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

INITIAL STATEMENT OF REASONS

MITIGATION IN RATING PLANS AND WILDFIRE RISK MODELS

February 25, 2022 **REG-2020-00015**

INTRODUCTION

The California Department of Insurance (the "Department") proposes to adopt Title 10, Chapter 5, Subchapter 4.8, Article 4, section 2644.9, pursuant to the authority granted by Insurance Code sections 1858, 1859, 1861.01, 1861.05 and 1861.07. The date, time and location for the public hearing, as well as applicable contact information, are set forth in the Notice of Proposed Action for this rulemaking.

STATEMENT OF THE PROBLEM

With the passage of Proposition 103 in 1988, California voters enacted numerous new laws related to the regulation of insurance rates in California, including Insurance Code sections 1861.05(a) and (b) and 1861.10. California Insurance Code section 1861.05(a) makes it unlawful for a rate to be approved or remain in effect which is excessive, inadequate, or unfairly discriminatory. California Insurance Code section 1861.05(b) requires an insurer which desires to change any rate to file a complete rate application containing specified information "and such other information as the commissioner may require."

Proposition 103 sets forth the following findings: (a) "Enormous increases in the cost of insurance have made it both unaffordable and unavailable to millions of Californians."; (b) "The existing laws inadequately protect consumers and allow insurance companies to charge excessive, unjustified and arbitrary rates." (Prop. 103, § 1.) The stated purpose of Proposition 103 is "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." (Prop. 103, § 2.)

Insurance ratemaking requires an assessment of the risks to be insured against, which includes the projected losses due to particular perils or causes of loss such as wildfire. In California, insurers are permitted to classify (segment) wildfire risks and surcharge policyholders depending on how high or low the assessed wildfire risk is for a policyholder's insured property. Insurers can assign wildfire risk scores or classifications depending on the level of wildfire risk. For example, one scoring system often relied upon by insurers has assessed wildfire risk based solely on a property's fuel (i.e., vegetation), slope, and firefighter access. This score affects the premium a given property owner will pay for insurance. In general, higher wildfire risk corresponds to a higher insurance premium.

Some property owners take proactive measures to reduce — or "mitigate" — the risk of wildfire on their property and in their neighborhood. For example, someone may clear vegetation near their house, or install fire-resistant building materials. Such measures reduce the wildfire risk at their insured property. Likewise, communities may employ communitywide mitigation plans in order to reduce the risk of loss due to wildfire. But under current law, insurers are permitted to completely ignore these mitigation measures when they assign wildfire risk scores or classifications to new business applicants or existing policyholders. Thus, the reduction in risk associated with these wildfire mitigation measures is not considered and the rates and premium often do not reflect such mitigation. Governor Newsom also noted the need for California to better mitigate wildfire risks. In his September 29, 2020 letter announcing the signing of Assembly Bill 3012 and Senate Bill 872 in 2020, the Governor stated, in part:

> The devastation caused by recent catastrophic wildfires in California has been exacerbated by the fact that entire neighborhoods and towns have been rendered inhabitable [sic] for months if not years…. The new protections provided by this bill will alleviate some of that strain. However, we must do more.
>
> I am directing the Governor's Offices of Planning and Research and Emergency Services and CAL FIRE to work with the Insurance Commissioner to evaluate and recommend ways that residents, communities and the insurance industry can work together to better mitigate wildfire risks. This work should inform the development of solutions for residents in wildfire prone areas who continue to face the threat of policy non-renewal and rising premium costs for those policies that are available.

(Governor's signing message to Assem. on Assem. Bill No. 3012 and Sen. Bill No 872 (Sept. 29, 2020) 25 Assem. J (2019-2020 Reg. Sess.) p.5573.)

In October of 2020, the Commissioner held a virtual Investigatory Hearing on Homeowners' Insurance Availability and Affordability. Among the public comments received during that hearing, both insurance companies and consumers expressed concern that no uniform, consistent statewide mitigation framework existed to guide both the insurance company and the policyholder or applicant when evaluating mitigation actions. After receiving public input at the Investigatory Hearing, and in numerous community meetings and town halls throughout the State, the Commissioner considered this feedback and developed a plan to address these concerns.

In February of 2021, the Commissioner worked to initiate a multi-agency "Wildfire Mitigation Partnership" to establish a science-based, effective, and consistent approach to insurance ratemaking for insurers that segment rates, create risk differentials or surcharge the premium based on wildfire risk.

In promulgating these regulations, the Department considered the home and community mitigation actions established by the Wildfire Mitigation Partnership made up of California State Agencies with wildfire expertise and programs, including the California Department of Insurance, the California Public Utilities Commission, the Governor's Office of Emergency Services (CalOES), the California Department of Forestry and Fire Protection (CAL FIRE), and the Governor's Office of Planning and Research (OPR) [hereafter "the Wildfire Partnership"]. The Wildfire Partnership engaged in inter-agency collaboration to apply existing expertise, and then sought information and research reports from the Insurance Institute for Business and Home Safety (IBHS), California Association of Fire Chiefs, United Policyholders, Consumer Federation of California, American Property Casualty Insurance Association, and the Personal Insurance Federation of California. Upon engaging with experts and scientists, the home and community mitigation actions were selected to represent a consistent approach to reduce risk of wildfires to existing buildings in California.

To date, private enterprise has made insufficient progress to adopt a consistent approach. Consequently, the Wildfire Partnership was formed to address this need. In fact, Commissioner Lara's work to establish the Wildfire Mitigation Partnership prompted private partnership efforts to follow suit. Indeed, IBHS recently announced its own private venture to do precisely what the Wildfire Partnership announced in February of 2021. (Press release dated August 5, 2021, entitled "IBHS Answering the Call: Non-profit Set to Introduce Wildfire Prepared Home standard for Suburban Residences." https://ibhs.org/ibhs-news-releases/wildfire-mitigation-actions-for-suburban-residences/. Accessed on February 7, 2022.) This IBHS effort is still underway and incomplete, with IBHS speculating that "[t]he new designations should be available in the summer of 2022." (Press release dated December 15, 2021, entitled: "IBHS advances work on Wildfire Prepared Home mitigation standard." https://ibhs.org/ibhs-news-releases/ibhs-advances-work-on-wildfire-prepared-home-mitigation-standard/. Accessed on February 7, 2022.)

Furthermore, for years the Department has received a significant number of complaints from applicants and policyholders advising that they discovered insurers using incorrect wildfire risk scores and classifications as a result of insurers using incorrect data about the consumer's residential or commercial structures (i.e., the Building(s) Being Evaluated) or property. But, under current law, insurers are not required to respond to applicants and policyholders' complaints, again resulting in insurers' failing to consider risk reduction and charging inaccurate rates and premium.

At its core, a key principle of these regulations is to address an observed problem with the current manner in which insurance companies assess an applicants or policyholder's risk of loss due to wildfire — a problem that can lead to violations of the rating laws in the Insurance Code. Insurance Code section 1861.05 prohibits rates that are unfairly discriminatory; that is, an insurance company's charged rate must not treat similarly-situated policyholders differently. Additionally, Insurance Code section 1861.05 also prohibits the existence and approval of rates that are excessive or inadequate.

Thus, for example, while an insurance company may reasonably determine that a wood shingle roof poses an extreme risk in the event of wildfire, if an insurance company mistakenly assumes that a home has a wood shingle roof, the insurance company will erroneously compute the premium charge for that home based on an incorrect assumption about that home's risk. This mistaken assumption causes the insurer to overcharge the policyholder and adversely distorts insurance rates in at least two ways: 1) the insurance company's mistake will worsen the accuracy of its own loss data when assigning a particular risk of loss for particular homes; and 2) the insurance company in this case will have treated similarly-situated policyholders differently, which is the definition of unfair discrimination in rates.

To explain distortion #1 above another way, if an insurance company erroneously assumes homeowner A has a wood shingle roof, and charges premium based on that roof type, the insurance company's data concerning that property's construction materials will be flawed. Thus, in the event of a loss, that company's loss data and underlying rate assumptions will inaccurately reflect the risk of loss for a wood shingle roof type based in part on the insurance company's erroneous assumption about the type of roof for that building. When enough inaccurate data is relied upon during the ratemaking process, it can cause rates to increase or decrease, making them excessive or inadequate in violation of Insurance Code section 1861.05. Similarly, to explain distortion #2, if policyholder A and policyholder B both own homes with the exact same fire-retardant tile roof, but the insurance company mistakenly assumes policyholder A's roof is a flammable wood shingle roof and charges premium based on this mistaken assumption, then policyholder A and policyholder B will pay vastly different premium amounts even though their risk of loss for the roof is exactly the same. This scenario represents how a rate may be applied in an unfairly discriminatory manner, within the meaning of Insurance Code section 1861.05.

The Department has received many consumer complaints from policyholders advising that insurance companies have failed to recognize steps that policyholders have taken to reduce the risk of wildfire for their properties. For example, some policyholders have reported to the Department that insurance companies have sometimes disregarded a homeowner's effort to clear vegetation or make other improvements to "harden" a home against wildfire risk.

Accordingly, these regulations address a root cause of excessive, inadequate and unfairly discriminatory rates by requiring greater transparency between the insurance company and the policyholder or applicant. This greater transparency will send a clear signal to policyholders or applicants about the impact wildfire mitigation may have on their premium, incentivizing mitigation and promoting reduction of risk of loss due to wildfire. This greater transparency, together with the policyholder or applicant's opportunity to appeal an erroneous wildfire risk score or other risk classification, will improve the accuracy of insurance company ratemaking data and also reduce unfairly-discriminatory rating practices.

The proposed regulation requires insurers, in assigning wildfire risk scores or otherwise classifying wildfire risks, to conduct a more granular, and thus more accurate risk assessment. By requiring insurers to include wildfire mitigation measures — and the reduction in risk therefrom in their risk assessment — insurers' rates and premiums will no longer be excessive, inadequate, or unfairly discriminatory due to failure to consider mitigation measures. Ensuring that rates and premiums are not excessive, inadequate, or unfairly discriminatory is the central statutory command of Proposition 103.

California Insurance Code section 1861.10 promotes consumer participation in ratemaking by allowing consumers to participate in the ratemaking process and enforce the rating laws. These laws require insurers to file all data they rely upon to set rates, for that data to be publicly available so all consumers including consumer groups may review it, and allow consumers to enforce rating laws including those prohibiting rates that are excessive, inadequate or unfairly discriminatory. The proposed regulation furthers the purpose of fostering consumer participation in the rate setting process by requiring insurers to provide information to consumers about how their rates and premiums were determined.

OVERALL PURPOSE AND ANTICIPATED BENEFITS

The overall purpose of the proposed regulations is twofold. First, the proposed regulations will ensure that insurance rates and premiums are not excessive, inadequate, or unfairly discriminatory by ensuring that the assignment of wildfire risk scores or classifications and resulting rates or premiums properly consider the effect of wildfire mitigation measures. Second, the proposed regulations will provide consumers with the information necessary to help ensure that insurers are not charging excessive, inadequate, or unfairly discriminatory rates or premium due to the insurer's assignment of incorrect wildfire risk scores or classifications.

The benefits of the proposed regulations are:

- Incentivizing individual and community mitigation efforts by requiring insurers to consider property and community-level mitigation against wildfire risk;
- Reducing the risk of loss posed by wildfires;
- Improving accuracy in the classification of wildfire risk and the resulting rates and premiums;
- Increasing transparency in, and consumer awareness of, insurers' rating and/or scoring of wildfire risk;
- Enhancing consumer protection by establishing a consumer appeals process;
- Reducing unfair discrimination by enhancing consistency in insurers' wildfire rating practices and/or risk scoring practices; and
- Potentially improving availability and affordability of property-casualty insurance for communities and properties where wildfire mitigation measures have been implemented.

SPECIFIC PURPOSE AND REASONABLE NECESSITY OF ADOPTING REGULATIONS

The specific purpose of each adoption, the problem the Department intends to address, 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. In order to provide the necessary context for the proposed regulations, the following paragraphs describe the general principles of insurance ratemaking, including rating plans, rating factors, and wildfire risk scores and classifications, in addition to a discussion of the incorporation of wildfire mitigation measures in ratemaking.

Insurance ratemaking is the process through which insurance companies establish a rate. A rate is an insurance company's estimate of how much they will have to pay to cover the future cost of transferred risk, where they assume risks by selling insurance policies. Under Proposition 103 (Ins. Code § 1861.05(a) in particular), an insurer must seek approval from the Commissioner of a rate before the rate may be charged to consumers ("applicant or policyholder" as used herein). The Commissioner approves a "base rate." The insurer will use this as the starting cost of an insurance policy and then adjust it for each policyholder based on differences in coverage and individualized risk characteristics; this is the premium the insurer will charge. An insurance premium, therefore, is the specific amount of money charged to provide a specific amount and type of insurance coverage under a specific insurance policy for a residential or commercial structure, or Building Being Evaluated, for a specific amount of time. The insurance premium also reflects any changes in coverage and accounts for the specific risk attributes of a policyholder or applicant at that specific residence or commercial property. By way of example, an insurer's base rate for a home insured for $500,000 might be $1000, but it may increase to $1200 by applying a rating factor that considers wildfire risk because the home is located in a high wildfire risk area. In the automobile context, the premium would be affected by mandatory rating factors such as miles driven and years driving experience. (Ins. Code § 1861.02(a).)

A rating factor, therefore, is a specific factor such as a property characteristic (e.g., type or age of roof) or geographic characteristic (e.g., the slope of the property or amount of brush) that impacts the premium charged, or, put another way, determines how rates are segmented. Insurers assign relativities to the factors to adjust the rate up or down, and these relativities are applied to determine individual premium. An insurer's rating plan will contain all of the rating factors the insurer considers in determining the premium for each risk. In the context of wildfire, insurers generally include in their rating plan a list of property and geographic characteristics that serve as rating factors. Often, these characteristics are considered by a wildfire risk model, as defined in subdivision (b)(7) of this proposed regulation, which definition includes models used for purposes of assessing wildfire risk associated with a specific home or business but excludes models used for purposes of projecting aggregate catastrophic losses. A score is often a measure of multiple rating factors that provides an overall risk assessment of the Building Being Evaluated.

Mitigation measures are improvements the applicant or policyholder can make to the Building Being Evaluated to reduce the risk of wildfire. Lowering wildfire risk should result in lower rates or premiums. Examples of mitigation measures include: clearing brush, using fire retardant building materials, and improving firefighting access. Under the proposed regulations, an insurer's rating plan, whether inclusive of a Wildfire Risk Model within the meaning of subdivision (b)(7) below or not, must consider the impact of specified rating factors (some of which are mitigation measures) set forth in subdivision (d) of the proposed regulation. An insurer's rating plan will therefore reflect decreases or increases in premium below or above the insurer's base rate due to the presence or absence of such rating factors, and the impact on the premium resulting from the applicant or policyholder performing these mitigation measures.

Insurance companies use rating factors to rate individual policies, and to classify insured risks into groups that are expected to have similar underlying claim-costs in the future. Classifying in

this manner is referred to as rate segmentation. Such segmentation also allows the insurance companies to determine an appropriate and potentially different rate for each risk group. Multiple rating factors may be used to identify and evaluate the levels of risk that an applicant or policyholder poses in order to "segment" the rate and appropriately charge either above (surcharge) or below (discount) the base rate approved for the insurance company's entire book of business. In other words, segmenting, creating a risk differential, or surcharging is the process by which an insurer determines the appropriate premium for individual insurance policies.
A Wildfire Risk Model may be used to segment, create a risk differential, or surcharge; the wildfire risk model will generally consider risk characteristics and assign an overall score for a given property. Insurers will then segment, create a risk differential, or surcharge based on the score. For example, a wildfire risk model may score properties on a scale from 1-10. Each numeric value is then used as a method of segmenting, creating a risk differential, and/or surcharging the premium. Insurers may also do something similar without the use of a Wildfire Risk Model which may result in a score or other classification (e.g., low, medium, and high risk) used to segment, create a risk differential, or surcharge the premium. For example, a score of 2 on a scale of 1-10 will correspond to a particular premium that is greater than the premium for a score of 1 but less than the premium for a score of 3.

An insurer's rating plan therefore includes the schedule of factors considered in establishing the specific premiums, and will contain all of the rating factors considered in determining the premium for each policy insuring a residential or commercial structure. In the context of wildfire, insurers generally include in their rating plan a list of property and geographic characteristics that serve as rating factors. A number of risks may be considered by a Wildfire Risk Model. As part of his statutory command to approve an insurer's rates, the Commissioner must approve the insurer's rating plan and the rating factors contained therein.

(a) Applicability.

> *(1) An insurer that promulgates a rate that is developed with, determined by or relies upon, in whole or in part, a rating plan that segments, creates a rate differential, or surcharges the premium based upon a policyholder or applicant's wildfire risk shall comply with this Section 2644.9. If a rate that is developed with, determined by or relies upon a rating plan that complies with this section is approved, in whole or in part, and thereafter such rating plan is replaced, or modified in any manner, including but not limited to, the inclusion of new factors, or different criteria or algorithms, the insurer shall, prior to implementing the new or modified rating plan, file a new rate application, which shall include the new or modified rating plan. No such new or modified rating plan shall be used unless and until the new rate application is approved.*

The purpose of this section is to require insurers who segment, create a risk differential, or surcharge the premium based on wildfire risk to comply with this proposed regulation. This section also serves the purpose of making it clear that an insurer desiring to implement any new rating factors or make any changes to already approved rating factors or any other similar criteria or algorithms contained within the insurer's rating plan shall file a new rate application and obtain approval for the new and/or modified rate and/or rating plan prior to using the rate or applying any of the new or changed rating factors, criteria, or algorithms.

The consideration of wildfire mitigation measures helps ensure that, pursuant to Proposition 103, insurance rates and premiums are not excessive, inadequate, or unfairly discriminatory. Current law, however, is silent with respect to the manner in which or even whether mitigation measures must be considered by an insurer and reflected in their rating plan. Currently, there are no statutory or regulatory framework applicable to the use of rate segmentation, the creation of rate differentials, or surcharging premium with respect to wildfire risk and mitigation measures. Some insurers may consider wildfire mitigation measures in segmenting, creating a risk differential, or surcharging the premium based on wildfire risk, but there are no frameworks or mandates under California law.

An additional effect that will also result from the broad applicability of the proposed regulations that is stated in subdivision (a)(1) is that, once all such insurers are required to consider mitigation measures undertaken by property owners, it will no longer be the case that only a minority of insurers offer premium credit or discounts based on the mandatory mitigation measures specified in the text of regulation. Thus, affected applicants and policyholders will have a much wider selection than at present among insurers offering such credit or discounts. This marketwide availability of insurance policies that consider mitigation measures undertaken by affected property owners will further incentivize mitigation, since mitigation discounts will be available, no matter which insurer is chosen.

This section is therefore reasonably necessary for two key reasons. First, this section is reasonably necessary to establish the threshold applicability of the regulation — to an insurer that segments, creates risk differentials, or surcharges the premium based on wildfire risk. Second, this section is reasonably necessary to require that an insurer who has an approved rate and rating plan shall seek prior approval of any changes to the rating plan, *i.e.*, the inclusion of any new, or exclusion of any existing, rating factors, criteria, or algorithms before the insurer may implement the revised rating plan and any changed rate. This requirement is consistent with the statutory mandate in Insurance Code section 1861.05(b), which requires an insurer who desires a rate change, which is inclusive of changes to that insurer's rating plan or schedule of premiums, to file a rate application with the Commissioner.

> *(2) A rating plan shall satisfy the requirements of subdivision (d)(1) of this Section 2644.9 only if the rating plan taken as a whole, including the operation of any Wildfire Risk Models that may be incorporated into the rating plan, takes into account and reflects the factors described in subdivisions (d)(1)(A) and (d)(1)(B) of this section. Nothing in this section shall be construed to require the use of a Wildfire Risk Model.*

The purpose of this section is to establish that an insurer that segments rates, creates risk differentials, or surcharges the premium based on wildfire risk may not use a rating plan that does not comply with these proposed regulations; in particular, this section requires that an insurer that segments rates, creates risk differentials, or surcharges the premium based on wildfire risk use only a rating plan that takes into account and reflects the mandatory factors in (d)(1)(A) [community level mitigation efforts] and (d)(1)(B) [property level mitigation efforts] (all of which may hereinafter be referred to collectively as “mitigation measures” or “mandatory rating factors”). This section makes clear that the rating plan may take into account and reflect the mandatory factors in (d)(1)(A) and (d)(1)(B) on its own or through the use of a Wildfire Risk Model, as defined in subdivision (b)(7), or by using a combination of factors in the rating plan and Wildfire Risk Model(s). This section also makes clear that a Wildfire Risk Model need not be used to satisfy the requirements.

Without this language, the regulation could be interpreted to require that a Wildfire Risk Model must contain all of the mandatory rating factors specified in subdivision (d) of this proposed regulation. This language makes clear that the insurer’s rating plan must include all of the mandatory rating factors, but falls short of requiring that all of the mandatory rating factors be contained in the Wildfire Risk Model itself. In some cases, a Wildfire Risk Model will contain some of the mandatory rating factors, while the rest will be contained elsewhere within the insurer’s rating plan. This language provides flexibility to insurers for compliance. To wit, an insurer may use a Wildfire Risk Model that contains all of the mandatory rating factors, or the insurer may use a Wildfire Risk Model that only contains some of the mandatory rating factors, or the insurer may not use a Wildfire Risk Model at all, provided the insurer’s rating plan otherwise takes into account and reflects the mandatory rating factors in subdivision (d) of this proposed regulation. Likewise, this language makes clear that neither the insurer’s rating plan nor a Wildfire Risk Model, if used, need to independently and at the same time take into account and reflect all of the mandatory factors, provided that, taken as a whole, the insurer’s rating plan does so.

This section is reasonably necessary to ensure that an insurer that segments rates, creates risk differentials, or surcharges the premium based on wildfire risk uses a rating plan that takes into account and reflects the mandatory factors in (d)(1)(A) and (d)(1)(B). This section is also reasonably necessary to clarify that this proposed regulation does not require the use of a Wildfire Risk Model nor does it require a Wildfire Risk Model, if used, to contain the mandatory factors set forth in subdivision (d)(1)(A) and (d)(1)(B), so long as the rating plan and/or another Wildfire Risk Model incorporated into the rating plan does contain the mandatory factors. In other words, a Wildfire Risk Model may take into account and reflect some but not all of the mandatory factors in (d)(1)(A) and (d)(1)(B), and the remaining factors could be otherwise taken into account and reflected in the rating plan itself or and additional Wildfire Risk Model. As an example, some wildfire risk models currently in use only consider a few factors, so the insurer would be required to either select a different Wildfire Risk Model that included all of the mandatory factors in (d)(1)(A) and (d)(1)(B), or to continue using the Wildfire Risk Model but then otherwise take into account and reflect the remaining factors in the rating plan. This section is therefore reasonably necessary to provide insurers multiple methods of complying with the regulation by reflecting and taking into account the mandatory factors in (d)(1)(A) and (d)(1)(B) in either a Wildfire Risk Model, the insurer's rating plan, or a combination of both.

(b) Definition. As used in this section, each of the following terms has the meaning set forth below:

> *(1) Building Being Evaluated.*
> *The term "Building Being Evaluated" means the residential or commercial structure in question, and includes decks that are attached to or abut the structure.*

The purpose of this section is twofold: First, to provide a shorthand reference for a term used for repeatedly discussing a specific thing, in this case the residential or commercial structure that is insured, or to be insured. Using such a shorthand increases clarity and readability of later sections of the regulation, in particular the mandatory rating factors in subdivision (d). The second purpose of this section is to make clear that a deck which is affixed to or abuts the Building Being Evaluated ("BBE") is part of same. In other words, even though a deck is generally considered a structure separate from a residential or commercial structure, for the purposes of this proposed regulation the deck is considered part of such structure.

The text of this proposed regulation may be difficult to read without a shorthand for the BBE. Since the regulation applies to both residential and commercial structures, and likewise applies to a deck which is attached or abuts such structures, without a shorthand it may be difficult for insurers to apply the mandatory rating factors or for policyholders or applicants to perform mitigation measures. For example, in proposed subdivision (d)(1)(B)1.b. the requirement is that vegetation and debris be cleared within five feet of the BBE. If the shorthand was not used and defined herein as including a deck which is attached or abuts the structure in question, the insurer could apply the rating factor in an unfairly discriminatory or inconsistent manner if it, for example, required debris or vegetation to be cleared within five feet of the structure not including the attached or abutted deck.

This section is therefore reasonably necessary to meet the clarity standard of the Administrative Procedure Act. This section is also reasonably necessary because different configurations of buildings and deck construction exist. If the definition did not include decks attached to or abutting the structure, then in order to receive mitigation credit under proposed subdivision (d)(1)(B)1.c., for example, or proposed subdivision (d)(1)(B)1.d., a property owner would be forced to replace the portion of a deck situated within five feet of the structure in question with noncombustible materials, or remove the deck altogether. It is reasonably necessary that the regulations refrain from imposing impracticable or unrealistic requirements on homeowners in order for them to receive any mitigation credit.

2) *Class-A Fire Rated Roof*

> *A "Class-A Fire Rated Roof" is a roof that receives a Class A rating when tested in accordance with ASTM E108 or UL 790.*

The purpose of this section is to provide a definition for later use in subdivision (d) of this proposed regulation. This definition incorporates the standard set forth in Chapter 7a of the 2019 California Building Code. (24 CCR 705A.2.) ASTM E108 and UL 790 are standards set by private entities for how to manufacture these roofs. Since the Department does not have the expertise regarding how to develop a Class-A Fire Rated Roof, ASTM E108 and UL 790 are proper sources of such expertise, it is reasonably necessary, where practicable, that the proposed regulations make use of terms that have an existing meaning as understood in industry. Likewise, the Wildfire Partnership has determined that a Class-A Fire Rated Roof has a strong correlation to a reduction in the risk of wildfire loss. Additionally, whether or not a structure has such a roof is already taken into account by some insurers.

Without such a definition, it may cause confusion as to what type of roof qualifies as a Class-A Fire Rated Roof, and therefore how the mandatory rating factor in proposed subdivision (d)(1)(B)2.a. is to be applied when the insurer segments the rate, creates a risk differential, or surcharges the premium. The definition also gives policyholders and applicants the precise information needed if they choose to replace their existing roof with a Class-A Fire Rated Roof in order to achieve the desired mitigation rate credit.

This section is therefore reasonably necessary to meet the clarity standard in the Administrative Procedures Act. This section is also reasonably necessary to encourage insurers to reward and consumers to adopt wildfire protective measures that are consistent with Chapter 7A of the California Building Code. Chapter 7A of the California Building Code addresses building standards for wildfire areas.

(3) Enclosed Eaves.

> *"Enclosed Eaves" are roof eaves that have either (1) boxed-in roof eave soffits with a horizontal underside or (2) an exterior covering applied to the underside of the rafter tails supporting the eaves, which covering is sloped corresponding to the slope of the rafter tails. Enclosed Eaves are thus distinguishable from open roof eaves, whose rafter tails are exposed.*

The purpose of this section is to alleviate any confusion as to what is meant by the term Enclosed Eaves. For example, boxed eaves as referred to in the first part of the definition of Enclosed Eaves are but one type of enclosed eave; the second part of the definition provides that a different type of eave qualifies as an Enclosed Eave.

Without such a definition, there is the potential for confusion about what qualifies as an Enclosed Eave for purposes of this proposed regulation, in particular the application of the mandatory rating factor in proposed subdivision (d)(1)(B)(2)(b).

This section is reasonably necessary to meet the clarity standard in the Administrative Procedure Act. This section is also reasonably necessary to ensure that Enclosed Eaves for purposes of this proposed regulation and in particular the application of the mandatory rating factor proposed subdivision (d)(1)(B)(2)(b) is consistent with Chapter 7A of the California Building Code. Chapter 7A of the California Building Code addresses building standards for wildfire areas.

(4) Fire-Resistant Vents.

> *"Fire-Resistant Vents" are vents, including but not limited to ventilation openings for enclosed attics, enclosed eave soffit spaces, enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, and underfloor ventilation openings, that are fully covered with wildland flame and ember resistant vents approved and listed by the California State Fire Marshal or with vents listed to the ASTM E2886 standard.*

The purpose of this section is make clear that many types of vents or openings may be considered Fire-Resistant Vents so long as wildland flame and ember resistant vents approved and listed by the California State Fire Marshal or with vents listed to the ASTM E2886 standard fully cover such vents or openings. This is consistent with The CalFire retrofit list, which references the standard for fire resistant vents set forth in Chapter 7A of the 2019 Edition of the California Building Code. (24 CCR 706A.2.)

Without including a definition that provides flexibility to applicants and policyholders as to which types of vents qualify as Fire-Resistant Vents, insurers could require Fire-Resistant Vents to be the most expensive variety.

This section is reasonably necessary to meet the clarity standard in the Administrative Procedures Act. This section is also reasonably necessary to ensure that the term Fire-Resistant Vents as used in the mandatory rating factor in proposed subdivision (d)(1)(B)(2)(c) is consistent with Chapter 7A of the 2019 Edition of the California Building Code. Chapter 7A of the California Building Code addresses building standards for wildfire areas.

(5) Firewise USA Site in Good Standing.

A "Firewise USA Site in Good Standing" is a community that, at the time the Building Being Evaluated is rated, is recognized as such by the National Fire Protection Association, a Massachusetts 501(c)(3) corporation.

