

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-1

Amended Regulation 1-1-8

Penalties and Timelines Concerning Division Inquiries and Document Requests

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Section 1 Authority

This regulation is promulgated pursuant to §§ 10-1-109, 10-2-104, 10-3-109(3), and 10-16-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to prescribe the time period in which all persons and entities shall respond to Colorado Division of Insurance (“Division”) inquiries, including, but not limited to, document and information requests during market conduct and financial examinations, investigations of complaints, and any other formal or informal investigation or examination conducted for the purpose of determining compliance with Colorado insurance law. In addition, the purpose of this regulation is to prescribe the penalties for failure to respond to Division inquiries within the timeframes specified in this regulation.

Section 3 Applicability

This regulation shall apply to all persons and entities over whom the Division has authority, including, but not limited to, producers, insurers, health maintenance organizations and insurance agencies for all lines of insurance. This regulation does not apply where a different timeframe for responding to Division inquiries or providing documentation or information is specifically established by Colorado statute or Division regulation.

Section 4 Definitions

As used in this regulation:

- A. “Division” shall mean the Colorado Division of Insurance.
- B. “Incomplete response” shall mean a response that does not substantially address the inquiry, as determined by the Division.

- C. "Inquiry" shall mean any written Division request to any person, for documents, information or an explanation or response. Inquiry includes, but is not limited to, market conduct examination comment forms, financial examination request forms, information requests arising from complaints received by the Division, and information requests arising from investigations conducted by the Division.
- D. "Examination Request/Comment Form" means a request for information made during the course of a formal market conduct or financial examination under §§ 10-1-201 to 207, C.R.S., and includes:
 - 1. A written request from the examiner for books, records, materials, information, or data necessary for examination of the company's operations; and
 - 2. A written comment from the examiner which identifies concerns related to company actions and requires additional information or acknowledgment from the company.
- E. "Person" shall have the same meaning as in §10-2-103(8), C.R.S.
- F. "Response" means all written information provided to the Division from the person to whom the inquiry is made.

Section 5 Rules

- A. Unless another time period is specified by the Division in writing, every person shall provide a complete response to an Examination Request/Comment Form within ten (10) calendar days from the date on the form.
- B. Except for responses to an Examination Request/Comment Form, and unless another time period is specified by statute, regulation or by the Division in writing, every person shall provide a complete response in writing to any inquiry from the Division within twenty (20) calendar days from the date of the inquiry.
- C. If additional time is required to respond to any Division inquiry, the person shall submit a request for an extension of time in writing to the Division employee or examiner making the inquiry. The request for an extension of time shall be made within the original response period established in this regulation, shall request a specified period of time, and shall state in detail the reasons necessitating the extension. Extensions are granted at the discretion of the Division for good cause shown. When a request for extension is granted, the person shall respond within the new time period granted. If an extension is not granted, the person shall respond within ten (10) calendar days of the notice that the extension was not granted and is subject to the imposition of appropriate penalties from the original due date. Nothing herein shall prohibit a person from requesting additional extensions of time, should further information be discovered in good faith that prohibits a response during the first extension period.
- D. If the person from whom the response is requested is represented by legal counsel, this representation shall in no way absolve the person of their responsibilities for a timely response under this regulation.
- E. The Division will calculate the applicable time periods from the date of the correspondence from the Division to:
 - 1. If the response is mailed, the postmark date on the response;

2. If the response is hand-delivered to the Division, the date identified by the Division's date received stamp;
 3. If the response is hand-delivered directly to Division staff, Division representatives or examiner off of Division premises, the date the staff, representative or examiner receives the response as acknowledged by the staff, representative or examiner;
 4. If the response is transmitted electronically, the electronically recorded date; and
 5. If the response is faxed, the date identified by the Division's date received stamp. If controversy over the received date of a fax exists, all evidence will be considered, including the electronically placed fax header and the Division's internal fax machine records.
- F. Failure to provide a full or complete response to a Division inquiry, or to request an extension for a specified period within the original response period, may result in the imposition of a minimum \$500.00 fine. Pursuant to Section 6 of this regulation, and after notice and hearing, additional sanctions may be sought under §10-1-215, C.R.S., and other fining and penalty provisions of Title 10.

Section 6 Enforcement

Noncompliance with the requirements and timeframes specified in this regulation may result, after proper notice and hearing, in the imposition of any sanctions made available in Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines, issuance of cease and desist orders, and/or suspension or revocation of license.

Section 7 Severability

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

Section 8 Effective Date

This regulation is effective on February 1, 2009.

Section 9 History

Originally promulgated as regulation 6-2-2, effective; January 31, 1998.

Repealed regulation 6-2-2, re-promulgated as new regulation 1-1-8. Hearing date: April 3, 2003, effective June 2, 2003.

Amended regulation effective February 1, 2009.