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To: Rules Coordinator at OIC
rulescoordinator@oic.wa.gov

From: Sharon Moller, Plan Manager; Washington FAIR Plan

Re: Comments on R 2021-15 (FAIR Plan Committee Members) Stakeholder Draft of 7/13/21

After reviewing the stakeholder draft of July 13, 2021, the FAIR Plan is neutral on all recommended changes except section WAC 284-19-140 (2) (a). We recommend that the language in the draft:

“284-19-140 (2) (a) All property and casualty insurers represented by a trade association shall designate or elect three members;”

Be replaced by the following:

“284-19-140 (2) (a) The American Property Casualty Insurance Association; or its successor; shall designate or elect three representatives as members of the committee; and”

The draft language is ambiguous and would create difficulties in understanding how to implement it at the FAIR Plan:

1. The draft language would require changes to the processes in place at the FAIR Plan under the current WAC language as there are multiple industry trade associations that could be interpreted to “represent” P&C insurers. This draft language would require selection of the trade association(s) that will be represented on the governing committee but gives no instruction on how that would be done or on how the three representatives would be allocated between associations.
2. Many P&C insurers belong to more than one industry trade association and could be “double-counted” in some way.
3. There is no guidance on who has the authority to interpret and implement the section as worded.

The language recommended by the FAIR Plan:

1. Is almost the same as the wording currently in the WAC and only changes the industry association name to delete the names of the two that merged and replace them with the name of the new entity, the American Property Casualty Insurance Association (APCIA). As the APCIA is the successor to the two entities currently named in this WAC section, this is strictly a wording update, not language that requires a change in FAIR Plan processes.
2. To avoid the need for future WAC updates in the event of additional mergers, the FAIR Plan recommends adding the words: *“its successor”* after the name of the APCIA.

Thank you for the opportunity to comment and let me know if you have any questions.