



DIVISION OF INSURANCE

Frank H. Murkowski, Governor

BULLETIN B 05-09

TO: ALL ADMITTED INSURERS WRITING BUSINESS IN THE STATE OF ALASKA AND OTHER INTERESTED PARTIES

RE: CHANGES TO ALASKA'S RATE AND FORM FILING LAWS

New legislation under CSHB216 (Chapter 88, SLA 05) was passed by the legislature and signed into law by the governor this year that changes the requirements for submitting property and casualty rates and rules and **all** form filings to the Division of Insurance. If you have access to the Internet, this law may be found at the following address:

<http://www.legis.state.ak.us/PDF/24/Bills/HB0216Z.PDF>. If you cannot access the Internet, please contact the Alaska Legislative Information Office nearest you for a copy of this new law.

The new law, which becomes effective November 2, 2005, allows an insurer to elect to submit form filings to the division for review using either the "prior approval" method of filing or a "file and use" method of filing. For property and casualty rate filings, "flex rating", "prior approval," and "file and use" are available depending on the characteristics of the filing.

This bulletin will explain the major differences between these different filing methods and provide guidance to insurers in submitting compliant filings under the new law. This bulletin is for informational purposes only and is not intended to be an exhaustive or interpretive analysis of statutory changes to the insurance code. Please review Alaska's insurance laws in their entirety to assure your compliance when submitting rate, rule, and form filings in this state.

Alaska's regulations pertaining to filings are currently being revised to accommodate these new filing methods. Before they are implemented, a hearing notice will be issued so that interested parties may provide comments on the proposed regulation changes.

EXPLANATION OF STATUTE CHANGES

All Form Filings

The changes related to form filings are applicable to **all** form filings made under Chapter 42 of the insurance code (AS 21.42). An insurer may elect to submit a filing either under the existing "prior approval" method (AS 21.42.123) or the new "file and use" filing method (AS 21.42.125).

An insurer must clearly identify on the transmittal document or cover letter that the filing is submitted under the prior approval provisions or under the file and use provisions. For a filing submitted through SERFF, the SERFF transmittal header will have fields the insurer can use to identify the filing method.

Prior approval: The process for filings submitted for prior approval is similar to the division's existing process for reviewing form filings. There is still a 30-day waiting period, which may be extended by the division. The division and the insurer may continue to correspond for as long as it takes to resolve any problems with the filing. With each response from the insurer, the 30-day waiting period begins anew. However, an insurer will want to note that it must respond to any questions raised by the division within 30 days after the director's request for information. An insurer may request that a copy of the division's questions be sent via facsimile or e-mail in order to avoid a reduction in the amount of time the insurer has to respond because of mail delivery. The 30-day response period begins the day after the date shown on the division's letter requesting additional information. The insurer's response must be postmarked within the 30-day response period. Should the insurer need additional time, a 15-day extension may be granted by the division upon written request by the insurer. The written request must be received by the division before the expiration of the 30-day response period. An insurer may make this request via e-mail or facsimile. If the insurer does not respond within the required time frame, the division will consider no response a request to withdraw the filing from further consideration.

If the filing is not disapproved or withdrawn, the division will send the insurer an approval letter or a copy of the transmittal document or cover letter containing an approval stamp. The approval will also contain the effective date of the filing. For a filing submitted through SERFF, the division will assign the disposition of "approved" or "deemed" and the effective date will be noted in the appropriate field.

File and Use: The significant difference between these two methods is that the insurer must include a signed compliance certificate with all filings that are submitted under the file and use filing method and any problems with the content of the filing must be resolved within a fixed time frame of 30 days. Either the insurer or the division may request a one-time extension of an additional 30 days if the first 30-day waiting period is insufficient to resolve any outstanding problems. If outstanding problems cannot be resolved within the 30-day waiting period, or 60-day period if an extension is requested, or the insurer does not respond within this time frame to any questions raised by the division, the filing will be disapproved or considered withdrawn. For the division to engage in any further consideration of the filing, the insurer must submit a complete new filing and the statutory timeframes outlined above will begin anew.

The division must have sufficient time to review any insurer responses. For example, do not send a 50-page response on day 59 of the extended waiting period. In the event that a response is sent to the division in a timeframe that does not allow the division sufficient time for review, the filing will be disapproved.

Because of the tight time frames, an insurer that elects to use the "file and use" filing method should either submit filings through SERFF or, for filings originally submitted in paper, be prepared to do any subsequent correspondence with the division via e-mail or facsimile. The insurer does not need to submit original hard copies to the division and the division will not send original hard copies to the insurer when correspondence takes place via e-mail or facsimile.

