

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, CA 94105**

RH06091489

April 14, 2006

PROPOSED REGULATION TEXT¹

Mileage Verification

Section 2632.5 Rating Factors.

(c) An insurer's class plan, and all rates and premiums determined in accordance therewith, shall utilize the following rating factors (the "Mandatory Factors") for bodily injury liability, property damage liability, medical payments, uninsured motorist, collision, and comprehensive coverages:

(1)

(2) "Second Mandatory Factor" as used in Subchapter 4.7, is the number of miles he or she drives annually, per California Insurance Code Section 1861.02(a)(2). This factor means the estimated annual mileage for the insured vehicle during the 12 month period following the inception of the policy. Insurers may not retroactively adjust premiums based on actual miles driven unless notice is provided to the policy holder prior to the effective date of the policy. Estimated annual mileage shall be determined only as follows:

(A) For new business:

(i) At the inception of a policy, an insurer shall require an applicant to provide the miles he or she expects to drive the insured vehicle during the 12 month period following policy inception, and reasonable information necessary to support the estimate. "Reasonable information" consists of the location of the applicant's workplace if the vehicle is used for commute purposes, the number of days per week the vehicle is used for commuting, an estimate of the number of miles driven for pleasure or other purposes, the approximate total number of miles driven the previous year, and the reason for any differences in the estimate for the upcoming year and the miles driven the previous year. Except as otherwise set forth in this section, an insurer shall use the applicant's estimated annual mileage;

(ii) To substantiate the estimated annual mileage, an insurer may require all applicants to provide, at policy inception, the current odometer reading of the vehicle to be insured or the insurer may obtain the odometer reading from the California Department of Motor Vehicles smog certification program;

¹ Proposed new language is indicated in underline.

(iii) If an insurer markets using an independent or captive agency system, and an applicant meets with an agent in connection with the insurance application, the insurer may require the agent to verify the odometer reading of the vehicle to be insured under the policy, and the applicant shall allow the agent to do so;

(iv) If an applicant does not provide the information set forth in (i) and (ii) above, and the insurer has no other means reasonably to estimate the miles to be driven during the 12 month period following inception of the policy, and the insurer has clearly indicated the consequences of not providing that information, the insurer may issue the policy using a default annual mileage figure, which has been filed with and approved by the Commissioner. Upon receipt of the information set forth in (i) and (ii) above, the policy shall be rated using that information. The insurer may choose to re-rate all policies as of the date it receives the information, or as of policy inception. However, an insurer shall apply the same method for every policy.

(v) All mileage rating rules that direct the selection of a mileage rating relativity shall be filed with and approved by the Commissioner. This includes use of multiple mileage rating bands and use of default and/or average mileage rating relativities.

(vi) In no event shall an insurer rate a policy unilaterally changing the mileage estimate provided without notifying the applicant of that change and providing the applicant a reasonable opportunity, no less than fifteen days from the date of mailing of that notice, to challenge the insurer's determination.

(vii) An insurer may request but shall not require an applicant to provide prior documentation, such as prior vehicle maintenance records or prior smog certificates, in order to confirm mileage driven because, for a variety of reasons, applicants may not have access to this documentation.

(viii) In no event shall an insurer require an applicant to provide information from a prior insurer to confirm mileage estimated or driven.

(B) For renewal business:

(i) Prior to policy renewal, an insurer shall require a policyholder to provide the miles he or she expects to drive the insured vehicle during the 12 month period following policy inception, and reasonable information necessary to support the estimate. "Reasonable information" consists of the location of the applicant's workplace if the vehicle is used for commute purposes, the number of days per week the vehicle is used for commuting, an estimate of the number of miles driven for pleasure or other purposes, the approximate total number of miles driven the previous year, and the reason for any differences in the estimate for the upcoming year and the miles driven the previous year. Except as otherwise set forth in this section, an insurer shall use the policyholder's estimated annual mileage;

(ii) To substantiate the estimated annual mileage, an insurer may require all policyholders to provide, at policy renewal, the current odometer reading of the vehicle to

be insured or the insurer may obtain the odometer reading from the California Department of Motor Vehicles smog certification program;

(iii) If an insurer markets using an independent or captive agency system, and a policyholder meets with an agent in connection with policy renewal, the insurer may require the agent to verify the odometer reading of the vehicle insured under the policy, and the policyholder shall allow the agent to do so;

(iv) If a policyholder does not provide the information set forth in (i) and (ii) above and the insurer has no other means reasonably to estimate the miles to be driven during the 12 month period following renewal of the policy, and the insurer has clearly indicated the consequences of not providing that information, the insurer may renew the policy using a default annual mileage figure, which has been filed with and approved by the Commissioner. Upon receipt of the information set forth in (i) and (ii) above, the policy shall be rated using that information. The insurer may choose to re-rate all policies as of the date it receives the information, or as of policy inception. However, an insurer shall apply the same method for every policy.

(v) All mileage rating rules that direct the selection of a mileage rating relativity shall be filed with and approved by the Commissioner. This includes use of multiple mileage rating bands and use of default and/or average mileage rating relativities.

(vi) In no event shall an insurer rate a policy unilaterally changing the mileage estimate provided without notifying the policyholder of that change and providing the policyholder a reasonable opportunity, no less than fifteen days from the date of mailing of that notice, to challenge the insurer's determination.

(vii) An insurer may request but shall not require a policyholder to provide prior documentation, such as prior vehicle maintenance records or prior smog certificates, in order to confirm mileage driven because, for a variety of reasons, policyholders may not have access to this documentation.

(viii) In no event shall an insurer require a policyholder to provide information from a prior insurer to confirm mileage estimated or driven.

NOTE: Authority cited: Section 1861.02, Insurance Code; and *CalFarm Insurance Company v. Deukmejian* (1989) 48 Cal.3d 805. Reference: Sections 1861.02, 1861.05, 11628 and 11628.3, Insurance Code.