

**ESTABLISHMENT OF CONDITIONS AND PROCEDURES
FOR PUBLIC INSPECTION AND COPYING OF INFORMATION
AND OFFICIAL RECORDS OF THE
INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION**

§ 101. Purpose.

Pursuant to Article VIII and Article X of the Model Interstate Insurance Product Regulation Compact (the “Compact”), as enacted into law by each Compacting State, this Rule establishes the conditions and procedures for public inspection and copying of public information and official records of the Interstate Insurance Product Regulation Commission (the “Commission”).

§ 102. Definitions.

Except as otherwise defined herein, the terms as defined in Article II of the Compact shall have the same meaning in this Rule as if such definitions were set forth fully herein.

- (a) “Custodian of Records” means the Executive Director or such person designated by the Executive Director to administer this Rule.
- (b) “Insurer” means an insurance company, association or exchange, or a third-party filer.
- (c) “Official Record” means any and all documents, papers, letters, books, audio and video tapes, photographs, sound recordings, electronic data or other material, regardless of physical form or characteristic, in the possession of the Commission that were made or received in connection with the transaction of official business of the Commission, other than a Product Filing.
- (d) “Product Filing” means a filing submitted by an Insurer to the Commission for approval of a Rate, Product or Advertisement.
- (e) “Public Record” means a Record that is not exempt from inspection, examination and copying under this Rule.
- (f) “Record” means an Official Record of the Commission and a Product Filing.
- (g) “Requestor” means the person who has submitted a written request for access to Records of the Commission.
- (h) “Trade Secret” means any information, which may include, but is not limited to, a formula, pattern, compilation, program, device, method, technique or process, insurance actuarial formulas, statistics, supporting data, assumptions, underwriting guidelines and credit scoring methodologies, that: a) derive independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from their disclosure or use, and b) are the subject of efforts that are reasonable under the circumstances to maintain their secrecy.

§ 103. Request for Access to Official Records.

- (a) All Public Records of the Commission shall be open to the public at the Commission’s principal office during regular office hours. Copies of any records and any assistance from Commission personnel in locating or copying Public Records shall be charged to the Requestor.
- (b) The following Records are not public and shall be exempt from inspection, examination and copying:
 - (1) Information provided by an Insurer, including but not limited to information contained in a Product Filing, that qualifies as a Trade Secret.
 - (2) Information of a personal nature, including personal medical and financial information.
 - (3) Information related solely to the Commission's internal personnel practices and procedures as well as personnel matters and investigations.

- (4) Information pertaining to pending or potential litigation or investigations involving the Commission, any member thereof, any officer or employee thereof, or any member of a Commission committee.
 - (5) Information pertaining to confidential or privileged matters or communications with the Commission's attorneys.
 - (6)
 - (i) Any Records, including but not limited to work papers, documents, materials or other information, created by, or in the custody, control or possession of the Commission, that relate to an internal audit of the Commission or to an investigation or examination conducted by the Commission.
 - (ii) Any Records subject to an applicable privilege against disclosure enforceable by the Commission; and
 - (iii) Any Records in the custody, control or possession of the Commission that are subject to an agreement between the Commission and any of the following, such that the Commission is required to maintain the confidentiality of such Records: a state, federal or international regulatory agency, the National Association of Insurance Commissioners, the North American Securities Administrators Association, a self-regulatory organization organized under 15 U.S.C. §§ 78f, 78o-3 and 78q-1, any other self-regulatory organization and its affiliates or subsidiaries and any state, federal, or international law enforcement authority. No waiver of an existing privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure or sharing as authorized under such an agreement.
 - (7) Information that is administrative or technical in nature regarding computer hardware, software and networks which, if disclosed, would jeopardize computer security, or disclosure of which would violate any license or agreement to which the Commission is a party.
 - (8) Information pertaining to emergency or security procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein.
 - (9) Information which is a communication between the Commission and its insurance carrier or risk management office.
 - (10) Information which is to be kept confidential pursuant to court order.
 - (11) Product filings that are pending approval, have been disapproved, or are withdrawn.
- (c) All requests for access to Commission Records shall be in writing and be sent or delivered by mail, electronic mail, hand-delivery or facsimile transmission. The Commission shall not accept verbal requests. All requests shall include:
- (1) The Requestor's name and mailing address (phone number and e-mail, if available);
 - (2) A detailed list or description of the specific information that Requestor seeks to inspect or copy, including the time periods for which the information is sought; and
 - (3) The Requestor's signature, if an individual, or the signature of an authorized representative of the Requestor, if not an individual.