If the filing is not disapproved or withdrawn, the division will send the insurer a letter confirming the effective date of the filing, or a copy of the transmittal document or the cover letter stamped “authorized”, not an approval letter. For a filing submitted through SERFF, the division will assign the filing a disposition of “authorized” and the effective date will be noted in the appropriate field.

A compliance certificate is attached to this bulletin for use by insurers that submit a “file and use” form filing. The certificate must be signed by an authorized officer or a state filings manager of the insurer, not by a third-party filer if an insurer uses the services of a third-party filer.

Property and Casualty Rate and Rule Filings

The property and casualty rate and rule filing statutes have been revised to allow for filing by the “prior approval” method (AS 21.39.041), the “flex rating” method (AS 21.39.210), or the “file and use” method (AS 21.39.220). The filing method applicable to a particular filing is determined by the type of filing.

The insurer must clearly identify on the transmittal document which filing method applies to the filing. For a filing submitted through SERFF, the SERFF transmittal header will have fields the insurer can use to identify the filing method.

Prior approval: Workers’ compensation, except for loss costs and assigned risk rates filed by a rating organization, medical malpractice, and assigned risk rates and rules are “prior approval” filings. Rates and rules for an impaired or insolvent insurer operating under a rehabilitation plan are also “prior approval” filings.

A “prior approval” filing must be received by the director at least 15 days before the proposed effective date. The significant change to Alaska’s existing “prior approval” procedures is that the insurer must respond to any requests for additional supporting documentation within 30 days of the request. Should the insurer need additional time, a 15-day extension may be granted by the division upon written request by the insurer. If the insurer does not respond within the required timeframe, the division will consider no response a request to withdraw the filing from further consideration. For the filing to receive further consideration by the division, a complete new filing must be submitted and the review process will begin again.

If the filing is not disapproved or withdrawn, the division will send the insurer an approval letter or a copy of the transmittal document containing an approval stamp. The approval letter will also contain the effective date of the filing. For a filing submitted through SERFF, the division will assign a disposition of “approved” or “deemed” and the effective date will be shown in the appropriate field.

Flex Rating: “Flex rating” is available for all lines of business except workers’ compensation, medical malpractice, and assigned risk plan rates. To qualify for “flex rating,” the cumulative rate level change, calculated from the effective date to 12 months before the effective date, may not be greater than +/-10 percent. Manuals, rules, rating schedules, experience rating plans, and similar information are required to be filed under the “file and use” method.

The rate change may take effect on the date specified in the filing, but not earlier than the date received by the division. The insurer should allow sufficient mailing or delivery time when selecting an effective date for the filing.

All rate standards apply to a “flex rate” filing and the filing must contain sufficient information for the division to determine that the filing meets these standards. Should the filing be found not to comply with Alaska law, the director will issue an order disapproving the filing.

The filing must include an exhibit showing the past rate changes with the calculation of the previous 12 months’ cumulative rate level change included. The identification number assigned by the division for these approved rate changes must be included in the exhibit. The filing should also give the range of rate changes that individual policyholders may receive under the filing in addition to the overall change. The division may request additional supporting documentation if the documentation contained in the filing does not allow the division to determine that the filing complies with Alaska law.

Rating organization filings are **not eligible** for “flex rating.”

The division will send the insurer a stamped copy of the transmittal document showing the date the filing was received by the division. The insurer may implement the filing on the proposed effective date without further correspondence from the division provided the effective date is after the date the filing is received by the division. For a filing submitted through SERFF, see the receipt date explanation in the General Requirements section of this bulletin.

File and Use: Rate filings that do not qualify for “flex rating,” all rating organization rate filings, and filings containing rating manuals, rating rules, and other supplementary rating information, as defined in 3 AAC 29.300, are “file and use” filings, except for workers’ compensation, medical malpractice, and assigned risk plan rates and rules.

All rate standards apply to file and use filings. The filing must contain sufficient information for the division to determine that the filing meets these standards.

The filing must be filed with the director at least 30 days before the proposed effective date, which must be included in the filing. If the filing does not contain sufficient information to allow the director to determine that the filing complies with Alaska law, additional supporting information may be requested by the division. The insurer must respond to the request within 30 days. If the insurer needs additional time to address the issues raised by the division, the insurer may request in writing an extension of 15 days to complete its response. The division will disapprove the filing if the requested information is not provided within the required time frame. If the filing has not been disapproved by the division, the insurer may implement the filing on the proposed effective date even if that date is before the additional information is due to the director. If, after receiving all necessary additional information, the director determines that the filing does not comply with Alaska law, the filing may be disapproved and the director will specify a date on which the filing may no longer be used if the filing has become effective. To ensure minimal disruption or changes to rating plans that have already become effective, each insurer should select an effective date that allows adequate time for review of the filing and obtaining additional information, if needed.