The purpose of this section is to define the term "Firewise USA Site in Good Standing." This definition distinguishes between Firewise Sites that are recognized as "In Good Standing" by the National Fire Protection Association [NFPA], a Massachusetts 501(3)(c) corporation, and those that are not. The Wildfire Partnership has recognized the wildfire risk-reduction value provided by Firewise Communities in good standing.

Without this definition, it is possible there could be confusion regarding what is a Firewise Site, generally speaking, and a Site "In Good Standing," in particular. Some insurers may even recognize a mitigation discount or credit for a home or business located in a Firewise Community even if it is not an Active Firewise Community; such a discount or credit could result in rates which are not risk based, and may result in rates which are excessive, inadequate, or unfairly discriminatory.

It is reasonably necessary for the proposed regulation to define and specifically identify Firewise USA Sites in Good Standing because:

1) The California Department of Insurance has recognized Firewise Communities as having a substantial relationship to the risk of loss for homes within their boundaries by having approved rate filings that specify discounted premiums for homes within Firewise communities.
2) Firewise Communities as a designation are well-entrenched, so much so that insurers representing over 30% of the market already recognize a discount for homes located in Firewise Communities, and
3) The Wildfire Partnership identified Active Firewise Communities (and in particular the homes and businesses located within them) as having a correlation to the reduced risk of ignition due to wildfires through community mitigation actions.

This section is also reasonably necessary because the term Firewise USA Site in Good Standing is used in subdivision (d)(1)(A)(3) as one of the community level mitigation measures that must be considered in an insurer's rating plan for the purpose of segmenting rates, creating a risk differential, and segmenting the premium.

(6) Shelter-in-Place Community.

A "Shelter-in-Place Community" is a community designed, built and maintained to reduce the risks from heat and flames that result from an approaching wildfire, and is designated as such by the local fire district with jurisdiction in that area. Characteristics of a Shelter-in-Place Community include driveway and roadway *widths that facilitate evacuations and firefighting efforts, and a communitywide landscape and vegetation plan that is approved by the local fire district and that is not allowed to be altered without approval from the fire district. Further, each dwelling in such a community is required to maintain the fire-resistant design features specified for the structure at the time the community was designated a Shelter-in-Place Community.*

The purpose of this section is to define a Shelter-in-Place Community (“SIPC”). SIPCs have been recognized by the Wildfire Partnership as bearing a correlation to reducing the risk of wildfire spread because of the mitigation measures undertaken by the community.

Without providing a definition and specifically referring to SIPCs, the proposed regulation could be unclear.

This section is reasonably necessary to meet the clarity standard of Administrative Procedure Act. This section is also reasonably necessary because SIPCs are referred to in subdivision (d)(1)(A)2. as one of the community level mitigation measures that must be considered in an insurer’s rating plan for the purpose of segmenting rates, creating a risk differential, and segmenting the premium.

As with Firewise Communities, insurers have filed and the Department has approved rate filings that accord mitigation credit or discounts for buildings located in Shelter-in-Place Communities. Accordingly, it is likewise reasonably necessary to include Shelter-in-Place Communities among the community mitigation measures specified in the proposed regulations, because the correlation of these communities with reduced risk of wildfire loss has thus been similarly recognized.

(7) Wildfire Risk Model.

(A) The term "Wildfire Risk Model" means any tool, instrumentality, means or product, including but not limited to a map-based tool, a computer-based tool or a simulation, that is used by an insurer, in whole or in part, to measure or assess the wildfire risk associated with a residential or commercial structure for purposes of:

1. Classifying individual structures according to their wildfire risk; or

2. Estimating losses corresponding to such wildfire risk classifications.

(B) The term "Wildfire Risk Model" does not include models used for purposes of projecting aggregate losses under Section 2644.4 or 2644.5.

In order to determine the appropriate insurance premium for a specific insured, insurers apply their approved rates to their approved "rating plan," which is a set of rules used to calculate the premium for a given insurance policy. In calculating premium, that is, in applying the rating plan, higher rates are applied for policies with a higher risk of loss, and vice versa. More specifically, the consideration of risk, including wildfire risk, occurs in the "rating plan." Further, pursuant to the proposed regulation, insurers that base their rates in part on wildfire risk shall consider certain factors in assessing that risk (see subdivision (a)).

Within an approved rating plan, insurers may use a model. Such models, as incorporated into the rating plan, may be used for many purposes. One such purpose is to assess wildfire risk. When a model is used for this purpose, the proposed regulation applies.

Subdivision (b)(7) defines the term "Wildfire Risk Model" as that term is used in the proposed regulation. The purpose is to clarify that the proposed regulation's use of the term applies only to certain models, those that are included in the definition. Otherwise, in the absence of the definition, the word "model" may not have a widely accepted definition. Because insurers use different wildfire risk models, the proposed regulation defines it broadly enough to avoid being underinclusive. At the same time, the definition excludes all other types of models, those that aren't included in the definition, which prevents the definition from being overinclusive. In this way, the definition is narrowly tailored to apply to all models to which the regulation could apply, and only those models. As such, the language addresses the problem of potential uncertainty amongst affected parties and helps prevent affected parties from contemplating any unintended interpretation, thus allowing affected parties to act in accordance with the proposed regulation without undue confusion which has the benefit of preserving the resources of insurers, consumers, and the Department.

Subdivision (b)(7) is reasonably necessary to ensure affected entities properly understand the applicability of the proposed regulation. Clearly defining the thing ("Wildfire Risk Model") to which the regulation applies is reasonably necessary to put affected parties on notice that the specified practices are subject to new requirements as a result of the proposed regulation. This is necessary in order to afford affected entities proper opportunity to comply with such requirements. Thus, such considerations are taken in the interests of fairness and justice.

Subdivision (b)(7) is narrowly tailored to apply to only the models that the Department intends to be affected by the proposed regulation. This tailoring is necessary to ensure that is it neither overinclusive nor underinclusive — but rather covers only the types of models that serve the purpose and benefits of the regulation. Specifically, the Department drafted the provision to apply to models that assess wildfire risk because those are the models that are affected by the proposed regulation's requirements. This is necessary because without limiting the definition to specific models, insurers would incur extra costs of compliance for very little to no benefit. At the same time, setting forth the definition to specifically target certain models also ensures consumers receive the proper benefit.

The definition of "Wildfire Risk Model" is further limited by defining the purposes for which applicable models are used. Since the proposed regulation concerns models used to assess wildfire risk, as opposed to many other potential purposes, the definition is limited accordingly. The purposes set forth in the definition also account for the fact that models to which the proposed regulation applies are used by entities concerned with estimating the risk of loss in order to determine the proper premium. Since the structure is the thing insured, the definition's purposes account for the risk of loss to structures, and further accounts for the estimated amount of loss due to wildfire. This also ensures that the definition is tailored towards the proposed regulation's overall purpose. This tailoring helps to prevent against the potential problem of any affected party contemplating any unintended interpretation which may cause undue follow up questions to the Department, and which has the ultimate benefit of preserving resources of insurers, consumers, and the Department.

For the proposed regulation, it is reasonably necessary to define a model by the purposes for which it is used in order to ensure that the proposed regulation's purposes and benefits are realized. Because the proposed regulation requires insurers to account for mitigated (reduced) wildfire risk, the definition is necessarily drawn to capture models that measure wildfire risk. Because insurance policies indemnify structures, the provision sets forth applicability to models that measure wildfire loss to structures. And because actuaries calculate insurance policy premiums based on estimated losses, inter alia, the proposed language accounts for this estimation of losses. Thus, the provisions are necessary to help ensure the proposed regulation's purposes and benefits are met.

Under existing law, for insurance policies subject to the proposed regulation, models shall not be used in estimating overall aggregate losses. Such existing law is unaffected by the proposed regulation. The proposed regulation applies to the completely separate process of rate segmentation, a process that takes place subsequent to estimating overall aggregate losses. Consequently, the proposed regulation does not, and cannot, apply to the estimation of overall aggregate losses pursuant to those separate existing regulations. In case there was any doubt, the definition specifies that it does not include models used for purposes of determining overall aggregate losses, a process that is set forth in the cited excluded regulations. This will beget certainty and help prevent affected parties from contemplating unintended interpretations, thus preserving the resources of insurers, consumers, and the Department.

It is also reasonably necessary to specify that the proposed regulation does not affect Sections 2644.4 or 2644.5 to safeguard against affected persons and entities improperly interpreting the proposed regulation. Those existing sections make clear that, for policies subject to the proposed regulation, models shall not be used to calculate overall ("aggregate") losses. Instead of modeled losses, historic losses shall be used. The proposed provision is necessary to notify affected entities that the proposed regulation affects models used for purposes other than estimating overall ("aggregate") losses. Thus, in absence of this provision some people would improperly interpret the proposed regulation.

(c) Wildfire Risk Models to be provided to the Commissioner.

> *Pursuant to Insurance Code section 1861.05, subdivision (b), any Wildfire Risk Model, as defined in subdivision (b)(7) of this section, that is used, in whole or in part, in an insurer's rating plan shall be provided to the Commissioner as part of an insurer's complete rate application.*

Proposition 103, as codified in existing statutes, places great responsibility on the Commissioner. The stated purpose of Proposition 103 (codified at Chapter 9, Article 10 of the Insurance Code) is "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." (Historical and Statutory Notes, 42A West's Ann. Ins. Code (1993 ed.) foll. § 1861.01, p. 649.)

The Commissioner is required to conduct an extensive rate review. As set forth in Proposition 103, the Commissioner is required to review and approve insurers' proposed rates, including a rating plan, before they are used by the insurer (Insurance Code section 1861.01(c)). Existing law further requires the Commissioner's review to determine whether an insurer's proposed rates are excessive, inadequate, unfairly discriminatory, or otherwise in violation of relevant law (Insurance Code section 1861.05(a)). The California Supreme Court has made clear that Proposition 103 provides the Commissioner substantial authority and flexibility in establishing the rules and procedures for assessing insurer's proposed rates, which necessarily include rating plans. (*20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216, 280(*20th Century*); *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, 824 (*Calfarm*).)

In order to fulfill the Commissioner's responsibility to protect consumers from arbitrary rates and practices, and determine whether insurers' rates are excessive, inadequate, unfairly discriminatory, or otherwise in violation of relevant law, the Commissioner understandably requires a large amount of information. As such, section 1861.05(b) provides for specific information insurers are required to submit, and grants the Commissioner additional broad authority to seek any other information the Commissioner requires in order to fulfill the statutory rate review duties (". . . and such other information as the Commissioner may require.")

Insurance rate review necessarily includes assessing an insurer's risk of loss. The risk of loss is employed to calculate projected losses, a major component of insurance rates.

Models are used to assess the risk of loss, and thus to calculate rates. Accordingly, many insurers use models to support or justify a proposed rate. It therefore follows that the Commissioner, in order to fulfill their duties, is required to review models to the extent they are used to assess the risk of loss.

Model review is legally necessary. The Commissioner would be violating the Commissioner's duties if the Commissioner did not review the insurer's proposed use of the model when such use is intended to support or justify a proposed rate. In order to determine whether an insurer's proposed rates are fair, that is, not excessive, inadequate, unfairly discriminatory, or otherwise in violation of relevant law, the Commissioner is required to review the data, rules, methods, means, information, and any similar calculations that underlie, support, and/or justify the proposed rates. Because models are used for exactly that, they shall be reviewed during the rate review process.

If the Commissioner were to refrain from reviewing Wildfire Risk Models in this context, the Commissioner would be violating the Commissioner's statutory duty to ensure that insurance rates are not excessive, inadequate, or unfairly discriminatory.

This subdivision is reasonably necessary to implement, interpret, and make specific Insurance Code section 1861.05, specifically the provision "such other information as the Commissioner may require". Because the model contains information used to set rates — rates the Commissioner is required to review — such information is required for review. Insurers filing a rate application without submitting the models they use to assess wildfire risk fail to properly support or justify their proposed rate. Thus, submitting the model — specifically the portion "that is used, in whole or in part, in an insurer's rating plan" — is necessary in order to determine whether the insurer's proposed rate is not "excessive, inadequate or unfairly discriminatory" pursuant to existing law.

(d) Mandatory factors.

(1) No insurer shall use a rating plan that does not take into account and reflect the following mandatory factors:

As explained above, an insurer's rating plan includes the schedule of factors considered in establishing the specific premiums, and will contain all of the rating factors considered in determining the premium for each policy insuring a BBE. In the context of wildfire, insurers generally include in their rating plan a list of property and geographic characteristics that serve as rating factors. A number of rating factors may be considered by a Wildfire Risk Model, as defined in subdivision (b)(7) of this proposed regulation.

This regulation requires insurers to do a number of specific things, including the incorporation of the mandatory rating factors (or "mitigation measures" as discussed above) set forth in (d)(1)(A) and (d)(1)(B) into their rating plan. The purpose of this section is to clearly prohibit an insurer from using a rating plan which does not incorporate the mandatory factors.

The mandatory rating factors in subdivision (d) are property- and community-level wildfire mitigation measures the Commissioner has selected because they offer an achievable, science-based, effective, and consistent approach to insurance ratemaking for insurers that segment rates, create risk differentials or surcharge the premium based on wildfire risk.

Without this regulation, there is no existing requirement under California law that requires an insurer to consider the mandatory rating factors in their rating plans when they segment create a risk differential, or surcharge the premium, which may continue to result in insurers charging rates which are excessive, inadequate, or unfairly discriminatory in violation of Proposition 103.

This section is reasonably necessary to ensure that insurers take into account and reflect the impact of the mandatory factors set forth in (d)(1)(A) and (d)(1)(B). The terms "take into account" and "reflect" were chosen to ensure that insurers recognize the impact, if any, of the mandatory factors in (d)(1)(A) and (d)(1)(B) on the rates and premiums of policyholders and applicants. The terms "take into account" and "reflect" were likewise chosen to give the insurer some flexibility in how they recognize the impact of the mandatory factors in (d)(1)(A) and (d)(1)(B). In other words, the proposed regulation does not require the mandatory factors in (d)(1)(A) and (d)(1)(B) to have a particular impact on the rates and premiums (e.g., a set percentage discount), but nonetheless requires the insurer's rating plan to take into account and reflect the mandatory factors in (d)(1)(A) and (d)(1)(B). This section is reasonably necessary because there is no requirement under current statutes or regulations that insurers take into account or reflect any specific mitigation factors, let alone the mandatory factors in (d)(1)(A) and (d)(1)(B). While some insurers may already take into account and reflect some of the mandatory factors in (d)(1)(A) and (d)(1)(B) or similar rating factors or criteria in their existing rating plans, there is no requirement that they do so. If an insurer is not taking into account whether its policyholders are engaging in mitigation measures, then it is charging a consumer with a combustible roof the same premium as it charges a consumer who has a non-combustible roof, thus resulting in rates that are excessive, inadequate or unfairly discriminatory This section is reasonably necessary to ensure that rates are not excessive, inadequate or unfairly discriminatory.

(A) Community-level mitigation efforts: The rating plan shall reflect, and the rate offered to the applicant or insured shall be based in part on, the reduced wildfire risk resulting from community-level mitigation efforts. At a minimum the rating plan shall take into account whether the Building Being Evaluated is located in:

The purpose of the first sentence of this section is twofold: first, to require an insurer to reflect the mandatory factors (i.e., "community-level mitigation efforts") in its rating plan, which have been selected by the Wildfire Partnership as having value to reduce the risk of the spread of wildfires; and, second, to ensure that the rate offered to the applicant or insured is based in part on the reduced wildfire risk resulting from the application of such mandatory factors. In other words, an insurer must first develop a rating plan that includes a rating factor for each of the three mitigation efforts (i.e., "communities") listed below. Then, the insurer must apply each rating factor that applies to the applicant or policyholder's property such that the rate or premium offered to the applicant or policyholder is based upon the reduced wildfire risk resulting from the policyholder or applicant’s property being located in one or more of the three types of wildfire-mitigated communities listed below.

Under current law, there is no requirement that an insurer reflect in its rating plan the impact of any of the three types of wildfire-mitigated communities listed below, nor is there a requirement that an insurer base a policyholder or applicant’s rate or premium on the reduced wildfire risk attendant to the policyholder or applicant’s property being located in one or more such communities. As such, rates charged to policyholders or applicants that do not reflect the reduced wildfire risk attendant to the policyholder’s property being located in a wildfire-mitigated community, likely result in rates which are excessive, inadequate, and/or unfairly discriminatory in violation of Proposition 103.

The first sentence of this section is reasonably necessary to ensure that insurers amend their rating plans to reflect the three types of wildfire-mitigated communities and apply the corresponding rating factors to a policyholder or applicant’s rate to ensure the rate is not excessive, inadequate, or unfairly discriminatory and therefore in compliance with Proposition 103.

The purpose of the second sentence is to the tie the definition of Building Being Evaluated (or “BBE”) in subdivision (b)(1) to the mandatory factors in subdivision (d). Building Being Evaluated, as defined in subdivision (b)(1) shall include decks that are attached to or abut the structure in question. The purpose of the second sentence is to set the minimum threshold for how the insurer is to reflect in its rating plan the mandatory factors in subdivision (d)(1)(A)1.-3. The insurer shall, at a minimum, take into account whether the BBE is located in one or more of the three types of wildfire mitigated communities listed below.

Under current law, there is no requirement that an insurer reflect in its rating plan the impact of any of the three types of wildfire-mitigated communities listed below, nor is there a requirement that an insurer base a policyholder or applicant’s rate or premium on the reduced wildfire risk that is attendant to the policyholder or applicant’s property being located in one or more such community. As such, rates charged to policyholders or applicants that do not reflect the reduced wildfire risk attendant to the policyholder’s property being located in a wildfire-mitigated community, likely result in rates which are excessive, inadequate, and/or unfairly discriminatory in violation of Proposition 103.

As with the first sentence, the second sentence is reasonably necessary to require that insurers amend their rating plans to reflect the three types of wildfire-mitigated communities and apply the corresponding rating factors to a policyholder or applicant’s premium to ensure the rate is not excessive, inadequate, or unfairly discriminatory and therefore in compliance with Proposition 103.

This section is also reasonably necessary to encourage communities in California to undertake mitigation measures to reduce the risk of wildfire loss in their communities and ensure that residents' insurance rates are risk-based.

1. *A community listed by the Board of Forestry as a Fire Risk Reduction Community pursuant to Public Resources Code section 4290.1;*

The purpose of this section is to require insurers to take into account within their rating plans whether a BBE is located within a community listed by the California State Board of Forestry as a Fire Risk Reduction Community pursuant to Public Resources Code section 4290.1 ("FRRC"). An FRRC is a community that has been deemed to meet fire prevention best practices by the Board of Forestry ("Board"). The criteria considered included: (1) Participation in the National Fire Protection Association's "Firewise USA" or the National Wildfire Coordinating Group's "Fire Risk Reduction Communities" programs; (2) Adoption of the [B]oard's recommendations to improve the safety element pursuant to subdivision (b) of Section 65302.5 of the Government Code; and (3) Recently developed or updated community wildfire protection plans. FRRC's have been recognized by the Wildfire Partnership as correlating to a reduction in the risk of wildfire spread because of the mitigation measures undertaken by the community. In other words, if the BBE is located within an FRRC it has a reduced risk of wildfire loss and the insurer must reflect the reduced risk due to the mitigation efforts within the community because they benefit the BBE. This requirement is intended to ensure that the resulting rates and premiums are not excessive, inadequate, or unfairly discriminatory.

In the past, insurers were not required to take into account and reflect in their rates and premium whether the BBE was located in an FRRC. The Wildfire Partnership determined that FRRCs reduce the chances of wildfire spread and ignition for the BBE. If this provision is not included, then insurers might continue to disregard the reduced risk of loss present when a BBE is in an FRRC. This would result in rates that might be excessive, inadequate and/or unfairly discriminatory. Rates would be unfairly discriminatory if an applicant or policyholder who had a building in a FRRC, and thus had a building with a reduced risk of wildfire loss, was to be charged the same rate as an applicant or policyholder whose building was not in an FRRC and thus had a greater risk of wildfire loss.

This section is therefore reasonably necessary to ensure that if the BBE is in fact located within an FRRC, the insurer must, for the purposes of segmenting rates, creating a risk differential, or surcharging or discounting the premium, reflect and take into account the reduced risk of wildfire loss presented by the BBE in order for the insurers rates to not be excessive, inadequate, or unfairly discriminatory.

2. *A Shelter-in-Place Community; or*

The purpose of this section is to make clear that one of the types of wildfire-mitigated communities that must be considered by the insurer for purposes of rate segmentation, risk differentiation, or surcharging premium, if the BBE is located therein, is a "Shelter-in-Place Community" ("SIPC"). An SIPC is a community designed, built and maintained to reduce the risks from heat and flames that result from an approaching wildfire, and is designated as such by the local fire district with jurisdiction in that area. Characteristics of a Shelter-in-Place Community include driveway and roadway widths that facilitate evacuations and firefighting efforts, and a communitywide landscape and vegetation plan that is approved by the local fire district and that is not allowed to be altered without approval from the fire district. Further, each dwelling in such a community is required to maintain the fire-resistant design features specified for the structure at the time the community was designated a Shelter-in-Place Community. SIPC's have been recognized by the Wildfire Partnership as correlating to a reduction in the risk of the spread of wildfires because of the mitigation measures undertaken by the community. In other words, if the BBE is located within an SIPC, the insurer's rating plan must reflect and take into account the reduced risk of wildfire loss due to the mitigation efforts within the community that benefit the BBE.

In the past, insurers were not required to take into account and reflect in their rates and premium whether the BBE was located in an SIPC. The Wildfire Partnership recognized that SIPCs are correlated with a reduction in the risk of wildfire spread and ignition for the BBE. If this provision is not included, then some insurers might continue to disregard the reduced risk of loss present when a BBE is in an SIPC. This would result in rates that might be excessive, inadequate and/or unfairly discriminatory. Rates would be unfairly discriminatory if an applicant or policyholder who had a building in an SIPC and thus a had a building with a reduced risk of wildfire loss, was to be charged the same rate as an applicant or policyholder whose building was not in an SIPC and thus had a greater risk of wildfire loss.

This section is therefore reasonably necessary to ensure that if the BBE is in fact located within an SIPC, the insurer must, for the purposes of segmenting rates, creating a risk differential, or surcharging the premium, reflect and take into account the reduced risk of wildfire loss presented by the BBE in order for the insurers rates to not be excessive, inadequate, or unfairly discriminatory.

3. A Firewise USA Site in Good Standing.

The purpose of this section is to make clear that one of the types of wildfire-mitigated communities that must be considered by the insurer for purposes of rate segmentation, risk differentiation, or surcharging premium, if the BBE is located therein, is a Firewise Site "In Good Standing Status." A Firewise USA Site in Good Standing, as defined in subdivision (b)(5) of this proposed regulation, is a community that, at the time the BBE is rated, is recognized as such by the National Fire Protection Association, a Massachusetts 501(3)(c) corporation. Firewise USA Sites in Good Standing have been recognized by the Wildfire Partnership as having a correlation with the reduction of the risk of wildfire spread and ignition because of the mitigation measures undertaken by the community. In other words, if the BBE is located within a Firewise USA Site in Good Standing from a ratemaking perspective an insurer must reflect and take into account the reduced risk of wildfire loss due to the mitigation efforts within the community that benefit the BBE. In fact, insurers representing over 30% of the market already recognize a discount for homes located in Firewise Sites; therefore, the insurance industry has already acknowledged that there is an actuarial basis for the proposition that, if the BBE is located within a Firewise Site, the BBE presents a lower risk of wildfire loss than a building located in either a Firewise Site not "In Good Standing Status" or a community that is not

Firewise at all. The National Association of Insurance Commissioners — the U.S. standard-setting and regulatory support organization dedicated to serving the nation's state insurance regulators — has also recognized Firewise Sites for purposes of insurance ratemaking.

In the past, insurers were not required to take into account and reflect in their rates and premium whether the BBE was located in a Firewise USA Site in Good Standing. The Wildfire Partnership determined that Firewise USA Sites in Good Standing correlate with a reduction in the risk of wildfire spread and ignition for BBEs located within them. If this provision is not included, then insurers might continue to disregard the reduced risk of loss present when a BBE is in a Firewise USA Site in Good Standing. This would result in rates that might be excessive, inadequate and/or unfairly discriminatory. Rates would be unfairly discriminatory if an applicant or policyholder who had a building in such a community and thus had a building with a reduced risk of wildfire loss, was to be charged the same rate as an applicant or policyholder whose building was not in such a community and thus had a greater risk of wildfire loss.

This section is therefore reasonably necessary to ensure that if the BBE is in fact located within a Firewise USA Site in Good Standing, the insurer must, for the purposes of segmenting rates, creating a risk differential, or surcharging the premium, reflect and take into account the reduced risk of wildfire loss presented by the BBE in order for the insurers rates to not be excessive, inadequate, or unfairly discriminatory.

(B) Property-level mitigation efforts.

The rating plan shall reflect, and the rate offered to the applicant or insured shall be based in part on, the reduced wildfire risk resulting from property-level wildfire risk mitigation efforts undertaken with respect to an individual property being assessed for risk. Individual property risk mitigation efforts include:

The purpose of this provision is to set forth the requirement for insurers that segment rates, create risk differentials, or surcharge the premium based on wildfire risk, to take into account and reflect in their rating plan the impact resulting from the policyholder or applicant's mitigation efforts on their property, to prevent excessive, inadequate, or unfairly discriminatory rates.

Further, the purpose of this provision is to specify and list the specific mitigation efforts at the property level the insurer must take into account in its rating plan.

California property owners have been experiencing significant increases in insurance premium and surcharges, non-renewals, cancellation and denial of coverage due to increase in wildfire risk of property loss. Even though some policyholders and applicants have been investing in mitigation measures to lower the wildfire risk of loss, most insurers do not take into account these efforts in their rating plans. Consequently, insurance rates and premiums for properties in wildfire risk areas may be excessive, inadequate or unfairly discriminatory. Under current law, the insurers are not required to take into account the policyholders or applicants' mitigation efforts that lower the risk of loss for wildfire. Additionally, there are no statutory or regulatory frameworks applicable to the use of rate segmentation, the creation of rate differentials, or surcharging premium with respect to wildfire risk and mitigation measures.

Under Insurance Code section 1861.01(c) the Commissioner is required to review and approve only those rating plans and proposed rates that are not excessive, inadequate, unfairly discriminatory, or otherwise in violation of the mandates under Proposition 103 (Insurance Code section 1861.05(a)). Insurers are responsible for calculating a rate based on factors that are substantially related to the risk of loss to ensure that the resulting rate is not excessive, inadequate, or unfairly discriminatory in compliance with Insurance Code section 1861.05 and applicable regulations.

Each of the listed mandatory factors below relates to a specific condition present in the property that is substantially related to the wildfire risk of loss, i.e., vegetation and debris under the decks, proximity of vegetation to the BBE, or building hardening measures such as incorporation of only noncombustible materials into any improvements to the property. Undertaking any of these mitigation measures will lower the wildfire risk and thus should lower the consumer's premium relative to other consumers who do not undertake some or all of these mitigation measures. Therefore, this provision is reasonably necessary to require insurers to take into account and reflect in their rating plan or Wildfire Risk Model the lower risk of fire impact resulting from the performance of a mitigation measure. This will ensure that the resulting rates and premiums are substantially related to the risk of loss and not excessive, inadequate, or unfairly discriminatory.

Some insurers may consider wildfire mitigation measures in segmenting, creating a risk differential, or surcharging the premium based on wildfire risk, but there are no specific frameworks under existing law. This provision is reasonably necessary to set forth a specific framework or factors to be taken into account by insurers to ensure that rates are not excessive, inadequate or unfairly discriminatory.

The wildfire mitigation measures in this regulation lower the wildfire risk of loss. This provision is therefore reasonably necessary to require insurers to reflect and take into account the rate impact of policyholders or applicants undertaking the mitigation measures.

This provision is further reasonably necessary to increase transparency in the rate making process, which provide policyholders and applicants information about how to lower the wildfire risk score or other classification and will permit them to participate in the ratemaking process and enforcement of consumer protection laws enacted to ensure that rates are not excessive, inadequate, or unfairly discriminatory.

1. Measures addressing the immediate surroundings of the Building Being Evaluated, including:

The purpose of this provision is to require insurers that segment rates, create risk differentials, or surcharge the premium based on wildfire risk, to take into account and reflect in their rating plan the distance between the flammable materials and the BBE, and the impact resulting from the policyholder or applicant's mitigation measures set forth in the sections below, which will ensure that the resulting rates and premiums are not excessive, inadequate, or unfairly discriminatory. Those distances are tied to the definition of BBE in proposed subdivision (b)(1).

The closer the flammable materials are to the BBE, the higher the risk of wildfire reaching the BBE. Distance from the BBE therefore is substantially related to the risk of wildfire loss yet there are no regulations that require insurers to take into account the distance between flammable materials and the BBE. Thus, a consumer who has no flammable materials close to their BBE might be charged the same rate as a consumer who has flammable materials close to their BBE, resulting in rates that may be excessive, inadequate or unfairly discriminatory. This section is intended to require insurers to consider the distance of the flammable materials from the BBE in their rating plans and thus solve the problem of rates that are potentially excessive, inadequate or unfairly discriminatory based on an insurer's failure to reflect and take into account the distance of flammable materials from the BBE.

