

Department of Banking, Insurance, Securities & Health Care Administration

Vermont Insurance Division

REGULATION I-2010-03

**PROPERTY & CASUALTY INSURANCE FILING PROCEDURES
& REPORTING REQUIREMENTS**

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Section 1. Purpose and Scope.

(A) The purpose of this regulation is to set forth procedures for submitting:

- (1) property and casualty form filings required by 8 V.S.A. Section 3541;
- (2) property and casualty rates, supplementary rate information, and supporting rate information required by 8 V.S.A. Section 4688;
- (3) consent to rate filings required by 8 V.S.A. Section 4688(f); and
- (4) workers compensation filings required by 8 V.S.A. Section 4687.

(B) This regulation also specifies the circumstances under which it is not necessary to file forms, rates or rules.

(C) This regulation applies to all lines of property and casualty insurance, including title insurance and surety bond contracts.

Section 2. Authority.

This regulation is issued pursuant to the authority granted to the Commissioner under 8 V.S.A. Chapter 1, Sections 11 and 15; Chapter 101, Sections 3541 and 3542; Chapter 128, Sections 4682 through 4708; and Chapter 129, Sections 4721 through 4726.

Section 3. Definitions.

(A) “Advisory or service organization” means any person, association, corporation or other organization as defined in 8 V.S.A. Section 4683(1) that provides one or more of the services described in 8 V.S.A Section 4690(b)(1)-(16).

(B) “Commissioner” means the Commissioner of Banking, Insurance, Securities and Health Care Administration or his or her designee.

(C) “Consent to rate filing” means an individual risk filing submitted to the Department pursuant to 8 V.S.A. Section 4688(f). This procedure is designed to be used when a risk which is not acceptable to an insurer at the insurer's filed rates would be acceptable at a rate higher than the filed rates or if written with coverage more restrictive than that provided by an insurer's applicable filed forms.

(D) “Department” means the Vermont Department of Banking, Insurance, Securities and Health Care Administration.

(E) "Electronic Filing" means a filing submitted via the Internet by using the System for Electronic Rate and Form Filings (SERFF) or a comparable system designated by the Commissioner.

(F) “Filing” means each submission of a rate, rule or form required to be filed with the Department pursuant to 8 V.S.A. Sections 3541, 4687 or 4688.

(G) “Filing Amendment” means any revision or addition to a submitted filing, but not including a response.

(H) "Filer" means a person or entity that submits a filing.

(I) "Filing Objection Letter" means a letter issued by the Commissioner when a substantive review by the Department has determined that the filing fails to comply with Vermont's laws, regulations or policies. The filing objection letter may, in addition to requiring correction of non-compliant items, require clarification or additional information pertaining to the filing.

(J) "Letter of authorization" means a letter signed by an officer of the licensee on whose behalf the filing is submitted that designates filing authority to the filer.

(K) “Prior approval” means a filing can be used, sold or offered for sale after it has been filed with the Department and approved or deemed approved in accordance with the procedures set forth in 8 V.S.A. Sections 3541-3542, Section 4688(b)-(c), and Section 4689.

(L) “Property and casualty insurance” means the types and kinds of insurance outlined in 8 V.S.A. Section 3301(a)(3) through (10).

(M) “Prospective loss costs” means that portion of a rate that does not include provision for expenses (other than loss adjustment expenses) or profit, and that is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

(N) “Rate” means the cost of insurance per exposure base unit, or cost per unit of insurance, prior

to the application of individual risk variations based upon loss or expense considerations, and does not include minimum premiums.

(O) "Rejected" means that a filing has not been submitted in accordance with the requirements of this regulation and is being returned to the filer by the Department with the reasons for rejection and without undergoing a substantive review. A rejected filing is not considered filed with the Department and, once rejected, may not be amended or corrected.

(P) "Response" means a reply to a Filing Objection Letter that answers questions or corrects problems identified in the Objection Letter.

