

(a) Been charged with or convicted of a sexually violent offense;

(b) A mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence; and

(c) A sentence or commitment about to expire or having expired.

(4) Trial. A court commences a trial determining if a person is a sexually violent predator within forty-five days of the petition filing date, not including continuances requested by the alleged sexually violent predator; and

(5) Judgment. A court or jury finds a person, beyond a reasonable doubt, to be a sexually violent predator and the person is committed to the department's custody for control, care, and treatment.

[Statutory Authority: RCW 71.09.030 and 71.09.050. 93-17-027 (Order 3609), § 275-155-020, filed 8/11/93, effective 9/11/93. Statutory Authority: 1990 c 3. 90-17-120 (Order 3054), § 275-155-020, filed 8/21/90, effective 9/21/90.]

WAC 275-155-050 Rights of a person committed to the sexual predator program. (1) During a person's commitment to the SPP, the department shall apprise the committed person of the person's right to an attorney and to retain a professionally qualified person to perform an evaluation on the committed person's behalf.

(2) Upon request, the department shall provide to the following persons access to a committed person for an evaluation and all records and reports related to the person's commitment, control, care, and treatment:

(a) The committed person's attorney;

(b) The committed person's professionally qualified person, if any;

(c) The prosecuting attorney, or the attorney general, if requested by the prosecuting attorney; and

(d) The professionally qualified person approved by the prosecuting attorney or the attorney general.

(3) A person the court commits to the SPP shall:

(a) Receive adequate care and individualized treatment;

(b) Be permitted to wear the committed person's own clothes and keep and use the person's personal possessions, except when deprivation of possessions is necessary for the person's protection and safety, the protection and safety of others, or the protection of property within the SPP;

(c) Be permitted to accumulate and spend a reasonable amount of money in the person's SPP account;

(d) Have access to reasonable personal storage space within SPP limitations;

(e) Be permitted to have approved visitors within reasonable limitations;

(f) Have reasonable access to a telephone to make and receive confidential calls within SPP limitations; and

(g) Have reasonable access to letter writing material and to:

(i) Receive and send correspondence through the mail within SPP limitations; and

(ii) Send written communication regarding the fact of the person's commitment.

(4) A person the court commits to the SPP shall have the following procedural rights to:

(a) Have reasonable access to an attorney and be informed of the name and address of the person's designated attorney;

(b) Petition the court for release from the SPP; and

(c) Receive annual written notice of the person's right to petition the committing court for release. The department's written notice and waiver shall:

(i) Include the option to voluntarily waive the right to petition the committing court for release; and

(ii) Annually be forwarded to the committing court by the department.

[Statutory Authority: RCW 71.09.030 and 71.09.050. 93-17-027 (Order 3609), § 275-155-050, filed 8/11/93, effective 9/11/93. Statutory Authority: 1990 c 3. 90-17-120 (Order 3054), § 275-155-050, filed 8/21/90, effective 9/21/90.]

Title 284 WAC INSURANCE COMMISSIONER

Chapters

- 284-07** Requirements as to company reports and annual statements.
- 284-12** Agents, brokers and adjusters.
- 284-13** Assets—Liabilities—Investments and reinsurance.
- 284-15** Surplus line insurance.
- 284-18** Washington insurance holding company regulation.
- 284-22** USL&H Assigned risk plan.
- 284-32** Plan of operation for Washington insurance guaranty association.
- 284-87** Joint underwriting association for midwifery and birthing centers malpractice insurance.
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Chapter 284-07 WAC REQUIREMENTS AS TO COMPANY REPORTS AND ANNUAL STATEMENTS

WAC

- 284-07-060 Statement of actuarial opinion.
- 284-07-070 Statements to be filed in electronic form.

WAC 284-07-060 Statement of actuarial opinion. The NAIC annual statement instructions for property and casualty insurers require such insurers to submit with the annual statement the statement of a qualified actuary, entitled "Statement of Actuarial Opinion," setting forth his or her opinion relating to loss and loss adjustment expense reserves. With respect to statements of actuarial opinion for property and casualty insurers domiciled in this state, a person can demonstrate competency in loss reserve evaluation, and thus be considered to be a qualified actuary, only by being:

(1) A member in good standing of the Casualty Actuarial Society; or

(2) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries.

(3) A person with documented experience, skill, and knowledge substantially equivalent to that required for either subsection (1) or (2) of this section, acceptable to the commissioner. A person qualifying under this alternative (3) must be approved in advance by the commissioner, as prescribed by the annual statement instructions.

[Statutory Authority: RCW 48.02.060. 93-07-020 (Order R 93-1), § 284-07-060, filed 3/8/93, effective 4/8/93.]

WAC 284-07-070 Statements to be filed in electronic form. (1) Annual statements, quarterly statements, and other financial reports filed by an insurer with the National Association of Insurance Commissioners shall be filed in electronic form as well as on paper.

(2) Until the commissioner otherwise directs by letter, bulletin, or otherwise, generally or as to one or more companies, "electronic form" means, on a diskette.

(3) Until the commissioner otherwise directs by letter, bulletin, or otherwise, generally or as to one or more companies, companies that operate only in Washington need not comply with subsection (1) of this section.

[Statutory Authority: RCW 48.02.060. 93-19-003 (Order R 93-7), § 284-07-070, filed 9/1/93, effective 10/2/93.]

Chapter 284-12 WAC

AGENTS, BROKERS AND ADJUSTERS

WAC

284-12-200	Operating in this state.
284-12-210	Affiliates.
284-12-220	Licensed in this state.
284-12-230	Notification of appointment.
284-12-250	Employee.
284-12-260	Form of financial statements.
284-12-270	Expiration and renewal of appointments.
284-12-280	Claim thresholds.

WAC 284-12-200 Operating in this state. A managing general agent is "operating in this state" for purposes of the Managing General Agents Act (chapter 48.— RCW, sections 34-42, chapter 462, Laws of 1993) ("the act") section 38(5), chapter 462, Laws of 1993, if he or she does in Washington any act for which a license is required by the act or chapter 48.17, or does in Washington any activities listed in section 35 (3)(a)(i) or (ii), chapter 462, Laws of 1993.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 41. 93-19-009 (Order R 93-13), § 284-12-200, filed 9/1/93, effective 10/2/93.]

WAC 284-12-210 Affiliates. "Affiliates" as used in section 35 (3)(a), chapter 462, Laws of 1993, has the meaning indicated in RCW 48.—.—, section 2, chapter 462, Laws of 1993.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 41. 93-19-009 (Order R 93-13), § 284-12-210, filed 9/1/93, effective 10/2/93.]

WAC 284-12-220 Licensed in this state. A person is licensed in this state for purposes of section 36 (1) and (2), chapter 462, Laws of 1993, if he or she holds a resident or nonresident agent's license issued by the commissioner.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 41. 93-19-009 (Order R 93-13), § 284-12-220, filed 9/1/93, effective 10/2/93.]

WAC 284-12-230 Notification of appointment. When notifying the commissioner of the appointment of a managing general agent under section 38(5), chapter 462, Laws of 1993, in addition to the information specified there, the insurer shall include the following information about the appointee:

- (1) Current address;
- (2) Other addresses in the past five years;
- (3) What licenses are held, and which states issued them;
- (4) Whether any license has ever been revoked, suspended, or not renewed, and whether any disciplinary action has ever been taken or is now being considered by an insurance regulatory official or officer, and if so, give details.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 41. 93-19-009 (Order R 93-13), § 284-12-230, filed 9/1/93, effective 10/2/93.]

WAC 284-12-250 Employee. Whether a person is an "employee" of the insurer for purposes of section 35 (3)(b)(i), chapter 462, Laws of 1993, depends on the facts and is not controlled by a mere labelling of the person as an employee in an agreement.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 41. 93-19-009 (Order R 93-13), § 284-12-250, filed 9/1/93, effective 10/2/93.]

WAC 284-12-260 Form of financial statements. The independent audited financial statements required by section 38(1), chapter 462, Laws of 1993, shall be in such a form that they clearly show the results of operations, and the assets, liabilities, and equity of the managing general agent, and the income and expense attributable to acting as managing general agent for the insurer. Nothing in the act or this regulation (WAC 284-12-200 through 284-12-260) prevents the insurer from requiring additional information, more detail, or a specified format so long as that specified format at least meets the requirements of this section.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 41. 93-19-009 (Order R 93-13), § 284-12-260, filed 9/1/93, effective 10/2/93.]

WAC 284-12-270 Expiration and renewal of appointments. Appointments of managing general agents shall be for one year. They expire unless timely renewed. They expire on the same date that agent appointments for the same insurer expire under WAC 284-17-410.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 41. 93-19-009 (Order R 93-13), § 284-12-270, filed 9/1/93, effective 10/2/93.]

WAC 284-12-280 Claim thresholds. The claim threshold under sections 35 (3)(a)(i) and 37 (7)(b)(i) and (v), chapter 462, Laws of 1993, is twenty thousand dollars.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 41. 93-19-009 (Order R 93-13), § 284-12-280, filed 9/1/93, effective 10/2/93.]

Chapter 284-13 WAC
ASSETS—LIABILITIES—INVESTMENTS AND
REINSURANCE

WAC

284-13-160	Definition of "earned surplus."
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284-13-220	Valuation of other securities.
284-13-280	Real estate appraisals.
284-13-310	Definitions.
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284-13-720	Financial statement of reinsurance intermediary-manager.
284-13-730	Submission and approval of contracts between reinsurers and reinsurance intermediary—Managers.
284-13-740	Reporting of claims.

WAC 284-13-160 Definition of "earned surplus."

(1) As used in RCW 48.08.030(1), "earned surplus" means that part of surplus that represents net earnings, gains, or profits, after deduction of all losses, that have not been distributed to share holders as dividends or transferred to stated capital or capital surplus or lawfully applied to other purposes. It does not include unrealized appreciation of assets, unrealized capital gains, or reevaluation of assets.

(2) Earned surplus can be determined from the annual statement. On the 1992 convention blank, (a) for stock life companies, earned surplus is Unassigned Funds (page 3, line 34) less any unrealized gains included in that figure; and (b) for property and casualty stock companies, earned surplus is Unassigned Funds (page 3, line 25B), less any unrealized gains included in that figure. On convention blanks for other years, the determination is adjusted to allow for changes in the form.

[Statutory Authority: RCW 48.02.060, 48.05.250 and 48.05.400. 93-19-004 (Order R 93-8), § 284-13-160, filed 9/1/93, effective 10/2/93.]

WAC 284-13-210 Valuation of bonds. All bonds or other evidences of debt having a fixed term and rate of

interest held by an insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

(1) If purchased at par, at the par value.

(2) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to such accepted method of valuation as is approved by the commissioner.

(3) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage, or express charges paid in the acquisition of such bonds or other evidences of debt.

(4) No method of valuation shall be inconsistent with any applicable valuation or method used by insurers in general, or any such method then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization.

[Statutory Authority: RCW 48.02.060, 48.12.180, 48.12.190 and 48.12.200. 93-19-007 (Order R 93-11), § 284-13-210, filed 9/1/93, effective 10/2/93.]

WAC 284-13-220 Valuation of other securities. (1)

Securities, other than those referred to in WAC 284-13-210, held by an insurer shall be valued, in the discretion of the commissioner, at their market value, or at their appraised value, or at prices determined by the commissioner as representing their fair market value.

(2) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the commissioner and in accordance with such method of valuation as he or she may approve.

(3) Stock of a subsidiary corporation of an insurer shall not be valued at an amount in excess of the net value thereof as based upon those assets only of the subsidiary which would be eligible under chapter 48.13 RCW for investment of the funds of the insurer directly.

(4) No valuations under this section shall be inconsistent with any applicable valuation or method then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization.

[Statutory Authority: RCW 48.02.060, 48.12.180, 48.12.190 and 48.12.200. 93-19-007 (Order R 93-11), § 284-13-220, filed 9/1/93, effective 10/2/93.]

WAC 284-13-280 Real estate appraisals. (1) Except as provided in subsection (2) of this section, for purposes of RCW 48.13.120(1) and 48.13.140, an insurer may rely on an appraisal that is less than one year old.