This provision is reasonably necessary to require that the insurers shall use the factor distance in their rating plan to eliminate rates that are excessive, inadequate or unfairly discriminatory based on failure to consider that factor.

a. Clearing of vegetation and debris from under decks,

The purpose of this provision is to require insurers to take into account and reflect in their rating plans the impact resulting from the removal of vegetation and debris under the deck(s) of the BBE in its rating plan or wildfire risk model to ensure that the resulting rates and premiums are not excessive, inadequate, or unfairly discriminatory.

The insurance company is responsible for calculating a rate considering factors that are substantially related to the risk of loss and result in a rate that is not excessive, inadequate, or unfairly discriminatory in compliance with Insurance Code section 1861.05 and applicable regulations.

The presence of vegetation and debris under the deck is substantially related to risk of loss because these materials are highly combustible and located in the immediate vicinity of the BBE. In the event of a wildfire, the vegetation and debris under the deck can be easily ignited by fire embers and high temperatures caused by the surrounding wildfire, which will spread rapidly to the BBE. Consequently, the removal of these combustible materials will have the impact of lowering the risk of wildfire spread on the property to the BBE.

Even though the presence of vegetation and debris under the decks is substantially related to the risk of loss for wildfire, there is no requirement under current statutes or regulations that insurers take into account the removal of these flammable materials in their rating plan.

This provision is reasonably necessary to ensure that insurers take into account and reflect in their rating plans the reduced wildfire risk of loss resulting from the removal of vegetation and debris located under the deck and thus ensure that their rates are not excessive, inadequate or unfairly discriminatory.

b. *Clearing of vegetation, debris, mulch, stored combustible materials, and any and all movable combustible objects, from the area within five (5) feet of the Building Being Evaluated,*

The purpose of this provision is to require insurers to take into account and reflect the impact resulting from removal of "vegetation, debris, mulch, stored combustible materials, and any and all movable combustible objects from the area within five (5) feet from the BBE" in their rating plan or wildfire risk model to ensure that the resulting rates and premiums are not excessive, inadequate, or unfairly discriminatory.

The presence of vegetation and debris in the area within five feet of the BBE increases the risk of fire because these are combustible materials that fire embers and high temperatures caused by the surrounding wildfire can easily ignite, thus spreading the fire to the BBE. Consequently, the removal of these combustible materials will have the impact of lowering the risk of wildfire spread to the BBE. For this reason, some policyholders or applicants already remove materials such as dead and dying weeds, grass, plants and debris located in the area within five feet of the BBE. Currently, however, there is no law requiring insurers to take into account or reflect in their rating plan the lower risk of wildfire loss resulting from removing vegetation and debris from the area within five feet of the BBE. The failure to take these mitigation measures into account may result in excessive, inadequate, or unfairly discriminatory rates in violation Proposition 103.

Even though the presence of combustible materials such as weeds, grass, plants and debris within five feet of the BBE is substantially related to the risk of loss for wildfire, there is no requirement under current law that insurers take into account in their rating plan whether these flammable materials have been removed. This provision is reasonably necessary to require insurers to take into account and reflect in their rating plans or Wildfire Risk Models the reduced risk of wildfire loss resulting from maintaining the area within five feet from the BBE clear of combustible materials to ensure that their rates are not excessive, inadequate or unfairly discriminatory.

This provision is reasonably necessary to provide the policyholder or applicant an incentive to remove highly combustible materials vegetation and debris from the area within five feet of the BBE in order to lower the risk of wildfire loss at low cost, knowing that this will result in an accurate wildfire risk score or other wildfire risk classification, which should result in an individualized lower rate or premium. This incentive will encourage more policyholders to invest in a mitigation measure, which eventually will result in lowering the risk of wildfire loss in a community. Consequently, the rates will also be lower, or at least more stable, making wildfire insurance coverage more available and affordable in the State of California.

It is reasonably necessary for the proposed regulations to include "mulch" among the materials the insurer must consider when assessing property-level mitigation efforts. Because of its widespread use in landscaping, mulch is a material commonly found within five feet of a building, yet its presence there is understood to increase the likelihood of the building igniting during a wildfire. Removing mulch from the area within five feet of the structure being rated is thus an effective mitigation measure. Because most property owners can easily remove mulch themselves, it is also a very cost-effective measure. This provision, because it requires insurers to consider a step that property owners can readily undertake themselves, features the additional benefit of providing a particularly effectively incentive for property owners to remove mulch from this area, which will in turn appreciably reduce the risk that the BBE will catch fire due to burning embers blown next to the structure during a wildfire.

It is reasonably necessary to identify "stored combustible materials, and any and all movable combustible objects" as among the items to be removed because they similarly increase the risk of loss from wildfire. Unlike "debris," which appears earlier in this list, stored materials are generally items of some value that the property owner has deliberately placed there for later use. However, no matter how neatly stacked or otherwise disposed, or how valuable they may be, stored combustible materials or items within five feet of a building are a possible conduit for a wildfire to follow to a location where it may readily set fire to the building. Here it is reasonably necessary to specify that the materials to be removed are "combustible" materials, since noncombustible materials do not pose the same ignition risk to nearby structures as do combustible materials. This is so because non-combustible materials do not ignite and so do not spread fire to buildings next to which they are stored, as is the case with combustible materials. For example, stored cinderblocks, which are noncombustible, simply do not pose the same wildfire risk to a nearby structure as does stored lumber, which is combustible.

It is also reasonably necessary that the proposed regulations include the broader term "any and all combustible objects" among the items the removal of which from the area within five feet of the building being evaluated the insurer must take into account when considering wildfire mitigation measures. Many combustible objects are not commonly characterized as "materials" but nevertheless pose similar wildfire risk to nearby structures. For instance, a propane tank may not ordinarily be described as a "material" but clearly is an object. And again, it is necessary to specify that the objects in question here are "combustible." A concrete birdbath, as a case in point, is clearly an object but is not combustible and so does not increase wildfire risk to a nearby structure on account of the threat that it will promote the ignition of the structure. It is thus unnecessary for the rule to sweep the birdbath and other noncombustible objects, along with combustible objects (which *do* pose heightened wildfire risk to a nearby structure), into the category of items to be removed from the area within five feet of the building being evaluated pursuant to this factor.

Finally, it is necessary to specify that the items to be removed pursuant to this subdivision are "movable" objects, in order to distinguish them from improvements to the land such as fences and gates within five feet of a BBE, which are discussed in the following subdivision. Improvements to the property, unlike "movable" objects, are items that become part of the land and are designed to enhance its value such as gates, fences, sewers or utilities. Thus, this subdivision (d)(1)(B)1.b., and immediately following subdivision (d)(1)(B)1.c., work in tandem to require the insurer to consider whether the zone within five feet of the BBE is entirely noncombustible, owing to the absence of both movable combustible personal property (i.e., stored lumber) and combustible real property (i.e., improvements to the land, such as fences or gates).

c. Incorporation of only noncombustible materials into that portion of any improvements to the property on which the Building Being

Evaluated is located, including fences and gates, which is situated within five (5) feet of the Building Being Evaluated,

The purpose of this provision is to require insurers to take into account and reflect in their rates and premium whether only noncombustible materials were incorporated into that part of any improvement, including fences and gates, which is within five (5) feet of the BBE. The requirement is intended to ensure that the resulting rates and premiums are not excessive, inadequate, or unfairly discriminatory.

In the past, insurers were not required to take into account and reflect in their rates and premium whether the part of improvements within five feet of the BBE incorporated only noncombustible materials. The Wildfire Partnership determined that improvements that incorporate only noncombustible materials within five feet of the BBE reduce the risk of wildfire spread or ignition for the BBE. If this provision is not included, then insurers might continue to disregard the reduced risk of loss present when only non-combustible materials are incorporated in any improvements within five feet of the BBE. This would result in rates that might be excessive, inadequate and/or unfairly discriminatory. Rates would be unfairly discriminatory if an applicant or policyholder with a building that used only non-combustible materials as described above, and thus had a reduced risk of wildfire loss, was to be charged the same rate as an applicant or policyholder whose building did not use only non-combustible materials as describe above and whose building thus had a greater risk of wildfire loss.

This provision is reasonably necessary to require insurers to take into account and reflect in their rates and premium whether or not the improvements on an applicant's or policyholder's property incorporate only non-combustible materials as described above. It is reasonably necessary to take into account whether these mitigation measures have been implemented in order to make sure that the individual who implements the mitigation measures, and thus has a reduced risk of loss, is not charged the same rate as the individual who did not implement the mitigation measure and thus has a higher risk of loss. Charging those two individuals the same rate would result in unfairly discriminatory rates because two individuals with different risk profiles would be charged the same rate. This section is reasonably necessary to ensure that rates are not excessive, inadequate or unfairly discriminatory as required by Proposition 103.

d. Removal or absence of combustible structures, including sheds and other outbuildings, from the area within thirty (30) feet of the Building Being Evaluated or, in the event that the applicant or insured does not control the entirety of the area extending thirty feet from the Building Being Evaluated, removal of combustible structures from as much of such area as is under the control of the applicant or policyholder, and

The purpose of this provision is to require insurers to take into account and reflect in their rating plans the impact resulting from the removal or absence of combustible structures such as sheds, and other outbuildings within thirty feet from the BBE. This requirement is intended to ensure that the resulting rates and premiums are not excessive, inadequate, or unfairly discriminatory.

The language in this provision may be separated in two parts. The first part refers to the presence of combustible structures separated but within thirty feet from the BBE, including sheds or other outbuildings. The presence of these combustible structures such as sheds and barns increase the risk of a wildfire spread to the BBE because fire can easily spread from the outbuilding to the BBE. Although a policyholder or applicant is not required to remove these combustible structures or other outbuildings, some policyholders and applicants remove them in order to lower the risk of wildfire loss. Existing regulations do not require the insurers to recognize this specific mitigation effort. As a result, the assigned wildfire risk score or other wildfire classification is inaccurate, which results in excessive, inadequate or unfairly discriminatory rates and premiums in violation of Proposition 103.

Even though the presence of combustible structures, including sheds and other outbuildings located in the area within thirty feet of the BBE is substantially related to the risk of wildfire loss to the BBE, there is no requirement under current statutes or regulations that insurers take into account the removal of these combustible structures in their rating plan. This provision is reasonably necessary to ensure that insurers take into account in their rating plans the reduced wildfire risk of loss resulting from removing outbuildings and maintaining the area within thirty feet from the BBE free from combustible structures, which should result in an accurate and lower rate and premium, and not an excessive, inadequate or unfairly discriminatory rate or premium.

The second part of the language in this provision makes an exception to the rule requiring removal of combustible material within thirty feet of the BBE "in the event that the applicant or insured does not control the entirety of the area extending thirty feet from the Building Being Evaluated." In that event, this provision requires, "removal of combustible structures from as much of such area as is under the control of the applicant or policyholder." The purpose of this language is to clarify that in some cases, the thirty feet distance required by this section may go beyond the property line. This language is reasonably necessary to clarify that removal of combustible structures up to the property line is a factor to be considered by the insurer in the process of assignment of the wildfire score or other classification, since the policyholder or applicant does not have any control over the adjacent property.

e. *Whether the property upon which the Building Being Evaluated is situated complies with Section 4291 of the Public Resources Code, and any applicable local ordinances, governing defensible space; and*

The purpose of this provision is to require insurers to take into account and reflect in their rates and premium whether the property upon which the BBE is situated complies with section 4291 of the Public Resources Code (hereafter "PRC section 4291"). PRC section 4291 sets forth requirements for maintaining defensible space for "[a] person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material…." (PRC section 4291.)

In the past, insurers were not required to take into account and reflect in their rates and premium whether a property upon which the BBE is situated complies with PRC section 4291. The Wildfire Partnership determined that compliance with PRC section 4291 reduces the risk of wildfire spread or ignition for the BBE. If this provision is not included, then insurers might continue to disregard the reduced risk of loss present when an applicant or policyholder takes the time and expense to comply with PRC section 4291. This would result in rates that might be excessive, inadequate and/or unfairly discriminatory. Rates would be unfairly discriminatory if an applicant or policyholder who complied with PRC section 4291, and thus reduced their risk of wildfire, was to be charged the same rate as an applicant or policyholder who did not comply with PRC section 4291 and whose property thus presented a greater risk of wildfire loss.

This section is reasonably necessary to ensure that when setting rates and premiums, insurers take into account and reflect in their rates and premium whether an applicant or policyholder has complied with PRC section 4291 and thus reduced their risk of wildfire loss vs. another otherwise similarly situated applicant or policyholder who has not complied with PCR section 4291 and thus not reduced their risk of wildfire loss. This section is reasonably necessary to ensure that rates are not excessive, inadequate or unfairly discriminatory as required by Proposition 103.

2. *Building hardening measures, including provision of the following:*

a. *Class-A Fire Rated Roof,*

The purpose of this provision is to require insurers to take into account and reflect in their rates and premium whether the BBE has a Class-A Fire Rated Roof. This requirement is intended to ensure that the resulting rates and premiums are not excessive, inadequate, or unfairly discriminatory.

In the past, insurers were not required to take into account and reflect in their rates and premium whether the BBE had a Class-A Fire Rated Roof. The Wildfire Partnership determined that Class-A Fire Rated Roofs reduce the risk of wildfire spread or ignition for the building. If this provision is not included, then insurers might continue to disregard the reduced risk of loss present when a building has a Class-A Fire Rated Roof. This would result in rates that might be excessive, inadequate and/or unfairly discriminatory. Rates would be unfairly discriminatory if an applicant or policyholder with a building that has a Class-A Fire Rated Roof, and thus a reduced risk of wildfire loss, was to be charged the same rate as an applicant or policyholder whose building did not have a Class-A Fire Rated Roof and thus had a greater risk of wildfire loss.

This section is reasonably necessary to ensure that when setting rates and premiums, insurers take into account and reflect in their rates and premium whether an applicant or policyholder has a Class-A Fire Rated Roof and thus a reduced risk of wildfire loss vs. another otherwise similarly situated applicant or policyholder who does not have a Class-A Fire Rated Roof and thus has a higher risk of wildfire loss. This section is reasonably necessary to ensure that rates are not excessive, inadequate or unfairly discriminatory as required by Proposition 103.

b. Enclosed Eaves,

The purpose of this provision is to require insurers to take into account and reflect in their rates and premium whether the BBE has Enclosed Eaves. This requirement is intended to ensure that the resulting rates and premiums are not excessive, inadequate, or unfairly discriminatory.

In the past, insurers were not required to take into account and reflect in their rates and premium whether the BBE had Enclosed Eaves. The Wildfire Partnership determined that Enclosed Eaves reduce the risk of wildfire spread or ignition for the building. If this provision is not included, then insurers might continue to disregard the reduced risk of loss present when a building has Enclosed Eaves. This would result in rates that might be excessive, inadequate and/or unfairly discriminatory. Rates would be unfairly discriminatory if an applicant or policyholder with a building that has Enclosed Eaves, and thus a reduced risk of wildfire loss, was to be charged the same rate as an applicant or policyholder whose building did not have Enclosed Eaves and whose building thus had a greater risk of loss from wildfire.

This section is reasonably necessary to ensure that when setting rates and premiums, insurers take into account and reflect in their rates and premium whether an applicant or policyholder has Enclosed Eaves and thus a reduced risk of wildfire loss vs. another otherwise similarly situated applicant or policyholder who does not have Enclosed Eaves and thus has a higher risk of wildfire loss. This section is reasonably necessary to ensure that rates are not excessive, inadequate or unfairly discriminatory as required by Proposition 103.

c. Fire-Resistant Vents,

The purpose of this provision is to require insurers to take into account and reflect in their rates and premium whether the BBE has Fire-Resistant Vents. This requirement is intended to ensure that the resulting rates and premiums are not excessive, inadequate, or unfairly discriminatory.

In the past, insurers were not required to take into account and reflect in their rates and premium whether the BBE had Fire-Resistant Vents. The Wildfire Partnership determined that Fire-Resistant Vents reduce the risk of wildfire spread or ignition for the building. If this provision is not included, then insurers might continue to disregard the reduced risk of loss present when a building has Fire-Resistant Vents. This would result in rates that might be excessive, inadequate and/or unfairly discriminatory. Rates would be unfairly discriminatory if an applicant or policyholder with a building that has Fire-Resistant Vents, and thus a reduced risk of wildfire loss, were to be charged the same rate as an applicant or policyholder whose building did not have Fire-Resistant Vents and whose building thus had a greater risk of loss from wildfire.

This section is reasonably necessary to ensure that when setting rates and premiums, insurers take into account and reflect in their rates and premium whether an applicant or policyholder has Fire-Resistant Vents and thus a reduced risk of wildfire loss vs. another otherwise similarly situated applicant or policyholder who does not have Fire-Resistant Vents and thus has a higher risk of wildfire loss. This section is reasonably necessary to ensure that rates are not excessive, inadequate or unfairly discriminatory as required by Proposition 103.

d. Multipane windows, including dual pane windows, or functional shutters, which when closed, cover the entire window and do not have openings, and

The purpose of this provision is to require insurers to take into account and reflect in their rates and premium whether the BBE has "multi-pane windows, including dual pane windows, or functional shutters, which when closed, cover the entire window and do not have openings."

In the past, insurers were not required to take into account and reflect in their rates and premium whether the BBE had "multi-pane windows, including dual pane windows, or functional shutters, which when closed, cover the entire window and do not have openings." The Wildfire Partnership determined that "multi-pane windows, including dual pane windows, or functional shutters, which when closed, cover the entire window and do not have openings" reduce the risk of wildfire spread or ignition for the building. If this provision is not included, then insurers might continue to disregard the reduced risk of loss present when a building has "multi-pane windows, including dual pane windows, or functional shutters, which when closed, cover the entire window and do not have openings." This would result in rates that might be excessive, inadequate and/or unfairly discriminatory. Rates would be unfairly discriminatory if an applicant or policyholder with a building that has these attributes, and thus a reduced risk of wildfire loss, was to be charged the same rate as an applicant or policyholder whose building did not have these attributes, and whose building thus had a greater risk of loss from wildfire.

This provision is reasonably necessary to ensure that when setting rates and premiums, insurers take into account and reflect in their rates and premium whether an applicant or policyholder has "multi-pane windows, including dual pane windows, or functional shutters, which when closed, cover the entire window and do not have openings" and thus a reduced risk of wildfire loss vs. another otherwise similarly situated applicant or policyholder who does not have these attributes and thus has a higher risk of wildfire loss. This provision is reasonably necessary to ensure that rates are not excessive, inadequate or unfairly discriminatory as required by Proposition 103.

e. At least six (6) inches of noncombustible vertical clearance at the bottom of the exterior surface of the building, measured from the ground up.

The purpose of this provision is to require insurers to take into account and reflect in their rates and premium whether the BBE has "at least six (6) inches of noncombustible vertical clearance at the bottom of the exterior surface of the building, measured from the ground up." This requirement is intended to ensure that the resulting rates and premiums are not excessive, inadequate, or unfairly discriminatory.

In the past, insurers were not required to consider and reflect in their rates and premium whether the BBE had "at least six (6) inches of noncombustible vertical clearance at the bottom of the exterior surface of the building, measured from the ground up." The Wildfire Partnership determined that "at least six (6) inches of noncombustible vertical clearance at the bottom of the exterior surface of the building, measured from the ground up" reduces the risk of wildfire spread or ignition for the building. If this provision is not included, then insurers might continue to disregard the reduced risk of loss present when this mitigation measure has been taken. This would result in rates that might be excessive, inadequate and/or unfairly discriminatory. Rates would be unfairly discriminatory if an applicant or policyholder with a building that has these attributes, and thus a reduced risk of wildfire loss, was to be charged the same rate as an applicant or policyholder whose building did not have these attributes, and whose building thus had a greater risk of loss from wildfire.

This provision is reasonably necessary to ensure that insurers take into account and reflect in their individual rates and premium whether a building has "at least six (6) inches of noncombustible vertical clearance at the bottom of the exterior surface of the building, measured from the ground up," and thus a reduced risk of wildfire loss vs. another otherwise similarly situated applicant or policyholder whose building does not have these attributes and thus has a higher risk of wildfire loss. This provision is reasonably necessary to ensure that rates are not excessive, inadequate or unfairly discriminatory as required by Proposition 103.

(2) No later than 180 days following the date this section is filed with the Secretary of State, each insurer shall file a rate application that incorporates a rating plan that includes, the factors described in subdivision (d)(1) of this section.

Under Proposition 103, no rate shall be excessive, inadequate, or unfairly discriminatory. Likewise, no rate shall be in violation of Chapter 9 of the Insurance Code, which includes the regulations promulgated to interpret or make specific Proposition 103. (10 CCR 2644.*1 et seq.*) Under Proposition 103, insurers must file rate applications when they desire a rate change. (Ins. Code §1861.05(b).) As discussed, a rating plan is required as part of any rate application. In order to ensure that rates are not excessive, inadequate, or unfairly discriminatory or not otherwise in violation of Chapter 9 of the Insurance Code, all insurers subject to Proposition 103 must therefore file a rate application with a rating plan that meets the requirements of subdivision (d)(1) of this section.

It is likely that no insurer's rating plan would comply entirely with this proposed regulation at present. The purpose of this regulation, in particular subdivision (d), is to specify which mitigation measures must be considered and set forth general parameters for how those and any other rating factors are used for the purpose of rate segmentation, risk classification, or surcharging the premium.

Rate applications must be approved by the Commissioner. The rate review process takes time due to the complexity of the review and workload, and may be elongated when consumer interveners are involved. (Ins. Code § 1861.10.) The Commissioner must notify the public of every rate application. (Ins. Code § 1861.05(c).) Rate applications are deemed approved 60 days after filing unless certain conditions are present or the 60-day deemed-approved date is waived. (Id.) However, the average length of a rate application is much longer than 60 days for the reasons set forth above. Given the complexity of the review and the urgency of requiring insurers to reflect in the rating plans the mandatory rating factors, 180 days was selected as a reasonable timeframe to ensure that mitigation measures are reflected and taken into account sooner-rather than-later to that when rates are segmented, classified by risk, or surcharged, the resulting premiums are not excessive, inadequate, or unfairly discriminatory in violation of Proposition 103. 190 days was also selected by taking into account the additional workload, time, and costs to insurers to submit compliant rate applications; Department staff, which includes many former insurance industry professionals with extensive rate review, actuarial, and product management experience, concluded that 180 days would be a reasonable timeline for an insures to update their existing rating plans for compliance with this subdivision.

This section is reasonably necessary to ensure that all insurers' have a compliant rating plan within a reasonable timeframe; a rate application, as explained above, is the mechanism by which the Commissioner makes the determinations as to whether the insurer's (1) rating plan includes the factors described in subdivision (d)(1) of this section and (2) rates are not excessive, inadequate, or unfairly discriminatory.

(e) Optional factors.

An insurer may use a rating plan which incorporates other factors that the insurer demonstrates are substantially related to risk of wildfire loss, and do not result in rates that are excessive, inadequate or unfairly discriminatory. These optional factors may include, but are not limited to:

Rating factors must be substantially related to risk of loss; otherwise the rates or premiums may be excessive, inadequate, or unfairly discriminatory. If an insurer uses a rating factor to surcharge a house, and that factor is not substantially related to risk of loss, e.g., a purple house, then the insurer would be charging unfairly discriminating rates to the owner of the purple house. In other words, purple houses do not present a greater risk of wildfire loss, so an insurer may not use the color of the house to segment the rate, create a risk differential, or surcharge the premium. Rating factors must reflect how the Build Being Evaluated will respond to specific perils. For purposes of this proposed regulation, the peril is wildfire; an insurer's chosen rating factors must be substantially related to the risk of loss for wildfire. The optional factors selected below in (e)(1)-(7) are considered to be substantially related to the risk of loss for wildfire.

The purpose of this section is to make clear that, in addition to the mandatory factors in subdivision (d), insurers may use or consider other rating factors or mitigation measures in their ratemaking process, provided that the insurers demonstrate that their chosen optional factors are substantially related to risk of wildfire loss and their optional rating factors do not result in rates that are excessive, inadequate or unfairly discriminatory. This section provides examples of the types of rating factors the Commissioner has deemed to be substantially related to the risk of wildfire loss. This section also makes clear that such examples should not be considered an exhaustive or comprehensive list of what an insurer might use as an optional factor. The section also specifies that, for the optional factors provided in subdivision (e)(1)-(7), those factors must be applied within certain parameters. For example, in subdivision (e)(1), the fuel factor must consider the type and amount of fuel, vicinity, and burn rates.

Under current law, insurers writing homeowners or commercial property are permitted to use virtually any rating factor that is substantially related to the risk of loss and not unfairly discriminatory. This is a departure from personal automobile insurance rating laws, for instance, which, under Proposition 103, only allow insurers to use the mandatory rating factors which are set forth in statute (Ins. Code § 1861.02) and the optional factors set forth by regulations (10 CCR § 2632.5). This proposed regulation at subdivision (e) permits the use of specified optional rating factors and also leaves open the possibility that insurers may use additional non-specified optional rating factors, provided the insurer can demonstrate to the Commissioner's satisfaction that such rating factors are substantially related to the risk of wildfire loss and do not result in rates which are excessive, inadequate, or unfairly discriminatory. Without such a requirement, an insurer need not consider any particular rating factors and would be permitted wide latitude in how to apply any rating factors selected. The purpose of this section regarding optional factors is to set forth optional factors that have already been proven to be substantially related to the risk of loss and thus approved for use by the Commissioner, to set forth parameters for their use, and also to provide insurers with flexibility to propose other optional factors and use them once they have been approved for use by the Commissioner.

This section is reasonably necessary to permit insurers to use in the rating plan optional factors, in addition to mandatory factors, but only if the optional factors are substantially related to the risk of loss for wildfire. This section, unlike section (d), does not mandate the use of any particular rating factors but instead sets forth examples of the types of rating factors which have a substantial relationship to the risk of loss for wildfire. Each of the factors below have been selected because they are either factors already considered by insurers' rating plans or in Wildfire Risk Models, or have a substantial relationship to the risk of wildfire loss. This section is also reasonably necessary to ensure that insurers may select additional rating factors which are not included in subdivision (d) or (e), provided the insurer can demonstrate to the Commissioner's satisfaction that such rating factors are substantially related to the risk of wildfire loss and do not result in rates which are excessive, inadequate, or unfairly discriminatory. In other words, subdivision (e) is reasonably necessary to communicate to the insurer guidelines for the use of optional rating factors in their rating plans, rather than a mandate to use particular rating factors, as required by subdivision (d).

(1) Fuel: This factor shall take into account the various types of combustible materials, and the density of those materials, in the vicinity of the structure in question, including the location of trees, grass, brush, and other vegetation relative to the structure. The fuel factor shall take into account the fact that different fuels burn at different rates and intensities, resulting in different levels of wildfire risk. If used, this factor shall reflect the historic and estimated impact on losses related to fuel, as described in this subdivision (e)(1).

The purpose of this section is to inform insurers that they may use "Fuel" as an optional rating factor and that when Fuel is used as an optional rating factor, the Fuel factor must take into account the type of combustible material (brush, trees, other vegetation, etc.), the location (vicinity) of combustible materials relative to the structure. This section also specifies that the insurer must take into account the density and the burn rates and intensities of such fuel. It is likely that most, if not all, Wildfire Risk Models would include a consideration of fuel in the assessment of an applicant or policyholder's wildfire risk, as would most insurers' rating plans, whether or not a model is used. The purpose of this section is to set forth parameters for what an insurer must take into account when an insurer uses fuel as a factor to segment, create a risk differential, or surcharge the premium. The purpose for requiring the historic and estimated impact on losses is to be consistent with the general principles of ratemaking, in particular that rate making is prospective; historical losses are used to calculate estimated future losses.

Currently, insurers using a fuel factor do not necessarily take into consideration "the various types of combustible materials, and the density of those materials, in the vicinity of the structure in question, including the location of trees, grass, brush, and other vegetation relative to the structure." Similarly, insurers currently using a fuel factor do not necessarily take into consideration the fact that different fuels burn at different rates and intensities, resulting in different levels of wildfire risk. This section is intended to make sure that insurers using a Fuel Factor take into consideration the types of combustible materials, the density, the vicinity of the structure to the fuels, and the burn rates and intensities of the various fuel, etc. The problem that occurs when insurers do not consider these fuel factor variables, is that they may charge a consumer with slow burning fire-hardy trees, the same as a consumer with fast burning easily-ignited trees (such as Eucalyptus) thus making the rates excessive, inadequate or unfairly discriminatory in violation of Proposition 103.

The first and second sentences are reasonably necessary to ensure that any rate segmentation, risk classification, or surcharging accurately reflects the level of wildfire risk by considering the different types of fuel, the density of the fuel, the vicinity of the fuel in relation to the BBE and the differing burn rates and intensities. As an example, if an insurance company uses fuel as an optional rating factor, the insurance company cannot consider the amount of fuel without also assessing the type of fuel, its behavior once ignited and its vicinity to the BBE. It is reasonably necessary to consider all of the fuel variable set forth in the first and second sentences in order to ensure that the factors are based on the risk of loss so that rates will not be excessive, inadequate or unfairly discriminatory.

The third sentence of this subdivision is reasonably necessary to ensure that the insurer uses actual loss experience to justify the impact of the fuel factor on any segment, risk classification, or surcharge. This requirement is consistent with general principles of ratemaking that specify that a rate is an estimate of the future costs (typically claims and other expenses, such as agent commissions) which the insurance companies incur to provide insurance coverage. The requirement is also consistent with existing regulations that require the use of historical data to justify future rates. (10 CCR 2644.4; 2644.5.) Without this requirement, it is likely that the fuel factor could either segment, classify risk, or surcharge in a manner that results in excessive, inadequate or unfairly discriminatory rates or premiums in violation of Proposition 103. In other words, using historical losses to inform the fuel factor, the insurance company's rates will more likely be accurate, i.e., not excessive, inadequate or unfairly discriminatory in compliance with Proposition 103's mandate.

