Chapter 284-20B WAC
RULES FOR FILING PROPERTY AND CASUALTY FORMS

WAC

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WAC 284-20B-005 Definitions that apply to this chapter. The definitions in this section apply throughout this chapter:

(1) "Advisory organization" means an entity not licensed under RCW 48.19.180 that files advisory forms with the commissioner.

(2) "Complete filing" means a package of information containing insurance forms, supporting information, documents and exhibits submitted to the commissioner electronically using the System for Electronic Rate and Form Filing (SERFF).

(3) "Date filed" means the date a complete filing has been received and accepted by the commissioner.

(4) "Filer" means a person, organization or other entity that files insurance forms with the commissioner for an insurer.

(5) "Insurance" means the same as in RCW 48.01.040.

(6) "Insurer" means an insurer defined in RCW 48.01.-050 to which the commissioner has issued a certificate of authority under chapter 48.05 RCW.

(7) "Member" or "subscriber" means an insurer that has granted filing authority to a rating organization under RCW 48.19.050, and includes service purchasers.

(8) "NAIC" means the National Association of Insurance Commissioners.

(9) "Objection letter" means correspondence created in SERFF and sent by the commissioner that:

(a) Requests clarification, documentation or other information;

(b) Explains errors or omissions in the filing; or

(c) Disapproves a form under RCW 48.18.110.

(10) "Property and casualty insurance" means all types of:

(a) Property insurance defined in RCW 48.11.040;

(b) Marine and transportation insurance defined in RCW 48.11.050;

(c) Vehicle insurance defined in RCW 48.11.060;

(d) General casualty insurance defined in RCW 48.11.070; and

(e) Title insurance defined in RCW 48.11.100.

(11) "Rating organization" or "bureau" means an entity licensed under RCW 48.19.180 that files forms on behalf of its members, subscribers, and service purchasers.

(12) "SERFF" means the System for Electronic Rate and Form Filing. SERFF is a proprietary NAIC computer-based application that allows filers to create and submit rate, rule and form filings electronically to the commissioner.

(13) "Type of insurance" means a specific type of insurance listed in the *Uniform Property and Casualty Product Coding Matrix* published by the NAIC and available at www.naic.org.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-005, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-010 Purpose and scope of this chapter. (1) The purpose of this chapter is to adopt processes and procedures for insurers and filers to use when they submit property and casualty insurance forms to the commissioner under chapter 48.18 RCW.

(2) This chapter applies to insurers, advisory organizations and rating organizations that file property and casualty insurance forms under RCW 48.18.100 and 48.18.103.

(3) This chapter is effective on February 1, 2009. All form filings received on or after February 1, 2009, must comply with this chapter.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-010, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-020 Filing instructions that are incorporated into this chapter. SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner must incorporate documents posted on the SERFF web site into this chapter. By reference, the commissioner incorporates these documents into this chapter:

(1) The *SERFF Industry Manual* posted on the SERFF web site (www.serff.com); and

(2) The *Washington State SERFF Property and Casualty Form Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-020, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-030 General form filings rules. Filers must submit complete filings that comply with the *SERFF Industry Manual* posted on the SERFF web site (www.serff.

com) and *Washington State SERFF Property and Casualty Form Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov). All form filings must comply with these rules:

(1) Insurers must file property and casualty insurance forms under RCW 48.18.100(1) or 48.18.103(3). Filers may not use the certification process described in RCW 48.18.100 (2) to file property and casualty insurance forms.

(2) Filers must submit all insurance forms and related documents to the commissioner electronically using SERFF.

(a) Every form filed in SERFF must be attached to the form schedule.

(b) All written correspondence related to a form filing must be sent in SERFF.

(3) All filed forms must be legible for both the commissioner's review and retention as a public record. Filers must submit new and replacement forms to the commissioner for review in final form displayed in ten-point or larger type.

(4) Each form must have a unique identifying number and a way to distinguish it from other editions of the same form.

(5) Filers must not submit combined rate and form filings.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-030, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-040 The commissioner may reject filings. (1) The commissioner may reject and close any filing that does not comply with WAC 284-20B-030. If the commissioner rejects a filing, the insurer has not filed forms with the commissioner.

(2) If the commissioner rejects a filing and the filer resubmits it as a new filing, the date filed will be the date the commissioner receives and accepts the new filing.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-040, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-050 Rules for rejected filings made under RCW 48.18.103. RCW 48.18.103(3) says an insurer must file forms within thirty days after the insurer issues them. If the commissioner rejects a filing under WAC 284-20B-040, the insurer has not filed forms with the commissioner. If the commissioner rejects a filing submitted under RCW 48.18.103, the:

(1) Filer must promptly send a new filing to the commissioner within the original thirty-day use and file period in RCW 48.18.103(3); or

(2) Insurer must stop issuing policies using forms sent with the rejected filing and amend policies using approved forms.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-050, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-060 Filing authorization rules. An insurer may authorize a rating organization or a third-party filer to file forms on its behalf. For the purposes of this section, a "third-party filer" means a person or entity in the business of providing insurance regulatory compliance services.

