto insurance, it is highly predictable that the number of insurers willing to tolerate these rules on underwriting just to continue writing non-"good driver" business will decrease.

> **Department Response:** As a substitute for the rate application forms described in the current regulation that have become obsolete or may soon become obsolete, the Commissioner has amended the regulations to describe all the types of information necessary for a complete rate application that will result in a review where rates are not excessive, inadequate, or unfairly discriminatory to comply with Insurance Code Section 1861.05. The Commissioner currently relies on all information listed in the proposed regulations to evaluate a rate application. Further descriptors are unnecessary. The Commissioner provides and intends to continue providing rate application forms for insurers to use. There is no evidence that eliminating references to specific obsolete forms and exhibits in the regulation will have any negative impact on insurers in rate proceedings.

Proposed §2648.4(b)(3) (discussed more below) suffers from similar infirmities, particularly the requirement that insurer applications disclose all methods to "examine" and "inspect" an underwriting matter. What does that mean? There is no logical end to what the CDI would require. As written, this is so broad that it could apply beyond underwriting to include any automated rule an insurer may have programmed into its IT systems (very often coded by external vendors) to interpret data insurers receive from agents and vendors, all the way to how an insurer manages agent fraud – which may have nothing to do with acceptability or non-renewal criteria.

> **Department Response:** The proposed regulations outline the type of information necessary to approve rates. The proposed regulations do not seek to regulate underwriting. Information that may impact rates includes underwriting information and any contract language change that affects the rate or cost of coverage. Underwriting rules are already required to be filed pursuant to Insurance Code section 1861.05(a) and (b) as provided in the General Counsel opinion, dated August 10, 2018 (http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf.). The amended regulations require that the information be provided in a complete rate application, to prevent insurers from delaying review by not providing the information up front.

Further, does proposed §2648.4(b)(3) require insurers to disclose proprietary models they develop for data acquisition and translation? How will adding technical programming requirements and code to the rate application add any value to the process of approving rates? What purpose will it serve in private passenger auto where regulations for Good Driver acceptability and discrimination are clearly spelled out?

> **Department Response:** In recent years, insurers have become more reliant on models. Models include any methodology that an insurance company chooses to use when

classifying individual risk or estimating losses for a particular risk classification. The term "model" is meant to capture as broadly as possible the types of risk tools used by insurers to measure or assess and then classify individuals according to risk or estimate losses corresponding to such risk classification. This information regarding these models that is relevant to ratemaking is currently required to be filed by insurers, and the proposed regulations do not change that. The proposed regulations articulate the requirement that the information be provided in a complete rate application upon initial submission, to prevent insurers from delaying review by not providing the information up front.

A "Complete" Rate Application Should Be Linked to the Requirements of the Prior Approval Regulations

The requirements for a "complete" rate application should be linked to the elements for calculating an insurer's minimum and maximum permitted earned premium. Title 10, Chapter 5, Subchapter 4.8 of the California Code of Regulations (CCR) (aka, the "Prior Approval Regulations") clearly outlines the individual components that combine to form an approved rate level. However, the Proposal has no meaningful linkage to the Prior Approval Regulations. Instead, the Proposal contains an open-ended set of requirements that is not fully understood in advance of filing and subject to the individual preferences of an assigned CDI analyst.

If a required piece of information cannot be tied specifically to a calculation in the Prior Approval Regulations, it should not be required.

If CDI staff wants a piece of information not needed to calculate an insurer's approved rate level, there should be a recognized, alternative procedure for obtaining that information. However, the Proposal, in §2648.4(e), would empower never-ending information requests even after an insurer has filed a "complete" rate application, as follows: "the Commissioner may, in order to perform a complete analysis of a rate application previously deemed complete…, require the insurer to submit additional information, forms, templates, exhibits, data and documentation." While the Commissioner, undoubtedly, has access to all insurer books and records on a case-by- case basis, why would CDI need additional information to review a rate application if the insurer has submitted a "complete" rate application? Why not establish guidelines to prevent a rate filing from being "held hostage" for information that is not even within the definition of a "complete" rate application?

In the past, towards the end of a rate review process, insurers have received new questions that appear to originate either from CDI lawyers or market conduct staff. Presumably, it is known well before the tail end of a review that CDI staff will ask these questions, so we would request that such questions be posed much earlier in the process, particularly during the 45-day cooling off period where little happens other than CDI rate staff assessing data quality and reconciling the data.

Also, will the CDI take the position in court that everything included in a "complete" rate application is subject to protection under the "filed rate doctrine?" Does the precedent of MacKay v. Superior Court, 188 Cal.App.4th 1427 (2010) apply to materials submitted under the

Proposal? Or, will the CDI require all this information to be included in a rate application but then argue, later in a plaintiff's attack on an insurer practice, that the CDI did not actually "approve" all the items that the CDI required an insurer to submit as part of a complete rate application?

> **Department Response:** The proposed regulations are an update to existing regulations and each and every amendment is substantially related to and required to be considered in the prior approval of rates.

The Proposal Attempts to Regulate Underwriting Not Subject to Prior Approval

CDI has taken steps for many years to enlarge its review powers beyond the scope of its prior approval authority – and the Proposal falls in the same vein.

The Proposal improperly attempts to define a complete rate application to include underwriting decisions that are not linked to a rate calculation. For instance, proposed §2648.4(b)(3) requires submission of non-rating information, as follows:

> (3) Any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

What portion of Proposition 103 defines this information within the Commissioner's prior approval authority? None of these items are considered in the Prior Approval Regulations.

Even if this information was related to rating, does CDI expect an insurer to file with the CDI every process used by an agent or broker, particularly when large independent agency insurers do business with thousands of agents who, themselves, represents dozens of companies. Does the CDI expect an insurer to file the individual procedures from each independent agent's office, where many employees in the same office may have their own set of preferred practices on which customers to quote and place with the insurer? Would CDI actually attempt to force insurers to establish state-mandated processes within individual agent offices or expect insurers to actually collect all of this information?

Further, brokers do not represent insurers. How are insurers expected to control brokers, without the CDI turning around and accusing insurers of de facto agency?

The CDI last attempted to regulate underwriting by emergency regulation in 2003. The Third Appellate District struck down this CDI regulation (AIA v. Garamendi, 2005) because the CDI had exceeded its statutory grant of power. In rejecting the CDI's assertion that Proposition 103's rate regulation power broadly extends to the power to regulate underwriting, the Court wrote:

"As discussed above, this overly broad reading of the Commissioner's authority-that because he regulates rates he also may regulate underwriting-finds no support in the provisions of the Insurance Code… Absent any statutory indication, we decline to find that the Commissioner has

an implied wide-reaching authority to regulate underwriting based on his authority to approve rates."

While the California Supreme Court, ultimately, depublished this case, the result is still binding upon the CDI.

Moreover, the case of Smith v. State Farm, **93 Cal.App.4th 700 (2001) (and which was** prominently cited in AIA v. Garamendi), remains good law. In Smith, the Second District defined "underwriting" as:

> **Underwriting is a label commonly applied to the process, fundamental to the concept of insurance, of deciding which risks to insure and which to reject in order to spread losses over risks in an economically feasible way. [Citations.] [A]n underwriting rule is properly characterized as a rule followed or adopted by an insurer or a rating organization which either (1) limits the conditions under which a policy will be issued or (2) impacts the rates that will be charged for that policy. (at 726)**

The Proposal fails to distinguish between underwriting materials purely "limiting the conditions" under which a policy will be issued vs. rules that "impact the rates." Only the latter should conceivably be subject to the Proposal and, then, only to the extent they relate to a specified component of the Prior Approval Regulations.

The Proposal's attempt to regulate underwriting is consistent with a new CDI practice for delaying a homeowners' insurance filing based solely on underwriting decisions that are not reflected in the Prior Approval Regulations. Under this new approach, if an insurer engages in non-renewals in high fire risk areas, CDI staff will ask how this change in "mix of business" will reduce an insurer's future catastrophic fire losses.

However, the Prior Approval Regulations require insurers to use historical loss experience to project their catastrophic fire losses. So, CDI staff can, without consequence, and after the requested rate is clearly justified with no outstanding questions under the CDI's prior approval template, hold up rate filings with questions outside the scope of the Prior Approval Regulations by asking about forecasted future losses when a lower rate indication is possible, but deny insurers the ability to use sophisticated, future-looking models for forecasting of future catastrophic losses – instead requiring loss projections based upon historical losses that fail to take climate change into account. This inconsistency is one of but many frustrations with a rate review process where insurers face arbitrary treatment with no meaningful recourse but significant fear of retaliation for speaking up.

By substituting clear submission requirements with muddy and imprecise filing requirements, the Proposal would aid the CDI in exercising power well beyond the bounds of Proposition 103.

In the AIA v. Garamendi case, the CDI also tried to sidestep its clear prior approval powers by arguing it has generalized power to question the fairness or appropriateness of a particular insurer practice. The Court rejected this argument forcefully:

That the Commissioner may have authority to enforce laws designed to counter unfair or discriminatory business practices does not give him authority, without legislative approval, to determine whether certain business practices, in the form of underwriting rules, are unfair or discriminatory and to prohibit them.

If the CDI desires to regulate additional matters beyond the power granted by Insurance Code §1861.05, it should seek that power from the Legislature. It should not repeat what happened in 2003 and trigger needless, but predictable, disagreement.

Moreover, if the CDI desires to regulate based upon the reference to "unfair discrimination" in Insurance Code §1861.05, it should actually define what that term means. The only insurance-related reference to "unfair discrimination" of which we are aware is in the context of workers compensation. Insurance Code §11732.5 provides:

> Rates shall not be unfairly discriminatory. Rates are unfairly discriminatory if, after allowing for practical limitations, price differentials fail to reflect equitably the difference in expected losses and expenses. A rate of an insurer shall not be deemed unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expenses, or like expenses but different loss exposures, as long as the rate reflects the differences with reasonable accuracy.

At least this definition provides an understandable basis for objective CDI regulation. Under the Proposal, the CDI would require a rate application to include extensive information that is not subject to regulation but is subject to second-guessing under unstated and impermissible standards.

> **Department Response:** The purpose of the proposed regulation is to address the submission of a complete rate application. The suggested change is not within the scope of the proposed rulemaking. The Commissioner has determined it is in consumers' best interests to maintain the current scope of the proposed regulation and not to broaden its scope to address separate issues.
>
> The proposed regulations outline the type of information necessary to approve rates. Information that may impact rates includes underwriting information and any contract language change that affects the rate or cost of coverage. The proposed regulations do not seek to regulate underwriting. Underwriting rules are already required to be filed pursuant to Insurance Code section 1861.05(a) and (b) as provided in the General Counsel opinion, dated August 10, 2018 (http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf.). The amended regulations require that the information be provided in a complete rate application, to prevent insurers from delaying review by not providing the information up front.

<u>The Proposal is an Opportunity to Improve the System</u>

Even within the generally strict requirements of Proposition 103, there is significant opportunity to improve the rate application process. While insurers know the days of "file and use" are gone in California, they do not believe that Proposition 103 requires a rate review process where the end result and timing is unknowable in advance.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

In addition to amending the Proposal to include a clear and practical checklist of required application items, it is critical to improve the rules for the "back and forth process between CDI and insurer staff. Under the current rules, CDI staff can verbally resolve concerns but often issue formal objection letters.

Unfortunately, there are no standards for the timing or content of these objection letters. Significant concerns are:

- How many different objection letters will CDI send an insurer?
- What is an appropriate expectation for how quickly an insurer responds to an objection letter and how quickly will CDI staff return to an insurer's file once it replies to an objection letter?
- Why do so many objection letters ask questions about items unrelated to calculation of insurance rates under the Prior Approval Regulations?
- Should CDI be able to delay a filing with questions that do not relate to calculation of an insurance rate?
- After a few or several objection letters, should CDI management become involved in helping to resolve the situation?

Based upon an in-depth review of the System for Electronic Rates & Forms Filing (SERFF), large insurers typically respond to objection letters within two business weeks; however, there is great variation in how CDI staff responds from there. It is not uncommon for CDI staff to generate a subsequent objection letter a month or two after receiving an insurer response, with questions that either could have been asked earlier or are not related to calculation of the minimum and maximum permitted earned premium. This cycle can repeat itself many times, resulting in insurers frequently not understanding what is happening or when they will be able to obtain an approval. Months can pass where an insurer's compliance personnel are unable to explain to their management the status of a rate application – which, in turn, can lead to decisions that restrict availability or, in the case of rate decreases, direct consumer harm.

As the CDI considers how to increase certainty in the rate application process, we respectfully request CDI consideration of how to improve the objection letter process and reduce the time lost between multiple objection letters that may not even relate to calculation of the rate level.

> **Department Response:** This comment exceeds the scope of the proposed regulations. The proposed regulations are intended to address the longstanding issue with insurers'

submissions of incomplete rate applications, which cause unnecessary delays in the prior approval system. By articulating the requirement that all of the information be provided up front, the Commissioner can proceed to approve rates in a more efficient manner.

Proposition 103's Timeframes Should Matter

Proposition 103 contains timeframes for resolution of rate applications that are routinely missed. Insurance Code §1861.05(c) provides:

> (c) The commissioner shall notify the public of any application by an insurer for a rate change. **The application shall be deemed approved sixty days after public notice** unless (1) a consumer or his or her representative requests a hearing within forty-five days of public notice and the commissioner grants the hearing, or determines not to grant the hearing and issues written findings in support of that decision, or (2) the commissioner on his or her own motion determines to hold a hearing, or (3) the proposed rate adjustment exceeds 7% of the then applicable rate for personal lines or 15% for commercial lines, in which case the commissioner must hold a hearing upon a timely request. In any event, a rate change application shall be deemed approved 180 days after the rate application is received by the commissioner (A) unless that application has been disapproved by a final order of the commissioner subsequent to a hearing, or (B) extraordinary circumstances exist. For purposes of this section, received means the date delivered to the department. (emphasis added)

Regarding Proposition 103's expectation that a filing would be approved in sixty days, we understand that timeframe will never be met. We are not exercised about that.

However, Proposition 103's expectation that a filing will be approved within 180 days is another matter. For large, personal lines carriers, it is, unfortunately, a routine matter that CDI staff requests that insurers waive their statutory right to a timely (6 month) determination. CDI requests in the ordinary course of business that insurers waive this right should end.

If CDI rate analysts occasionally need more than six months to review a rate application, it would be appropriate for CDI to establish 1) a notification protocol for CDI supervisors to be aware of, and track, that particular situation as well as general trends and 2) procedures for priority review and expedited resolution of the delayed filing.

When objection letters cover issues not addressed in the Prior Approval Regulations, an alternative review process is needed. Insurers are generally amenable to working through non-rate issues raised by CDI staff. However, doing so in a rate application has considerable problems. First, this allows non-rate items to delay approval of a rate application. Second, if the requested information relates to trade secret items, then the CDI takes an expansive interpretation that Insurance Code Section 1861.07 requires all information to be made public. If CDI staff wishes to review non-rate items, they should do so through a market conduct exam or some other mechanism outside of the rate review process where trade secrets can be preserved.

Department Response: This comment exceeds the scope of the proposed regulations. The proposed regulations are intended to address the longstanding issue with insurers' submissions of incomplete rate applications, which cause unnecessary delays in the prior approval system. By articulating the requirement that all of the information be provided up front, the Commissioner can proceed to approve rates in a more efficient manner.

If CDI Moves Forward, the Proposal is a "Regulation"

In the February 9, 2024 announcement of the Proposal, the CDI incorrectly declared an "Exempt Rulemaking." If the CDI moves forward with a formal rulemaking, its final rule would not qualify as exempt under the "ratemaking exception" of Government Code §11340.9(g), which exempts a "regulation that establishes or fixes rates, prices, or tariffs" from substantive review by the Office of Administrative Law (OAL).

While rules strictly related to ratemaking have previously been deemed "exempt[xii]," the ratemaking exception cannot be used to bootstrap non-rate related, substantive provisions onto an exempt ratemaking regulation. The Proposal attempts to regulate non-rate related underwriting issues; this would be a "regulation" which is subject to OAL review for compliance with the standards under Government Code §§11349 et. seq. In the case of the Proposal, the current draft would fail OAL review for multiple reasons, including lack of authority to regulate underwriting (§11349(b)) and lack of clarity in what information is actually being sought in a "complete" rate application (§11349(c)).

Because this proposed regulation is not an exempt rulemaking, it must meet the requirements laid out under the Administrative Procedure Act (APA).

APA Requirements for a Valid Regulation

The CDI's most recent Complete Rate Application regulation fails to meet multiple of the mandated standards under the California APA, namely necessity, authority, and clarity.

The OAL, established in 1980 under the APA, has the express purpose of ensuring that administrative regulations are not unnecessary (Cal. Gov. Code 11340.4), unduly complex (Cal. Gov. Code Section 11340), or unclear (Cal. Gov. Code Section 11340(g)). The office was given the unique authority to review regulations from all agencies to ensure that California state agencies conformed with those interests before being able to implement and enforce any regulation.

Under the APA there are six standards that the OAL weighs when considering a proposed regulation; necessity, authority, clarity, consistency, reference, and nonduplication (Gov. Code Section 11349.1). Of particular concern under the proposed California Department of Insurance "Complete Rate Application" regulations are necessity, authority, and clarity.

The APA defines "necessity" as "the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific,

taking into account the totality of the record. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion." (Cal. Gov. Code Section 11349(a)). There are existing regulations on point defining a complete rate application at Cal. Code Regs. Title 10 Section 2643.3. The existing definition provides greater clarity to carriers than the proposed regulations regarding the requirements for a complete rate application. The CDI asserts that insurers routinely submit incomplete rate filings. The solution to this asserted pattern of behavior would be to establish a clear list of specific requirements for rate filings. Rather than doing so, the CDI's proposed regulation makes the requirements murkier, with general categories of required information and reserves for itself the ability to add additional, unforeseeable elements in its own discretion with no justification required. It is unclear what state interest is served by, much less why a regulation is necessary to, reduce specificity in filing requirements. The CDI, therefore, has failed to show that there is a need for the proposed regulation.

"Authority" is found under the APA if "the provision of law which permits or obligates the agency to adopt, amend, or repeal a regulation." (Cal. Gov. Code Section 11349(b)). The CDI is granted prior approval authority over rate applications throughout California Insurance Code Sections 1861.01-1861.16, which implement Proposition 103 (1988). However, the discussion of underwriting decisions is distinct from those of a rate application, only mentioning underwriting decisions as it relates to super groups (Cal. Ins. Code Section 1961.16) and the creation of an emergency underwriting authority (Cal. Ins. Code Section 1861.11). The language of the proposed Complete Rate Application regulation specifically requires underwriting considerations to be included in a rate application under the new Section 1648.4(b) which bloats the prior approval authority beyond its intended purpose. This expansion exceeds the authority of the CDI's prior approval authority by including non-rate information in the rate application. This is a long-trod dispute between the agency and the regulated community. In previous litigation, an appellate court has told the CDI it does not have the power to regulate underwriting using its "prior approval" authority. With the proposed regulation, it would unlawfully use filing requirements to regulate underwriting by asserting its merely a simple filing requirement. However, under the proposal, the CDI staff can withhold a finding that a rate application is complete, and thereby withhold rate review, unless and until the carrier submits underwriting information not needed for the rate calculation and withhold ultimate approval until the carrier conforms to the CDI's unlawful requirements to modify underwriting rules.

"Clarity" under the APA requires a regulation to be "written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them." (Gov Code Section 11349(c)). Here, the CDI has failed to make a showing that removing specific criteria (i.e. rating manual, rating plan, all policy forms to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line Cal. Code Regs. Title 10 Section 2643.3(b)) would increase the clarity to carriers regarding what documents and information are necessary to include in order to have an application deemed complete. By replacing specific categories of information and replacing them with "other such information as the Commissioner deems necessary" the regulation becomes unacceptably vague.

The APA has an affirmative obligation to return a proposed regulation to the implementing agency if the agency fails to include an alternatives determination (Gov. Code Section 11349.1(d)(5)), as defined by Government Code Section 11346.9. The alternative determination

requires that the submitting agency include a statement that no alternative would be as effective in carrying out the purpose of the regulation and must include supporting information for such a determination (Gov. Code Section 11346.9). Here, issue of "incomplete" rate applications would be exacerbated by the new regulatory language given the regulations failure to meet the requirements of necessity, authority, and clarity. Existing regulations incur less harm than the proposed regulation would. Therefore, the regulation as drafted would need to be returned to the CDI as an improper regulation based on the above issues.

> **Department Response:** The proposed regulations are exempt from the APA because the Legislature expressly exempted from APA review a "regulation that establishes or fixes rates, prices, or tariffs." (Gov. Code, § 11340.9, subd. (g) (the "rate-setting exception").) The long-standing rate-setting exception was added to former Government Code section 11380 in 1945, subsequently renumbered section 11343(a)(1), and is currently numbered section 11340.9(g).
>
> The California Supreme Court resolved questions regarding the Commissioner's authority to promulgate Proposition 103 regulations under the rate-setting exception in *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216 ("*20th Century*"). The Commissioner maintained that the regulations interpreting and implementing Proposition 103 were exempt from the APA review requirements as they came within the rate-setting exception (*20th Century*, at p. 248.) The Supreme Court agreed, stating:
>
> We believe that the Insurance Commissioner's position, as noted above, is well taken. The rate regulations – both generally and specifically as to rollbacks – do indeed come within the rate-setting exception, hence fall outside the OAL review requirement, and therefore are not invalid because of OAL disapproval. (*20th Century* at p. 270.)
>
> There is no material distinction between the regulations exempted by the Supreme Court in *20th Century* and the current proposed regulations. Indeed, regulations are exempt from the APA whenever they comprise "an essential step" and "an integral part of the process" of fixing a rate. (See *Winzler & Kelly v. Dept. of Industrial Relations* (1981) 121 Cal.App.3d 120, 127-128; *Vector Resources, Inc. v. Baker* (2015) 237 Cal.App.4th 46, 58.) Proposition 103 specifically mandates that the first step for an insurer seeking to change its rates is to file a complete rate application with the Commissioner (Ins. Code, § 1861.05, subd. (b)), so the Commissioner cannot proceed to approve rates without a complete rate application that includes the information described by the proposed regulations. These proposed regulations are essential steps and an integral part of the rate approval process. They are therefore exempt from the rulemaking provisions of the APA.

Conclusion

The Proposal is an opportunity for important dialogue among the CDI and the regulated community. Prompt rate review is possible within the rules of Proposition 103. However, the current implementation of Proposition 103 requires insurers to approach a complicated, rigorous rate review process with no predictability about the final approved rate level or how long the process will take. There are significant requirements placed upon insurers

and routine expectations that insurers waive their rights under Proposition 103, but no accountability measures for the CDI – including the ability to extract non-rate related concessions by holding up ultimate approval of an otherwise uncontested rate application. The current rules make placing business in the excess and surplus market more attractive than it should be – the Proposal would exacerbate this problem.

Thank you for consideration of these comments. We appreciated the opportunity to raise these concerns, and remain hopeful that the CDI will cease pursing avenues that further hinder a struggling market.

Sincerely,

Rex Frazier
President

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

7. Written Comment from American Property Casualty Insurance Association

The American Property Casualty Insurance Association (APCIA) appreciates the opportunity to participate in the California Department of Insurance (CDI) Proposed Rulemaking Amendments to the Complete Property and Casualty Rate Application Regulations (Regulations). APCIA is the property casualty industry's most diverse trade association and represents over 1,200 individual insurance companies representing over 320 groups. Our members write $618 billion in direct written premium and assumed reinsurance premium, which translates into nearly 65 percent of the overall property casualty insurance marketplace in the United States. APCIA members represent a balance between personal lines (38 percent) and commercial lines (62 percent) businesses.

APCIA has reviewed the proposed Complete Property and Casualty Rate Application Regulations (REG-2019-00025) and understands that CDI is intending to modernize and expedite what can be a lengthy filing process for all insurers, large and small. APCIA, however, has numerous concerns with the proposal as currently drafted. APCIA does not believe these amendments will further CDI's stated purpose of "reduc[ing] unnecessary delays in the rate review and approval process so that insurers will be able to implement appropriate rates more quickly" and will, in fact, cause further delays by adding more bureaucracy, red tape, uncertainty and open-ended requirements to the process of reviewing requests for rate increases. We stand ready to work with CDI in creating a more efficient and streamlined rate filing process and hope to reach a result that better aids California consumers and the insurers that serve them, but the current proposed regulations do not achieve that goal.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Overall State of the California Insurance Market

When APCIA last provided comments on these proposed Regulations in 2021, the insurance marketplace was not in the state of crisis it is confronted with now. APCIA is concerned that rather than helping to solve the current market instability, these proposed Regulations will exacerbate the rate filing delays that are the root of the insurance availability deterioration. Not only will these regulations increase the volume and complexity of documents required to be submitted as part of the rate approval process, which will conceivably take more Department staff time to review and analyze, but the Regulations themselves grant the Department additional time at the beginning of the process to determine completeness. Section 2648.2 (b) provides the Department 30 days to notice incompleteness and reject an application, up from the current 14 day period. Because expediting the rate review process is a paramount priority, APCIA suggests that CDI not increase the time for a determination of completeness and instead impose a strict deadline for staff to complete review of insurer filings, eliminating the ability to routinely request that insurers waive the deemer. Ensuring consistent policies are observed by all CDI reviewers could eliminate much of the post-intake back and forth with the companies. It would also be

helpful if CDI could incorporate its internal checks/balances into the rate exhibit files – companies could then verify whatever is out of balance gets corrected before submitting a filing.

> **Department Response:** The amended regulations do not require the submission of information that was not previously required; they just require all the information be provided in the rate application up front. Requiring all the information to be filed up front will save time. Additional time may be needed to confirm all required information is in the rate application. However, once it is confirmed, approval of the rate application should proceed more quickly. Strict deadlines will encourage insurers to attempt to game the system and withhold documents required to approve rates. Ultimately, it will delay the approval of rate applications when the information required to approve them is unavailable. This is what the proposed regulations are trying to remedy. The purpose of the proposed regulation is to update the requirements for submission of a complete rate application. The Commissioner intends to continue to provide forms for insurers to use as part of this process, but those forms are not within the scope of the present rulemaking. Once all required information has been submitted as part of a complete rate application, Department staff review individual rate applications for compliance with California law on a case-by-case basis.

Retroactivity

Section 2648.4(e) of the Regulations authorizes CDI to require insurers to provide additional information for rate filings previously deemed complete. This authority cuts against the stated intent of the regulations to create a more efficient rate filing process. This section eliminates a defined end to the rate filing process and effectively leaves the process open in perpetuity. CDI already possesses broad authority to conduct an examination of an individual insurer. APCIA believes it unreasonable, unnecessary, and inefficient to never bring the rate filing process to conclusion on the basis that CDI may want to seek additional information in the future. APCIA opposes any application of changes to the Complete Rate Application Regulations retroactively.

> **Department Response:** Under the existing regulation without this amendment the Commissioner retains authority after a rate application has been deemed complete to require the submission of additional information during the rate review process, and this amendment does not change that. Insurers are not all identical. As a result, not all applications can be approved based only upon providing the baseline, minimum information required. Ultimately, the Commissioner cannot approve an application until it is confirmed that it complies with California law, specifically including Insurance Code section 1861.05. If additional information is necessary to confirm this, it must be provided during the course of the Commissioner's review of the rate application and before the application can be approved.

Scope of Regulations

APCIA has numerous concerns regarding the scope of the Regulations. First, the breadth of information required with a filing is overreaching and could hinder competition in the market. To mandate that insurers file the materials required in subdivisions (b) through (d) of Section 2648.4

of the Regulations is essentially requiring that all proprietary business practices be included in every rate filing. The proposal includes materials that have previously never been required to be filed, and which are not required to be filed in other jurisdictions, but which would reveal individual insurer business practices to competitor review, essentially eliminating individual insurer competitive advantages in both policyholder selection and rating, potentially limiting consumer options for coverage.