(2) *Slope: This factor shall take into account the position of the structure in question on a slope relative to potential sources of ignition, and the steepness of the slope between those potential sources of ignition and the structure. If used, this factor shall reflect the historic and estimated impact on losses related to slope, as described in this subdivision (e)(2).*

Slope is understood to be a meaningful indicator of wildfire risk because it relates to how and where a wildfire might ignite and travel toward a residence or commercial structure. Slope is therefore substantially related to risk of loss as subdivision (e) requires for all optional rating factors.

The purpose of this section is to outline the parameters that must be followed in order for the slope factor to be used by an insurer; the insurer must consider position of the structure in question on a slope relative to potential sources of ignition, and the steepness of the slope between those potential sources of ignition and the structure since those are thought to be indicative of the level of wildfire risk presented by the slope the applicant or policyholder's property is located on. Requiring an insurer to provide historic and estimated impact on losses is consistent with the general principles of ratemaking, in particular that rate making is prospective; historical losses are used to calculate estimated future losses.

The first sentence is reasonably necessary to ensure that insurers that elect to consider the slope factor in their rating plans for purposes of segmenting, creating a risk differential, or surcharging the premium do so within the parameters set forth in this section, *i.e.*, the slope factor must consider the position of the structure in question on a slope relative to potential sources of ignition, and the steepness of the slope between those potential sources of ignition and the structure.

The second sentence of this section is reasonably necessary to ensure that the insurer use actual loss experience to justify the impact of the slope factor on any segment, risk classification, or surcharge. This requirement is consistent with general principles of ratemaking, that an insurer promulgates a rate and rating plan that is based on estimate of how much they will have to pay to cover the future cost of transferred risk based on historical data on losses. Existing regulations require the use of historical data to justify future rates (10 CCR 2644.4; 2644.5) so this regulation is consistent with current practice. Without this requirement, it is likely that the slope factor could either segment, classify risk, or surcharge in a manner that results in excessive or inadequate rates or premiums in violation of Proposition 103. In other words, using historical losses to inform the slope factor, the insurer rates will more likely be accurate or at least reliably predictive, *i.e.*, not excessive or inadequate and in compliance with Proposition 103.

(3) *Access: Access reflects the ease or difficulty with which firefighting personnel and equipment can reach structures at risk of wildfire. The access factor shall include consideration of the presence of dead-end roads, road width, shoulders, and availability of multiple access points with respect to the structure in question. If*

used, this factor shall reflect the historic and estimated impact on losses related to access, as described in this subdivision (e)(3).

Access is a meaningful indicator of wildfire risk because it relates to how easily firefighting resources can reach the BBE, and therefore the likelihood that firefighting resources can protect the property from loss or damage due to wildfire. Access is therefore substantially related to risk of loss as subdivision (e) requires for all optional rating factors. The purpose of this section is to outline the parameters that must be followed in order for the access factor to be used by an insurer; the insurer must consider the presence of dead-end roads, road width, shoulders, and availability of multiple access points with respect to the structure in question. Requiring that the insurer provide historic and estimated impact on losses is consistent with the general principles of ratemaking, in particular that rate making is prospective; historical losses are used to calculate estimated future losses.

The first sentence is reasonably necessary to convey the idea that the difficulty or ease with which firefighting personnel or equipment can reach the structure is a critical inquiry with respect to whether a structure at risk of wildfire or in the path of a wildfire may be protected. It is logical to assume that if firefighting personnel or equipment can reach a structure quickly and easily, the structure may be protected from loss or damage due to the wildfire.

The second sentence is reasonably necessary so that insurers who elect to consider the slope factor in its rating plan for purposes of segmenting, creating a risk differential, or surcharging the premium do so within the parameters set forth in this section, *i.e.,* the factor must consider dead end roads, road width, shoulders, and availability of multiple access points with respect to the structure in question.

The third sentence is reasonably necessary to ensure that the insurer use actual loss experience to justify the impact of the access factor on any segment, risk classification, or surcharge. This requirement is consistent with general principles of ratemaking, that an insurer promulgates a rate and rating plan that is based on estimate of how much they will have to pay to cover the future cost of transferred risk based on historical data on losses. Existing regulations require the use of historical data to justify future rates (10 CCR 2644.4; 2644.5) so this regulation is consistent with current practice. Without this requirement, it is likely that the access factor could either segment, classify risk, or surcharge in a manner that results in excessive or inadequate rates or premiums in violation of Proposition 103. In other words, using historical losses to inform the access factor, the insurer rates will more likely be accurate or at least reliably predictive, i.e., not excessive or inadequate and in compliance with Proposition 103.

(4) Aspect: The aspect factor shall reflect the direction the slope upon which the structure in question is located faces. If used, this factor shall reflect the historic and estimated impact on losses related to aspect, as described in this subdivision (e)(4).

Aspect reflects the compass direction of the face of the slope and has an indirect impact on fuel. In the Northern Hemisphere, relative to north-facing slopes, south-facing slopes receive higher daytime temperatures, resulting in drier fuel, which impacts both the fuel's ignition risk and its potential to burn. Aspect, therefore, is a predictor of the wildfire risk presented by the BBE and is substantially related to the risk of loss as subdivision (e) requires for all optional rating factors.

The first sentence section is reasonably necessary because it sets forth the parameters in which the aspect factor must be considered, *i.e.*, the aspect factor must reflect the direction the slope upon which the structure in question is located faces. As with all of the optional factors in subdivision (e), there are currently no uniform parameters for the use of such factors. This section simultaneously sets forth the parameters for the aspect factor, but as with the other optional factors in subdivision (e) it does not prescribe the exact manner in which the factor must be considered in an insurer's rating plan.

The second sentence is reasonably necessary to ensure that the insurer use actual loss experience to justify the impact of the access factor on any segment, risk classification, or surcharge. This requirement is consistent with general principles of ratemaking, that an insurer promulgates a rate and rating plan that is based on estimate of how much they will have to pay to cover the future cost of transferred risk based on historical data on losses. Existing regulations require the use of historical data to justify future rates (10 CCR 2644.4; 2644.5) so this regulation is consistent with current practice. Without this requirement, it is likely that the aspect factor could either segment, classify risk, or surcharge in a manner that results in excessive or inadequate rates or premiums in violation of Proposition 103. In other words, using historical losses to inform the aspect factor, the insurer rates will more likely be accurate or at least reliably predictive, i.e., not excessive or inadequate and in compliance with Proposition 103.

> *(5) Structural characteristics: The structural characteristics factor shall reflect the materials used in the construction, and may reflect such items as the design, of the structure in question. The structural characteristics factor shall not reflect the construction materials or any other item the insurer is required to take into account pursuant to subdivision (d) of this section. If used, the structural characteristics factor shall reflect the historic and estimated impact on losses related to structural characteristics, as described in this subdivision (e)(5).*

The mandatory factors in subdivision (d) require certain structural characteristics such as a Class-A fire rated roof or enclosed eaves, be reflected and taken into account in the insurer's rating plan or in a Wildfire Risk Model if incorporated into the insurer's rating plan. However, there may be other structural characteristics such as siding, number of stories, materials used like masonry or frame that may be predictive of a structure's wildfire risk. The mandatory factors in subdivision (d) are the consensus of multiple government agencies and stakeholders; the lack of consensus on other structural characteristics not included in subdivision (d)'s mandatory factors does not mean that an insurer is precluded from considering in its rating plan or using a Wildfire Risk Model as part of its rating plan, other structural characteristics that the insurer can demonstrate are (1) substantially related to risk of loss; and (2) do not result in rates that are excessive, inadequate, or unfairly discriminatory.

The first sentence is reasonably necessary to set forth the parameters within with the structural characteristics factor shall be incorporated into the insurer's rating plan. The purpose of the first sentence is to distinguish between the materials used in construction which shall be considered, and the design of the structure which may be considered.

The purpose of the second sentence is to ensure that it is clear that types of structural characteristics that are considered as optional ratings must be different characteristics than the mandatory factors in subdivision (d). This section is reasonably necessary to ensure that there is no confusion over which mandatory factors must be considered [all that is contained within subdivision (d)(1)(B)(2) of this proposed regulation] and thus that any other structural characteristics considered by the optional factor in proposed subdivision (e)(5) of this proposed regulation are in addition to, not a substitute for, the mandatory factors.

The third sentence is reasonably necessary to ensure that the insurer use actual loss experience to justify the impact of the structural characteristics factor on any segment, risk classification, or surcharge. This requirement is consistent with general principles of ratemaking, that an insurer promulgates a rate and rating plan that is based on estimate of how much they will have to pay to cover the future cost of transferred risk based on historical data on losses. Existing regulations require the use of historical data to justify future rates (10 CCR 2644.4; 2644.5) so this regulation is consistent with current practice. Without this requirement, it is likely that the structural characteristics factor could either segment, classify risk, or surcharge in a manner that results in excessive or inadequate rates or premiums in violation of Proposition 103. In other words, using historical losses to inform the structural characteristics factor, the insurer rates will more likely be accurate or at least reliably predictive, i.e., not excessive or inadequate and in compliance with Proposition 103.

(6) Wind: The wind factor shall take into account the degree to which wind speed and direction in the vicinity of the structure in question may impact a wildfire's progression. If used, the wind factor shall reflect the historic and estimated impact on losses related to wind, as described in this subdivision (e)(6).

Wind is understood to be a significant factor in how fast wildfire spreads. In other words, wind speed and direction in the vicinity of the structure may have a substantial relationship to the risk of wildfire loss. The purpose of this section, therefore, is to permit insurers to use a wind factor, provided the factor considers the degree to which wind speed and direction in the vicinity of the structure in question may impact a wildfire's progression.

The first sentence is reasonably necessary to set forth the parameters within which the wind factor shall be incorporated into the insurer's rating plan, if used.

The second sentence is reasonably necessary to ensure that the insurer use actual loss experience to justify the impact of the wind factor on any segment, risk classification, or surcharge. This requirement is consistent with general principles of ratemaking, that an insurer promulgates a rate and rating plan that is based on estimate of how much they will have to pay to cover the future cost of transferred risk based on historical data on losses. Existing regulations require the use of historical data to justify future rates (10 CCR 2644.4; 2644.5) so this regulation is consistent with current practice. Without this requirement, it is likely that the wind factor could either segment, classify risk, or surcharge in a manner that results in excessive or inadequate rates or premiums in violation of Proposition 103. In other words, using historical losses to inform the wind factor, the insurer rates will more likely be accurate or at least reliably predictive, i.e., not excessive or inadequate and in compliance with Proposition 103.

> *(7) Other community-level or property-level mitigation efforts not specified in subdivision (d) of this section as recommended by a state or local fire safety agency or organization as reducing wildfire risk.*

Subdivision (d) sets forth the mandatory rating factors that must be included in an insurer's rating plan, whether considered by a Wildfire Risk Model or otherwise by the insurer's rating plan for the purpose of segmenting, creating risk differentials, or surcharging the premium.

This section provides that an insurer may consider in its rating plan (or may use a Wildfire Risk Model that considers other community-level or property-level mitigation efforts recommended by a state or local fire safety agency or organization not specified in subdivision (d). State and local fire safety agencies or organizations are continually revising and updating recommendations as fire science and wildfire mitigation data improves.

This section is reasonably necessary because subdivision (d) cannot necessarily be forward looking. In other words, if, after the publication of this regulation, new recommendations are made by state or local fire safety agency or organization, and those recommendations are (1) substantially related to risk of loss; and (2) do not result in rates that are excessive, inadequate, or unfairly discriminatory, those recommendations may be considered by an insurer's rating plan or a Wildfire Risk Model, incorporated into the insurer's rating plan.

(f) Availability for public inspection.

> *Any rating plan, or Wildfire Risk Model submitted to the Commissioner in connection with a complete rate application pursuant to subdivision (c) of this section, or any additional documentation relating to such rating plan or model as may be requested by the Commissioner during the review of any such application, including any records, data, algorithms, computer programs, or any other information used in connection with the rating plan or Wildfire Risk Model used by the insurer which is provided to the Commissioner, shall be available for public inspection pursuant to Insurance Code sections 1861.05, subdivision (b), and 1861.07, regardless of the source of such information, or whether the insurer or the developer of the rating plan or Wildfire Risk Model claims the rating plan or Wildfire Risk Model is confidential, proprietary, or trade secret. Pursuant to Insurance Code section 1855.5, subdivision (a), a Wildfire Risk Model as defined in subdivision (b)(7) that is made available by an advisory organization to its members for use in California shall be filed with the Commissioner and made available for public inspection.*

With the passage of Proposition 103 in 1988, California voters enacted numerous new laws related to the regulation of insurance rates in California, including Insurance Code sections 1861.05(a) and (b), 1861.07, and 1861.10. Insurance Code section 1861.10 promotes consumer participation in ratemaking by allowing consumers to participate in the ratemaking process and enforce the rating laws. The rating laws provide, inter alia, that no rate shall be excessive, inadequate or unfairly discriminatory (Ins. Code § 1861.05(a).) Insurance Code section 1861.07 further enables effective consumer participation and ratemaking transparency by requiring all information to be made publicly available for inspection if it is provided to the commissioner pursuant to article 10 entitled "Reduction and Control of Insurance Rates". Finally, article 10 includes Insurance Code section 1861.05(b) which provides than an insurer desiring to change any rate shall file a complete rate application containing specified information "and such other information as the commissioner may require." (Ins. Code § 1861.05(b).) These laws require insurers to file the data they rely upon to set rates and premium and for that data to be publicly available. Requiring the data to be filed and be publicly available allows consumers, including consumer groups to: 1) review the data; 2) participate in the ratemaking process and 3) enforce rating laws including those prohibiting rates that are excessive, inadequate or unfairly discriminatory.

As part of proposition 103, California voters made it clear that all information provided to the Commissioner pursuant to article 10 must be made public even if the information might otherwise be considered confidential. Specifically, Insurance code section 1861.07 provides that Government Code section 6254(d), which exempts certain confidential records from disclosure, would not apply to the public record disclosure mandated by Insurance Code section 1861.07. In other words, when the voters mandated in Insurance Code section 1861.07 that "all information provided to the commissioner pursuant to [article 10] shall be available for public inspection…" they meant all information without exception.

Subdivision 2644.9(c) above, requires that Wildfire Risk Models, used in whole or in part in an insurer's rating plan, shall be provided to the Commissioner as part of an insurer's complete rate application.

The purpose of this subdivision (f) is to make specific the requirements of Insurance Code sections 1861.07 and 1861.05(b) as applied to rating plans that make use of a Wildfire Risk Model. Subdivision (f) makes it clear that all information related to rating plans or Wildfire Risk Models submitted to the Commissioner as part of the rate review process shall be available for public inspection. Subdivision (f) makes it clear that such information specifically includes records, data, algorithms, computer programs or other information used in connection with the rating plan or Wildfire Risk Model. Subdivision (f) makes it clear that this information shall be publicly available whether it was submitted with the initial application made to the Commissioner or whether it was subsequently submitted. Subdivision (f) also makes it clear that such information shall be publicly available regardless of the source of the information and regardless of whether the insurer or developer of the rating plan or Wildfire Risk Models claims the information is a trade secret, confidential or proprietary.

Subdivision (f) is reasonably necessary because insurers have argued that certain information submitted to the Commission pursuant to article 10 is exempt from public disclosure even though Insurance Code section 1861.07 requires "all information" provided to the Commissioner pursuant to article 10 to be made publicly available. Subdivision (f) is intended to avoid these arguments, to expressly identify categories of information that shall be made publicly available and make clear that no exemptions exist. If subdivision (f) is not included in this regulation, insurers would continue to argue that certain information or documents are not required to be made publicly available, thus slowing down the rate approval process, and the implementation of wildfire mitigation credits.

Subdivision (f) is also reasonably necessary to make ratemaking transparent and allow for consumer participation pursuant to Insurance Code section 1861.10. Consumer participation would be discouraged and less effective if consumers groups and the public were not able to view the data that the insurers relied upon when submitting their rating plans that include wildfire mitigation factors and Wildfire Risk Models. Subdivision (f) is necessary to allow consumers, including consumer groups, to confirm that insurers' rates are not excessive, inadequate or unfairly discriminatory and thus that the rates comply with Insurance Code section 1861.05

If subdivision (f) is not included, consumer groups and the public will not have a way to determine if the Wildfire Risk Model is based on credible data and/or if the rates being proposed, based in whole or part on those Wildfire Risk Models are excessive, inadequate or unfairly discriminatory.

If subdivision (f) is not included, insurers will continue to argue that there are exceptions to the public disclosure requirement in Insurance Code section 1861.07. They might argue that information requested after the application is initially filed does not need to be made public, they might argue that data, algorithms and computer programs or other information they use to support wildfire mitigation factors or Wildfire Risk Models do not need to be made public, they might argue that information obtained from third parties does not need to be made public even though it is used in the rating plan, they might argue that information does not have to be made public if they or the developer think it is confidential, proprietary or trade secret.

By including subdivision (f), the Department will alleviate the need for its Legal Branch to expend resources to litigate laws regarding public disclosure of information provided to the Commissioner in an insurer's rating plan or Wildfire Risk Models. By including subdivision (f), the Department will reduce the need for its Rate Regulation Branch to expend resources to respond to insurer arguments and inquiries regarding which information shall be made publicly available when provided to the Commissioner in an insurer's rating plan or Wildfire Risk Model. By including subdivision (f), the Department's Legal and Rate Regulations Branches will be able to devote more resources to processing insurer's rate applications, and more quickly processing rate applications containing Wildfire Risk Models.

It is reasonably necessary to require public disclosure of any Wildfire Risk Model and associated rating plan submitted to the Commissioner and all information requested by the Commissioner during the review of any such application to accomplish certain goals of Proposition 103 — specifically to allow consumers and consumer groups to ensure that rates are not excessive, inadequate or unfairly discriminatory by allowing them to review the data the Commissioner reviewed when approving the rates.

The purpose of the second sentence is to make it clear that if an advisory organization operating pursuant to Insurance Code section 1855.5(a) makes a Wildfire Risk Model available to its members for use in California, the model shall be filed with the Commissioner and made available for public inspection.

The language in the second sentence is necessary to allow the Commissioner to review the Wildfire Risk Models used by advisory organizations to ensure that rates are not excessive, inadequate or unfairly discriminatory in accordance with Insurance Code section 1861.05(a). The language in the second sentence is also necessary to make it clear that advisory organizations are not exempt from the public disclosure requirements in Proposition 103. It is necessary to make ratemaking transparent and allow for consumer participation pursuant to Insurance Code section 1861.10. Consumer participation would be discouraged and less effective if consumers groups and the public were not able to view the Wildfire Risk Models that the advisory organizations use in the rating plans they submit for use in California. The second sentence is necessary to allow consumer groups to confirm that insurers' rates based on rating plans prepared and distributed by advisory organizations are not excessive, inadequate or unfairly discriminatory and thus that the rates comply with Insurance Code section 1861.05

If the second sentence is not included, the Commissioner, consumer groups and the public will not have a way to determine if the Wildfire Risk Model used by the advisory organization is based on credible data and/or if the rates being proposed, based in whole or part on those Wildfire Risk Models, are excessive, inadequate or unfairly discriminatory. If the second sentence is not included, insurers and advisory organizations might argue that Wildfire Risk Models used by advisory organizations do not have to be submitted to the Commissioner and are not subject to public inspection.

By including the second sentence, the Department will alleviate the need for its Legal Branch to expend resources to litigate whether advisory organizations that use Wildfire Risk Models their rating plans must file those models with the Commissioner and whether such models shall be made available for public inspection. By including the second sentence, the Department will prevent its Rate Regulation Branch from expending resources to respond to insurer and advisory organization arguments and inquiries regarding whether Wildfire Risk Models used by advisory organizations shall be submitted to the Commissioner and shall be available for public inspection. By including the second sentence, the Department's Legal and Rate Regulations Branches will be able to devote more resources to processing insurer's rate applications, and more quickly processing rate applications containing Wildfire Risk Models.

It is reasonably necessary to require an advisory organization to file with the Commissioner any Wildfire Risk Model it uses in any rating plan it prepares and distributes for use in California and to make such models available for public inspection to accomplish certain goals of Proposition 103 — specifically to ensure that rates are not excessive, inadequate or unfairly discriminatory and to allow consumers and consumer groups to ensure that rates are not excessive, inadequate or unfairly discriminatory by allowing them to review the data the Commissioner reviewed when approving the rates.

(g) *Credible data.*

Any rate application shall incorporate the insurer's own California wildfire loss data to the extent that it is credible to support each segment, rating differential, or surcharge being requested. To the extent the insurer's own California data is not fully credible, the insurer shall credibility-weight its data with an appropriate complement of credibility to support each segment, rating differential, or premium surcharge. If the Commissioner aggregates California premium-and-loss data by wildfire risk to create a fire or wildfire exposure risk manual, an insurer may rely on the then-current version of the manual as support for each segment, rating differential, or surcharge being requested in connection with its residential property rate application, either directly or as a complement of credibility to the insurer's own California wildfire loss data.

Insurance companies use historic California losses (or "claims") and expense data to establish rates for the coverages being offered. Insurance companies rely on their California historic loss data from prior periods to project the California losses that may occur in a future period. If the number of policyholders and losses are sufficiently large, the insurance company can rely solely on their own loss and expense data to project losses and expenses for the future period. These sufficiently large amounts of loss data are often referred to as being fully credible. Credibility of data is a measure of how predictive a particular body of data is. An insurer's own data is considered fully credible when it has full predictive value; i.e., it can be relied upon solely to project future losses and expenses for ratemaking purposes. As a result, the insurance company with fully credible loss data does not have to rely on any other loss data to establish its base rates.

Insurance companies use rating factors to rate individual policies, and to classify insured risks into groups that are expected to have similar underlying claim costs in the future. Classifying in this manner is referred to as rate segmentation. Such rate segmentation also allows the insurance companies to determine an appropriate and potentially different rate for each risk group. Multiple rating factors may be used to identify and evaluate the levels of risk that a prospective policyholder poses in order to "segment" the rate and appropriately charge either above (surcharge) or below (discount) a base rate used for the insurance company's entire book of business. In other words, segmenting, creating a risk differential, or surcharging is the process by which an insurer determines the appropriate premium for groups of, and subsequently individual insurance policies.

Just as an insurance company's aggregate California loss data is subject to credibility considerations, the segments of the insurer's California rating plan are similarly, and even more impacted by, credibility concerns. If the number of policyholders assigned to a particular segment in the insurer's rating plan and their associated losses are sufficiently large, the insurance company can rely solely on their own loss and expense data for the policyholders in that segment to project losses and expenses for the all policyholders in that segment. These sufficiently large amounts of loss data for each segment are often referred to as being fully credible. Credibility of data is a measure of how predictive a particular body of data in each segment is. An insurer's own data by segment is considered fully credible when it has full predictive value; i.e., it can be relied upon solely to project future losses and expenses for ratemaking purposes. As a result, the insurance company with fully credible loss data by segment does not have to rely on any other loss data to establish its rating differential or premium discount or surcharge for each segment.

In the event that the insurance company's own California loss data, either on an aggregate (i.e., combining data from all of the insurance company's policyholders) or segmented (i.e., using data for the policyholders assigned to each segment or classification) basis, is not fully credible, the insurance company will need to assign a measurement of the predictive value of the loss data in question (i.e., the aggregate data or the segment's data). That measurement is the weight given to the insurance company's own loss data. For instance, if the insurance company's data is 60% credible, the insurance company will identify a suitable set of relevant data and assign it a 40% (100% less 60%) weight. This set of relevant data, referred to as the "complement of credibility", should have characteristics similar to the insurance company's own data. This weighting of the insurance company's own data with the complement of credibility is referred to as "credibility-weighting". Credibility-weighting may be required on an aggregate or segmented basis. Because segments of the insurance company's data reflect only a portion of the insurance company's total loss data, these segments are more likely to be less than fully credible and require a credibility-weighting procedure.

The insured losses (or "claims") that insurance companies sustain can originate from various causes or perils, such as water, theft, fire, wind, hail, etc. An insured loss originating from the peril of fire can have several causes, such as fire inside the residential or commercial structure resulting from a heater, faulty appliance or stove. A fire can also originate outside of the residential or commercial structure from a brush fire, or wildfire that sweeps through portions of the area where those structures are located. Insurance companies aggregate the losses they sustain due to these wildfire events into historical wildfire loss data that they use to project future wildfire losses, either in aggregate or by wildfire rating segment. The projected wildfire losses in each classification segment are used to establish the rates in each segment.

In the event that the insurance company's own California wildfire loss data by rating segment is not fully credible, the insurance company will need to assign a measurement of the predictive value of the loss data in question. That measurement is the weight given to the insurance company's own wildfire loss data. For instance, if the insurance company's wildfire data is 25% credible, the insurance company will identify a suitable set of relevant wildfire data and assign it a 75% (100% less 25%) weight. This set of relevant wildfire data, referred to as the "complement of credibility", should have characteristics similar to the insurance company's own wildfire data. This weighting of the insurance company's own wildfire data with the complement of credibility is referred to as "credibility-weighting". An insurance company is free to use any complement of credibility that is appropriate to credibility-weight its wildfire loss data. In the event the Commissioner establishes and publishes a database of aggregate California fire and wildfire losses, referred to as a fire or wildfire exposure risk manual (as required by Insurance Code sections 929 et seq.), the insurance company may opt to use the wildfire loss data in this manual to credibility-weight its own California wildfire loss data. Alternatively, the insurance company may use the wildfire loss data in this manual exclusively, replacing its own data, to establish each segment, rating differential, or surcharge being requested.

The purpose of the first sentence of subdivision (g) is to identify that the subdivision governs the insurance company's use of wildfire loss data to the extent it is credible in the development of segment, rating differential, or surcharge being requested. The purpose of the second sentence is to establish wildfire loss data requirements for insurance companies submitting rate applications supporting requests to segment, differentiate rates or surcharge based on wildfire risk. The purpose of the third sentence is to establish requirements for insurance companies' use of California wildfire loss data that is not sufficiently large to be relied upon exclusively to develop wildfire segments, rating differentials, or surcharges being requested. The purpose of the last sentence is to identify the possibility that the Commissioner will publish a fire or wildfire exposure risk manual (as required by Senate Bill 824), that will provide the insurance company the option to use that manual, exclusively or in combination with its own California wildfire loss data, to develop wildfire segments, rating differentials, or surcharges being requested.

The language in subdivision (g) addresses the problem that insurance companies currently do not have sufficient volume of California wildfire loss data to accurately develop segments, rating differentials, or surcharges. If this problem is not resolved, premiums charged as a result of the insurer's segmentation, risk differentiation, or surcharges may result in excessive, inadequate, or unfairly discriminatory rates or premiums. The proposed regulation provides insurance companies a methodology and data sources, the latter which may be employed, either exclusively or in conjunction with their own California wildfire loss data, to develop wildfire segments, rating differentials, or surcharges.

This subdivision is reasonably necessary to ensure that insurance companies use the appropriate California wildfire loss data to establish wildfire segments, rating differentials, or surcharges in their rating plans. By doing so, this subdivision ensures that rates incorporating any wildfire component of risk are not excessive, inadequate, or unfairly discriminatory, and applicants or policyholders can be assured that their rates and premiums incorporating any wildfire component of risk are fair and not arbitrary.

(h) Provision of wildfire risk score or other wildfire risk classification to policyholder or applicant.

An insurer utilizing a Wildfire Risk Model, or rating factor, to segment, create a rate differential, or surcharge the premium based upon the policyholder or applicant's wildfire risk shall, within 180 days after the date this section is filed with the Secretary of State, implement a written procedure to provide, in writing, to each such policyholder or applicant for property insurance the wildfire risk score or other wildfire risk classification used by the insurer to segment, create a rate differential, or surcharge the premium based upon the policyholder or applicant's wildfire risk. The insurer shall provide to the policyholder or applicant such wildfire risk score or classification at the following times:

The first sentence of subdivision (h) identifies that the subdivision governs the provision of any wildfire risk score or other wildfire risk classification to policyholder of applicant. The purpose of this provision is to make clear the scope of the subdivision. This provision addresses the problem of any reader potentially being confused about what this subdivision governs. This provision is reasonably necessary to encourage readability by providing context and ease of reference.

The second sentence in subdivision (h) identifies that within 180 days after the date this section is filed with the Secretary of State, insurers that utilize a wildfire risk model, or rating factor, to segment, create a rate differential, or surcharge the premium based upon the policyholder's or applicant's wildfire risk must implement a written procedure that describes the process to provide the policyholder or applicant with the wildfire risk score or other wildfire risk classification the insurer used to segment, create a rate differential, or surcharge the premium based upon that policyholder's or applicant's wildfire risk. The purpose of this provision is to make clear which insurers are required to develop and implement such a written procedure, what actions that written procedure must describe and require, and when the insurer must develop and implement that written procedure. This provision also seeks to ensure that every insurer has a written procedure established against which their performance may be measured.

This provision addresses the potential problem that would occur if insurers did not understand their obligation to develop and implement such a procedure. It also addresses the potential problem that would occur if insurers did not understand when the insurer must implement such a written procedure. This provision is reasonably necessary to identify what action is required of whom and when these actions are required.