(Q) "Supplementary rate information" and "supporting information" mean the information described in 8 V.S.A. Sections 4683(18) and (19), respectively.

(R) "Type of Insurance" and "Sub-Type of Insurance" mean the specific lines and sub-lines of property and casualty insurance contained in the most recent edition of the NAIC's Uniform Product Coding Matrix.

(S) "Use and file" means that a rate or supplementary rate information can be used if it is filed with the Department no later than fifteen (15) calendar days after its initial use in accordance with the procedures set forth in 8 V.S.A. Sections 4688(a), (d)-(e), and (g)-(h).

Section 4. Exemptions From Filing.

(A) The following types of rates, rules and forms are exempt from the filing requirements of this regulation pursuant to 8 V.S.A. Sections 3368(a), 3541(a), and 4682:

- (1) Reinsurance policies and rates.
- (2) Surplus lines policies and rates.
- (3) Commercial Risk Wet Marine policies and rates.
- (5) Commercial Risk Marine Protection and Indemnity Insurance policies and rates.
- (6) Policies covering specially rated (i.e., one of a kind) inland marine risks.
- (7) Surety bonds, but this exemption does not apply to policy forms for other types of surety insurance as defined in 8 V.S.A. Section 3301(a)(8)(A) and (D) or to indemnity and collateral agreements required by an insurer or its agent in connection with bonds provided pursuant to 13 V.S.A. Chapter 229.
- (8) Rates for aircraft liability and aircraft hull insurance. However, the policy forms used in connection with aircraft liability and aircraft hull insurance are subject to the filing requirements of this regulation.
- (9) Unique (i.e., one of a kind) policy forms used in connection with insurance on a particular subject and not intended for sale to any other policyholder in this state.

(B) In addition, it is not necessary to file forms under the following circumstances:

(1) If the only change on a form is its reference number or edition date. The insurer shall maintain an updated list of policy forms that shows the current reference number and edition date of each form, and any previous reference numbers and edition dates of the form, and the Vermont state tracking number under which each form was approved.

(2) If the only change involved is the size or color of the form or the size of its type, providing that the minimum type size requirements of this regulation (see Section 6(N) below) or any other applicable law or regulation have been met.

(3) If the only change involves changing the jacket of the policy (e.g., placing pictures or logos on the jacket) or changing the names of authorized signatures on the policy.

(4) It is not necessary to file property- specific exceptions listed in a title insurance policy if the exposures or defects being excepted were discovered by the insurer after inspection of the title. However, a title insurer shall file the standard exceptions included in its title policy, which shall be preprinted in the policy itself or on an endorsement.

Section 5. General Filing Rules.

(A) Each filing submitted must be accurate, consistent, complete, and contain all required documents in order for the filing to be processed in a timely and efficient manner. The Commissioner may request any additional information deemed necessary.

(B) Licensees are responsible for assuring that a filing is in compliance with Vermont laws, regulations, and policies. Filings not in compliance with Vermont laws, regulations and policies that are used, sold or offered for sale in Vermont will be subject to regulatory action under the applicable provisions of Title 8 V.S.A.

(C) Both affirmatively approved and deemed approved filings may be subsequently disapproved by the Commissioner in accordance with the procedures set forth in 8 V.S.A. Sections 3541 and 4689.

(D) A disapproved filing may not be used, sold, or offered for sale in Vermont.

(E) Rates, supplementary rate information, supporting information and forms applying to a specific program or product may be submitted as one filing.

(F) A filing that does not comply with this rule will be rejected and returned to the filer. A rejected filing is not considered filed with the Department and must be re-submitted as a new filing with a new filing fee.

(G) Filing Amendment: A filing may be amended at any time prior to the entry on SERFF of a final disposition (i.e., prior to being approved or to the entry of a final disapproval). Filing amendments must be submitted through SERFF. A new filing is required if a filer wishes to amend a filing after the entry of a final disposition.

(H) Responses: A response to a Filing Objection Letter must be submitted as a Response Letter on SERFF. The Department will not accept responses submitted as Amendments or Notes to Reviewer.