§104. Response to Request for Public Records.

- (a) The Custodian of Records shall make a determination regarding access to Records within ten (10) working days of receipt of the request. If the Custodian requires additional time to make a determination, including but not limited to additional time to process a request for Records involving an asserted Trade Secret, the Custodian shall notify the Requestor in writing to extend such period of time to the period identified in the notice.

- (b) If a request is denied, in whole or in part, because it seeks Records that are not Public Records, the Custodian of Records shall send notice to the Requestor of the denial in writing within ten (10) working days of receipt of the request (or any longer period if extended pursuant to subsection (a) of this section) and the Requestor may appeal the denial as provided in Section 107 of this Rule. The notice of denial shall contain the following information:
- (1) A description of the Record or portions of the Record to which access is denied provided the description does not disclose information exempt from disclosure.
 - (2) Identification of the category or categories that makes the Record exempt from disclosure under Section 103(b) of this Rule.
- (c) The Commission shall provide a space in its offices where a Requestor or an individual authorized to represent a Requestor may inspect or examine Public Records in person, upon appointment, during the Commission's regular business hours Monday through Friday, except for holidays or days when the Commission's offices are officially closed due to inclement weather or other unforeseen circumstances.
- (d) A Public Record shall be provided to the Requestor in the medium requested if the record exists in that medium. Otherwise, the Public Record shall be provided in the medium in which it exists. Where the Public Record is only available in electronic form, the Commission will print it out on paper if the Requestor so requests and will treat such print-out as a photocopy.
- (e) Upon request and payment of the applicable fees, the Commission shall furnish a copy or a certified copy of Public Records.
- (f) The Commission is responsible for the integrity and security of its Records and all inspection, examination and copying of Public Records shall be under the supervision of the Commission's Custodian of Records. The Commission shall provide supervision, in its discretion, appropriate to the nature of the request and the Records involved. Under no circumstances shall Records be left alone with a Requestor or an individual representing a Requestor.
- (g) Requests to member states for access to Commission records in the possession of the member state are subject to this Rule. If a member state receives a request for access to non-public Commission records, the state shall inform the Requestor that the request should be submitted to the Commission directly.

§105. Applicable Fees and Charges.

- (a) Upon a request for a copy or certified copy of Public Records, the Commission shall prepare an invoice reflecting the applicable charge based on the total number of copies and any special service charges within the time provided in Section 104(a) of this Rule.
- (b) The Commission shall publish a schedule of fees for copies of Public Records which shall include charges for photocopies, postage, certified copies, and materials, as well as a service charge for personnel, programming and computer time. If redaction of information that is exempt from public disclosure is required before the Public Record can be accessed or copied for the benefit of the Requestor, the Commission shall charge for personnel time incurred in the redaction. The Executive Director shall determine all fees payable under this Rule, and shall post a schedule of fees on the Commission's website. All fees established under this rule shall be reasonable in relation to the services provided.
- (c) Where the precise amount of a service charge or copy charge cannot be calculated in advance, the service charge shall be estimated and the Requestor shall be required to pay seventy-five percent of the estimate prior to the Commission beginning work, and the balance, adjusted as necessary to reflect actual charges incurred, upon completion of the special services.

§106. Records that Contain Insurer Trade Secret Information.

- (a) An Insurer shall identify any information that it provides to the Commission as part of a Product Filing or otherwise, which the Insurer claims is a Trade Secret, at the time of filing or providing such information to the Commission. Such information shall be identified with particularity, and the Insurer shall provide the Commission with a detailed written explanation of how the information qualifies as a Trade Secret at the time the information is filed.

- (b) If a request is made for Records that contain information that an Insurer has identified as Trade Secret, the Custodian of Records shall examine the Records including the claimed Trade Secret information to determine if the information qualifies as a Trade Secret. The Insurer shall promptly provide the Custodian of Records with any additional information that the Custodian may request for purposes of making such determination. The Custodian of Records shall notify the Insurer of the determination in writing.
- (c) The Custodian may disclose a Public Record with all Trade Secret information redacted.