(2) An insurer may not rely on an appraisal if the insurer knows or should know that the appraisal is not reliable. An appraisal may be "not reliable" because it was incorrect when done, because conditions affecting the property have changed, or for other reasons.

[Statutory Authority: RCW 48.02.060. 93-19-010 (Order R 93-14), § 284-13-280, filed 9/1/93, effective 10/2/93.]

WAC 284-13-310 Definitions. As used in this rule, these terms shall have the following meanings:

"Adjusted RBC report" means an RBC report which has been adjusted by the commissioner in accordance with WAC 284-13-320(3).

"Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required.

"Domestic insurer" means any life or disability insurance company formed under the laws of this state.

"Foreign or alien insurer" means any life or disability insurance company which is authorized to do business in this state under chapter 48.05 RCW but is not domiciled in this state.

"NAIC" means the National Association of Insurance Commissioners.

"Negative trend" means a negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBC instructions defined in this section.

"RBC" means risk-based capital.

"RBC instructions" means the RBC report including risk-based capital instructions adopted by the NAIC, as such RBC instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

"RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

"Authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions;

"Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

"Mandatory control level RBC" means the product of .70 and the authorized control level RBC;

"Regulatory action level RBC" means the product of 1.5 and its authorized control level RBC.

"RBC plan" means a comprehensive financial plan containing the elements specified in WAC 284-13-330(2). If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

"RBC report" means the report required in WAC 284-13-320.

"Total adjusted capital" means the sum of:

An insurer's statutory capital and surplus; and

Such other items, if any, as the RBC instructions may provide.

[Statutory Authority: RCW 48.02.060 and 48.05.340(4). 93-19-012 (Order R 93-16), § 284-13-310, filed 9/1/93, effective 10/2/93.]

WAC 284-13-320 RBC reports. (1) Every domestic insurer shall, on or prior to each March 15 (the "filing date"), prepare and submit to the commissioner a report of its RBC levels as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC instructions. In addition, every domestic insurer shall file its RBC report:

(a) With the NAIC in accordance with the RBC instructions; and

(b) With the insurance commissioner in any state in which the insurer is authorized to do business, if the insurance commissioner has notified the insurer of its request in writing, in which case the insurer shall file its RBC report not later than the later of:

(i) Fifteen days from the receipt of notice to file its RBC report with that state; or

(ii) The filing date.

(2) An insurer's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take into account (and may adjust for the covariance between):

(a) The risk with respect to the insurer's assets;

(b) The risk of adverse insurance experience with respect to the insurer's liabilities and obligations;

(c) The interest rate risk with respect to the insurer's business; and

(d) All other business risks and such other relevant risks as are set forth in the RBC instructions; determined in each case by applying the factors in the manner set forth in the RBC instructions.

(3) If a domestic insurer files an RBC report which in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the RBC report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment. An RBC report as so adjusted is referred to as an "adjusted RBC report."

[Statutory Authority: RCW 48.02.060 and 48.05.340(4). 93-19-012 (Order R 93-16), § 284-13-320, filed 9/1/93, effective 10/2/93.]

WAC 284-13-330 Company action level event. (1)

"Company action level event" means any of the following events:

(a) The filing of an RBC report by an insurer which indicates that:

(i) The insurer's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC; or

(ii) The insurer has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 2.5 and has a negative trend;

(b) The notification by the commissioner to the insurer of an adjusted RBC report that indicates the event in (a)(i) or (ii) of this subsection (provided the insurer does not challenge the adjusted RBC report under WAC 284-13-370); or

(c) If the insurer challenges an adjusted RBC report that indicates the event in (a)(i) or (ii) of this subsection under WAC 284-13-370, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(2) In the event of a company action level event, the insurer shall prepare and submit to the commissioner a comprehensive financial plan which shall:

(a) Identify the conditions in the insurer which contribute to the company action level event;

(b) Contain proposals of corrective actions which the insurer intends to take and would be expected to result in the elimination of the company action level event;

(c) Provide projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory financial position, results of operations, changes in cash flows, and significant statutory accounting policies. (The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense, and benefit component);

(d) Identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions; and

(e) Identify the quality of, and problems associated with, the insurer's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance in each case, if any.

(3) The RBC plan shall be submitted:

(a) Within forty-five days of the company action level event; or

(b) If the insurer challenges an adjusted RBC report pursuant to WAC 284-13-370, within forty-five days after notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(4) Within sixty days after the submission by an insurer of an RBC plan to the commissioner, the commissioner shall notify the insurer whether the RBC plan shall be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the RBC plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions which will render the RBC plan satisfactory, in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a revised RBC plan, which may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised RBC plan to the commissioner:

(a) Within forty-five days after the notification from the commissioner; or

(b) If the insurer challenges the notification from the commissioner under WAC 284-13-370, within forty-five days after a notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(5) In the event of a notification by the commissioner to an insurer that the insurer's RBC plan or revised RBC plan is unsatisfactory, the commissioner may at the commissioner's discretion, subject to the insurer's right to a hearing under WAC 284-13-370, specify in the notification that the notification constitutes a regulatory action level event.

(6) Every domestic insurer that files an RBC plan or revised RBC plan with the commissioner shall file a copy of the RBC plan or revised RBC plan with the insurance commissioner in any state in which the insurer is authorized to do business if:

(a) Such state has an RBC provision substantially similar to WAC 284-13-380(1); and

(b) The insurance commissioner of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the RBC plan or revised RBC plan in that state no later than the later of:

(i) Fifteen days after the receipt of notice to file a copy of its RBC plan or revised RBC plan with the state; or

(ii) The date on which the RBC plan or revised RBC plan is filed under subsections (3) and (4) of this section.

[Statutory Authority: RCW 48.02.060 and 48.05.340(4). 93-19-012 (Order R 93-16), § 284-13-330, filed 9/1/93, effective 10/2/93.]

WAC 284-13-340 Regulatory action level event. (1) "Regulatory action level event" means, with respect to any insurer, any of the following events:

(a) The filing of an RBC report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its authorized control level RBC but less than its regulatory action level RBC;

(b) The notification by the commissioner to an insurer of an adjusted RBC report that indicates the event in (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under WAC 284-13-370;

(c) If the insurer challenges an adjusted RBC report that indicates the event in (a) of this subsection under WAC 284-13-370, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge;

(d) The failure of the insurer to file an RBC report by the filing date, unless the insurer has provided an explanation for such failure which is satisfactory to the commissioner and has cured the failure within ten days after the filing date;

(e) The failure of the insurer to submit an RBC plan to the commissioner within the time period set forth in WAC 284-13-330(3);

(f) Notification by the commissioner to the insurer that:

(i) The RBC plan or revised RBC plan submitted by the insurer is, in the judgment of the commissioner, unsatisfactory; and

(ii) Such notification constitutes a regulatory action level event with respect to the insurer, provided the insurer has not challenged the determination under WAC 284-13-370;

(g) If the insurer challenges a determination by the commissioner under (f) of this subsection pursuant to WAC 284-13-370, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected such challenge;

(h) Notification by the commissioner to the insurer that the insurer has failed to adhere to its RBC plan or revised RBC plan, but only if such failure has a substantial adverse effect on the ability of the insurer to eliminate the regulatory action level event in accordance with its RBC plan or revised RBC plan and the commissioner has so stated in the notification, provided the insurer has not challenged the determination under WAC 284-13-370; or

(i) If the insurer challenges a determination by the commissioner under (h) of this subsection pursuant to WAC 284-13-370, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the challenge (unless the failure of the insurer to adhere to its RBC plan or revised RBC plan has no substantial adverse effect on the ability of the insurer to eliminate the regulatory action level event with respect to the insurer).

(2) In the event of a regulatory action level event the commissioner shall:

(a) Require the insurer to prepare and submit an RBC plan or, if applicable, a revised RBC plan;

(b) Perform such examination or analysis as the commissioner deems necessary of the assets, liabilities, and operations of the insurer including a review of its RBC plan or revised RBC plan; and

(c) Subsequent to the examination or analysis, issue an order specifying such corrective actions as the commissioner shall determine are required (a "corrective order").

(3) In determining corrective actions, the commissioner may take into account such factors as are deemed relevant with respect to the insurer based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the insurer, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the RBC instructions. The RBC plan or revised RBC plan shall be submitted:

(a) Within forty-five days after the occurrence of the regulatory action level event;

(b) If the insurer challenges an adjusted RBC report pursuant to WAC 284-13-370 and the challenge is not in the judgment of the commissioner frivolous, within forty-five days after the notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge; or

(c) If the insurer challenges a revised RBC plan under WAC 284-13-370, within forty-five days after notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(4) The commissioner may retain actuaries and investment experts and other consultants as may be necessary in the judgment of the commissioner to review the insurer's RBC plan or revised RBC plan, examine or analyze the assets, liabilities, and operations of the insurer, and formulate the corrective order with respect to the insurer. The fees, costs, and expenses relating to consultants shall be borne by the affected insurer or such other party as directed by the commissioner.

[Statutory Authority: RCW 48.02.060 and 48.05.340(4). 93-19-012 (Order R 93-16), § 284-13-340, filed 9/1/93, effective 10/2/93.]

WAC 284-13-350 Authorized control level event.

(1) "Authorized control level event" means any of the following events:

(a) The filing of an RBC report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its mandatory control level RBC but less than its authorized control level RBC;

(b) The notification by the commissioner to the insurer of an adjusted RBC report that indicates the event in (a) of this subsection (provided the insurer does not challenge the adjusted RBC report under WAC 284-13-370);

(c) If the insurer challenges an adjusted RBC report that indicates the event in (a) of this subsection under WAC 284-13-370, notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge;

(d) The failure of the insurer to respond, in a manner satisfactory to the commissioner, to a corrective order (provided the insurer has not challenged the corrective order under WAC 284-13-370); or

(e) If the insurer has challenged a corrective order under WAC 284-13-370 and the commissioner has, after a hearing, rejected the challenge or modified the corrective order, the failure of the insurer to respond, in a manner satisfactory to the commissioner, to the corrective order subsequent to rejection or modification by the commissioner.

(2) In the event of an authorized control level event with respect to an insurer, the commissioner shall:

(a) The commissioner shall take such actions as are required under WAC 284-13-340 regarding an insurer with respect to which an regulatory action level event has occurred; or

(b) The commissioner's review of the RBC report, preparation of an adjusted RBC report if any, and consideration of any corrective order and any challenge to a corrective order constitute an examination for purposes of RCW 48.31.030(5). If the commissioner then finds the insurer to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to its members, subscribers, or stockholders, or to the public, and if the commissioner deems it to be in the best interests of the policyholders and creditors of the insurer and of the public, then the commissioner shall take such actions as are necessary to cause the insurer to be placed under regulatory control under chapter 48.31 RCW. In the event the commissioner takes such actions, the authorized control level event shall be deemed sufficient grounds for the commissioner to take action under chapter 48.31 RCW, and the commissioner shall have the rights, powers, and duties with respect to the insurer as are set forth in chapter 48.31 RCW. In the event the commissioner takes actions under this subsection (2)(b) pursuant to an adjusted RBC report, the insurer shall be entitled to such protections as are afforded to insurers under the provisions of RCW 48.31.— (section 61, chapter 462, Laws of 1993) pertaining to summary proceedings.

[Statutory Authority: RCW 48.02.060 and 48.05.340(4). 93-19-012 (Order R 93-16), § 284-13-350, filed 9/1/93, effective 10/2/93.]

WAC 284-13-360 Mandatory control level event.

(1) "Mandatory control level event" means any of the following events:

(a) The filing of an RBC report which indicates that the insurer's total adjusted capital is less than its mandatory control level RBC;

(b) Notification by the commissioner to the insurer of an adjusted RBC report that indicates the event in (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under WAC 284-13-370; or

(c) If the insurer challenges an adjusted RBC report that indicates the event in (a) of this subsection under WAC 284-13-370, notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(2) The commissioner's review of the RBC report, preparation of an adjusted RBC report if any, and consideration of any corrective order and any challenge to a corrective order constitute an examination for purposes of RCW 48.31.030(5). The determination that a mandatory control level event has occurred constitutes a finding that the insurer is in such condition that further transaction of business will be hazardous to its policyholders, or to its creditors, or to its

members, subscribers, or stockholders, or to the public. Therefore, in the event of a mandatory control level event, the commissioner shall take actions as are necessary to cause the insurer to be placed under regulatory control under chapter 48.31 RCW. In the event the commissioner takes actions pursuant to an adjusted RBC report, the insurer shall be entitled to such protections as are afforded to insurers under the provisions of RCW 48.31.— (section 61, chapter 462, Laws of 1993) pertaining to summary proceedings. Notwithstanding any of the foregoing, the commissioner may forego action for up to ninety days after the mandatory control level event if he or she finds there is a reasonable expectation that the mandatory control level event may be eliminated within the ninety-day period.