This provision addresses the problem of insurers not having the internal written procedure implemented in a timely manner that allows for internal clarity within the insurance company. It would be a problem if an insurer sought to file a rating plan with the Department, and that rating plan did not have an identified, documented procedure in place that ensures fair and consistent application of the requirements set forth in subdivision (h). Thus, the 180-day requirement is reasonably necessary to be consistent with subdivision (d)(1)(B)(2) of this section, wherein insurers must file a rate application that incorporates a rating plan that includes the factors described in subdivision (d)(1) of this section within 180 days following the date this regulation is filed with the Secretary of State.

Additionally, this provision addresses the problem of insurers potentially providing wildfire risk score or classification information inconsistently. Providing the wildfire risk score and classification in writing also protects against a misunderstanding or other confusion common with oral communication when an insurer does not follow up such communication in writing. Stated another way, this provision addresses the potential difficulties that would exist if an insurer only orally described the specific wildfire risk score or classification information the insurer used for the applicant or policyholder, and the insurer and applicant or policyholder had a different recollection about what the insurer represented orally. It is therefore reasonably necessary to require insurers to provide the policyholder or applicant their wildfire risk score or classification in writing so that the information is documented in a clear, specific, and memorialized way that allows the policyholder and applicant the ability to reference the insurer's conclusions as needed.

Finally, this provision addresses the problem of any potential future confusion among the employees of individual insurance companies and any potential inconsistent application of the requirements set forth in subdivision (h). Requiring the documentation of an insurer's procedure in writing is reasonably necessary for all employees to consistently and uniformly provide the required information to the appropriate policyholders and applicants. Without having a written procedure, the Department would not be able to measure whether the insurer is providing the required information in a uniform, consistent manner, so this provision is also reasonably necessary to be able to enforce this section and prevent against unfairly discriminatory application of the requirements set forth in subdivision (h).

The third sentence in subdivision (h) identifies that there are a number of times when insurers must provide a policyholder or applicant the wildfire risk score or classification described above, if the insurer has created a rate differential, or surcharged the premium based upon the policyholder's or applicant's wildfire risk. The purpose of this sentence is to require insurers to provide wildfire risk score or classifications to policyholders or applicants at specific times related to policy applications, policy terms, and in response to an applicant's or policyholder's completion of new mitigation measures on the subject property. Currently, when an insurer makes an underwriting decision based on a wildfire risk score or classification, the insurer is required to provide a reason for its underwriting decision if it decides to nonrenew a policy. Because no regulation currently provides specific direction to insurers regarding how to disclose wildfire risk scores or classifications to consumers who have applied for insurance or are seeking to renew their insurance with the insurer, this sentence provides that specific direction. Because policyholders and applicants are the most aware of the circumstances of their property, they are likely to know the attributes or characteristics of their property better than anyone else. They are also in the best position to determine whether the insurer's data assumptions or the assigned wildfire risk score or classification are correct.

Insurance Code section 1861.10 promotes consumer participation in ratemaking by allowing consumers to participate in the ratemaking process and enforce the rating laws. These laws require insurers to file all data they rely upon to set rates, for that data to be publicly available so all members of the public may review it, and allow consumers to enforce rating laws including those prohibiting rates that are excessive, inadequate or unfairly discriminatory. As discussed earlier, for years the Department has received a significant number of complaints that applicants have discovered insurers using incorrect wildfire risk scores and classifications as a result of insurers using inaccurate or erroneously modified data in assigning those wildfire scores and classifications. These inaccuracies can either lead to rates that are excessive or inadequate. These inaccuracies can also result in rates being set in an unfairly discriminatory manner.

This provision seeks to address these problems as Insurance Code section 1861.05(a) makes it unlawful for a rate to be approved or remain in effect which is excessive, inadequate, or unfairly discriminatory. The third sentence in subdivision (h) is reasonably necessary to allow for the validation and potential correction of wildfire risk scores or classifications, which ensures the accuracy of the data insurers rely on to determine rates. This provision is also reasonably necessary to prevent unfair discrimination in rates, excessive or inadequate rates or the unfair application of rates by making wildfire risk scores or other risk classifications transparent. Lastly, this provision is also reasonably necessary to communicate to the policyholder or applicant the foundational information that insurers must provide the policyholder or applicant at different times and to give context to the subsequent subdivisions (h)(1)-(4).

> *(1) No later than fifteen days following the submission to the insurer of the applicant's completed application,*

Subdivision (h)(1) identifies the maximum period of time an insurer can take to provide an applicant with their wildfire risk score or classification. The purpose of the provision is to identify a uniform and appropriate time limit within which insurers must provide applicants for property insurance their wildfire risk score or other wildfire risk classification. This provision seeks to avoid the problem of potential inconsistent treatment of applicants by individual insurers as well as potential inconsistent treatment of applicants throughout the industry. It is reasonably necessary to use fifteen days as the time limit to make these regulations consistent with other similar, but more general rules. California Code of Regulations, title 10, section 2694 requires an insurer to provide a complete response within 15 days, based on the facts then known by the insurer, to a written communication from an applicant regarding an underwriting or rating transaction that reasonably suggests an insurer response is expected. The Department considers an application for property insurance to be such a written communication, so it is reasonably necessary that this provision, (h)(1), require a response no later than 15 days after submission of a completed application for insurance.

> *(2) At least forty-five days prior to each renewal,*

Subdivision (h)(2) identifies the latest possible time an insurer may provide a wildfire risk score or classification to a policyholder whose policy is being renewed. The purpose of the provision is to identify a uniform, appropriate, final time within the policy term by which insurers must provide a wildfire risk score or classification to the policyholder whose policy is being renewed. This subdivision (h)(2) is consistent with Insurance Code section 678(a), which requires an insurer to provide an offer of renewal of the policy at least 45 days prior to the policy expiration.

As the compliant insurer will have considered the mandatory factors set forth in this section in the course of considering whether to a renew the policy, and the insurer will already be sending the renewal correspondence to the policyholder, requiring the insurer to provide the wildfire risk score or classification at the same time avoids the problem of the regulation creating inefficiencies, consumer confusion, and additional costs for insurers. On balance, for the policyholder, this provision also avoids the problem of the policyholder not having sufficient time to work with the insurer to correct any inaccurate information or conclusions in the wildfire risk score or classification in advance of the policy's renewal. Thus, this provision is reasonably necessary to integrate these requirements for insurers in an efficient manner, while also ensuring that the wildfire risk score or classification is provided at a point in the policy term that allows sufficient time for the policyholder to participate and ensure the accuracy of the information that was considered in determining the charged premium.

(3) At least seventy-five days prior to any nonrenewal, and

Subdivision (h)(3) identifies the latest possible time an insurer may provide a wildfire risk score or classification to a policyholder whose policy is being nonrenewed. The purpose of the provision is to identify a uniform, appropriate, and final time within the policy term by which insurers must provide a wildfire risk score or classification to the policyholder whose policy is being nonrenewed. Similar to (h)(2), discussed above, the Department's rule is consistent with Insurance Code section 678(c)(1) which requires insurers to provide notice of nonrenewal to the policyholder at least 75 days prior to the policy expiration.

A compliant insurer will have considered the mandatory factors in reaching the decision to nonrenew the policy so that information is readily available to provide to the policyholder at that time. The provision of Subdivision (h)(3) allows for the insurer to provide the wildfire risk score or classification information at the same time that the insurer provides the notice of nonrenewal, which avoids the potential problem of creating inefficiencies, consumer confusion and unnecessary costs. Also similar to (h)(2), the policyholder receiving the wildfire risk score or classification is allowed sufficient time to work with the insurer to correct any inaccurate information or conclusions in the wildfire risk score or classification in advance of the policy's expiration, avoiding the problem of the policyholder receiving the wildfire risk score or classification too late to correct any erroneous information. This provision is reasonably necessary to both integrate new requirements of insurers in an efficient manner while ensuring that the wildfire risk score or classification is provided at a point in the policy term that allows sufficient time for the policyholder to participate by making sure the information that was considered in determining the charged premium is accurate.

(4) In the event that the policyholder or applicant has completed a mitigation measure on the subject property since the time of the last application to or renewal by the insurer, no later than thirty days following the submission to the insurer of the policyholder or applicant's request that the insurer provide a revised wildfire risk score or wildfire risk classification.

Subdivision (h)(4) identifies the longest amount of time an insurer may take to provide a revised wildfire risk score or classification to a policyholder or applicant that has completed a mitigation measure on the subject property and requested the insurer provide a revised wildfire risk score or wildfire risk classification. The purpose of this provision is to identify a uniform, appropriate, and fixed time limit within which an insurer must comply by reevaluating the subject property and providing a revised risk score or risk classification to the applicant or policyholder when the applicant or policyholder has completed a mitigation measure on the subject property. This provision addresses the problem of a policyholder or applicant paying a premium that does not reflect the subject property's actual reduced risk of wildfire loss, which would be a violation of Insurance Code section 1861.05(a). This provision is also directed to addressing the problem of arbitrary requests for reevaluation, which would otherwise create an undue administrative burden on insurers. It is important to note that requiring a basis for reevaluation during the policy term or since the time of the last application in no way limits a policyholder or applicant from appealing a wildfire risk score or wildfire risk classification that the policyholder or applicant believes to be inaccurate. Subdivision (i), discussed further below, sets forth the policyholder's or applicant's right to appeal. The provision of subdivision (h)(4) is reasonably necessary, to implement Insurance Code section 1861.05(a), to ensure that no rate shall remain in effect if it is excessive, inadequate, or unfairly discriminatory.

(i) Policyholder or applicant's right to appeal.

> *The procedure described in subdivision (h) of this section shall permit a policyholder under, or applicant for, a policy of property insurance who disagrees with the assignment of a wildfire risk score, or other wildfire risk classification, used by the insurer in its Wildfire Risk Model or rating plan, the right to appeal orally or in writing that assignment directly to the insurer. The insurer shall notify the policyholder or applicant in writing of this right to appeal the wildfire risk score or other wildfire risk classification, whenever such score or classification is provided to the policyholder or applicant, in the manner set forth in subdivision (h) of this section. If a policyholder or applicant appeals a wildfire risk score or other wildfire risk classification, the insurer shall acknowledge receipt of the appeal in writing within ten calendar days of receipt of the appeal. The insurer shall respond to the appeal in writing with a reconsideration and decision within 30 calendar days after receiving the appeal. In the event that an appeal is denied, the insurer shall, upon request by the Department, forward a copy of the appeal, and the insurer's response, to the Department.*

It is reasonably necessary to provide policyholders and applicants with an express right to appeal to the insurer the assignment of a wildfire risk score or other wildfire risk classification. Indeed, many insurance companies that currently use wildfire risk scores to rate policies currently provide consumers with a right to appeal. As part of the prior approval process for reviewing insurance rate applications, the Rate Regulation Branch of the Department routinely asks homeowners insurance company representatives whether they offer a right of appeal to their policyholders and many of these insurance companies already provide such a right. Among the objectives for these regulations is the aim to increase transparency between the applicant or policyholder and its insurance company in order to make sure the premiums charged are not excessive, inadequate or unfairly discriminatory, this right of appeal is essential to further this objective. The purpose of this subdivision, therefore, is to make sure all insurance companies consistently provide policyholders and applicants with this right to appeal.

It is reasonably necessary to clearly establish the procedure a policyholder or applicant can use to appeal a wildfire risk score or other wildfire risk classification when the applicant or policyholder disagrees with the insurer-assigned wildfire risk score or risk classification. The first sentence of this subdivision (i), therefore, identifies the relevant procedure. Subdivision (h)(1), (2), (3) and (4) above, require the insurer to "provide in writing, to each policyholder or applicant for property insurance the wildfire risk score or other wildfire risk classification used by the insurer to segment, create a rate differential, or surcharge the premium based upon the policyholder or applicant's wildfire risk" at the specified times. Subdivision (k)(3), described further below, requires the insurer to provide the policyholder or applicant a "detailed written explanation of why the policy holder or applicant received the assigned score or classification; the explanation shall make specific reference to the features of the property in question that influenced the assignment of the score or classification." These provisions further the Commissioner's stated goal to increase transparency between the policyholder or applicant and the insurance company regarding the specific risk characteristics that resulted in the particular rate differential or premium charge that is assigned to a policyholder or applicant.

As is described in the Statement of the Problem section above, the Commissioner is aware of instances where the rate differential or premium assigned to a particular applicant or policyholder was incorrect. These regulations in general enhance transparency between the consumer and the insurance company so that both parties understand what specific characteristics of a residence or commercial business resulted in the premium charge for that residence or business. By ensuring a mutual understanding about the underlying assumptions the insurance company used to rate a particular policy, the applicant or policyholder will be armed with the information needed to correct any inaccuracies. The purpose of subdivision (i), therefore, is to recognize the policyholder's or applicant's right to appeal and to provide policyholders and applicants with a specific method to appeal any inaccuracies in assigned wildfire risk scores or other risk classifications.

It is reasonably necessary to specify that in situations where the applicant or policyholder communicates directly with its insurance company, that the policyholder or applicant has the right to appeal directly to the insurance company. Without such a provision in place, the applicant or policyholder might not know where to direct an appeal, in which case the processing of the appeal could be significantly delayed or never occur.

The caption to subdivision (i) is reasonably necessary for purposes of improving clarity and ease of reading. The caption calls attention to the fact that policyholders and applicants have a legal right to appeal the insurer-assigned wildfire risk score or other wildfire risk classifications used to determine the premium for that policyholder or applicant. As is noted above, many insurance companies currently provide policyholders with this right of appeal. Among the objectives for these regulations is the aim to increase transparency between the applicant or policyholder and its insurance company in order to make sure the premiums charged are not excessive, inadequate or unfairly discriminatory, this right of appeal is essential to further this objective.

It is reasonably necessary to provide in the proposed regulations the option for policyholders or applicants to communicate orally or in writing to the broker or agent in lodging the appeal. Requiring all appeals to be in writing would impose an undue burden on those policyholders or applicants for whom writing presents an obstacle. Additionally, the factual basis for a policyholder's or applicant's appeal could be such a relatively simple and easy-to-identify factual error about the building being evaluated or the surrounding property that a quick phone call might be, for all concerned, the most efficient and least time-consuming medium for lodging the complaint. On the other hand, it is reasonably necessary to provide the option that the appeal be in writing, so that policyholders or applicants may, if desired, establish and maintain a written record of their own.

It is reasonably necessary to require the insurance company to notify each policyholder or applicant in writing that the policyholder or applicant has the right to appeal the wildfire risk score or other wildfire risk classification, once that score or classification is provided to the policyholder or applicant. It is also reasonably necessary to inform the policyholder or applicant aware that such an appeal may be appealed in the manner set forth in subdivision (h) of these regulations.

Without placing the duty on the insurance company to make each policyholder or applicant aware of the right to appeal, some policyholders or applicants might not know of their right to appeal. Indeed, without this requirement, some policyholders or applicants might believe they are powerless to correct inaccuracies that the policyholder or applicant is aware of. If an applicant or policyholder is aware that an insurance company has made an incorrect assumption about the characteristics of that applicant's or policyholder's property, it is very important for that applicant or policyholder to proactively inform the insurance company of this mistake. As is explained above, when an insurer makes an erroneous assumption about the characteristics of a property when assigning a rate or premium charge for that property, the rate or premium charge will become either excessive or inadequate. Moreover, such an erroneous rate charge will result in an unfairly discriminatory rate.

It is reasonably necessary to require in the proposed regulations that the insurer promptly acknowledge receipt of the appeal within ten calendar days of receipt. Absent this requirement, insurance companies, as well as applicants and policyholders would not have an efficient, systematic way of determining whether or not the appeal had in fact been successfully lodged. This requirement also benefits insurers, who have a preexisting business need, independent of the proposed regulations, to ensure they are aware of and timely respond to communications from applicants or insureds; the acknowledgement requirement provides a useful method for an insurer to make sure an appeal sent to it has been appropriately processed and will be duly considered by the insurance company in accordance with the insurance company's legal obligations.

Specifying that the time requirements set forth in proposed subdivision (i) in terms of calendar days is reasonably necessary for purposes of ruling out potential ambiguity, as well as ensuring that computation of due dates is not unnecessarily complicated, for all involved. If the subject language did not specify day counts as calendar days, ambiguities with respect to whether and how to count holidays and weekends would be more likely to ensue. Additionally, specifying time requirements in terms of “calendar” days ensures that due dates can readily be computed by all parties simply by counting the days on the calendar, among other readily available methods.

Similarly, it is reasonably necessary to require the insurer to send acknowledgment of receipt of the appeal to the applicant or policyholder, because applicants and policyholders are likely to be especially attentive to ensuring that that the insurance company is indeed processing their appeals timely. Requiring the insurer to send them an acknowledgement of receipt of the appeal will furnish applicants and policyholders with reasonable assurances that the insurer is properly considering their appeal, as well as helping the insurance company to ensure that it will process the appeal according to expected parameters, as explained above.

It is reasonably necessary that the proposed regulations require insurers to provide their substantive response to appeals by means of a written reconsideration and decision of the appeal. Even if policyholders or applicants are also notified by additional means, requiring insurers to put the response to the appeal in writing provides an official record of the insurer’s response, which affords protections for both the insurer and consumer against the prospect that the insurer’s decision and underlying reasoning may subsequently be misunderstood or misrepresented. Requiring the insurer thus to memorialize in writing its substantive response to the appeal provides much-needed clarity to all parties with respect to the insurer’s decision and the reasons it cites in support of that decision.

It is necessary for the proposed regulations to require the insurer to send its substantive response to the policyholder or applicant who has lodged the appeal, because presumably that person is most interested in the outcome of the appeal and will likely need to make alternate arrangements for commercial or residential property coverage, as a matter of considerable urgency, in the event the appeal is denied. Policyholders and applicants thus have a pressing need for insurers to send them the result of their appeal.

It is reasonably necessary to require that the insurer send its substantive response to appeals within 30 calendar days after receiving them. This 30-day period both provides the insurer sufficient time to review and reconsider each of its decisions that is being appealed and ensures that appellant applicants and consumers have their appeals resolved without undue delay. These commercial and residential consumers in particular will typically be under significant economic pressure to resolve the question about insurance coverage for their properties, and requiring insurers to respond to appeals within 30 days makes it more likely than would a provision giving insurers a longer turnaround time that these applicants or insureds will have a reasonable opportunity to make alternate arrangements.

The proposed 30-day period is a sufficient duration of time to allow the insurer to evaluate appeals, check its own original processing of the application or renewal in question, acquire additional information as necessary and formulate and send its written response to the appeal in due course. Though in most cases insurers will not have an absolute need to exhaust the entire 30-day period in order to accomplish this task, it is reasonable to provide them with this period of a little over four weeks' time to process the appeal, in case, for instance, the issue(s) involved in the dispute are novel or unusually complex, or a reexamination of the BBE or surrounding property is necessary in order to resolve the dispute. Requiring a significantly shorter turnaround time, on the other hand, could on rare occasion impose an undue burden on the insurer's business practices and, perversely, might also encourage insurers to give less serious consideration to appeals — or provide merely cursory responses to them — than can reasonably be expected under the proposed 30-day timeframe.

A 30-day deadline for reviewing a decision and explaining it to consumers in writing is by no means uncommon in the business world, and insurers in particular currently are able to run very successful business operations while consistently satisfying existing similar 30-day turnaround-time requirements. For instance, insurers are required under Insurance Code section 657 to furnish to applicants a written statement explaining their reason(s) for not accepting an application for, or refusing to issue a policy of, automobile insurance within 30 days of an applicant's request for such an explanation. Similarly, property and casualty insurers are currently required under California Code of Regulations, title 10, section 2632.13(e)(3) to provide, within 30 days of receiving an automobile insurance claimant's request for reconsideration of the insurer's determination that the insured was principally at-fault, written notice of the insurer's decision upon reconsideration, which written notice is required to state the reasons for the insurer's decision. Accordingly, it is reasonable to expect many of these same property and casualty insurers to be readily able to respond in writing to appeals under the proposed regulations within 30 days, as well.

It is reasonably necessary to provide that, upon request by the Department, insurers shall send their denials of appeals under the proposed regulations to the Department. This is true because such a practice will enable the Department to monitor the number and frequency of such denials to determine whether, for instance, particular insurers have a disproportionately high number of denials in relation to their market share. Such a determination may well inform the Department's decision making with respect to which insurers the Department shall examine, the timing of such examinations and when. Insurers will be aware of this possibility and will thus be incentivized to ensure that appeals are considered thoroughly and appropriately. Additionally, the knowledge that its denials of appeals may be requested by the Department may enhance the insurer's appreciation of its own accountability, including among the personnel processing the appeals the insurer receives.

It is reasonably necessary to require that only denied appeals be sent to the Department upon request, because it is logical to infer that appeals that the insurer has granted represent resolutions that are satisfactory to all parties. Accordingly, with appeals that have been granted there is not as great a likelihood as would be the case with denied appeals that there may be a problem with or deficiency in the insurer's handling of appeals. For this reason, the additional processing required in order to send granted appeals to the Department may not be justified by the potential benefit that would be likely to accrue from their being so sent. This provision is also reasonably necessary to allow the Department to identify trends, and address any concerns, regarding any specific insurance company that may not be observing the proposed provisions governing the appeals process, and to help ensure that a specific insurer's risk score or factor is not based on erroneous information.

It is also reasonably necessary that denied appeals be sent to the Department upon request by the Department so that necessary confidentiality arrangements called for by each such request can be preserved. For instance, information provided in response to requests made by the Department pursuant to its complaint investigations authority (Insurance Code sections 12921 et seq.) will be governed by the confidentiality provisions applicable to these requests issued under this authority generally. As another case in point, insurer responses to requests made pursuant to a market conduct examination (Insurance Code sections 730 et seq.) will be governed by confidentiality provisions generally applicable to materials provided pursuant market conduct examinations. Having insurers provide this information subject to request by the Department thus provides the necessary protections for insurers, consumers and the regulator to ensure the records are received, maintained, and used for appropriate regulatory purposes. This approach is also reasonably necessary in order to ensure that consumer's identifiable personal information will not be made public.

It is also reasonably necessary to require that, when the Department requests it and the insurer sends its denied appeal to the Department, that the insurer also forward along with the denial a copy of the original appeal. The inclusion of the original appeal will ensure that the material sent to the Department presents a more complete picture of the processing of the appeal than would be the case if only the insurer's response were included. Absent such a requirement, it would likely be impossible to tell from the material submitted to the Department whether, for instance, the insurer had in fact responded to the issue(s) raised by the policyholder or applicant. Insurers' knowledge that a record of denied appeals that is complete in this way will be sent to the Department can reasonably be expected to encourage insurers and personnel processing applications to respond meaningfully and completely, on the record, to the concerns raised by appellant applicants or policyholders.

(j) Representation by broker or agent.

If the policyholder or applicant is represented by a broker, or the insurer is represented by an insurance agent with respect to the policyholder's policy or the applicant's application, the policyholder or applicant may appeal orally or in writing to the agent or broker the assignment of wildfire risk score or other wildfire risk classification, who shall then forward that appeal to the insurer no later than five calendar days after receiving the appeal from the policyholder or applicant. The insurer shall acknowledge receipt of *the appeal in writing to the policyholder or applicant and the agent or broker no later than five calendar days after receipt of the appeal from the broker or agent. The insurer shall respond to the appeal to the policyholder or applicant and the agent or broker with a written reconsideration and decision of the appeal within 30 calendar days after receiving the appeal from the broker or agent. In the event that an appeal is denied, the insurer shall, upon request by the Department, forward a copy of the appeal, and the insurer's response, to the Department.*

It is reasonably necessary to specify that in situations where a broker or agent has served as an intermediary between the insurer and the applicant or policyholder, such intermediary shall also assist in communications with the insurer with respect to the appeal procedure that is the subject of this and surrounding subdivisions. Without such a provision in place, the applicant or policyholder might not know where to direct an appeal, or might send the appeal to the incorrect insurer or to the incorrect personnel or offices of the insurer, in which case processing of the appeal could be significantly delayed or never occur. Especially if an applicant or insured has hitherto communicated with the insurer primarily through such an intermediary agent or broker, an insurer's requiring communications regarding the appeal of a wildfire score or factor to take place by means of a procedure that could be new and unfamiliar to the applicant or policyholder would impose an unnecessary and undue burden on the applicant or policyholder in lodging the appeal.

The caption to subdivision (j) is reasonably necessary for purposes of improving clarity and ease of reading. The caption calls attention to the fact that the immediately following material is relevant in cases where representation by a broker or agent is a factor, so that brokers and agents, as well as applicants and policyholders who have dealt with brokers and agents at prior stages of the subject insurance transactions, can take special note of the regulatory provisions that follow. The caption also enables parties involved in transactions not involving brokers or agents to reasonably direct their attention elsewhere.

It is reasonably necessary in subdivision (j) to allude to the legal distinction between brokers and agents, by calling out the fact that agents represent the insurer, whereas brokers represent the applicant or policyholder. Applicants or policyholders may not otherwise be aware of this distinction, but such an awareness may help the applicant or policyholder navigate the appeal process. For instance, a policyholder or applicant armed with such knowledge might also be able to proceed with lodging an appeal informed by a more sophisticated understanding of how to approach the broker or agent. Understanding that the agent is actually the insurer's representative might, for instance, give a policyholder or insured reason to expect the agent to have greater specialized knowledge about the particular insurer's procedures and greater responsibility in the insurer's processing of appeals than might otherwise be the case, whereas understanding that a broker is acting as their own representative — or simply as a go-between — may, for example, provide useful information to applicants or policyholders in the way of better understanding what the broker's motivations may be.

It is reasonably necessary to provide in the proposed regulations the option for policyholders or applicants to communicate orally or in writing to the broker or agent in lodging the appeal. Requiring all appeals to be in writing would impose an undue burden on those policyholders or applicants for whom writing presents an obstacle. Additionally, the factual basis for a policyholder's or applicant's appeal could be such a relatively simple and easy-to-identify factual error about the BBE or the surrounding property that a quick phone call might be, for all concerned, the most efficient and least time-consuming medium for lodging the complaint. On the other hand, it is reasonably necessary to provide the option that the appeal be in writing, so that policyholders or applicants may, if desired, establish and maintain a written record of their own.

It is reasonably necessary to require the agent or broker to forward the appeal to the insurer within five calendar days of receiving it, so that processing of the appeal is not unduly delayed and so that the broker or agent has sufficient time to transmit the information. An incidental benefit of allowing five days for the accomplishment of this task, which as a practical matter, can often be accomplished in a matter of minutes, given the predominance of electronic communications in the business world today, may be that agents and brokers may have the opportunity, to the extent they are able and willing to do so, to facilitate communication with the insurer. For instance, agents or brokers may already have sufficient knowledge to the applicant's or insured's particular situation that they may be able to quickly spot an error in the appeal or identify missing information which, if provided to the insurer, could assist the insurer in processing the appeal in a way that might be advantageous to all parties. At any rate, five days represents a reasonable balance between the competing interests of timely processing of appeals, on the one hand, and imposing only reasonable requirements on brokers and agents, on the other, given the pressing need for providing and acquiring correctly rated insurance in impacted areas. The five-day period also ensures that brokers and agents do not necessarily have to work on holidays or weekends in order to comply with the regulation.

Specifying that the time requirements set forth in proposed subdivision (j) in terms of calendar days is reasonably necessary for purposes of ruling out potential ambiguity, as well as ensuring that computation of due dates is not unnecessarily complicated, for all involved. If the subject language did not specify day counts as calendar days, ambiguities with respect to whether and how to count holidays and weekends would be more likely to ensue. Additionally, specifying time requirements in terms of "calendar" days ensures that due dates can readily be computed by all parties simply by counting the days on the calendar, among other readily available methods.

It is reasonably necessary to require in the proposed regulations that the insurer promptly acknowledge receipt of the appeal to both the agent or broker and the applicant or policyholder. Absent this requirement, agents, brokers, applicants and policyholders would not have an efficient, systematic way of determining whether or not the appeal had in fact been successfully lodged. This requirement also benefits insurers, who have a preexisting business need, independent of the proposed regulations, to ensure they are aware of and timely respond to communications from applicants or insureds; the acknowledgement requirement provides a useful method for an insurer to make sure an appeal sent to it hasn't fallen through the cracks, so to speak, because agents, brokers, applicants and policyholders who have transmitted appeals to the insurer, which appeals are not duly acknowledged by the insurer, are likely to contact the insurer or its representative to inquire about the omission, which will often put insurers on notice that attention is needed in order to track down the unacknowledged communication and respond to appeals within the required timeframe.

The provision requiring that the insurer acknowledge receiving the appeal to the agent or broker and the applicant or policyholder within five calendar days of receiving it is reasonably necessary to ensure both that the appeal is timely processed and that the insurer has sufficient time to send the acknowledgement. The five-day requirement also ensures that the insurer will have sufficient time to consider and respond to the substance of the appeal, which would more likely not be the case if a significant portion of the time provided for the insurer to perform these tasks, as discussed below, were wasted as would be the case if the insurer had somehow lost or misplaced the appeal and thus failed even to begin to process it — and had in place no means of being alerted to the fact that it had done so. Similarly, by virtue of the five-day acknowledgement, brokers and agents as well as applicants and insureds have an efficient way of confirming whether or not the insurer has in fact received the appeal. While a shorter turnaround time could potentially provide some additional benefit to applicants or policyholders, it is also necessary to consider the current business needs of insurers to process high volumes of communications in addition to the communications governed by the proposed regulations. The five-day requirement successfully conveys to insurers the need to treat the task of acknowledging appeals with the appropriate degree of expeditiousness, while avoiding imposing a turnaround time that would be impracticable for insurers to satisfy, given their existing workflow. Five days thus strikes the proper balance between the imperative that appeals be timely processed and the need that the insurer's business processes not be inappropriately disrupted.

