



# 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 13-05-078;** or  
 **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:** (Describe Subject)  
 Filing of service contracts and insurance credit scoring models using SERFF.

Insurance Commissioner Matter No. R 2013-06

**Hearing location(s):**  
 Insurance Commissioner's Office  
 TR 120  
 5000 Capitol Blvd.  
 Tumwater, WA 98504-0255

Date: May 21, 2013 Time: 10:00AM

**Submit written comments to:**  
 Name: Jim Tompkins  
 Address: PO Box 40258  
 Olympia, WA 98504-0258  
 e-mail [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov)  
 Fax: 360-586-3109 by (date) May 20, 2013

**Assistance for persons with disabilities:** Contact  
Lorrie Villaflores by May 20, 2013  
 TTY (360) 586-0241 or (360) 725-7087

**Date of intended adoption:** May 22, 2013  
 (Note: This is **NOT** the **effective** date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The proposed rule will require motor vehicle service contract providers to file their service contract forms through SERFF and require insurers and insurance credit scoring vendors to file their insurance scoring models through SERFF.

**Reasons supporting proposal:** The system for Electronic Rate and Form Filing (SERFF) is a key component of the National Association of Insurance Commissioners (NAIC) speed to market initiative. The SERFF system allows insurance companies and other entities to send and states to receive, comment on, and approve or reject, rate and form filings electronically. SERFF improves the efficiency of the rate and form filing and approval process and reduces the time involved in making regulatory filings, and provides that public records will be more accurate.

**Statutory authority for adoption:** RCW 48.02.060, RCW 48.18.545, RCW 48.19.035, and RCW 48.110.150.

**Statute being implemented:** RCW 48.18.100, RCW 48.19.040,

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

### CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
 STATE OF WASHINGTON  
 FILED

**DATE: April 16, 2013**  
**TIME: 4:37 PM**

**WSR 13-09-062**

**DATE**  
 April 16, 2013

**NAME** (type or print)  
 Deborah McCurley

**SIGNATURE**

**TITLE**  
 Acting Chief Deputy Insurance Commissioner

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

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

Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Lee Barclay	PO Box 40255, Olympia, WA 98504-0255	(360) 725-7115
Implementation.... Beth Berendt	PO Box 40255, Olympia, WA 98504-0255	(360) 725-7117
Enforcement..... Beth Berendt	PO Box 40255, Olympia, WA 98504-0255	(360) 725-7117

**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.

None of the service contractors or insurers potentially affected by this proposed regulation is a domestic small business as defined by RCW 19.85. Therefore, no small business economic impact statement is required.

**Is a cost-benefit analysis required under RCW 34.05.328?**

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

Name: Jim Tompkins

Address: PO Box 40258

Olympia, WA 98504-0258

phone (360) 725-7036

fax     (360)586-3109

e-mail [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov)

No: Please explain:

AMENDATORY SECTION (Amending Matter No. 2007-11, filed 10/15/08, effective 2/1/09)

**WAC 284-20C-005 Definitions that apply to this chapter.** The definitions in this section apply throughout this chapter:

(1) "Complete filing" means a package of information containing motor vehicle service contracts, supporting information, documents and exhibits.

(2) "Contract" means a service contract covering motor vehicles, as described in chapter 48.110 RCW. Under this definition:

(a) "Motor vehicle" means the same as in RCW 48.110.020(11), and only includes vehicles that are self-propelled by a motor; and

(b) "Service contract" means the same as in RCW 48.110.020(16).

(3) "Date filed" means the date a complete motor vehicle service contract filing has been received and accepted by the commissioner.

(4) "Filer" means a person, organization or other entity that files motor vehicle service contracts with the commissioner.

(5) "Objection letter" means correspondence sent by the commissioner to the filer that:

(a) Requests clarification, documentation or other information;

(b) Explains errors or omissions in the filing; or

(c) Disapproves a motor vehicle service contract under RCW 48.110.073.