[Statutory Authority: RCW 48.02.060 and 48.05.340(4). 93-19-012 (Order R 93-16), § 284-13-360, filed 9/1/93, effective 10/2/93.]

WAC 284-13-370 Hearings. Upon:

- (1) Notification to an insurer by the commissioner of an adjusted RBC report; or
- (2) Notification to an insurer by the commissioner that:
 - (a) The insurer's RBC plan or revised RBC plan is unsatisfactory; and
 - (b) Such notification constitutes a regulatory action level event with respect to such insurer; or
- (3) Notification to any insurer by the commissioner that the insurer has failed to adhere to its RBC plan or revised RBC plan and that such failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event with respect to the insurer in accordance with its RBC plan or revised RBC plan; or
- (4) Notification to an insurer by the commissioner of a corrective order with respect to the insurer, the insurer shall have the right to a hearing, in accordance with chapters 48.04 and 34.05 RCW. The insurer shall notify the commissioner of its request for a hearing within five days after the notification by the commissioner under subsection (1), (2), (3), or (4) of this section.

[Statutory Authority: RCW 48.02.060 and 48.05.340(4). 93-19-012 (Order R 93-16), § 284-13-370, filed 9/1/93, effective 10/2/93.]

WAC 284-13-380 Confidentiality and prohibition on announcements. (1) All RBC reports (to the extent the information therein is not required to be set forth in a publicly available annual statement schedule) and RBC plans (including the results or report of any examination or analysis of an insurer performed pursuant hereto and any corrective order issued by the commissioner pursuant to examination or analysis) with respect to any domestic insurer or foreign insurer which are filed with the commissioner constitute information that might be damaging to the insurer if made available to its competitors, and therefore shall be kept confidential by the commissioner. This information shall not be made public or be subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner pursuant to any provision of the insurance laws of this state.

(2) The comparison of an insurer's total adjusted capital to any of its RBC levels is a regulatory tool which may indicate the need for possible corrective action with respect to the insurer, and is not intended as a means to rank

insurers generally. Therefore, except as otherwise required, under the provisions of this rule, the making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the RBC levels of any insurer, or of any component derived in the calculation, by any insurer, agent, broker, or other person engaged in any manner in the insurance business would be misleading and an unfair method of competition and an unfair and deceptive practice and is therefore prohibited. If, however, if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its RBC levels (or any of them) or an inappropriate comparison of any other amount to the insurer's RBC levels is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity of such statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement or inappropriate comparison.

[Statutory Authority: RCW 48.02.060 and 48.05.340(4). 93-19-012 (Order R 93-16), § 284-13-380, filed 9/1/93, effective 10/2/93.]

WAC 284-13-390 Supplemental provisions. The provisions of this rule are supplemental to any other provisions of the laws and rules of this state, and shall not preclude or limit any other powers or duties of the commissioner under such laws and rules including, but not limited to, chapter 48.31 RCW and WAC 284-16-300 through 284-16-320.

[Statutory Authority: RCW 48.02.060 and 48.05.340(4). 93-19-012 (Order R 93-16), § 284-13-390, filed 9/1/93, effective 10/2/93.]

WAC 284-13-400 Foreign and alien insurers. (1) Any foreign or alien insurer shall, upon the written request of the commissioner, submit to the commissioner an RBC report as of the end of the calendar year just ended the later of:

- (a) The date an RBC report would be required to be filed by a domestic insurer under this rule; or
- (b) Fifteen days after the request is received by the foreign or alien insurer.

Any foreign or alien insurer shall, at the written request of the commissioner, promptly submit to the commissioner a copy of any RBC plan that is filed with the insurance commissioner of any other state.

(2) In the event of a company action level event or regulatory action level event with respect to any foreign or alien insurer as determined under the RBC statute or rule applicable in the state of domicile of the insurer (or, if no RBC provision is in force in that state, under the provisions of this rule), if the insurance commissioner of the state of domicile of the foreign or alien insurer fails to require the foreign or alien insurer to file an RBC plan in the manner specified under the RBC statute or rule (or, if no RBC

provision is in force in the state, under WAC 284-13-330), the commissioner may require the foreign or alien insurer to file an RBC plan with the commissioner. In such event, the failure of the foreign or alien insurer to file an RBC plan with the commissioner shall be grounds to order the insurer to cease and desist from writing new insurance business in this state.

(3) The commissioner's review of the RBC report, preparation of an adjusted RBC report if any, and consideration of any corrective order and any challenge to a corrective order constitute an examination for purposes of RCW 48.31.030(5). The determination that a mandatory control level event has occurred constitutes a finding that the insurer is in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to its members, subscribers, or stockholders, or to the public. Therefore, in the event of a mandatory control level event with respect to any foreign or alien insurer, if no domiciliary receiver has been appointed with respect to the foreign or alien insurer under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign or alien insurer, the commissioner may make application to the circuit court for Thurston County permitted under chapter 48.31 RCW with respect to the liquidation of property of foreign or alien insurers found in this state, and the occurrence of the mandatory control level event is adequate grounds for the application.

[Statutory Authority: RCW 48.02.060 and 48.05.340(4). 93-19-012 (Order R 93-16), § 284-13-400, filed 9/1/93, effective 10/2/93.]

WAC 284-13-410 Notices. All notices by the commissioner to an insurer which may result in regulatory action hereunder shall be effective upon dispatch if transmitted by registered or certified mail, or in the case of any other transmission shall be effective upon the insurer's receipt of such notice.

[Statutory Authority: RCW 48.02.060 and 48.05.340(4). 93-19-012 (Order R 93-16), § 284-13-410, filed 9/1/93, effective 10/2/93.]

WAC 284-13-420 Phase-in provision. For RBC reports required to be filed with respect to 1993, the following requirements shall apply in lieu of the provisions of WAC 284-13-330, 284-13-340, 284-13-350, and 284-13-360:

(1) In the event of a company action level event with respect to a domestic insurer, the commissioner shall take no regulatory action hereunder.

(2) In the event of an regulatory action level event under WAC 284-13-340 (1)(a), (b), or (c) the commissioner shall take the actions required under WAC 284-13-330.

(3) In the event of an regulatory action level event under WAC 284-13-340 (1)(d), (e), (f), (g), (h), or (i), or an authorized control level event, the commissioner shall take the actions required under WAC 284-13-340 with respect to the insurer.

(4) In the event of a mandatory control level event with respect to an insurer, the commissioner shall take the actions required under WAC 284-13-350 with respect to the insurer.

[Statutory Authority: RCW 48.02.060 and 48.05.340(4). 93-19-012 (Order R 93-16), § 284-13-420, filed 9/1/93, effective 10/2/93.]

WAC 284-13-500 Purpose. The purpose of this regulation is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the provisions of RCW 48.12.160. The actions and information required by this regulation are hereby declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state.

[Statutory Authority: RCW 48.02.060 and 48.12.160. 93-19-002 (Order R 93-6), § 284-13-500, filed 9/1/93, effective 10/2/93.]

WAC 284-13-510 Credit for reinsurance—Reinsurer holding certificate of authority in this state. Pursuant to RCW 48.12.160, the commissioner shall allow credit for reinsurance ceded by a domestic insurer to assuming insurers that held a certificate of authority to transact that kind of insurance in this state as of the date of the ceding insurer's statutory financial statement.

[Statutory Authority: RCW 48.02.060 and 48.12.160. 93-19-002 (Order R 93-6), § 284-13-510, filed 9/1/93, effective 10/2/93.]

WAC 284-13-520 Credit for reinsurance--Certain reinsurers maintaining trust funds. (1) Pursuant to RCW 48.12.160 (1)(a), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer described in subsection (2) of this section which, as of the date of the ceding insurer's statutory financial statement, maintains a trust fund in an amount prescribed below in a qualified United States bank as provided in RCW 48.12.160, for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the commissioner to determine the sufficiency of the trust fund.

(2) The trust fund for a group of insurers that includes individual unincorporated underwriters shall consist of funds in trust in an amount not less than the group's aggregate liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which one hundred million dollars shall be held jointly and exclusively for the benefit of the United States ceding insurers of any member of the group. The group shall make available to the commissioner annual certifications by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter member of the group.

(3) The trust under RCW 48.12.160 (1)(a) or (b)(i) shall be established in a form approved by the commissioner and complying with that statute and this section. The trust instrument shall provide that:

(a) Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty days after entry of the final order of any court of competent jurisdiction in the United States.

(b) Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest.

(c) The trust shall be subject to examination as determined by the commissioner.

(d) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust.

(e) No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(f) No amendment to the trust shall be effective unless reviewed and approved in advance by the commissioner.

[Statutory Authority: RCW 48.02.060 and 48.12.160. 93-19-002 (Order R 93-6), § 284-13-520, filed 9/1/93, effective 10/2/93.]

WAC 284-13-540 Credit for reinsurance ceded to an assuming insurer that does not have a certificate of authority. Pursuant to RCW 48.12.160 (1)(b), the commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of RCW 48.12.160 (1)(a) in an amount not exceeding the liabilities carried by the ceding insurer. Such reduction shall be in the amount of funds or other assets that are of the types and amounts that are authorized under chapter 48.13 RCW, held subject to withdrawal by and under the control of the ceding insurer, including funds or other such assets held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder. Such security must be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in RCW 48.12.160 (1)(b)(ii). This security may be in the form of:

(1) Deposits or funds that are assets of the types and amounts that are authorized under chapter 48.13 RCW; or

(2) Clean, irrevocable, unconditional, and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in RCW 48.12.160 (1)(b)(ii), effective no later than December 31 of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs.

An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this section shall be allowed only when the requirements of WAC 284-13-550 or 284-13-560 are met.

[Statutory Authority: RCW 48.02.060 and 48.12.160. 93-19-002 (Order R 93-6), § 284-13-540, filed 9/1/93, effective 10/2/93.]

WAC 284-13-550 Trust agreements qualified under WAC 284-13-540. (1) As used in this section:

(a) "Beneficiary" means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

(b) "Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the assuming insurer not holding a certificate of authority for that kind of business.

(c) "Obligations," as used in subsection (3)(k) of this section, means:

(i) Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;

(ii) Reserves for reinsured losses reported and outstanding;

(iii) Reserves for reinsured losses incurred but not reported; and

(iv) Reserves for allocated reinsured loss expenses and unearned premiums.

(2) Required conditions.

(a) The trust agreement shall be entered into between the beneficiary, the grantor, and a trustee which shall be a qualified United States financial institution as defined in RCW 48.12.160 (1)(b).

(b) The trust agreement shall create a trust account into which assets shall be deposited.

(c) All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the commissioner's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this section. If the commissioner approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in (d)(i) of this subsection must also be presentable, as a matter of legal right, at the trustee's principal office in the United States.

(d) The trust agreement shall provide that:

(i) The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;

(ii) No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;

(iii) It is not subject to any conditions or qualifications outside of the trust agreement; and

(iv) It shall not contain references to any other agreements or documents except as provided for under (k) of this subsection.

(e) The trust agreement shall be established for the sole benefit of the beneficiary.

(f) The trust agreement shall require the trustee to:

(i) Receive assets and hold all assets in a safe place;

(ii) Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary,

may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;

(iii) Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

(iv) Notify the grantor and the beneficiary within ten days, of any deposits to or withdrawals from the trust account;

(v) Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title, and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and

(vi) Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

(g) The trust agreement shall provide that at least thirty days, but not more than forty-five days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

(h) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.

(i) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.

(j) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct, or lack of good faith.