> **Department Response:** The information listed in the proposed regulations is the information currently relied on by the Commissioner to approve rates. If the insurer uses proprietary business practices to generate its rates, it is subject to review and subject to public inspection pursuant to Insurance Code section 1861.07.

Second, to create more process efficiencies, it is imperative that terminology used in the Regulations be well defined to avoid ambiguity (e.g., rating and rating rule manual, guidelines, systems, algorithm, model). The current regulations provide a defined and distinct list to give insurers guidance for making complete filings. In contrast, Section 2648.4(a) of the proposed Regulations provides that insurers file "all information that the commissioner may require in order to perform a complete analysis of a rate application." This overly broad and vague language provides little guidance to insurers and will result in a less efficient and slower rate filing process.

> **Department Response:** This comment expresses concern that the language in Section 2648.4(a) is overly broad and provides little guidance to insurers, and argues for the regulation to provide a defined and distinct list to give insurers guidance for making complete filings.
>
> The Department responds that the language in proposed section 2648.4(a), "all information that the commissioner may require in order to perform a complete analysis of a rate application," implements and makes specific the mandate set forth in Ins. Code 1861.05 regarding filing a complete rate application. To the extent that the Commissioner may require information in order to perform a complete analysis of a rate application, it must be filed publicly as part of the insurer's complete rate application.
>
> The comment suggests that the subdivision in question is somehow faulty because it does not limit what may be required of insurers to a fixed, finite list. However, the proposed language of Section 2648.4(a) intentionally draws from statutory language to clarify that a wide array of information used by insurers in ratemaking may be required by the Commissioner to perform a complete analysis of a rate application. Because the Commissioner may not always require the same items from all insurers in every single instance to complete that rate application analysis, it is necessary to clarify that insurers shall submit whatever information the Commissioner requires to perform a complete analysis of a rate application, in addition to the specific items identified in the materials described in subdivisions (b) through (e) of this Section 2648.4, as well as the exhibits, data, information, materials and documentation specified by Sections 2641.1 through 2643.8 and Sections 2644.1 through 2644.28.

The Commissioner is not persuaded by the commenter's argument that the Department should not i reference the Commissioner's authority to require insurers provide all information needed to analyze a rate application.

The Commissioner has amended the regulations to eliminate references to outdated and obsolete documents in an effort to remove ambiguity. The Commissioner intends to continue to provide a defined and distinct list of forms for insurers to use in the ratemaking process, but those forms are not within the scope of the present rulemaking.

The commenter identifies no actual language in the proposed text as unclear or ambiguous. Nor does the commenter assert that any party that will be directly affected by the regulations would find the language confusing or difficult to understand. Nor does the comment state that the language of the regulation conflicts with the Department's description of the effects of the regulation. Thus, the commenter has not identified or articulated an actual infirmity in this subdivision of the proposed regulation.

Section 2648.4(b) addresses eligibility. It requires filing of materials related to an insurer decision to "inspect." This requirement is problematic as insurer practices regarding inspection vary and may involve models in making that determination. "Systems, manuals, models, and algorithms" should be removed as criteria and guidelines would encompass these. Replacing "criteria" with "eligibility criteria" and "guidelines" with "underwriting guidelines" would create more clarity in the Regulations. Also, the phrases "examine, inspect" and "re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options" should be deleted as they go well beyond eligibility considerations.

Department Response: The Commissioner agrees that insurers may, or may not, use models to determine whether to inspect a risk, or to modify an applicant's or insured's coverage or coverage option and, with that knowledge, intentionally specified models in subd. (b) to clarify that models used for the purpose described in subd. (b) shall be included in a complete rate application. The commenter does not offer any real explanation as to how this provision is problematic. It is common knowledge that insurer practices may vary in any number of ways—the Commissioner does not agree that the requirement itself is somehow flawed because insurers may vary in how to inspect risk.

Despite advocating for increased specificity to help guide insurers in making complete rate filings above, the commenter contends that the Commissioner should simultaneously be less specific in order to increase clarity. Again, the Commissioner has intentionally and purposefully specified items such as "Systems, manuals, models, and algorithms" to eliminate any ambiguity as to whether those items are required to be included in a complete rate application, if they are used for the purpose described in subd. (b). If they are not used for the purposes described in subd. (b), then they need not be included in a complete rate application.

The Commissioner requires a complete rate application to include the necessary information to determine whether rates comply with Insurance Code section 1861.05. The Commissioner requires insurers to file criteria and guidelines that impact rates.

The commenter identifies no actual language in the proposed text as unclear or ambiguous. Nor does the commenter assert that any party that will be directly affected by the regulations would find the language confusing or difficult to understand. Nor does the comment state that the language of the regulation conflicts with the Department's description of the effects of the regulation. Thus, the commenter has not identified or articulated an actual infirmity in this subdivision of the proposed regulation.

APCIA suggests Section 2648.4(b)(3) be deleted in its entirety as it goes beyond eligibility, requiring all insurer internal processes to be disclosed. At a minimum, "procedures" should be deleted from the required materials to be filed. Insurers may have hundreds of internal business procedures specific to a single rating factor. To require filing of such procedures is onerous and unnecessary. Insurers currently maintain such procedures and they are available for inspection by regulators upon request. In addition, "agent" and "broker" should be deleted because agents and brokers follow insurer eligibility criteria and underwriting guidelines.

Department Response: The Commissioner requires a complete rate application to include the information relied on to determine whether rates comply with Insurance Code section 1861.05. The Commissioner only requires insurers to file criteria and guidelines that impact rates. The amended regulations do not change this.

Section 2648.4(d) provides that insurers must file "a complete and entire copy of any and all written and electronic descriptions of all of the materials described in subdivisions (a) through (c) of this section." This language is onerous and unnecessary given the materials it references. APCIA suggests deleting this subsection.

Department Response: As explained in the Initial Statement of Reasons, insurers are currently instructed to file all materials referenced in section 2648.4(d) but do not always comply. This provision clarifies that such materials are required in a complete rate application upon initial submission.

Finally, APCIA believes commercial lines should be exempt from the extensive filing requirements included in the Regulations. In general, commercial policyholders are more sophisticated, the risks are more complex, the risk of harm is reduced, and risks are heterogenous. Due to the diversified coverages and the unique characteristics of each product, commercial carriers rely more on underwriting experience than data collection in determining coverages and rates than personal line carriers. Further, large commercial policyholders typically utilize a broker in obtaining coverage and tend to acquire more individualized coverage than would be indicated in many of the materials required to be filed.

Department Response: Commercial lines that are subject to Proposition 103 must have rates that are not excessive, inadequate, or unfairly discriminatory. Proposition 103 does not exempt commercial lines from filing a complete rate application. The information required to be filed in the proposed regulations is no different than the information that is currently required. It is just stated in more general terms. The Commissioner has

determined it is in consumers' best interests to maintain the current scope of the proposed regulation and not to alter its scope to address separate issues

Speed to Market Concerns

Today's insurance marketplace demands an increasingly nimble insurance industry capable of responding to evolving coverage needs and emerging technologies. The onerous and overly broad filing requirements contained in the proposed Regulations would undoubtedly stifle innovation and hinder insurer ability to respond to policyholder needs. The insurer resources needed to comply with exhaustive filing requirements would surely affect the ability to quickly introduce new products to market. The proposed Regulations offer little in the way of speeding up the review and approval of filed rates, and instead, are replete with uncertainty and vagueness. In addition, the proposed filing requirements could negatively impact insurers' ability to implement rate changes that would benefit California consumers.

Department Response: This comment exceeds the scope of the proposed regulations. The proposed regulations are intended to address the longstanding issue with insurers' submissions of incomplete rate applications, which cause unnecessary delays in the prior approval system. By articulating the requirement that all of the information be provided up front, the Commissioner can proceed to approve rates in a more efficient manner.

Confidentiality Concerns

APCIA strongly believes regulators should be required to treat as confidential any insurer filings related to an insurer's intellectual property, including, without limitation, algorithms, models, data, and underwriting guidelines. If proprietary information is made public, it will negatively affect insurers' ability to compete and maintain competitive advantages that result in varied coverage options for California consumers - insurers will have less incentive to innovate and provide new and improved products to consumers.

Department Response: Per Insurance Code section 1861.07, insurers that use intellectual property in formulating rates must publicly disclose it in the rate review process.

APCIA appreciates the opportunity to provide comments and looks forward to continued engagement with CDI as discussions about improving the rate filing process move forward.

Sincerely,
Denneile Ritter
Vice President, State Government Relations
denneile.ritter@apci.org

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

8. Written Comment from Pacific Association of Domestic Insurance Companies

Subject: Complete Property and Casualty Rate Applications Regulations

Dear Ms. Landsman:

The Pacific Association of Domestic Insurance Companies (PADIC) appreciates the opportunity to provide comments as it pertains to the proposed Complete Property and Casualty Rate Applications regulations. PADIC is comprised of twelve small to mid-sized California domestic insurance companies that employ Californians and provide property and casualty insurance products to Californians and their businesses. Our member companies have been hard hit by the lengthy rate approval process. A significant percentage of our companies have suffered losses that resulted in book contraction or workforce reductions. PADIC companies are the bellwether of the domestic market, and the success or failure of the proposed rate regulations will likely be felt first amongst our membership. We acknowledge and respect the CDI's objectives with the proposed regulations and appreciate your willingness to hear our concerns.

It is important to note that some of our member companies have experienced timely rate approval without the deemer waiver when the CDI has wanted a product on the market. The timely approval on these filings was very much appreciated and our members companies would like this to be the standard on filings for small to mid-size California domestic insurance company.

> **Department Response**: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Please kindly consider the following points expressed by PADIC members:

1. **Complete Application Requirements** -- The materials associated with the rate making application and templates (forms/coverage, premium, fees, expense, investment income, and losses) are already required. The CDI's own "statement of reasons" at page 22 reports that only one personal filing was rejected for incompleteness in all of 2023, therefore incompleteness isn't a compelling factor in determining the cause for delay in the rate review process. Nor is there any data to suggest that insurer confusion about what is to be submitted is responsible for the delay. We are concerned that the newly proposed lengthened time frame and the emphasis on carriers to provide a "complete" application will not prevent the CDI from asking for additional information in a lagged fashion even when a rate application has been deemed "complete" pursuant to these new regs. Item (e) on the last page of the proposed regs states that the Commissioner can still "require the insurer to submit additional information" prior to approval. PADIC is concerned these changes will not help to expedite the rate approval process and, in fact, could result in additional delays.

Department Response: Insurers are not all identical. As a result, not all applications can be approved simply by based upon the minimum, baseline information required as part of a complete rate application. Ultimately, the Commissioner cannot approve an application until it is confirmed that it complies with California law, specifically including Insurance Code section 1861.05. If additional information is necessary to confirm this, it must be provided. Notwithstanding, if insurers provide all of the information required for a complete rate application up front as required by the proposed regulations, the Commissioner expects this will reduce the amount of time it takes for Department staff to obtain it rather than gather it piecemeal and thus reduce the time for rate approval.

2. **Data Reconciliation Tool** -- Providing insurers with the Data Reconciliation tool is the most effective way the CDI can speed up the "complete application" process. Current regulations require public notification 14 days after receipt of a complete application. This notification starts the clock. The proposed regulations give the CDI 30 days to determine if the application is complete, and then after the 30 days, if an application is complete, they have 10 days to post public notice. We do not believe that going from 14 days to 30 days will speed-up the process. If the CDI has their automated tool handling the data reconciliation step, they should need less than the current 14 days, not more.

   Department Response: The purpose of the proposed regulation is to simplify the description of materials required to submit a complete rate application and avoid the granularity of listing forms that may become outdated or obsolete. It would be impractical to add a data reconciliation tool to the regulations itself as it would also be too granular. The Commissioner has determined it is in consumers' best interests to maintain the current proposed regulation.

   Further, expanding the time to review the submission of a complete rate application is supported. Requiring all the information to be filed up front will save time. However, additional time may be needed to confirm all information is in the rate application. Once the submission is confirmed to be complete, approval of the rate application should proceed more quickly.

3. **Delays from Objections** -- We do understand the necessity of the CDI's request for information process (via objection letters) and welcome the dialogue during the course of a filing, but we have also observed changes in the CDI's objection practice; specifically, we are receiving more objections late in the filing, or objections that seek answers to questions which may have no material impact on the filing, or that do not relate to the proposed changes being sought by the insurer. The CDI is proposing stringent requirements on getting a "complete" filing without attending to the central cause of delay which is the multiple objection letters being sent to ask for information that can, with careful review by the CDI, be sent early and in one comprehensive

objection. We would ask that the CDI build in safeguards to avoid the multiplicity and redundancy of objections.

Department Response: The Commissioner respectfully disagrees. The proposed regulations directly address the issue of regulation approval delays based upon a commonly identified failure of applicants to provide all required information when initially submitting rate applications, which often leads to multiple objection letters being sent to ask for additional information. The regulations require insurers to file all the information necessary to approve their rate applications up front, which will lead to fewer objection letters seeking information not initially provided by the insurers.

4. **Delays from Deemer Waivers** – Since the implementation of Proposition 103, the CDI has often had to rely on requesting "deemer waivers" from insurers to allow the department more time in completing its review. Historically, these deemer waivers were requested only when absolutely necessary, and they often only extended the overall approval time by a few weeks. In the last few years, the deemer waiver has been requested routinely, on virtually every filing. We would request that new regulations address this process so that a deemer waiver is the exception, and not the rule, as was the original intent.

   Department Response: This request exceeds the scope of the proposed rulemaking. The purpose of the proposed regulations is to update the requirements for submission of a complete rate application. They require insurers to file all the information necessary to approve their rate applications up front, which will lead to fewer requests for deemer waivers.

5. **Underwriting Guidelines** -- The CDI's Statement of Reasons (page 15) suggests that a change in underwriting acceptability is equivalent to a change in rates. The traditional practice of submitting underwriting manuals is, under these proposed regulations, being expanded to literally anything and everything the insurer uses to make decisions. The current regulations do not define underwriting guidelines and state that "the Commissioner may later require the submission of relevant underwriting rules." The proposed regulations expand this authority to "all criteria, guidelines, systems, manuals, models and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options." The impact of this is the following:

   - Expansion of underwriting guidelines will increase review time (e.g. underwriting models are currently not submitted by companies and will need to be reviewed).
   - Insurers will be required to submit information used in underwriting that is not related to rates.
   - Underwriting guidelines unrelated to rates will require approval contrary to the CDI's approval letter.

Delays in the implementation of underwriting guidelines may result in companies halting new business until changes are approved. For example, Homeowners programs have capacity management rules to protect the solvency of the insurer. Changes in the reinsurance market often require time sensitive changes to these rules. Requiring filing and approval of these decisions is not practical, and the hindering of an insurer's ability to manage their exposure will cause further capacity problems.

6. **Authority** -- PADIC does not believe that the Insurance Code governs underwriting guidelines and we believe CDI is taking a broad interpretation as it relates to 1861.05. Rather than program eligibility criteria, CDI is trying to expand it to include proprietary underwriting information. The CDI has the power to review these items but the power lies within the Market Conduct examination process. The proposed regulations appear to suggest that the Rate Regulation Division should take over Market Conduct Division's responsibilities, which would clearly just add to the length of time that it is currently taking to review rate filings.

Department Response: The amended regulations do not expand filing requirements. Underwriting information is already required to be filed pursuant to Insurance Code section 1861.05(a) and (b) as explained in the General Counsel opinion dated August 10, 2018 (http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf.) The Commissioner is authorized to review underwriting information in connection with the rate review process to evaluate the reasonableness of a proposed rate in relation to the specific risks to be insured and coverages to be offered to determine whether such rates are excessive, inadequate or unfairly discriminatory. (Ins. Code §1861.05(a).)

For these reasons, PADIC is very concerned about the proposed regulations, and respectfully requests that the CDI reconsider moving forward with the current draft. We stand by to participate constructively in an improved draft.

Truly,

Stacey Jackson
Director

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

9. Written Comment from Rural County Representatives of California

RE: Complete Property and Casualty Rate Applications—Proposed Rulemaking

Dear Ms. Landsman,

On behalf of the Rural County Representatives of California (RCRC), we offer the following comments on the California Department of Insurance (CDI) proposed rulemaking on Complete Property and Casualty Rate Applications. RCRC is an association of forty rural California counties and the RCRC Board of Directors is comprised of elected supervisors from each of those member counties.

In the past decade, RCRC member counties have a disproportionate percentage of residents who have had their residential property insurance nonrenewed due to wildfire risk. A large majority of our communities are in high or very high hazard severity zones and have seen both dramatic premium increases and drastic spikes in nonrenewals. While many rural residents understand that higher costs for coverage will be the new standard under higher wildfire threats, many of them have had to resort to the FAIR Plan for fire insurance coverage and have been effectively priced out of California's whole-home coverage market.

We also have an acute understanding of the challenges faced by the insurance industry in California, which is suffering unprecedented levels of losses due to the state's modern wildfire patterns. RCRC is aware that California's average homeowners' insurance policy falls short of other states with similar loss profiles, while insurers see some of their highest loss ratios in our state as well as increased reinsurance costs. It is also crucial that California's admitted market open up to more property owners because the FAIR Plan is alarmingly oversubscribed and could become insolvent with the next large-scale wildfire event.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

RCRC supports efforts outlined in the proposed rulemaking to clarify the rate application process for property and casualty rate applications. In doing so, we believe that rate filings will not only be more transparent and accessible for public participation but will also facilitate more timely completion by reducing delays during the CDI review process. To ensure the new process is working as intended, RCRC recommends establishing a review after three years, complete with a report released to the public, describing how the process has improved rate applications, transparency and public participation.

> **Department Response**: The comment supports the amendments to the regulations and requests a review and report in three years to determine whether and how the updated regulations have improved the process.

To the extent the comments may request amendment of the proposed regulations to add a review and report component, the Commissioner has decided not to amend the proposed regulation. The purpose of the proposed regulation is to update the requirements for submission of a complete rate application. Though the Department has not foreclosed a review of the regulations at a later time, the Department has determined it is in consumers' best interests to maintain the current scope of the proposed regulation.

We appreciate your consideration of our comments and look forward to continuing working with CDI on the Sustainable Insurance Strategy. Please do not hesitate to contact me at sheaton@rcrcnet.org with any questions.

Sincerely,

STACI HEATON
Senior Policy Advocate

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

10. Written Comment from Verisk

RE: Proposed Regulation - REG-2019-00025, Complete Property and Casualty Rate Applications

Dear Ms. Landsman:

Verisk/Insurance Services Office, Inc. (ISO) and Verisk/Extreme Event Solutions (AIR Worldwide), thank you for the opportunity to provide comments regarding the California Department of Insurance ("Department") Draft Regulations: Complete Property and Casualty Rate Applications.

Background on Verisk

ISO is a licensed advisory/rating organization in all 50 states, the District of Columbia, Puerto Rico, and several U.S. territories. Verisk/ISO is a leading source of information about insurance risk. To serve our clients, we draw upon our vast experience in data management and our expertise in predictive modeling. Verisk/Extreme Event Solutions serves the insurance industry, the public sector and its over 400 clients by providing realistic and objective models that enable all stakeholders to better understand and effectively manage risk from extreme events.

More than 70 percent of the FORTUNE 100 relies on our company's advanced technologies to manage risks, make better decisions, and improve operating efficiency. The company's analytic solutions address insurance underwriting and claims, fraud, regulatory compliance, natural resources, catastrophes, economic forecasting, geopolitical risks, as well as environmental, social and governance (ESG) matters.

In the United States and around the world, our products help customers protect people, property, and financial assets. Verisk operates through units that offer risk-assessment services and decision analytics to professionals in many disciplines throughout the insurance industry.

For over 50 years, Verisk has developed innovative solutions including advanced tools and analytics to support a healthy insurance market. As a company, we constantly strive to improve our innovative solutions to help insurers understand risk and achieve cost-based pricing.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

General Comment

Before discussing the proposed regulations at issue, we note that the Department recently released draft regulations considering a model review process that recognizes the need to protect intellectual property. We are encouraged by this development and anticipate that if adopted, such protections may address our concerns provided below. With this in mind, we respectfully ask that

the Department consider our comments below should an effective process for protecting intellectual property not come to fruition.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

The Proposed Regulation May Likely Stifle Innovation and the Availability of Insurance

The proposed regulation could expose the intellectual property of important tools used in ratemaking, thus jeopardizing the continued development, availability and the advancement of tools needed to effectively and efficiently do business in a market already in crisis. Furthermore, as the proposed regulation also broadly applies to important underwriting tools currently and historically relied on by insurers to conduct business, it may likely exacerbate the already high cost of insurers doing business in the state, costs often ultimately passed on to insureds, and may similarly jeopardize the continued availability of such necessary tools which in turn may produce an environment where some insurers may become reluctant to continue to do business in the state or inhibit those otherwise interested in newly entering or expanding their current offerings in the state.

In this regard, companies that invest the time and expense to develop sophisticated tools and models understandably need assurance that their intellectual property will not be exposed to their competitors around the country, and around the world, for it to make business sense to continue investing, developing and refining their work. Requiring the inclusion of algorithms and models in rate filing applications will place a chilling effect on the availability of innovative risk models and other underwriting and rating tools in the state of California and could have an adverse impact on the marketplace for consumers.

This is especially the case given the August 10, 2018 letter ("Letter") issued by the General Counsel and Deputy Commissioner of the California Department of Insurance which expressed the view that underwriting rules were subject to public inspection "regardless of whether such underwriting rules are marked "confidential," "proprietary," or "trade secret."" Furthermore, the proposed regulation, together with the Letter, raise more questions than they answer in relation to the interplay with protections afforded to both copyrighted information and trade secret information, as provided under California Government Code section 6254(k) and as recognized in more formal California Attorney General opinions that have indicated that both the State and state officials are subject to copyright laws (See, e.g., 64 Ops. Cal. Atty. Gen. 186, 1981 WL 12673 (March 3, 1981)), and no prior California court decision would appear to unambiguously support such a broad reading of the insurance code in relation to all such material that would be newly subject to the proposed regulation and Letter, including third party material that insurers may use under existing private party contracts.

These kinds of questions, and the value and importance of the underlying information and rights of private parties to contract, may not only chill innovation in the state, but also spawn otherwise avoidable proceedings to seek answers on such important questions, something easily avoided by

revising the proposed regulation (and Letter) and taking a more narrowly tailored and balanced approach.

Moreover, the proposed regulation could further contribute to a dysfunctional insurance market due to a reduction in innovative tools. Many insurers have utilized innovative tools and models to better understand risk for decades. If insurers are forced to move backwards in the state, away from more accurate and granular risk information, they may need to take a broader and more conservative approach in underwriting which, in turn, could potentially have the unintended consequence on insurance availability. More consumers could be forced to obtain insurance from the non-admitted market, and adverse selection could result due to the non-admitted markets still having access to innovative tools and models. Finally, in such a scenario, consumers in California will have less access to cost-based-pricing that more accurately reflects premiums commensurate with the level of their risk which would continue to be enjoyed by those in states outside of California.

It seems highly unlikely that insurance consumers will benefit from having direct access to advanced program information, such as complex code and algorithms. Without assurance that proprietary information will be protected, there will be a chilling effect on the availability of innovative tools and models to support a healthy insurance market in the state.

> **Department Response:** The proposed regulations do not change the requirement that the relevant information and data regarding the models used by insurers in ratemaking to segment rates, create a risk, differential, or surcharge premium, based on the policyholder or applicant's risk, must be considered by the Commissioner as part of the insurer's complete rate application. They impact rates. Therefore, per Insurance Code section 1861.05, they must be considered when determining whether the rate is excessive, inadequate or unfairly discriminatory. Insurance Code section 1861.07 requires that they be made public. Insurers are not required to use models. If they choose not to use models, they would not be required to file information concerning models. Insurers have the option of relying on loss data instead of models. The proposed regulations do not expand the current filing requirements. Underwriting information is already required to be filed pursuant to Insurance Code section 1861.05(a) and (b) as explained in the General Counsel opinion dated August 10, 2018 (http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf.) The Commissioner is authorized to review underwriting information in connection with the rate review process to evaluate the reasonableness of a proposed rate in relation to the specific risks to be insured and coverages to be offered to determine whether such rates are excessive, inadequate or unfairly discriminatory. (Ins. Code §1861.05(a).)

The Proposed Regulation Could Undermine the Commissioner's Sustainable Insurance Strategy

The notice of the proposed regulations comes at a time when the commissioner has made it part of his Sustainable Insurance Strategy to permit the use of catastrophe models in California (models available in all other states). The proposed regulation could result in defeating the

immediate purpose of the commissioner's strategy - to improve the state's market conditions for consumers.

Sophisticated models continue to improve and are an important enhancement to historical methods for determining risk. Intellectual property protections will encourage the continued innovation needed to support a healthy insurance market in the state. In fact, Commissioner Lara testified at two recent informational hearings before the State Senate and Assembly Insurance Committees that "Allowing insurance companies to use catastrophe modeling in their rate calculations will give them the ability to better anticipate future potential catastrophe losses." (December 13, 2023 Assembly Oversight Hearing). Clearly, an overly broad regulation that would chill such use and introduction and expansion of future catastrophe models in the state, for the reasons discussed above, would be directly at odds with the recognition of the importance of catastrophe models. We agree with the Commissioner's quoted statement and we urge the Department to revise the proposed regulation so that it encourages, not discourages, the Commissioner's vision.

> **Department Response:** The purpose of this set of proposed regulations is to update the complete rate application filing requirements by eliminating requirements to use outdated and obsolete forms and by stating in more general terms what information is required to be included in a filing. As acknowledged in the comments, other regulations are pending which are designed to complete the Commissioners sustainable insurance strategy.

A Narrower Approach is Needed

As noted above, rather than adopt broad regulation that will likely stifle innovation and potentially result in reducing the types of tools currently available for accurately determining and reflecting risk, we suggest the Department adopt a narrower approach that considers what information is really needed, what information would serve no benefit from broad public disclosure and, what will more appropriately provide the industry with clearer instruction reflecting a more balanced approach and the vital need for protecting intellectual property. In this regard, we would note that Verisk already provides insurance departments across the country, including California, with hundreds of pages of documentation to provide insightful information and transparency related to our catastrophe models. As opposed to the currently broad approach provided for in the proposed regulation, we strongly urge the Department to consider revising the regulation to instead provide for a model review process for complex catastrophe models while protecting intellectual property.

> **Department Response:** This comment restates the written comments, above, and the Commissioner incorporates his prior response here.

Concluding Remarks

The proposed regulations provide an overly broad approach that could jeopardize the availability of current or updated risk assessment tools, stifle innovation and discourage development and introduction of new tools that in turn could contribute to a healthier insurance market for Californians. Thus, the current proposal is inconsistent with the immediate purpose of the

Sustainable Insurance Strategy to improve the state's market conditions for consumers in the state.

> **Department Response**: This comment restates the written comments, above, and the Commissioner incorporates his prior response here.

As mentioned at the beginning of our comments, we are encouraged by the that Department's recently released draft regulation considering a model review process that recognizes the need to protect intellectual property. As such, we respectfully suggest that the proposed complete property and casualty rate applications regulation at issue here be put on pause while the adoption of regulations creating a model review process is developed. This seems a more logical order to adopt regulations intended to implement the Insurance Commissioner's Sustainable Insurance Strategy, since it is difficult to remove concerns over the complete rate application regulations without assurance of intellectual property protections.

We would welcome the opportunity to work with the Department to explore different options that will thread this needle as an alternative to the Department proceeding with the regulation as proposed.

Respectfully Submitted,

Kara Cross
Regional Vice President, State Government Affairs

Roger Grenier, Ph.D.
Senior Vice President, Consulting and Client Services
Extreme Event Solutions

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

11. Written Comment from California Building Industry Association, et al (1)

RE: Proposed Rate Filing Reforms

Dear Commissioner Lara:

Insurance agents, insurers, small business owners, consumers, affordable housing advocates, family farmers, fire safety leaders, local governments and others are very much aware of the insurance availability crisis California residents are facing. We truly appreciate the California Department of Insurance's desire to reduce unnecessary delays in the rate approval process and appreciate your efforts to fix the crisis.