(1) A response to a filing letter must include:

- (a) A cover letter identifying the changes made;
- (b) Revised documents with all changes highlighted or underlined;
- (c) Revised documents incorporating all changes without highlights.

(2) If a filer does not respond to a Filing Objection letter within ninety (90) days, the filing will be closed and its SERFF status will be changed to “disapproval – final”.

(I) **Filing Withdrawal Prior to Final Disposition:** If a filer wishes to terminate the review process for a filing, the filer should notify the Department that it is withdrawing the filing from further consideration. When a filing is withdrawn prior to final disposition, its SERFF status will be changed to “withdrawn” if no objection letter has been issued by the Department and to “disapproval – final” if an objection letter has been issued.

(1) **Public Record Status of Filing:** Unless the filer has requested and received trade secret status in accordance with the procedure outline in Insurance Division Bulletin 150 or any successor bulletin, all filings are considered to be public records from the moment of receipt by the Department.

(J) **Withdrawal of Approved Filing:** A filing that withdraws a previously-approved submission must be accompanied by the appropriate filing fee and should include the Vermont state tracking number and date of approval of the filing that is being withdrawn. Once withdrawn, a previously-approved filing must be re-submitted for approval before it can be used again in Vermont.

Section 6. Filing Submission Requirements.

(A) All insurance rate, rule and form filings must be submitted to the Department using SERFF or a comparable system designated by the Commissioner.

(1) **EXCEPTION:** Consent to rate filings may be submitted via SERFF or by U.S. Mail or an equivalent mailing service (see Section 9(B)).

(B) All rate, rule and form filings must identify the type of insurance (“TOI”) and sub-type of insurance (“Sub-TOI”) in the NAIC’s Uniform Product Coding Matrix (“UPCM”) to which the filing belongs. Because filings are organized and stored in the Department’s electronic database under the lines and sub-lines of insurance set forth in the UPCM, filings with incorrect TOIs and Sub-TOIs will be rejected and returned to the filer.

(C) Each rate, rule and form filing submitted to the Department under this regulation shall be accompanied by a non-refundable fee of \$50 paid to the Department through an Electronic Funds Transfer (“EFT”) via SERFF. A minimum fee of \$150 shall accompany each rate, rule or form filing submitted by a rating, advisory or service organization.

(1) **EXCEPTION:** Vermont is a retaliatory fee state. Insurers domesticated in a state that

charges a filing fee higher than Vermont's are required to pay the filing fees that would be assessed against a Vermont insurer by their domiciliary state.

(D) To assist the Department in determining whether the correct fee has been remitted, filers shall provide all information requested under the Filing Fees tab in each filing, *including a clear explanation of how the fee was calculated in the "Fee Calculation Explanation" free text box*. Failure to provide this information will result in rejection of the filing.

(E) A filer may submit a filing for more than one insurer in a group of affiliated companies if all applicable companies are listed under the Companies and Contact tab. If the filing contains multiple forms, the filer must certify in the Filing Description that all forms will be placed in use in Vermont by each listed company; otherwise separate filings will need to be made.

(F) A filing may not include more than one type of insurance, unless the filing is a commercial package, a commercial multi-line program or a commercial or personal inter-line form filing. The inter-line use of a form must be explained in the Filing Description.

(G) Filers should not submit a filing transmittal or cover letter. In lieu of submitting a transmittal letter, filers should complete the Filing Description Section with the following information, presented in the order shown below:

(1) ***Certification:*** The filer must certify using the following language that the filing has been properly completed and is in compliance with all applicable Vermont laws, regulations and policies:

(a) Certification statement: "I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH VERMONT REGULATION I-2010-03 AND IS IN COMPLIANCE WITH ALL APPLICABLE VERMONT LAWS AND REGULATIONS."

(b) A filing will be rejected if the certification is missing or incomplete.

(c) A certification that is false or incorrect may subject the licensee to administrative action.

