FAQ on Insurance Commitments for Wildfire Distressed Areas

June 12, 2024

1) Why are Californians having problems finding insurance?

Under Proposition 103 enacted by voters in 1988, insurance companies are legally free to choose where they will write policies in California. At the same time, California is the only state requiring insurance companies to use historical data in setting future rates, driving up costs for consumers after on-going wildfires these past several years. As a result, insurance companies are writing more and more in areas of the state deemed less risky, while insurance costs have risen in wildfire areas. This most affects residents and business owners in areas with wildfire risk where the California FAIR Plan has become the only option for insurance, not the insurer of last resort as it was intended. Climate change is also exacerbating these problems by increasing risks and global costs for insurance companies.

2) How does the Sustainable Insurance Strategy help?

Under Commissioner Lara's strategy, insurance companies will be allowed to use forward-looking catastrophe models if -- and only if -- they increase writing of policies in wildfire distressed areas. Insurance companies using catastrophe models also will be required to have catastrophe models reviewed by the Department and the models will be required to take into account the steps taken by policyholders, local governments, and businesses to mitigate wildfire risk. This helps fix a fundamental shortcoming of Prop. 103 and will support efforts to adapt to climate change and protect lives and property from future wildfires.

3) What are "wildfire distressed areas?"

"Wildfire distressed areas" are places where wildfires are more likely to happen and it is hard for consumers to find insurance coverage except from the FAIR Plan, the state's insurer of last resort. Distressed areas have three components: they are in parts of California where wildfire is a threat, where insurance companies have reduced or restricted writing policies, and where there is a high concentration of FAIR Plan policies. The Department has developed a statewide map showing where wildfire risk and FAIR Plan policies are concentrated.

4) What are the criteria for a distressed area?

Because California has a complex geography, the Department has taken a hybrid approach to include many areas of the state.

ZIP Codes: Distressed areas include those with a FAIR Plan penetration rate of 15% that include high or very high wildfire hazard as defined by CAL FIRE. The Department also created an affordability index to add ZIP Codes with lower incomes based on the cost of coverage.

Counties: California has 28 counties where insurance companies have rated more than 20% of properties at high or very high risk. The Department chose 20% as the threshold because it is the most inclusive while holding insurance companies accountable. A 15% threshold would have excluded all but far Northern

California, while a 25% threshold would have allowed insurance companies to “cherry pick” lower risk homes in more urban areas where there are a greater number of options for consumers.

FAIR Plan policies outside of highly distressed areas: Pockets of FAIR Plan policies exist in nearly every county, but lower-risk urban areas dilute the overall percentage. To target new policies where the problems are, insurance companies will take back FAIR Plan policies into the traditional market.

5) What if I am not in a distressed area?

Even if a person is not in an identified highly distressed area, they still have a path to get off the FAIR Plan – with insurance companies making commitments to take these policies back into the regular market. While the Department’s data analysis identifies distressed areas at the ZIP Code and county level, pockets of FAIR Plan policies exist at the neighborhood or even street level in denser urban areas. That is why the Department has taken a hybrid approach to the challenge of moving people off the FAIR Plan.

In the long term, it is one of the Department’s main goals to have fewer distressed areas in the state – not more – because that would mean admitted carriers are writing more homeowners and commercial policies in the state, especially in distressed areas, as well as depopulating the FAIR Plan.

6) How will the Department of Insurance require insurance companies to write in wildfire areas?

To address the limits of Prop. 103, Commissioner Lara reached an agreement with insurance companies to write coverage for properties in wildfire risk areas that they currently will not insure. Under his strategy, insurance companies must commit to writing more policies in wildfire distressed areas and detail where they are writing policies in submitted rate filings to the Department. The Department will use its existing enforcement authority to hold insurance companies accountable. Insurance companies using catastrophe models also will be required to take into account wildfire mitigation actions.

7) Why is it important to remove people from the FAIR Plan?

Insurance company actions have pushed more Californians to the FAIR Plan by nonrenewing policyholders and limiting new policies written. The FAIR Plan has become the only option instead of the last option as it was intended. For most, the FAIR Plan is limited coverage at a higher cost. It contributes to the problem of underinsurance, leaving people at greater risk of paying out of pocket after a disaster. And a growing FAIR Plan poses a problem for all Californians, even if they have never heard of the FAIR Plan, because concentrating higher risk properties into one pool increases the risk of major losses in a large wildfire.

8) How many policies must insurance companies write?