Department Response: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Unfortunately, we do not believe the recently proposed regulatory reforms provide the solutions necessary to solve the crisis, and they could actually make matters worse.

Significant delays in the rate approval process have created a marketplace that is not functioning as it should. These delays are a key reason why insurers have stopped writing in California. We believe that streamlining the rate approval process is critical to restoring balance in the market.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

After reviewing the proposed regulations, we believe they would result in further delays by adding more time and uncertainty to an already complex process. Rather than reducing delays, the proposed regulations add time to the rate review process on the front end and would allow the Department of Insurance to continuously ask insurers for data that may be unnecessary to determine the rates that are being requested. We cannot afford to have further delays in the rate review process and not provide any meaningful relief to consumers.

Department Response: The proposed regulations may increase the time to review the rate application for completeness. Additional time may be needed to confirm all information is in the rate application. However, if all of the information required in the proposed regulations is submitted up front, it will reduce the time it takes staff to obtain it rather than gather it piecemeal during the rate review process and decrease the time it takes to approve applications. Notwithstanding, additional requests for information may still be necessary. Insurers are not all identical. As a result, not all applications can be approved based upon the minimum baseline information required. Ultimately, the Commissioner cannot approve an application until it is confirmed that it complies with California law, specifically including Insurance Code section 1861.05 which mandates that rates cannot be excessive, inadequate or unfairly discriminatory. If additional information is necessary to confirm this, it must be provided.

We respectfully urge the Department of Insurance to reconsider the proposed regulations and focus on reforms that will truly start to fix our broken market and ensure all Californians have access the insurance they need to protect their homes, cars and small businesses.

Thank you for the opportunity to provide our comments. We look forward to working with the Department to promote reforms needed to protect consumer access to insurance.

Sincerely,

Rob Moutrie
Senior Policy Advocate
California Chamber of Commerce

Matthew Hargrove
President & CEO
California Business Properties Association

Tim Taylor
Policy Director
NFIB California

Debra Carlson
Executive Vice President, State Government Affairs
California Apartment Association

Robert Rivinius
Political Director
Family Business Association of California

Bruce Wick
Director of Risk Management
Housing Contractors of California

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

12. Written Comment from California Building Industry Association, et al (2)

RE: Proposed Rate Filing Reforms

Dear Commissioner Lara:

Insurance agents, insurers, small business owners, consumers, affordable housing advocates, family farmers, fire safety leaders, local governments and others are very much aware of the insurance availability crisis California residents are facing. We truly appreciate the California Department of Insurance's desire to reduce unnecessary delays in the rate approval process and appreciate your efforts to fix the crisis.

> **Department Response:** This comment restates the California Building Industry Association's previous written comment and the Commissioner's response is addressed in the first comment.

Unfortunately, we do not believe the recently proposed regulatory reforms provide the solutions necessary to solve the crisis, and they could actually make matters worse.

Significant delays in the rate approval process have created a marketplace that is not functioning as it should. These delays are a key reason why insurers have stopped writing in California. We believe that streamlining the rate approval process is critical to restoring balance in the market.

After reviewing the proposed regulations, we believe they would result in further delays by adding more time and uncertainty to an already complex process. Rather than reducing delays, the proposed regulations add time to the rate review process on the front end and would allow the Department of Insurance to continuously ask insurers for data that may be unnecessary to determine the rates that are being requested. We cannot afford to have further delays in the rate review process and not provide any meaningful relief to consumers.

> **Department Response:** This comment restates the California Building Industry Association's previous written comment and the Commissioner's response is addressed in the first comment.

We respectfully urge the Department of Insurance to reconsider the proposed regulations and focus on reforms that will truly start to fix our broken market and ensure all Californians have access the insurance they need to protect their homes, cars and small businesses.

Thank you for the opportunity to provide our comments. We look forward to working with the Department to promote reforms needed to protect consumer access to insurance.

Sincerely,

Dan Dunmoyer
President & CEO
California Building Industry Association

Rob Moutrie
Senior Policy Advocate
California Chamber of Commerce

Matthew Hargrove
President & CEO
California Business Properties Association

Tim Taylor
Policy Director
NFIB California

Debra Carlson
Executive Vice President, State Government Affairs

California Apartment Association

Robert Rivinius
Political Director
Family Business Association of California

Bruce Wick
Director of Risk Management
Housing Contractors of California

> **Department Response:** This comment restates the California Building Industry Association's previous written comment and the Commissioner's response is addressed in the first comment.

13. Written Comment from Independent Insurance Agents and Brokers of California

> Re: "Complete Property and Casualty Rate Applications" Regulations
> REG-2019-00025

Dear Ms. Landsman:

On behalf of the Independent Insurance Agents and Brokers of California (IIABCal), I am pleased to submit the following comments in response to the above-referenced regulations, as proposed Feb. 9, 2024.

IIABCal is a non-profit organization representing over 650 independent agencies and brokerages, ranging from small family agencies in rural communities to sophisticated brokerages that do business internationally. Our members sell all forms of insurance, but do most of their business in personal and commercial property and casualty lines. IIABCal members live, work, and endeavor to serve consumers in virtually every city and town in California.

Independent agents and brokers have been severely harmed by the continuing crisis of availability in property insurance. Our members are struggling financially, and emotionally, because they can't procure suitable insurance coverage to help their policyholders and neighbors adequately protect their homes and businesses.

Throughout California, our members tell us this is the worst insurance availability crisis they've ever experienced—which is why we strongly support the aspirations announced, the plans being formulated, and the regulations now being implemented, by Insurance Commissioner Ricardo Lara in his Sustainable Insurance Strategy.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

We appreciate the Commissioner's recognition that the prior approval process not only can be, but must be, expedited and made more efficient. However, we believe the proposed changes to the prior approval filing requirements would not accomplish the Commissioner's goal of increasing clarity and reducing delay. In fact, we are concerned they would make both worse.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

With support from the Personal Insurance Federation of California, IIABCal retained one of the foremost national experts on the California prior approval system, Ms. Sheri Scott, a Principal and Consulting Actuary at Milliman, one of the world's largest independently owned consulting firms specializing in actuarial science and insurance.

Ms. Scott is a Fellow of the Casualty Actuarial Society (CAS), a Member of the American Academy of Actuaries, and has been certified by the CAS as a specialist in predictive analytics. Her insurance experience spans 35 years as an underwriter and Actuary, developing insurance rates, rules, and underwriting for property & casualty insurance programs in California. Ms. Scott also has extensive experience preparing the associated rate application filings for the California Department of Insurance (CDI), for both personal lines and commercial lines programs. She was retained by the California Department of Insurance itself to lead the team that developed the CDI model review checklist, and reviewed filings on behalf of the CDI as the new model review procedures were being implemented.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

We asked Ms. Scott to evaluate the proposed regulations, and to suggest ways in which the existing regulations could be modified to better accomplish Commissioner Lara's objectives.

Her analysis follows and is accompanied by a very specific alternative proposal for modifying the existing regulations (presented both in "redline" and "clean" formats) that we believe would not only increase clarity and reduce delay, but also bring prior approval evaluations into closer conformity to the literal provisions of Prop. 103.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

On behalf of IIABCal and its members, thank you for the opportunity to submit these comments. We would be happy to answer any questions and provide any other assistance the Department of Insurance might request as it evaluates these issues and our recommendations.

Respectfully yours,

Stephen L. Young

Stephen L. Young
Senior Vice President & General Counsel

Enclosures:

1) Written testimony of Sheri Scott on behalf of IIABCal
2) Proposed alternative amendments to existing regulations in "redline" format
3) Proposed alternative amendments to existing regulations in "clean" format

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

March 25, 2024

Lisbeth Landsman, Attorney IV
Rate Enforcement Bureau
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
(916) 492-3561
CDIRegulations@insurance.ca.gov

Re: Reg-2019-00025, Amendments to Complete Rate Application Regulations

Dear Ms. Landsman:

I have been engaged by the Independent Insurance Agents and Brokers of California (IIABCal) to comment on the proposed amendments to the complete rate application regulations in the above-captioned matter (the "Proposal"). These are my own comments based on my experience as an Actuary preparing and reviewing California rate filings and are supported by IIABCal. My comments are not intended to represent the opinions of other Milliman consultants or Milliman as a whole.

> Department Response: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action.

Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

While the proposed amendments aim to increase clarity and reduce delays in the rate application process, I believe they introduce ambiguity and potential for further delays. The proposed changes to the California Code of Regulations (CCR) Title 10, Chapter 5, Subchapter 4.8, Section 2648.4 replace specific document requirements with broad categories, causing potential uncertainty. For example, Section 2648.4(a) replaces the concise list of specific excel spreadsheets and documents currently detailed in the regulation, which matches the current version of the California Prior Approval Rate Application (CA-RA) available on the California Department of Insurance (CDI) websitexiii, with broad and vague categories.

Department Response: The purpose of this set of proposed regulations is to update the complete rate application filing requirements by eliminating requirements to use outdated and obsolete forms and by stating in more general terms what information is required to be included in a filing. To return to listing individual forms in the regulation would result in the listed forms becoming outdated and obsolete in the future, which is what the current draft intends to avoid.

In addition, the proposed "including but not limited to" language in Section 2648.4(a) and the "without limitation" language in Section 2648.4(b) suggest that more information could be required, leaving filers unclear about what needs to be filed. Section 2648.4 could be updated without reducing the specificity and clarity such that the proposed language does not create more confusion for filers or lead to additional delays[xiv].

Department Response: The language articulates that, even if not listed precisely in subdivision (b), the materials to be provided must comply with the principle in section 2648.4(a). A rate application must contain all information the Commissioner may require in order to perform a complete analysis of a rate application.

Furthermore, the proposed amendments to Sections 2648.4(b)(2) and 2648.4(b)(3) expands the items required in a complete rate application beyond what is used by insurers and currently listed in CCR to evaluate rates. For example, the proposed regulations add “criteria, guidelines, systems, manuals, models …an insurer uses to … examine, inspect …, or modify an applicant’s or insured’s coverage or coverage options”, including “standards … rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter”. This language appears to extend filing support to include programming code and systems licensed from third party providers that do not impact rate. For example, third party replacement cost estimation tools used by unaffiliated brokers when helping their customers decide what insurance coverages best fit their needs, even before deciding which insurance companies to approach for a quote, could be required to be filed under these proposed amendments. Collecting this expanded scope of information from independent agents and brokers, getting releases from their third party system providers, and the limitations of SERFF make this impractical and burdensome for filers.

Department Response: To the extent that the comment requests that the checklist be added to the regulation, the purpose of the proposed regulation is to simplify the description of materials required to submit a complete rate application and avoid the

granularity of listing forms that may become outdated and obsolete. It would be impractical to add a data reconciliation checklist to the regulations itself, as it would also be too granular. The Department has determined it is in consumers' best interests to maintain the current proposed regulation as is.

Most importantly, the proposal in 2648.2(b) to extend the time from 14 days to 30 days to determine whether a filing is complete, will extend the time it takes to complete a rate application review.

Department Response: Expanding the time to review the submission of a complete rate application is supported. Requiring all the information to be filed up front will save time. However, additional time may be needed to confirm all information is in the rate application. Once the initial submission is confirmed to be complete, approval of the rate application should proceed more quickly.

To better achieve the desired effects of clarity and reduced delays, I propose the following:

1. Update references to the new electronic CA-RA exhibits, pages, and formats without expanding the scope of required documents.

   Department Response: As a substitute for the specific documents described in the current regulation that have become obsolete or may soon become obsolete, the Commissioner has amended the regulations to describe all the types of documents necessary for a complete rate application that will result in a review where rates are not excessive, inadequate, or unfairly discriminatory to comply with Insurance Code Section 1861.05. The use of such information remains unchanged in evaluating the rate application remains unchanged. The current proposed language is sufficient to describe the filings required under Insurance Code section 1861.05. Further descriptors are unnecessary.

2. Expand the publicly available CA-RA5 Reconciliation to include a checklist of all items that the CDI reconciles during intake. This would allow filers to submit a reconciling filing and create efficiencies for the CDI intake team.

   Department Response: The purpose of the proposed regulation is to simplify the description of materials required to submit a complete rate application and avoid the granularity of listing forms that may become outdated or obsolete. It would be impractical to add a data reconciliation tool to the regulations itself as it would also be too granular. The Commissioner has determined it is in consumers' best interests to maintain the current proposed regulation.

3. Limit objections to issues directly impacting the proposed rate and review non-rate items via a market conduct exam or financial examination.

   Department Response: This comment raises issues outside of the scope of the proposed regulation. The purpose of the proposed regulation is to remove

outdated and obsolete forms and simplify the description of materials required to submit a complete rate application.

4. Implement a new process that facilitates an efficient review process in alignment with Proposition 103[xv]. This process could involve the CDI presenting all outstanding issues and their position on each issue 60 days after the filing has been deemed to be complete. The filer could then efficiently address each issue over the next 30 days. At each 30 day cycle, the CDI would present the resolved issues, outstanding issues, and CDI position, providing the filer an opportunity to accept the CDI position at 120 days. This new process would not allow new concerns to be presented after the first 120 days, and if at the end of the 180 day review period, the CDI requires more time to review, under extraordinary circumstances, a 30 day waiver to the deemer can be requested as long as the process has been followed and no new or non-rate related items are being introduced. A second 30 day waiver can be requested, but an unlimited waiver will not be requested, which has become commonplace, despite being in contradiction to the intent of Proposition 103.

Department Response: This comment raises issues outside of the scope of the proposed regulation. The purpose of the proposed regulation is to remove outdated and obsolete forms and simplify the description of materials required to submit a complete rate application.

5. Hire more staff to review rate applications to alleviate "the burden on limited resources".

Department Response: This comment raises issues outside of the scope of the proposed regulation. The purpose of the proposed regulation is to remove outdated and obsolete forms and simplify the description of materials required to submit a complete rate application.

However, these actions alone fail to address a more fundamental issue that has created an availability crisis in the California admitted property and casualty insurance market. To restore a healthy and competitive insurance market, additional changes are required to allow insurers to be adequately compensated for the cost of providing insurance for catastrophic events such as wildfiresxvi, which includes the ability to use modern ratemaking techniques that employ catastrophe models and consider the net cost of reinsurance.

Department Response: This comment raises issues outside of the scope of the proposed regulation. The purpose of the proposed regulation is to remove outdated and obsolete forms and simplify the description of materials required to submit a complete rate application.

I appreciate the opportunity to provide these comments.

Best regards,

Sheri L. Scott, FCAS, MAAA, CSPA

Principal & Consulting Actuary

Alternative Amendments to CCR Listed in Notice of Proposed Action and Notice of Public Hearing for Consideration Tracked From Current CCR

2643.3(b)
Rate applications (~~Form CAR-1 (last revised 1/94))~~CA-RA) shall be filed on a line-by-line basis, as set forth in section 2642.7. The application shall be accompanied by the rating manual, rating plan, all policy forms to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line. The Commissioner shall require the filing of such other information as the Commissioner deems necessary to review the application.
2644.27(b)
Requests for variances shall be filed with the Rate Filing Bureau on ~~pages 11a and 11b~~Page 11 of the Prior Approval Rate Application. All such variance requests shall specifically:
2644.27(c)
Requests for variances shall be filed at the same time as the prior approval application to which it applies or after the filing of the rate application and before any final determination regarding that application. Public notice of all variance requests shall be provided as set forth in California Insurance Code Sections 1861.05(c) and 1861.06.
2644.27(e)
Variance requests shall be determined in conjunction with the related prior approval application or rate hearing thereon.
2648.2
(a) For the purpose of Insurance Code Section 1861.05(c), a rate change application shall be considered to have been received by the Commissioner on the date that it is received by the Department's Rate ~~Filing Bureau.~~Regulation Branch by means of submittal using the System for Electronic Rate and Form Filing (SERFF).
(b) Within 14 days of receipt, the Commissioner shall review rate applications for completeness as required by Insurance Code Section 1861.05(b). If the application includes the forms and exhibits listed in the Filing Checklist, as provided in Section 2648.4, and the data required therein, it is complete. If the Commissioner determines that the application is not complete because it does not include such forms, exhibits, or the data required therein, notice stating the grounds for incompleteness will be given to the insurer within the 14 day period and the application will be rejected. Within 10 days of the date that such notice is given, the insurer may request a hearing on the rejection.

2648.4
(a) In order to be complete, a rate application must include the following ~~forms, exhibits, data and documentation, which are incorporated by reference: application~~:

- CA-RA1 Application for approval ~~(form CA-RA1, 5-1-96 ed.), duplicate of form CA-RA1 for return copy, self-addressed envelope with sufficient postage to return the duplicate copy of CA-RA1, Rate/Rule/Underwriting Rule Submission Data Sheet (form CA-RA2, 5-1-96 ed.), Line of Business (form~~ ,
- CA-RA3~~, 5-1-96 ed.),~~ Filing Checklist ~~(form~~ ,
- CA-RA4~~, 5-1-96 ed.), Ratemaking Data (form~~ Proposed Impact,
- CA-RA5~~, 5-1-96 ed.),~~ Reconciliation Report ~~(form~~ ,

- CA-RA6~~, 5-1-96 ed.), Additional Data Required by Statute (form~~ Program Detail,
- CA-RA7~~, 5-1-96 ed.),~~ Statutory Data,
- CA-RA8 Miscellaneous ~~Data (form CA-RA8, 5-1-96 ed.),~~Fees,
- Exhibit 1 Filing History~~ (to be labeled~~ ,
- Exhibit ~~1),~~2 Rate Level History~~ (to be labeled~~ ,
- Exhibit ~~2),~~3 Policy Term Distribution,
- Exhibit 4 Premium Adjustment Factor~~ (to be labeled~~ ,
- Exhibit ~~3),~~5 Premium Trend Factor ~~(to be labeled~~

Alternative Amendments to CCR Listed in Notice of Proposed Action and Notice of Public Hearing for Consideration Tracked From Current CCR

- Exhibit ~~4), Allocated~~6 Miscellaneous Fees and Other Charges,
- Exhibit 7 Loss ~~Adjustment~~and Defense & Cost Containment Expense ~~(to be labeled Exhibit 5), Loss~~ Development Factors~~ (to be labeled~~ ,
- Exhibit ~~6), ALAE Development Factors (to be labeled Exhibit 7),~~8 Loss and DCCE Trend, ~~ALAE Trend, and Expense Trend (to be labeled~~
- Exhibit ~~8),~~9 Catastrophe Adjustment~~ (to be labeled Exhibit 9), Policy Term Distribution (to be labeled~~ ,
- Exhibit 10~~),~~ Credibility Adjustment~~ (to be labeled~~ ,
- Exhibit 11~~), Data Availability Report (to be labeled~~ Ancillary Income,
- Exhibit 12~~), Interjurisdictional Expense Allocations (to be labeled~~ Reinsurance Premium and Recoverables,
- Exhibit 13~~), Unallocated Loss Adjustment Expense (to be labeled~~ Variance Request,
- Exhibit 14~~), Other Expense Items (to be labeled Exhibit 15), Ancillary Income (to be labeled Exhibit 16), Federal Income Tax Rate (to be labeled Exhibit 17), Projected Investment Income Ratio (to be labeled Exhibit 18), Loss Reserves, Loss Adjustment Expense Reserves, and Unearned Premium Reserves (to be labeled Exhibit 19), Insurer's Ratemaking Calculations (to be labled Exhibit 20),~~ Rate Distribution~~ (to be labeled~~ ,
- Exhibit ~~21),~~15 Rate Classification Relativities~~ (to be labeled Exhibit 22), New Program (to be labeled Exhibit 23), Group Filing (to be labeled Exhibit 24), rating rules, and rate pages. The application must also contain a summary and explanation of the purpose for the filing. The Filing Instructions (forms CA-IA1 -CA-I8, 5-1-96, ed.) for these forms and exhibits are incorporated by reference.~~,
- Exhibit 18 Rating Rules and Underwriting Guidelines,
- Exhibit 19 Supplemental Information,
- Exhibit 20 Customer Dislocation,

(b) Notwithstanding the completeness determination, the Commissioner may later require the submission of relevant underwriting rules and other relevant documents from an applicant in order to perform a complete analysis of ~~an application~~he proposed rate application. Information unrelated to the rate will not be required and can be evaluated during examination of the insurer.

(c) Requests for variances as authorized by section 2644.27 shall ~~be on the following form:~~

~~STATE OF CALIFORNIA Insurer Name~~

~~DEPARTMENT OF INSURANCE Line of Business~~

~~Request for~~use CA-RA11 Variance Requests to:

1. Identify each variance requested.
2. Identify the extent or amount of the variance requested and the applicable efficiency standard, rate of return, loss development factors or trend which will result if the variance is granted.
3. Set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied.
4. Identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change in the applicable efficiency standard, rate of return, loss development factors or trend that is being proposed.

Alternative Amendments to Selected CCR in Notice of Proposed Action and Notice of Public Hearing

2643.3(b)
Rate applications (CA-RA) shall be filed on a line-by-line basis, as set forth in section 2642.7. The application shall be accompanied by the rating manual, rating plan, all policy forms to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line. The Commissioner shall require the filing of such other information as the Commissioner deems necessary to review the application.
2644.27(b)
Requests for variances shall be filed with the Rate Filing Bureau on Page 11 of the Prior Approval Rate Application. All such variance requests shall specifically:
2644.27(c)
Requests for variances shall be filed at the same time as the prior approval application to which it applies or after the filing of the rate application and before any final determination regarding that application. Public notice of all variance requests shall be provided as set forth in California Insurance Code Sections 1861.05(c) and 1861.06.
2644.27(e)
Variance requests shall be determined in conjunction with the related prior approval application or rate hearing thereon.
2648.2

(a) For the purpose of Insurance Code Section 1861.05(c), a rate change application shall be considered to have been received by the Commissioner on the date that it is received by the Department's Rate Regulation Branch by means of submittal using the System for Electronic Rate and Form Filing (SERFF).

(b) Within 14 days of receipt, the Commissioner shall review rate applications for completeness as required by Insurance Code Section 1861.05(b). If the application includes the forms and exhibits listed in the Filing Checklist, as provided in Section 2648.4, and the data required therein, it is complete. If the Commissioner determines that the application is not complete because it does not include such forms, exhibits, or the data required therein, notice stating the grounds for incompleteness will be given to the insurer within the 14 day period and the application will be rejected. Within 10 days of the date that such notice is given, the insurer may request a hearing on the rejection.

2648.4

(a) In order to be complete, a rate application must include the following:

- CA-RA1 Application for approval,
- CA-RA3 Filing Checklist,
- CA-RA4 Proposed Impact,
- CA-RA5 Reconciliation Report,
- CA-RA6 Program Detail,
- CA-RA7 Statutory Data,
- CA-RA8 Miscellaneous Fees,
- Exhibit 1 Filing History,
- Exhibit 2 Rate Level History,
- Exhibit 3 Policy Term Distribution,
- Exhibit 4 Premium Adjustment Factor,
- Exhibit 5 Premium Trend Factor
- Exhibit 6 Miscellaneous Fees and Other Charges,

Alternative Amendments to Selected CCR in Notice of Proposed Action and Notice of Public Hearing

- Exhibit 7 Loss and Defense & Cost Containment Expense Development Factors,
- Exhibit 8 Loss and DCCE Trend,
- Exhibit 9 Catastrophe Adjustment,
- Exhibit 10 Credibility Adjustment,
- Exhibit 11 Ancillary Income,
- Exhibit 12 Reinsurance Premium and Recoverables,
- Exhibit 13 Variance Request,
- Exhibit 14 Rate Distribution,
- Exhibit 15 Rate Classification Relativities,
- Exhibit 18 Rating Rules and Underwriting Guidelines,
- Exhibit 19 Supplemental Information,
- Exhibit 20 Customer Dislocation.

(b) Notwithstanding the completeness determination, the Commissioner may later require the submission of relevant underwriting rules and other relevant documents from an applicant in order to perform a complete analysis of the proposed rate application. Information unrelated to the rate will not be required and can be evaluated during examination of the insurer.

(c) Requests for variances as authorized by section 2644.27 shall use CA-RA11 Variance Requests to:

1. Identify each variance requested.
2. Identify the extent or amount of the variance requested and the applicable efficiency standard, rate of return, loss development factors or trend which will result if the variance is granted.
3. Set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied.
4. Identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change in the applicable efficiency standard, rate of return, loss development factors or trend that is being proposed.

Department Response: This comment restates the previous written comments, above, and the Commissioner incorporates his prior response here.

14. Written Comment from Katie Oliver, United Policyholders (1)

From: Katie Oliver <katie.oliver@uphelp.org>
Sent: Monday, March 18, 2024 11:35 AM
To: CDI Regulations
Subject: UP's Testimony on REG- 2019-00025
Attachments: 3.18.24 UP's Testimony for CDI Reg 2019-00025.pdf

Categories: Complete Rate Application

On behalf of Amy Bach, please see the attached comments by United Policyholders regarding REG-2019-00025, "Complete Property and Casualty Rate Regulation."

Best,

Katie Oliver
Executive Assistant
United Policyholders
917 Irving Street, Suite 4
San Francisco, CA 94122
Tel. 415-393-9990

Email: Katie.Oliver@uphelp.org
Website: www.uphelp.org

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

15. Written Comment from Katie Oliver, United Policyholders (2)

From: Katie Oliver <katie.oliver@uphelp.org>
Sent: Monday, March 18, 2024 12:28 PM
To: CDI Regulations
Subject: Re: UP's Testimony on REG- 2019-00025
Attachments: 3.18.24 UP's Testimony for CDI Reg 2019-00025.pdf

Categories: Complete Rate Application

Apologies, the above attachment has the wrong date, please see the updated attachment for United Policyholder's testimony on REG- 2019-00025, ″Complete Property and Casualty Rate Regulation.″

Thank you,

Katie Oliver
Executive Assistant
United Policyholders
917 Irving Street, Suite 4
San Francisco, CA 94122
Tel. 415-393-9990

Email: Katie.Oliver@uphelp.org
Website: www.uphelp.org

On Mon, Mar 18, 2024 at 11:35 AM Katie Oliver <katie.oliver@uphelp.org> wrote:
On behalf of Amy Bach, please see the attached comments by United Policyholders regarding REG-2019-00025, ″Complete Property and Casualty Rate Regulation.″

Best,

Katie Oliver
Executive Assistant
United Policyholders
917 Irving Street, Suite 4
San Francisco, CA 94122
Tel. 415-393-9990

Email: Katie.Oliver@uphelp.org
Website: www.uphelp.org

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the

comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

16. Written Comment from Richard Holober, Consumer Federation of California Education Foundation

From: Richard Holober <holober@consumercal.org>
Sent: Tuesday, March 26, 2024 2:55 PM
To: CDI Regulations
Cc: Robert Herrell; Douglas Heller
Subject: CFCF Comments on CDI REG-2019-00025 COMPLETE PROPERTY AND CASUALTY RATE APPLICATIONS
Attachments: CFCF Comments - CDI REG-2019-00025 Complete Property and Casualty Rate Applications.pdf

Categories: Complete Rate Application

Attention Lisbeth Landsman

Attached please find the comments of the Consumer Federation of California Education Foundation in the above -referenced proceeding.

