

Chapter 284-24A WAC

RULES THAT APPLY TO INSURERS THAT USE CREDIT HISTORY FOR PERSONAL INSURANCE UNDERWRITING OR RATING

WAC

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WAC 284-24A-001 What is the purpose of these rules? These rules describe the standards that apply to insurers that use underwriting criteria or rating plans for personal insurance based on credit history. The rules have been adopted under the authority and purposes of the following laws: RCW 48.02.060; chapters 48.18; 48.19; and 48.30 RCW.

[Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-001, filed 9/6/02, effective 10/7/02.]

WAC 284-24A-005 Definitions that apply to this chapter. The definitions in this section apply throughout this chapter:

(1) "Demographic factors" means the factors listed below if they are used in an insurer's rates, rating tiers, rating factors, rating rules or risk classification plan:

- (a) Age of the insured;
- (b) Sex of the insured;

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(c) The rating territory assigned to the property location for residential property insurance and to the vehicle's garage location for personal auto insurance.

(2) "Premium" means the same as RCW 48.18.170.

(3) "Rate" means the cost of insurance per exposure unit.

(4) "Rating factor" means a number used to calculate premium.

(5) "Risk classification plan" means a plan to formulate different premiums for the same coverage based on group characteristics.

(6) "SERFF" means the System for Electronic Rate and Form Filing. SERFF is a proprietary National Association of Insurance Commissioners (NAIC) computer-based application that allows insurers and other entities to create and submit rate, rule and form filings electronically to the commissioner.

(7) "Significant factor" means an important element of a consumer's credit history or insurance score. Examples of significant factors include:

- (a) Bankruptcies, judgments, and liens;
- (b) Delinquent accounts;
- (c) Accounts in collection;
- (d) Payment history;
- (e) Outstanding debt;
- (f) Length of credit history; and
- (g) Number of credit accounts.

(8) "Substantive underwriting factor" means a factor that is very important to an underwriting decision. Examples of substantive underwriting factors include:

- (a) History of filing claims;
- (b) History of moving violations or accidents;
- (c) History of driving uninsured;
- (d) Type of performance for which a vehicle is designed;

and

(e) Maintenance of a structure to be insured.

(9) "Vehicle" means any motorized vehicle that can be insured under a private passenger auto insurance policy.

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, 48.110.150, 48.18.100, and 48.19.040. WSR 13-12-038 (Matter No. R 2013-06), § 284-24A-005, filed 5/30/13, effective 7/1/13. Statutory Authority: RCW 48.02.-060, 48.18.545, 48.19.035, and 48.30.010. WSR 05-02-026 (Matter No. R 2004-01), § 284-24A-005, filed 12/29/04, effective 7/1/05. Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.120, 48.19.080, 48.19.370, 48.30.-010, 49.60.178, 48.18.545(7), 48.19.035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-005, filed 9/6/02, effective 10/7/02.]

WAC 284-24A-007 Filing documents incorporated by reference 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 will incorporate doc-

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uments posted on the SERFF web site into this chapter. By reference, the commissioner incorporates these documents into this chapter:

(1) The *SERFF Industry Manual* available within the SERFF application; and

(2) The *Washington State SERFF Personal Insurance Scoring Model Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, 48.110.150, 48.18.100, and 48.19.040. WSR 13-12-038 (Matter No. R 2013-06), § 284-24A-007, filed 5/30/13, effective 7/1/13.]

WAC 284-24A-010 What must an insurer tell a consumer when it takes an adverse action? (1) An insurer must tell a consumer about significant factors that adversely affect the consumer's credit history or insurance score. As many as four factors may be needed to explain the adverse action.

(2) An insurer must explain what significant factors led to an adverse action as defined in RCW 48.18.545 (1)(a). The insurer is responsible for making sure that the reason(s) an adverse action occurred is written in reasonably clear and simple language, even if the reason(s) is provided to the insurer by a vendor.

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, and 48.30.010. WSR 05-02-026 (Matter No. R 2004-01), § 284-24A-010, filed 12/29/04, effective 7/1/05. Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-010, filed 9/6/02, effective 10/7/02.]

