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DIVISION OF INSURANCE

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BULLETIN B19-10

TO: ADMITTED INSURERS WRITING PROPERTY AND CASUALTY OR TITLE BUSINESS IN THE STATE OF ALASKA AND OTHER INTERESTED PARTIES

RE: RATE, RULE, AND FORM FILING PROCEDURES AND EFFECTIVE DATES

This bulletin provides guidance related to filing requirements for certain rate, rule, and form filings; it is for informational purposes only and is not intended to be an exhaustive interpretive analysis of all applicable statutes or regulations. Please review Alaska's insurance laws in their entirety to assure your compliance when submitting rate, rule, and form filings in this state. **This bulletin supersedes Bulletins B05-09 and B95-03 as they relate to property, casualty, and title insurance.**

Filing Procedures

General:

This Bulletin applies to rate and rule filings that are required to be filed per Alaska Statute (AS) 21.39.040 or AS 21.66.370 and form filings required to be filed per AS 21.42.120 (for kinds of insurance identified in AS 21.12.060 through 110) or AS 21.66.450, except it does not apply to:

1. Workers compensation filings that are subject to AS 21.39.043.
2. Title rate filings that are subject to AS 21.66.370(e).
3. Filings containing rates, rules, or forms that will be issued only to commercial risks that meet the definition and eligibility in regulation 3 AAC 29.545. (See AS 21.39.040(k) and AS 21.42.120(a), 3 AAC 29.500-550, and B05-06)
4. Filings subject to Orders issued under AS 21.39.040(f) or AS 21.42.120(d) or to any regulations that specifically alter the filing requirements to the extent those Orders or regulations conflict with the guidance and interpretation in this Bulletin.

Regulations applicable to filing procedures for Forms, Rates, Manuals, Rating Plans, and Rules are in regulations 3 AAC 31.200 – 299. Presently, additional information regarding filing procedure requirements can also be found within the instructions and rules in SERFF and the Rate & Form Filing section of our website.

A few procedural items common to all types of filings within the scope defined above, ***except*** form filings filed under the "file and use" method, are:

- Statutory waiting periods or review periods begin anew each time the filer provides the information requested by the director, i.e. each time the filer submits a response letter in

SERFF. This means that the review process[1] may continue until all issues are resolved, subject to each party meeting their respective review and response timeframe requirements.

- Extensions by the Division of Insurance ("division") or filer may be made once per review period or response period, respectively. This means that there may be multiple extensions of review periods and/or response periods during a filing's review process.

Rate and Rule Filings:

For applicable statutes, see: AS 21.39.040, AS 21.39.041, AS 21.39.210, AS 21.39.220, and AS 21.66.370.

The filing method applicable to Rate and Rule filings is prescribed. For title insurance rate filings, see AS 21.66.370. For other lines of business subject to AS 21.39.040:

- AS 21.39.041(a) identifies the types of filings that are subject to "prior approval";
- AS 21.39.220(a) identifies the types of filings that are subject to "file and use"; and
- AS 21.39.210(a) and (g) and 3 AAC 31.210(d)(5) identify the types of filings that are subject to "flex-rating".

If a multi-line filing (as allowed in limited circumstances described in 3 AAC 31.210(d)(3)) includes any portion that would be subject to AS 21.39.041, the whole filing will be treated as prior approval.

Filers are required to identify the filing method within the filing transmittal information (presently a State Specific field in SERFF), per 3 AAC 31.225(c)(1). If the wrong filing method is identified, the division will treat the filing as if it had been filed appropriately. However, if a filing is not identified as flex rating and is missing the information required for the division to easily determine whether it is subject to flex rating, the filing will be treated as file and use.

If the division's amendment of an incorrect filing method causes the proposed effective date to not meet the applicable requirements for effective dates relative to waiting periods, the division will attempt to notify the filer as soon as practicable to avoid having a filing implemented on a noncompliant date, but ultimately it is the filer's responsibility to ensure filings are implemented in accordance with a compliant effective date. The division is presently unable to change a filing's State Specific "Filing Method" field in SERFF, so the change in filing method will be communicated by some other method of correspondence.

A few notes specific to "flex-rating" eligibility:

1. Filings that include new rates or rules are not eligible for flex rating; AS 21.39.220(a).
2. Filings that include revisions to manuals or rules are generally not eligible for flex rating; AS 21.39.220(b) and 3 AAC 31.210(d)(5).
3. The required cumulative rate change exhibit should include the impact of the subject filing, such that it demonstrates the filing meets the eligibility in AS 21.39.210(a).

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[1] The "review process" in this bulletin refers to the combination of both: (1) the period(s) of time that the filing is subject to the division's review (e.g. the initial waiting or review period as well as any time the SERFF Status is "Pending State Action"), and (2) the period(s) of time that the filing is awaiting the company's response (e.g. SERFF Status "Pending Industry Response").