Thank you,

Richard Holober, Treasurer
Consumer Federation of California Education Foundation
holober@consumercal.org
650-307-7033

CFC address for all CFC correspondence, except correspondence for my personal attention:
Robert Herrell, Executive Director
Consumer Federation of California
1225 Eighth Street, Suite 470
Sacramento CA 95814
Phone: 916-270-3404
Email: herrell@consumercal.org

Department Response:
This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

17. Written Comment from Yarissa Ramirez, Consumer Federation of California Education Foundation

From: Yarissa Ramirez <ramirez@consumercal.org>
Sent: Tuesday, March 26, 2024 2:09 PM
To: CDI Regulations; Taras, Kathryn; Landsman, Lisbeth; Carre, Elsa; Warren, Tina; Wang, Lucy; Phenix, Jon
Cc: Richard Holober; Douglas Heller
Subject: Consumer Federation of California Education Foundation's Petition to Participate and Notice of Intent to Seek Compensation -- REG 2019-00025
Attachments: 240324 Complete Property And Casualty Rate Applications_CFCF Petition to Participate.pdf

Categories: Complete Rate Application

Dear parties: Attached please find the Consumer Federation of California Education Foundation's Petition to Participate and Notice of Intent to Seek Compensation -- REG 2019-00025.

If you have any further questions, please inform Richard Holober at holober@consumercal.org or Douglas Heller at douglasheller@ymail.com .

Sincerely,
Yarissa Ramirez

Yarissa Ramirez (She/Her/Ella)
Associate Director
Consumer Federation of California

Tel: (323) 571-0988
Email: ramirez@consumercal.org

> **Department Response**:
> This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

18. Written Comment from Pam Pressley, Consumer Watchdog

From: Pam Pressley <pam@consumerwatchdog.org>
Sent: Tuesday, March 26, 2024 5:02 PM
To: CDI Regulations
Cc: Kaitlyn Gentile; Carmen Balber; Harvey Rosenfield
Subject: CDI Rulemaking Hearing Regarding Complete Rate Application Regulations REG-2019-00025
Attachments: 2024-03-26 CWD Comments Complete Rate App Regulation.pdf

Categories: Complete Rate Application

Please find attached Consumer Watchdog's written comments to be included as part of the public record in the above-referenced rulemaking proceeding regarding the CDI's proposed complete rate application regulations. Please contact me if you have any questions regarding these comments. Thank you,

--
Pamela Pressley
Senior Staff Attorney
Consumer Watchdog
www.consumerwatchdog.org
6330 San Vicente Blvd., Suite 250
Los Angeles, CA 90048
310-392-1372
310-392-8874 fax
pam@consumerwatchdog.org

> **Department Response**:
> This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

19. Written Comment from Allison Adey, Personal Insurance Federation of California

From: Allison Adey <aadey@pifc.org>
Sent: Thursday, March 14, 2024 4:36 PM
To: Wang, Lucy <Lucy.Wang@insurance.ca.gov>
Cc: Rex Frazier <rfrazier@pifc.org>; Seren Taylor <staylor@pifc.org>; Martinez, Michael <Michael.Martinez@insurance.ca.gov>
Subject: PIFC Comments on Complete Rate Application proposed regulation

Good afternoon Ms. Wang,

Attached are comments and concerns from Personal Insurance Federation of CA relating to the proposed Complete Rate Application regulation released on February 9, 2024. If you have any questions, please do not hesitate to reach out to myself, Rex Frazier, or Seren Taylor.

Thank you very much for your consideration of the attached letter.

Best,

Allison

Allison Adey

Legislative Advocate
Personal Insurance Federation of CA
M: (925) 285-6621
W: www.pifc.org
E: aadey@pifc.org
1201 K Street, Suite 1250
Sacramento, CA 95814

Department Response:
This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

20. Written Comment from Denneile Ritter, American Property Casualty Insurance Association

From: Ritter, Denneile <denneile.ritter@apci.org>
Sent: Monday, March 25, 2024 4:26 PM
To: CDI Regulations
Cc: Martinez, Michael
Subject: Complete Rate Application Regulations (REG-2019-00025) - APCIA Comments
Attachments: CA Complete Rate Application Regulation - APCIA Comments - FINAL.pdf

Categories: Complete Rate Application

Hello Ms. Landsman,

Thank you for the opportunity to provide comments on the Department of Insurance's proposed Complete Rate Application Regulations (REG-2019-00025). Attached you will find a comment letter from the American Property Casualty Insurance Association. We will provide brief comments during tomorrow's hearing as well. Please do not hesitate to contact me if you have any questions.

Best,
Denni

Denneile Ritter
American Property Casualty Insurance Association
Vice President State Government Relations, Western Region
1415 L Street, Suite 670, Sacramento, CA 95814
P: 209.968.9107 | denneile.ritter@apci.org

Department Response:
This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

21. Written Comment from Shari McHugh, Pacific Association of Domestic Insurance Companies

From: Shari McHugh <smchugh@mchughgr.com>
Sent: Tuesday, March 26, 2024 3:27 PM
To: CDI Regulations
Cc: Martinez, Michael; Wang, Lucy; PADIC
Subject: Complete Property and Casualty Rate Applications Regulations
Attachments: CDI Complete Application Regs -- Final.docx

Categories: Complete Rate Application

Good afternoon,

Thank you for the opportunity to comment on the proposed Complete Property and Casualty Rate Applications Regulations. The Pacific Association of Domestic Insurance Companies (PADIC) would like to submit the attached for your consideration.

Please let me know if you have any questions and if we can be of further assistance.

Thank you,

Shari McHugh
(916) 769-4872 -- Cell

> **Department Response**:
> This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

22. Written Comment from Kara Cross, Verisk

From: Cross, Kara <Kara.Cross@verisk.com>
Sent: Monday, March 25, 2024 7:53 PM
To: CDI Regulations
Subject: Verisk Comments - REG-2019-00025
Attachments: Verisk Comments - CDI Complete Rate Application Regulations 3-26-2024.pdf

Categories: Complete Rate Application

Dear Ms. Landsman,

Attached please find Verisk's comments regarding the proposed Complete Property and Casualty Rate Applications, REG-2019-00025.

Thank you,

Kara Cross

Kara Cross
Regional Vice President, State Government Affairs – Western Region
+1.916.802.6228 mobile
verisk.com | LinkedIn | Twitter | YouTube

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

23. Written Comment from Kyle Griffith, Bicker, Castillo, Fairbanks & Spitz Public Affairs (1)

From: Kyle Griffith <kgriffith@bcfspa.com>
Sent: Friday, March 22, 2024 4:33 PM
To: CDI Regulations
Subject: Written Comments Regarding Regulatory Reforms
Attachments: CDI Reg Reforms NASCAR Letter_v3 LOGOS.pdf

Categories: Complete Rate Application

Good afternoon,

On behalf of the signed organizations, I would like to submit our letter of opposition to the initial wave of regulatory reforms proposed by Commissioner Lara to address the insurance coverage crisis. We look forward to working with you and the Department as we continue to work towards finding solutions to improve market conditions.

Thank you,

Kyle Griffith
Mobile: (916)996-1441
kgriffith@bcfspublicaffairs.com

> **Department Response**:
> This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

24. Written Comment from Kyle Griffith, Bicker, Castillo, Fairbanks & Spitz Public Affairs (2)

From: Kyle Griffith <kgriffith@bcfspa.com>
Sent: Monday, March 25, 2024 5:31 PM
To: CDI Regulations
Subject: RE: Written Comments Regarding Regulatory Reforms
Attachments: CDI Reg Reforms NASCAR Letter_v4 LOGOS.pdf

Categories: Complete Rate Application

Good afternoon,

Another organization has joined our letter. Please see the attached.

Thank you,

Kyle Griffith
Mobile: (916)996-1441
kgriffith@bcfspublicaffairs.com

From: Kyle Griffith
Sent: Friday, March 22, 2024 4:33 PM
To: CDIRegulations@insurance.ca.gov
Subject: Written Comments Regarding Regulatory Reforms

Good afternoon,

On behalf of the signed organizations, I would like to submit our letter of opposition to the initial wave of regulatory reforms proposed by Commissioner Lara to address the insurance coverage crisis. We look forward to working with you and the Department as we continue to work towards finding solutions to improve market conditions.

Thank you,

Kyle Griffith
Mobile: (916)996-1441
kgriffith@bcfspublicaffairs.com

> **Department Response**:
> This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

25. Written Comment from Stephen L. Young, Independent Insurance Agents and Brokers of California

From: Steve Young <SYoung@iiabcal.org>
Sent: Tuesday, March 26, 2024 12:27 PM
To: CDI Regulations
Cc: Landsman, Lisbeth; Carre, Elsa
Subject: REG-2019-00025
Attachments: 2024-03-26 -- IIABCal Testimony Final.pdf

Categories: Complete Rate Application

Ms. Lisbeth Landsman, Attorney IV
Rate Enforcement Bureau
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

On behalf of the Independent Insurance Agents and Brokers of California, please accept for submission into the official record the attached testimony on the "Complete Property and Casualty Rate Applications" regulations, dated Feb. 9, 2024 (REG-2019-00025).

Respectfully tendered,
Steve

Stephen L. Young | Senior Vice President and General Counsel
Independent Insurance Agents & Brokers of California
Promote, Protect, and Perpetuate Independent Insurance Agents & Brokers in California

> **Department Response**:
> This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

26. Written Comment from Staci Heaton, Rural County Representatives of California

From: Staci Heaton <sheaton@rcrcnet.org>
Sent: Wednesday, March 20, 2024 10:27 AM
To: CDI Regulations
Cc: Dorothy Poole
Subject: RCRC Comments on Complete Property and Casualty Rate Applications Proposed Rulemaking
Attachments: CDI_Rate Apps_2024-03-19_Ltr_to_REB_FINAL_Comments.pdf

Categories: Complete Rate Application

Good morning! Attached please find RCRC's comments on the Complete Property and Casualty Rate Applications Proposed Rulemaking. Please contact me if you have any questions.

Thank you!

Staci Heaton
Senior Policy Advocate
Rural County Representatives of California
(916) 447-4806 office
(916) 201-8554 cell

> **Department Response**:
> This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

27. Written Comment from Cliff Edens, Private Citizen Redacted

From: Cliff Edens
Sent: Friday, February 9, 2024 4:26 PM
To: Landsman, Lisbeth <Lisbeth.Landsman@insurance.ca.gov>
Subject: Rate approval regulatory reforms

Good afternoon Lisbeth,

I just read the DOI notice on the proposed rate approval regulatory reforms. I am contacting you directly because the notice indicated that comments should be sent to CDIRegulations@insurance.ca.gov but that questions should be sent directly to you. I do have a question that I did not see addressed in the notice.

I have worked in the insurance industry for 27 years in personal lines auto insurance. In all my tenure I have witnessed and heard that the DOI consistently requests insurance carriers to waive their right to a 60 day approval or denial on rate applications (a.k.a "waive the deemer") in order to extend the time period to approve rate applications. **As I suspect this practice may be due to the problem of incomplete applications and as as the reforms seek to resolve this concern, will the DOI cease this practice provided that an application is "complete"?**

My concern is that the DOI may, perhaps due to insufficient resources within the department, continue to utilize this tactic to delay rate approvals and the proposed reforms will have little impact on improving the timeframe to approve rate filings.

> **Department Response:** The purpose of the proposed regulations is to update the requirements for submission of a complete rate application. The proposed regulations require insurers to file all the information necessary to approve their rate applications up front, which will lead to fewer requests for deemer waivers. Once the submission is confirmed as complete, approval of the rate application should proceed more quickly.

Thank you for receiving my question.

sincerely,

Cliff Edens

TITLE 10. INVESTMENT

CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 4.8. REVIEW OF RATES
ARTICLE 4. DETERMINATION OF REASONABLE RATES

Amend Section 2644.27. Variance Request.

(a) A request that the maximum permitted earned premium or minimum permitted earned premium should be adjusted is referred to as a "variance request."

(b) Requests for variances shall be filed with the Rate Regulation Branch, ~~Filing Bureau on pages 11a and 11b of the Prior~~ together with the insurer's ~~Approval~~ complete ~~R~~rate ~~A~~application. All such variance requests shall specifically:

(i) identify each and every variance request;

(ii) identify the extent or amount of the variance requested and the applicable component of the ratemaking formula;

(iii) set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied; and

(iv) identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change to the component of the ratemaking formula.

(c) Requests for variances shall be filed at the same time as the ~~prior approval~~ insurer's complete rate application to which it applies or after the filing of the complete rate application and before any final determination regarding that application. Public notice of all variance requests shall be provided as set forth in ~~California~~ Insurance Code ~~S~~sections 1861.05, subdivision (c), and 1861.06.

(d) A variance request shall be deemed approved sixty days after public notice unless:

Department Response: The purpose of the proposed regulations is to update the requirements for submission of a complete rate application. The proposed regulations require insurers to file all the information necessary to approve their rate applications up front, which will lead to fewer requests for deemer waivers. Once the submission is confirmed as complete, approval of the rate application should proceed more quickly.

28. Written Comment from Cynthia Stewart, Private Citizen Redacted

From: Cynthia Stewart
Sent: Saturday, February 17, 2024 7:08 PM
To: CDI Regulations
Subject: Outrageous Insurance

Categories: Complete Rate Application

I'm a disabled senior, who lives alone. I built a house to the best of my ability to stand fire. I cleared my acre of property with a masticator. I built an acrylic, stucco home with a fire retardant roof. I am closed all of my overhang and eaves. I have concrete rocks and decomposed granite around all sides of my house so nothing is exposed to landscape. And I have a fire hydrant at my driveway. My California unfair plan went from 4800 a year, which I already couldn't afford to 6800 a year in one year. This is ridiculous, unaffordable and unfair. Please help us.

Cynthia Stewart

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

29. Written Comment from Darlene Markey, Private Citizen Redacted

From: Darlene Markey
Sent: Saturday, February 17, 2024 3:32 PM
To: CDI Regulations
Subject: Rate increase regulations

Categories: Complete Rate Application

I am one of thousands, likely, who live in California and have had a substantial home owners insurance rate increase, without warning and without an available market to choose another plan. I am "lucky" to have insurance at all.
Many people around me are being cancelled, and after 40 years with State Farm and zero claims, I would not be surprised if they found a reason to drop me.
We live in California. Apparently, the land of many hazards. We are in the forest.
I, we, have done the work to keep our homes safe. For me, it was installing a Metal roof and spending thousands of dollars in fuel reduction and landscape management yearly. I am also part of a firewise community.
My rates went from 2500 to 4152 in one year.
Can there be a cap on a rate increase. 45% in one year is larceny to me.
Californians are suffering. Inflation, gas prices, and a slow economy have many of us making less money.
Many of us have NO CHOICE, in carrying Homeowners insurance. If the home has a mortgage it is required.
The rate increases, and cancellations are impacting the ability to sell homes and attract buyers. There are stories of buyers not being able to find insurance, or affordable insurance and moving elsewhere.
Please consider allowance of rate increase percentage caps.
Also, please find ways to find insurance companies that cover fire impacted areas without discriminating based on location.
As I mentioned earlier, I have never filed a claim.
Thank you
Darlene Markey

> **Department Response**:
> This comment raises issues outside of the scope of the proposed regulation. Nor is it specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

30. Written Comment from David Richardson, Private Citizen Redacted

From: David Richardson
Sent: Monday, February 26, 2024 1:37 PM
To: CDI Regulations
Subject: Insurance rates

Categories: Complete Rate Application

My home owners insurance rate went from 2000.00 to 4000.00 this year that is ridiculous and there was a mild fire season this year. What a profit that was for farmers insurance. When you are retired that is quite a shock.

David Richardson

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

31. Written Comment from Elaine Straw, Private Citizen Redacted

The condo complex I live at, Altamar in Brisbane CA, has had fire insurance increased whereby homeowners are now paying $472 a month in additional HOA fees.
This is very troubling and we need support.

Elaine Straw

> **Department Response**:
> This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

32. Written Comment from Fran Peace, Private Citizen (1) Redacted

From: FRAN PEACE
Sent: Tuesday, March 26, 2024 11:52 AM
To: CDI Regulations
Subject: Public Comments "Commissioner Lara Unveils First Wave of Proposed Regulatory Reforms for State's Insurance Market"

Categories: Complete Rate Application

PUBLIC COMMENT

CALIFORNIA DEPARTMENT OF INSURANCE

PROPOSED REGULATORY REFORMS TO HELP SAFEGUARD THE INTEGRITY OF THE STATE'SINSURANCE MARKET

DEADLINE MARCH 26, 2024

I understand these regulations are about improving the rate filing process. I am taking this opportunity to relate my experience and that of like many thousands of northern California residents have been closely watching the fire and casualty insurance market literally go up in smoke over the past 7-10 years. As a homeowner who hails from Oroville, Butte County, we have been impacted from wildfires for the last 50+ years. It is the nature of the area in which we choose to live. Yes, we have trees that surround our neighborhoods at the base of the Sierra Nevada foothills. Over the years, we have endured and met our insurance premium hikes without complaint. We have diligently shopped for competitive rates and educated ourselves in the world of insurance underwriting rules and guidelines.

> **Department Response**: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Many of us have received notices from our insurance carrier that annual premiums will be tripled, cancelled or otherwise terminated due to unaffordability by the homeowner. Every day, we witness news reports of homeowners being cancelled or insurance rates being hiked beyond comprehension. Real estate transactions are also impacted by the exorbitant cost of homeowner's insurance. Personally, we have been forced into the California Fair Plan. As senior citizens on a fixed income, the premiums for the CA Fair Plan plus having to pay for a separate homeowner's policy have caused extreme hardship. I'm sure many residents have to make the decision of whether living in California is even feasible.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Commissioner Lara has unveiled these proposed regulatory reforms to help safeguard the integrity of the state's insurance market. But how does streamlining the rate approval process help the homeowner? There is no indication in these regulations or the proposed regulations to follow that any of the fire prevention and mitigation efforts that have occurred in the past 7-10 years will result in the reduction of high insurance rates. Instead, there will be further increases.

> **Department Response:** This comment exceeds the scope of the proposed regulations. The proposed regulations are intended to address the longstanding issue with insurers' submissions of incomplete rate applications, which cause unnecessary delays in the prior approval system. By articulating the requirement that all of the information be provided up front, the Commissioner can proceed to approve rates in a more efficient manner.

Pacific Gas & Electric Company has announced they will invest roughly $18 billion to protect its electric grid against the threat of wildfires through 2025. The utility also has a mitigation plan that is based on measures that it says have previously reduced the number of acres burned in the most high-risk portions of its service territory by 99% in 2022. Unfortunately, PG&E and the PUC keep assessing ratepayers for these mitigation efforts at the additional cost to ratepayers, which is an additional burden. Where is the impact of these mitigations on our insurance rates?

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

The above work is only in addition to local governmental jurisdictions and property owners who have worked tirelessly around individual neighborhoods to help prevent wildfire. Our active Neighborhood Watch Group has worked for sound fire prevention compliance for years. We are seeing no insurance benefit as a result, and this must change. The cost of insurance must be commensurate with the associated risk involved. Many have stated that the more rural places will have to pay higher premiums for fire insurance, but do these same insurance companies apply these increases fairly across all regions of California?

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Immediate and emergency regulatory action is needed to stop the hemorrhaging of homeowner insurance cancellations and the exorbitant premium increases. It is beyond comprehension that this homeowner insurance crisis has been allowed to last this long.

As a final comment, our leaders need to assess how to assist homeowners in transitioning from the CA Fair Plan back into the normal insurance market with commitments from insurance companies to cover all parts of California in a fair and equitable manner.

> **Department Response**: This comment raises issues outside of the scope of the proposed regulation. Nor is it specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Thank you for this opportunity to provide comments.

Sincerely,

Fran Peace

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

33. Written Comment from Fran Peace, Private Citizen (2) Redacted

From: FRAN PEACE
Sent: Tuesday, March 26, 2024 11:58 AM
To: CDI Regulations
Subject: Public Comment due March 26, 2024/First Wave of Commissioners Proposed Regulatory Reforms to Safeguard Integrity of State's Insurance Market
Attachments: DOIComments3.26.24.docx

Categories: Complete Rate Application

PUBIC COMMENT

CALIFORNIA DEPARTMENT OF INSURANCE

PROPOSED REGULATORY REFORMS TO HELP SAFEGUARD THE INTEGRITY OF THE STATE'S INSURANCE MARKET

DEADLINE MARCH 26, 2024

I understand these regulations are about improving the rate filing process. I am taking this opportunity to relate my experience and that of like many thousands of northern California residents have been closely watching the fire and casualty insurance market literally go up in smoke over the past 7-10 years. As a homeowner who hails from Oroville, Butte County, we have been impacted from wildfires for the last 50+ years. It is the nature of the area in which we choose to live. Yes, we have trees that surround our neighborhoods at the base of the Sierra Nevada foothills. Over the years, we have endured and met our insurance premium hikes without complaint. We have diligently shopped for competitive rates and educated ourselves in the world of insurance underwriting rules and guidelines.

> **Department Response:** This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

Many of us have received notices from our insurance carrier that annual premiums will be tripled, cancelled or otherwise terminated due to unaffordability by the homeowner. Every day, we witness news reports of homeowners being cancelled or insurance rates being hiked beyond comprehension. Real estate transactions are also impacted by the exorbitant cost of homeowner's insurance. Personally, we have been forced into the California Fair Plan. As senior citizens on a fixed income, the premiums for the CA Fair Plan plus having to pay for a separate homeowner's policy have caused extreme hardship. I'm sure many residents have to make the decision of whether living in California is even feasible.

Department Response: This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

Commissioner Lara has unveiled these proposed regulatory reforms to help safeguard the integrity of the state's insurance market. But how does streamlining the rate approval process help the homeowner? There is no indication in these regulations or the proposed regulations to follow that any of the fire prevention and mitigation efforts that have occurred in the past 7-10 years will result in the reduction of high insurance rates. Instead, there will be further increases.

Department Response: This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

Pacific Gas & Electric Company has announced they will invest roughly $18 billion to protect its electric grid against the threat of wildfires through 2025. The utility also has a mitigation plan that is based on measures that it says have previously reduced the number of acres burned in the most high-risk portions of its service territory by 99% in 2022. Unfortunately, PG&E and the PUC keep assessing ratepayers for these mitigation efforts at the additional cost to ratepayers, which is an additional burden. Where is the impact of these mitigations on our insurance rates?

Department Response: This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

The above work is only in addition to local governmental jurisdictions and property owners who have worked tirelessly around individual neighborhoods to help prevent wildfire. Our active Neighborhood Watch Group has worked for sound fire prevention compliance for years. We are seeing no insurance benefit as a result, and this must change. The cost of insurance must be commensurate with the associated risk involved. Many have stated that the more rural places will have to pay higher premiums for fire insurance, but do these same insurance companies apply these increases fairly across all regions of California?

Department Response: This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

Immediate and emergency regulatory action is needed to stop the hemorrhaging of homeowner insurance cancellations and the exorbitant premium increases. It is beyond comprehension that this homeowner insurance crisis has been allowed to last this long.

As a final comment, our leaders need to assess how to assist homeowners in transitioning from the CA Fair Plan back into the normal insurance market with commitments from insurance companies to cover all parts of California in a fair and equitable manner.

Department Response: This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

Thank you for this opportunity to provide comments.

Sincerely,

Fran Peace

> **Department Response**: This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

34. Written Comment from Fran Peace, Private Citizen 3 Redacted

PUBIC COMMENT

CALIFORNIA DEPARTMENT OF INSURANCE

PROPOSED REGULATORY REFORMS TO HELP SAFEGUARD THE INTEGRITY OF THESTATE'S INSURANCE MARKET

DEADLINE MARCH 26, 2024

I understand these regulations are about improving the rate filing process. I am taking this opportunity to relate my experience and that of like many thousands of northern California residents have been closely watching the fire and casualty insurance market literally go up in smoke over the past 7-10 years. As a homeowner who hails from Oroville, Butte County, we have been impacted from wildfires for the last 50+ years. It is the nature of the area in which we choose to live. Yes, we have trees that surround our neighborhoods at the base of the Sierra Nevada foothills. Over the years, we have endured and met our insurance premium hikes without complaint. We have diligently shopped for competitive rates and educated ourselves in the world of insurance underwriting rules and guidelines.

> **Department Response:** This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

Many of us have received notices from our insurance carrier that annual premiums will be tripled, cancelled or otherwise terminated due to unaffordability by the homeowner. Every day, we witness news reports of homeowners being cancelled or insurance rates being hiked beyond comprehension. Real estate transactions are also impacted by the exorbitant cost of homeowner's insurance. Personally, we have been forced into the California Fair Plan. As senior citizens on a fixed income, the premiums for the CA Fair Plan plus having to pay for a separate homeowner's policy have caused extreme hardship. I'm sure many residents have to make the decision of whether living in California is even feasible.

> **Department Response**: This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

Commissioner Lara has unveiled these proposed regulatory reforms to help safeguard the integrity of the state's insurance market. But how does streamlining the rate approval process

help the homeowner? There is no indication in these regulations or the proposed regulations to follow that any of the fire prevention and mitigation efforts that have occurred in the past 7-10 years will result in the reduction of high insurance rates. Instead, there will be further increases.

> **Department Response:** This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

Pacific Gas & Electric Company has announced they will invest roughly $18 billion to protect its electric grid against the threat of wildfires through 2025. The utility also has a mitigation plan that is based on measures that it says have previously reduced the number of acres burned in the most high-risk portions of its service territory by 99% in 2022. Unfortunately, PG&E and the PUC keep assessing ratepayers for these mitigation efforts at the additional cost to ratepayers, which is an additional burden. Where is the impact of these mitigations on our insurance rates?

> **Department Response**: This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

The above work is only in addition to local governmental jurisdictions and property owners who have worked tirelessly around individual neighborhoods to help prevent wildfire. Our active Neighborhood Watch Group has worked for sound fire prevention compliance for years. We are seeing no insurance benefit as a result, and this must change. The cost of insurance must be commensurate with the associated risk involved. Many have stated that the more rural places will have to pay higher premiums for fire insurance, but do these same insurance companies apply these increases fairly across all regions of California?

> **Department Response**: This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

Immediate and emergency regulatory action is needed to stop the hemorrhaging of homeowner insurance cancellations and the exorbitant premium increases. It is beyond comprehension that this homeowner insurance crisis has been allowed to last this long.

As a final comment, our leaders need to assess how to assist homeowners in transitioning from the CA Fair Plan back into the normal insurance market with commitments from insurance companies to cover all parts of California in a fair and equitable manner.

> **Department Response**: This comment restates Fran Peace's previous written comment and the Commissioner's response is addressed in the first.

Thank you for this opportunity to provide comments.

Sincerely,

Fran Peace

Department Response: This comment restates Fran Peace's previous written comments and the Commissioner's response is addressed in the first.

35. Written Comment from Frank and Claudette Weismantel, Private Citizens Redacted

From:
Sent: Tuesday, March 26, 2024 10:26 AM
To: CDI Regulations
Subject: Dwindling Insurance carrier choices

Categories: Complete Rate Application

What actions are underway to reverse the increasing loss of insurance carriers willing to provide insurance in our state? It seems that a reasonable amount of carrier choices would be necessary for a new set of regulations and policies to both apply and succeed.

Submitted by Frank and Claudette
The Weismantel family

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

36. Written Comment from Guillermo A. A Cornejo, Private Citizen Redacted

From: Guillermo A. A Cornejo <
Sent: Monday, February 26, 2024 4:20 PM
To: CDI Regulations
Subject: HO Inspector malpractice, liability for biased report

Categories: Complete Rate Application

Include inspector malpractice, liability for proven biased property damage report. Today HO inspector assessing damaged property write biased reports to deny claims and thus prop up their position with the insurer. Thus, assuring their continuing contracts with the insurance company. Inserting a liability clause for proven biased inspection reports will assure the consumer a fair evaluation of property damage.