(2) ***Description:*** The filer shall describe the filing's purpose and provide the following information:

(a) Whether the filing is new or replaces or revises a previous filing.

(i) If the filing replaces or revises a previous submission, the filer shall provide the Department with the information required in Section 7(K) of this regulation.

(b) Whether the filing includes additional forms that are being provided for background or comparative purposes.

(c) If the filing is a rider or endorsement and does not include the base policy, the filer shall provide the state tracking number and approval date of the base policy

and describe the effect of the filing on the base policy.

(d) Whether any of the filing's provisions have been previously objected to or prohibited in Vermont, and, if so, an explanation of the previous objection. The filer shall also state, on information and belief, whether any of the filing's provisions are unusual or controversial.

(e) The state tracking number and approval date of all filings with which the submission will be used.

(H) When the filer is not the licensee, a letter of authorization from the licensee must be attached to the supplementary documentation tab.

(1) The licensee will remain responsible for ensuring that the filing complies with Vermont's laws, regulations and policies.

(I) Filers should refer to the applicable sections of this regulation for specific procedures on how to submit forms, rates, and supplementary rate information.

Section 7. Procedures for Form Filings.

(A) All forms that comprise a part of the policy or contract of insurance are considered "prior approval" and must be filed with the Department and approved or deemed approved before being used, sold or offered for sale in Vermont.

(B) Forms considered "prior approval" must be submitted to the Department at least thirty (30) calendar days prior to their proposed effective date. A filing will not be considered to have been submitted until all requirements of this regulation have been satisfied, including the Department's receipt of the correct filing fee.

(1) At the expiration of the thirty-day period beginning on the day after the filing has been properly submitted, the form will be deemed approved if it has not been affirmatively approved or disapproved by the Commissioner with a filing objection letter.

(2) The Commissioner may extend the review period by an additional thirty days by giving written notice to the filer through SERFF prior to the expiration of the initial thirty-day period.

(C) All forms being submitted for approval must be attached to the form schedule tab on SERFF.

(D) Each form must be identified by a unique form number. The form number may not be variable.

(E) A form must be in final printed form or printer's proof format. A draft may not be submitted.

(F) If an insurer has authorized an advisory or service organization ("ASO") to make form filings on its behalf and wishes to implement an ASO filing exactly as submitted, no filing is required by the insurer.

(1) A filing is required if the insurer delays the effective date, non-adopts, or alters the ASO filing in any way.

(2) A filing that non-adopts or delays the effective date of an ASO form must include a reference copy of the ASO circular or bulletin, as well as the ASO filing reference number.

(3) A filing that alters an ASO form must include for comparative purposes both a clean copy of the ASO form and a markup showing the proposed changes in a strikeout-underline format.

(G) An insurer that is a member of an ASO but that has not authorized the ASO to file forms on its behalf is required to make an electronic filing with the Department in order to adopt or implement ASO forms.

(1) Copies of the ASO forms are not required unless the insurer is altering those forms, in which case the filing shall comply with the requirements of Section 6(F)(3) above.

(2) The filing must include, in the Filing Description section, a complete list of the ASO forms the insurer intends to adopt, identified by form number, title/name and the ASO filing reference number.

(H) The Department does not permit “me too” or “reference” filings that purport to adopt a filing submitted by another insurer.

(I) If a previously filed Vermont amendatory endorsement will be used in connection with the form being filed, this fact should be noted in the Filing Description section and the filing should include a copy of the of the amendatory endorsement along with its state tracking number and approval date.

(J) If a filing is being submitted for more than one insurer and all insurers are listed under the Companies and Contact tab, only one copy of each form is required if the form will be printed and used by each company with the same form number.

(1) If the form will be printed and used by each company with a different form number, then a separate form must be filed for each insurer.

(K) If a form replaces or modifies an existing form, the filer shall provide the state tracking number and approval date of the earlier form, a side-by-side comparison in a strikeout and underline format showing the changes to the form, and a description of the intent and effect of the changes.