(1) If an insurer delegates filing authority to a third-party filer, each filing must include a letter as supporting documentation signed by an officer of the insurer authorizing the third-party filer to make filings on behalf of the insurer.

(2) The insurer may not delegate responsibility for the content of a filing to a third-party filer. The commissioner considers errors and omissions made by the third-party filer to be errors and omissions of the insurer.

(3) If third-party filer has a pattern of making filings that do not comply with this chapter, the commissioner may reject a delegation of filing authority from the insurer.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-060, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-070 Rating organization "bureau" rules. Under RCW 48.19.050, an insurer may authorize a bureau to file forms on its behalf. This section applies to members or subscribers that have granted filing authority to a bureau. Bureau members or subscribers must follow instructions provided by the bureau when they implement, delay or nonadopt a bureau form filing that has been approved by the commissioner. The insurer must make a filing with the commissioner if it delays the effective date, nonadopts or changes the bureau filing in any way. The filing must:

(1) Include a statement of changes proposed by the insurer;

(2) Provide the filing number used by the bureau when it filed the forms; and

(3) Be received by the commissioner in a timely manner.

(4) For purposes of this section, "timely" means:

(a) Before the bureau effective date if the filing is made under RCW 48.18.100; or

(b) Thirty days after the bureau effective date if the filing is made under RCW 48.18.103.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-070, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-080 Use of rating organization "bureau" forms—No filing authorization. If a member or subscribing insurer has not authorized a bureau to file forms on its behalf, the insurer must make a filing with the commissioner to use bureau forms.

(1) If the forms are identical to the bureau forms, the filing must include this information:

(a) A statement by the insurer of its intent to use the bureau forms; and

(b) The filing number used by the bureau when it filed the forms.

(2) Insurers must independently file any forms that are not identical in content to approved bureau forms.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-080, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-090 Advisory organization rules. (1) Advisory organizations may file insurance forms with the commissioner. The commissioner will review advisory forms using the same standards that apply to insurers and rating organizations. If the forms comply with RCW 48.18.110, the commissioner will approve the forms on an advisory basis.

(2) If an insurer decides to use approved advisory forms, the insurer must make an independent form filing. The filing must include:

(a) A statement by the insurer of its intent to use the advisory forms;

(b) The filing number used by the advisory organization when it filed the forms; and

(c) Copies of the advisory forms attached to form schedule.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-090, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-100 Rules for responding to an objection letter. An objection letter may ask the filer to revise a noncompliant form or provide clarification or additional information about the form. If a form contains provisions that are contrary to RCW 48.18.110, the objection letter will state the reason(s) for disapproval, including relevant case law, statutes and administrative rules. Filers must:

(1) Provide a complete response to an objection letter. A complete response includes:

(a) A separate response to each objection; and

(b) A description of changes proposed to noncompliant forms, and, if applicable, a replacement form or amendatory endorsement attached to the form schedule.

(2) Respond to the commissioner in a timely manner.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-100, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-110 Applications and policyholder notices. RCW 48.18.190 says each form that conflicts with, modifies, or extends a contract of insurance must be in writing and made a part of the policy. Insurers must file these forms under RCW 48.18.100 or 48.18.103. Insurers must file applications and policyholder notices if the:

(1) Application will be used under RCW 48.18.080; or

(2) Policyholder notice amends or modifies policy provisions.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-110, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-120 Rules for revised or replaced insurance policy forms. If an insurer files a revised or replaced form, the filer must provide the supporting documentation described below:

(1) If a form is revised due to an objection(s) from the commissioner, the filer must provide a detailed explanation of all material changes to the disapproved form.

(2) If a previously approved form is replaced with a new version, the filer must submit an exhibit that marks and identifies each change or revision to the replaced form using one of these methods:

(a) A draft form that strikes through deletions and underlines additions or changes in the form;

(b) A draft form that includes comments in the margins explaining the changes in the forms; or

(c) A side-by-side comparison of current and proposed policy language.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-120, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-130 Effective date rules. (1) Filers must include a common effective date for all forms submitted in a filing. The insurer may use different effective dates for new and renewal policies if the filing includes this request and the policy includes a liberalization clause or condition.

(2) The proposed effective date must be a specific date.