Department Response: This comment raises issues outside of the scope of the proposed regulation. Nor is it specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

37. Written Comment from Jaime Kern, Private Citizen Redacted

From: Jaime Kern
Sent: Sunday, February 18, 2024 6:04 PM
To: Ombudsman <ombudsman@insurance.ca.gov>
Subject: Planned public hearing comments by March 26 2024

I read in newspaper Lara has need for public comments about homeowners insurance. I am owner of rebuilt home and property destroyed by the camp wildland fire 2018.the home rebuild is complete in same footprint excluding 3ac of forest.I was blessed with help in my efforts of brush removal "mastication " and have fire code spinkler installation in house. The property is void of fuel and the reduction and mitigation is complete but will always be ongoing maintenance. I could have easily been dropped from from State Farm coverage but have so far seen double cost of bill this year. I am afraid it's a bit overinsured because of loss of fire fuels and the cost will be unsustainable for I am a senior on fixed income. I have reached out for any discounts regarding my fire prevention effort that has also included some neighboring parcels in statrigic defensible space.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

38. Written Comment from Jim Tygrett-DeNuzzi, Private Citizen Redacted

From: Jim Tygrett
Sent: Saturday, February 17, 2024 8:36 AM
To: CDI Regulations
Subject: Auto and Homeowner ins.

Categories: Complete Rate Application

My auto insurance rate goes up despite the fact I have no violations or claims. Homeowner insurance rate goes up too despite no claims.

Why can’t the rates go up per individual and new policies only? It seems that rates go up based on total claims, zip codes, etc.

The CA. Legislator is already viewed as dysfunctional and one of the worst in the nation as too liberal and useless.

Its response to the homeless and retail crisis is contributing to increased co$T across the board.

The insurance companies need to be sanctioned. By the way if you’re not going to offer insurance in CA. then you should not be doing business here either.

Costco has stopped offering auto in CA. Ridiculous !!

Thank you,

Jim Tygrett-DeNuzzi IT

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

39. Written Comment from Jordan Clark, Private Citizen Redacted

From: Jordan Clark
Sent: Friday, February 16, 2024 10:19 AM
To: CDI Regulations
Subject: Public Comment on Insurance Debacle in CA

Categories: Complete Rate Application

Hello,

I am writing to express my profound concern and distress regarding the ongoing difficulties faced by residents of Paradise, CA, and other high-risk areas in securing and maintaining adequate home insurance. As someone who personally experienced the devastating loss of a home in the Camp Fire, the most destructive wildfire in California's history, I am acutely aware of the importance of reliable insurance coverage for rebuilding and recovery efforts.

> **Department Response**: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

In the aftermath of the Camp Fire once we were lucky enough to find a new home, and like many of my fellow residents, I turned to the California FAIR Plan as a last resort for home insurance. While grateful for its existence, the coverage provided is both expensive and insufficient for the real needs of homeowners in our community. The cycle of obtaining insurance through standard carriers for brief periods, only to be dropped and forced back to the FAIR Plan, is not only financially burdensome but also emotionally taxing, especially for those of us still healing from the trauma of the fires.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

The repeated loss of coverage and the looming threat of being uninsured is not just a financial concern; it's a constant reminder of the vulnerability we face living in a high-risk area. It underscores the need for more sustainable, comprehensive insurance solutions that take into account the unique challenges and increased risks of communities like Paradise.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I urge DOI/CDI to consider the following actions to support homeowners in high-risk areas:

-Enhance the California FAIR Plan: Improve the coverage limits and affordability of the FAIR Plan to make it a more viable long-term option for high-risk residents.

-Encourage Private Market Participation: Implement incentives and regulatory frameworks that encourage more insurance companies to offer coverage in high-risk areas, ensuring a competitive market that can lead to better rates and coverage options.

-Invest in Community Resilience: Support and fund initiatives aimed at reducing wildfire risk and enhancing community resilience, which can make insuring high-risk areas more feasible for insurers. Discounts should be required for making homes resilient against wildfires.

-Transparent Communication: Ensure clear, transparent communication from insurance providers about policy decisions, especially when it comes to non-renewals or coverage changes, giving residents ample time to seek alternatives.

> **Department Response**: This comment raises issues outside of the scope of the proposed regulation. Nor is it specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

The struggle to secure home insurance in the wake of the Camp Fire is more than an administrative challenge; it's a matter of safety, security, and recovery for tens of thousands of Californians. We need actionable solutions that acknowledge the complexities of insuring homes in high-risk areas while offering real protection and peace of mind to homeowners.

Thank you for your attention to this critical issue.

Jordan Clark

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

40. Written Comment from Jovita Pattison, Private Citizen Redacted

From: J. Pattison
Sent: Thursday, February 22, 2024 12:52 PM
To: CDI Regulations
Subject: Reform Auto and Homeowners Insurance

Categories: Complete Rate Application

Commissioner Lara,

If your duty is to protect California from excessive, inadequate and unfair insurance rates, why is my current Farmer's Direct Property and Casualty Insurance company sending me a NONRENEWABLE notice for our combination Home and Auto Insurance? We have been loyal California Farmers Insurance consumers for over 30 years and have never experienced this. If you take your duty seriously to protect Californians in the insurance market, why are so many Insurance companies dropping coverage, not writing new insurance policies or charging excessive premiums in California?

With the current California insurance circumstances, it's understandable why residents are moving out California. Have you seriously taken this into consideration for the future of California?

Remember, you were voted to protect us,

Jovita Pattison

> **Department Response**:
> This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

41. Written Comment from Kathleen O'Hern, Private Citizen Redacted

From: Kathleen
Sent: Sunday, March 10, 2024 12:18 PM
To: CDI Regulations
Subject: Increase in Insurance Premiums

Categories: Complete Rate Application

To Whom it May Concern:

I am writing to you today to talk about the increase in rates for my (home, auto) insurance through:
Farmers Insurance

Agent: Michelle Hunter
1855 Main Street
Unit A
Susanville, CA
(530) 257-4903
I just received my policy renewal March 10, 2024. I was paying $114.00 a month for a
2012 Toyota RAV4
1995 Toyota Tacoma
1995 Palomino Tent Trailer
And my home.
Now I am required to come up with two months in advance which is now $860.00 and the monthly will be $430.00 a month. This also affects my mortgage payment which will increase $200.00-$300.00 a month. I am a single female and was quite proud of the fact that I could afford my own home. With these rate increases I am not sure how long I will be able to afford these higher rates.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

It is my understanding that the rate increase is due to climate and increase in fires. I would like for you to provide me with the peer review studies that prove that climate change is the cause. These rate increases are going to cause more foreclosures and more homeless families. It is also going to cause a mass exodus out of California. In the sate of California in 2022 the foreclosure rate was 115%. I am not able to find data for this year but I can only imagine it is much higher. If you are indeed working on decreasing the insurance rates like it says in your website; why would you authorize insurance companies to increase their rates? Let me see….. because these insurance companies were going to pull out of California.
So now American citizens are the ones having to pay the price for this poorly run state. We were not allowed to vote on whether or not we wanted these rate increases.
What happened to WE THE PEOPLE? What happened to the CONSTITUTION?

WE THE PEOPLE ARE FED UP!!

Sincerely,

Kathleen O'Hern

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

42. Written Comment from Kim Dietz, Dietz Rentals

From: kim
To: CDI Regulations
Subject: Access to Insurance
Date: Monday, March 11, 2024 4:29:31 PM

My name is Kim Dietz and I am a resident of the City of Chico / Butte County. My husband and I own 23 residential family homes as rental units. All of our rental properties are in the "city" limits of Chico, CA and within 1 mile of a local fire department. Until last year all of our properties were insured under Nationwide Insurance.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

In October of 2023 Nationwide issued several "non-renewal" notices because of a recently formed LLC for our business. We were told by our broker that insurance companies are looking for any reason to get out of business in California. We could not find ANYONE to write us policies and had no choice but to get quoted from a "non-admitted" carrier.

As an example: In 2010 I insured a property with nationwide insurance. In 2023 I was issued a notice of cancellation. This house is one block away from Hwy 99/East Avenue and one block from McDonalds. It is in the middle of a residential neighborhood in the City of Chico.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

After many failed attempts between my broker and myself I was forced to bind a policy with a "nonadmitted" carrier as my last and only option. The cost of insurance for this property located at 2428 Irene Street, Chico, CA went from $1091/year to $3184.83/year.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I didn't give up and in December 2023 I was able to get a quote from AAA insurance for the same property. I cancelled the policy with the "non-admitted" carrier, lost 20% due to cancellation, and transferred to AAA with a policy effective 1/1/24 – 1/1/25.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the

comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

On February 6, 2024 AAA issued a notice of cancellation stating the "roof" exceeded the useful life, which is an unacceptable hazard and liability exposure. I challenged that determination, provided proof that the roof was only 18 years old, along with pictures and proof of the original permit. I also said I would have a "re-certification" of the roof and if anything needed repairs or replacement then I was willing to do that. I asked for re-instatement of the policy. AAA said the decision was final and they would not re-instate.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

On 2/26/24 I filed a RFA (request for assistance) with the California Insurance Commissioners office.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

As of today, 3/11/24, my broker cannot find anyone to write a policy on this property. I've contacted several other local and national brokers asking for assistance. All have stated that "nobody" is writing policies in California.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

My broker has an application into the California Fair Plan, however, I am told it takes 30-60 days to complete the application. Unfortunately, in 5 days I will be without insurance. I don't know what else to do or who else to turn to?

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

As a business owner, property manager, and rental manager I'm afraid that I am being forced to sell an investment because I cannot find insurance. How is this helping the rental market? How is this going to help people find homes in California when there is already a rental shortage. How is this going to help keep rents affordable?

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I urge you to do anything to fix this horrible problem. How can insurance carriers cancel, non-renew, not write policies? How can a residential home in the middle of the city not have access to fair insurance? I am absolutely at the end of all options.

Kim Dietz
Dietz Rentals
Chico, CA

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

43. Written Comment from Larla Maloney, Private Citizen Redacted

From: Xylem Larla Dey
Sent: Sunday, February 18, 2024 6:20 PM
To: CDI Regulations
Subject: Insurance rates

Categories: Complete Rate Application

Hello,

I am writing in support of regulatory action to keep insurance rates at least somewhat affordable.

I am the admin for a Nevada County housing group and every week more renters are becoming homeless due to either a) not being able to afford raised rents due to landlords' high insurance rates or b) landlords selling because they can't afford insurance.

As a renter myself, I don't know if I will ever be able to afford home ownership in Nevada County due to the skyrocketing insurance rates.

I understand we live in a fire risk area. However, insurance rates are exacerbating an existing housing crisis and will cause people to leave the county entirely.

Thank you for your attention,
Larla Maloney

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

44. Written Comment from Larry and Jennifer Mossi, Private Citizens Redacted

From: Jennifer Mossi
Sent: Sunday, March 10, 2024 12:16 PM
To: CDI Regulations
Subject: Public hearing comment

Categories: Complete Rate Application

If you're going to go with "climate change" as the reason for allowing insurance rates to double and sometimes, triple; please provide peer-reviewed studies showing how climate change has caused all the fires and flooding and other weather issues.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Why not be transparent, and allow the public to know that the real reason for higher rates, is due to planned climate control with the use of Directed Energy Weapons (DEWs)? There are SEVERAL patents PROVING that the Government controls the weather.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Higher rates = pricing upper middle class and below citizens to move out of California, because we can't afford to live here.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

There are a lot of people who know what the Government is doing, and it's now past the time for We The People to speak out and take a STAND against this evil.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

As a CA resident and citizen, I DEMAND that CA State Government be transparent about their plans to break US, and provide PROOF as listed above.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Also, just know, we will form community groups to stand against The Big Government and protest, and petition, and sue if we have to.

Sincerely,
Larry and Jennifer Mossi

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

45. Written Comment from Liz Froneberger, Private Citizen Redacted

From: Liz Froneberger
Sent: Monday, March 4, 2024 1:10 PM
To: CDI Regulations
Subject: March 26th hearing on insurance companies and easing regulations

Categories: Complete Rate Application

I read with alarm an article in the Marin IJ on February 18th about the plan to smooth the way for insurance companies to increase their rates. Obviously they have been able to play hardball due to wildfire, etc., and have been threatening thousands and thousands of homeowners, potentially with the loss of their homes if they can't refinance and their mortgages get called in by the bank.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

This honestly smacks of an organized effort to turn homeowning Californians into renters because homes will be bought by real estate investment firms, which will be able to buy homeowner insurance in bulk.....and/or the mutual investment strategies between banks, private equity firms and insurance company investments will make out like bandits.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

You have a duty to protect Californians, not the insurance companies. Surely there is some other way other than giving into their every demand.

I'm very disappointed in this direction.

Liz Froneberger, RN

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

46. Written Comment from Mary Russel, Private Citizen Redacted

From:
Sent: Monday, February 19, 2024 10:17 AM
To: CDI Regulations
Subject: Home owners insurance

Categories: Complete Rate Application

We are worried our insurance can be canceled and there are no alternatives

> **Department Response**:
> This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

47. Written Comment from Patricia Eldred, Private Citizen Redacted

From: Trish Eldred
Sent: Saturday, February 24, 2024 10:05 AM
To: CDI Regulations
Subject: Unfair non renewal homeowners

Categories: Complete Rate Application

I've had Residential Mutual Insurance homeowners for many years.
2/1/24 I received a notice stated increase of deductible from $500 to $2500.
Also new "requirements" in order to "consider" renewal, which is 5/1/2024.

6 DAYS LATER I received a "non-renewal" notification. The "reason" for non renewal

We requested important information that was needed to continue your policy and we never received a response.

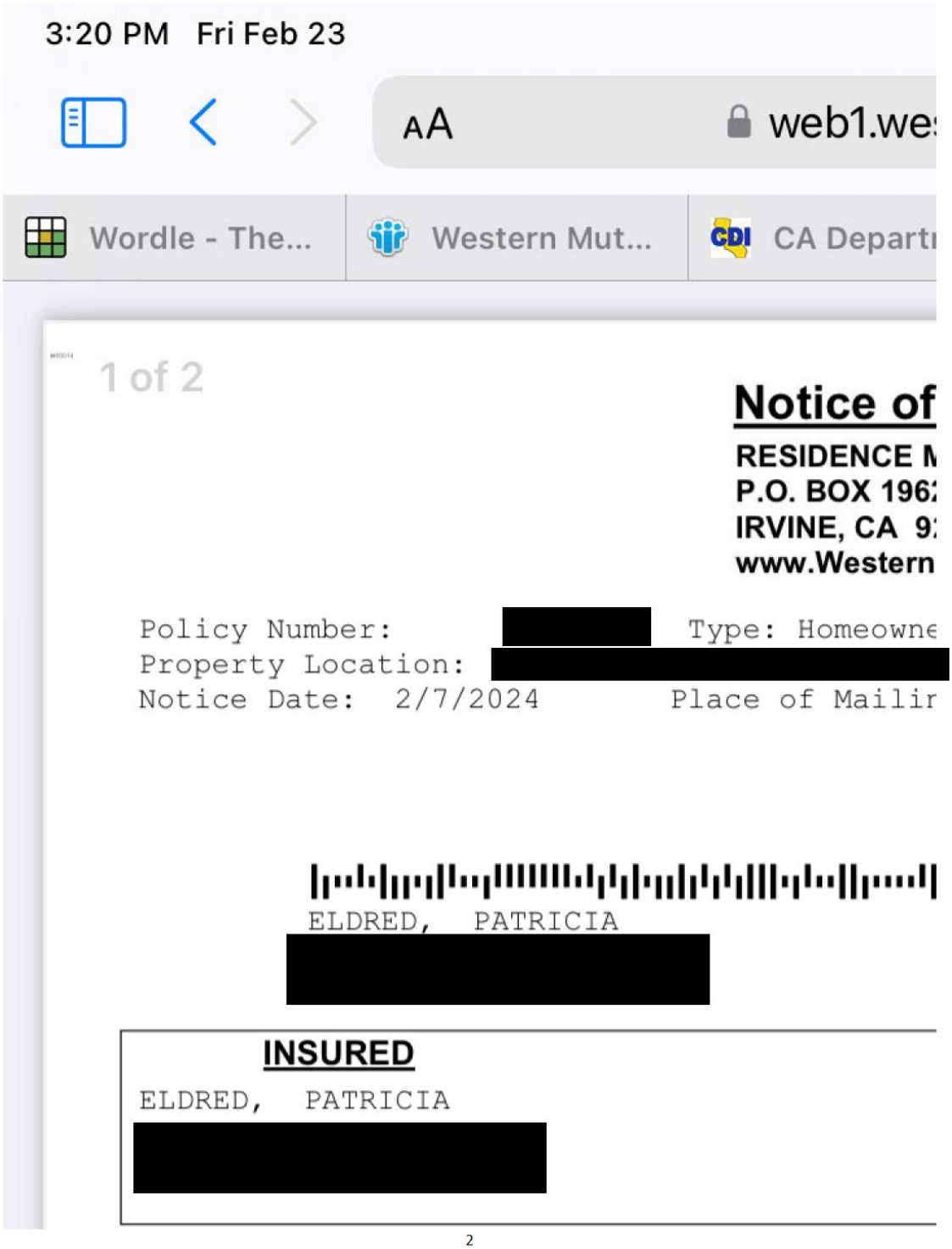
The initial letter stated
We will need the documentation addressing these requirements prior to the policy anniversary date.

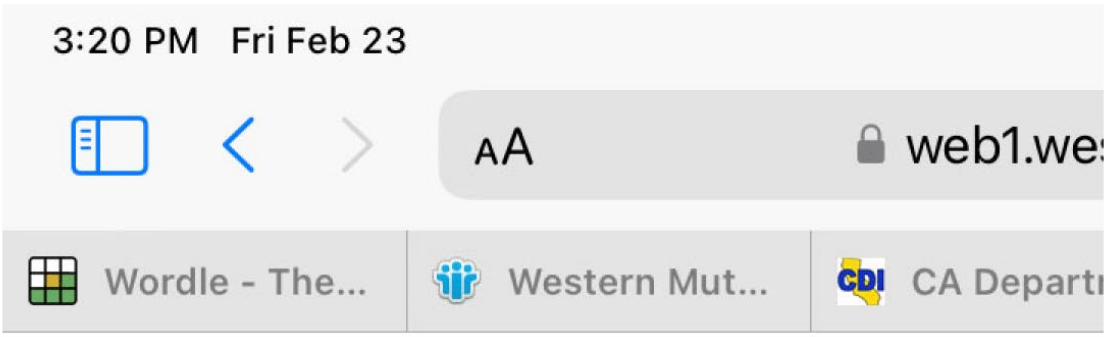
Anniversary date is 5/1/24, yet they threaten non renewal 3 months prior.

I have started looking at other companies and options, yet now they won't even consider me because Residential Mutual has issued a NON RENEWAL.

I cannot get homeowners insurance for no fault of my own.

Patricia Eldred





Residenc

P.O. Box 19626, I

(800) 234-2103 or

www.westernmut

February 1, 2024

Patricia Eldred

[redacted]

Re: **Subject:** **Water Per**

Policy No: [redacted]

Insured: ELDRED,

Property located at: [redacted]

3

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

48. Written Comment from Randal P Raymaker, Private Citizen Redacted

From: Randy Raymaker
Sent: Saturday, February 17, 2024 10:18 AM
To: CDI Regulations
Subject: Fair plan

Categories: Complete Rate Application

Hi,
The California fair plan is not fair if you have any assets whatsoever the rates are much higher than what I am currently able to get on the open market by looking for myself. The fair plan needs to be fair for us who actually pay taxes and have assets not just for the illegal aliens and the very poor who we pay for with higher premiums charged to us in the fair plan. If insurance rates continue to rise people will no longer be able to afford insurance and will be self-insured. This will ultimately cause a whole system to collapse as insurance will be unaffordable.

Thank you for considering my thoughts,
Randal P Raymaker

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

49. Written Comment from Robyn Caywood, Private Citizen Redacted

From: Robyn Caywood
Sent: Saturday, February 17, 2024 7:51 PM
To: CDI Regulations
Subject: Public Comment / Insurance

Categories: Complete Rate Application

First, thank you for offering the opportunity for the public to comment and hopefully effect change around insurance rates in California.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I have lived in CA since I was 18 years old. I've raised 2 kids here and am currently a single mom and own my home that I have worked hard to provide for my family. Our insurance rates have continually risen over the past few years at a dizzying pace. Two years ago my insurance was $2800/year. Last year it jumped to $9000/year. This year it went to $11,000/year. Plus my auto insurance (which includes two teenage drivers) went up 16.7%. I have a really good job with a good salary for any other state. But in California my good salary is not going to cover my basic needs. I spent 5 hours on the phone with insurance agents last week to get my insurance to a more manageable place. And I had to compromise with less coverage than I need, because it's what I can afford. That puts me in a terrifying position feeling very vulnerable with less insurance than I should have. At this rate I am planning to leave CA as soon as my second child graduates from high school.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

So, something has to give. Families cannot afford to live here anymore. Or have to sacrifice having their needs met. With the exception of Hawaii, there isn't another state that leaves you with this much financial insecurity.
Affordable home, auto and health insurance is paramount to the health of a community. I urge you to help level the playing field so we can all survive here.

Thank you for your time and work you are doing towards this!
Warmly,
Robyn Caywood

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

50. Written Comment from Sora Oneiga, Private Citizen Redacted

From: sora oneiga
Sent: Wednesday, February 21, 2024 9:51 AM
To: CDI Regulations
Subject: Insurance rates

Categories: Complete Rate Application

Hello,
My name is Sora Oneiga,
I own three homes in Grass Valley and Nevada City Ca. We had a very calm fire season last year and our fire department is now likely one of the most amazingly
Skilled, fast reacting and well supported in the world. We are absolutely shocked and devastated at the increased insurance rates. Our main home went from $5500 to $11000 for less coverage witha higher deductible-despite the year of minimal local fire activity, major fire clearance work around our home and neighborhood and county.
This is completely breaking people. Renters are struggling enough with higher PGE etc and inflation and this is absolutely killing people!!
This cannot continue, we cannot afford our home costs.
Please help your people!!!
Yours hopefully,
Sora Oneiga

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

51. Written Comment from Steven Murphy, Private Citizen Redacted

From: Steven Murphy
Sent: Monday, February 26, 2024 11:44 AM
To: CDI Regulations
Subject: Insurance premiums for those on fixed income

Categories: Complete Rate Application

Dear Commissioner Lara,

First of all, thank you for everything that you and your team are doing on behalf of the residents of California. I realize we are living in challenging times on many levels and the current insurance issues are just one of many.

> **Department Response**: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Having said that, the insurance issues that California is currently facing are first and foremost for me. Much is at stake, as I'm a retiree living on a fixed income in a time when nothing is "fixed" any longer except my income. Especially insurance premiums.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I was born in this state (Bay Area) and have lived (68 years) and paid taxes here my entire life. I live in a beautiful house in an equally beautiful place, but, at this late date, my ability to stay in my home, and California in general is suddenly in jeopardy. Sadly, this is not a novel situation and I'm in a big club. "The Californians Priced Out Of The State By Unaffordable Fire Insurance Club".

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I actually grew up on the central coast of California. Prior to 1970, regular middle class folks could live there. My parents bought their first home in Pacific Grove, in 1964, for $17k! By the mid 70's home prices there began to skyrocket exponentially, much like insurance rates are doing now. Many older retirees (the majority of residents there) were being forced out of their homes due to greatly increased property taxes, which went along with increased real estate values.

And so, Proposition 13 was passed, thereby, capping property tax increase and insuring longtime homeowners would not lose their homes.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Well, here we are fifty years later. I am able to own my home today, thanks to Proposition 13. It has worked very well and California has not gone bankrupt as a result. I'm sure someone in Sacramento has floated the idea, but, perhaps it's time for something like Proposition 13 to be enacted in order to curb inflated insurance costs to California homeowners. They appear, on the surface anyway, to be very similar scenarios. However it comes down, something must be done. My insurance doubled last year, $2,500 to $5,000. In August, it will jump another 30-40%,to about $6.8k. My neighbor just got their new bill, $12k!

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

A situation like this forces one to become educated, and, like it or not, I've spent considerable time going down the insurance rabbit hole. I've learned about re-insurance and all the ramifications that has in determining cost of premiums to Californians. Clearly, we're at a crossroads, and, I for one, do not intend to be forced out of the home and state I love. I've worked for it, my parents survived the depression and World War II for it, it's time to act.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I believe in global warming and the inevitability of climate change. The writing has been on the wall for 50 years. Insurance companies have made countless billions off of California residents in the meantime. Perhaps they should be putting some of that money back into efforts to solve the problems that have made their products so necessary. I'm not holding my breath.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Thank you Commissioner Lara, I appreciate the time it takes for you and your staff to read through these letters. Please take mine to the meeting on March 26th, so that my voice may be heard.

Sincerely,

Steven Murphy

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

52. Written Comment from Larla Maloney, Private Citizen Redacted

From: Xylem Larla Dey
Sent: Sunday, February 18, 2024 6:20 PM
To: CDI Regulations
Subject: Insurance rates

Categories: Complete Rate Application

Hello,

I am writing in support of regulatory action to keep insurance rates at least somewhat affordable.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I am the admin for a Nevada County housing group and every week more renters are becoming homeless due to either a) not being able to afford raised rents due to landlords' high insurance rates or b) landlords selling because they can't afford insurance.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

As a renter myself, I don't know if I will ever be able to afford home ownership in Nevada County due to the skyrocketing insurance rates.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I understand we live in a fire risk area. However, insurance rates are exacerbating an existing housing crisis and will cause people to leave the county entirely.

Thank you for your attention,
Larla Maloney

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

53. Written Comment from Coral Moon, Private Citizen Redacted

From: Coral Parsons
Sent: Tuesday, March 19, 2024 1:36 PM
To: Phenix, Jon <Jon.Phenix@insurance.ca.gov>
Subject:

Not sure who to address my concerns of the rising costs of insurance. I realize my voice is just one of thousands that are suffering from the high cost of insurance in California. Tis not for myself but for my daughter and son-in-law.
This probably won't even be read but what they hey, here goes anyway.
My daughter and her husband own a small manufacturing business in Auburn, California. They employ roughly 20 employees. The cost of insurance for this business has gone from $12,000/ year to $50,000/year and have been told may even go up to &75,000/year. Well, unfortunately that is just not feasible. So, their options are to close the business, leaving 22 people without a job or relocate outside of California. How sad is that. California needs to do better.
California should want to do better.
If you've read this far, I'm pleasantly surprised and I thank you.
Coral Moon

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

54. Written Comments submitted via OneClickPolitics lobbying campaign

Department Response: The Department received and carefully reviewed each of the 943 stakeholder comments that were prepared through a sponsored lobbying campaign, OneClickPolitics, and submitted by the stakeholder. Other public comments in the rulemaking file raise the same issues identified in the comments prepared by the sponsored lobbying campaign. Because the Department responded to those comments in detail above, those Department responses are incorporated here by reference.

The individual comments submitted via OneClickPolitics may be found in Appendix A at the end of the Final Statement of Reasons.

List of Hearing Attendees Who Made Oral Comments Made During Public Rulemaking Hearing on March 26, 2024 and Department Response

55. Oral Comment from Karl Susman (Insurance Broker, Insurance Expert Witness, Radio Talk Show Host)
56. Oral Comment from Seren Taylor (Personal Insurance Federation California, National Association of Mutual Insurance Companies)
57. Oral Comment from Pamela Pressley (Consumer Watchdog)
58. Oral Comment from Denni Ritter (American Property Casualty Insurance Association)
59. Oral Comment from Nick Belaevski (Home Owner)
60. Oral Comment from Stephen Young (Independent Insurance Agents and Brokers of California)
61. Oral Comment from Kara Cross (Verisk)
62. Oral Comment from Dan Dunmoyer from (California Building Industry Association)
63. Oral Comment from Richard Holober (Consumer Federation of California Education Foundation)
64. Oral Comment from Gina Posey (Homeowner and Chair, Sierrama Firewise Community)

55. Oral Comment from Karl Susman (Insurance Broker, Insurance Expert Witness, Radio Talk Show Host)

Okay, terrific. Well, thank you for providing me the time to speak today. My name is Carl Sussman. I'm an insurance broker, insurance expert witness, and a host of a radio talk show syndicated across California about insurance. Suffice it to say, I talk with a lot of consumers about insurance. Everyone here already knows, or certainly should know, that the insurance industry in California is in a major crisis. Insurers are non-renewing policies and not offering policies. Others are leaving the State while others are actually leaving the industry entirely because they can't afford to be in it anymore.