(6) "SERFF" means the System for Electronic Rate and Form Filing. SERFF is a proprietary National Association of Insurance Commissioners (NAIC) computer-based application that allows filers to create and submit rate, rule and form filings electronically to the commissioner.

(7) "Service contract provider" or "provider" means the same as in RCW 48.110.020(18).

(8) "Type of insurance" means a specific type of insurance listed in the *Uniform Property and Casualty Product Coding Matrix* published by the NAIC and available at [www.naic.org](http://www.naic.org).

NEW SECTION

**WAC 284-20C-015 Filing instructions that are incorporated into this chapter.** SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC

filing standards and provide timely instructions to filers, the commissioner must incorporate documents posted on the SERFF web site into this chapter. By reference, the commissioner incorporates these documents into this chapter:

(1) The *SERFF Industry Manual* available within the SERFF application; and

(2) The *Washington State Motor Vehicle Service Contract Filing Instructions* posted on the commissioner's web site, [www.insurance.wa.gov](http://www.insurance.wa.gov).

AMENDATORY SECTION (Amending Matter No. 2007-11, filed 10/15/08, effective 2/1/09)

**WAC 284-20C-020 General motor vehicle service contract filing rules.** Filers and providers must submit complete filings that comply with these rules:

(1) ~~((Filers)) Filings must ((submit complete filings that))~~ comply with the filing instructions and procedures in the *SERFF Industry Manual* available within the SERFF application and *Washington State Motor Vehicle Service Contract Filing Instructions* ((posted on the commissioner's web site ([www.insurance.wa.gov](http://www.insurance.wa.gov))), which the commissioner incorporates into this section by reference)).

(2) Filers must submit every service contract to the commissioner ~~((in paper format with a completed motor vehicle service contract transmittal document))~~ electronically using SERFF.

(a) Every service contract filed in SERFF must be attached to the form schedule.

(b) All written correspondence related to a service contract filing must be sent in SERFF.

(3) Filers must not combine "prior approval" and "use and file" contracts in one filing. Filers must file these types of contracts separately:

(a) Contracts filed under RCW 48.110.073(2); or

(b) Contracts filed under RCW 48.110.073(3).

(4) All filed contracts must be legible for both the commissioner's review and retention as a public record. Filers must submit new and replaced contracts to the commissioner for review in final printed form displayed in ten-point or larger type.

(5) Each contract must have a unique identifying number and a way to distinguish it from other editions of the same contract.

(6) Filers must submit a completed compliance checklist with each new motor vehicle service contract as supporting documentation. If the filing includes more than one new contract, the filer may:

(a) Complete a separate checklist for each motor vehicle service contract; or

(b) Complete one checklist and submit an explanatory

memorandum that lists any material differences between the filed contracts.

AMENDATORY SECTION (Amending Matter No. R 2004-01, filed 12/29/04, effective 7/1/05)

**WAC 284-24A-005 ((What)) Definitions ((are important to these rules?)) that apply to this chapter.** The definitions in this section apply throughout this chapter:

(1) "Demographic factors" means the factors listed below if they are used in an insurer's rates, rating tiers, rating factors, rating rules or risk classification plan:

((●)) (a) Age of the insured;

((●)) (b) Sex of the insured;

((●)) (c) The rating territory assigned to the property location for residential property insurance and to the vehicle's garage location for personal auto insurance.

(2) "Premium" means the same as RCW 48.18.170.

(3) "Rate" means the cost of insurance per exposure unit.

(4) "Rating factor" means a number used to calculate premium.

(5) "Risk classification plan" means a plan to formulate different premiums for the same coverage based on group characteristics.

(6) "SERFF" means the System for Electronic Rate and Form Filing. SERFF is a proprietary National Association of Insurance Commissioners (NAIC) computer-based application that allows insurers and other entities to create and submit rate, rule and form filings electronically to the commissioner.