(k) Notwithstanding other provisions of this regulation, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and disability, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this regulation, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:

(i) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

(ii) To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred two percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

(iii) Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified

United States financial institution as defined in RCW 48.12.160(2) apart from its general assets, in trust for such uses and purposes specified in (k)(i) and (ii) of this subsection as may remain executory after such withdrawal and for any period after the termination date.

(l) The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by subsection (4)(a)(ii) of this section, so long as these required conditions are included in the trust agreement.

(3) Permitted conditions.

(a) The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety days after receipt by the beneficiary and grantor of the notice, and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

(b) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

(c) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in subsection (4)(a)(ii) of this section.

(d) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

(e) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

(4) Additional conditions applicable to reinsurance agreements.

(a) A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that:

(i) Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;

(ii) Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender),

certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by Title 48 RCW or any combination of the above, provided that such investments are issued by an institution that is not the parent, subsidiary, or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities, and disability, then the trust agreement may contain the provisions described by this paragraph in lieu of including such provisions in the reinsurance agreement;

(iii) Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations, or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

(iv) Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

(v) Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver, or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

(A) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

(B) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;

(C) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses, and unearned premium reserves; and

(D) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

(b) The reinsurance agreement may also contain provisions that:

(i) Give the assuming insurer the right to seek approval from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

(A) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets

withdrawn so as to maintain at all times the deposit in the required amount; or

(B) After withdrawal and transfer, the market value of the trust account is no less than one hundred two percent of the required amount.

The ceding insurer shall not unreasonably or arbitrarily withhold its approval.

(ii) Provide for:

(A) The return of any amount withdrawn in excess of the actual amounts required for (a)(v)(A), (B), and (C) of this subsection or in the case of (a)(v)(D) of this subsection any amounts that are subsequently determined not to be due; and

(B) Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to (a)(v)(C) of this subsection.

(iii) Permit the award by any arbitration panel or court of competent jurisdiction of:

(A) Interest at a rate different from that provided in (b)(ii)(B) of this subsection;

(B) Court or arbitration costs;

(C) Attorney's fees; and

(D) Any other reasonable expenses.

(c) Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(d) Existing agreements. Notwithstanding the effective date of this regulation, any trust agreement or underlying reinsurance agreement in existence prior to December 31, 1993, will continue to be acceptable until December 30, 1994, at which time the agreements will have to be in full compliance with this regulation for the trust agreement to be acceptable.

(e) The failure of any trust agreement to specifically identify the beneficiary as defined in subsection (1)(a) of this section shall not be construed to affect any actions or rights which the commissioner may take or possess pursuant to the provisions of the laws of this state.

[Statutory Authority: RCW 48.02.060 and 48.12.160. 93-19-002 (Order R 93-6), § 284-13-550, filed 9/1/93, effective 10/2/93.]

WAC 284-13-560 Letters of credit qualified under WAC 284-13-540. (1) The letter of credit must be clean, irrevocable, and unconditional and issued or confirmed by a qualified United States financial institution as defined in RCW 48.12.160 (1)(b)(ii). The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of

credit itself shall not contain reference to any other agreements, documents, or entities, except as provided in subsection (8)(a)(ii)(A) of this section. As used in this section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

(2) The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

(3) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

(4) The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than thirty days' notice prior to expiry date or nonrenewal.

(5) The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400), and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

(6) If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400), then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 19 of Publication 400 occur.

(7) The letter of credit shall be issued by a qualified United States financial institution authorized to issue letters of credit, pursuant to RCW 48.12.160 (1)(b)(ii).

(8) Reinsurance agreement provisions.

(a) The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions which:

(i) Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover.

(ii) Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

(A) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

(B) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;

(C) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred, and unearned premium reserves); and

(D) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

(iii) All of the foregoing provisions of (a) of this subsection should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(b) Nothing contained in (a) of this subsection shall preclude the ceding insurer and assuming insurer from providing for:

(i) An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to (a)(ii)(C) of this subsection; and

(ii) The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the case of (a)(ii)(D) of this subsection, any amounts that are subsequently determined not to be due.

(c) When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities, and disability, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of (a)(ii) of this subsection, require that the parties enter into a "trust agreement" which may be incorporated into the reinsurance agreement or be a separate document.

(9) A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. Further, the reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure.

[Statutory Authority: RCW 48.02.060 and 48.12.160. 93-19-002 (Order R 93-6), § 284-13-560, filed 9/1/93, effective 10/2/93.]

WAC 284-13-570 Other security. A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

[Statutory Authority: RCW 48.02.060 and 48.12.160. 93-19-002 (Order R 93-6), § 284-13-570, filed 9/1/93, effective 10/2/93.]

WAC 284-13-580 Reinsurance contract. Credit will not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of this regulation or otherwise in compliance with RCW 48.12.160 after the adoption of this regulation unless the reinsurance agreement:

(1) Includes a proper insolvency clause pursuant to RCW 48.12.160(2); and

(2) Includes a provision whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel.

[Statutory Authority: RCW 48.02.060 and 48.12.160. 93-19-002 (Order R 93-6), § 284-13-580, filed 9/1/93, effective 10/2/93.]

WAC 284-13-590 Contracts affected. All new and renewal reinsurance transactions entered into after December 1, 1993, shall conform to the requirements of this regulation if credit is to be given to the ceding insurer for such reinsurance.

[Statutory Authority: RCW 48.02.060 and 48.12.160. 93-19-002 (Order R 93-6), § 284-13-590, filed 9/1/93, effective 10/2/93.]

WAC 284-13-700 Definitions. (1) Terms used in this regulation (WAC 284-13-700 through 284-13-740) that are defined in the Reinsurance Intermediary Act (chapter 48.—RCW, sections 22 through 33, chapter 462, Laws of 1993) ("the act") have the meaning stated there.

(2) Whether a person is an "employee" of the reinsurer for purposes of section 23 (7)(a), chapter 462, Laws of 1993, depends on the facts and is not controlled by a mere labeling of the person as an employee in an agreement.

(3) A reinsurer is "licensed in this state" for purposes of section 23(8), chapter 462, Laws of 1993, when it holds a certificate of authority to transact the relevant line of insurance.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 33. 93-19-011 (Order R 93-15), § 284-13-700, filed 9/1/93, effective 10/2/93.]

WAC 284-13-710 Applications for license. An application for a license as a reinsurance intermediary by a firm or association may name the members and the designated employees to be authorized to act as reinsurance intermediaries under the license. If those persons are not named on the application or a supplement to it, then the application must be accompanied by a letter or other document identifying those persons and signed by an officer of the firm or association.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 33. 93-19-011 (Order R 93-15), § 284-13-710, filed 9/1/93, effective 10/2/93.]

WAC 284-13-720 Financial statement of reinsurance intermediary-manager. A reinsurer shall obtain from each reinsurance intermediary-manager, and a reinsurance intermediary-manager shall give to the reinsurer, annual statements of financial condition prepared by an independent certified public accountant. The form of the statements shall be such that the statements clearly show the results of operations, and the assets, liabilities, and equity of the reinsurance intermediary-manager. Nothing in the act or this regulation (WAC 284-13-700 through 284-13-740) prevents a reinsurer from requiring additional information, more

detail, or a specified format so long as that specified format at least meets the requirements of this section.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 33. 93-19-011 (Order R 93-15), § 284-13-720, filed 9/1/93, effective 10/2/93.]

WAC 284-13-730 Submission and approval of contracts between reinsurers and reinsurance intermediary—Managers. Contracts filed for approval under section 28, chapter 462, Laws of 1993, must include the provisions required by that section. If those provisions are not in the order given in that section, or if any other provisions precede or separate any of those required provisions, then the submitted contract shall be accompanied by a statement showing where in the contract each required provision is.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 33. 93-19-011 (Order R 93-15), § 284-13-730, filed 9/1/93, effective 10/2/93.]

WAC 284-13-740 Reporting of claims. The reporting threshold under section 28 (9)(b)(v), chapter 462, Laws of 1993, is the lesser of fifty thousand dollars or an amount set by the reinsurer.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 33. 93-19-011 (Order R 93-15), § 284-13-740, filed 9/1/93, effective 10/2/93.]

Chapter 284-15 WAC SURPLUS LINE INSURANCE

WAC

284-15-100

Surplus lines limited broker.

WAC 284-15-100 Surplus lines limited broker. (1) A person who is not a resident of Washington may be licensed as a limited surplus lines broker.

(2) A limited surplus lines broker may act in soliciting, negotiating, or procuring insurance, but only liability insurance and only on behalf of a purchasing group registered in accordance with RCW 48.92.080.

(3) To be licensed as a limited surplus lines broker, a person must meet all the same qualifications (other than residency) as any other person seeking to be licensed as a surplus lines broker under chapter 48.15 RCW and chapter 284-15 WAC (including passing the Washington examination), and has all the same responsibilities as any other surplus lines broker.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-008 (Order R 93-12), § 284-15-100, filed 9/1/93, effective 10/2/93.]

Chapter 284-18 WAC WASHINGTON INSURANCE HOLDING COMPANY REGULATION

WAC

284-18-010

Repealed.

284-18-020

Repealed.

284-18-030

Repealed.

284-18-040

Repealed.

284-18-050

Repealed.

284-18-060

Repealed.

284-18-070

Repealed.

284-18-080

Repealed.

284-18-090

Repealed.

284-18-100	Repealed.
284-18-110	Repealed.
284-18-120	Repealed.
284-18-300	Forms—General requirements.
284-18-310	Forms—Incorporation by reference, summaries, and omissions.
284-18-320	Forms—Information unknown or unavailable and extension of time to furnish.
284-18-330	Forms—Additional information and exhibits.
284-18-340	Definitions.
284-18-350	Subsidiaries of domestic insurers.
284-18-360	Acquisition of control—Statement filing.
284-18-370	Amendments to Form A.
284-18-380	Acquisition of section 4(1), chapter 462, Laws of 1993, insurers.
284-18-390	Annual registration of insurers—Statement filing.
284-18-400	Summary of registration—Statement filing.
284-18-410	Amendments to Form B.
284-18-420	Alternative and consolidated registrations.
284-18-430	Disclaimers and termination of registration.
284-18-440	Transactions subject to prior notice—Notice filing.
284-18-450	Extraordinary dividends and other distributions.
284-18-460	Adequacy of surplus.
284-18-910	Form A.
284-18-920	Form B.
284-18-930	Form C.
284-18-940	Form D.
284-18-990	Repealed.
284-18-99001	Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

284-18-010	Title and purpose. [Order R-71-2, § 284-18-010, filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.
284-18-020	Definitions. [Order R-71-2, § 284-18-020, filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.
284-18-030	Control acquisition of domestic insurer. [Order R-71-2, § 284-18-030, filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.
284-18-040	Registration of insurers. [Order R-71-2, § 284-18-040, filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.
284-18-050	Alternative and consolidated registrations. [Order R-71-2, § 284-18-050, filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.
284-18-060	Exemptions. [Order R-71-2, § 284-18-060, filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.
284-18-070	Disclaimers and termination of registration. [Order R-71-2, § 284-18-070, filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.
284-18-080	Extraordinary dividends and other distributions. [Order R-71-2, § 284-18-080, filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.
284-18-090	Additional information may be required. [Order R-71-2, § 284-18-090, filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.
284-18-100	Forms. [Order R-71-2, § 284-18-100, filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-

9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.

284-18-110 Instructions for use of Forms A and B. [Order R-71-2, § 284-18-110, filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.

284-18-120 Effective date. [Order R-71-2, § 284-18-120, filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.

284-18-990 Form A—Statement regarding the acquisition of control of or merger with a domestic insurer. [Form A is a part of Order R-71-2 (codified as WAC 284-18-990), filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.

284-18-99001 Form B—Insurance holding company system registration statement. [Form B is a part of Order R-71-2 (codified as WAC 284-18-99001), filed 7/9/71, effective 8/10/71.] Repealed by 93-19-005 (Order R 93-9), filed 9/1/93, effective 10/2/93. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9.