> **Department Response**: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Proposition 103 made the California Insurance Commissioner an elected position. So, the residents of California have spoken, voted, and they have elected Commissioner Lara not once, but twice.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

He has responded to the California insurance marketplace situation by creating the Sustainable Insurance Strategy. I applaud the Commissioner for stepping up and stepping in and being proactive in addressing a lack of insurance, competition and availability, and I invite everyone, including those purporting to represent consumers to step aside, let him do his job that he was elected to do. Remember he was elected by the consumers twice. Let's let him do his thing.
So, the first part of these new regulations that we're here today discussing addresses a specific issue, and that being how admitted insurance companies request changes to underwriting and premiums they charge. The exciting part is both the Insurance Commissioner and the insurance industry in general agree wholeheartedly on what this first regulation fixes, namely, the fact that any changes submitted by an insurer currently can take months or even years of back and forth before it can be put into place.

> **Department Response**: These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

Add that to the time it takes for the insurer to actually roll out the change and then actually see results from it, we're looking at years from start to finish.
This lengthy process prevents all admitted insurance companies from being nimble, innovative, and it's costing the California Department of Insurance a ton of resources with having to deal with the back and forth on a continual basis. This waste of resources on both sides can be eliminated by this first set of regulations we're talking about today.

Department Response: These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

Anyone who's telling you that a complete application from the get go would actually slow things down is just not living in reality. Time is money, and this up and back is wasting money on the part of the Department of Insurance and the admitted insurance companies that want to compete in California.

Department Response: These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

Mind you, that according to proposition 103, and insurance Code section 1861.01 rates must not be inadequate, excessive, or unfairly discriminatory. All this new regulation is doing is providing the Department of Insurance with the information they want, the information they've wanted from day one to enable them to make the appropriate decision.

Department Response: These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

Finally, be aware, again, that proposition 103 encourages public participation in rate making. This new regulation does not in any way shape or form change that. Prop. 103 is not designed, at least I hope not, for the, for one single entity to act as a pseudo-secondary Department of Insurance overseer or an all-knowing insurance Czar that has de facto veto power to prevent the Department of Insurance from actually doing their job. Thank you.

Department Response: This comment is supportive of the current proposed regulation and not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

56. Oral Comment from Seren Taylor (Personal Insurance Federation California, National Association of Mutual Insurance Companies)

Oops sorry about that, just unmuted. Thank you, good afternoon all. Seren Taylor, on behalf of the Personal Insurance Federation of California, or PIFF and the National Association of Mutual Insurance Companies NAMIC. We appreciate the opportunity to provide these comments regarding the proposed complete rate application guidelines and regulations. We did submit an expansive set of written comments that raises numerous concerns and questions about these proposed regulations. As requested, rather than repeat those comments, I'll focus on some key issues.

Department Response: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

We understand that the proposed regulations aim to address critical issues surrounding insurance companies rate application submissions under Proposition 103 and these existing regulations created more than 35 years, ago lack clarity and fail to specify the materials and information required in a complete rate filing application. This results in confusion among insurance companies and delays in the CDI review process, which impacts insurers ability to ensure fair and adequate rates and contributes to the current insurance availability crisis. However, one major concern is that rather than clarifying what information CDI will require before approving a rate application. This proposal makes filing requirements more confusing. The proposed changes to Section 2648.4. add uncertainty to what constitutes a complete rate application. The proposal deletes current regulation text that includes a specific set of known filing requirements and instead adds vague descriptions of what complete information is. In fact, section 2648.4 (B) contains no clear definition of a complete application, and instead, it reads and I'll quote "The complete rate application includes without limitation any and all of the following". So, the phrase without limitation does not clarify what's required. Rather it, it implies the rate application process may never be complete, and CDI can continue moving the goalposts, literally without limitation.

> **Department Response**: As a substitute for the rate application forms described in the current regulation that have become obsolete or may soon become obsolete, the Commissioner has amended the regulations to describe all the types of information necessary for a complete rate application that will result in a review where rates are not excessive, inadequate, or unfairly discriminatory to comply with Insurance Code Section 1861.05. The Commissioner currently relies on all information listed in the proposed regulations to evaluate a rate application. Further descriptors are unnecessary. The Commissioner provides and intends to continue providing rate application forms for insurers to use but that is not within the scope of this regulation.
>
> The section 2648.4 (B) "without limitation" language clarifies that, even if not listed precisely in subdivision (b), the materials to be provided must comply with the principle in section 2648.4(a). A rate application must contain all information the Commissioner may require in order to perform a complete analysis of a rate application.

Another significant concern we have is that the proposal attempts to regulate underwriting not subject to prior approval, and for many years CDI has attempted to expand its review powers, and these regulations improperly attempt to define a complete rate application to include underwriting decisions that are not linked to a rate calculation and the courts have ruled that the Commissioner does not have authority to regulate underwriting based on his authority to approve rates. So, we all agree, there's an insurance availability crisis and addressing this crisis requires mutual respect and collaboration.

> **Department Response**: The proposed regulations outline the type of information necessary to approve rates. The proposed regulations do not seek to regulate underwriting Information that may impact rates includes underwriting information and any contract language change that affects the rate or cost of coverage. Underwriting rules are already required to be filed pursuant to Insurance Code section 1861.05(a) and (b) as provided in

the General Counsel opinion, dated August 10, 2018 (http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf.). The amended regulations require that the information be provided in a complete rate application, to prevent insurers from delaying review by not providing the information up front.

However, this proposal repeats decades old conflicts and triggers needless disagreement instead. We believe this proposal should be revised to improve the rate application process by adding a clear and practical checklist of required application items allowing insurers to utilize the existing data reconciliation tools and better achieving the 60 and 180 day rate approval timelines set forth by Proposition 103.

Department Response: The purpose of the proposed regulation is to simplify the description of materials required to submit a complete rate application and avoid the granularity of listing forms that may become outdated and obsolete. It would be impractical to add a data reconciliation checklist to the regulations itself, as it would also be too granular. The Department has determined it is in consumers' best interests to maintain the current proposed regulation as is.

As currently drafted, we do not believe there's anything in these proposed regulations that is helpful in addressing the insurance market crisis. Instead, it likely exacerbates the current problems. So, in summary, I'll just say, we believe the proposed regulation adds more confusion to the rate review process. It attempts to regulate underwriting in a manner prohibited by law, and which has already been subject to extensive litigation. It misses an opportunity to fix known sources of delay that reduce admitted market availability and price competition. It fails to address CDI's reliance on insurers waving of their rights to the timely review guaranteed by Proposition 103, and it also raises the specter of procedural unfairness and adoption.
But despite these concerns, we hope we can work with the Department to implement the Commissioner's Sustainable Insurance Strategy in a timely manner that achieves the goals of increased insurance availability and reliability for all Californians. Thank you, thank you for your time and the opportunity to provide these comments.

Department Response: A portion of this comment restates oral comments previously made and the Commissioner incorporates his prior responses here. This comment also exceeds the scope of the proposed regulations. The proposed regulations are intended to address the longstanding issue with insurers' submissions of incomplete rate applications, which cause unnecessary delays in the prior approval system. By articulating the requirement that all of the information be provided up front, the Commissioner can proceed to approve rates in a more efficient manner.

57. Oral Comment from Pamela Pressley (Consumer Watchdog)

Good afternoon. My name is Pamela Presley. I'm a Senior Staff Attorney with Consumer Watchdog, and I've been actively litigating Prop 103 proceedings before the Department and in the courts for almost 25 years now. In that time Consumer Watchdog has reviewed and challenged rate filings in over 150 rate proceedings before the Department. So, we're well

familiar with the ins and outs of rate applications and what needs to be provided in order to review and effectively make sure that companies are complying with Proposition 103. We, We have detailed written comments that we're planning to submit later, including and provision by provision analysis and our proposed edits. So, I'd like to just touch on some of the big picture highlights in those comments and the need for some clarifying amendments. And specific you know, comments on specific provisions to the proposed text.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

One thing I did want to touch on just before I get to the comments. Was the, the mention at the outset of the proceeding that this is, that this proceeding is exempt from the APA rulemaking requirements, and is stated in our public comments. We don't agree with that exception applying in this particular case that subdivision exempts a regulation that establishes or fixes rates, prices, or tariffs, and the proposed amendments do not establish or fix rates or prices in any way. Rather they just instruct companies what information they have to file in a complete rate application that's submitted. Moreover, in 20th century the court held that the Commissioner does not actually establish or fix rates by regulation or otherwise, he either approves or rejects a rate that's, that's submitted by the applicant which is tested through the rate making formula. So, I would just like to state that our participation today does not wave our objective of this proceeding not being held pursuant to the APA, but it, pardon interruption. It appears that the Department does intend to proceed pursuant to the APA. So, we obviously are gonna participate and we hope that you'll follow the public notice requirements for any further amendments, and all the other provisions of the APA.

> **Department Response:** The proposed regulations are exempt from the APA because the Legislature expressly exempted from APA review a "regulation that establishes or fixes rates, prices, or tariffs." (Gov. Code, § 11340.9, subd. (g) (the "rate-setting exception").) The long-standing rate-setting exception was added to former Government Code section 11380 in 1945, subsequently renumbered section 11343(a)(1), and is currently numbered section 11340.9(g).
>
> The California Supreme Court resolved questions regarding the Commissioner's authority to promulgate Proposition 103 regulations under the rate-setting exception in *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216 ("*20th Century*"). The Commissioner maintained that the regulations interpreting and implementing Proposition 103 were exempt from the APA review requirements as they came within the rate-setting exception (*20th Century*, at p. 248.) The Supreme Court agreed, stating:
>
> > We believe that the Insurance Commissioner's position, as noted above, is well taken. The rate regulations – both generally and specifically as to rollbacks – do indeed come within the rate-setting exception, hence fall outside the OAL review requirement, and therefore are not invalid because of OAL disapproval. (*20th Century* at p. 270.)

> There is no material distinction between the regulations exempted by the Supreme Court in *20th Century* and the current proposed regulations. Indeed, regulations are exempt from the APA whenever they comprise "an essential step" and "an integral part of the process" of fixing a rate. (See *Winzler & Kelly v. Dept. of Industrial Relations* (1981) 121 Cal.App.3d 120, 127-128; *Vector Resources, Inc. v. Baker* (2015) 237 Cal.App.4th 46, 58.) Proposition 103 specifically mandates that the first step for an insurer seeking to change its rates is to file a complete rate application with the Commissioner (Ins. Code, § 1861.05, subd. (b)), so the Commissioner cannot proceed to approve rates without a complete rate application that includes the information described by the proposed regulations. These proposed regulations are essential steps and an integral part of the rate approval process. They are therefore exempt from the rulemaking provisions of the APA.

So, going back to, in general, we welcome sev, several of the provisions of the regulations that we think are needed to achieve the CDI's stated goal of clarity and more efficient and effective public review process for consumers, the Department, and the insurance industry. In particular, we support making it clear that any criteria, guidelines, systems, manuals, models, algorithms, and we would add, scores such as wildfire risk scores that an insurer uses to accept, examine, inspect, cancel, non-renew, or underwrite, or reunderwrite a rate or risk, or to modify coverage ops, options must be submitted as part of a complete rate application. And these types of guidelines are often what are not submitted in the initial rate filing, or there are later disagreements over what is a guideline, what's not a guideline, and so, we think that these, these amendments which clarify and define what those underwriting guidelines, and other rules are, are necessary to address delays that are often caused by insurance companies failure to file those things as part of a complete rate application. Especially when they attempt to shield models, rating rules, and underwriting guidelines from public scrutiny.

> **Department Response:** These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

We also support the provisions that we think are necessary to remove references to outdated rate application forms and exhibits. However, to further the goals of providing clarity and eliminating delay, we think that the regulation should retain, either retain references to a baseline set of exhibits and data that are required as part of a complete rate application. So, for example, the exhibits and rate making or rate application forms that the Department publishes on their website could be specifically listed in the regulation itself or at a minimum, the regulation could incorporate by reference the Department's standard rate application form exhibits and templates as published on the Department's website. So as those may be periodically updated, the regulation would not have to be continually updated, but they would be incorporated into the regulation. And, as I said in our, in our, comments, written comments that we're submitting this afternoon, we've identified certain provisions of the regulation that could be construed as ambiguous and should be clarified in order to comply with the express language of Prop, Prop 103. Including public notice of initial filings, public, and public disclosure of all the information that's required to be filed as part of a complete rate application. So, I'm gonna just give a very brief overview, because I know time is short. But I would, I would like to walk through the need for the regulation a little bit, in a little bit further detail in the context of Prop 103. So, as we

know. Prop. 103 requires that insurance companies open their books and justify their applications for rate changes before they go into effect and the law states that no rate shall be approved or remain in effect, which excessive, inadequate, unfairly discriminatory, or otherwise, in violation of the Chapter. And that includes anything that impacts rates, or is otherwise unfairly discriminatory or otherwise, in violation of the Chapter.

> **Department Response:** The current descriptors in the amendments sufficiently encompass the additional terms requested in the comments.

We believe the Commissioner absolutely has authority, as stated in the initial statement of reas, reasons to review underwriting guidelines and other things that impact rates and that could be construed as unfairly discriminatory or in violation of the Chapter. Section 1861.05 (B). States that the applicant has the burden of proving that the requested rate change is justified and meets the requirements of the Article.

> **Department Response:** These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

A critical component of the framework, of course, is public scrutiny which gives consumer organizations and other individuals the opportunity to independently challenge unlawful or discriminatory practices.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

So, the, the 1861.10 authorizes and encourages individuals to monitor, initiate, and participate in all rate proceedings at the Department and in the courts. And as specifically as to with respect to rate applications 1861.05 (c) requires the Commissioner to notify the public of an application submitted by an insurance company, and provides consumers with the right to request, within 45 days of public notice that the agency conduct a hearing on a rate application. And then finally, section 1861.07 requires that all the information that's provided to the Commissioner, pursuant to these provisions of Prop. 103 shall be made available for public inspection.

> **Department Response**: This comment appears to be a summary of certain provisions of Proposition 103. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

So, in order for the Commissioner, and the public to effectively review and analyze insurance companies proposed rates 1861.05 (B) requires insurance company to file a complete rate application which includes the specified data which the regulation intends to clarify, and such other information as the Commissioner may require.

> **Department Response**: These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

So, as I stated, we strongly agree with the Department that an insurance company's underwriting rules, rating rules, eligibility, guidelines, systems, manuals, models, algorithms, and other scores that are used to determine whether an insurance company is gonna sell to a person or how much that person's gonna pay, are vital part of the rate review process, and this was confirmed in the Department's General Counsel letter of 2018, which confirmed that these basic underwriting rules which determine the types of risk to be insured, coverages offered must be analyzed in connection with the process in order to determine whether rates are excessive and adequate, unfairly discriminatory, or otherwise in violation. And notwithstanding this opinion letter, which was issued in 2018, companies still resist as we've heard filing underwriting guidelines with the Department as part of a complete rate application. Even though it's been in the rate, rate filing instructions for many decades there were references to underwriting guidelines in the past regulation in the rate making forms, but we need to make sure that this is explicitly spelled out in the regulation so that companies cannot claim that it's part, that it's not part of the law.

> **Department Response:** These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

In a recent report that Consumer Watchdog released we found in 35 challenges completed between January of 2019 and October of 2023, there were at least 8 challenges that were significantly delayed by insurance companies up to 19 months, and in most cases these delays were caused by refusal, either not providing all the information that's required upfront as part of a complete rate application, including underwriting guidelines, including models and their refusal to then cooperate with the CDI and Consumer Watchdog when we later asked for that information during the rate review process. So, there's significant back and forth, lengthy delays, multiple rounds of requests and responses by the company that could be eliminated if we had this regulation that specifies right up front what, what must be submitted in the complete rate application. So, all these challenges that we've seen demonstrate that there is a need for, you know, Una, unambiguous regulations that set forth all the information and also make clear that the information that is submitted must be made public under Section 1861.07.

> **Department Response:** These comments appear to support the proposed amendments and make no objections or recommendations to alter the proposed amendments.

So, I'm going to just briefly again, just touch on some of the, the highlights of what we've proposed to clarify some of the provisions. First of all, we think that the section 2644.27 that refers to variance request. We support the, you know, technical nonsubstantive changes to that section. However, we just want to make clear that, as-is, we think, is the current practice that the regulation specifies, and we've proposed comments and amendments that would make this even clearer, that variances are not made in separate filing. Rather, they're part of the exhibits and templates that are required to be filed in the complete rate application. And then also subdivision C of that section should be amended to follow the current practice and make clear that if the application is later amended to include a variance request after the initial filing, that the amended application with that variance is subject to additional public notice. Particularly when the rate, the rate requested may end up changing from what was originally publicly noticed. And then, another is this, another provision that we think needs to be slightly clarified again. Some of these

regulations haven't been amended in decades, and they need to be made consistent with other provisions of the regulations. So, for example, section 2648.1 refers to specifying it, it has specifically that a rate proceeding is commenced upon the notice of a hearing. Since this regulation was adopted, other regulations have been amended to make clear that a proceeding is initiated upon the filing of a petition for, for hearing and so we've proposed an edit to conform 2648.1 to specify that a rate proceeding can also be commenced by the filing of petition for hearing.

> **Department Response:** This comment restates Consumer Watchdog's previous written comment and the Commissioner incorporates his prior response here.

2648.2 this section is intending to expand the timeline of the completeness review process from 14 to 30 days, which generally we don't have an issue with. If during that time which we believe is the intent of the Department that the, the review is going to be limited to the ministerial process of just determining whether there's compliance with the new complete rate application requirements. In other words, like, during that 30 day re, review period, there shouldn't be substantive communications back and forth on substantive issues.

Otherwise it would be a violation of the public notice requirement which requires consumers to have 45 days from when the application is submitted to review and decide whether to challenge it.
So, to be consistent with Prop 103 we believe that the proposed regulation doesn't and can't foreclose consumer interveners from challenging, later challenging, and any completeness determination since we're not participating in that completeness determination and then requesting further information that may be relevant to review the rate application or raising any substantive issues. Once the rate application is determined to be complete and publicly noticed.

> **Department Response:** Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Okay, no problem. So finally. Yes, some of these other comments I can skip over because they are in our written comments. But I did want to just emphasize that again, what I stated at the, the outset that the 2648.4, which is kind of the meat of the regulations that specifies all the information that has to be included in a rate application. We support, strongly, you know, adding the text that includes models we've, we've also suggested that scores be added to that. But it, it definitely should incorporate the, the existing rate application data and exhibits that has to be included in a rate application as published on the Department's website or listed specifically in the regulation. And then, finally, we want to make clear that all the information that is submitted, is required to be filed and publicly available as part of the complete rate application and not just you know, not just references to other materials that might describe, for example, model but actually, the model itself has to be filed and made publicly available. And this, this is something that we're spelling out specifically in the text of the regulation. And we just want to make sure that, that both the Commissioner and the public are not prevented from asking for further information and making sure that whatever information that's necessary to review the rate application is ultimately made publicly available. And with that I will conclude, and I welcome

any questions, but we, we are submitting the written comments later this afternoon, and those will provide our provision by provision, analysis, and edits. Thank you so much.

> **Department Response:** This comment restates Consumer Watchdog's previous written comment and the Commissioner incorporates his prior response here.

58. Oral Comment from Denni Ritter (American Property Casualty Insurance Association)

Hello. My name is Denni Ritter, and I'm here on behalf of the American Property Casualty Insurance Association. We have submitted written comments that go into more detail, so, as requested. I will keep my comments today relatively brief. Let me begin by emphasizing that APCIA greatly appreciates the Department of Insurance's stated goals for the Commissioner's Sustainable Insurance Strategy and we appreciate the Department prioritizing streamlining the rate review process as a key component of that strategy.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I won't belabor the current state of the market. But suffice to say, insurers are making difficult individual business decisions due to a multitude of factors. Chief among them, is an outdated regulatory process that has hindered insurers ability to attain rate adequacy, and this is resulting in a tightening market that has left many consumers struggling to secure the coverage they need. Understanding the need to streamline the rate approval process as outlined in the Governor's executive order and the Commissioners strategy, we understand that to be the intention of these proposed complete rate application regulations. However, APCIA is concerned that rather than speeding up the lengthy review process which is critical to restoring balance to the market, we believe the proposed regs would prolong the rate review process even further the proposed regs will increase the volume and complexity of documents required to be submitted as part of the rate approval process which will conceivably take more Department staff time to review and analyze.

> **Department Response**: The amended regulations do not require the submission of information that was not previously required; they just require all the information be provided in the rate application up front which will make the process more efficient.

We are concerned that the breadth of the information required in this regulation to be filed is overreaching, and could hinder competition in the market to mandate the company's file the materials required in the proposed regs is essentially requiring that all proprietary business practices be included in every rate filing. The proposal includes materials that have previously never been required to be filed, and which are not required to be filed in other jurisdictions. This will add time and resources for companies to compile. The current regulations provide a defined and distinct lists to give insurers guidance for making complete filings. In contrast, the proposed regulations require that insurers file all information that the Commissioner may require, in order to perform a complete analysis of a rate application. This overly-broad and vague language

provides little guidance to insurers, and will result in a less efficient and slower rate filing process.

> **Department Response:** The information listed in the proposed regulations is the information currently relied on by the Commissioner to approve rates in compliance with Insurance Code section 1861.05. As explained in the Initial Statement of Reasons, insurers are currently instructed to file all materials referenced in section 2648.4(d) but do not always comply. This provision clarifies that such materials are required in a complete rate application. The proposed regulations are intended to address the longstanding issue with insurers' submissions of incomplete rate applications, which cause unnecessary delays in the prior approval system. By articulating the requirement that all of the information be provided up front, the Commissioner can proceed to approve rates in a more efficient manner.

Additionally, the proposed regs overtly grant the Department additional time at the beginning of the process to determine completeness by providing the Department 30 days to notice incompleteness and reject an application up from the current 14-day period. Because expediting the rate review process is a paramount priority to stabilizing the market, APCIA suggests that CDI not increase the time for determination of completeness and instead impose a strict deadline for staff to complete review of insurer filings, eliminating the ability to routinely request that insurers waive their demur rights.

> **Department Response**: Strict deadlines will encourage insurers to attempt to game the system and withhold documents required to approve rates. Ultimately, it will result in a delay in the approval of rate applications when the information required to approve them is unavailable. This is what the proposed regulations are trying to remedy.

APCIA believes the proposed regulations will only cause further delays by adding more bureaucracy, red tape, and uncertainty, and open ended requirements to the rate filing process. Finally, APCIA strongly believes commercial lines should be exempt from the extensive filing requirements included in this proposal.

> **Department Response**: The proposed regulations require insurers to file all the information necessary to approve their rate applications up front. Once the submission is confirmed as complete, approval of the rate application should proceed more quickly.

In general, commercial policy holders are more sophisticated, the risks are more complex, and diverse.

Due to the diversified coverages and unique characteristics of each product, commercial carriers rely more on underwriting experiences than data collection in determining coverages and rates, than personal lines carriers. Large commercial policy holders typically utilize a broker in obtaining coverage and tend to acquire more individualized coverage than would be indicated, in many of their materials required to be filed as part of these regs. Freeing up Department staff to focus on personal lines filings would conceivably alleviate some of the staffing issues that have understandably contributed to the long filing delays.

Department Response: Commercial lines that are subject to Proposition 103 must have rates that are not excessive, inadequate, or unfairly discriminatory. Proposition 103 does not exempt commercial lines from filing a complete rate application. The information required to be filed in the proposed regulations is no different than the information that is currently required. It is just stated in more general terms. The arguments to deviate from the current treatment of commercial lines are unpersuasive.

APCIA is supportive of the Commissioner's Sustainable Insurance Strategy. The only sticking points are the details of the regulations to implement it, and the speed of adoption. We are here today to urge the Department to reconsider the details of these proposed complete rate application regulations and to encourage urgency as the Department works on the other sets of regulations to implement the Sustainable Insurance Strategy. In closing, Insurers are committed to serving Californians. We look forward to working with the Department to address these concerns and enact reforms that will streamline rate reviews and protect consumer access to coverage. Thank you for your time and the opportunity to provide these comments.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

59. Oral Comment from Nick Belaevski (Home Owner)

Okay, fantastic. So good afternoon, everyone. And my name is Nick, and I'm just a regular homeowner in California and a consumer of insurance industry. As most of us who have mortgage and wants to make sure that the pro, the future, at least from financial prospective, is protected.

Department Response: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

So, the comment I'd like to make is that I've got this house in less than 3 years ago in November 2021, almost as a peak of prices, and last year I've seen that my insurance rate, like went double. And when I talked to my insurance agent, she said, you know what California is in crisis and prices of everything is going up. So, that's why you got double a rate of increase in my insurance rate.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

And I'm looking into what crisis is rising about California Department of Insurance, and I'm seeing that hey, rates are not approved to go up we are yet to approve rate increases. But honestly, as a consumer I don't see it. I see the rates increased, and we have another plan to increase rates, and I'm very, very concerned about it because the price that I'm paying is almost like taxes. I'm paying on this house, and what should we expect like two fold increase in prices four fold?

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I'd like to ask if he can be transparent about proposed rate increases and make sure that all simple Californians understand impact on the insurance rate. Thank you. That's all.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

60. Oral Comment from Stephen Young (Independent Insurance Agents and Brokers of California)

Alright. Thank you. So much for the opportunity to appear today. My name is Steve Young, and it's my privilege to appear for the Independent Insurance Agents and Brokers of California, IIABCal is a nonprofit organization representing over 650 independent agencies and brokerages throughout California. Our members sell all types of insurance, but we are predominantly sellers of personal and commercial lines of property and casualty insurance, and at the risk of belaboring the obvious or repeating what has already been said, I must for the record and for our membership state that our members are in crisis. Throughout this State agents or brokers tell us this is the worst availability crisis they have experienced ever in their careers. They are struggling not only financially but emotionally, with the tool of trying, often and usually unsuccessfully, to help their neighbors, their clients, even their own family members, procure the insurance coverage that's necessary to protect their homes and businesses. So, for all of these reasons we are very grateful to Insurance Commissioner Lara for recognizing this crisis for identifying the elements of his Sustainable Insurance Strategy, which we believe, if implemented, will restore the competitive health to the property insurance markets in California. And of course, we can't have those, we can't have that done too quickly. We, we need it done yesterday.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action.

Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

We especially appreciate the Commissioner's recognition that the prior approval process in California not only can be, but must be, expedited and made more efficient. Unfortunately, we, we do not believe that this particular set of regulations accomplishes those goals. In fact, we are very concerned that it could make both clarity worse and it could add delay to the process.

Department Response: The proposed regulations require insurers to file all the information necessary to approve their rate applications up front. Once the submission is confirmed as complete, approval of the rate application should proceed more quickly.

We join in the criticisms that have been articulated already today by Mr. Taylor, the Personal Insurance Federation and Miss Redder at the APCIA. I won't repeat those comments here, but we do share those concerns.

Department Response: This comment restates Personal Insurance Federation's oral comment and the Commissioner incorporates his prior response to those comments here.

Independent agents are not experts per se in the prior approval process. That is something the companies do, but we hired an expert to help us evaluate these proposals we hired Sheri Scott, who is a principal and consulting actuary at Milliman, one of the preeminent insurance actuarial firms in the world. Miss. Scott is a fellow of the Casualty Actuarial Society, a member of the American Academy of Actuaries. She has three and a half decades of experience in filing prior, prior approval regulations in a variety of States, especially including California and her own expertise has been recognized by the Department of Insurance itself, which in the past has hired Miss Scott to develop materials that were used in, in the model checklist and in helping the staff figure out how to evaluate the model checklist materials that companies file. So, we, we asked her to evaluate these regulations and I'm happy to tell you that we have submitted an 8 page statement today which includes not only the concerns about the current set of proposed regulations that Miss Scott identified, but also proposes alternatives. An alternative set of regulations that would make really rather humble modifications to what is currently on the books, and would, we believe, better accomplish the Commissioner's objective to improve clarity and improve efficiency in this process.