(7) "Significant factor" means an important element of a consumer's credit history or insurance score. Examples of significant factors include:

((●)) (a) Bankruptcies, judgments, and liens;

((●)) (b) Delinquent accounts;

((●)) (c) Accounts in collection;

((●)) (d) Payment history;

((●)) (e) Outstanding debt;

((●)) (f) Length of credit history; and

((●)) (g) Number of credit accounts.

(8) "Substantive underwriting factor" means a factor that is very important to an underwriting decision. Examples of substantive underwriting factors include:

((●)) (a) History of filing claims;

((●)) (b) History of moving violations or accidents;

((●)) (c) History of driving uninsured;

((●)) (d) Type of performance for which a vehicle is designed;

and

((●)) (e) Maintenance of a structure to be insured.

(9) "Vehicle" means any motorized vehicle that can be insured under a private passenger auto insurance policy.

NEW SECTION

**WAC 284-24A-007 Filing documents incorporated by reference into this chapter.** SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner will incorporate documents posted on the SERFF web site into this chapter. By reference, the commissioner incorporates these documents into this chapter:

(1) The *SERFF Industry Manual* posted on the SERFF web site ([www.serff.com](http://www.serff.com)); and

(2) The *Washington State SERFF Personal Insurance Scoring Model Filing General Instructions* posted on the commissioner's web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)).

AMENDATORY SECTION (Amending Matter No. R 2001-11, filed 9/6/02, effective 10/7/02)

**WAC 284-24A-020 ((How should)) Filing an insurance scoring model ((be filed?)).** (1) Insurance scoring models must be filed separately. The model must not be filed with any rate or rule filing.

(2) The insurance scoring model must be filed ~~((with the current transmittal form accepted by the commissioner. A copy is available at <http://www.insurance.wa.gov/> or by contacting the rates and forms division))~~ in SERFF in accordance with the Washington State SERFF Personal Insurance Scoring Model Filing General Instructions posted on the commissioner's web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)).

AMENDATORY SECTION (Amending Matter No. R 2001-11, filed 9/6/02, effective 10/7/02)

**WAC 284-24A-025 ((Will the commissioner accept)) Filings by insurance scoring model vendors((?)).** (1) The commissioner will allow vendors to file insurance scoring models. The vendor must file the scoring model in SERFF in accordance with the Washington State SERFF Personal Insurance Scoring Model Filing General Instructions posted on the commissioner's web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)).

(2) Insurers may use models filed by vendors after the commissioner determines the model complies with Washington state laws.

(3) An insurer may use a model that has been filed by a vendor

and accepted by the commissioner if the insurer submits a filing in SERFF that:

- ~~(a) ((Submits a transmittal form; and~~
- ~~(b) A cover letter that:~~
  - ~~(i)) References the vendor that filed the model;~~
  - ~~((iii)) (b) References the filing number and model name used by the vendor;~~
  - ~~((iii)) (c) States whether the insurance scoring model will be used for underwriting, rating, or both; and~~
  - ~~((iv)) (d) Proposes an effective date for the insurer's use of the model.~~

AMENDATORY SECTION (Amending Matter No. R 2001-11, filed 9/6/02, effective 10/7/02)

**WAC 284-24A-030** ~~((How will an insurer or vendor know its insurance scoring model will remain confidential and proprietary?))~~  
**Confidentiality of insurance scoring models.** (1) The law says insurance scoring models will remain confidential unless the commissioner is taking an enforcement action. An insurer or vendor may request that its insurance scoring model be available for public inspection.

(2) ~~((The transmittal form has a box an insurer or vendor may check if it wants the model to remain confidential.~~

~~(a) If the box is checked "yes," the model will be withheld from public inspection.~~

~~(b) If the box is checked "no," the model will be available for public inspection.))~~ To restrict public access to an insurance scoring model filing, the insurer or vendor must follow the procedures in the *Washington State SERFF Personal Insurance Scoring Model Filing General Instructions* posted on the commissioner's web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)).