There is precedent in the Insurance Code for requiring insurers to respond within five calendar days of receipt of certain routine communications. To wit, pursuant to Insurance Code section 758.5(b)(3), the insurer is required to mail or provide, within five calendar days, a prescribed notice to claimants who have agreed to use the insurer's suggested auto body shop to effect covered repairs. The Department's understanding is that insurers are immanently capable of satisfying, and in the ordinary course consistently do satisfy, this five-day requirement. Accordingly, it is reasonable to expect that insurers will be able to manage the five-day acknowledgement requirement imposed by the proposed regulations with similar alacrity.

It is reasonably necessary for the proposed regulations to require that, in the event the appeal has been lodged through a broker or agent, the insurer likewise communicate its answer to the appeal to the broker or agent, as well as to the applicant or insured. Because they transact the business of insurance on a day-to-day basis, agents and brokers are more likely to be attuned to the customary practices of the insurers whose policies they deal in than is likely to be the case with ordinary consumers of insurance. It is thus reasonably necessary to require the insurer to send the acknowledgement to brokers and agents, because brokers and agents — owing to their likely familiarity with how in the ordinary course of business the insurer handles administrative tasks such as sending the subject acknowledgement — may naturally be more sensitive to a departure from the insurer's typical methods of operation than would be the case for an applicant or policyholder. Thus, insurers and brokers, for the reason that the proposed regulations require the insurer to send them the acknowledgement, can reasonably be expected to aid the insurer, and the applicant or policyholder, by means of notifying the insurer when, owing to their experience with the insurer, it appears to them that the insurer may not have received the appeal, because they have not received the insurer's acknowledgement at the expected time.

Similarly, it is reasonably necessary to require the insurer to send acknowledgment of receipt of the appeal to the applicant or policyholder, because applicants and policyholders are likely to be especially attentive to ensuring that that the insurer is indeed processing their appeals timely. Requiring the insurer to send them an acknowledgement of receipt of the appeal will furnish applicants and policyholders with reasonable assurances that the insurer is indeed considering their appeal, as well as helping the insurer to ensure that it is indeed processing the appeal according to expected parameters, as explained above.

It is reasonably necessary that the proposed regulations require insurers to provide their substantive response to appeals by means of a written reconsideration and decision of the appeal. Even if policyholders or applicants are also notified by additional means, requiring insurers to put the response to the appeal in writing provides an official record of the insurer's response, which affords protections for both the insurer and consumer against the prospect that the insurer's decision and underlying reasoning may subsequently be misunderstood or misrepresented. Requiring the insurer thus to memorialize in writing its substantive response to the appeal provides much-needed clarity to all parties with respect to the insurer's decision and the reasons it cites in support of that decision.

For reasons similar to those discussed above with reference to the requirement that the insurer acknowledge its receipt of the appeal to brokers and agents as well as to applicants and policy holders, it is reasonably necessary in the proposed regulations to specify that the insurer must send its substantive response to the appeal not only to applicants and policyholders but also to brokers and agents. Agents and brokers, since they are likely to have some familiarity with the ordinary practices of the insurer in question, may serve as a valuable resource to both consumers and insurers in the way of being in a position to recognize when an appeal doesn't appear to be proceeding in the customary fashion. It is also likely that, should they see fit to do so, brokers and agents may be able to efficiently answer and potentially resolve questions the appellant policyholder or applicant may have about insurers' responses to appeals.

It is necessary for the proposed regulations to require the insurer to send its substantive response to the policyholder or applicant who has lodged the appeal, because presumably that person is most interested in the outcome of the appeal and will likely need to make alternate arrangements for residential property coverage, as a matter of considerable urgency, in the event the appeal is denied. Policyholders and applicants thus have a pressing need for insurers to send them the result of their appeal.

It is reasonably necessary to require that the insurer send its substantive response to appeals within 30 calendar days after receiving them. This 30-day period both provides the insurer sufficient time to review and reconsider each of its decisions that is being appealed and ensures that appellant applicants and consumers have their appeals resolved without undue delay. These consumers in particular will typically be under significant economic pressure to resolve the question about insurance coverage for their properties, and requiring insurers to respond to appeals within 30 days makes it more likely than would a provision giving insurers a longer turnaround time that these applicants or insureds will have a reasonable opportunity to make alternate arrangements.

The proposed 30-day period is a sufficient duration of time to allow the insurer to evaluate appeals, check its own original processing of the application or renewal in question, acquire additional information as necessary and formulate and send its written response to the appeal in due course. Though in most cases insurers will not have an absolute need to exhaust the entire 30-day period in order to accomplish this task, it is reasonable to provide them with this period of a little over four weeks' time to process the appeal, in case, for instance, the issue(s) involved in the dispute are novel or unusually complex, or a reexamination of the BBE or the surrounding property is necessary in order to resolve the dispute. Requiring a significantly shorter turnaround time, on the other hand, could on rare occasion impose an undue burden on the insurer's business practices and, perversely, might also encourage insurers to give less serious consideration to appeals — or provide merely cursory responses to them — than can reasonably be expected under the proposed 30-day timeframe.

A 30-day deadline for reviewing a decision and explaining it to consumers in writing is by no means uncommon in the business world, and insurers in particular currently are able to run very successful business operations while consistently satisfying existing similar 30-day turnaround-time requirements. For instance, insurers are required under Insurance Code section 657 to furnish to applicants a written statement explaining their reason(s) for not accepting an application for, or refusing to issue a policy of, automobile insurance within 30 days of an applicant's request for such an explanation. Similarly, property and casualty insurers are currently required under California Code of Regulations, title 10, section 2632.13(e)(3) to provide, within 30 days of receiving an automobile insurance claimant's request for reconsideration of the insurer's determination that the insured was principally at-fault, written notice of the insurer's decision upon reconsideration, which written notice is required to state the reasons for the insurer's decision. Accordingly, it is reasonable to expect many of these same property and casualty insurers to be readily able to respond in writing to appeals under the proposed regulations within 30 days, as well.

It is reasonably necessary to provide that, upon request by the Department, insurers shall send their denials of appeals under the proposed regulations to the Department. This is true because such a practice will enable the Department to monitor the number and frequency of such denials to determine whether, for instance, particular insurers have a disproportionately high number of denials in relation to their market share. Such a determination may well inform the Department's decision making with respect to which insurers the Department shall examine, the timing of such examinations and when. Insurers will be aware of this possibility and will thus be incentivized to ensure that appeals are considered thoroughly and appropriately. Additionally, the knowledge that its denials of appeals may be requested by the Department may enhance the insurer's appreciation of its own accountability, including among the personnel processing the appeals the insurer receives.

It is reasonably necessary to require that only denied appeals be sent to the Department upon request, because it is logical to infer that appeals that the insurer has granted represent resolutions that are satisfactory to all parties. Accordingly, with appeals that have been granted there is not as great a likelihood as would be the case with denied appeals that there may be a problem with or deficiency in the insurer's handling of appeals. For this reason, the additional processing required in order to send granted appeals to the Department may not be justified by the potential benefit that would be likely to accrue from their being so sent. This provision is also reasonably necessary to allow the Department to identify trends, and address any concerns, regarding any specific insurance company that may not be observing the proposed provisions governing the appeals process, and to help ensure that a specific insurer's risk score or factor is not based on erroneous information.

It is also reasonably necessary that denied appeals be sent to the Department upon request by the Department so that necessary confidentiality arrangements called for by each such request can be preserved. For instance, information provided in response to requests made by the Department pursuant to its complaint investigations authority (Insurance Code sections 12921 et seq.) will be governed by the confidentiality provisions applicable to these requests issued under this authority generally. As another case in point, insurer responses to requests made pursuant to a market conduct examination (Insurance Code sections 730 et seq.) will be governed by confidentiality provisions generally applicable to materials provided pursuant market conduct examinations. Having insurers provide this information subject to request by the Department thus provides the necessary protections for insurers, consumers and the regulator to ensure the records are received, maintained, and used for appropriate regulatory purposes. This approach is also reasonably necessary in order to ensure that consumer's identifiable personal information will not be made public.

It is also reasonably necessary to require that, when the Department requests it and the insurer sends its denied appeal to the Department, that the insurer also forward along with the denial a copy of the original appeal. The inclusion of the original appeal will ensure that the material sent to the Department presents a more complete picture of the processing of the appeal than would be the case if only the insurer's response were included. Absent such a requirement, it would likely be impossible to tell from the material submitted to the Department whether, for instance, the insurer had in fact responded to the issue(s) raised by the policyholder or applicant. Insurers' knowledge that a record of denied appeals that is complete in this way will be sent to the Department can reasonably be expected to encourage insurers and personnel processing applications to respond meaningfully and completely, on the record, to the concerns raised by appellant applicants or policyholders.

(k) Explanation of wildfire risk score or other wildfire risk classification.

Whenever a wildfire risk score, or other wildfire risk classification used by the insurer to segment, create a risk differential or surcharge the premium for a particular policy holder or applicant, is identified or provided to the policy holder or applicant pursuant to subdivision (h) or (j) of this section, the insurer shall also provide in writing:

This regulation imposes several requirements on insurers who segment a rate, create a rate differential, or apply a surcharge, based on rating factors related to exposure to wildfire risk, to do a number of specific things. One of the things required is that insureds must communicate the conclusions of their evaluation of factor-specific risk of the insured risk to the policyholder, whether through a wildfire risk score or classification.

The purpose of the first sentence of subdivision (k) is to identify that the subdivision governs the insurance company's communication of a wildfire risk score or classification to the policyholder or applicant. The purpose of the second sentence of subdivision (k) is to identify that when an insurance company segments, creates a risk differential, or surcharges the premium due to wildfire risk and is therefore obligated to provide the policyholder or applicant their wildfire risk score or classification, the insurance company must also provide additional itemized information identified later in subdivisions (k)(1), (2), (3)(A) and (3)(B); without the first sentence of subdivision (k), such an obligation would not exist.

The language in subdivision (k) addresses the problem that insurers do not currently provide policyholders or applicants with explanations regarding the benefits of property-level or community-level mitigation efforts and the resulting impact on their insurance premiums. If this problem is not resolved, premiums charged as a result of the insurer's segmentation, risk differentiation, or surcharges may result in excessive, inadequate, or unfairly discriminatory rates or premiums. The proposed regulation establishes a clear process, as set forth in subdivisions (k)(1), (2), (3)(A) and (3)(B) that does not currently exist.

This section is reasonably necessary to ensure that insurers who use any type of factor to determine insurance premiums that reflect wildfire risk, whether they are rating factors contained in the insurer's rating plan or risk characteristics considered by a Wildfire Risk Model as defined in subdivision (c) above, follow the requirements set forth below to transmit certain information to applicants or policyholders, as required by (h) and (j) above, and that they do so in writing. This written communication is a critical consumer protection that furthers the purposes of Proposition 103 to ensure that insurance rates are fair and not arbitrary, and establishes a paper trail that the applicant or policyholder may rely upon to ensure rates and premiums are not excessive, inadequate, and unfairly discriminatory. Requiring the process set forth in subdivisions (k)(1), (2), (3)(A) and (3)(B) to be in writing is reasonably necessary to ensure that the required information being communicated is clear, consistent, and indisputable for purposes of the appeal process set forth in subdivisions (i), (j), and (l) of this proposed regulation. Further, this section is reasonably necessary to implement Proposition 103's goal of fostering public participation and intervention in the rate review process. Proceedings arising out of an insurer's rate change application, and which entail public participation and intervention in the rate review process, are procedures "permitted" and "established" by chapter 9. *ACIC v. Poizner*, 180 Cal.App.4th 1029, 1049. Insurance Code Section 1861.10 permits any person to initiate or intervene in any rate making proceeding. Requiring insurers to provide this information to consumers provides additional transparency that permits further public participation in the ratemaking process.

> *(1) The range of such scores or classifications that could possibly be assigned to any policyholder or applicant;*

Many, if not all, Wildfire Risk Models assign a score or classification to a given risk within one or more ranges. For example, a wildfire risk model may score a given risk between 1 and 10. Similarly, an insurer's rating plan may also score risks, or use some methodology to assign certain rating factors to determine what premium will be assigned to that risk. Insurers use Wildfire Risk Model scores to differentiate premium. For example, an insurer's base rate may be $1,000 a year. A score of 1 does not add additional premium, but a score of 2 might add $100. Some insurers also use scores or factors to determine whether a risk is even eligible for coverage. A score or classification may also be used by an insurer who does not use a Wildfire Risk Model. A classification may use categories such as low, medium, and high wildfire risk, as opposed to a numeric score.

Subdivision (k) identifies that when an insurance company segments, creates a risk differential, or surcharges the premium due to wildfire risk and is therefore obligated to provide the policyholder or applicant their wildfire risk score or classification, the insurance company must also provide additional itemized information. In particular, Subdivision (k)(1) states that insurance companies must provide the range of the scores or classifications that might be assigned to a policyholder or applicant.

Ensuring that applicants or policyholders are given this information addresses the problem of applicants or policyholders not knowing the range of possible scores they might be assigned. Knowing the range of possibilities that exist provides the necessary context for policyholders and applicants to confirm that their assigned score is, in fact, accurate.

This section is reasonably necessary to ensure that insurers disclose to the applicant or policyholder the information necessary (i.e., the score or classification) to confirm that the applicant or policyholder is being rated using accurate information, which ultimately ensures that the rate or premium quoted or charged is not excessive, inadequate, or unfairly discriminatory. If an insurer does not provide the range of scores or classifications to the applicant or policyholder, the applicant or policyholder does have the opportunity to verify whether the insurer has accurate information about the policyholder or applicant and therefore has accurately rated the insurance policy. The disclosure of where the policyholder or applicant falls in the range therefore provides the applicant or policyholder the opportunity to assess the accuracy of the score. For example, if a range of scores is 1-10, and a policyholder in an urban area is given a score of 9, that policyholder would have the information necessary to challenge the insurer's assignment of the score; it would be highly likely in that the example the insurer would not have accurate information about the property.

This section is also reasonably necessary as the information required to be disclosed by subdivision (k)(1) also establishes a threshold for later subdivisions, which require the insurer to disclose the relative position of the policyholder or applicant's score or classification, an explanation of how the score or classification was derived (e.g., the application of rating factors or mitigation measures), the mitigation measures the applicant or policyholder may undertake to change the score or classification, and the potential premium reduction that may result from those measures.

> *(2) The relative position of the score or classification assigned to the policy holder or applicant in question within that range of possible scores or classifications, and the impact of the score or classification on the rate or premium; and*

Subdivision (k) identifies that when an insurance company segments, creates a risk differential, or surcharges the premium due to wildfire risk and is therefore obligated to provide the policyholder or applicant their wildfire risk score or classification, the insurance company must also provide additional itemized information. In particular, Subdivision (k)(2) identifies that insurance companies must identify the relative position of the policyholder or applicant's score or classification in relation to the range of possible scores, as well as the impact of that score or classification on their rate or premium.

Ensuring that applicants or policyholders are given this information addresses the problem of applicants or policyholders not knowing how to interpret the score or classification.

Because scores and classifications are typically given in a range, this section is reasonably necessary so that applicants or policyholders know where in the range of potential scores their BBE falls. It is reasonably necessary that the applicant or policyholder understand the relative position of the score or classification assigned to them within a specific range of possible scores or classifications. It is reasonably necessary for applicants and policyholders to receive this information in order for that applicant or policyholder to be able to either validate their assigned score or classification is appropriate or alert the insurance company that the rate or premium quoted or charged may be excessive, inadequate, or unfairly discriminatory.

(3) *A detailed written explanation of why the policy holder or applicant received the assigned score or classification; the explanation shall make specific reference to the features of the property in question that influenced the assignment of the score or classification.*

Subdivision (k) identifies that when an insurance company segments, creates a risk differential, or surcharges the premium due to wildfire risk and is therefore obligated to provide the policyholder or applicant their wildfire risk score or classification, the insurance company must also provide additional itemized information. In particular, Subdivision (k)(3) identifies that insurance companies must explain, in detail, what led them to assign a specific score or classification. Subdivision (k)(3) reiterates that this explanation must be provided in writing and identifies that the explanation must be specific to the property in question and reference features specific to the property in question in documenting what influenced the assignment of the applicant or policyholder's score or classification.

Ensuring that applicants or policyholders are given this information addresses the problem of insurance companies inadvertently using incomplete or inaccurate data in determining wildfire risk scores or classifications. Ensuring that applicants or policyholders are given this information also addresses the problem of applicants or policyholders not knowing whether insurance companies are using current and accurate data in evaluating the wildfire risk of the property in question.

This section is reasonably necessary to ensure that the insurer explains to the applicant how the score or classification was derived, with specific reference to property characteristics (e.g., roof type, mitigation measures, slope, access, fuel — *i.e.*, the mandatory and optional factors as specified in (d) of this proposed regulation.) influenced the wildfire risk score or classification so that the applicant or policyholder knows what information was considered in evaluating the wildfire risk to the property in question. Access to this information allows the applicant or policyholder to validate that the correct data has been used which, in turn, ensures that the resulting rate or premium is not excessive, inadequate, or unfairly discriminatory.

This section also requires that the insurer provide the applicant or policyholder such information in writing. This section is reasonably necessary because providing the information required by this section is a critical consumer protection that furthers the purposes of Proposition 103 to ensure that insurance rates are fair and not arbitrary, and establishes a paper trail that the applicant or policyholder may rely upon to ensure rates and premiums are not excessive, inadequate, and unfairly discriminatory. Requiring the process set forth in subdivisions (k)(1), (2), (3)(A) and (3)(B) to be in writing is necessary to ensure that the required information is communicated is clear, consistent, and indisputable for purposes of the appeal process set forth in subdivisions (i), (j), and (l) of this proposed regulation.

The insurer shall provide, in addition, the following information:

(A) Which mitigation measure or measures can be taken by the policyholder or applicant to lower the wildfire risk score or classification; and

(B) The amount of premium reduction the policyholder or applicant would realize as a result of performing each such measure under the insurer's rating plan that is in effect at the time.

Sections (A) and (B) above require, respectively, an insurer to (1) identify whether and what mitigation measures (see (d) above) may be undertaken to lower or change the wildfire risk score or classification assigned at the time of the initial inspection of the BBE and the surrounding property, application for insurance, or policy renewal; and (2) what impact the performance of such mitigation measures will have on the applicant or policyholder's rate or premium. Currently, insurers are not required to provide the wildfire risk score or classification, nor are insurers required to specify precisely what mitigation measures may impact such wildfire risk score or classification or whether a premium or rate increase or decrease will result from taking certain mitigation measures. For example, if an applicant or policyholder with a wildfire risk score of 3 out of 10, or a classification of high risk, is told by the insurer that the predominant rating factor or mitigation measure that would move that wildfire risk score from 3 to 2, or from high to moderate risk, is brush clearance, the insurer, under this section, would be required to explain to the applicant or policyholder that brush clearance should be undertaken to lower the wildfire risk score from 3 to 2, or a change from a classification from high wildfire risk to moderate wildfire risk, and that a $100 premium savings will result from the mitigation measure. In some cases, the insurer may have inaccurate information (e.g., an outdated aerial photo that shows brush that has subsequently been cleared).

Examples of mitigation measures (or "factors") include: clearing brush, fire retardant building materials, and improving firefighting access. See (d) above for a list of such factors ("measures"). Under the proposed regulations, an insurer's rating plan, whether inclusive of a Wildfire Risk Model, must consider the impact of the factors (some of which are mitigation measures) set forth in (d) above. An insurer's rating plan will therefore reflect increases or decreases in premiums above or below the insurer's base rate based on the presence or absence of such factors, and the impact of the applicant or policyholder performing mitigation measures.

The aforementioned is not currently required under existing regulations, but is directly related to whether an insurer's rates and premiums are excessive, inadequate, or unfairly discriminatory. Without an obligation for insurers to provide information regarding which mitigation measures can be undertaken and the resulting premium impact, an insurer may charge a rate which is excessive, inadequate, or unfairly discriminatory in violation of Proposition 103.

This section is reasonably necessary to ensure that applicants or policyholders have information, directly related to the risk of loss, which considers the characteristics of the BBE and the surrounding property, to ensure that the rates are not excessive, inadequate, or unfairly discriminatory. A key component of ensuring that rates are not excessive, inadequate, or unfairly discriminatory is accuracy of the information relied upon by the insurer in rating the policy and determining the appropriate premium. This section is reasonably necessary because it requires the insurer to fairly and consistently apply their rating plan (*i.e.,* the collection of rating factors, including those that recognize mitigation measures) to avoid excessive, inadequate, or unfairly discriminatory rates or premiums by requiring the insurer to communicate specific information to the policyholder or applicant about what mitigation measures can be undertaken and what impact that will have on the policyholder or applicants risk score or classification and the premium quoted or charged. Using the example above, the premium would be excessive if it was based on a higher wildfire risk score or classification than should have been assigned to the applicant or policyholder's BBE or surrounding property. This section is also reasonably necessary because even if an insurer has accurate information about the policyholder or applicant's BBE or surrounding property, such as the mitigation measures which have been undertaken or the specific risk attribute of the BBE or surrounding property, the insurer is required to consider and take into account the mandatory factors in subdivision (d). In order for subdivision (d) and the remainder of the regulation to have the intended effect, policyholders and applicants must be given the opportunity to understand the assigned wildfire risk score or classification and mitigation measures that could lower their premium.

Two of the purposes of Proposition 103 are to make sure insurance is effectively available and to ensure consumer participation in the rate setting process. "Effectively available" means insurance is available at reasonably affordable rates that are not excessive, inadequate or unfairly discriminatory. To achieve these purposes of Proposition 103, policyholders and applicants must have the information about how their rate or premium was determined, and what, if anything, they can do to influence that rate or premium, and by how much.

(*l*) *Notification to policyholder or applicant of right to contact Department in connection with* insurer's response to appeal.

> *When an insurer responds to the applicant or policyholder in connection with an appeal pursuant to subdivision (i) or (j) of this section, it shall also notify the policyholder or applicant in writing that the policyholder or applicant may contact the Department of Insurance for assistance if the policyholder or applicant disagrees with the insurer's written reconsideration and decision. In any event, the insurer shall provide the policyholder or applicant with the Department of Insurance toll-free consumer hotline and web address of the Department's Consumer Complaint Center.*

Currently, there is no right to appeal the insurer's assigned wildfire risk score or other wildfire risk classification. Subdivisions (i) and (j), above, provide the policyholder or applicant with a mechanism to appeal the assignment of a wildfire risk score or classification and require the insurer to review and reconsider its determination based on information that the policyholder or applicant provides regarding the characteristics of, and mitigation efforts performed on their BBE or surrounding property.

Once an insurer has provided an applicant or policyholder with a decision regarding their appeal, subdivision (l) permits the applicant or policyholder to seek further assistance from the Department, if necessary. The purpose of subdivision (l) is to encourage applicants and policyholders take further steps, if necessary, to correct inaccuracies in the information used to assign their wildfire risk scores or classifications, thereby enhancing the accuracy of the data collected for ratemaking. It will further enhance consumer protection by encouraging applicants and policyholders to take additional steps to correct their wildfire risk scores or classifications, thereby preventing unfair discrimination in the application of rates to the applicant or policyholder.

The Department may review the insurer's final determination regarding the assigned wildfire risk score or other wildfire risk classification and assist the applicant or policyholder, which will help to prevent excessive or inadequate rates or unfair discrimination in the application of rates based on incorrect wildfire risk scores or classifications.

The first sentence of subdivision (*l*) requires an insurer to give notice in writing to the policyholder or applicant that the policyholder or applicant may contact the Department of Insurance for assistance if the policyholder or applicant disagrees with the insurer's written reconsideration and decision pursuant to subdivisions (i) or (j). This is reasonably necessary to encourage an applicant or policyholder to take further steps to correct any inaccuracies in their wildfire risk scores or classifications, if necessary.

In addition, the second sentence of subdivision (l) requires the insurer to provide the Department of Insurance toll-free consumer hotline and web address of the Department's Consumer Complaint Center. This is reasonably necessary to provide a policyholder or applicant the information they may need to contact the Department and take further steps to correct any inaccuracies in their wildfire risk scores or classifications, if necessary.

(m) No curtailment of applicant or policyholder's rights.

Nothing in this section shall be construed to limit the right of an applicant or policyholder to complain directly to the Commissioner at any time or to pursue any other remedy or other action allowed under California or federal law.

Under Insurance Code section 1858(a), any person (including an applicant or policyholder) may file a written complaint with the Commissioner if they are aggrieved by a rate charged, rating plan, rating system, or underwriting rule followed by an insurer. Subdivision (m) provides that, in particular, the disclosure and notification requirements under subdivisions (h) and (k) and the wildfire risk score or classification appeal process set forth in subdivisions (i), (j), and (l) do not curtail any existing rights under Insurance Code section 1858 or otherwise.

California consumers have numerous remedies available under California law with respect to unfair insurance rates and practices. While the Insurance Commissioner and the Department of Insurance largely retains the authority to interpret and enforce Proposition 103 and ratemaking regulations, this subdivision addresses the problem of consumers potentially not knowing that private rights of action or other legal or administrative remedies may exist for consumers. This section creates a new administrative process that is not intended to interfere with any other right or administrative procedure permitted by law.

This section therefore is reasonably necessary to ensure that to the extent this proposed regulation is perceived to be duplicative or similar to existing laws, it does not preclude the policyholder or applicant from pursuing any remedy under California or federal law, in particular the ability of a policyholder or applicant to complain to the Commissioner directly under Insurance Code section 1858(a).

(n) Inapplicability to certain commercial policies.

This section shall not apply to a commercial policy insuring multiple locations, none of whose wildfire risk is considered in rating the policy.

The proposed regulation includes a limited carve-out by excluding applicability to certain specified insurance policies. More specifically, in addition to residential insurance policies, the proposed regulation applies to commercial insurance policies — policies covering a commercial business enterprise rather than a residential home. However, the Department understands that a specific subset of very large commercial insurance policies would not benefit from the proposed regulation because their rates are not calculated using the risk of loss due to wildfire. For example, a big box retail chain may have many stores throughout a region, and all the stores may be insured under a single policy. Again, it is exactly these types of policies — commercial policies insuring multiple locations — that may not consider wildfire risk when rating the policies. The rates for such a policy take many risks into account, but in some cases wildfire risk is not one of them. In such cases, complying with the proposed regulation's requirement to more fully consider wildfire risk (by taking wildfire risk mitigation into account) has no benefit. At the same time, it would add costs. Therefore, the proposed regulation specifies that the proposed regulation does not apply to this narrow subset of policies. This is consistent with section (a)(1). By specifying exactly which policies are not required to comply, when there is no added benefit, the proposed regulation prevents the unnecessary expenditure of insurer, policyholder, and Department resources.

Therefore, this provision excludes the insurance policies specified above from the regulation. Otherwise, absent this provision, the regulation would add unnecessary costs to business without any discernable benefit. If the Department didn't adopt this language, the regulation would require insurers that have made a business decision to *not* include wildfire risk in actuarial determinations that are used to calculate premium, to calculate the reduced wildfire risk due to wildfire mitigation efforts. Requiring insurers to consider reduced risk due to wildfire mitigation for policies that don't calculate wildfire risk at all is not a purpose or benefit of the regulation. For affected policies, the portion of the premium attributable to wildfire risk is already zero. In fact, without this provision insurers may begin including wildfire risk in affected policies, thus increasing premium. Therefore, the problem resolved by the carve out is added costs to insurers with no benefit, and potential added costs to policyholders with no benefit.

Further, the provision is narrowly tailored to only carve out the necessary policies. This prevents the language from being overinclusive and affecting more policies than intended.

ECONOMIC IMPACT ASSESSMENT

Economic Overview of the Proposed Regulation

Insurance ratemaking requires an assessment of risk exposure. In California, companies writing homeowners insurance are allowed to classify, or segment, wildfire risks depending on how high or low the assessed wildfire risk is. Higher wildfire risks are assigned higher wildfire risk scores, affecting the premium policyholders must pay. Current law, however, is silent with respect to the manner in which mitigation measures must be considered by an insurer and reflected in their rating plan. Thus, the premiums paid by policyholders do not always accurately reflect the mitigation work accomplished and the actual reduction in a property's wildfire risk.

The proposed regulation requires insurers that segment wildfire risks to conduct a more granular risk assessment. This is accomplished by requiring insurers to include property- and community-level wildfire mitigation measures, and the resulting reduction in wildfire risk, in their overall risk assessment. This approach is expected to result in premiums more accurately reflecting a property's risk of loss due to wildfire and prevent unfairly discriminatory rates.

The proposed regulation recognizes and incentivizes mitigation efforts undertaken by both residential and commercial policyholders. The Department anticipates that the proposed regulation will promote and incentivize such beneficial practices as home hardening, clearing brush, and other highly-effective mitigation measures, potentially leading to a long-term decrease in wildfire risk exposure for insurers, property owners, and communities.