WAC 284-18-010 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-020 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-030 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-040 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-050 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-060 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-070 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-080 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-090 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-100 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-110 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-120 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-300 Forms—General requirements. (1) Forms A, B, C, and D are intended to be guides in the preparation of the statements required by sections 4, 6, and 7, chapter 462, Laws of 1993. They are not intended to be

blank forms which are to be filled in. These statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(2) Two complete copies of Form A, and one copy of Forms B, C, and D, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the commissioner by personal delivery or mail addressed to: Insurance Commissioner of the State of Washington, Insurance Building, Post Office Box 40255, Olympia, Washington 98504-0255, Attention: Company Supervision. One complete copy of Form A shall also be filed with the commissioner by personal delivery or mail addressed to: Insurance Commissioner of the State of Washington, Seattle, Washington 98104, Attention: Chief Examiner. A copy of Form C shall be filed in each state in which an insurer is authorized to do business, if the commissioner of that state has notified the insurer of its request in writing, in which case the insurer has ten days from receipt of the notice to file such form. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(3) Statements should be prepared on paper 8 1/2" x 11" (or 8 1/2" x 14") in size and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable, and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-300, filed 9/1/93, effective 10/2/93.]

WAC 284-18-310 Forms—Incorporation by reference, summaries, and omissions. (1) Information required by any item of Form A, Form B, or Form D may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, or Form D provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the

documents are extensive. Documents currently on file with the commissioner which were filed within three years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear, or confusing.

(2) Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the commissioner which was filed within three years and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents a copy of which is filed.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-310, filed 9/1/93, effective 10/2/93.]

WAC 284-18-320 Forms—Information unknown or unavailable and extension of time to furnish. (1) Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

(a) The person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

(b) The person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

(2) If it is impractical to furnish any required information, document, or report at the time it is required to be filed, there may be filed with the commissioner a separate document:

(a) Identifying the information, document, or report in question; and

(b) Stating why the filing thereof at the time required is impractical; and

(c) Requesting an extension of time for filing the information, document, or report to a specified date. The request for extension shall be deemed granted unless the commissioner within sixty days after receipt thereof enters an order denying the request.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-320, filed 9/1/93, effective 10/2/93.]

WAC 284-18-330 Forms—Additional information and exhibits. In addition to the information expressly required to be included in Form A, Form B, Form C, and Form D, there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, or D shall include on the top of the cover page the phrase: "Change No. (insert number) to" and shall indicate the date of the change and not the date of the original filing.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-330, filed 9/1/93, effective 10/2/93.]

WAC 284-18-340 Definitions. (1) "The act" means the Insurer Holding Company Act, sections 1 through 15, chapter 462, Laws of 1993.

(2) "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

(3) "Foreign insurer" shall include an alien insurer except where clearly noted otherwise.

(4) "Ultimate controlling person" means that person which is not controlled by any other person.

(5) Unless the context otherwise requires, other terms found in these regulations and in section 2, chapter 462, Laws of 1993, are used as defined in that section 2, chapter 462, Laws of 1993. Other nomenclature or terminology is according to Title 48 RCW, or industry usage if not defined by Title 48 RCW.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-340, filed 9/1/93, effective 10/2/93.]

WAC 284-18-350 Subsidiaries of domestic insurers. The authority to invest in subsidiaries under the act is in addition to any authority to invest in subsidiaries which may be contained in any other provision of Title 48 RCW.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-350, filed 9/1/93, effective 10/2/93.]

WAC 284-18-360 Acquisition of control—Statement filing. A person required to file a statement pursuant to section 4, chapter 462, Laws of 1993, shall furnish the required information on Form A, hereby made a part of this regulation.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-360, filed 9/1/93, effective 10/2/93.]

WAC 284-18-370 Amendments to Form A. The applicant shall promptly advise the commissioner of any changes in the information so furnished on Form A arising subsequent to the date upon which such information was furnished but prior to the commissioner's disposition of the application.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-370, filed 9/1/93, effective 10/2/93.]

WAC 284-18-380 Acquisition of section 4(1), chapter 462, Laws of 1993, insurers. (1) If the person being acquired is deemed to be a "domestic insurer" solely because of the provisions of the second paragraph of section (4)(1), chapter 462, Laws of 1993, the name of the domestic insurer on the cover page should be indicated as follows:

"ABC Insurance Company, a subsidiary of XYZ Holding Company."

(2) Where such an insurer is being acquired, references to "the insurer" contained in Form A shall refer to both the domestic subsidiary insurer and the person being acquired.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-380, filed 9/1/93, effective 10/2/93.]

WAC 284-18-390 Annual registration of insurers—Statement filing. An insurer required to file an annual registration statement pursuant to section 6, chapter 462, Laws of 1993, shall furnish the required information on Form B, hereby made a part of these regulations.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-390, filed 9/1/93, effective 10/2/93.]

WAC 284-18-400 Summary of registration—Statement filing. An insurer required to file an annual registration statement pursuant to section 6, chapter 462, Laws of 1993, is also required to furnish information required on Form C, hereby made a part of this regulation. An insurer shall file a copy of Form C in each state in which the insurer is authorized to do business, if requested by the commissioner of that state.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-400, filed 9/1/93, effective 10/2/93.]

WAC 284-18-410 Amendments to Form B. (1) An amendment to Form B shall be filed within fifteen days after the end of any month in which there is a material change to the information provided in the annual registration statement.

(2) Amendments shall be filed in the Form B format with only those items which are being amended reported. Each such amendment shall include at the top of the cover page "Amendment No. (insert number) to Form B for (insert year)" and shall indicate the date of the change and not the date of the original filings.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-410, filed 9/1/93, effective 10/2/93.]

WAC 284-18-420 Alternative and consolidated registrations. (1) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under section 6, chapter 462, Laws of 1993. A registration statement may include information not required by the act regarding any insurer in the insurance holding company system even if such insurer is not authorized to do business in this state. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

(a) The statement or report contains substantially similar information required to be furnished on Form B; and

(b) The filing insurer is the principal insurance company in the insurance holding company system.

(2) The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

(3) With the prior approval of the commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under subsection (1) of this section.

(4) Any insurer may take advantage of the provisions of section 6 (8) or (9), chapter 462, Laws of 1993, without obtaining the prior approval of the commissioner. The commissioner, however, reserves the right to require individual filings if he or she deems such filings necessary in the interest of clarity, ease of administration, or the public good.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-420, filed 9/1/93, effective 10/2/93.]

WAC 284-18-430 Disclaimers and termination of registration. (1) A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:

(a) The number of authorized, issued, and outstanding voting securities of the subject;

(b) With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;

(c) All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person;

(d) A statement explaining why such person should not be considered to control the subject.

(2) A request for termination of registration shall be deemed to have been granted unless the commissioner, within thirty days after he or she receives the request, notifies the registrant otherwise.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-430, filed 9/1/93, effective 10/2/93.]

WAC 284-18-440 Transactions subject to prior notice—Notice filing. An insurer required to give notice of a proposed transaction pursuant to section 7, chapter 462, Laws of 1993, shall furnish the required information on Form D, hereby made a part of these regulations.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-440, filed 9/1/93, effective 10/2/93.]

WAC 284-18-450 Extraordinary dividends and other distributions. (1) Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

(a) The amount of the proposed dividend;

(b) The date established for payment of the dividend;

(c) A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;

(d) A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:

(i) The amounts, dates, and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurers own securities) paid within the period of twelve consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

(ii) Surplus as regards policyholders (total capital and surplus) as of the 31st day of December next preceding;

(iii) If the insurer is a life insurer, the net gain from operations for the twelve-month period ending the 31st day of December next preceding;

(iv) If the insurer is not a life insurer, the net income for the twelve-month period ending the 31st day of December next preceding.

(e) A balance sheet and statement of income for the period intervening from the last annual statement filed with the commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

(f) A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(2) Each registered insurer shall report to the commissioner all other dividends and other distributions to shareholders within five business days following the declaration thereof, and at least fifteen business days before payment, including the same information required by subsection (1)(a) and (d)(i) through (v) of this section.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-450, filed 9/1/93, effective 10/2/93.]

WAC 284-18-460 Adequacy of surplus. The factors set forth in section 7(3), chapter 462, Laws of 1993, are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is necessarily controlling. The commissioner, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the commissioner will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-460, filed 9/1/93, effective 10/2/93.]

WAC 284-18-910 Form A.

FORM A
STATEMENT REGARDING THE
ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC
INSURER

Name of Domestic Insurer

BY

Name of Acquiring Person (Applicant)

Filed with the Insurance Department of

(State of domicile of insurer being acquired)

Dated: _____, 19__

Name, Title, Address, and Telephone Number of Individual
to Whom Notices and Correspondence Concerning this
Statement Should be Addressed:

ITEM 1. INSURER AND METHOD OF ACQUISITION

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant. No affiliate need be identified if its total assets are equal to less than one-half of one percent of the total assets of the ultimate controlling person affiliated with the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

State the following with respect to (1) the applicant if (s)he is an individual or (2) all persons who are directors,

executive officers or owners of ten percent or more of the voting securities of the applicant if the applicant is not an individual.

(a) Name and business address;

(b) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(c) Material occupations, positions, offices or employment during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith;

(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION

(a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he or she must specifically request that the identity be kept confidential.

ITEM 5. FUTURE PLANS OF INSURER

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate such insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

ITEM 6. VOTING SECURITIES TO BE ACQUIRED

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

ITEM 7. OWNERSHIP OF VOTING SECURITIES

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

ITEM 9. RECENT PURCHASES OF VOTING SECURITIES

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the twelve calendar months preceding the filing of this statement. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any such shares so purchased are hypothecated.

ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the twelve calendar months preceding the filing of this statement.

ITEM 11. AGREEMENTS WITH BROKER-DEALERS

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements and exhibits shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding five fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. Such statements may be prepared on either an individual basis, or, unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public

accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the annual statement of such person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or WAC 284-18-300 or 284-18-320.

ITEM 13. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of section 4, chapter 462, Laws of 1993 _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 19__.

(SEAL) _____

Name of Applicant

BY _____

(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, 19__, for and on behalf of _____ (Name of Applicant); that (s)he is the _____ (Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-910, filed 9/1/93, effective 10/2/93.]

WAC 284-18-920 Form B.

FORM B

INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Department of the State of _____

By _____

Name of Registrant

On Behalf of Following Insurance Companies

Name

Address

Date: _____, 19__

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

Furnish the exact name of each insurer registering or being registered (hereinafter called "the registrant"), the home office address and principal executive offices of each; the date on which each registrant became part of the insurance holding company system; and the method(s) by which control of each registrant was acquired and is maintained.

ITEM 2. ORGANIZATIONAL CHART

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. No affiliate need be shown if its total assets are equal to less than one-half of one percent of the total assets of the ultimate controlling person within the insurance holding company system unless it has assets valued at or exceeding ten million dollars. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

ITEM 3. THE ULTIMATE CONTROLLING PERSON

As to the ultimate controlling person in the insurance holding company system furnish the following information:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.

(d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.

(e) The principal business of the person.

(f) The name and address of any person who holds or owns ten percent or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned.

(g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

ITEM 4. BIOGRAPHICAL INFORMATION

Furnish the following information for the directors and executive officers of the ultimate controlling person: The individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years.

ITEM 5. TRANSACTIONS AND AGREEMENTS

Briefly describe the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the registrant and its affiliates:

- (a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the registrant or of the registrant by its affiliates;
- (b) Purchases, sales or exchanges of assets;
- (c) Transactions not in the ordinary course of business;
- (d) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the registrant's business;
- (e) All management agreements, service contracts and all cost-sharing arrangements;
- (f) Reinsurance agreements;
- (g) Dividends and other distributions to shareholders;
- (h) Consolidated tax allocation agreements; and
- (i) Any pledge of the registrant's stock or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

No information need be disclosed if such information is not material for purposes of section 6, chapter 462, Laws of 1993.

Sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving one-half of one percent or less of the registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material. (Note: Commissioner may by rule, regulation, or order provide otherwise.)

The description shall be in a manner as to permit the proper evaluation thereof by the commissioner, and shall

include at least the following: The nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to such transaction, and relationship of the affiliated parties to the registrant.

ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending:

(a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and

(b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

ITEM 8. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis, or unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Unless the commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are

based on the annual statement of such insurer filed with the insurance department of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Form B or WAC 284-18-300 and 284-18-320.

