

# DEPARTMENT OF REGULATORY AGENCIES

## Division of Insurance

### 3 CCR 702-5

#### PROPERTY AND CASUALTY

##### DRAFT Proposed New Regulation 5-1-XX

##### CONCERNING INSURER AND FAIR PLAN NOTIFICATION OF AVAILABLE PREMIUM REDUCTION OPTIONS RELATED TO PROPERTY-SPECIFIC AND COMMUNITY-LEVEL MITIGATION ACTIONS TAKEN TO REDUCE WILDFIRE RISK

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Rules
Section 6	Severability
Section 7	Enforcement
Section 8	Effective Date
Section 9	History

##### **Section 1 Authority**

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109(1) and 10-4-124, C.R.S.

##### **Section 2 Scope and Purpose**

The purpose of this regulation is to establish rules concerning public information and policyholder notifications related to premium reductions or underwriting requirements as a result of wildfire mitigation.

##### **Section 3 Applicability**

This regulation shall apply to all admitted insurers that issue homeowner insurance policies and property insurance policies in Colorado and the Colorado FAIR Plan. This regulation does not apply to commercial farm and ranch policies or non-admitted insurers.

Sections 5.B. and 5.C. apply to all insurers and the FAIR Plan, irrespective of their use of wildfire risk models or catastrophe models. The entirety of this regulation applies to insurers and the FAIR Plan, that use wildfire risk models or catastrophe models in property insurance rating or underwriting for homeowners' insurance and property insurance policies.

##### **Section 4 Definitions**

- A. "Community-Level Mitigation Action", for the purposes of this regulation, shall have the same meaning as found at § 10-4-124 (1) (b), C.R.S.
- B. "Colorado FAIR Plan" or "FAIR Plan" shall mean the Fair Plan, the Fair Plan Association, and the Board as defined in § 10-4-1803, C.R.S.

- C. "Date of receipt", for the purposes of this regulation, shall mean the actual date of receipt. If delivered electronically, the recorded date and time of said delivery or if mailed no later than five (5) calendar days after the date the notice is postmarked.
- D. "Insurer" shall have the same meaning as found at § 10-1-102(13), C.R.S.
- E. "Homeowner insurance policies", for the purposes of this regulation, shall have the same meaning as found at § 10-4-101.5, C.R.S.
- F. "Property insurance policies", for the purposes of this regulation, shall mean policies covering residential condominium units as defined in § 38-33-103 (1), and multifamily residential housing as defined in § 24-32-3701 (9), C.R.S.
- G. "Property-Specific Mitigation Action", for the purposes of this regulation, shall have the same meaning as found at § 10-4-124 (1) (c), C.R.S.

## **Section 5      Rules**

- A. If an insurer or the FAIR Plan does not incorporate property-specific or community-level mitigation actions in their wildfire risk models or catastrophe models, they shall provide discounts for policyholders who demonstrate that property-specific or community-level mitigation actions have been undertaken.
- B. An insurer or the FAIR Plan shall post on its public website, in an easily accessible location, the following information:
  - 1. Property-specific mitigation actions the policyholder may undertake that may result in a discount, incentive or other premium adjustment. The amount of discount, type of incentive or other premium adjustment must be clearly identified.
  - 2. Community-level mitigation actions that may be undertaken and that may result in a discount, incentive or other premium adjustment. The amount of discount, type of incentive or other premium adjustment available must be clearly identified.
  - 3. The process for appealing a wildfire risk score.
- C. If an insurer or the FAIR Plan does not provide discounts, they shall post on their public website that discounts for property-specific or community-level mitigation actions are not available.
- D. An insurer or FAIR Plan that provides a mitigation discount or that utilizes a wildfire risk model, risk score, or any other wildfire risk classification shall provide a policyholder or applicant a plain-language explanation of the wildfire model, classification, discount or score, which includes an explanation that insurers may use different models and have different risk score ranges, identifies the applicable wildfire risk score or assigned classification for the property and provides mitigation actions that, if undertaken individually or in combination, may impact the policyholder's or applicant's premium, wildfire risk score or assigned classification. The plain-language explanation of the wildfire model, classification, discount or score must be sent with new policies effective, and renewal policy offers sent to the policyholder, on or after July 1, 2026.

Insurers and the FAIR Plan may use the notification form created by the Division of Insurance and adopted by bulletin to be posted on the Division's website. Insurers may modify the notification form and to provide additional company specific information that is not included in the Division's notification form.

Insurers that do not use wildfire risk models or catastrophe models to make underwriting or rating decisions in their renewal policies are not required to send the plain-language notification in this section.