Form Filings:

For applicable statutes, see AS 21.42.120, AS 21.42.123, AS 21.42.125, and AS 21.66.450.

Except for title insurance form filings which are subject to AS 21.66.450, the filing method applicable to form filings is generally elective. Filers must indicate their choice of "prior approval" (AS 21.42.123) or "file and use" (AS 21.42.125) on the transmittal document.

The significant differences between two methods are:

1. A compliance certificate is required to be attached in file and use filings. The certificate must be signed by an authorized officer or a state filings manager of the insurer, not by a third-party filer.
2. The file and use review process is limited to a fixed time period of 30 days (or 60 days if either the filer or division requests a one-time extension); if all issues are not resolved within that time period, the filing will be disapproved or withdrawn, per AS 21.42.125(d), 3 AAC 31.210(l). Only one extension in total is allowed under this method.

A copy of the compliance certificate is attached to this bulletin and also may be obtained via link in SERFF. ***Note, the compliance certificate has been revised from the previous version*** to ensure the signatory has a minimum level of knowledge of both the contents of the filing and select provisions of Alaska Statutes Title 21. Such knowledge is implicitly required by AS 21.42.125(c) in order for the certification to have meaning and effect. Accordingly, ***if the division observes numerous compliance issues during the review of a file and use filing, the signed certificate may be deemed inaccurate, materially false, or misleading and the filing disapproved.*** The filer may also be required to submit future filings under the prior approval method.

If a filer identifies "file and use" as the filing method but does not include a signed compliance certificate, the division will treat the filing as prior approval, per AS 21.42.125(c). In this case the division will attempt to notify the filer as soon as practicable of the change in filing method.

Effective Dates

Each filing must contain a proposed effective date, which must appear in the transmittal document per 3 AAC 31.225(a)(11). Alaska Statute 21.39.040(a)(2) was revised in 2016 to explicitly allow the effective date in rate filings to be "the date the filing is approved by the director" (e.g. "on approval"). The division will accept similar for form filings. In this case, when the filing is approved or authorized, the effective date assigned will be the next day.

For all filings, due to extensions and/or correspondence, if the initially proposed effective date is a fixed date, it may need to be revised during the course of review in order to comply with the waiting period requirements. Requests to revise the proposed effective date made while the filing is still open, should be done via post-submission update in SERFF. If the proposed effective date is not correctly revised at the time the division completes their review of the filing, the division will assign the earliest effective date that meets the applicable requirements—i.e. the date after the applicable waiting period expires—***unless*** the filer makes written request to have an earlier effective date, in which case that earlier effective date will be granted so long as it has not passed. For example, a filer could identify 01/01/2019 in the "Effective Date Requested" field of the transmittal document but then note elsewhere within the filing, instruction such as "...or at the earliest possible date", "...or on approval, if sooner", etc. and the division would honor that earlier date.

Similar to the procedures described above applicable when the division "changes" the review method from the method that was indicated in the filing's transmittal information, if the initially proposed effective date is not compliant with the applicable waiting period requirements, the division will attempt to notify the filer as soon as practicable to avoid having a filing implemented on a noncompliant date, but ultimately it is the filer's responsibility to ensure filings are implemented in accordance with a compliant effective date.

If the division does not complete a review and assign an effective date as described above, when the waiting period for a filing expires without the filing having been disapproved or withdrawn, the filing's effective date is the later of the proposed effective date or the day after the expiration of the waiting period. This is true regardless of whether the division has created a disposition confirming this effective date. (Note, this situation is commonly referred to as "deeming".)

Filers will generally have the opportunity to change a filing's effective date after a filing is closed, if the change is requested prior to the effective date assigned by the division. Such requests must be made in accordance with the guidance provided within the filing's disposition and/or the SERFF instructions.

If insurers do not implement a filing on the effective date—whether assigned by the division upon review completion, as established by statute, or as established by the filer (assuming the filer's established effective date is compliant)—the insurer will be out of compliance with AS 21.39.040(h), AS 21.42.120, AS 21.66.370(f), or AS 21.66.450. This includes filings made on insurer's behalf by rating organizations, in accordance with AS 21.39.040(b) and AS 21.42.120(a). Note "implementing" a filing on its effective date means that all policies that incept (for new business) or renew (for renewal business) on or after the effective date must use the subject filing's rates, rules, or forms. ***Accordingly, "upon approval" language should be used only if the insurer is prepared to implement the filing on very short notice***, i.e. the day after a filing is approved, authorized, or deems.

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 email at insurance@alaska.gov.

Dated August 12, 2019.

Lori Wing-Heier
Director

ALASKA COMPLIANCE CERTIFICATE
FOR PROPERTY AND CASUALTY
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 have reviewed the applicable filing checklists available on the Alaska Division of Insurance website and the contents of the forms included within this filing.

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: _____