(L) Filers shall notify the Department through a Note to Reviewer on SERFF if the implementation date of the original filing changes.

(M) Readability: The Commissioner shall not approve any form unless the policy or certificate is written in non-technical, readily understandable language, using words of common, everyday usage. The policy text shall achieve a minimum score of 40 on the Flesch reading ease test or an equivalent score on any other approved comparable reading test.

(N) Type Size: The text shall be presented in not less than ten point type, one point leaded.

Section 8. Procedures for Rate and Supplementary Rate Information Filings.

(A) Every insurer and advisory or service organization shall file with the Commissioner all rates, loss costs and supplementary rate information that are to be used in Vermont.

(B) Rates, loss costs and supplementary rate information are considered “use and file” and must be submitted to the Department no later than fifteen (15) days after their effective date.

(1) **EXCEPTION:** Rates for residual market risks, rates for claims made liability policies and forms, and loss costs in the workers’ compensation voluntary market are considered “prior approval” and must be filed with the Department at least thirty (30) working days before their proposed effective date as set forth in 8 V.S.A. Section 4688(c).

(C) A filing will not be considered to have been submitted until all requirements of this regulation have been satisfied, including the Department's receipt of the correct filing fee and all required supporting information.

(D) All rates, loss costs, supplementary rate information and supporting information must be attached to the rate/rule schedule tab on SERFF.

(E) **Supporting Information.** All rate and loss cost filings must be supported by actuarially credible data acceptable to the Department and must be fully supported. The supporting information submitted by a filer must include:

- (1) The experience and judgment of the filer and the experience or data of other insurers or organizations relied on by the filer;
- (2) The interpretation of any statistical data relied upon by the filer;
- (3) The description of methods used in making the rates; and
- (4) To the extent not included in the above all of the following: earned premiums, incurred losses, loss ratios, expense factors and expected loss ratios for at least the past three years, as well as support for selections of factors such as, but not limited to, trend factors, loss development factors, and increased limit factors.

(F) Rates, loss costs and supplementary rate information filed by an insurer or an ASO shall remain in effect until revised, replaced or withdrawn by the filer. A filing that revises or replaces existing supplementary rate information shall describe the intent of the change, its effect on the calculation of premium, and, where appropriate, be supported as set forth in subsection 7(E)(1)-(4) above.

(G) Underwriting criteria that are used to determine the acceptability of a risk are not required to be filed unless they relate to the standards for placing an applicant within a particular rating tier or otherwise affect the rating of the policy.

(H) When the rates, loss costs or supplementary rate information submitted by a filer are incomplete, or when a filing is not accompanied by all required supporting information, the commissioner may require the filer to furnish the additional information needed and, in that event, any applicable time period for reviewing the filing shall commence on the day after such information is furnished.

(I) **Advisory or Service Organizations.** An insurer that has authorized an ASO to make filings on its behalf may adopt, with or without modification, prospective loss costs and supplementary rate information filed with the Department by the ASO.

(J) **Adoption of Prospective Loss Costs.** If an insurer elects to use an ASO's prospective loss costs in support of its own rate filing, the insurer must file with the Department a completed copy of the Vermont Loss Cost Reference Filing Adoption Form, accompanied by appropriate statistical support and expense data for all entities.

(1) Modifications of an ASO's prospective loss costs based upon the insurer's own anticipated experience must be supported in the manner set forth in subsection 7(E) above.

(2) A filing is required if an insurer delays the effective date of an ASO prospective loss cost filing.

(3) An insurer that adopts an ASO's prospective loss costs, with or without modification, is not required to develop and file final rate pages. The insurer's filed rates will be a combination of the ASO's prospective loss costs and the loss cost adjustments and modifications filed with the Department by the insurer. If, however, the insurer develops and prints rate pages for its own use, they must be filed with the Department.