Establishing a Baseline and Impacted Entities

According to Governor Newsom's Strike Force Report, *Wildfires and Climate Change: California's Energy Future,* "More than 25 million acres of California wildlands are classified under very high or extreme fire threat. Approximately 25 percent of the state's population — 11 million people — lives in that high-risk area." Additionally, half of the 20 most destructive fires in California's history have occurred since 2015.[1] The rising frequency of severe wildfire events and growing number of homes in higher wildfire risk areas in California has increased

[1] *Wildfires and Climate Change: California's Energy Future*. April 12, 2019. https://www.gov.ca.gov/wp-content/uploads/2019/04/Wildfires-and-Climate-Change-California%E2%80%99s-Energy-Future.pdf Date Accessed May 20, 2021.

insurers’ wildfire risk exposure. This has led to increased insurance premiums for a significant number of residential and commercial properties in areas with higher wildfire risk.

To estimate the number of residential policies potentially impacted by the proposed regulation, the Department reviewed data collected as part of a data call required by Insurance Code section 929.[2] For 2019, insurers reported wildfire risk score data for nearly 5.8 million covered residential properties. Of those properties, 11.5 percent were located in areas with a moderate to very high wildfire risk. The Department then extrapolated these findings to the entire voluntary residential insurance market to estimate that there are approximately 957,100 (11.5 % x 8,322,300 total policies) residential properties in the state that could potentially be impacted by the proposed regulation.

In 2018, there were nearly 1.2 million insured commercial properties in California. However, the Department doesn’t collect the wildfire score data for commercial policies. To estimate the number of commercial policies potentially impacted by the proposed regulation, the Department assumed that as with residential policies 11.5 percent of total policies were located in areas with a moderate to very high wildfire risk. As a result, the Department estimates that there are approximately 135,600 (1,179,000 x 11.5%) commercial properties in the state that could potentially be impacted by the proposed regulation.

Benefits Anticipated from the Proposed Regulation

The anticipated benefits of the proposed regulation include the following:

- Incentivizing individual and community mitigation efforts by requiring consideration of property- and community-level mitigation against wildfire risk;
- Reducing the risk of loss posed by wildfires;
- Improving accuracy in the classification of wildfire risk and the resulting rates and premiums;
- Increasing transparency in, and consumer awareness of, insurers’ rating and/or scoring of wildfire risk;
- Enhancing consumer protection by establishing a consumer appeals process;
- Reducing unfair discrimination by enhancing consistency in insurers' wildfire rating practices and/or risk scoring practices; and,
- Potentially improving availability and affordability of property-casualty insurance for communities and properties where wildfire mitigation measures have been implemented.

The proposed regulation requires insurers to recognize mitigation activities in their rating plans, primarily impacting homes and businesses located in areas with a moderate to very high risk of wildfire. By requiring consideration of mitigation efforts, voluntary market insurance may become more available and affordable to those who make efforts to protect their individual property and their community, whether those individuals are currently in the voluntary insurance market, FAIR Plan, residential unlicensed market, or are currently uninsured.

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[2] SB 824 added Article 10.4. Wildfire Risk Information Reporting to Insurance Code section 929 on November 8, 2018, requiring insurers to submit residential policy data, including wildfire risk scores, for the previous two years by April 1, 2020. https://codes.findlaw.com/ca/insurance-code/ins-sect-929.html.

"On a larger scale, profitable bands of risk can be detected within otherwise highly exposed areas, allowing insurers to identify growth opportunities within territories largely written off by carriers with less effective underwriting and pricing tools."[3] This suggests that insurance companies that embrace the proposed regulation may benefit from new business opportunities. The regulation is likely to improve the quality of data available to insurers, specifically how different mitigation factors impact wildfire losses. As a result, insurance underwriters may become more comfortable writing and retaining policies for properties with completed mitigation actions, even if the property is located in an area with a higher overall risk of wildfire. This could lead to a decrease in the number of instances where insurers selectively non-renew policies, or avoid areas with an overall higher risk of wildfire.

The Mitigation Incentive Mechanism

The Department expects that property owners living in areas with moderate to very high wildfire risk are the ones most likely to benefit from a regulation incentivizing investment in mitigation. Conversely, a property whose premiums are not impacted by wildfire risk is assumed to not be incentivized to further spend on mitigation by the regulation.

Specific actions taken by property owners to mitigate wildfire risks should result in lower premiums that reflect the lower risk of loss. The California Building Code was updated in 2008 to establish minimum standards for new home construction in areas at a higher risk of wildfire, requiring the use of materials that provide a reasonable level of exterior wildfire exposure protection.[4] A review of homes in the path of the Camp Fire shows that homes constructed after the building code was updated had a significantly higher chance of surviving. "All told, about 51 percent of the 350 single-family homes built after 2008 in the path of the Camp Fire were undamaged, according to McClatchy's analysis of Cal Fire data and Butte County property records. By contrast, only 18 percent of the 12,100 homes built prior to 2008 escaped damage."[5] This review only considers one fire, but shows how a higher percentage of hardened homes survived the Camp Fire than homes of unknown hardening.

The National Association of Insurance Commissioners (NAIC) issued a report titled *Application of Wildfire Mitigation to Insured Property Exposure*, that analyzed the impacts of structural and vegetation mitigation on average annual losses due to wildfire. The report analyzed impacts on expected wildfire losses in three California communities: Upper Deerwood, Berry Creek, and Oroville. For Upper Deerwood, the report found that expected annual wildfire losses were on average $4,529 higher for a poorly built wildfire resistant structure without vegetation mitigation than for a well-built wildfire resistant structure with vegetation mitigation. Similarly, in Berry Creek expected annual wildfire losses were on average $1,092 higher for a poorly built wildfire resistant structure without vegetation mitigation than for a well-built wildfire resistant structure with vegetation mitigation. Oroville, being more suburban, was found to have a lower level of

[3] McIntyre, Shanna. December 28, 2021. Underwriting Wildfire Risk. Carrier Management. https://www.carriermanagement.com/features/2021/12/28/230651.htm
[4] Office of the State Fire Marshall. Wildland Hazards & Building Codes. Accessed June 2, 2021. https://osfm.fire.ca.gov/divisions/wildfire-planning-engineering/wildland-hazards-building-codes/
[5] Kasler, Dale and Phillip Reese. April 11, 2019. "'The weakest link': Why your house may burn while your neighbor's survives the next wildfire." *Sacramento Bee*: Statistics do not include mobile homes. https://www.sacbee.com/news/california/fires/article227665284.html

wildfire risk exposure than the other communities. Oroville also doesn't have the same grass and timber wildfire exposure, so the study didn't find the same impact on expected losses due to vegetation mitigation.[6] Overall, the Department concludes that home hardening and properly maintaining a defensible space would be effective in reducing wildfire losses.

A recent survey conducted by the NAIC found that more than 77 percent of individuals surveyed would spend their own money to fortify their home in exchange for a reduction in their homeowner's insurance premium. Additionally, 24 percent of individuals indicated they were willing to spend more than $2,500 for a 1 to 10 percent premium reduction.[7] While this national survey had a relatively small sample size that was not randomly selected, the Department still believes it shows the willingness of many property owners at different income levels to spend their own money in order to mitigate specific risks to their property.

Requiring insurers to consider mitigation measures when assessing property risk is not a new concept. South Carolina law requires insurers to offer mitigation credits for policyholders who mitigate hurricane risks. Like the proposed regulation, the South Carolina law doesn't specify the amount of the mitigation credit, but policyholders who mitigate hurricane related risks save an average of 14 percent on homeowner's insurance premiums.[8] This is one example of a successful approach that rewards policyholders for mitigating a specific, potentially catastrophic, risk to their property.

There are precedents showing that hardening homes and maintaining a defensible space reduce the risk of wildfire loss, that individuals are willing to spend their own money to mitigate risks, and that similar approaches in other states have succeeded in incentivizing property owners to mitigate specific catastrophic risks. As more properties undergo wildfire risk mitigation, those properties' collective overall risk of wildfire loss will decrease. By incentivizing property- and community-level mitigation efforts, the proposed regulation may play a role in slowing, or preventing, the rapid spread of some wildfires. As a result, the Department concludes that the efforts of many California property owners to protect their property from catastrophic wildfire losses should be recognized and incentivized, and that such incentives would likely be successful.

Residential Policyholders Economic Benefit

The proposed regulation is expected to lead to policyholders being credited for completed mitigation measures and incentivize new mitigation efforts for properties in the moderate to very

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[6] Czajkowski, J., Young, M., Giammanco, I., Nielsen, M., Russo, E., Cope, A., Brandenburg, A., Groshong, L. (2020). *Application of Wildfire Mitigation to Insured Property Exposure*. CIPR Research Report. Pgs. 68-71. https://content.naic.org/sites/default/files/cipr_report_wildfire_mitigation.pdf
[7] National Association of Insurance Commissioners: Consumer property insurance survey. Conducted March 9-16, 2021. https://content.naic.org/sites/default/files/newsroom-climate-survey-results-210405.pdf Accessed April 30, 2021.
[8] South Carolina Department of Insurance. Homeowners Mitigation Credits. September 2016. https://doi.sc.gov/DocumentCenter/View/9573/Homeowners-Mitigation-Credits---Brochure-Sept-2016?bidId Accessed April 30, 2021.

high wildfire risk areas. The accumulation of the monetary direct benefits is assumed begin mid-year 2025, after all insurers are expected to have implemented an approved rating plan.

As of May 2021, eight insurers and the California FAIR Plan offered premium credits, or discounts for wildfire mitigation efforts. Those eight insurers represented approximately 13 percent of the residential insurance market, up from 6.8 percent of the market in 2019.[9] By November 2021, the number of insurers offering property or community mitigation discounts had increased to 18 insurers and the FAIR Plan.[10] Insurers increasingly including mitigation discounts in their new rate filings demonstrates the relationship between mitigation and reduced wildfire risk in California's property insurance market. However, wildfire mitigation discounts are still not widely offered to most consumers, and the Department estimates that only about 20,000 discounts were applied to residential insurance policies in 2020.

The proposed regulation specifies that insurers must file a new rating plan with the Department that includes consideration of property- and community-level mitigation actions. The Department will need to review and approve each new rating plan before an insurer is able to write policies at the new rates that consider mitigation. Based on current available data, and the industry trend of more insurers offering mitigation discounts, the Department estimates that by mid-2025, about 60,000 residential policyholders will already be receiving a wildfire mitigation discount.

Table 1. Residential Policyholders Potentially Eligible for Mitigation Discounts

Policies with Moderate to Very High Wildfire Risk	957,100
Policies Receiving Mitigation Discounts by mid-2025*	60,000
Policies Potentially Eligible for Mitigation Discounts	897,100

As shown in Table 1, the Department estimates that the number of residential policyholders who could potentially take advantage of new mitigation discounts resulting from the proposed regulation is approximately 897,100. The Department estimates that after 5 years, 10 percent of properties with moderate to very high wildfire risk will receive a new discount for completed mitigation efforts that lower their risk of wildfire loss. For this analysis, the Department assumes that the increase in the number of discounts every year is the same and that properties will continue mitigation efforts (i.e. vegetation removal) that are necessary to maintain their insurance coverage and discounts. In other words, the new discounts received in year two are assumed to stack on top of the discounts received in year one, increasing the total economic benefit resulting from the proposed regulation every year for five years. See Table 2 for the

[9] California Department of Insurance. Press Release May 13, 2021. http://www.insurance.ca.gov/0400-news/0100-press-releases/2021/release051-2021.cfm. Date accessed: May 20, 2021.
[10] California Department of Insurance. Residential Property Insurance Companies Currently Offering Discounts for Fire Hardened Homes and/or Communities. November 15, 2021. http://www.insurance.ca.gov/01-consumers/105-type/95-guides/03-res/Insurers-Currently-Offering-Discounts.cfm. Date accessed January 6, 2022.

estimated number of properties expected to receive a mitigation discount each year, and Appendix A for the annualized direct economic benefit estimates.

Table 2. Residential Policies Estimated to Receive New Mitigation Discounts

Year 1	17,900
Year 2	35,900
Year 3	53,800
Year 4	71,800
Year 5	89,700

A review of policy data submitted to the Department found that for nearly 2.2 million homes valued between $200,000 and $650,000, the average residential homeowner's insurance premium in the moderate to very high wildfire risk areas was about $1,280 and the premium for otherwise comparable policies for properties in a low (includes fire score zero) wildfire risk area averaged $920. For similarly structured policies, the Department calculates that the average wildfire peril premium attributable solely to a property's location in a higher wildfire risk area is $360. The Department assumes that the average discount for both property- and community-level mitigation will be 15 percent and that approximately 17,900 (897,100 x 10% / 5) homes will receive each discount each year. Existing rate filings show mitigation discounts ranging between 5 and 20 percent (15% is also similar in size to South Carolina's average for hurricane discounts). Because insurers are likely to apply the mitigation discount only to the wildfire premium amount, a 15 percent discount for both property- and community-level mitigation is estimated to drop the average wildfire peril premium from $360 to $260 ($360 x 85% x 85%). The Department expects that 10 percent of all residential properties will receive an individual mitigation discount and 10 percent of all properties will receive a community mitigation discount in the first 5 years. These discounts could be applied to the same policy as assumed in the calculation, or not. The calculation is an estimation of the expected annual aggregate benefit of the proposed regulation on residential properties.

Table 3. Estimated Monetary Benefit of Individual and Community Mitigation Discounts

Residential Policies Receiving New Mitigation Discounts (Year 1)	17,900
Average Premium for Wildfire Peril (high wildfire risk areas)	$360
Average Premium for Wildfire After Considering Both Discounts	$260
Average Discount for Individual and Community Mitigation	$100
Total Benefit to Residential Policyholders (Year 1)	$1,790,000

There are an estimated 17,900 homeowners that are expected to receive a new residential property mitigation discount averaging $100, in the 12 months after all insurers implement an approved rating plan. In total, the new discounts are expected to save residential policyholders a total of nearly $1.8 million (17,900 x $100) in the first year (starting mid 2025). After 5 years, 89,700 homeowners are expected to receive new discounts for residential property mitigation actions and community mitigation actions (individual homeowners may receive both discounts as assumed in the calculation, but one discount is not dependent upon receiving the other), saving an estimated total of $9 million (89,700 x $100) in insurance premiums.

Commercial Policy Economic Benefit

Commercial policies cover condominium associations and apartment buildings of five units or more; agricultural and wine producing establishments; tourism related businesses such as RV parks, ski and golf resorts, campgrounds; and businesses in all other industries. As calculated in the Establishing a Baseline section, the Department estimates that there are about 135,600 commercial policies in the voluntary market that could potentially be impacted by the proposed regulation. The Department is unaware of any insurer currently offering mitigation discounts to commercial policyholders. Consequently, no adjustment was needed to account for policyholders already receiving a discount. The Department assumes, as with the residential policyholder benefit estimate, that 10 percent of all commercial properties, or 13,600 properties are likely to receive a new mitigation discount in the first 5 years. Therefore, the Department estimates that 2,700 commercial policyholders will receive a discount starting mid-year 2025.

The average premium for all commercial policies, excluding liability premium, is approximately $2,000 in California. Because the Department doesn't collect wildfire scores for individual commercial properties, there isn't more granular premium data available for commercial policies with moderate to very high wildfire risk. However, the average premium should be fairly representative of the average commercial premium for businesses in the more rural areas, as while their overall wildfire risk may be higher, the average size of business is likely smaller than in urban areas. As with the residential estimate above, the Department assumes that 10 percent of properties will receive a 15 percent property mitigation discount and 10 percent of properties will receive a 15 percent community discount in the first 5 years. These discounts could be applied to the same policy as assumed in the calculation, or not. The calculation is an estimation of the expected annual aggregate benefit of the proposed regulation. In the first year, approximately 2,700 (13,600 / 5) businesses are expected receive a 15 percent commercial property mitigation premium discount and a 15 percent community mitigation discount, or a $555 premium reduction [$2000 – ($2,000 x 85% x 85%)]. This is expected to lead to an overall benefit of $1,498,500 (2,700 x $555) to commercial policyholders in the first year. For an estimation of yearly and cumulative benefits, see Appendix A.

Additionally, the Department expects that insurers will benefit from the proposed regulation because more policyholders mitigating wildfire risks is likely to reduce wildfire losses. The aforementioned *Application of Wildfire Mitigation to Insured Property Exposure* found that well-built wildfire resistant structures with vegetation mitigation experienced fewer losses related to wildfire.[11] Two of the three communities analyzed found that wildfire resistant structures with vegetation mitigation were likely to experience losses that were significantly less ($4,529 Upper Deerwood and $1,092 Berry Creek). The third area found only a small loss difference (Oroville $27). Therefore, the Department estimates that on average a wildfire resistant structure with a properly maintained defensible space is likely to experience $1,900 [(4,529 + 1,092 + 27) / 3] less in wildfire losses, annually. The Department estimated that there were 957,100 insured residential properties and 135,600 insured commercial properties in the

[11] *Ibid*, *Application of Wildfire Mitigation to Insured Property Exposure*.

moderate to very high wildfire risk areas, for a total of approximately 1.1 million insured properties. CalFire reported in 2020 that 10,488 structures were damaged or destroyed.[12] As a result, the Department estimates that in a given year, a property in a moderate to very high wildfire risk area has roughly a 1 percent (10,488 / 1.1 million) chance of being damaged or destroyed by wildfire. If 1 percent of the 20,600 (17,900 + 2,700) properties expected to get a new mitigation discount is impacted by wildfire, it would result in an estimated annual benefit to insurers of $391,400 (20,600 x 1% x $1,900). This benefit would be expected to stack every year as more policyholders are incentivized to complete mitigation measures and qualify for new discounts. This estimate relies on the use of 2020 CalFire data as representative of the number of properties likely to be damaged by wildfire going forward, and doesn't account for uninsured homes or businesses. It also does not consider how mitigation may impact the prevention of wildfires, or that an incentivized mitigation factor might slow how quickly wildfires spread. The estimate utilizes available data to quantify how incentivized mitigation could potentially reduce insurer's wildfire losses.

In the first year (mid-2025 to mid-2026) after all insurers are anticipated to have implemented an approved rating plan, residential and commercial policyholders are expected to receive a direct monetary benefit of $3.3 million ($1.8 million residential + $1.5 million commercial). Insurers are also expected to benefit by an estimated $391,400 in reduced wildfire losses annually, making the total expected benefits of the regulation in the first year $3.7 million. For the annualized direct economic benefit estimates, see Appendix A.

Costs Anticipated from the Proposed Regulation

This analysis assumes the regulations will be approved in July 2022. For insurers currently using wildfire risk segmentation models, there are likely to be additional costs starting after the regulation's approval. Estimated costs related to the requirement that all licensed residential and commercial property insurers file a new rating plan are assumed to begin after the regulation's filing with the Secretary of State. Insurer costs resulting from required consumer notifications and appeals are assumed to start 180 days later after insurers implement procedures, as defined in section (h) of the regulation text.

The Department expects that the proposed regulation will require insurers to submit 136 rate filings. The rate filings are anticipated to occur within 180 days after the regulation is filed with the Secretary of State. The rating plan requires actuarial analysis, software updates, and communication with the Department. Table 4 shows the estimated cost of creating a new rating plan for property insurers who are required to reflect property- and community-level mitigation.

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[12] CalFire 2020 Incident Archive. https://www.fire.ca.gov/incidents/2020/. Accessed December 22, 2021.

This table represents the average cost of creating the rating plan filings the Department expects to receive, including filings where insurers use a deterministic wildfire scoring model and filings:

Table 4. Insurer Cost of Creating, Filing, and Implementing a Rating Plan

Occupational Title	Hours	Hourly Wage[13]	Wages Paid per Filing
Actuarial Analyst	80	$55.36	$4,429
Data Scientist	72	$62.45	$4,496
Senior Actuary	104	$67.45	$7,015
Product Manager	104	$70.91	$7,375
IT Programmer	72	$51.15	$3,683
Administrative Assistant	16	$22.02	$352
Total	**448**		**$27,350**

To ensure the accurate rating of wildfire risks, insurers will need detailed wildfire risk data at the property-level. Most wildfire scoring systems already consider vegetation mitigation and other critical factors, but some home hardening measures (i.e. enclosed eaves, fire-resistant vents) are not included in all scoring systems. However, feedback provided as part of the Department's prenotice public discussion indicated that an assessment of wildfire risk at the property level, as described in the proposed regulation, could be done using existing technology. This is consistent with the Department's understanding that insurers currently use technology (i.e. satellite or drone photos) to verify many property features. As such, the Department believes that most property-level data, including documentation needed to verify mitigation risk factors can be gathered remotely, either by satellite photos, drones, or property owner documentation (perhaps similar to apps that allow individuals to take photos of an automobile accident, or directly emailing receipts or photos documenting mitigation work).

There are expected additional administrative costs that insurers, and agents and brokers are likely to incur in complying with the proposed regulation and ensuring that properties' completed mitigation measures are rated appropriately. These requirements include developing written procedures to provide the policyholder or applicant the wildfire risk score or classification, providing the policyholder or applicant the wildfire risk score or classification, and documenting and processing consumer appeals.

The proposed regulation requires insurers, within 180 days, to develop and implement procedures for how to provide the policyholder or applicant the wildfire risk score or classification. The Department assumes that these procedures may provide a template or some standardized responses to ensure that consumers receive consistent information. The Department

[13] Employment Development Department Labor Market Information Division. California Occupational Employment and Wage Statistics: 2021 first quarter. www.labormarketinfo.edd.ca.gov/data/oes-employment-and-wages.html. Actuarial Analyst and Senior Actuary use the median and 75th percentile wage for "Actuaries" Standard Occupational Classification (SOC 15-2011), respectively. The median wages for "Data Scientists and Mathematical Science Occupations, All Other" (SOC 15-2098), "Financial Managers" (SOC 11-3031), "Computer Programmers" (SOC 15-1251), and "Secretaries and Administrative Assistants, Except Legal, Medical, and Executive" (SOC 43-6014) were also used. Data accessed December 3, 2021.

anticipates that it would take 32 hours to write the procedure and another 8 hours to review and finalize, at a total projected cost to insurers of $243,600 (see Table 5).

Table 5. Cost of Writing Procedures

Task	Count	Hours	Hourly Wage[14]	Total Cost
Underwriter to write procedure	136	32	$38.24	$166,400
Manager review	136	8	$70.91	$77,200
Total	**136**	**40**		**$243,600**

Insurers must, 180 days after the regulation's filing with Secretary of State, provide notification of the wildfire risk score or classification. The score or classification must be provided after application, prior to renewal or nonrenewal, or after a policyholder has completed a mitigation action and requested an updated score, as specified in section (h). The Department assumes that the most cost-effective way to provide this information to a majority of policyholders is through automation. However, for policyholders in the moderate to very high wildfire risk areas section (k)(3), requiring reference to specific features of the property, will likely necessitate that the insurer provide information manually.

According to the Department's 2020 Market Share report, there are 118 companies writing homeowners insurance with nearly $9.8 billion in direct written premium, for an average company premium of $82.7 million (9,767,233,243 / 118).[15] The Department looked at reported information technology (IT) expenses in insurance company annual shareholder reports and estimated that the IT expenses for an average insurance company was about 4.7 percent of direct written premium. The resulting average insurance company IT expense was calculated to be $3.9 million ($82.7 million x 4.7%). However, not all IT expenses reported on the annual reports were for software or software upgrades. The reported expense categories also likely include hardware and other costs associated with running a large computer network (i.e. support, infrastructure, security) that are not expected to be impacted by the proposed regulation. A report by OMTCO estimates that software expenditures account for 29 percent of all IT expenditures.[16] As a result, the Department estimates that an average insurance company is likely to spend approximately $1.1 million per year on software. According to *Speed of Technology: The Business Cost of Keeping Your Software Updated*, companies spending between $1 and $5 million on employee-facing software should budget $32,000 per year for upgrades.[17] Therefore, the Department assumes that the cost of upgrading an insurer's computer system to allow them to provide

[14] Employment Development Department Labor Market Information Division. California Occupational Employment and Wage Statistics: 2021 first quarter. www.labormarketinfo.edd.ca.gov/data/oes-employment-and-wages.html. Procedures are assumed to be written by an "Insurance Underwriter" (SOC 13-2053) and reviewed by an Insurance Manager "Financial Managers" (SOC 11-3031). Data accessed December 3, 2021.
[15] California Department of Insurance. 2020 California P&C Premium and Loss Summary. April 30, 2021. http://www.insurance.ca.gov/01-consumers/120-company/04-mrktshare/2020/upload/MktShrSummary2020wa.pdf
[16] Luxembourg, Dr. Yvan Philippe. May 2013*, IT Costs – The Costs, Growth And Financial Risk Of Software Assets.* OMTCO http://omtco.eu/references/sam/it-costs-the-costs-growth-and-financial-risk-of-software-assets/. Accessed December 3, 2021.
[17] Parmar, Dipti. July 06, 2016, *Speed of Technology: The Business Cost of Keeping Your Software Updated.* Business.com. https://www.business.com/articles/speed-of-technology-the-business-cost-of-keeping-your-software-updated/. Accessed December 27, 2021.

information on wildfire risk scores is equivalent to the estimated annual software upgrade budget that a company with similar annual software costs is likely to have.

The Department assumes that each of the 136 companies that files a new rating plan will also have to update its software to provide notification of wildfire risk scores to policyholders and applicants. Some larger groups may need to spend significantly more than average on software upgrades; however, all companies in an insurance group often use the same computer system. The Department assumes this will keep the underlying average cost per company the same. For example, the cost to an insurance company spending $32,000 is expected to be the same, on average, as the cost to a large group of 10 companies spending $320,000. As a result, the total cost to insurers of upgrading software systems to provide information on wildfire risk classification scores is estimated to be $4.4 million ($32,000 x 136). While the costs for software upgrades are related to consumer notifications, they are not assumed to be delayed by 180 days. The changes would need to be made before, so that the notifications could be made after insurers implement their procedures.

The second part of the required notification in section (k)(3) requires reference to the specific features of the property that influenced the assignment of the score or factor. While this requirement is in effect for all policies the insurer writes (assuming they segment, create a rate differential, or surcharge a premium based on a policyholder or applicant's wildfire risk), the Department believes that this response can be automated for the vast majority of properties without significant exposure to wildfire risk. However, for the properties in the moderate to very high wildfire risk areas, the Department assumes that an insurance company employee, likely an underwriter, will have to spend time manually noting how specific features of the property impact its rating. Determining if a property qualifies for a community-level mitigation discount should be relatively easy as that information is either readily available on the internet, or is expected to be available by the time the regulation is effective. Therefore, the Department assumes that the majority of time needed to create the notification will be spent on analyzing features relating property-level mitigation.

To account for potential applicants, the Department looked at nonrenewal data, as individuals who were nonrenewed (either insurer- or insured-initiated) are assumed to apply for insurance elsewhere. Nonrenewal data for 2018 through 2020 shows that, for policies in ZIP codes with a presence in a State Responsibility Area, total nonrenewals are equal to about 12.1 percent of total policies (new and renewed).[18] On an annual basis, the Department estimates that in addition to the 957,100 residential policies in the moderate to very high wildfire risk areas that would need to receive a notification of their wildfire risk score, there are an additional 115,800 likely applicants (957,100 x 12.1%) who will also need to be provided a notification. There are also 135,600 commercial policies, plus an estimated 16,400 (135,600 x 12.1%) nonrenewals. The 12.1 percent is not specific to commercial policy nonrenewals, but is used to estimate the number of additional commercial policyholders that would potentially have an application requiring notification. The Department projects that insurers will need to provide notifications to 1,224,900 policyholders on an annual basis. However, in the first year, notifications will not be

[18] California Department of Insurance. Data on Insurance Non-Renewals and FAIR Plan (2020). http://www.insurance.ca.gov/0400-news/0100-press-releases/2021/upload/nr117DataNon-RenewalsandFAIRPlan12202021-2.pdf. Accessed January 5, 2021.

provided in the first 180 days while insurers implement their notification procedures. As a result, the Department anticipates insurers sending out 612,500 notifications in the first 12 months after the regulation is filed with the Secretary of State. Some insurance companies already have fairly large and comprehensive responses, especially when dealing with nonrenewals of insurance in these higher wildfire risk areas, so the Department assumes that providing this specific notification will take on average 15 minutes, and initially cost insurers a total of $5.9 million.

Table 6. Cost of Manually Providing Information on Property Specific Mitigation Factors

Classification	Policies/ Applications	Hours	Hourly Wage[19]	Total Cost
Insurance Underwriter	612,500	.25	$38.24	$5,855,500

The regulation also allows the policyholder or applicant to appeal the wildfire risk score or classification to their insurance carrier, or their agent or broker. Given that commercial policies are often more complex and tailored to fit the needs of an individual business, it is not anticipated that commercial policyholders are likely to appeal. The Department assumes that insurance companies and insurance agents and brokers will incur increased costs in documenting and processing consumer appeals. On an annual basis, there are 1,072,900 (957,100 + 115,800) expected residential policies and applications in moderate to very high wildfire risk areas. The Department assumes that initially 10 percent, or 107,300 would be likely to appeal their wildfire risk score, annually. However, as with consumer notifications, the start of the appeals process is delayed 180 days after the regulation's filing with Secretary of State, to allow insurers to implement their procedures. As a result, the Department expects that half of the annual appeals or 53,700 consumers are likely to appeal their wildfire risk score in the first year.

