



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Office of Insurance Commissioner

Permanent Rule Only

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Insurance Commissioner Matter No. R 2008-15

Purpose: In 2005, the legislature enacted HB 1034 authorizing the Commissioner to place an insurer under administrative supervision under specified circumstances. These new rules establish the process for the administrative supervision of an insurer or carrier, requirements for the plan of correction an insurer or carrier must prepare and follow when it is subject to an administrative supervision order, and procedures for the administrative supervisor authorized under the Commissioner's order.

Citation of existing rules affected by this order:

Repealed: 0
 Amended: 0
 Suspended: 0

Statutory authority for adoption: RCW 48.02.060, 48.31.435

Other authority : RCW 48.31.400, 48.31.900

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 09-17-123 on August 19, 2009.
 Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Date adopted:

November 9, 2009

NAME (TYPE OR PRINT)

Mike Kreidler

SIGNATURE

TITLE

Insurance Commissioner

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: November 09, 2009
TIME: 8:16 AM

WSR 09-23-022

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>6</u>	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

ADMINISTRATIVE SUPERVISION OF INSURERS

NEW SECTION

WAC 284-16-600 Purpose. The purpose of this regulation, WAC 284-16-600 through 284-16-650, is to establish standards and procedures for the administrative supervision of insurers exceeding their powers or engaging in methods or practices that render the continuance of their business financially hazardous to their policyholders, creditors or the general public.

NEW SECTION

WAC 284-16-610 Definitions. The following definitions apply throughout this regulation unless the context clearly requires otherwise:

(1) The term "exceeded its powers" has the meaning set forth at RCW 48.31.020 (2) (a).

(2) The term "financially hazardous" means the standards set forth at WAC 284-16-310.

(3) "Insurer" has the meaning set forth at RCW 48.31.020(1) and 48.31.021.

(4) "Plan of correction" is an insurer's written plan to address or correct the commissioner's requirements to abate the findings and determination in the commissioner's order for administrative supervision.

NEW SECTION

WAC 284-16-620 Process for establishing administrative supervision of an insurer. (1) The commissioner may issue an order for administrative supervision and appoint an administrative supervisor if the commissioner makes a finding that:

(a) The insurer is in a condition which makes its continued operation financially hazardous to its policyholders, creditors or

the general public; or

(b) The insurer has exceeded its powers.

(2) In making a determination in subsection (1) of this section, the commissioner will consider:

(a) The conditions in RCW 48.31.020 (2)(a) to determine whether an insurer has exceeded its powers; or

(b) The findings in RCW 48.31.400(1), standards in WAC 284-16-310, and authorized actions in WAC 284-16-320(1) to determine whether an insurer is in financially hazardous condition.

NEW SECTION

WAC 284-16-630 Plan of correction. (1) This plan of correction must include one or more of the actions under WAC 284-16-320(2), and may include one or more prohibitions contained in the order.

(2) The contents of a plan of correction must address the specific facts and circumstances that led to the order. The plan of correction must include all of the following elements necessary to fully address the list of requirements contained in the administrative supervision order:

(a) An executive summary identifying the objective goals of the plan with key implementation dates and a projected date for full statutory compliance;

(b) A background description of the insurer describing its history, ownership structure, relationships with affiliates, management structure, key employees, and overall operating structure of its organization;

(c) The financial condition of the insurer summarizing its major categories of assets and liabilities, revenues and expenses, and debt and capital structure based on actual annual results for the previous two calendar years and monthly financial forecasts and assumptions for the next three year period to include any specific business plans by function from the date of the commissioner's order;

(d) The causes of the financially hazardous condition or exceeding its powers situation giving rise to supervision proceedings;

(e) The proposed corrective actions specifically identifying operational changes, contractual changes, management changes, and internal control structure changes;

(f) A proposal for monitoring and reporting systems to provide periodic reviews of progress and comparisons of actual results with the plan of correction objectives;

(g) An agreement that the insurer will provide a copy of any notice, request, or other communication from any other regulatory authority that is received by the insurer under administrative supervision to the administrative supervisor or designee within

five business days after receipt by the insurer; and

(h) Any other element necessary to fully address a requirement contained in the administrative supervision order.

NEW SECTION

WAC 284-16-640 Compliance with written requirements of commissioner--Noncompliance. (1) Within fifteen days after receipt of the commissioner's order, the insurer under administrative supervision must submit its plan of correction to address or correct the stated requirements in writing to the commissioner. The commissioner may extend the fifteen-day time period for submission of the plan of correction if the commissioner finds the insurer establishes good cause for the extension.

(2) If the commissioner and the insurer agree on the plan of correction, the commissioner will issue a written order to carry out the plan of correction. The insurer must not implement its plan of correction prior to receiving written approval by the commissioner.

(3) If the insurer fails to timely submit or the commissioner and the insurer are unable to agree to a plan of correction, the commissioner may enter an order requiring the insurer to take such corrective actions as may be reasonably necessary to remove the causes and conditions giving rise to the need for administrative supervision.

(4) Failure of the insurer to timely submit a plan of correction is a violation of the applicable provisions of Title 48 RCW.

(5) A copy of the commissioner's order approving the plan of correction or the order requiring the insurer to take corrective actions will be provided to the insurer and to the administrative supervisor.

NEW SECTION

WAC 284-16-650 Administrative supervisor duties. (1) To the extent possible and consistent with the list of requirements referenced in RCW 48.31.400 (2)(b), the administrative supervisor will allow the insurer to continue its existing operations.

(2) The administrative supervisor will establish appropriate disbursement limits consistent with good internal control principles to facilitate prompt payment of claims and payables.

(3) Unless the processing of claims is an issue identified in the list of requirements referenced in RCW 48.31.400 (2)(b), the

administrative supervisor will allow claims to be processed in the ordinary course of business.

(4) The administrative supervisor will promptly acknowledge every insurer's request for approval of actions identified in the administrative supervision order or plan of correction that requires approval. To the extent feasible, the administrative supervisor will act on an insurer's requests within five business days after receipt.