ITEM 9. FORM C REQUIRED

A Form C, Summary of Registration Statement, must be prepared and filed with this Form B.

ITEM 10. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of section 6, chapter 462, Laws of 1993, the registrant has caused this annual registration statement to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 19__.

(SEAL)

Name of Registrant

BY

(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated _____, 19__, for and on behalf of _____ (Name of Company); that (s)he is the _____ (Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-920, filed 9/1/93, effective 10/2/93.]

WAC 284-18-930 Form C.

FORM C

SUMMARY OF REGISTRATION STATEMENT

Filed with the Insurance Department of the State of _____

By _____

Name of Registrant

On Behalf of Following Insurance Companies

Name

Address

Date: _____, 19__

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description shall be in a manner as to permit the proper evaluation thereof by the commissioner, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of ten percent or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where: An individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of section 6, chapter 462, Laws of 1993, the registrant has caused this summary of registration statement to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 19__.

(SEAL)

Name of Registrant

BY

(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached summary of registration statement dated _____, 19__, for and on behalf of (Name of Company); that (s)he is the (Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-930, filed 9/1/93, effective 10/2/93.]

WAC 284-18-940 Form D.

FORM D

PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Department of the State of _____

By _____

Name of Registrant

On Behalf of Following Insurance Companies

Name

Address

Date: _____, 19__

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

Furnish the following information for each of the parties to the transaction:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure, i.e., corporation, partnership, individual, trust, etc.
- (e) A description of the nature of the parties' business operations.

(f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.

(g) Where the transaction is with a nonaffiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

ITEM 2. DESCRIPTION OF THE TRANSACTION

Furnish the following information for each transaction for which notice is being given:

- (a) A statement as to whether notice is being given under section 7 (1)(b)(i), (ii), (iii), (iv), or (v), chapter 462, Laws of 1993.
- (b) A statement of the nature of the transaction.
- (c) The proposed effective date of the transaction.

ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES, OR INVESTMENTS

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than, (a) in the case of nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders or, (b) in the case of life insurers, three percent of the insurer's admitted assets, each as of the 31st day of December next preceding.

ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets, of or make investments in any affiliate. Describe the amount and source of funds, securities, property, or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders or, with respect to life insurers, three percent of the insurer's admitted assets, each as of the 31st day of December next preceding.

ITEM 5. REINSURANCE

If the transaction is a reinsurance agreement or modification thereto, as described by section 7 (1)(b)(iii), chapter 462, Laws of 1993, furnish a description of the known or estimated amount of liability to be ceded or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and nonaffiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities in connection with the reinsurance agreement or modification thereto is less than five percent

of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding.

ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS, AND COST-SHARING ARRANGEMENTS.

For management and service agreements, furnish:

(a) A brief description of the managerial responsibilities, or services to be performed.

(b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

(a) A brief description of the purpose of the agreement.

(b) A description of the period of time during which the agreement is to be in effect.

(c) A brief description of each party's expenses or costs covered by the agreement.

(d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement.

ITEM 7. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of section 7, chapter 462, Laws of 1993, _____ has caused this notice to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 19__.

(SEAL)

Name of Applicant

BY

(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached notice dated _____, 19__, for and on behalf of (Name of Applicant); that (s)he is the (Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

[Statutory Authority: RCW 48.02.060 and 1993 c 462 § 9. 93-19-005 (Order R 93-9), § 284-18-940, filed 9/1/93, effective 10/2/93.]

WAC 284-18-990 Repealed. See Disposition Table at beginning of this chapter.

WAC 284-18-99001 Repealed. See Disposition Table at beginning of this chapter.

Chapter 284-22 WAC

USL&H ASSIGNED RISK PLAN

WAC

284-22-010	Title.
284-22-020	Purpose.
284-22-030	Effective date.
284-22-050	Definitions.
284-22-060	Participation.

WAC 284-22-010 Title. These rules and regulations, adopted under the authority of chapter 177, Laws of 1993, shall be entitled the Washington United States Longshore and Harbor Workers' Compensation Act assigned risk plan (hereinafter referred to as "the assigned risk plan").

[Statutory Authority: RCW 48.02.060. 93-20-019 (Order R 93-17), § 284-22-010, filed 9/24/93, effective 10/25/93. Statutory Authority: RCW 48.02.060 and 1992 c 209. 92-19-095 (Order R 92-12), § 284-22-010, filed 9/16/92, effective 10/17/92.]

WAC 284-22-020 Purpose. The purposes of the assigned risk plan are:

(1) To promote a strong and healthy maritime industry, within Washington state, by ensuring the continued availability of workers' compensation coverage required by the United States Longshore and Harbor Workers' Act and maritime employers' liability coverage incidental to such workers' compensation coverage for employers who are unable to purchase it through the normal insurance market.

(2) To provide a mechanism through which the underwriting results of the assigned risk plan are shared by authorized insurers writing primary or excess United States Longshore and Harbor Workers' insurance within Washington state and the Washington state industrial insurance fund.

[Statutory Authority: RCW 48.02.060. 93-20-019 (Order R 93-17), § 284-22-020, filed 9/24/93, effective 10/25/93. Statutory Authority: RCW 48.02.060 and 1992 c 209. 92-19-095 (Order R 92-12), § 284-22-020, filed 9/16/92, effective 10/17/92.]

WAC 284-22-030 Effective date. (1) The assigned risk plan shall become effective at 12:01 a.m. July 1, 1992.

(2) The assigned risk plan shall cease accepting new applicants at 12:01 a.m. July 1, 1995. However, it shall not terminate until all policies issued under the plan have expired and outstanding obligations incurred under such policies have been satisfied.

[Statutory Authority: RCW 48.02.060. 93-20-019 (Order R 93-17), § 284-22-030, filed 9/24/93, effective 10/25/93. Statutory Authority: RCW 48.02.060 and 1992 c 209. 92-19-095 (Order R 92-12), § 284-22-030, filed 9/16/92, effective 10/17/92.]

WAC 284-22-050 Definitions. (1) "Administrator" means any organization designated by the assigned risk plan and approved by the commissioner to provide administrative

support for the plan. Such support shall be defined by the governing committee in its operating plan. It may include, but is not limited to, acceptance, processing, and distribution of incoming applications to the servicing carrier(s), collection of and accounting for premium income, determination of assigned risk plan reserves, investment of assigned risk plan assets, collection of statistical data, actuarial assistance for rate making, development of policy contracts, and auditing the activities of servicing carrier(s) to ensure that the assigned risk plan's rules are being applied properly.

(2) "Applicant" means an employer, seeking coverage from the assigned risk plan, who has, in good faith, sought United States longshore and harbor workers' coverage from at least two of the authorized insurers writing such coverage in Washington and has been declined such coverage by all insurers from which it has sought coverage. "Applicant" does not include employers seeking coverage through the plan solely because of the lack of availability of maritime employers' liability coverage.

(3) "Authorized insurer" means any insurance company licensed to write workers' compensation insurance on a direct basis in this state.

(4) "Commissioner" means the commissioner of insurance of the state of Washington.

(5) "Governing committee" means the committee responsible for administering the assigned risk plan. It shall consist of thirteen members, who shall be appointed by the commissioner. The director of the department of labor and industries shall be one member. The remaining members shall be selected to insure equal representation of each of the following interest groups; authorized insurers writing primary or excess workers' compensation insurance, insurance producers, organized labor, and maritime employers.

(6) "Maritime employers' liability" means that liability imposed by 46 U.S.C. 688 (the Jones Act) and general maritime law for bodily injury including death of a master or member of the crew of any vessel.

(7) "Servicing carrier" means any authorized insurer designated by the assigned risk plan and approved by the commissioner and the United States Department of Labor to issue workers' compensation policies. It shall issue policies on behalf of the assigned risk plan, provide safety engineering, handle claims incurred by those covered by the assigned risk plan, provide premium audits, perform underwriting functions, and perform other duties as defined by the governing committee in its operating procedures.

(8) "State industrial insurance fund" means that entity defined in RCW 51.08.175 which provides primary workers' compensation insurance on a direct basis in this state.

(9) "Underwriting results" means the assigned risk plan's revenues less incurred claims plus net operating expenses, net of reinsurance, during its period of operation.

(10) "United States longshore and harbor workers' compensation coverage" means that workers' compensation coverage required of employers by the United States Longshore and Harbor Workers' Compensation Act, 33 U.S.C. Secs. 901 through 950. It is hereinafter referred to as USL&H coverage.

(11) "Written premium" means gross direct premiums (excluding premiums on risks written ceded to the assigned risk plan), within the state of Washington, charged during

the first preceding calendar year with respect to United States Longshore and Harbor Workers' insurance, less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits.

[Statutory Authority: RCW 48.02.060. 93-20-019 (Order R 93-17), § 284-22-050, filed 9/24/93, effective 10/25/93. Statutory Authority: RCW 48.02.060 and 1992 c 209. 92-19-095 (Order R 92-12), § 284-22-050, filed 9/16/92, effective 10/17/92.]

WAC 284-22-060 Participation. (1) Participation in the assigned risk plan is mandatory for all authorized insurers writing primary or excess United States Longshore and Harbor Workers' insurance in Washington state and the state industrial insurance fund. Underwriting results shall be shared by the participants in accordance with the following ratio: The state industrial insurance fund, fifty percent; authorized insurers writing such United States Longshore and Harbor Workers' coverage, fifty percent.

(2) The amount of participation of each authorized insurer shall be based on the proportional share of its United States Longshore and Harbor Workers' compensation premium written within Washington to all such premium written within the appropriate category during the first preceding calendar year. However, the governing committee, subject to the commissioner's approval, and subject to the requirement that the amount assumed by all insurers within each category must be as stated in subsection (1) of this section, has the authority to allocate assessments in such a fashion that no authorized insurer shall be required to participate in the plan if the amount of an assessment shall be less than fifty dollars.

(3) Each authorized insurer writing United States Longshore and Harbor Workers' insurance shall by September 1 of each calendar year make a report to the governing committee identifying the amount of its written premium in the preceding year applying to United States Longshore and Harbor Workers' coverage and the amount applying to excess workers' compensation coverage.

[Statutory Authority: RCW 48.02.060. 93-20-019 (Order R 93-17), § 284-22-060, filed 9/24/93, effective 10/25/93. Statutory Authority: RCW 48.02.060 and 1992 c 209. 92-19-095 (Order R 92-12), § 284-22-060, filed 9/16/92, effective 10/17/92.]

Chapter 284-32 WAC

PLAN OF OPERATION FOR WASHINGTON INSURANCE GUARANTY ASSOCIATION

WAC

284-32-140

Claim settlements of one hundred fifty thousand dollars or more.

WAC 284-32-140 Claim settlements of one hundred fifty thousand dollars or more. The board shall review, and approve by majority vote, claim settlements to be made by the association or its agents of one hundred fifty thousand dollars or more; except settlement of claims for first party property damage up to three hundred thousand dollars, which may be approved by any two members of the board.

[Statutory Authority: RCW 48.02.060 and 48.32.070. 93-19-001 (Order R 93-5), § 284-32-140, filed 9/1/93, effective 10/2/93. Statutory Authority:

RCW 48.32.070. 88-05-001 (Order R 88-2), § 284-32-140, filed 2/4/88; Emergency and Permanent Order R-71-3, § 284-32-140, filed 12/9/71.]

Chapter 284-87 WAC

JOINT UNDERWRITING ASSOCIATION FOR MIDWIFERY AND BIRTHING CENTERS MALPRACTICE INSURANCE

WAC

284-87-010	Purpose.
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284-87-040	Activation of association.
284-87-050	Administration.
284-87-060	General powers and duties of the board.
284-87-070	Assessments.
284-87-080	Statistics, records, and reports.
284-87-090	Eligibility of licensees for coverage.
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284-87-140	Cooperation of agents and brokers.
284-87-150	Commissions.
284-87-160	Additional notice required.
284-87-170	Termination of association.

WAC 284-87-010 Purpose. The purpose of this chapter is to establish a joint underwriting association pursuant to chapter 48.87 RCW, to provide midwifery and birth center malpractice insurance.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-010, filed 12/30/93, effective 1/30/94.]