(4) An insurer may elect to have the adjustments contained in its Loss Cost Reference Filing Adoption Form remain on file and be applicable to subsequent loss cost filings by the ASO. If an insurer makes this election, any future loss cost filings by the advisory organization will result in new rates for the insurer, which will become effective on the effective date of the new ASO loss cost filing. Subject to subsection 7(J)(4)(a) below, the insurer will not be required to make a new filing with the Department.

(a) A filing is required if the insurer intends to delay, modify or non-adopt a subsequent loss cost filing by the ASO.

(b) If an insurer has elected to have its loss cost adjustments remain on file with the Department, those loss cost adjustments will remain in effect until the insurer withdraws them or until the insurer files a new Loss Cost Reference Filing Adoption Form with the Department.

(5) Alternatively, an insurer may elect not to have its loss cost adjustments apply to future loss cost filings by the ASO. In that case, if the insurer decides to use a subsequent loss cost filing by the advisory organization in support of its own rates, it must file a new Loss Cost Reference Filing Adoption Form with the Department.

(6) All filings that adopt, delay, modify or non-adopt an ASO loss cost filing should include the reference number of the *approved* ASO filing that is being adopted, delayed, modified or non-adopted. Insurers may not adopt, delay, modify or non-adopt an ASO loss cost filing until that filing has been approved by the Department.

(K) **Adoption of Supplementary Rate Information.** If an insurer has authorized an ASO to file supplementary rate information on its behalf and wishes to implement the ASO's filing exactly as

submitted, no filing is required by the insurer.

(1) A filing is required if the insurer delays the effective date, non-adopts, or modifies the ASO filing in any way.

(2) A filing that non-adopts or delays the effective date of supplementary rate information filed by an ASO must include a reference copy of the ASO circular or bulletin as well as the reference number of the *approved* ASO filing that is being delayed or non-adopted.

(3) If an insurer decides to modify supplementary rate information filed by an ASO, the insurer must file for comparative purposes both a clean copy of the ASO filing and a markup showing the proposed changes in a strikeout-underline format. Where appropriate, modifications of an ASO's supplementary rate information must be supported in the manner set forth in subsection 7(E)(1)-(4) above.

(4) Insurers may not delay, modify or non-adopt an ASO supplementary rate information filing until that filing has been approved by the Department.

(L) An ASO member that has not authorized the ASO to make filings on its behalf is required to make an electronic filing with the Department in order to implement advisory organization loss costs or supplementary rate information. The filing must include, in the Filing Description Section, the reference number of the approved ASO filing being implemented.

(1) In adopting prospective loss costs, the insurer should follow the procedures set forth in Subsection 7(J) above.

(b) In adopting supplementary rate information, the insurer should follow the procedures set forth in Subsection 7(K) above.

(M) An insurer must file any minimum premiums that it intends to use.

(N) The Department does not permit "me too" or "reference" filings that purport to adopt a rate or supplementary rate information filing submitted by another insurer.

Section 9. Consent to Rate Filings

(A) A consent to rate filing may be submitted by the insurer or by an authorized agent of the insurer.

(B) The filing may be submitted via SERFF or by U.S. Mail or an equivalent mailing service.

(C) No filing fee is required for a consent to rate filing.

(D) The consent to rate process applies on an individual risk basis only.

(E) Filers must use the consent to rate application on the Department's website.

(F) All entries on the application must be completed in full and the application must be signed and dated by the insured.

(G) The consent to rate application must be submitted for approval to the Commissioner no later than sixty (60) days after the effective date requested.

(H) If a consent to rate filing is used for any risk that is eligible for coverage under a residual market plan, the application must contain a prominent statement advising the insured of his or her eligibility for coverage under the plan. The insured shall also be informed of the premium rate chargeable under the plan and the rate shall be clearly shown on the application form signed by the insured.

Section 10. Severability

If any provision of this Regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the Regulation and the application of the provision to other persons or circumstances shall not be affected.

Section 11. Effective Date

The effective date of this Regulation is May 15, 2011.