



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Office of the Insurance Commissioner

- Preproposal Statement of Inquiry was filed as WSR 16-01-051
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR _____

Title of rule and other identifying information: Addressing the insurance commissioner's powers during a state of emergency

Insurance Commissioner Matter No. R 2015-17

Hearing location(s):
Office of the Insurance Commissioner
Training Room (TR-120)
5000 Capitol Blvd. SE
Tumwater, WA 98504-0255

Date: September 29, 2016 Time: 11:00 a.m.

Submit written comments to:

Name: Stacy Middleton
Address: P.O. Box 40260
Olympia, WA 98504
e-mail rulescoordinator@oic.wa.gov
Fax: 360-586-3109 by (date) September 28, 2016

Assistance for persons with disabilities:

Contact: Lorie Villaflores by September 28, 2016
TTY (360) 586-0241 or (360) 725-7087

Date of intended adoption: September 30, 2016
(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The Legislature passed RCW 48.02.060(4) in 2009, giving the insurance commissioner authority to issue orders regarding matters related to insurance policies following a proclamation by the governor declaring a state of emergency. RCW 48.02.060(6) gives the commissioner authority to adopt rules that establish general criteria for these orders. To date, the commissioner has not adopted rules. Recently, property & casualty insurers have requested clarifying rules. These proposed rules would add one or more new sections to WAC 284-02, "Insurance Commissioner's Office – Generally." The rules would establish the general criteria for orders the commissioner issues following a proclamation by the governor declaring a state of emergency. The rules would address definitions of terms relevant to emergency orders and criteria related to issuing emergency orders, reporting requirements for claims, grace periods for payment of insurance premiums and performance of other duties by insureds, temporary postponement of cancellations and nonrenewals, and medical coverage to ensure access to care.

Reasons supporting proposal: In light of recent weather and seismic disaster events here and in other states and the fact that other states are considering similar actions or have already adopted rules, the commissioner wants insurers to know what to expect when the governor has proclaimed a state of emergency. The commissioner wants to create rules that protect insurers and insureds during a state of emergency and other emergencies or catastrophes.

Statutory authority for adoption: RCW 48.02.060; RCW 48.17.005; RCW 48.17.420; RCW 48.07.205

Statute being implemented: RCW 48.02.060

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 23, 2016

TIME: 9:14 AM

WSR 16-17-126

DATE August 23, 2016

NAME (type or print)
Mike Kreidler

SIGNATURE

TITLE
Insurance Commissioner

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Mike Kreidler, Insurance Commissioner

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Stacy Middleton	302 Sid Snyder Ave., Olympia, WA 98504-0260	(360) 725-9651
Implementation....John Hamje	5000 Capitol Blvd., Tumwater, WA 98504-0255	(360) 725-7262
Enforcement.....AnnaLisa Gellermann	5000 Capitol Blvd., Tumwater, WA 98504-0255	(360) 725-7050

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

The domestic insurance issuers that must comply with the rule are not small businesses, pursuant to chapter 19.85 RCW.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Stacy Middleton

Address: P.O. Box 40260

Olympia, WA 98504-0260

phone (360) 725-9651

fax (360) 586-3109

e-mail rulescoordinator@oic.wa.gov

No: Please explain:

NEW SECTION

WAC 284-02-110 Purpose and scope. An order issued under RCW 48.02.060 (4) and (5) must refer to the specific proclamation of a state of emergency upon which the order is based, provide the effective date and termination date of the order, and describe the geographic area to which the order applies, by line of insurance. Such an order may include a statement of general findings that describe the need for the order, and declare the harm to be prevented or mitigated by the order.

NEW SECTION

WAC 284-02-120 General considerations for orders. Before the commissioner issues an order under RCW 48.02.060(4), the commissioner may, to the extent feasible, consider any of the following:

(1) The extent to which the circumstances of the proclaimed state of emergency prevents policyholders, providers or facilities, from using normal methods of reporting claims;

(2) What methods of reporting remain available to consumers in the affected areas;

(3) The extent to which the circumstances of the proclaimed state of emergency prevent the payment of insurance premiums;

(4) The extent to which the circumstances of the proclaimed state of emergency prevent the performance of other statutory or contractual duties imposed on policyholders; and

(5) The extent to which the proclaimed state of emergency prevents communication of notices of cancellation or nonrenewal from policyholders to their insurers and the extent to which communication is prevented from insurers to their policyholders.

NEW SECTION

WAC 284-02-130 Criteria considerations for orders. The commissioner may issue an order that does one or more of the following:

(1) Directs insurers to accept alternative methods of reporting claims;

(2) Directs insurers to extend claim reporting periods;

(3) Directs insurers to extend or offer grace periods for payment of insurance premiums;

(4) Directs insurers to temporarily postpone cancellation or non-renewal of policies;

(5) Directs insurers to reissue required notices that may not have been received;

(6) Directs insurers to excuse policyholders from performing other statutory or contractual duties;

(7) Directs insurers to take any other steps authorized by RCW 48.02.060(4); and

(8) Prohibits an insurer from canceling or refusing to renew a policy solely because of a claim resulting from the circumstances of the proclaimed state of emergency.

NEW SECTION

WAC 284-02-140 Additional criteria considerations for orders.

An order of the commissioner under RCW 48.02.060(4) may also address the following matters:

- (1) Whether the order applies to authorized insurers only;
- (2) The classes and categories of insurance policies to which the order applies, whether by specific inclusion or exclusion;
- (3) The categories of insureds and insured property to which the order applies;
- (4) Whether an insurer that receives a claim from an insured owing premium may offset the premium due from any claim payment made under the policy;
- (5) Whether a free look period in a variable life insurance policy or variable annuity contract is extended by the order;
- (6) Procedures to be followed by premium finance companies with respect to cancellation of policies, including notice, proof of notice, and treatment of refunds;
- (7) Procedures to be followed by insurers to extend the length of time to allow for the reporting of claims, if a policy requires a covered person to submit a claim within a specific amount of time;
- (8) The period for which an extension of policy coverage will apply;
- (9) The method for determining premium for the extended term of coverage;
- (10) Whether notices of cancellation or nonrenewals must be withdrawn and reissued;
- (11) When and how an insurer that was unable to cancel or nonrenew a policy owing to an order may cancel or nonrenew the policy following the period to which the order applies;
- (12) The date on which a delayed cancellation or nonrenewal may become effective; and
- (13) Cancellation or nonrenewal of a policy under specific factual circumstances including, but not limited to, fraud or material misrepresentation.

NEW SECTION

WAC 284-02-150 Actions by the commissioner. The commissioner may extend, modify, or rescind an order issued under RCW 48.02.060(4).

NEW SECTION

WAC 284-02-160 Authority of the commissioner. WAC 284-02-110 through 284-02-150 do not in any way limit the commissioner's authority and discretion to issue orders to the extent authorized under RCW 48.02.060(4).