WAC 284-24A-011 What types of information must an insurer provide in addition to the reason(s) for the adverse action to comply with WAC 284-24A-010(2)? (1) Insurers must provide information that helps the consumer determine why the consumer was charged a higher premium or determined to be ineligible for coverage by the insurer. The following information must be included with the reason for the adverse action:

(a) A description of the attribute of credit history that adversely affected the consumer's insurance score;

(b) How the attribute of credit history affected the insurance score; and

(c) Any actions that are available to the consumer that may improve this attribute of the insurance score.

(2) If an insurer refers to insurance industry research or studies to justify the effect of an insurance score on premiums or eligibility for coverage, the insurer must file those studies with the insurance commissioner so that they are available for public disclosure.

[Statutory Authority: RCW 48.02.060 and 48.18.545. WSR 07-14-103 (Matter No. R 2007-03), § 284-24A-011, filed 7/2/07, effective 8/2/07. Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, and 48.30.010. WSR 05-02-026 (Matter No. R 2004-01), § 284-24A-011, filed 12/29/04, effective 7/1/05.]

WAC 284-24A-012 What types of reasons do not provide enough information to adequately explain an adverse action? An insurer must explain any adverse action in reasonably clear and simple language. Insurers must not use phrases that do not explain why the consumer was charged a higher premium or determined to be ineligible for coverage by the insurer.

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(1) Explanations of adverse actions that do not meet this standard include, but are not limited to:

(a) Unfavorable length of credit history.

(b) Absence of revolving credit account.

(c) Age of oldest account or revolving credit account.

(d) Age that consumer first opened a credit account.

(e) Unfavorable number of bank or revolving accounts.

(f) Unfavorable debt ratio.

(g) Unfavorable number of accounts opened in past year.

(2) Insurers must not use the term "unfavorable" to describe an attribute of credit history because it does not provide clear information to the consumer about their credit history.

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, and 48.30.010. WSR 05-02-026 (Matter No. R 2004-01), § 284-24A-012, filed 12/29/04, effective 7/1/05.]

WAC 284-24A-015 When must an insurer file the insurance scoring model to comply with the law? (1)

Every insurer that uses an insurance scoring model to underwrite personal insurance coverage must file the model with the commissioner before January 1, 2003.

(2) Every insurer that uses an insurance scoring model to determine personal insurance rates or premiums must file the model with the commissioner before June 30, 2003. Related rates, risk classification plans, rating factors and rating plans must be filed and approved by June 30, 2003.

[Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-015, filed 9/6/02, effective 10/7/02.]

WAC 284-24A-020 Filing an insurance scoring model. (1) Insurance scoring models must be filed separately. The model must not be filed with any rate or rule filing.

(2) The insurance scoring model must be filed in SERFF in accordance with the *Washington State SERFF Personal Insurance Scoring Model Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, 48.110.150, 48.18.100, and 48.19.040. WSR 13-12-038 (Matter No. R 2013-06), § 284-24A-020, filed 5/30/13, effective 7/1/13. Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-020, filed 9/6/02, effective 10/7/02.]

WAC 284-24A-025 Filings by insurance scoring model vendors. (1) The commissioner will allow vendors to file insurance scoring models. The vendor must file the scoring model in SERFF in accordance with the *Washington State SERFF Personal Insurance Scoring Model Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

(2) Insurers may use models filed by vendors after the commissioner determines the model complies with Washington state laws.

(3) An insurer may use a model that has been filed by a vendor and accepted by the commissioner if the insurer submits a filing in SERFF that:

(a) References the vendor that filed the model;

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(b) References the filing number and model name used by the vendor;

(c) States whether the insurance scoring model will be used for underwriting, rating, or both; and

(d) Proposes an effective date for the insurer's use of the model.

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, 48.110.150, 48.18.100, and 48.19.040. WSR 13-12-038 (Matter No. R 2013-06), § 284-24A-025, filed 5/30/13, effective 7/1/13. Statutory Authority: RCW 48.02.-060, 48.18.100, 48.18.120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-025, filed 9/6/02, effective 10/7/02.]

WAC 284-24A-030 Confidentiality of insurance scoring models. (1) The law says insurance scoring models will remain confidential unless the commissioner is taking an enforcement action. An insurer or vendor may request that its insurance scoring model be available for public inspection.