WAC 284-87-020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

"Association" means the joint underwriting association established pursuant to the provisions of chapter 48.87 RCW.

"Board" means the governing board of the association.

"Licensee" means any person or birth center facility licensed to provide midwifery services pursuant to chapters 18.46, 18.50, and 18.88 RCW.

"Market assistance plan" or "MAP" means the voluntary consumer assistance plan established pursuant to the provisions of RCW 48.22.050.

"Member insurer" means any insurer that on or after July 25, 1993, possesses a certificate of authority to write medical malpractice, general casualty insurance, or both, within this state.

"Midwifery and birth center insurance" means insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as a result of negligence or malpractice in rendering professional service by any licensee.

"Service insurer" means any insurance company designated by the association and approved by the commissioner to issue policies pursuant to this chapter.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-020, filed 12/30/93, effective 1/30/94.]

WAC 284-87-030 The association. (1) A nonprofit joint underwriting association for midwifery and birthing

centers malpractice insurance is hereby established. Membership in the association shall be mandatory for all insurers that on or after July 25, 1993, possess a certificate of authority to write medical malpractice, general casualty insurance, or both, within this state. Every such insurer shall be and remain a member of the association and fulfill all its membership obligations as a condition of its authority to continue to transact property and casualty insurance business in this state. An insurer ceases to be a member insurer upon surrender of its certificate of authority to transact insurance in this state.

(2) The association shall remain inactive, except for the actions of the board enumerated in WAC 284-78-050 through 284-78-080, until it is activated by the commissioner as provided in WAC 284-78-040.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-030, filed 12/30/93, effective 1/30/94.]

WAC 284-87-040 Activation of association. (1) If the commissioner finds that any licensee is not reasonably able to obtain midwifery or birthing center malpractice insurance with liability limits of at least one million dollars per individual and three million dollars per occurrence from the voluntary insurance market, the commissioner may notify the association of such finding and direct that its board promptly convene and submit its plan of operation and bylaws to the commissioner for approval. Such plan shall include its evaluation and report relative to the feasibility of a market assistance plan to be conducted by the association as a voluntary program, or a plan to be conducted pursuant to the authority given to the commissioner by RCW 48.22.050. Pursuant to RCW 48.87.030, a MAP shall be used prior to activating a joint underwriting association.

(2) If the use of a MAP is unsuccessful, the commissioner may instruct the board to activate the authority of the association and commence writing midwifery and birthing center malpractice insurance, in accordance with this chapter.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-040, filed 12/30/93, effective 1/30/94.]

WAC 284-87-050 Administration. (1) The association shall be administered by a governing board, subject to the supervision of the commissioner, and operated by a manager appointed by the board.

(2) The board shall consist of seven members. Four board members shall be member insurers appointed by the commissioner. A fifth board member shall be the insurer designated as the service insurer for the association (or, if there is more than one service insurer, the fifth board member shall be such service insurer as the commissioner designates as the board member). The other two board members shall be licensees who are appointed by the commissioner to so serve, neither of whom shall be interested, directly or indirectly, in any insurer except as a policyholder. Three of the original board members shall be appointed to serve an initial term of three years, two shall be appointed serve an initial term of two years, and the remaining shall be appointed to serve a one-year initial term. All other terms shall be for three years or until a successor has been appointed. Not more than one member insurer in a group under the same management or ownership shall serve

on the board at the same time. At least one of the four insurers on the board shall be a domestic insurer. Members of the board may be removed by the commissioner for cause.

(3) Each person serving on the board or any subcommittee thereof, each member insurer of the association, and each officer and employee of the association shall be indemnified by the association against all costs and expenses actually and necessarily incurred by him, her, or it in connection with the defense of any action, suit, or proceeding in which he, she, or it is made a party by reason of his, her, or its being or having been a member of the board, or a member or officer or employee of the association, except in relation to matters as to which he, she, or it has been judged in such action, suit, or proceeding to be liable by reason of wilful misconduct in the performance of his, her, or its duties as a member of such board, or member, officer, or employee of the association. This indemnification shall not be exclusive of other rights as to which such member, or officer, or employee may be entitled as a matter of law.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-050, filed 12/30/93, effective 1/30/94.]

WAC 284-87-060 General powers and duties of the board. (1) Within thirty days after the appointment of its members by the commissioner, the board shall prepare and adopt a plan of operation and bylaws consistent with this chapter, subject to approval by the commissioner. In a timely manner thereafter, the board shall take all actions necessary to prepare the association to receive applications and issue policies, when and if the commissioner activates the association as provided in WAC 284-87-040. These actions shall include the preparation of all necessary policy forms and rating information to be filed with the commissioner for approval and all necessary operating manuals and procedures to be followed.

(2) The board shall meet as often as may be required to perform the general duties of the administration of the association or on the call of the commissioner. Four members of the board shall constitute a quorum at least one of whom shall be a licensee board member.

(3) The board may appoint a manager, who shall serve at the pleasure of the board, to perform any duties necessary or incidental to the proper administration of the association, including the hiring of necessary staff.

(4) The board shall annually furnish to all member insurers of the association and to the commissioner a written report of operations.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-060, filed 12/30/93, effective 1/30/94.]

WAC 284-87-070 Assessments. (1) The board may calculate, levy, and collect assessments from member insurers whenever necessary for the orderly operation of the association.

(2) After its formation, the board may calculate, levy, and collect from member insurers a start-up assessment to pay initial expenses of the association and to establish any necessary reserves. The start-up assessment shall not exceed five hundred dollars per member insurer. For ease of administration, the share of the start-up assessment levied

upon and collected from each member insurer shall be the same for each member insurer, regardless of size and regardless of whether it is actively writing business in this state.

(3) Any assessment subsequent to the initial start-up assessment shall be used to offset losses and/or expenses in excess of income received by the association. These assessments may be made as often as the board determines is necessary. Each member insurer shall be assessed a proportionate share based on the sum of "direct premiums earned" in this state on the reporting line for "medical malpractice" and for "other liability" (currently lines 11 and 17, of page 14), on the member insurer's most recent annual statement to the commissioner. Member insurers reporting zero "direct premiums earned" on the member insurer's most recent annual statement to the commissioner, will not be assessed.

(4) Assessments are due thirty days after mailing. Any member insurer failing to remit its assessment when due is subject to revocation of its certificate of authority.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-070, filed 12/30/93, effective 1/30/94.]

WAC 284-87-080 Statistics, records, and reports.

(1) The association shall maintain statistics on business written and shall make the following quarterly report to the commissioner:

- (a) Number of applications received by the association;
- (b) Number of applications accepted by the association and the total and average premiums charged, including the high and low premiums;
- (c) Number of risks declined;
- (d) Number of risks conditionally declined and the number ultimately accepted after having been conditionally declined; and
- (e) Number of risks cancelled.

(2) In addition to statistics, the association shall maintain complete and separate records of all business transactions, including copies of all policies and endorsements issued by the association, and records of reasons provided for each declination of coverage or cancellation of coverage, including the results of any on-site inspections, or investigations of applicants or insureds or their employees. Information concerning individual licensees shall be kept confidential to the extent permitted by law.

(3) Regular reports of the association's operations shall be submitted to all members of the board and to the commissioner, such reports to include, but not necessarily to be limited to, premiums written and earned, losses, including loss adjustment expense, paid and incurred, all other expenses incurred, outstanding liabilities, and, at least once a year, the proposed annual budget of the association for the next fiscal year.

(4) The books of account, records, reports, and other documents of the associations shall be open to the commissioner for examination at all reasonable times.

(5) The books of account, records, reports, and other documents of the association shall be open to inspection by members only at such times and under such conditions as the board shall determine.

(6) The books of account of any and all servicing insurers may be audited by a firm of independent auditors designated by the board.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-080, filed 12/30/93, effective 1/30/94.]

WAC 284-87-090 Eligibility of licensees for coverage. Any licensee that is unable to obtain midwifery or birthing center insurance with liability limits of at least one million dollars per individual and three million dollars per occurrence from the voluntary insurance market or from any market assistance plan organized pursuant to RCW 48.22.050, is eligible to apply for coverage through the association. The association's service insurer shall promptly process such application and, if the licensee is judged to be an acceptable insurable risk, offer coverage to the licensee. In view of the purpose of chapter 48.87 RCW, every licensee will be presumed to be an acceptable insurable risk for the association. To refuse coverage to any licensee meeting the other eligibility requirements of this section, the association must have the prior written approval of the commissioner. The commissioner will grant such approval only if the association demonstrates that extraordinary circumstances justify refusing coverage to such individual licensee.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-090, filed 12/30/93, effective 1/30/94.]

WAC 284-87-100 Standard policy coverage—Premiums. (1) All policies issued by the association shall have liability limits of at least one million dollars per individual and three million dollars per occurrence and shall be issued for a term of one year.

(2) Premiums shall be based on the association's rate filings approved by the commissioner in accordance with chapter 48.19 RCW. Such rate filings shall provide for modification of rates for licensees according to the type, size, and past loss experience of each licensee, and any other differences among licensees that can be demonstrated to have a probable effect upon losses.

(3) Consistent with the nonprofit character of the association, rates for policies issued by the association shall be set so that the expected profit (that is, premiums plus investment income minus the sum of expenses and losses) is zero.

(4) The association is exempt from the requirements of WAC 284-24-065.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-100, filed 12/30/93, effective 1/30/94.]

WAC 284-87-110 Renewal of policies. (1) Policies written by the association will not automatically renew. To obtain continuing coverage by the association, a licensee must again satisfy initial eligibility requirements under WAC 284-87-090 at the end of the expiring policy term.

(2) The association shall notify covered licensees in writing at least forty-five days prior to the expiration of a policy term of the need to submit a new application for coverage to the association to continue coverage.

(3) If the association fails to provide the required written notice, the existing policy shall continue in force

until the association has provided the required notice. In such case, premium shall be charged the licensee on a pro rata basis for coverage during the extended coverage period.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-110, filed 12/30/93, effective 1/30/94.]

WAC 284-87-120 Cancellation of policies. (1) No policy or binder issued pursuant to this chapter shall be cancelled except:

(a) For nonpayment of premium, in which case cancellation of the policy shall be effected by providing ten days written notice in advance of the date of cancellation. Payment to the association of all premiums due, prior to the effective date of the cancellation, shall continue coverage as if no cancellation notice had been issued; or

(b) With the prior written approval of the commissioner upon the request of the board, for cause which would have been grounds for refusal of coverage under WAC 284-87-090.

(2) Notice of cancellation, accompanied by the actual reason therefor, shall be sent to the named insured.

(3) Any cancellation notice sent to the named insured shall be accompanied by a statement that the named insured has a right of appeal to the commissioner.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-120, filed 12/30/93, effective 1/30/94.]

WAC 284-87-130 Right of appeal. (1) Any applicant or insured, licensed pursuant to chapter 18.46, 18.50, or 18.88 RCW, shall have a right of appeal to the commissioner, including the right to appear personally before the commissioner or his or her designee, if requested by the person seeking appeal, from any decision by the board.

(2) Appeals to the commissioner under this provision shall be handled in accordance with chapters 48.04 and 34.05 RCW.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-130, filed 12/30/93, effective 1/30/94.]

WAC 284-87-140 Cooperation of agents and brokers. All licensed insurance agents and brokers shall provide full cooperation in carrying out the aims and the operation of the association.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-140, filed 12/30/93, effective 1/30/94.]

WAC 284-87-150 Commissions. The association shall pay commissions as established by the board on policies issued pursuant to this chapter to the licensed agent or broker designated by the applicant.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-150, filed 12/30/93, effective 1/30/94.]

WAC 284-87-160 Additional notice required. Any notice of cancellation or nonrenewal of midwifery or birthing center insurance given by an insurer to a licensee potentially eligible for coverage through the association shall include or be accompanied by an explanation of the licensee's right and procedure to obtain insurance through the association.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-160, filed 12/30/93, effective 1/30/94.]

WAC 284-87-170 Termination of association. The association shall have perpetual existence, subject to repeal or modification of this chapter.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-170, filed 12/30/93, effective 1/30/94.]