If the filing is not disapproved or withdrawn, the division will send the insurer a letter confirming the effective date of the filing or a copy of the transmittal document stamped “authorized”, not an approval letter or approval stamp. For a filing submitted through SERFF, the division will assign a disposition of “authorized” and the effective date will be shown in the appropriate field.

GENERAL REQUIREMENTS

Effective Dates and Waiting Periods

The waiting periods begin on the day the division receives a filing, not on the day the insurer sends the filing to the director. Mailing time to Alaska can frequently take up to a week, and sometimes more, so insurers should allow sufficient mailing time when selecting effective dates or when responding to division questions. Overnight delivery is also not overnight to Alaska, so an insurer should assume that it will be a couple of days before the division receives a package sent by overnight delivery.

Each filing must contain a specific effective date. Statements such as “the effective date is upon approval of the filing” will not be accepted. For “prior approval” filings, the insurer may request a specific time frame after approval, such as “the first Monday of the second month following approval.” The effective date selected must be such that any waiting period that is required by the insurance code can be met before the filing becomes effective.

If a filing is not received by the division with adequate time to meet waiting period requirements, the division will notify the insurer that the proposed effective date is invalid and provide the insurer with the earliest effective date that does meet the filing requirements. If the insurer cannot use the filing on the division-assigned effective date, the insurer must select a revised effective date **before** the effective date determined by the division occurs.

Responses to Division Questions – Property and Casualty Procedures

Alaska regulations require that an insurer address a response to questions from the division to the person requesting the information. Property and casualty insurers may meet this requirement by putting the analyst name in the upper right-hand box, line 2.b, of the NAIC Property and Casualty Uniform Transmittal Document. Insurers should also put the division assigned identification number in line 2.f of the response transmittal document.

When an insurer elects to submit its response to the division’s questions via e-mail, the insurer must use the property and casualty mail box, not the individual analyst’s e-mail address. This address is inspcfilings@commerce.state.ak.us. The subject line of the e-mail should contain the division identification number and the reviewing analyst’s name. The insurer should also request a return receipt. This can be used as the insurer’s confirmation that the division has received the insurer’s response.

Questions related to the status of a particular filing or other questions that are not direct responses to a division request for additional information should be sent to the reviewing analyst’s e-mail address.

Acknowledgement of Receipt of Filing

The division will continue to send back an acknowledgement copy of the transmittal document or cover letter with the division assigned identification number and the date the filing was received by the division. For “file and use” and “prior approval” filings, the date stamped on the filing will be the date any waiting period required by statute begins. Note that day one of the waiting period is the day after the filing is received by the division.

For “flex rating” filings, the filing may not become effective before the date stamped on the filing.

For a filing sent through SERFF, the received date will be the working day of the delivery. If the division receives the filing on a weekend, holiday, or after 3:00 p.m. Alaska Time on a working day, the received date will be the next working day. No additional acknowledgement of the division’s receipt date will be given.

Written Documents

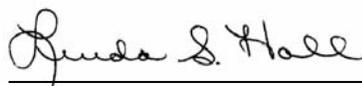
For purposes of the filing requirements discussed in this bulletin, “in writing” and “written documents,” include documents sent via e-mail, facsimile, or SERFF.

Filings Received Before November 2, 2005

A filing received by the division before the new statute becomes effective will continue to be reviewed under Alaska’s “prior approval” filing method that is currently used by the division.

If you have questions regarding this bulletin, please contact the Division of Insurance, P.O. Box 110805, Juneau, AK 99811-0805; (907) 465-2515; or via electronic mail at insurance@commerce.state.ak.us.

Dated this 20th day of October, 2005 at Anchorage, Alaska.



Linda S. Hall
Director

**ALASKA COMPLIANCE CERTIFICATE
FOR
FILE AND USE FORM FILINGS**

Date: _____

Company GROUP Name: _____

Company Group NAIC Number: _____

Company filing ID Number: _____

I am an authorized officer or a state filings manager of the insurer and I certify that, to the best of my knowledge, this filing complies with Alaska's insurance laws.

I understand that, if I submit inaccurate compliance certificates, the director may require future filings to be submitted for prior approval. I also understand that, if I submit a materially false or misleading compliance certificate, civil penalties may be applied.

Title: _____

Name: _____

Signature: _____