Department Response: This comment restates the Independent Insurance Agents and Brokers of California's previous written comment and the Commissioner's response is addressed in the written comments.

I will not, repeat that testimony here. But we again very much appreciate the efforts the Commissioner is making to try to improve this process. We believe that the recommendations that Miss Scott has made thread a needle between some of the concerns that the Department has previously expressed, and some of the concerns on the other side of things that the company has, companies have expressed,

Department Response: This comment restates the Independent Insurance Agents and Brokers of California's previous written comment and the Commissioner's response is addressed in the written comments.

So, we commend that to the Department's analysis, and we stand ready to assist the Commissioner and his very excellent staff at the Department of Insurance. Not only on these regulations, but in every other aspect of the impending regulations for the Sustainable Insurance Strategy.

So, I thank you again for the opportunity to testify today.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

61. Oral Comment from Kara Cross (Verisk)

Good afternoon and thank you for the opportunity to provide comments today. I am Kara Cross and I'm the Regional Vice President for State Government Affairs for Verisk and as back, background, I wanted to provide that Verisk ISO is a licensed advisory organization and the leading source of risk assessment tools and information about insurance risks. And Verisk Extreme Events Solutions serves the insurance industry by providing realistic and objective models, including catastrophe models for understanding and effectively managing risk from extreme events.

Department Response: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

I speak today as to how the proposed regulation could impact many of our tools that support the insurance industry and the healthy market. More than 70% of the Fortune 100 relies on Verisk's advanced technologies to manage risks. So, before I get into our concerns on the proposed regulation I do want to acknowledge the Department recently released draft regulations considering a model review process that recognizes the need to protect intellectual property.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

We are encouraged by this development, and anticipate that, if adopted, such protections may address our concerns with the regulation at issue today, if they result in an efficient review process and an effective process for protecting intellectual property.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Our current concern today, however, is that without assurance that the intellectual property will be protected there will be a chilling effect on the development and availability of innovative tools and models, using rate making and underwriting and needed to effectively and efficiently do business in a market already in crisis. Some insurers may become reluctant to continue to do business in the State if innovative tools are less available. Many insurers have utilized innovative tools and models to better understand risk for decades. If insurers are forced to move backwards in this State, away from more accurate and granular risk information, they may need to take a broader and more conservative approach in underwriting which in turn could potentially have unintended consequences on insurance availability.

Department Response: The proposed regulations do not change the requirement that the relevant information and data regarding the models used by insurers in ratemaking to segment rates, create a risk, differential, or surcharge premium, based on the policyholder or applicant's risk, must be considered by the Commissioner as part of the insurer's complete rate application. They impact rates. Therefore, per Insurance Code section 1861.05, they must be considered when determining whether the rate is excessive, inadequate or unfairly discriminatory. Insurance Code section 1861.07 requires that they be made public. Insurers are not required to use models. If they choose not to use models, they would not be required to file information concerning models. Insurers have the option of relying on loss data instead of models. The proposed regulations do not expand the current filing requirements. Underwriting information is already required to be filed pursuant to Insurance Code section 1861.05(a) and (b) as provided in the General Counsel opinion dated August 10, 2018 (http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf.) The Commissioner is authorized to review underwriting information in connection with the rate review process to evaluate the reasonableness of a proposed rate in relation to the specific risks to be insured and coverages to be offered to determine whether such rates are excessive, inadequate or unfairly discriminatory. (Ins. Code §1861.05(a).)

The proposed regulation also comes at a time when the Insurance Commissioner has made it part of the Sustainable Insurance Strategy to permit the use of catastrophe models in California. The proposed regulation could result in defeating the immediate purpose of the strategy to improve the State's market conditions for consumers. Rather than adopt broad, broad regulation that will likely stifle innovation and potentially result in reducing the availability of many important tools for accurately determining and reflecting risk, including catastrophe models. We suggest the Department revise the current regulation to protect intellectual property or consider pausing the process while regulations creating an effective model review process are developed.

Department Response: The purpose of the proposed regulation is to update the requirements for submission of a complete rate application. As acknowledged in the comments, other regulations are pending which are designed to complete the Commissioners sustainable insurance strategy and address the intellectual property issue. However, the Commissioner has determined it is in consumers' best interests to maintain the current scope of the proposed regulation and not to broaden its scope to address separate issues.

I would suggest this is a more logical order, since it is difficult to remove our concerns over the complete rate application regulations without assurance of intellectual property protections we have submitted our written comments that do go into more details regarding our concerns, and in the meantime to explore different options, we would appreciate the ability to work with the Department to thread the needle as an alternative to the Department proceeding with the regulation as proposed. Thank you.

62. Oral Comment from Dan Dunmoyer (California Building Industry Association)

Good afternoon, my name is Dan Dunmoyer. I'm the President and CEO of the California Building Industry Association. We're a business association that represents a home builders, land developers in every aspect of the building industry that it takes to build a new home, a new project in California. Today, I wanted to make my comments in the context of the current challenges we're facing in building homes in California because of the current insurance availability and affordability crisis.

Department Response: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

This is a very real issue for us in that we try as hard as we can to make housing as attainable as possible, both for rentals, for affordable housing, for charity housing, and for for-sale housing we call market rate housing. Because of the high cost of insurance, and frankly, because of the lack of availability of any insurance we're finding it more and more difficult to address our current housing crisis because of this challenge. First, I just want to make it clear, we continue to support the Commissioner's Sustain-Sustainable Insurance Strategy. We believe that is a comprehensive solution to the challenges we face as, as a State, and as businesses who do our best to operate as consumers of insurance products throughout the State of California, and urge the Commissioner to continue to move forward as quickly as possible. Specifically, to the regulations today, our biggest challenge in finding insurance coverage in the State of California is actually in the commercial line of insurance.

Department Response: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

We struggle on the personal lines of insurance, but we're finding it close to impossible to find insurance coverage for attached dwellings. That includes apartment complexes, that includes legally defined affordable housing units, and it includes what are known as condominiums.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

And specifically, I want to raise the issue of looking at commercial risk completely differently than personal lines risks. Reason why I mentioned that is, we have within each of our companies experts, many lawyers, experts, financial experts who have decades of experience in purchasing and acquiring insurance.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

The idea that we would spend months, years to review rates for commercial risks. Risk that in some cases cost millions of dollars for us is really it's, it's hard for us to believe and accept is when the market in the commercial world for us, moves hour by hour, and in the insurance world, moves year by year. And this process of creating very complex delay processes, review processes, intervention processes for commercial risk to us makes no sense, and that we are a very sophisticated commercial purchaser of the product. We understand the product. We know how to see if the product is competitive or not, and the idea of creating any delays in this area of insurance to us doesn't make any sense. The best of our knowledge, no-one's ever intervened on these large commercial risks, and yet they still move through this very cumbersome process.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

So just on the commercial risk itself, if there is a certain premium size in which you could do a much more expedited, expedited view process.

If we don't think it's a good risk or a good coverage mechanism at a good price, we won't buy it. And if for some reason somebody rips us off, we have a bevy of lawyers that we can sue the insurance company to make us whole. So, for us, we'd like to first ask the California Department Insurance to distinguish between commercial risks of at least a decent size compared with personalized risks. And to the regulation specifically having been involved in this area before I worked for the building industry, Proposition 103 as was noted by the first speaker, is the law of the land, so it is a law of the land, and we'll follow it. As originally considered, there was a 60 day review period. Later on, the Legislature came back to the California Department Insurance and said this 100. It's taking too long. So, the legislature inserted 180 day review period.

Department Response: Commercial lines that are subject to Proposition 103 must have rates that are not excessive, inadequate, or unfairly discriminatory. Proposition 103 does not exempt commercial lines from filing a complete rate application. The information required to be filed in the proposed regulations is no different than the information that is currently required. It is just stated in more general terms. The arguments to deviate from the current treatment of commercial lines are unpersuasive.

Now the average time period, according to Standard and Poor's, is 346 days for rate review process. That is so incongruent with the marketplace realities of the world we live in today, it's really hard to fathom.

So, specifically to the regulations, the idea of extending from 14 to 30 days, adding time to us makes no sense. Second part of the, the process. The idea that a regulator can ask anything they want. You know, this section for us is troubling, because if the goal is to create a, a process that is understood and can be handled quickly and promptly to determine if the rate filing is appropriate that should be the goal of these regulations, and we believe that the regulations provide way too much expanse of, of area, of potential review that is not going to result in expedited review processes.

Department Response: The proposed regulations may increase the time to review the rate application for completeness. Additional time may be needed to confirm all information is in the rate application. However, if all of the information required in the proposed regulations is submitted up front, it will reduce the time it takes staff to obtain it rather than gather it piecemeal during the rate review process and decrease the time it takes to approve applications. Notwithstanding, insurers are not all identical. As a result, not all applications can be approved simply by providing the baseline information required. Ultimately, the Commissioner cannot approve an application until it is confirmed that it complies with Insurance Code section 1861.05 which mandates that rates cannot be excessive, inadequate or unfairly discriminatory. If additional information is necessary to confirm this, it must be provided.

Finally, we would suggest the regulations be radically changed and the emphasis of the regulatory overview be for the Commissioner to look at the marketplace to see if rates are excessive. If so the Commissioner and interveners have the power to go to the regulator and say, we believe these rates are excessive, the profits are too high, and there should be refunds.

Sure, the insurance companies don't like to hear this, but we would rather have rates move more quickly and move more expeditiously, and then, if profits are too high, they'd be recouped and returned to us as businesses. But right now, rates are inadequate and it appears that no consumer group wants to call that out, even though it's built right into Prop 103 excessive, inadequate, or unfairly discriminatory. Rates are obviously inadequate now. So, we need a process that brings the insurance industry back quickly. These rates are review quickly, and if for some reason they mislead the Commissioner or his capable staff, then come back and recoup those profits, those unfair profits, and return them to us that pay these higher rates than we should have as consumers. So, for us the process needs to be made much more expeditious. The markets need to

be allowed to work, and, above all, we need to return the market to some degree of stability, so that consumers have more choices than going to Lloyds of London and Lexington, and far more choices than the FAIR Plan which right now is exploding.

> **Department Response**: The scope of the proposed regulation is to update the requirements for submission of a complete rate application. To make the requested change, which is outside the scope of the proposed regulation, the Department would have to devote significant time to analyzing is legality. The Commissioner has determined it is in consumers' best interests to maintain the current scope of the proposed regulation and not to broaden its scope to address this separate issue.

Thank you for hearing our concerns. As always, we look forward to working with the California Department of Insurance and the Commissioner to bring solutions to our housing crisis and our insurance crisis. Thank you very much.

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

63. Oral Comment from Richard Holober (Consumer Federation of California Education Foundation)

Hello. Hi, there. Good afternoon. My name is Richard Holober. I am the treasurer of the Consumer Federation of California Education Foundation, and I appreciate this opportunity to make some comments, and we have provided written comments that go into greater detail. So, I'll try to be brief.

> **Department Response:** This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

The Consumer Federation of California Education Foundation is a nonprofit organization and it is a participant in Prop 103 rate cases as an intervener foundation, and our predecessor organization Consumer Federation of California have intervened in 19 rate application cases in the past decade successfully saving policy holders over 400 million dollars in reductions in rate hikes that were requested. The role of the consumer representatives is enshrined in law in Prop. 103. It is recognized by the Department as a very vital part of the regulatory process, and it affords a voice for policy holders to weigh-in in proceedings. So, in the initial statement of reasons for these proposed changes in regulation, the Department referenced consumer, consumer representatives and their participation 16 separate times as a vital part of the process, and an important reason for proposing changes in the regulations. We are all served, the industry, the public, consumer reps, the Department, by regulations that are very clear, that are easy to understand, and that provide for both a prompt but also equally important, thorough review including by consumer representatives. We are concerned that, as currently drafted, these

proposed regulations actually will make it a more difficult process for consumer organizations. And we go into much more detail in our written comments about how difficult it actually is to participate as a consumer organization. Consumer nonprofit organizations are small. We're not well resourced. We have limited funding and limited staff and limited expertise and we've tried to develop greater expertise in our participation in rate setting cases

> **Department Response**: This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Currently, there are only 2 organizations, we're one of them, that actively participates representing consumers in these rate cases. About a decade or more ago there was a organization, nonprofit group, that attempted and filed, they were approved to intervene. They filed one case they were successful in that case, and then they made a decision that it was just too daunting a task for them to continue working in the arena. So, cost is an issue for consumer groups finding actuaries that will work for consumer organizations is a very difficult obstacle. In fact, over a decade ago the Department did make a good effort to try to involve more consumer groups with outreach, and they did some outreach to actuaries and developed a list of actuaries that possibly would have an interest in participating. Very few of those actuaries actually are interested cause. We've talked to most of them. But in order to make it possible for us to intervene. What we do first is conduct an in-house review of cases that are filed of rate applications that are filed looking at the docket, and we look for certain markers, if you will, certain potential red flags that would make the case worth looking more closely at. And I'll, I'll just give you for a few examples. We look at the rate template summary that every company must file with the breakdown of the filings calculated minimum and maximum permissible rate changes by coverage.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

We review the excluded expense ratio data we look at exhibit 2 to exs, to assess whether or not rates have changed in recent months or years. We use exhibit one to quickly find relevant prior filings that might be useful, especially when reviewing a proposed rate increase that's on the heels of a recently approved rate hike.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

We get a good high-level picture of the company's recent experience. From the additional calendar year data required by statute template. We look for abnormally high or excessive fees in the miscellaneous fees template. We look closely at exhibit 8, through which the Department

demands a systematic evaluation of various potential methods for evaluating the lost trend that will be applied to the calculation of the final rate. When reviewing homeowners rate applications, we look at exhibit 9 looking for oddities and selection of data used to derive a catastrophic adjustment. These are all findable in standardized forms that the Department has created. Some of them are prescribed by the current regulations. Some are not, none would be identified at all in the proposed regulations.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

So, it's only after we do this initial in-house review and flag it of, of potential problematic application. We then send it to our actuary who does a deeper dive, and also relies on reviewing these forms, templates, and exhibits to be able to hone in on specific problem areas that may give us a reason to actually intervene. If we eliminate the use of specified documents, specified exhibits, and forms and instead simply refer to code sections, saying the insurer has to provide everything that's called for in the code section. And you have 602 different insurers providing property and casualty insurance in California, we would envision a future in which we could have as many as 602 different formats used where these are dense documents. These are hundreds of pages long, and you know, if, if each in insurer has its own, bespoke specific, unique way of presenting data, and which doesn't even have to remain consistent. They can change how they format the data and presented from one rate application to another. That would easily make the job of an intervener, of a consumer representative such as ours impossible, insurmountable. It would be just too unwieldy and time consuming and costly for us to want to even start doing the dive into, into a rate filing. And after we do the dive and find something that might be problematic, the actuary then replicates that problem at a much, much higher cost to us which becomes an unbearable cost. So, we believe that the goal of any regulations should be actually to reduce barriers for consumer representative participation. We would welcome the opportunity to provide more feedback when we have a better developed proposal for changes that spells out in specific detail what kind of data, in what kind of format, in what kind of forms are needed for an application to be complete. Not simply by reference to oh, these, these forms will be posted on the Department's website. Go, go look for them. If it's not encompassed in the regulation, if it's not spelled out very precisely and specifically in the regulation, there's really no compulsion that an insurer would then follow the direction to go look at forms that are created through some other process. It all needs to be included in, in a comprehensive regulation. I also worry that even while the Department is giving itself more time from 14 to 30 days to come up with the initial determination that a complete rate application has been filed. It is also making those filings much more difficult to analyze and decipher. Making, I believe, the Department's job that much harder. So, on the one hand, you're giving yourselves some additional time, but, on the other hand you might need that much additional time, and even more, to go through several hundred pages of dense and obscure documents in whatever we don't know what kind of format any insurer will use, and since there's no uniformity, it actually may make the, the job of the Department that, that much harder. So, we hope you will consider our comments, hold additional hearings after you've digested all this, come up with regulations that serve the purpose. We all agree of simplifying and clarifying and speeding the process but do it in such a way that it does not make

the, the, the job of a consumer representative impossible. Appreciate your time. Thank you very much.

> **Department Response**: The purpose of the proposed regulation is to simplify the description of materials required to submit a complete rate application and avoid listing forms that may become outdated and obsolete. The Commissioner intends to continue to provide forms for insurers to use, but those forms are not within the scope of the present rulemaking.

64. Oral Comment from Gina Posey (Homeowner and Chair, Sierrama Firewise Community)

Hello, Good afternoon. As a homeowner and the Chair of the Sierrama Firewise Community. We spent more than 850 hours and $80,000 creating defensible space last year. Our community continues with home hardening. Nonetheless, many have been canceled.

> **Department Response**: This is an introductory comment not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

One letter received from an insurance company stated a fire score from the third-party company, Verisk that included a fire score that looked at a quarter mile around the property. The homeowner didn't even own the quarter mile around their home and there was no option for mitigation. In a nearby neighborhood, renewal was conditional, and required the homeowner to receive a certification from the Wildfire prepared organization. When asked, there was no guarantee that certification would be obtained, nor that this would be adequate to receive a renewal.

> **Department Response:** This comment is not specifically directed at the text of the regulation or rulemaking procedures followed in this regulatory action. Because the comment is neither objecting to the proposed text nor suggesting any changes, no further response is warranted.

Therefore, we are asking the Insurance Commissioner to not just look at rate increases, but to work to require insurance companies to provide a list for homeowners to mitigate their property to gain renewal. To treat similar properties similarly with defensible space requirements.

> **Department Response**: This comment raises issues outside of the scope of the proposed regulation. The purpose of the proposed regulation is to remove outdated and obsolete forms and simplify the description of materials required to submit a complete rate application.

We also ask Commissioner Laura to look into making wildfire coverage a rider similar to earthquake and flood. The vast majority of home fires start within the home, not from a wildfire. Most wildfires start on our public lands. It is unjust for homeowners to be asked to bear the

financial burden from homeowners insurance due to inadequate, defensible space and forge, forest management within our public lands. Thank you.

Department Response: This comment raises issues outside of the scope of the proposed regulation. The purpose of the proposed regulation is to remove outdated and obsolete forms and simplify the description of materials required to submit a complete rate application.

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[i] United Policyholders ("UP") is a non-profit organization that has been informing, helping, and speaking for insurance consumers in the United States since 1991. UP is funded by donations and grants and its work is largely done by volunteers. Through its Roadmap to Preparedness and Roadmap to Recovery programs, UP helps Americans be personally responsible by reducing risk, buying insurance, and navigating the claim process successfully after a loss.

[ii] United Policyholders ("UP") is a non-profit organization that has been informing, helping, and speaking for insurance consumers in the United States since 1991. UP is funded by donations and grants and its work is largely done by volunteers. Through its Roadmap to Preparedness and Roadmap to Recovery programs, UP helps Americans be personally responsible by reducing risk, buying insurance, and navigating the claim process successfully after a loss.

[iii] For example, Calfarm Ins. Co. v. Deukmejian (1989) 48 Cal.3d 805; 20th Century Ins. Co. v. Garamendi (1994) 8 Cal.4th 216; Amwest Surety Ins. Co. v. Wilson (1995) 11 Cal.4th 1243;
Proposition 103 Enforcement Project v. Quackenbush (1998) 64 Cal.App.4th 1473; Spanish Speaking Citizens' Found. v. Low (2000) 85 Cal.App.4th 1179; Donabedian v. Mercury Ins. Co. (2004) 116 Cal.App.4th 968; State Farm Mut. Auto. Ins. Co. v. Garamendi (2004) 32 Cal.4th 1029; The Found. for Taxpayer and Consumer Rights v. Garamendi (2005) 132 Cal.App.4th 1354; Ass'n of Cal. Ins. Cos. v. Poizner (2009) 180 Cal.App.4th 1029; Mercury Cas. Co. v.ury Ins. Co. v. Lara (2019) 35 Cal.App.5th 82; and State Ins. Co. v. Lara (2021) 71 Cal.App.5th 197.

[iv] We must note that the Commissioner's March 14, 2024 notice of a workshop and proposed draft regulations to allow the use of catastrophe models in setting insurance rates (REG-2023- 0010) is not addressed in the comments below. Consumer Watchdog will comment on those proposed regulations as part of that workshop but reserves its rights in this rulemaking proceeding should those proposed cat model regulations ultimately require a different interpretation of these proposed regulations.

[v] Consumer Watchdog, How Citizen Enforcement of Proposition 103 Has Saved Californians $5.5 Billion—And Why the Insurance Industry Hates It, p. 28 (Feb. 2024),
https://consumerwatchdog.org/wp-content/uploads/2024/01/Prop103CitizenEnforcement.pdf.

[vi] Kenneth B. Schnoll, Confidentiality of Underwriting Rules Filed with Rate Applications Pursuant to California Insurance Code section 186l .05(b), p. 2 (Aug. 10, 2018), https://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices- commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf. The General Counsel's opinion letter defined "underwriting rules" to include "any rule or factor used by an insurer in the process of examining, accepting, or rejecting insurance risks, and classifying those risks selected in order to charge the proper premium for each. 'Underwriting rules' shall also include, but not be limited to, the 'eligibility guidelines' insurers must maintain pursuant to 10 CCR section 2360.2.4." (Ibid.) 10 CCR section 2360.0(b) defines "Eligibility Guidelines" as "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." Section 2360.2 requires an insurer to "maintain eligibility guidelines for every line of insurance offered for sale to the public" and further provides, "The Eligibility Guidelines shall be sufficiently detailed to determine the appropriate rating plan for the insured. An insured or applicant who meets the eligibility guidelines shall qualify to purchase the insurance."

[vii] Schnoll, supra note 4, at 3.

[viii] Id. at 4.

[ix] State Farm also failed to file its complete underwriting guidelines in its subsequent 2019 homeowner rate increase application (File No. 19-2063, Proceeding No. 2019-00006) as well as its 2019 auto rate and symbols class plan applications (File Nos. 19-544 and 19-3657-CP).

[x] Consumer Watchdog notes that these documents have not been adopted as regulations and therefore do not have the force of law, which is why the regulations must clearly spell out the information required as part of a complete

rate application. Since insurance companies use the filing instructions as a guide to completing rate applications, however, it is critical that they accurately conform to the law and governing regulations. Unfortunately, the filing instructions presently contain numerous flaws and conflicting provisions. As one example: the 2023 prior approval filing instructions assert that "[a]n Application with full rate support may subsequently be required at the discretion of the Department if it determines that the changes to underwriting guidelines may have a material impact on rates." (2023 filing instructions, p. 4.) Proposition 103 requires prior approval of all rate changes. Nothing in Proposition 103 limits the prior approval requirement to proposed changes that have a "material impact on rates."

[xi] All of Consumer Watchdog's proposed additions to CDI's draft regulation text are in bold/underline and all deletions are in bold/strikethrough.

[xii] See e.g., 20th Century Ins. Co. v. Garamendi, 8 Cal.4th 216, 270 (1994), State Comp. Ins. Fund v. McConnell, 46 Cal.2d 330, 343, (1956); California Assn. of Nursing Homes etc., Inc. v. Williams, 4 Cal.App.3d 800, 821 (1970).

[xiii] https://www.insurance.ca.gov/0250-insurers/0800-rate-filings/0200-prior-approval-factors/, California Prior Approval Rate Application edition (6/5/23 edition), CA-RA3 Filing Type and Checklist tab.

[xiv] S&P Global Intelligence on 1/3/24 reports average days for a California homeowners rate filing to get approved in 2018 increased from 168 days to over 350 days in 2023.

[xv] S&P Global Intelligence on 1/3/24 reports average days for a California homeowners rate filing to get approved in 2018 increased from 168 days to over 350 days in 2023.

[xvi] https://newsroom.statefarm.com/update-on-california/:
On March 20, 2024, State Farm General Insurance Company announced it will be non-renewing 73,000 policies. "This decision was not made lightly and only after careful analysis of State Farm General's financial health, which continues to be impacted by inflation, catastrophe exposure, reinsurance costs, and the limitations of working within decades-old insurance regulations. State Farm General takes seriously our responsibility to maintain adequate claims-paying capacity for our customers and to comply with applicable financial solvency laws. It is necessary to take these actions now. We also recognize the Insurance Commissioner's proposed regulatory reforms, such as streamlining the rate application process, accounting for catastrophe modeling and reinsurance costs in rates, and addressing FAIR Plan vulnerabilities. We will continue to work constructively with the California Department of Insurance, the Governor's Office, and policymakers to actively pursue these reforms in order to establish an environment in which insurance rates are better aligned with risk."
https://www.housingwire.com/articles/another-homeowners-insurance-carrier-leavescalifornia/#:~:text=In%20addition%20to%20State%20Farm,policies%20in%20California%20in%202024:
"The Hartford joins State Farm and Allstate in its decision to stop issuing new policies in the state."

EXHIBIT 9

State of California
Office of Administrative Law

In re: **Department of Insurance**	**NOTICE OF FILING AND PRINTING ONLY**
Regulatory Action:	**Government Code Section 11343.8**
Title 10, California Code of Regulations	**OAL Matter Number: 2024-0912-04**
Adopt sections: **Amend sections: 2643.3, 2644.27, 2648.1, 2648.2, 2648.4** **Repeal sections:**	**OAL Matter Type: File and Print Only (FP)**

This action submitted by the Department of Insurance to implement Proposition 103 (approved Nov. 8, 1988) amends rate application and related requirements for insurers. This action is exempt from the Administrative Procedure Act pursuant to Government Code section 11340.9, subdivision (g), and was submitted to the Office of Administrative Law (OAL) only for filing with the Secretary of State and printing in the California Code of Regulations (CCR).

OAL filed the regulations with the Secretary of State and will publish the regulations in the CCR.

