

**WAC 284-36A-045 Regulatory action level event.** (1) "Regulatory action level event" means, with respect to a fraternal benefit society, any of the following events:

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

(b) The notification by the commissioner to a fraternal benefit society of an adjusted RBS report that indicates the event in (a) of this subsection, provided the fraternal benefit society does not challenge the adjusted RBS report under WAC 284-36A-060;

(c) If, pursuant to WAC 284-36A-060, the fraternal benefit society challenges an adjusted RBS report that indicates the event in (a) of this subsection, the notification by the commissioner to the fraternal benefit society that the commissioner has, after a hearing, rejected the fraternal benefit society's challenge;

(d) The failure of the fraternal benefit society to file an RBS report by the filing date, unless the fraternal benefit society 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 fraternal benefit society to submit an RBS plan to the commissioner within the time period set forth in WAC 284-36A-040(3);

(f) Notification by the commissioner to the fraternal benefit society that:

(i) The RBS plan or revised RBS plan submitted by the fraternal benefit society is, in the judgment of the commissioner, unsatisfactory; and

(ii) Such notification constitutes a regulatory action level event with respect to the fraternal benefit society, provided the fraternal benefit society has not challenged the determination under WAC 284-36A-060;

(g) If, pursuant to WAC 284-36A-060, the fraternal benefit society challenges a determination by the commissioner under (f) of this subsection, the notification by the commissioner to the fraternal benefit society that the commissioner has, after a hearing, rejected such challenge;

(h) Notification by the commissioner to the fraternal benefit society that the fraternal benefit society has failed to adhere to its RBS plan or revised RBS plan, but only if such failure has a substantial adverse effect on the ability of the fraternal benefit society to eliminate the society action level event in accordance with its RBS plan or revised RBS plan and the commissioner has so stated in the notification, provided the fraternal benefit society has not challenged the determination under WAC 284-36A-060; or

(i) If, pursuant to WAC 284-36A-060, the fraternal benefit society challenges a determination by the commissioner under (h) of this subsection, the notification by the commissioner to the fraternal benefit society that the commissioner has, after a hearing, rejected the challenge.

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

(a) Require the fraternal benefit society to prepare and submit an RBS plan or, if applicable, a revised RBS plan;

(b) Perform such examination or analysis as the commissioner deems necessary of the assets, liabilities and operations of the fra-

ternal benefit society including a review of its RBS plan or revised RBS 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 fraternal benefit society based upon the commissioner's examination or analysis of the assets, liabilities and operations of the fraternal benefit society, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the RBS instructions. The RBS plan or revised RBS plan shall be submitted:

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

(b) If the fraternal benefit society challenges an adjusted RBS report pursuant to WAC 284-36A-060 and the challenge is not frivolous in the judgment of the commissioner within forty-five days after the notification to the fraternal benefit society that the commissioner has, after a hearing, rejected the fraternal benefit society's challenge; or

(c) If the fraternal benefit society challenges a revised RBS plan pursuant to WAC 284-36A-060 and the challenge is not frivolous in the judgment of the commissioner, within forty-five days after the notification to the fraternal benefit society that the commissioner has, after a hearing, rejected the fraternal benefit society'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 fraternal benefit society's RBS plan or revised RBS plan, examine or analyze the assets, liabilities and operations of the fraternal benefit society and formulate the corrective order with respect to the fraternal benefit society. The fees, costs and expenses relating to consultants shall be borne by the affected fraternal benefit society or such other party as directed by the commissioner.

[Statutory Authority: RCW 48.02.060, 48.36A.100 and 48.36A.290. WSR 98-09-016 (Matter R 98-03), § 284-36A-045, filed 4/6/98, effective 5/7/98.]