§107. Appeals of Determinations.

- (a) A determination by the Custodian of Records that a Record is not a Public Record, or a determination by the Custodian of Records that all or any portion of a Record does not qualify as a Trade Secret, may be appealed in accordance with this article. No person other than the Requestor may appeal a determination that all or any part of a Record is not a Public Record. No person, other than the Insurer that submitted the information, may dispute a determination that information identified by the Insurer as a Trade Secret does not qualify as a Trade Secret.
- (b) A written notice of appeal shall be filed with the Commission within fifteen (15) working days of the mailing date of the notice of determination from the Custodian of Records to the Requestor or to the Insurer, as applicable. In the case of a determination that information is not a Trade Secret, during such fifteen (15) day period and during the period, if any, that an appeal of the determination is pending, the Requestor shall be given the option of having access to a redacted copy of the Record with the information that is subject to appeal redacted.
- (c) A notice of appeal must state the specific reasons upon which the Requestor asserts that a Record or any portion thereof qualifies as a Public Record, or upon which an Insurer claims the information qualifies as a Trade Secret. A notice of appeal that fails to comply with this requirement shall be dismissed for lack of specificity, but may be refiled within the period described in subsection (b) of this section. If a notice of appeal is not timely filed, the determination of the Custodian of Records shall be final and binding on the Requestor and the Insurer, as applicable.
- (d) If a Requestor is appealing a denial of disclosure of all or part of a Record as a Trade Secret, the Commission shall promptly notify the relevant Insurer of the appeal and allow the Insurer an opportunity to provide comment or response, including specific reasons why the information qualifies as a Trade Secret. The Insurer's written comment or response must be submitted within 15 days of the Commission's notice of its right to submit comments.
- (e) The Management Committee shall appoint a committee to review the determination of the Custodian of Records (the "Appeals Committee"). The Appeals Committee may be a standing committee or an ad hoc committee, in the discretion of the Management Committee. The Appeals Committee shall consist of three (3) individuals, who shall be chosen from the members of the Commission. The Appeals Committee shall conduct its review based on all written materials that are in the possession of the Commission and that are relevant to the determination under appeal. The Appeals Committee may request oral testimony in its discretion, but it shall not be required to obtain such evidence. The Appeals Committee shall conduct a de novo review. A decision by the Appeals Committee shall require the affirmative vote of at least two of the three members.
- (f) The Appeals Committee shall issue a written decision within sixty (60) calendar days of the mailing date of the notice of appeal, unless it has provided an Insurer with an opportunity to respond to a dispute involving Insurer's trade secret or it has requested oral testimony under subsection (e) of this section, in which case it shall issue a final determination within sixty (60) calendar days after receipt of the Insurer's response or receipt of the transcript of oral testimony, whichever is later. The decision shall include a narrative explaining the basis of its decision.
- (g) The decision of the Appeals Committee is subject to judicial review in accordance with Article III, Section 4 of the Compact.

§108. Electronic Access to Public Records in Product Filings.

- (a) Notwithstanding any other provision of this Rule, in its discretion the Commission may establish procedures to provide public access to Public Records contained in Product Filings through the Internet or other web-based application. The Commission may post any or all of its Public Records on its website, in which case the Commission shall not be required to respond to a request for any Public Records so posted unless the Requestor demonstrates an inability to access the Public Records through the website without undue hardship.

- (b) The Commission may charge a fee for such access. Any such procedures and fees, if established, shall be posted on the Commission's website. All fees established under this rule shall be reasonable in relation to the services provided.

§ 109. Adoption and Effective Date.

This Rule was adopted by the Commission on December 8, 2006, pursuant to the procedures set forth in the Rule for Adoption, Amendment and Repeal of Rules for the Interstate Insurance Product Regulation Commission. This Rule is effective on January 22, 2007. The amendment to this Rule was adopted on September 21, 2008 and is effective on November 5, 2008 on a prospective basis to filings submitted on or after the effective date and shall apply to public access requests made on or after November 5, 2008.