E. An insurer or FAIR Plan that utilizes a wildfire risk model, classification or risk score shall provide the policyholder or applicant the written notice and explanation required in section 5.D. above:

1. For applicants, no later than fifteen (15) days after the submission of the completed application to the insurer or FAIR Plan.
2. For existing policyholders, in the renewal offer.
3. For policyholders being non-renewed because of their wildfire risk score or assigned classification, the score or classification must be included in the non-renewal notice.
4. If a policyholder or an applicant provides the insurer or FAIR Plan with evidence of completed property-specific mitigation action(s) or community-level mitigation action(s), the insurer or FAIR Plan shall review the evidence and, if applicable, update the wildfire risk score or assigned classification within thirty (30) days of the date of receipt of the evidence.

If the insurer or FAIR Plan determines the evidence does not support a change in the wildfire risk score or assigned classification, the insurer or FAIR Plan shall notify the policyholder or applicant in writing within 30 days of its decision. The notification shall include an explanation of the insurer's or FAIR Plan's decision.

F. An insurer or FAIR Plan that provides discounts as outlined in Section 5.A shall provide the policyholder or applicant their specific discount applicable for documented evidence of property-specific or community-level mitigation actions:

1. For applicants, no later than fifteen (15) days after the submission of the completed application to the insurer.
2. For existing policyholders, in the renewal offer.

G. An insurer that offers a discount in lieu of incorporating the property-specific or community-level mitigation actions in the wildfire risk score or assigned classification model may require the policyholder to provide updated information annually to reflect continued property-specific or community-level mitigation actions to ensure the discount remains applicable.

H. Insurers and FAIR Plan shall provide the policyholder or applicant a written notification of their right to appeal a wildfire risk model score, assigned wildfire risk classification, or applicable mitigation discount when the wildfire risk model score, assigned wildfire risk classification, or applicable mitigation discount notification is provided as required by Section 5.C. and 5.D. above. Such notification shall provide the policyholder or applicant the method for submitting the appeal, which shall include an electronic method such as an email address or online/website appeal request link.

The insurer's appeal process must provide the policyholder or applicant a minimum of thirty (30) days from the policyholder or applicant's date of receipt of their wildfire risk model score, wildfire risk classification, or applicable mitigation discount notification to submit an appeal.

1. If the insurer receives an appeal of the wildfire risk score, assigned classification or an applicable discount, the insurer shall acknowledge the appeal in writing within ten (10) calendar days of receipt of the appeal.

2. The insurer shall respond, in writing to the appeal within thirty (30) calendar days after the date of receipt of the appeal. The response shall include:
  - a. The information reviewed and considered in the appeal decision,
  - b. The insurer's decision, and,
  - c. If the insurer does not change or update the wildfire risk model score, assigned wildfire risk classification, or applicable mitigation discount, a detailed explanation for its decision.
  - d. If the thirty (30) day appeal period extends past the expiration date of a policy, the insurer shall continue coverage for no less than ten (10) calendar days after the policyholder is notified of the decision.
3. If the review of the appeal results in a change or update of the wildfire risk score, assigned classification or applicable discount that is beneficial to the policyholder or applicant, the insurer or FAIR Plan shall apply the change retroactively to the current policy effective date.
4. If the review of the appeal results in a change in the wildfire risk score, assigned classification or applicable discount that results in an increase in premium or reduction in discount, the insurer or FAIR Plan shall not amend the score, classification or discount until the following renewal.
5. If sufficient evidence is not provided by the applicant or policyholder, the insurer or FAIR Plan shall notify the applicant or policyholder of the information that is necessary for the insurer or FAIR Plan to evaluate the appeal and provide an additional 30 days for the applicant or policyholder to submit that information.

In the notification of appeal, insurers or the FAIR Plan shall specify the information they will consider, which includes, but is not limited to:

- a. Receipts and/or photos demonstrating property-specific mitigation work required by the insurer have been completed.
- b. County, local municipalities' or community-level mitigation certificates of completion of mitigation requirements.
- c. Inspection reports from fire departments, certified wildfire inspectors, and/or state or local compliance programs.
- d. Letters, reports, certifications from HOA, wildfire councils, or mitigation contractors.

## **Section 6      Severability**

If any provision of this regulation or the application of it to any person or circumstances is for any reason held to be invalid, the remainder of this regulation shall not be affected.

## **Section 7      Enforcement**

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition

of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

**Section 8      Effective Date**

This regulation shall be effective July 1, 2026.

**Section 9      History**

New regulation effective July 1, 2026.

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