(a) Vague statements, such as one that says the insurer will implement the filing thirty days after the commissioner's approval is not specific, and does not comply with this rule.

(b) If an insurer is filing a new program or optional endorsement, the filer may request an effective date concurrent with the commissioner's approval.

(3) The proposed effective date must be consistent with the law. Forms filed under RCW 48.18.103 must propose an effective date no more than thirty days before the date filed.

(4) If an insurer revises the effective date, the commissioner must receive this request in SERFF before the original effective date of the filing.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091, (Matter No. 2007-11) § 284-20B-130, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-140 Reference copies of amendatory endorsements. If an insurer will use a previously approved Washington amendatory endorsement with a new form, the filer must:

(1) Provide a copy of the amendatory endorsement attached as supporting documentation; or

(2) Include the SERFF tracking number under which the endorsement was filed and approved in the filing description; and

(3) Explain how the insurer will use the amendatory endorsement with the new form.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-140, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-150 Rules for insurance policy forms translated from English to another language. Insurers may issue insurance policy forms written in languages other than English.

(1) If an insurer translates an insurance policy form from English to another language, the insurer must:

(a) File the translated version of the form with the commissioner.

(b) Include written disclosure statements on the translated policy form that the insurer is issuing the translated form on an informational basis and the English version is controlling for the purposes of application and interpretation. The disclosure statements must be in English and the language of the translated form and printed in bold face type of at least twelve-point font.

(c) Submit a certification with the filing by an officer employed by the insurer that the insurer will issue the English version of the policy form with the translated policy form.

(2) When filing a translated policy form, the filer must:

(a) Identify the approved English version of the policy form by providing, as applicable, the:

(i) SERFF filing number;

(ii) Form number, edition date or edition identifier; and

(iii) Effective date of the filing.

(b) Submit certification by a professional translator certified by the American Translators Association or a comparable organization that the:

(i) Translator has translated the English version of the form; and

(ii) Translation is accurate.

(3) The commissioner will file but not review or approve translated insurance policy forms.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-150, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-160 Exemption for unauthorized insurers. Chapter 48.15 RCW applies to insurance transactions involving unauthorized surplus line insurers. Under RCW 48.18.100 (1)(e), insurance forms issued by unauthorized surplus line insurers are exempt from filing.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-160, filed 10/15/08, effective 2/1/09.]

WAC 284-20B-170 Exemption for insurance forms issued to large commercial property and casualty accounts. (1) Under RCW 48.18.103 (3)(a), the commissioner exempts forms issued to insure a large commercial property and casualty account from filing requirements under chapter 48.18 RCW.

(2) For purposes of this section, "large commercial property and casualty account" means property and casualty insurance as defined in WAC 284-24-001(10) that is purchased by a business, not-for-profit organization, or public entity with enough insurance buying experience to negotiate with insurers in a largely unregulated environment and meets any two of the following criteria:

(a) Annual premiums of one hundred thousand dollars or more, excluding workers compensation insurance issued by the department of labor and industries and types of insurance listed in subsection (3) of this section;

(b) Net revenues or sales in excess of one hundred million dollars;

(c) More than two hundred employees;

(d) Net worth over fifty million dollars;

(e) Is a not-for-profit organization or public entity with an annual budget or assets of at least forty-five million dollars;

(f) Is a municipality with a population over fifty thousand.

(3) The exemption provided by this section does not apply to:

(a) Professional liability insurance policies, including all types of malpractice and errors and omissions insurance;

(b) Reimbursement insurance policies that indemnify service contract providers or protection product guarantee providers for contractual obligations assumed under a service contract or protection product guarantee; and

(c) Master policies under which insurers issue certificates of coverage to individual consumers, households, businesses, or other organizations.

(4) Before an insurer issues an insurance policy under this section, the insurer or its insurance producer must send written notice to the insured that says the:

(a) Insurer has not filed the forms with the commissioner; and

(b) Commissioner has not reviewed and approved the forms.

(5) The Washington insurance examining bureau will not audit property forms used to insure large commercial property and casualty accounts under WAC 284-20-006.

(6) If grounds exist under RCW 48.18.110(1), the commissioner may disapprove a form used to insure a large commercial property and casualty account. If the commissioner disapproves a form under RCW 48.18.110(1), the insurer must construe the form under the provisions of RCW 48.18.-510.

(7) Each insurer must keep copies of forms used to insure large commercial property and casualty accounts for at least six years after the date the insurer issues a policy under this section. The insurer must make these records available to the commissioner upon request.

[Statutory Authority: RCW 48.02.060, 48.110.150. 08-21-091 (Matter No. 2007-11), § 284-20B-170, filed 10/15/08, effective 2/1/09.]