(2) To restrict public access to an insurance scoring model filing, the insurer or vendor must follow the procedures in the *Washington State SERFF Personal Insurance Scoring Model Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, 48.110.150, 48.18.100, and 48.19.040. WSR 13-12-038 (Matter No. R 2013-06), § 284-24A-030, filed 5/30/13, effective 7/1/13. Statutory Authority: RCW 48.02.-060, 48.18.100, 48.18.120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-030, filed 9/6/02, effective 10/7/02.]

WAC 284-24A-032 Under RCW 48.19.035 (2)(b) what does "eligibility rules or guidelines" mean? "Eligibility rules or guidelines" mean rules that determine whether a consumer is eligible for insurance from a single insurer or a group of affiliated companies. Eligibility rules or guidelines do not include rules that determine which company within an affiliated group of companies a consumer will be placed based on their insurance score or other underwriting criteria.

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, and 48.30.010. WSR 05-02-026 (Matter No. R 2004-01), § 284-24A-032, filed 12/29/04, effective 7/1/05.]

WAC 284-24A-033 How will an insurer or a group of affiliated insurers know its eligibility rules or guidelines will be withheld from public inspection? Eligibility guidelines will be kept as confidential records if they:

- (1) Conform to the definition in WAC 284-24A-032; and
- (2) Are clearly identified.

To ensure confidentiality, insurers should submit eligibility guidelines in a separate and distinct part of the related rate filing so they may be separated from other documents in the filing that are public records under RCW 48.19.040(5).

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, and 48.30.010. WSR 05-02-026 (Matter No. R 2004-01), § 284-24A-033, filed 12/29/04, effective 7/1/05.]

WAC 284-24A-035 What will the commissioner do with the insurance scoring model after he or she receives it? Actuarial analysts will review the model to determine whether it complies with Title 48 RCW. The scope of the review will include whether the model includes:

- (1) Any prohibited factors; and

- (2) Attributes that may result in unfair discrimination.

[Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-035, filed 9/6/02, effective 10/7/02.]

WAC 284-24A-040 What action will the commissioner take if a model does not comply with Washington law? The commissioner will:

- (1) Notify the insurer or vendor that the model does not comply with Washington law;
- (2) State the reasons why the model does not comply with Washington law;
- (3) Offer the insurer or vendor sixty days to revise the model to resolve the issue(s) outlined in subsection (2) of this section; and
- (4) Provide a specific date when the model may no longer be used in Washington if the model has not been revised to resolve the issue(s).

[Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-040, filed 9/6/02, effective 10/7/02.]

WAC 284-24A-045 If an insurer uses credit history or insurance scores to segment personal insurance business for rating purposes, how can the insurer show that its rating plan results in premium rates that are not excessive, inadequate, or unfairly discriminatory? If an insurer uses credit history or insurance scores to segment personal insurance business for rating purposes, the insurer must:

- (1) Submit a multi variate analysis with the first rate and rule filing the insurer makes to comply with this law.
- (2) Submit a multivariate analysis any time the insurer uses credit history or an insurance score to revise a risk classification plan, rating factor, rating plan, rating tier, or base rates.

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, and 48.30.010. WSR 05-02-026 (Matter No. R 2004-01), § 284-24A-045, filed 12/29/04, effective 7/1/05. Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.-120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.-035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-045, filed 9/6/02, effective 10/7/02.]

WAC 284-24A-050 What types of information must an insurer include in a multivariate analysis? (1) A multivariate statistical analysis must evaluate the rating factors listed below (if applicable to the rating plan, and to the extent that data are credible):

- (a) For homeowners, dwelling property, earthquake, and personal inland marine insurance:
 - (i) Insurance score;
 - (ii) Territory and/or geographic area;
 - (iii) Protection class;
 - (iv) Amount of insurance;
 - (v) Surcharges or discounts based on loss history;
 - (vi) Number of family units; and
 - (vii) Policy form relativity.
- (b) For private passenger automobile, personal liability and theft, and mechanical breakdown insurance:
 - (i) Insurance score;
 - (ii) Driver class;

- (iii) Multicar discount;
- (iv) Territory and/or geographic area;
- (v) Vehicle use;
- (vi) Rating factors related to driving record; and
- (vii) Surcharges or discounts based on loss history.

