



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (October 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: December 03, 2018

TIME: 1:36 PM

WSR 18-24-084

**Agency:** Office of the Insurance Commissioner

**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:

**Purpose:** Adopting rules for property insurers, except commercial, to provide goods and/or services to their insureds as part of a policy of insurance in order to mitigate or prevent losses and not be in violation of state's inducement laws

R2018-11

**Citation of rules affected by this order:**

- New: WAC 284-33-005, 284-33-010, 284-33-015, 284-33-020, 284-33-030, 284-33-040, 284-33-050
- Repealed:
- Amended:
- Suspended:

**Statutory authority for adoption:** RCW 48.02.60 and 48.18.559

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 18-21-104 on October 16, 2018 (date).

Describe any changes other than editing from proposed to adopted version: The final rule removed 284-33-030(m) *Educational material on home safety* due to multiple comments at public hearing. There was concern that it would affect producers handing out informational brochures, which was not the intent of that language in the rule regarding risk reduction programs. To avoid confusion, it was removed.

The final rule added *pilot risk reduction program* in 284-33-030(1) Goods and Services section for risk reduction programs to provide clarity that the section applies to all risk reduction programs, whether it's a pilot program or the continuous program.

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

- Name: David Forte
- Address: PO Box 40260, Olympia, WA., 98504-0260
- Phone: 360-725-7042
- Fax:
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- Other:

**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>7</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 on the agency's own initiative:**

New	<u>7</u>	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	<u>7</u>	Amended	___	Repealed	___

**Date Adopted:** 12/03/2018

**Name:** Mike Kreidler

**Title:** Insurance Commissioner

**Signature:**



**Chapter 284-33 WAC**  
**RISK REDUCTION FOR PROPERTY INSURANCE**

NEW SECTION

**WAC 284-33-005 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) A "risk reduction program" means a program by a property insurance company to reduce either the probability of loss or extent of loss, or both, from a covered event as described in RCW 48.18.558(1) by supplying its named insured with either goods or services, or both, as described in WAC 284-33-030(1).

(2) "Commercial property insurance" means insurance pertaining to a business, profession, occupation, nonprofit organization, or public entity for the line of property insurance as defined in RCW 48.11.040.

NEW SECTION

**WAC 284-33-010 Purpose and scope.** The purpose of this chapter is to implement RCW 48.18.558, 48.18.559, and 48.19.530 for property insurance by establishing rules:

(1) For property insurers' risk reduction programs for covered events, except commercial property insurance;

(2) For property insurers' pilot risk reduction programs for covered events, except commercial property insurance; and

(3) To identify which property insurers' disaster or emergency response activities for covered events are exempt from RCW 48.18.558, 48.19.530, 48.30.140, and 48.30.150.

NEW SECTION

**WAC 284-33-015 Conditions of the risk reduction program, pilot risk reduction program, and disaster or emergency response activity.** (1) Each insurer conducting any risk reduction program, pilot risk reduction program, or disaster or emergency response activity must maintain records regarding the insured's involvement with the risk reduction program, pilot risk reduction program, or disaster or emergency response activity for three years after its conclusion, and the record must be made available to the commissioner upon request.

(2) If the commissioner finds that a risk reduction program, pilot risk reduction program, or disaster or emergency response activity is in violation of any provision of either Title 48 RCW or 284 WAC, or both, the commissioner may order the insurer to end the risk reduction

program, pilot risk reduction program, or disaster or emergency response activity.

NEW SECTION

**WAC 284-33-020 Notice to insureds participating in risk reduction program.** (1) The insurer must provide a clear and conspicuous notice to the named insured participating in either a risk reduction program, pilot risk reduction program, or both, that accurately describes the right to opt out. The notice must:

- (a) Identify and describe all risk reduction programs being offered to the insured;
- (b) State the goods provided in a program are owned by the named insured, even if the insurance is subsequently canceled or nonrenewed;
- (c) Inform the named insured they may opt out of a program at any time;
- (d) State that if an insured opts out of a program the premium cost of the policy may change; and
- (e) Include a reply form that contains the opt out notice information.

(2) If an insurer communicates with the insured electronically, the insurer may deliver the reply form and opt out notice information electronically, as an electronic form, and the insured may reply to the opt out option via electronic signatures and electronic attestation, in accordance with 15 U.S.C. Sec. 7001 and chapter 48.185 RCW. Electronic communication shall have the same force and effect as paper communications.

(3) The notice to opt out must be included at policy inception or, if the policy is already in effect, at the beginning of a risk reduction program or pilot risk reduction program.

(4) If a named insured elects to opt out of a risk reduction program and later requests to rejoin, an insurer must allow the named insured to rejoin at the earliest reasonable time available in the program.

(5) If a named insured elects to opt out of a pilot risk reduction program, an insurer may allow the insured to rejoin if the opportunity is available.

NEW SECTION

**WAC 284-33-030 Goods and services.** (1) All goods or services, or both, that are approved by the commissioner to be included within a property insurer's risk reduction program, or pilot risk reduction program, or both, must be implemented by the insurer to reduce either the probability of damage or extent of damage, or both, by a peril covered under the property policy, and may include:

- (a) Smoke alarms;
- (b) Fire extinguishers;
- (c) Natural gas detectors;
- (d) Brush and other wildfire fuel source removal services;
- (e) Water monitors;
- (f) Water shut off systems;

- (g) Earthquake strapping;
- (h) Locking mechanisms to secure property;
- (i) Lightning protection devices;
- (j) Security lighting;
- (k) Security camera systems;
- (l) Home safety monitoring systems; and
- (m) Other goods or services, or both, the commissioner may ap-prove through a form filing.

(2) A voucher provided from the insurer to the insured for either goods or services, or both, is only permissible for those items as described in subsection (1) of this section and must fully redeem either the goods or services, or both, being used in the risk reduction program.

#### NEW SECTION

**WAC 284-33-040 Pilot program filing.** (1) To qualify as a pilot program as described in RCW 48.18.558(6), a form for the pilot risk reduction program must be filed with and approved by the commissioner prior to offer to insured.

(2) Within the submitted form of the pilot risk reduction program, the insurer must provide the same information it offers its participants of the pilot risk reduction program, including:

- (a) The intent of the pilot risk reduction program;
- (b) A description of either the goods or services, or both, of-fered in the pilot risk reduction program; and
- (c) The intended start date of the pilot risk reduction program.

#### NEW SECTION

**WAC 284-33-050 Identifying disaster or emergency response activity.** To be exempt from RCW 48.18.558, 48.19.530, 48.30.140, and 48.30.150, all disaster or emergency response activity by property insurers must be as a result of imminent threat of damage to an insured's covered property and must be undertaken to either prevent or mitigate, or both, damage from a covered event to the insured's property and may include:

- (1) Wildfire suppression and defense measures; and
- (2) Floodwater diversion and sandbagging.