Table 7. Cost of Documenting and Responding to Appeals

Task	Expected Appeals	Hours	Hourly Wage[20]	Total Cost
Document appeal to insurer (writing)	13,400	.5	$22.78	$152,600
Document appeal to insurer (phone)	13,400	1	$22.78	$305,300
Document appeal to agent or broker (writing)	13,400	.5	$26.20	$175,500
Document appeal to agent or broker (phone)	13,400	1	$26.20	$351,100
In-person inspection (agent or broker)	2,700	.5	$26.20	$35,400
Insurance Underwriter review and response	53,700	.25	$38.24	$513,400
Insurer manager review	2,700	.25	$70.91	$47,900
All Appeals				**$1,581,200**

As appeals are processed, the universe of disputed risk factors is expected to shrink. As such, starting in the third year, the number of appeals is expected to decrease by 10 percent each year

[19] Employment Development Department Labor Market Information Division. California Occupational Employment and Wage Statistics: 2021 first quarter. www.labormarketinfo.edd.ca.gov/data/oes-employment-and-wages.html. Median wage for "Insurance Underwriter" (SOC 13-2053) was used. Data accessed December 3, 2021.

[20] Employment Development Department Labor Market Information Division. California Occupational Employment and Wage Statistics: 2021 first quarter. www.labormarketinfo.edd.ca.gov/data/oes-employment-and-wages.html. Appeals to the insurer are assumed to be processed by "Insurance Claims and Policy Processing Clerks" (SOC 43-

through year 6. The Department's cost analysis assumes that the expected number of appeals will be split evenly between the different types of appeals, some to the insurer and some to the agent or broker, and either written or by phone. Once the claim is documented, it must be then be reviewed by the insurer and responded to within 30 days. The Department assumes that in a few cases an appeal may need an in-person inspection to verify a factor that can't be verified remotely. Additionally, the Department assumes that some complex appeals may also need a manager review.

Official communication from the insurer to the insured regarding their appeal will, in almost all cases, have to be mailed, requiring insurers to send approximately 107,300 letters annually. This is required by California Insurance Code section 38.6, unless the insured has previously chosen to receive electronic communications.[21] As a result, the Department estimates that the postage for 53,700 mailings will cost $31,100 in the first year.[22]

Property owners are not required to do anything pursuant to the regulation. However, they may choose to incur costs implementing mitigation measures that both protect their property and community, and also qualify for a discounted insurance rate. Ultimately, consumers will have to decide for themselves whether or not certain mitigation measures are cost-effective for their property and long-term risk planning. Some policyholders may incur additional premium costs because the insured property is located in a high wildfire risk area and has not undergone mitigation. However, this is likely to be more of a longer-term impact if certain mitigation measures that are proven to be exceedingly effective at preventing wildfire losses are not completed.

There are also additional administrative requirements that are not expected to result in additional costs to insurers, such as notifying the policyholder or applicant in writing of their right to appeal and forwarding copies of denied appeals to the Department. The Department assumes that notifications can be included in initial policy documentation or another similar communication at no additional cost. The requirement to forward denied appeals is only upon the request of the Department, so it is not anticipated that insurers will need to forward a large number of appeals, or that they will incur any additional costs in forwarding copies of denied appeals. Insurers are assumed to maintain records of appeals, but this is not anticipated to result in any additional expenditures.

The Department estimates that the proposed regulation will result in a direct economic cost of $15.8 million in the first year after the regulation's filing with the Secretary of State (July 2022 through June 2023). For the yearly direct cost estimates, see Appendix B.

9041) and appeals to Agents and Brokers use the median wage for "Insurance Sales Agents" (SOC 41-3021). It was assumed an Insurance Underwriter (SOC 13-2053) would review and respond to the appeal and in complex cases a manager (Financial Manager SOC 11-3031) would have to review the appeal. Data accessed December 3, 2021.

[21] California Legislative Information. California Insurance Code Section 38.6. https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=INS&sectionNum=38.6. Accessed December 20, 2021.

[22] United States Postal Service lists the price of mailing a first-class letter as $0.58. https://www.usps.com/ship/first-class-mail.htm. Accessed December 16, 2021.

Fiscal Impact on Other State and Local Government Agencies

There is no provision in the proposed regulation that requires another state or local government agency to act. This regulation requiring insurers to recognize mitigation efforts is not expected to significantly alter the functions of any state or local government agency involved in mitigation in a way that would result in a fiscal impact. Additionally, advising on, and organizing potential wildfire mitigation measures is already a current function of CalFire and many local fire departments. This function has already received significant attention and funding from the State Legislature as $1.5 billion has been budgeted for wildfire prevention for FY 20-21 and FY 21-22.[23] The Department does not expect that this regulation will have any measurable effect on the work these agencies have been tasked to undertake.

While the Department does not expect an immediate fiscal impact to other state or local government agencies, there is the potential for long-term savings. While the Department doesn't expect much of an impact over the next 10 years, studies have shown that properly constructed and maintained homes are less likely to be damaged or destroyed in a wildfire. As policyholders complete more mitigation actions it is possible that the rapid spread of some wildfires could be slowed, or even stopped. Should this happen, it would likely save many state and local agencies money. However, this savings would not be solely due to this proposed regulation, because many other agencies, the Legislature, and the Governor are also prioritizing wildfire prevention investments.

Fiscal Impact on the Department

The proposed regulation is anticipated to have a fiscal impact on the Department. The Department will incur costs in the administration, review and analysis of all models and rating plans that insurers are required to submit to comply with the proposed regulation. Rate Analysts and Casualty Actuaries are likely to be the primary reviewers of models and rating plans that are likely to be detailed and complex. The Department's review and approval of rate filings is expected to span multiple state fiscal years at a total cost of $1,047,000.

The proposed regulation is expected to be effective July 2022 and allows 180 days for insurers to file their new rating plan. Therefore, the review of rating plans by the Department is expected to begin in January 2023, or the midpoint of the 2022-23 fiscal year (FY). In a review of rate filings that were completed between January 1, 2019 and September 23, 2020 the Department found the average time to approve a rate filing was 167 days.[24] Given that the average review and approval time is nearly six months and complex filings or initial filings that need modification often take longer to get approved, the Department assumes that 50 percent of the review work will be completed in the first FY (6 months from Jan 2023-June 2023), and the remaining 50 percent

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[23] Kollars, Deb. September 20, 2021. *Historic Investments For Regions, Forest Resilience And Broadband Access Approved By California Lawmakers.* California Forward. https://cafwd.org/news/historic-investments-approved-by-california-lawmakers-session-for-regions-forest-resilience-and-broadband-access/. Accessed December 16, 2021.

[24] California Department of Insurance. Virtual Investigatory Hearing on Homeowners' Insurance Availability and Affordability, Slide 11. https://www.insurance.ca.gov/01-consumers/200-wrr/upload/CDI-Investigatory-Hearing-on-Homeowners-Insurance-Availability-and-Affordability-FINAL_Public_10_19_2020.pdf. October 19, 2020

will be completed in the second FY (23-24). As a result, the Department expects a fiscal impact of $523,500 in the first year and $523,500 in the second year to review and approve rate filings.

The Department will also likely require support from outside actuaries to verify some of the more complex wildfire models included in insurer submissions. The Department estimates that 6 rate filings will need to be referred to consulting actuaries at an average cost of $15,000 per filing. The outside actuarial reviews are assumed to occur in the first FY, increasing the estimated first-year fiscal impact to $613,500 [(6 x $15,000) + $523,500]. As a result, the total anticipated fiscal impact on the Department is $1,137,000 ($613,500 + $523,500).
The regulation also requires insurers to forward denied appeals to the Department, upon request. It is in the insurers financial interest to correct any inaccuracy in rating, so the Department doesn't anticipate that a large number of denied appeals would have issues needing attention.

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 regulation is estimated to result in the creation of 40 jobs within the State of California. Overall, the impact of jobs created by the proposed regulation is less than one-thousandth of a percent of the total projected civilian employment in California (40 / 19,238,071= 0.0002%).[25]

B. The proposed regulation is estimated to result in the elimination of 131.1 jobs within the State of California. Overall, the impact of jobs lost resulting from the proposed regulation is less than one-thousandth of a percent of the total projected civilian employment in California (131.1 / 19,238,071= 0.0007%)

C. Given that the average direct benefit to an impacted insurer is estimated to be $2,900 ($391,400 / 136 firms), it is not anticipated that the proposed regulation will have a significant impact on the creation of new businesses in California.

D. Given that the initial average direct cost to an impacted insurer is estimated to be $112,500 ($15.3 million / 136 firms), it is not anticipated that the proposed regulation will result in the elimination of existing businesses in California. It is also not expected that the initial average estimated cost of $300 ($562,000 / 1,847) to insurance agents or brokers will result in the elimination of existing businesses in California.

E. It is not anticipated that the proposed regulation will have an impact on the ability of businesses located in California to expand, as most of the costs resulting from the proposed regulation will be incurred by multimillion-dollar businesses. The estimated initial net loss to total output of $32 million suggests that the proposed regulation will have a minimal impact on the multitrillion-dollar California economy as a whole.

[25] California Department of Finance. California Economic Forecast-May Revise 2021-22, April 2021. http://www.dof.ca.gov/Forecasting/Economics/Eco_Forecasts_Us_Ca/index.html. Accessed December 3, 2021

F. The proposed regulation is expected to result in a benefit to the health and welfare of California residents, specifically insurance consumers, by ensuring approved property insurance rates are more closely related to the property's actual risk of loss. Additionally, if the Department's expectation that the regulation prevents some future wildfire losses is realized, it could benefit the state's environment and lead to better health outcomes for individuals negatively impacted by the poor air quality caused by California's wildfires.[26] The proposed regulation is not expected to affect worker safety.

The Economic Impact on Jobs, Businesses, and the State Economy

The Department evaluated the potential changes to output and employment that could result from the proposed regulation. Employment and total output impacts were assessed using the Regional Input-Output Modeling System (RIMS II) multipliers.[27] In the following analysis, detailed industry level RIMS II multipliers were used to assess the indirect and induced impacts resulting from direct economic impacts on insurers, insurance agents and brokers, and households. Aggregated industry multipliers were used to calculate a statewide multiplier that was used in analyzing the indirect and induced beneficial impacts to commercial businesses. The estimated impacts on jobs and output are not occurring simultaneously. Costs are expected immediately, while benefits are expected to lag as insurers will need to have an approved rating plan before households and businesses can benefit. As such, the anticipated cost impacts are provided for the 12 months after the regulation's effective date (assumed to be July 2022 – June 2022) and the beneficial impacts are assumed to lag 3 years (beginning July 2025 – June 2026).

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.

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 a minimal net impact to statewide employment. Insurance companies are expected to incur additional costs creating new rating plans, acquiring more detailed property-level data and implementing a procedure that allows consumers to review and question their wildfire score. The job impacts for insurers were

[26] Wisckol, Martin. March 16, 2021, Wildfires made California air quality among worst in the world, even during pandemic. The *Orange County Register*. "In its survey of 1,412 U.S. towns and cities in 2020, IQAir found that 24 of the 25 worst for particulate pollution were in California." https://www.ocregister.com/2021/03/16/wildfires-made-california-air-quality-among-worst-in-the-world-even-during-pandemic/

[27] U.S. Department of Commerce, Bureau of Economic Analysis: Tables 1.5 and 2.5. Regional Input-Output Modeling System (RIMS II) Multipliers (2012/2018). 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 dining out or seeing a movie. RIMS multipliers estimate that a new $1 million road creates 9.7 new jobs and increases output by $2 million. Similarly, a decrease in initial economic activity will lead to a decrease in jobs and total output.

calculated using the RIMS II multiplier, for insurance carriers, except direct life insurance. Because the regulation only impacts property and casualty insurers, this detailed multiplier is the most accurate available to measure the indirect and induced impacts of the regulation. The RIMS II multiplier for insurers is a ratio of 8.1763 jobs lost throughout the economy for every one million dollars in added cost. The ratio multiplied by the estimated total direct cost of the regulation to insurance companies of $15.3 million (3,719,600 + 243,600 + 4,400,000 + 5,855,500 + $1,019,200+ 31,100), equals the projected number of jobs lost, which is 125.1 (8.1763 x $15.3 million).

Additionally, insurance agents and brokers, may also incur additional costs related to processing consumers appeals and verifying some mitigation actions. The RIMS II multiplier for insurance agents is a ratio of 10.0515 jobs lost throughout the economy for every one million dollars in added cost. The ratio multiplied by the estimated total direct cost of the regulation to insurance agents and brokers of $1.1 million equals the projected number of jobs lost, which is 6.0 (10.0515 x $.6 million). As a result, the total number of jobs estimated to be eliminated as a result of the proposed regulation is 131.1 (125.1 + 6.0).

While standard RIMS II modeling projects a loss of some jobs because of the direct impact to insurance companies and insurance agents, there is an offset because benefits are assumed to accrue to households and businesses who will now receive a discounted insurance rate that more accurately reflects their property's wildfire risks. Using the private household RIMS II multiplier of 8.2357, the projected aggregate direct benefit of $1.8 million is expected to result in a gain of 14.8 jobs ($1.8 million x 8.2357). Commercial property owners are also expected to benefit directly from a discounted insurance rate reflecting their property's mitigated risks. However, because it is not possible for the Department to identify exactly what businesses have commercial insurance policies for properties in high wildfire risk areas, it is impossible to know what industries are likely to benefit from the mitigation of wildfire risks. To estimate the job impacts due to the direct benefit to commercial policyholders, the Department calculated a weighted average RIMS II multiplier for California. This calculation used 2020 industry employer data published by the Employment Development Department's Labor Market Information Division and the aggregated industry RIMS Table 2.5 job impact multipliers.[28] The Department calculated that the weighted average RIMS employment multiplier for an average California business is 14.6048 (see Appendix C). The Department believes this weighted average multiplier is representative of the job impacts likely to occur in higher wildfire risk rural areas, as the calculated multiplier is similar to the employment multiplier for the accommodation industry (13.5802), where many large employers in rural areas operate. Therefore, the Department expects a gain of 21.9 jobs ($1.5 million x 14.6048) resulting from the direct impacts on commercial policyholders.

Additionally, insurers are expected to benefit from an estimated $0.4 million in reduced wildfire losses, that will generate an estimated gain of 3.3 jobs (8.1763 x $.4 million). Therefore, the Department estimates that the regulation will create 40 jobs (14.8 + 21.9 + 3.3).

[28] California Employment Development Department, Labor Market Information Division. Third Quarter Payroll and Number of Businesses by Size Category, Third Quarter 2019. https://www.labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Data.html. Accessed November 10, 2020.

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 potential 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 output RIMS II multiplier of 1.9999 represents a $1.99 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 cost of the regulation on insurers by the RIMS II output multiplier results in an estimated loss to total economic output of $30.6 million (1.9999 x $15.3 million). Additionally, the direct cost to insurance agents and brokers is expected to result in a loss of $1.4 million (2.3712 x $.6 million). The expected initial loss to total economic output is estimated to be $32 million (30.6 + 1.4).

There is also an expected increase to total economic output because of the direct benefit to residential and commercial policyholders, as well as the benefit to insurers who will save money from reduced wildfire losses. The $1.8 million direct benefit to households is expected to result in an increase to total to output of $2.2 million ($1.8 million x 1.2337). As with the employment impacts estimated above, the Department used aggregated industry level multipliers to calculate a weighted average output multiplier for California (see Appendix C). This multiplier was calculated to be 2.0790, or a $2.1 million gain to output for every $1 million in direct benefit (for comparison the output multiplier for the accommodation industry is 1.9994). As a result, the Department estimates that the direct benefit to California businesses will result in a gain of $3.1 million ($1.5 million x 2.0790) to total output. Insurance companies are expected to save nearly $400,000 in wildfire losses, resulting in a gain to economic output of $0.8 million (1.9999 x $.4 million). Therefore, the gain to total economic output is estimated to be $6.1 million (2.2 + 3.1 + .8).

Over time, as the anticipated costs decrease and the benefits increase, the regulation is expected to result in a net benefit to economic output. This suggests that the estimated initial losses to jobs and output may only be temporary. The estimated loses are 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 believes that long-term the proposed regulation will have a beneficial impact on the state's environment, as increased wildfire risk mitigation may help to slow or stop the spread of some wildfire events. Better watershed health and wildlife protection may result as toxic debris cleanup after fires is reduced, and fewer wells become contaminated.

Health and Welfare Effects

The proposed regulation is expected to result in a benefit to the health and welfare of California residents, specifically insurance consumers, by ensuring approved property insurance rates are more closely related to the property's actual risk of loss. Additionally, if the Department's expectation that the regulation prevents some future wildfire losses is realized, it could benefit the state's environment and lead to better health outcomes for individuals negatively impacted by the poor air quality caused by California's recent wildfires.[29] The proposed regulation is not expected to affect worker safety.

Adverse Impact on Small Business

The proposed regulation is projected to have a direct adverse impact on insurers as discussed in the foregoing analysis, however by law insurance companies are not considered small businesses (Government Code § 11342.610(b)(2)).

However, there will also likely be an impact on insurance agents and brokers, who will have to document and forward consumer wildfire risk score appeals. To help insurers validate information, some agents and brokers may conduct in-person inspections of residential or commercial properties. Table 7 details the total anticipated cost of documenting policyholder and applicant appeals and in-person inspections. The Department assumes that the vast majority of agents and brokers operating in communities that are more likely to experience the effects of wildfire are small businesses. As such, the Department expects that there will be a total adverse impact on small business of $562,000 ($175,500 + $351,100 + $35,400).

In 2020, there were 16,063 business establishments classified as insurance agents and brokers in California.[30] The Department assumes that only the agents and brokers operating in moderate to very high wildfire risk areas are likely to be impacted, because this is where the properties most likely to appeal their wildfire score are located. In the Establishing a Baseline section, the Department calculated that 11.5 percent of California homes insured through the voluntary

[29] *Ibid*, Wildfires made California air quality among worst in the world, even during pandemic.

[30] Employment Development Department Labor Market Information Division. Quarterly Census of Employment and Wages. Annual 2020 establishment count for industry 5242, Insurance Agencies, Brokerages & Support. https://www.labormarketinfo.edd.ca.gov/data/Quarterly_Census_of_Employment_and_Wages.html. Accessed: January 5, 2022.

residential insurance market are located in a moderate to very high wildfire risk area. That percentage was also applied to calculate the number of commercial properties in moderate to very high wildfire risk areas, and is used here to estimate that approximately 1,800 (16,063 x 11.5%) insurance agents and brokers are located in moderate to very high wildfire risk areas. As a result, the Department estimates that the initial average adverse impact on an insurance agent or broker operating as a small business in an impacted moderate to very high wildfire risk area is approximately $300 ($562,400 / 1,847). However, the average cost to small businesses is expected to increase to $610 in year 2, and then decline to $400 per business after 6 years.

Analysis of Alternatives to the Proposed Regulation

Alternative 1: Make the regulation apply only to residential policies.
This alternative would limit mitigation discounts to only residential policies. Segmentation and wildfire risk models are not always developed or applied to commercial lines policies and there is some uncertainty as to how effective such discounts may be. For example, a large company with many locations would likely not have its overall expected risk of loss significantly changed by mitigation measures at one location with a higher wildfire risk.

Reason for rejecting this alternative: Businesses and homes together make up communities, and the Department aims to incentivize residential, commercial, and community mitigation measures. Exempting all commercial policies would undermine the benefit of reducing the risk of loss posed by wildfires, as commercial policy discounts are likely to encourage some wildfire risk mitigation, even if the impact on the overall risk of loss is not noticeable for larger companies.

Alternative 2: Modify the proposed regulation to recognize that the science of home hardening and community mitigation is still evolving.
This alternative would modify the proposed regulation to specifically state that home hardening science is evolving. Additionally, this alternative would provide additional time for insurers to collect data on how specific property- and community-level wildfire mitigation measures would impact insurance rates.

Reason for rejecting this alternative: Delaying the proposed regulation to wait for these advances will only make the current problem worse. Incentivizing mitigation will make more money available for mitigation, potentially leading to even more advancements in home hardening science. Requiring insurance companies to consider mitigation will speed up their ability to collect data on how specific mitigation measures affect wildfire losses. That the science supporting or evaluating mitigation is evolving is not a reason to ignore the current state of the science. The Department understands that insurers will employ the best currently available scientific evidence. This understanding doesn't depend on estimations of where the science may be in the future.

Further, the proposed regulation does not mandate a complete list of mitigation measures that should receive a discount, or the magnitude of the discount. Insurers can modify rating plans to include other community-level or property-level mitigation efforts recommended by a state or local fire safety agency that reduce wildfire risk. The insurance company is responsible for calculating a rate that is not excessive, inadequate, or unfairly discriminatory in compliance with

Insurance Code section 1861.05 and applicable regulations. As new data becomes available, insurance companies can update their rating plans to reflect updated loss data. Nothing in the proposed regulation prevents an insurer from adjusting future rates should certain mitigation measures prove more effective at preventing wildfire losses than others.

IDENTIFICATION OF STUDIES, REPORTS, DOCUMENTS

- Safer from Wildfires: Interagency Wildfire Mitigation Partnership Summary Document
- NAIC White Paper: Application of Wildfire Mitigation to Insured Property Exposure (November 15, 2020)
- IBHS Suburban Wildfire Adaptation Roadmaps: A Path to Coexisting with Wildfires (November 2021)

ANALYSIS OF ALTERNATIVES TO THE PROPOSED REGULATION

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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.

SPECIFIC ACTIONS AND PROCEDURES PRESCRIBED

Performance standards were considered but were rejected as inappropriate. Performance standards were rejected based on input from both insurance company representatives, as well as California businesses and residents, who consistently stated during stakeholder meetings that uniform mitigation standards were needed in order to ensure consistency across California and to help the public properly reduce the risk of wildfire. Accordingly, these regulations require insurance companies to recognize specific mitigation standards when setting a rate differential, or surcharge on premium based on a policyholder or applicant's wildfire risk. The proposed regulations prescribe specific actions and procedures. For instance, the regulation requires insurance companies that charge a rate that is based on a policyholder's or applicant's wildfire risk to take into account specific mandatory mitigation factors set forth in section 2644.9(d). Similarly, the regulations require an insurance company to notify a residential or commercial policyholder or applicant of the right to appeal from any wildfire risk score or other wildfire risk classification that the insurer assigns to that policyholder or applicant. Certain procedures relating to this right of appeal are established in the proposed regulations to ensure transparency as well as a timely and careful review of the accuracy of an insurance company's assumptions when assigning a wildfire risk score or other classification to an applicant or policyholder.

PRENOTICE PUBLIC DISCUSSIONS

The Commissioner conducted prenotice public discussions pursuant to Government Code section 11346.45(a) on November 10, 2021. Interested and affected parties were given an opportunity to present statements or comments with respect to the proposed amendments.

APPENDICES

Appendix A. Yearly Direct Economic Benefit Estimates, Starting July 2025

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	6-year Cumulative Benefits
Residential Mitigation Discounts	$1,790,000	$3,580,000	$5,370,000	$7,160,000	$8,950,000	$8,950,000	$35,800,000
Commercial Mitigation Discounts	$1,498,500	$2,997,000	$4,495,500	$5,994,000	$7,492,500	$7,492,500	$29,970,000
Insurers Reduced Wildfire Losses	$391,400	$782,800	$1,174,200	$1,565,600	$1,957,000	$1,957,000	$7,828,000
Annual Benefits	**$3,679,900**	**$7,359,800**	**$11,039,700**	**$14,719,600**	**$18,399,500**	**$18,399,500**	**$73,598,000**
Total Cumulative Benefits	**$3,679,900**	**$11,039,700**	**$22,079,400**	**$36,799,000**	**$55,198,500**	**$73,598,000**	

Appendix B. Yearly Direct Economic Cost Estimates, Starting July 2022

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	6-year Cumulative Costs
Insurers Completing Rate Filings	$3,719,600						$3,719,600
Insurers Writing Procedures	$243,600						$243,600
Insurers Providing wildfire risk score (automation)	$4,400,000						$4,400,000
Insurers Providing wildfire risk score (k)(3) (manual)	$5,855,500	$11,711,000	$11,711,000	$11,711,000	$11,711,000	$11,711,000	$64,410,500
Wildfire Risk Score Appeals (Insurer)	$1,019,200	$2,038,400	$1,834,600	$1,651,100	$1,486,000	$1,337,400	$9,366,700
Wildfire Risk Score Appeals (Agents or Broker)	$562,000	$1,124,000	$1,011,600	$910,400	$819,400	$737,500	$5,164,900
Appeals Postage (Insurer)	$31,100	$62,200	$62,200	$62,200	$62,200	$62,200	$342,100
Annual Cost	**$15,831,000**	**$14,935,600**	**$14,619,400**	**$14,334,700**	**$14,078,600**	**$13,848,100**	**$87,647,400**
Total Cumulative Cost	**$15,831,000**	**$30,766,600**	**$45,386,000**	**$59,720,700**	**$73,799,300**	**$87,647,400**	

Appendix C. RIMS Weighted Average Calculation.

Industry	California Business Establishments[31]	Rims II Output Multiplier	RIMS II Employment Multiplier
Farms	16,435	1.9631	15.9963
Forestry, fishing, and related activities	519	2.0723	24.4027
Oil and gas extraction	121	1.7162	8.7571
Mining (except oil and gas)	260	1.8104	7.8564
Support activities for mining	414	1.9684	9.0487
Utilities	1,303	1.6409	5.057
Construction	85,195	2.1523	13.5244
Wood product manufacturing	1,075	1.9147	9.8685
Nonmetallic mineral product manufacturing	1,259	1.9373	8.414
Primary metal manufacturing	506	1.7767	6.5135
Fabricated metal product manufacturing	6,525	1.8822	8.6411
Machinery manufacturing	3,141	1.8922	7.2924
Computer and electronic product manufacturing	4,440	1.8234	7.5253
Electrical equipment, appliance, and component manufacturing	1,212	1.8176	7.235
Motor vehicles, bodies and trailers, and parts manufacturing	877	1.6869	5.9314
Other transportation equipment manufacturing	877	1.9149	7.3916
Furniture and related product manufacturing	2,032	1.9683	10.107
Miscellaneous manufacturing	4,065	1.8644	8.6325
Food and beverage and tobacco product manufacturing	7,256	2.0874	9.525
Textile mills and textile product mills	941	1.8965	10.1124
Apparel, leather, and allied product manufacturing	2,861	2.0719	20.2088
Paper manufacturing	502	1.7211	6.3282
Printing and related support activities	3,348	1.956	11.5323
Petroleum and coal products manufacturing	214	1.52	4.001

[31] *Ibid*, California Employment Development Department, Labor Market Information Division. Third Quarter Payroll and Number of Businesses by Size Category, Third Quarter 2019.

Industry	California Business Establishments[31]	Rims II Output Multiplier	RIMS II Employment Multiplier
Chemical manufacturing	2,327	1.7699	5.7321
Plastics and rubber products manufacturing	1,271	1.7564	6.7843
Wholesale trade	65,139	1.9905	9.2707
Motor vehicle and parts dealers	10,298	1.9404	13.6135
Food and beverage stores	17,455	2.0409	19.1016
General merchandise stores	4,270	2.0301	18.9199
Other retail	74,238	2.0388	17.144
Air transportation	585	1.9926	7.7933
Rail transportation	7	2.0041	7.8852
Water transportation	173	2.2345	9.4028
Truck transportation	13,823	2.3122	13.2414
Transit and ground passenger transportation	2,069	2.3277	28.6457
Pipeline transportation	124	2.176	11.7912
Other transportation and support activities	8,391	2.262	16.6365
Warehousing and storage	2,098	2.1929	15.5609
Publishing industries (except Internet)	6,416	1.8793	8.4423
Motion picture and sound recording industries	11,826	1.9814	10.8272
Broadcasting (except Internet) and telecommunications	1,080	2.1211	9.4771
Data processing, hosting, and other information services	9,369	2.1164	7.9988
Monetary Authorities-central bank, credit intermediation, and related services	18,094	1.9234	8.7143
Securities, commodity contracts, and other financial investments and related activities	15,239	2.3776	14.2315
Insurance carriers and related activities	18,721	2.0758	8.6877
Funds, trusts, and other financial vehicles	644	2.878	16.9239
Real estate	51,475	1.6233	9.2165
Rental and leasing services and lessors of nonfinancial intangible assets	6,351	1.9192	8.4748
Professional, scientific, and technical services	157,304	2.1586	13.3391
Management of companies and enterprises	4,695	2.1818	11.1376
Administrative and support services	53,004	2.1894	20.501

Industry	California Business Establishments[31]	Rims II Output Multiplier	RIMS II Employment Multiplier
Waste management and remediation services	2,520	1.9898	9.6717
Educational services	16,127	2.0662	19.3219
Ambulatory health care services	84,426	2.1344	14.0693
Hospitals	796	2.2086	13.3984
Nursing and residential care facilities	9,893	2.2065	20.8276
Social assistance*	18,495	2.2111	28.058
Performing arts, spectator sports, museums, and related activities	19,085	1.9709	18.8429
Amusement, gambling, and recreation industries	8,837	2.0234	17.0424
Accommodation	7,034	2.0003	13.5165
Food services and drinking places	81,846	2.1449	20.4246
Other services	69,394	2.1433	15.4958
California Total / RIMS Weighted Average	**1,020,316**	**2.0790**	**14.6048**

*Individuals employed as part of the In-Home Supportive Services (IHSS) program, were excluded from the count of Social Assistance Business Establishments.[32]

[32] California Department of Social Services, In-Home Supportive Services Program. https://www.cdss.ca.gov/in-home-supportive-services. Accessed November 30, 2020.