Date: October 8, 2024

Lindsey S. McNeill
Attorney IV

For: Kenneth J. Pogue
Director

Original: Ricardo Lara, Commissioner
Copy: George Teekell

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

FILE PRINT

(See instructions on reverse)

STD. 400 (REV. 10/2019)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2024-0130-04	2024-0912-04FP	

For use by Office of Administrative Law (OAL) only

OFFICE OF ADMIN. LAW
2024 OCT 8 PM 1:19

NOTICE | REGULATIONS

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

OCT 08 2024

3:46 pm

AGENCY WITH RULEMAKING AUTHORITY
California Department of Insurance

AGENCY FILE NUMBER (If any)
REG-2019-00025

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
☐ Notice re Proposed Regulatory Action ☐ Other			

OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE
	☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn		

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)
Complete Property and Casualty Rate Application

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) **(Including title 26, if toxics related)**

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

ADOPT

AMEND
2643.3, 2644.27, 2648.1, 2648.2, 2648.4

TITLE(S)
10

REPEAL

3. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code §11346)
- ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- ☐ Emergency (Gov. Code, §11346.1(b))
- ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- ☐ Emergency Readopt (Gov. Code, §11346.1(h))
- ☒ File & Print
- ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- ☐ Print Only
- ☒ Other (Specify) Gov. Code Section 11340.9(g)

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
n/a

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

- ☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
- ☒ Effective on filing with Secretary of State
- ☐ §100 Changes Without Regulatory Effect
- ☐ Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☐ Department of Finance (Form STD. 399) (SAM §6660)
- ☐ Fair Political Practices Commission
- ☐ State Fire Marshal
- ☐ Other (Specify)

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
George Teekell	(415) 538-4390		George.Teekell@insurance.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE
Lucy Wang

DATE
September 12, 2024

TYPED NAME AND TITLE OF SIGNATORY
Lucy Wang, Deputy Commissioner & Special Counsel

For use by Office of Administrative Law (OAL) only

AUTHORIZED FOR FILING AND PRINTING

OCT 08 2024

Office of Administrative Law

FILE PRINT

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2024-0912-04FP	

For use by Office of Administrative Law (OAL) only

OFFICE OF ADMINISTRATIVE LAW
2024 SEP 12 PM 01:10

NOTICE | REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY: California Department of Insurance

AGENCY FILE NUMBER (If any): REG-2019-00025

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
☐ Notice re Proposed Regulatory Action ☐ Other			

OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE
	☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn		

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S): Complete Property and Casualty Rate Application

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S): Z- 2024-0130-04

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) **(Including title 26, if toxics related)**

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

ADOPT:

AMEND: 2643.3, 2644.27, 2648.1, 2648.2, 2648.4

TITLE(S): 10

REPEAL:

3. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code §11346)
- ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- ☐ Emergency Readopt (Gov. Code, §11346.1(h))
- ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- ☒ File & Print
- ☐ Print Only
- ☐ Emergency (Gov. Code, §11346.1(b))
- ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- ☐ Other (Specify)

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
n/a

5. EFFECTIVE DATE OF CHANGES (Gov. Code §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

- ☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
- ☒ Effective on filing with Secretary of State
- ☐ §100 Changes Without Regulatory Effect
- ☐ Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☐ Department of Finance (Form STD. 399) (SAM §6660)
- ☐ Fair Political Practices Commission
- ☐ State Fire Marshal
- ☐ Other (Specify)

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
George Teekell	(415) 538-4390		George.Teekell@insurance.ca.gc

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
Lucy Wang Digitally signed by Lucy Wang Date: 2024.09.12 15:44:17 -07'00'	September 12, 2024

TYPED NAME AND TITLE OF SIGNATORY: Lucy Wang, Deputy Commissioner & Special Counsel

For use by Office of Administrative Law (OAL) only

AUTHORIZED FOR FILING AND PRINTING

OCT 08 2024

Office of Administrative Law

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

FINAL TEXT OF REGULATION

COMPLETE PROPERTY AND CASUALTY RATE APPLICATION

September 12, 2024 **REG-2019-00025**

TITLE 10. INVESTMENT
CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 4.8. REVIEW OF RATES
ARTICLE 3. GENERAL PROVISIONS

Amend Section 2643.3. Total Aggregate Earned Premiums.

(a) The determination whether rates are excessive or inadequate is made on the basis of the aggregate earned premiums the rates are expected to produce. Thus, the proposed and approved rates are required to reflect the actual distribution of premiums, including discounts, dividends, credits, and other rating factors affecting aggregate premiums. Rates that are neither excessive nor inadequate may still be unlawful and disapproved if they are unfairly discriminatory or otherwise violate chapter 9 (commencing with section 1851) of part 2 of division 1 of the Insurance Code.

(b) Complete ~~R~~rate applications ~~(Form CAR-1 (last revised 1/94))~~ shall be filed on a line-by-line basis, as set forth in ~~s~~Section 2642.7. ~~The application shall be accompanied by the rating manual, rating plan, all policy forms to which changes would have a rate impact, or such other documents as may be necessary to show the distribution of premium within the line.~~ The Commissioner shall require the filing of such other information as the Commissioner deems necessary to review the application.

(c) The earned premium of retrospectively rated and loss-sensitive insurance shall be the manual premium.

NOTE: Authority cited: Sections 1861.01 and 1861.05, Insurance Code; *20th Century v. Garamendi*; (1994) 8 Cal.4th 216 ~~(1994)~~. Reference: Sections 1861.01 and 1861.05, Insurance Code; *Calfarm Insurance Company v. Deukmejian* (1989) 48 Cal.3d 805.

10/8/24
PER AGENCY
REQUEST
LSM

TITLE 10. INVESTMENT

CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 4.8. REVIEW OF RATES
ARTICLE 4. DETERMINATION OF REASONABLE RATES

Amend Section 2644.27. Variance Request.

(a) A request that the maximum permitted earned premium or minimum permitted earned premium should be adjusted is referred to as a "variance request."

(b) Requests for variances shall be filed with the Rate Regulation Branch, ~~Filing Bureau on pages 11a and 11b of the Prior~~ together with the insurer's ~~Approval~~ complete ~~R~~rate ~~A~~application. All such variance requests shall specifically:

(i) identify each and every variance request;

(ii) identify the extent or amount of the variance requested and the applicable component of the ratemaking formula;

(iii) set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied; and

(iv) identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change to the component of the ratemaking formula.

(c) Requests for variances shall be filed at the same time as the ~~prior approval~~ insurer's complete rate application to which it applies or after the filing of the complete rate application and before any final determination regarding that application. Public notice of all variance requests shall be provided as set forth in ~~California~~ Insurance Code ~~S~~sections 1861.05, subdivision (c), and 1861.06.

(d) A variance request shall be deemed approved sixty days after public notice unless:

(i) a consumer or a consumer's representative requests a hearing within forty-five days of public notice and the Commissioner grants the hearing, or determines not to grant the hearing and issues written findings in support of that decision, or

(ii) the Commissioner on the Commissioner's own motion determines to hold a hearing.

(e) Variance requests shall be determined in conjunction with the related ~~prior approval~~ complete rate application or rate hearing thereon.

(f) The following are the valid bases for requesting a variance:

(1) That the insurer should be allowed relief from the efficiency standard for bona fide loss-prevention and loss-reduction activities as set forth below.

(A) The insurer meeting the qualifications set forth below may obtain an increase in the applicable efficiency standard by the amount of its "Allocated Costs" for its Special Investigations Unit ("SIU") expense for the most recent year. The term SIU as used in this section has the same meaning as that term has in Section 2698.30, subdivision (pe). The term "Allocated Costs" means those costs set forth in subsection (iii) and attributable to investigations of claims made on the line of insurance subject to Insurance Code section 1861.05, subdivision (b) for which the variance is sought.

(i) An insurer may recover its "Allocated Costs" for its SIU expenses only in its approved rate filing for the line of insurance affected by the SIU investigation costs.

(ii) Affiliated insurers who utilize the same SIU unit may recover the portion of their "Allocated Costs" for their SIU expenses attributable to investigations of claims made on the line of insurance in the rate application only in one approved rate application for the line affected by the Allocated SIU costs. The term "Affiliated Insurers" has the same meaning as that term has in Insurance Code Ssection 1215.

(iii) The only recoverable SIU expenses are those expended for investigators whose sole duties are investigation of insurance fraud, software dedicated solely to analysis of data for indications of insurance fraud, training of employees whose sole duty is the investigation of fraud and equipment to be used solely by the insurer's SIU. The recoverable expenses do not include the costs of employing or other costs for adjustors or underwriters.

(iv) The only recoverable SIU expenses are for SIU's dedicated to investigation of insurance fraud within the State of California or for the portion of an SIU's operations within California. The burden of demonstrating the amount of SIU expenses, and that those expenses are for the investigation of insurance fraud within the State of California, is the insurer's.

(v) An insurer may recover the "Allocated Costs" of retaining an independent contractor to perform SIU services as described in sub-paragraph (iii). The variance shall be calculated by multiplying the fees paid for the independent agency with whom the insurer contracts by the percentage of referrals of claims made on the line of insurance for which the rate application and variance application are made and that the contracted agency investigates in California on behalf of the insurer seeking the variance.

(vi) No expense that is included within the Defense and Cost Containment Expense portion of an insurer's complete rate application can be included in whole or in part as the basis for a variance based on SIU expenses. The terms "Defense and Cost Containment Expense" or "DCCE" when used with regard to any variance have the same meaning as those terms have in sSection 2644.23, subdivision (c).

(vii) An insurer that asserts that payments to: (1) an independent contractor; or (2) an SIU owned by an Affiliated Insurer; or (3) an SIU independent of an insurer, but which is owned directly or indirectly, in whole or part by the insurer applying for a variance or by an Affiliated Insurer, shall in its variance request, provide the Department of Insurance with documentation showing the costs of investigation for the purported "Allocated Costs" claimed in the variance request. The payments constituting the basis for the variance must be *bona fide* payments for

investigation of individual cases of suspected insurance fraud. It shall be the burden of the insurer to demonstrate that the costs are *bona fide* costs for investigation of insurance fraud in the State of California.

(B) An insurer meeting the qualifications set forth below will be allowed to recover its expenses for the most recent year for dedicated loss prevention programs such as brush clearance, driver education, risk management, hazard mitigation or accident prevention. Loss prevention expenses do not include SIU expenses under subsection (A).

(i) An insurer may recover its "Allocated Costs" for its loss prevention expenses only in its approved rate for the line of insurance affected by the loss prevention expenses.

(ii) The insurer must provide documentation detailing the loss prevention program, what additional costs are being incurred and what losses are being prevented.

(iii) Recoverable loss prevention expenses are those expended for employees whose duties are loss prevention, software dedicated to loss prevention, and equipment to be used for loss prevention. Recoverable loss prevention expenses do not include the routine and customary costs of marketing or employing underwriters or adjusters.

(iv) The only loss prevention expenses recoverable are for loss prevention programs dedicated to loss prevention in the State of California or for the portion of the program within California. The burden of demonstrating the amount of loss prevention costs, and that those costs are expended for loss prevention in the State of California, is on the insurer.

(2) That the insurer should be allowed relief from the efficiency standard due to any or all of the following:

(A) Higher quality of service, as demonstrated by objective measures of consumer satisfaction; or

(B) Demonstrated superior service to underserved communities, as defined in sSection 2646.6; or

(C) Significantly smaller or larger than average California policy premium, including any applicable fees. These fees include but are not limited to: policy fees, installment fees, endorsement fees, inspection fees, cancellation fees, reinstatement fees, late fees, SR-22, and other similar charges.

(3) That the insurer should be authorized leverage factor different from the leverage factor determined pursuant to sSection 2644.17 on the basis that the insurer either writes at least 90% of its direct earned premium in one line or writes at least 90% of its direct earned premium in California and its mix of business presents investment risks different from the risks that are typical of the line as a whole. The leverage factor shall be adjusted by multiplying it by 0.85. The surplus ratio in sSection 2644.22 shall likewise be divided by 0.85. If an insurer writes at least 90% of its direct earned premium in one line and writes at least 90% of its direct earned premium in California, the insurer will only be authorized one leverage factor adjustment of 0.85.

(4) That the insurer should be granted relief from operation of the efficiency standard for a line of insurance in which the insurer has never previously written over $1 million in earned premiums annually and in which the insurer has made or is making a substantial investment in order to enter the market. Any such request shall be accompanied by a proposed amortization schedule to distribute the start-up investment.

(5) That the minimum permitted earned premium should be lowered on the basis of the insurer's certification, and the Commissioner's finding, that the rate will not cause the insurer's financial condition to present an undue risk to its solvency and will not otherwise be in violation of the law.

(6) That the insurer's financial condition is such that its maximum permitted earned premium should be increased in order to protect the insurer's solvency. Any application for authorization under this subsection shall include:

(A) A showing of the insurer's condition, based on generally accepted standards such as the National Association of Insurance Commissioners' Insurance Regulatory Information System;

(B) A plan to restore the financial condition;

(C) A showing that, consistent with the claimed condition, the insurer has reduced or foregone dividends to stockholders or policyholders; and

(D) A plan to reduce rates once the insurer's condition is restored, in order to compensate consumers for excessive charges.

(7) That the loss development formula in ~~s~~Section 2644.6 does not produce an actuarially sound result because

(A) There is not enough data to be credible;

(B) There are not enough years of data to fully calculate the development to ultimate;

(C) There are changes in the insurer's reserving or claims closing practices that significantly affect the data; ~~or~~

(D) There are changes in coverage or other policy terms that significantly affect the data; ~~or~~

(E) There are changes in the law that significantly affect the data; or

(F) There is a significant increase or decrease in the amount of business written or significant changes in the mix of business.

(8) That the trend formula in ~~s~~Section 2644.7 does not produce the most actuarially sound result because

(A) There is a significant increase or decrease in the amount of business written or significant changes in the mix of business;

(B) There are not enough years of data to calculate the trend factor;

(C) There is a significant change in the law affecting the frequency or severity of claims;

(D) It can be shown that a trend calculated over a period of at least 4 quarters other than a period permitted pursuant to ~~s~~Section 2644.7, subdivision (b) is more reliable prospectively;

(E) There are changes in the insurer's claims closing practices that significantly affect the data; or

(F) There are changes in coverage or other policy terms that significantly affect the data.

(9) That the maximum permitted earned premium would be confiscatory as applied. This is the constitutionally mandated variance articulated in *20th Century v. Garamendi* (1994) 8 Cal.4th 216 which is an end result test applied to the enterprise as a whole. Use of this variance requires a hearing pursuant to 2646.4.

(g) If there is more than one actuarial analysis of a variance, each of which is based on reliable data and utilizes methods which are shown by qualified expert evidence to be generally accepted as sound by the actuarial community and the appropriate methods for the particular variance, then the variance shall be granted, denied or calculated utilizing the actuarial proposition that results in the soundest actuarial result.

(h) Notwithstanding any other section of these regulations, the aggregate total adjustment to the efficiency standard for all variances combined shall not exceed the difference between the insurer's most recent year total expense ratio excluding defense and cost containment expenses and the efficiency standard.

NOTE: Authority cited: Sections 1861.01 and 1861.05, Insurance Code; and *20th Century v. Garamendi*~~;~~ (1994) 8 Cal.4th 216 ~~(1994)~~. Reference: Sections 1861.01 and 1861.05, Insurance Code; and *Calfarm Insurance Company v. Deukmejian* (1989) 48 Cal.3d 805.

TITLE 10. INVESTMENT
CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 4.8. REVIEW OF RATES
ARTICLE 8. TIMELINES FOR SCHEDULING AND COMMENCING HEARINGS

Amend Section 2648.1. Scope.

~~(a) Except as provided for herein, t~~This article applies to complete rate applications submitted pursuant to Insurance Code section 1861.05, subdivision (b), and proceedings commenced by the issuance of a notice of hearing, or other notice or order commencing a proceeding on a rate application issued by the Commissioner pursuant to Insurance Code ~~S~~section 1861.05, subdivision (c).

~~(b) This article shall not apply to applications for exemption from Insurance Code Section 1861.01(a), file and use rate applications filed prior to November 8, 1989, or applications for rate changes pursuant to Insurance Code Section 1861.05 which are filed prior to July 1, 1993. Refiling of applications for rate changes pursuant to Insurance Code Section 1861.05 shall be made by filing the Department cover sheet entitled "Cover Sheet for Re-Filing of Application for Approval of Insurance Rates," Department form number CA-RA1, dated May 1, 1993, which is incorporated by reference. In addition, for those applications which were submitted with data that is no longer current, updated data must also be submitted with the cover sheet.~~

NOTE: Authority cited: Sections 1861.05 and 1861.055, ~~California~~ Insurance Code. Reference: Sections 1861.05 and 1861.055, ~~California~~ Insurance Code.

Amend Section 2648.2. Receipt of Rate ~~Change~~ Application By Commissioner.

(a) For the purpose of Insurance Code ~~S~~section 1861.05, subdivision (c), a complete rate ~~change~~ application shall be considered to have been received by the Commissioner on the date that ~~it is~~ all information, materials, and documents required by Section 2648.4 as part of a complete rate application have been ~~received by~~ delivered to the Department's Rate Regulation Branch ~~Filing Bureau~~ by means of submittal using the System for Electronic Rate and Form Filing (SERFF).

(b) Within ~~14~~30 days of being delivered pursuant to subdivision (a) of this Section 2648.2 ~~receipt~~, the Commissioner shall review rate applications for completeness as required by Insurance Code ~~S~~section 1861.05, subdivision (b). If the application includes ~~the forms and exhibits listed in the Filing Checklist, as provided in~~ all information, materials and documentation required by Section 2648.4, ~~and the data required therein,~~ it is complete. If the Commissioner determines that the application is not complete because it does not include ~~such forms, exhibits, or the data required therein,~~ all information, materials and documentation required by Section 2648.4 for a complete rate application, notice stating the grounds for incompleteness will be given to the insurer within the ~~14~~30 day period and the application will be rejected. Within 10 days of the date that such notice is given, the insurer may request a hearing on the rejection.

(c) The hearing shall be held within 10 days of receipt of the request by the Department's Rate Enforcement Bureau. The scope of the hearing shall be limited to the completeness of the application.

(d) If, after a hearing, an application is determined to have been complete when filed, then the 180 day period specified in Insurance Code ~~S~~section 1861.05, subdivision (c) shall have commenced on the date the application was first filed. If the application is determined to be incomplete, then it shall remain rejected.

(e) Rejection of an application for incompleteness shall not bar the refiling of a complete application.

(f) Public notice of the complete rate application as required by Insurance Code ~~S~~section 1861.05, subdivision (c) shall be made within 10 days after the Commissioner determines that an application is complete.

NOTE: Authority cited: Sections 1861.05 and 1861.055, ~~California~~ Insurance Code. Reference: Sections 1861.05 and 1861.055, ~~California~~ Insurance Code.

Amend Section 2648.4. Complete Rate Application.

(a) ~~In order to be complete,~~ Pursuant to Insurance Code section 1861.05, subdivision (b), every insurer that desires to change any rate must file a complete rate application which must include the ~~following~~information required by Insurance Code section 1861.05, subdivision (b), and all information as the Ceommissioner may require in order to perform a complete analysis of a rate application, including but not limited to the exhibits, data, information, materials and documentation specified by Sections 2641.1 through 2643.8 and Sections 2644.1 through 2644.28 as those sections may from time to time be amended. A complete rate application shall also include all of the materials described in subdivisions (b) through (e) of this Section 2648.4. ~~forms, exhibits, data and documentation, which are incorporated by reference: application for approval (form CA-RA1, 5-1-96 ed.), duplicate of form CA-RA1 for return copy, self-addressed envelope with sufficient postage to return the duplicate copy of CA-RA1, Rate/Rule/Underwriting Rule Submission Data Sheet (form CA-RA2, 5-1-96 ed.), Line of Business (form CA-RA3, 5-1-96 ed.), Filing Checklist (form CA-RA4, 5-1-96 ed.), Ratemaking Data (form CA-RA5, 5-1-96 ed.), Reconciliation Report (form CA-RA6, 5-1-96 ed.), Additional Data Required by Statute (form CA-RA7, 5-1-96 ed.), Miscellaneous Data (form CA-RA8, 5-1-96 ed.), Filing History (to be labeled Exhibit 1), Rate Level History (to be labeled Exhibit 2), Premium Adjustment Factor (to be labeled Exhibit 3), Premium Trend Factor (to be labeled Exhibit 4), Allocated Loss Adjustment Expense (to be labeled Exhibit 5), Loss Development Factors (to be labeled Exhibit 6), ALAE Development Factors (to be labeled Exhibit 7), Loss Trend, ALAE Trend, and Expense Trend (to be labeled Exhibit 8), Catastrophe Adjustment (to be labeled Exhibit 9), Policy Term Distribution (to be labeled Exhibit 10), Credibility Adjustment (to be labeled Exhibit 11), Data Availability Report (to be labeled Exhibit 12), Interjurisdictional Expense Allocations (to be labeled Exhibit 13), Unallocated Loss Adjustment Expense (to be labeled Exhibit 14), Other Expense Items (to be labeled Exhibit 15), Ancillary Income (to be labeled Exhibit 16), Federal Income Tax Rate (to be labeled Exhibit 17), Projected Investment Income Ratio (to be labeled Exhibit 18), Loss Reserves, Loss Adjustment Expense Reserves, and Unearned Premium Reserves (to be labeled Exhibit 19), Insurer's Ratemaking Calculations (to be labeled Exhibit 20), Rate Distribution (to be labeled Exhibit 21), Rate Classification Relativities (to be labeled Exhibit 22), New Program (to be labeled Exhibit 23), Group Filing (to be labeled Exhibit 24), rating rules, and rate pages. The application must also~~

~~contain a summary and explanation of the purpose for the filing. The Filing Instructions (forms CA-IA1–CA-I8, 5-1-96, ed.) for these forms and exhibits are incorporated by reference.~~

(b) ~~Notwithstanding the completeness determination, the Commissioner may later require the submission of relevant underwriting rules and other relevant documents from an applicant in order to perform a complete analysis of an application.~~A complete rate application shall include any and all criteria, guidelines, systems, manuals, models and algorithms the insurer uses to determine whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

Specifically, the complete rate application shall include, without limitation, a complete set of, and any proposed changes to, any and all of the following:

(1) An insurer's eligibility guidelines as defined in Sections 2360.0 through 2360.7;

(2) Any and all criteria, guidelines, systems, manuals, models and algorithms an insurer uses to reduce, increase, or restrict the number of policies written or renewed, or restrict the coverages offered, in specific geographic areas such as ZIP codes, counties, or territories, for any reason, including over-concentration; and

(3) Any method or set of standards, parameters, rules, requirements or procedures that is used by an insurer, agent, broker, or underwriter to assist in the determination of whether to accept, examine, inspect, cancel, non-renew, or re-underwrite a risk, or to modify an applicant's or insured's coverage or coverage options.

(c) ~~Requests for variances as authorized by section 2644.27 shall be on the following form:~~

~~STATE OF CALIFORNIA — Insurer Name~~
~~DEPARTMENT OF INSURANCE — Line of Business~~

~~Request for Variance~~

~~1. Identify each variance requested.~~

~~2. Identify the extent or amount of the variance requested and the applicable efficiency standard, rate of return, loss development factors or trend which will result if the variance is granted.~~

~~3. Set forth the expected result or impact on the maximum and minimum permitted earned premium that the granting of the variance will have as compared to the expected result if the variance is denied.~~

~~4. Identify the facts and their source justifying the variance request and provide the documentation supporting the amount of the change in the applicable efficiency standard, rate of return, loss development factors or trend that is being proposed.~~

A complete rate application shall also include any and all criteria, guidelines, systems, manuals, models and algorithms, and any proposed changes thereto, an insurer, agent, broker, or underwriter uses or relies upon to determine the rate, rating rules and coverages for any particular applicant or insured, including optional coverage rates and rules.

(d) A complete rate application shall also include a complete and entire copy of any and all written and electronic descriptions of all of the materials described in subdivisions (a) through (c) of this section.

(e) Pursuant to Insurance Code section 1861.05, subdivision (b), the Commissioner may, in order to perform a complete analysis of a rate application that was previously deemed complete pursuant to section 2648.2, subdivision (b) but has not yet been approved, require the insurer to submit additional information, forms, templates, exhibits, data and documentation during the Commissioner's review of the application.

NOTE: Authority cited: Sections 1861.01 and 1861.055, Insurance Code. Reference: Sections 1861.05, 1861.07 and 1861.055, Insurance Code.

EXHIBIT 10

Subject: Re: Consumer Watchdog Request for Extension - Complete Rate Application rulemaking, REG-2019-00025
Date: Friday, November 1, 2024 at 8:34:32 AM Pacific Daylight Time
From: Hosel, Margaret
To: Kaitlyn Gentile
CC: Warren, Tina, Pam Pressley

Good morning,

I'm happy to grant your request for a 30 day extension.

Margaret W. Hosel
Public Advisor
California Department of Insurance
1901 Harrison Street, 6th Floor
Oakland, CA 94612
Email: Margaret.Hosel@insurance.ca.gov
Phone: (415) 538-4383

From: Phenix, Jon <Jon.Phenix@insurance.ca.gov>
Sent: Friday, November 1, 2024 8:04 AM
To: Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>; Hosel, Margaret <Margaret.Hosel@insurance.ca.gov>
Cc: Warren, Tina <Tina.Warren@insurance.ca.gov>; Pam Pressley <pam@consumerwatchdog.org>
Subject: Re: Consumer Watchdog Request for Extension - Complete Rate Application rulemaking, REG-2019-00025

Good Morning,

I am forwarding your inquiry to Margaret Hosel, who is the new Public Advisor.

From: Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>
Sent: Thursday, October 31, 2024 11:35:09 AM
To: Phenix, Jon <Jon.Phenix@insurance.ca.gov>
Cc: Warren, Tina <Tina.Warren@insurance.ca.gov>; Pam Pressley <pam@consumerwatchdog.org>
Subject: Consumer Watchdog Request for Extension - Complete Rate Application rulemaking, REG-2019-00025

Dear Jon,

I am writing regarding Consumer Watchdog's intended Request for Compensation (RFC) in the

Complete Rate Application rulemaking, REG-2019-00025. Consumer Watchdog's petition to participate in this matter was granted on September 24, 2024. I learned on October 14 via email (attached) that the Office of Administrative Law filed the regulation with the Secretary of State on October 8 with an effective date of that day. Based on that date, Consumer Watchdog calculated the 30-day timeline for submitting an RFC to be November 7.

Due to time constraints and other deadlines, including three other RFCs in rate cases due by November 1 and November 4, Consumer Watchdog would like to request a 30-day extension to December 9 to file its RFC (since December 7 falls on a Saturday). We understand that Consumer Federation of California Education Foundation was recently granted an extension to file its own RFC by that date.

Please let us know if you need any further information from CWD regarding this request. Thank you very much for your time.

Sincerely,

Kaitlyn Gentile
Paralegal
Consumer Watchdog
6330 San Vicente Boulevard, Suite 250
Los Angeles, CA 90048
www.ConsumerWatchdog.org

PRIVILEGED AND CONFIDENTIAL. The information contained in this email message may be privileged, confidential and protected from disclosure. It is intended only for the named addressee(s). If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. Unless you are the addressee of this message, you may not use, copy or disclose the contents of this message to anyone. If you think that you have received this email message in error, please delete the message and advise the sender by reply email or by calling (310) 392-0522.

PROOF OF SERVICE
BY OVERNIGHT OR U.S. MAIL, FAX TRANSMISSION,
EMAIL TRANSMISSION AND/OR PERSONAL SERVICE

State of California, City of Los Angeles, County of Los Angeles

I am employed in the City and County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 6330 South San Vicente Boulevard, Suite 250, Los Angeles, California 90048, and I am employed in the city and county where this service is occurring.

On November 27, 2024, I caused service of true and correct copies of the document entitled

DECLARATION OF PAMELA PRESSLEY IN SUPPORT OF CONSUMER WATCHDOG'S REQUEST FOR COMPENSATION

upon the persons named in the attached service list, in the following manner:

1. If marked FAX SERVICE, by facsimile transmission this date to the FAX number stated to the person(s) named.

2. If marked EMAIL, by electronic mail transmission this date to the email address stated.

3. If marked U.S. MAIL or OVERNIGHT or HAND DELIVERED, by placing this date for collection for regular or overnight mailing true copies of the within document in sealed envelopes, addressed to each of the persons so listed. I am readily familiar with the regular practice of collection and processing of correspondence for mailing of U.S. Mail and for sending of Overnight mail. If mailed by U.S. Mail, these envelopes would be deposited this day in the ordinary course of business with the U.S. Postal Service. If mailed Overnight, these envelopes would be deposited this day in a box or other facility regularly maintained by the express service carrier, or delivered this day to an authorized courier or driver authorized by the express service carrier to receive documents, in the ordinary course of business, fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 27, 2024 at Los Angeles, California.



Kaitlyn Gentile

Service List

Nikki McKennedy Lisbeth Landsman-Smith Elsa Carre Rate Enforcement Bureau **California Department of Insurance** 1901 Harrison Street, 6th Floor Oakland, CA 94612 Tel. (415) 538-4500 Fax (510) 238-7830 Nikki.McKennedy@insurance.ca.gov Lisbeth.Landsman@insurance.ca.gov Elsa.Carre@insurance.ca.gov	☐ FAX ☐ U.S. MAIL ☐ OVERNIGHT MAIL ☐ HAND DELIVERED ☒ EMAIL
Margaret Hosel Public Advisor Tina Warren Office of the Public Advisor **California Department of Insurance** 300 Capitol Mall, 17th Floor Sacramento, CA 95814 Tel. (916) 492-3705 Fax (510) 238-7830 Margaret.Hosel@insurance.ca.gov Tina.Warren@insurance.ca.gov	☐ FAX ☐ U.S. MAIL ☐ OVERNIGHT MAIL ☐ HAND DELIVERED ☒ EMAIL