Under the agreement that Commissioner Lara reached with insurance companies last year, they must cover at least 85% of properties in distressed areas. To achieve that, they will need to write more policies in distressed areas and remove policies from the FAIR Plan. The Department’s new regulatory text takes a hybrid approach that recognizes the complexity of California’s insurance marketplace which is made up of large and small companies, including some serving geographical regions with more or fewer homes at risk of wildfires.

The Department’s approach maximizes the relief to consumers by encouraging all types of insurers to write more policies in areas where insurance access has decreased.

Larger insurance companies with a major presence in distressed areas will need to write no less than 85% of properties and report their progress to the Department. The Department will monitor progress towards each insurance company commitment. Companies already meeting the threshold will be required to maintain that level of policies for three years.

Smaller companies, new entrants, and companies that largely write outside of wildfire risk areas will need to expand their writings in wildfire risk areas by at least 5%. The proposed regulation also includes flexibility for insurance companies to draw FAIR Plan policies from all areas of the state with wildfire risk, bringing in regional insurers from across the state.

9) What data is the Department using to define a distressed area?

The Department will update the state's distressed areas at least annually in order to ensure the most updated data is reflected in the maps. For several years, CDI has built expertise in its data collection, collecting unique data from insurance companies and the FAIR Plan. The Department is using residential and commercial data to determine the number and characteristics of policies in each of California's ZIP Codes and counties. This data will enable the Department to monitor insurance company commitments and hold insurance companies accountable to their commitments under existing law.

10) How does the Department's map compare to the CAL FIRE hazard maps?

The Department's map uses CAL FIRE's most recent maps to help target new policies at ZIP Codes with heightened wildfire hazard and prevent insurance companies from "cherry picking" homes in lower-risk areas where people already have greater insurance options. Using CAL FIRE maps will help increase the number of policies written and align our fire safety efforts among multiple state agencies and local governments. For many years, insurance companies have been using wildfire risk tools for determining where they will write and renew policies, and how much premium to charge a policyholder, and the Department is using an aggregate of wildfire risk scores to supplement the state's hazard maps, maximizing relief to those policyholders stuck in the FAIR Plan because of wildfire risk.

11) How often will map be updated?

The currently published map is a draft based on preliminary data from 2021/22 and will be updated prior to it being used in insurance company rate filings. Each year, the distressed areas will be reviewed when new data is collected and verified by the Department, and the maps may be updated as market conditions change.

12) How are homes and businesses treated differently?

Commercial insurance policies have much greater variability in the scope, geography, and type of specific coverages, and the number of structures that are insured within a single policy. To reflect the greater variability of policies, commercial insurance companies must increase writings by 5% in the ZIP Codes that overlap with high and very high wildfire hazard areas.

13) How can the public participate in the process?

Public input is critical to crafting effective and flexible regulations that will stand the test of time. Draft regulation text and maps are available on the [Sustainable Insurance Strategy web page] at insurance.ca.gov. A virtual public workshop open to all is scheduled for Wednesday, June 26 at 2:30PM. To RSVP for a virtual link, visit insurance.ca.gov. All members of the public are invited to submit written comments by June 27 to CDIRegulations@insurance.ca.gov.

14) How will the Department enforce this plan?

The Department has strong enforcement tools to hold insurance companies accountable. All companies will be required to submit new rate filings that show they are meeting the targets for new policies. If a company does not meet its targets, the Department can conduct a market conduct exam to audit the company. The Commissioner can also order a rate hearing and order refunds of overpayments. A company that does not fulfill its obligation in a rate filing can be prevented from using catastrophe modeling in the future.

15) When will this be in effect?

The new regulation is expected to be in effect by December 31, 2024. The Department expects companies to begin filing new applications as soon as possible, and some companies have already stated they will begin writing new policies as soon as the regulations are in place. The Department will thoroughly review all rate filings under new regulations that will improve the quality of information and help speed up review times. To drive insurance companies to begin writing new policies sooner, the Department set a baseline date of December 31, 2023. Policies written after that date will count towards a company’s new policy targets.

16) Will all companies participate?

Because the use of catastrophe modeling is more accurate at predicting future losses than historical data alone, we expect all or most companies will participate.

17) Will companies write a complete policy?

Yes. Companies will offer a comprehensive policy that covers fire, water, liability, and other typical damage. This is also known as an HO-3 policy for homeowners. This will be an improvement from the FAIR Plan dwelling policy, which is limited coverage at a higher cost. Commercial insurance companies will write a commercial fire, multi-peril, or business owners policy.