Chapter 284-92 WAC LIABILITY RISK RETENTION

WAC

284-92-010	Definitions.
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284-92-230	Appointment for service of process.
284-92-240	Suspension and revocation of registration.
284-92-250	Insurers and agents.
284-92-260	Forms.
284-92-270	Disclosure that there is no guaranty association coverage and that some laws may not apply.
284-92-280	Notice of changes.
284-92-290	Domestic purchasing groups.
284-92-410	Registration required.
284-92-420	Registration effective upon notice by commissioner.
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284-92-450	Agents.
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284-92-470	Notice of changes.
284-92-480	Reports.
284-92-490	Required disclosure "notice."
284-92-500	Domestic risk retention groups—Formation.
284-92-510	Domestic risk retention groups—Reports.

WAC 284-92-010 Definitions. The definitions in chapter 48.92 RCW apply in this regulation unless otherwise specified or unless the context clearly requires otherwise.

(1) "Domestic purchasing group" means a purchasing group formed under the laws of this state.

(2) "Domestic risk retention group" means a risk retention group formed under the laws of this state.

(3) "State" includes any state of the United States or the District of Columbia.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-010, filed 9/1/93, effective 10/2/93.]

WAC 284-92-020 Preexisting registrations. Registrations of purchasing groups effected before the date this regulation becomes effective are cancelled as of 11:59 p.m. on December 31, 1993. This date may be extended by the commissioner in a particular case or class of cases for good cause shown. After that date, or after the extended date, no purchasing group is registered unless registered after the effective date of this regulation.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-020, filed 9/1/93, effective 10/2/93.]

WAC 284-92-210 Registration required. No purchasing group may provide insurance, offer to provide insurance, or solicit or invite applications for insurance, as to Washington residents, or otherwise transact insurance in

Washington or with respect to Washington residents, until it is registered.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-210, filed 9/1/93, effective 10/2/93.]

WAC 284-92-220 Registration effective upon notice by commissioner. No purchasing group is registered until it has been notified by the commissioner that it is registered. There is no "deemer."

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-220, filed 9/1/93, effective 10/2/93.]

WAC 284-92-230 Appointment for service of process. (1) Except as provided by RCW 48.92.080, the request for registration must include an appointment of the commissioner as agent for service of process, as provided in chapter 48.92 RCW.

(2) The doing of business as a purchasing group in Washington, or as to Washington residents, in itself constitutes such an appointment of the commissioner. This automatic appointment is effective whether or not an explicit appointment was made or was valid or effective. This automatic appointment does not apply to a purchasing group not required so to appoint the commissioner under RCW 48.92.080.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-230, filed 9/1/93, effective 10/2/93.]

WAC 284-92-240 Suspension and revocation of registration. The grounds for suspension or revocation mentioned in this section are in addition to those mentioned elsewhere in this regulation or in other applicable law or regulation. The registration of a purchasing group may be suspended or revoked:

(1) If any basis exists on which, if the purchasing group were an insurer, agent, or broker, its certificate of authority or its license could be suspended or revoked.

(2) If any insurer issuing policies for the purchasing group is subject, or would be subject if it were an authorized insurer, to suspension or revocation of its certificate of authority under RCW 48.05.140.

(3) If any insurer issuing policies for or to the purchasing group has any order of supervision, receivership, conservation, or liquidation, or any order similar to such an order, entered against it in any state or country by a court or insurance commissioner (or equivalent supervisory official).

(4) If the purchasing group solicits or accepts, or permits the solicitation or acceptance, of insurance applications by a person not licensed in Washington as an insurance agent or broker; or does or permits any other act, by a person not licensed as an agent or broker, if that act may be performed only by one so licensed.

(5) If the purchasing group fails to reply fully, accurately, and in writing to an inquiry of the commissioner.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-240, filed 9/1/93, effective 10/2/93.]

WAC 284-92-250 Insurers and agents. (1) Insurance for a purchasing group may be provided only by one or more of the following: An insurer holding a certificate of

authority to transact the relevant line of business in Washington; a risk retention group registered in Washington; or an insurer acting lawfully in accordance with chapter 48.15 RCW and the regulations thereunder (except as provided in chapter 48.92 RCW or this regulation). Insurance for a domestic purchasing group may be provided only by an insurer holding a Washington certificate of authority to transact that type of insurance.

(2) Chapters 48.15 and 48.17 RCW require that certain acts and functions be performed only by a person licensed thereunder. Those requirements apply equally to transactions involving purchasing groups, except as provided in RCW 48.92.120(3) and WAC 284-15-100.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-250, filed 9/1/93, effective 10/2/93.]

WAC 284-92-260 Forms. (1) The requirements for filing and approval of policy rates and forms apply to forms issued to or in connection with purchasing groups to the same extent as they apply in other situations.

(2) Notwithstanding subsection (1) of this section, forms that have been properly issued in Washington before the effective date of this regulation may continue to be issued or renewed until February 1, 1994, or such later date as the commissioner approves. After that date, those forms are subject to subsection (1) of this section.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-260, filed 9/1/93, effective 10/2/93.]

WAC 284-92-270 Disclosure that there is no guaranty association coverage and that some laws may not apply. (1) Under RCW 48.92.050 (3) and (4), in some situations there is no coverage by the Washington Insurance Guaranty Association for some insurance obtained by a purchasing group. Under RCW 48.92.090(2), the purchasing group must inform its members of the lack of that protection and that the insurer or risk retention group may not be subject to all insurance laws and regulations of this state. In any such situation, the disclosure must be in writing. It must be given when the application is taken. The disclosure must be reasonably calculated to make the individual aware of the lack of guaranty coverage and the inapplicability of some laws and regulations. The lack of coverage and that inapplicability may not be presented as an advantage or as a technical oddity, nor may it be downplayed by references to the solvency of the insurer or otherwise.

(2) If the insurance is to be issued by a risk retention group, compliance with WAC 284-92-700 and RCW 48.92.040(7) is sufficient compliance with this rule and with RCW 48.92.090(2).

(3) The insurer, for a domestic purchasing group on risks located in Washington, must be an insurer holding a Washington certificate of authority for that type of insurance, or a registered risk retention group.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-270, filed 9/1/93, effective 10/2/93.]

WAC 284-92-280 Notice of changes. If any information included in the request for registration, or otherwise provided to the commissioner, changes or is found to have been incorrect when submitted, the commissioner must be

notified within ten days of the change or the discovery of the inaccuracy.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-280, filed 9/1/93, effective 10/2/93.]

WAC 284-92-290 Domestic purchasing groups. (1) No domestic purchasing group will be registered unless the purchasing group has and maintains in Washington the records applicable to its business, including records as to insured persons, financial matters, and the like. There must also be resident in Washington an officer of the purchasing group who is able and qualified to present, interpret, and explain those records to the commissioner or the commissioner's representative on demand.

(2) Each domestic purchasing group shall submit an annual report to the commissioner. That report shall state the number of policies, amount of insurance coverage, and amount of premium provided, the number and types of insured persons, and such other matters as the commissioner shall direct. The report shall be submitted for each calendar year, and shall be submitted no later than January 31 of the following year unless the commissioner allows a later filing. Any other information requested by the commissioner shall be promptly provided.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-290, filed 9/1/93, effective 10/2/93.]

WAC 284-92-410 Registration required. No risk retention group may provide insurance, offer to provide insurance, or solicit or invite applications for insurance, as to Washington residents, or otherwise transact insurance in Washington or with respect to Washington residents, until it is registered.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-410, filed 9/1/93, effective 10/2/93.]

WAC 284-92-420 Registration effective upon notice by commissioner. No risk retention group is registered until it has been notified by the Commissioner that it is registered. There is no "deemer."

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-420, filed 9/1/93, effective 10/2/93.]

WAC 284-92-430 Registration—Appointment for service of process. (1) The request for registration must include an appointment of the commissioner as agent for service of process, as provided in chapter 48.92 RCW.

(2) The doing of business as a risk retention group in Washington, or as to Washington residents, in itself constitutes such an appointment of the commissioner. This automatic appointment operates in all cases, whether or not an explicit appointment was made or was valid or effective.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-430, filed 9/1/93, effective 10/2/93.]

WAC 284-92-440 Suspension and revocation of registration. The grounds for suspension or revocation mentioned in this section are in addition to those mentioned elsewhere in this regulation or in other applicable law or regulation. In addition, a domestic risk retention group is

subject to the same sanctions, on the same grounds, as a domestic insurer, including revocation of its certificate of authority. The registration of a risk retention group may be suspended or revoked if:

(1) Any basis exists on which, if the risk retention group were an authorized insurer, its certificate of authority could be suspended or revoked, under chapter 48.05 RCW or otherwise.

(2) If the risk retention group has any order of supervision, receivership, conservation, or liquidation, or any order similar to such an order, entered against it in any state or country by a court or insurance commissioner (or equivalent supervisory official); or any such court or official finds that the risk retention group is in a hazardous financial or financially impaired condition.

(3) If the risk retention group solicits or accepts, or permits the solicitation or acceptance, of insurance applications by anyone not appropriately licensed as an agent or broker; or does or permits any other act by a person not appropriately licensed as an agent or broker, if that act may be performed only by one so licensed.

(4) An order is entered by a court enjoining the risk retention group from soliciting or selling insurance, or operating.

(5) If the risk retention group fails to respond fully, accurately, and in writing to an inquiry of the commissioner.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-440, filed 9/1/93, effective 10/2/93.]

WAC 284-92-450 Agents. Only appropriately licensed agents or brokers may solicit or accept applications for insurance to be issued by a risk retention group.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-450, filed 9/1/93, effective 10/2/93.]

WAC 284-92-460 Tax. The premium tax under chapter 48.14 applies to insurance issued by risk retention groups. Failure to pay the tax when due is grounds for suspension or revocation of the registration of the risk retention group, in addition to other fines, penalties, interest, and other consequences provided by law or regulation.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-460, filed 9/1/93, effective 10/2/93.]

WAC 284-92-470 Notice of changes. If any information included in the request for registration, or otherwise provided to the commissioner, changes or is found to have been incorrect when submitted, the commissioner must be notified within ten days of the change or the discovery of the inaccuracy.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-470, filed 9/1/93, effective 10/2/93.]

WAC 284-92-480 Reports. Each registered risk retention group shall submit to the commissioner copies of any annual statements or reports, or other reports on operations and financial results or condition, that are filed by it with the insurance regulatory official of its state of domicile or with the National Association of Insurance Commissioners. Quarterly and other reports are not required and should

not be submitted unless requested by the commissioner. See WAC 284-92-710 as to reports required of domestic risk retention groups. Reports shall be on disk as well as in paper form. These reports are in addition to those required by RCW 48.92.030(2).

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-480, filed 9/1/93, effective 10/2/93.]

WAC 284-92-490 Required disclosure "notice." The "notice" requirement of RCW 48.92.040(7) is to be applied as follows:

(1) On an application form, the notice must appear on the first page. On a policy, the notice must appear both on the first page and on the declaration page; if the declaration page is the first page, one appearance of the notice suffices.

(2) The notice or a similar disclosure may be repeated elsewhere.

(3) The disclosure and the information in it may not be presented as an advantage or as a technical oddity, nor downplayed by references to the solvency of the insurer or otherwise.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-490, filed 9/1/93, effective 10/2/93.]

WAC 284-92-500 Domestic risk retention groups—Formation. A domestic risk retention group must be formed in compliance with chapter 48.06 RCW. It must meet the capital and surplus requirements applicable under RCW 48.05.340 to insurers transacting the kind or kinds of insurance that the domestic risk retention group proposes to transact. It must comply with the other requirements for domestic insurers and with chapter 48.92 RCW.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-500, filed 9/1/93, effective 10/2/93.]

WAC 284-92-510 Domestic risk retention groups—Reports. Domestic risk retention groups shall file the reports required by RCW 48.92.030. In addition, domestic risk retention groups shall file quarterly financial reports and any other statements or reports required by the commissioner for such groups in general or for any one or more such groups. The commissioner may require any reports from any one or more risk retention groups, at any time and from time to time. Reports shall be both on paper and on diskette.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-510, filed 9/1/93, effective 10/2/93.]

Title 286 WAC

INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Chapters

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286-27 Washington wildlife and recreation program.