(2) An insurer must provide a general description of the model used to perform the multivariate analysis, including the:

- (a) Formulas the model uses;
- (b) Rating factors that are included in the modeling process; and
- (c) Output from the model, such as indicated rates or rating factors.

(3) An insurer must show how the proposed rates or rating factors are related to the multivariate analysis.

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, and 48.30.010. WSR 05-02-026 (Matter No. R 2004-01), § 284-24A-050, filed 12/29/04, effective 7/1/05. Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.-120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.-035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-050, filed 9/6/02, effective 10/7/02.]

WAC 284-24A-055 Should an insurer submit actuarial data based on demographic factors with an insurance scoring model or with a rate filing? (1) Insurers should not submit actuarial data based on demographic factors with their insurance scoring model.

(2) Insurers must submit actuarial data based on demographic factors to support any difference in rates or premiums based on:

(a) "No hit," which means the absence of credit history; or

(b) "No score," which means the inability to determine the consumer's credit history.

(3) The actuarial data must include:

(a) Loss history for an experience period acceptable to the commissioner. The length of the experience period will be determined by the amount of data available to the insurer.

(b) Earned exposures.

(c) Earned premiums.

(d) An analysis of the credibility of the data.

(4) The actuarial data must be segmented by:

(a) Demographic factors, which may be grouped in broader categories in a manner acceptable to the commissioner;

(b) "No hit"; and

(c) "No score."

(5) The actuarial data must show that the proposed rates, rating factors, rating rules, or risk classification plans relating to "no hit" and "no score" comply with RCW 48.19.020.

(6) These filings are subject to prior approval by the commissioner under the provisions of RCW 48.19.040.

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, and 48.30.010. WSR 05-02-026 (Matter No. R 2004-01), § 284-24A-055, filed 12/29/04, effective 7/1/05. Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.-120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.-035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-055, filed 9/6/02, effective 10/7/02.]

WAC 284-24A-065 Questions and answers. (1) Our insurance company uses insurance scoring bands (a range of scores) to determine what to charge a consumer based

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on their personal insurance score. Does an insurer have to file its insurance scoring bands? Yes. If an insurer uses insurance scoring bands for rating purposes, the insurer must file them (and any future changes to those bands). The bands are part of the rating plan and must be supported by actuarial analysis.

(2) What types of data can an insurer use to support a credit-based rating plan? A credit-based rating plan must be based on the experience of the insurer, an affiliated insurer under the same management, or a licensed rating organization. The commissioner will accept data from other states where comparable credit-based rating plans are in effect.

(3) The law says an insurer cannot use the number of credit inquiries to set rates or to deny insurance. Can an insurer consider the amount of time since the most recent inquiry? Yes. The law prohibits an insurer from considering the number of credit-seeking or promotional inquiries. It does not prohibit an insurer from considering the length of time since the most recent inquiry about a consumer's credit rating.

(4) The law says an insurer cannot use collections identified with a medical industry code to set rates or to deny insurance. Not all credit vendors provide industry codes for collection accounts. If a vendor searches for medical references in a text field, would that action comply with the law? Yes. Collections identified with a medical industry code cannot be used. If medical history is not coded or identified, insurers and vendors are not required to perform additional research.

(5) The law says an insurer cannot use the initial purchase or finance of a vehicle or house that adds a new loan to the consumer's existing credit history to set rates or to deny insurance. Can my company use the number of such loans and/or the outstanding balance of such loans?

- An insurer may not use the initial purchase of a home or vehicle to affect eligibility for insurance or insurance premiums. The initial purchase is the first loan taken out to buy a home or vehicle.

- An insurer may evaluate any subsequent borrowing by a consumer.

- A method an insurer or vendor can use to comply with the law is to eliminate vehicle and home loans from the consumer's debt load calculation.

(6) The law says an insurer cannot use the total available line of credit to set rates or to deny insurance. Can my company use number of credit lines with limits over a set amount?

- The law prohibits use of data related to the consumer's total available line of credit. Any attribute that evaluates the total amount of credit available to a consumer is prohibited.

- Your insurer may use the debt/credit ratio or other ratios that consider the actual debt load.

[Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, and 48.30.010. WSR 05-02-026 (Matter No. R 2004-01), § 284-24A-065, filed 12/29/04, effective 7/1/05. Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.-120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.-035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-065, filed 9/6/02, effective 10/7/02.]