



## **Initial Interested Party Meeting – Transparency (R 2022-01)**

*Introductions, Expectations, Rulemaking Overview, and Next Steps*



OFFICE of the  
**INSURANCE  
COMMISSIONER**  
WASHINGTON STATE

April 21, 2022

## Agenda items

Time	Item	Action	Who
9:00 to 9:10	Introductions	Rule Team Members/SMEs Interested Parties in Attendance	Policy Analyst, Michael Walker Rule Team (Attendee List) Interested Parties
9:10 to 9:30	Overview of Rulemaking Process	Present/Review Rulemaking Overview PowerPoint Outline Expectations Provide Rule Website, Logistics, and Current Status	Policy Analyst, Michael Walker
9:30 to 10:00	Interested Parties - Consideration	Review Rule Scope (CR-101) Accept Feedback Interested Parties - Consideration for Participation Strategy	Policy Analyst, Michael Walker Interested Parties
10:00 to 10:20	Comments	Review Submissions for CR-101	Policy Analyst, Michael Walker Interested Parties
10:20 to 10:30	Next Steps	Next Steps and Open Discussion	Policy Analyst, Michael Walker Rule Team Interested Parties

# Rule Team - Introduction

---

## **Facilitator**

Michael Walker, Policy Analyst

## **Attendees**

Andrew Davis, Policy Analyst

Ned Gaines, Forms Compliance Manager

Mary Kay Schaefers, Functional Program Analyst 3

Manabu Mizushima, Actuarial Analyst 2

Darryl Colman, Attorney Manager

Jason Carr, Chief Market Analyst

John Haworth, Acting Deputy Company Supervision

Amy Teshera, Functional Program Analyst 4

Stephanie Marquis, Media and Outreach Manager

## Rule Team Expectations

Commissioner Kreidler has mandated that every rule meet strict quality standards, including:

- OIC has **authority** to adopt the rule.
- OIC can **understand** the rules.
- Those OIC regulates can **understand** the rules.
- OIC rules are necessary and NOT repetition of the statute.
- OIC carefully considers public comments in drafting the text.
- OIC determines our cost benefit analysis and small business economic impact statements on reasonable and reliable data.
- OIC rules are **consistent** with the mission and goals of the agency.

## OIC's Mission

To protect consumers, the public interest, and our state's economy through fair and efficient regulation of the insurance industry. This mission supports OIC's vision of being recognized as a model for consumer protection and state insurance regulation by:

- Protecting and educating consumers,
- Promoting a healthy insurance environment,
- Managing resources and leverage technology to ensure effective and efficient operations;  
and
- Attracting and developing a capable, engaged, valued, and diverse workforce.

# Rule Team and Expectations

---

## How do we assemble a rule team that will accomplish these expectations?

- Rule team members are selected to serve on rule teams for specific reasons, including their subject matter expertise, role in implementing the rule when complete, and serving as a liaison to their division.
- The role of the analyst is to make sure the rulemaking follows the Administrative Procedure Act (RCW 34.05) and state drafting guidelines. The analyst will also facilitate meetings and public hearings, try to help all parties reach consensus, interact with interested parties, prepare the final rule file, complete the Concise Explanatory Statement, and finalize the Small Business Economic Impact Statement.

### Rules team members are expected to –

- Communicate important information and issues identified between the Rule Team and their divisions.
- Provide their subject matter expertise, contribute to the overall development of the rule, and ensure regulations abide by the scope of the rule as determined through consensus.

### Interested Party Meeting expectations –

- OIC will maintain a professional and collaborative approach throughout this work.
- OIC will carefully consider comments, recommendations, concerns, and questions from all interested parties.
- OIC will provide an opportunity for all interested parties to communicate their feedback in multiple mediums, including written comments and public testimony.
- OIC will maintain a website with statuses, comments, filings, records, important dates/information, and links related to the Transparency rules (R 2022-01).

OIC expects that interested parties in attendance for these meetings will maintain similar standards in professionalism, collaboration, and consideration.

# Rulemaking process

## Rulemaking - Overview

For a new Rule to become law, all Washington state agencies must follow the steps described in the [Administrative Procedure Act \(leg.wa.gov\)](#), including:

1. **File preproposal statement of inquiry (CR-101).** The CR-101 announces that the OIC is planning to write rules on a particular subject and invites the public to take part in the rulemaking process
2. **Publish and email notices.** The CR-101 and all other CR notices are published on [the OIC's website](#) and sent to anyone who signs up to [receive rules updates](#).
3. **Draft the rule.** An agency-wide team drafts the rule, which is then shared publicly. We often hold stakeholder meetings to go over the proposed changes and seek comments from the public. This process can take several months if it's necessary to release several drafts.
4. **File proposed rulemaking notice (CR-102).** The OIC shares the proposed rule with the public.
5. **Accept public comments.** A public hearing is held to receive feedback on the rule from the public. Throughout the process, we consider all public comments and frequently make changes based on those comments. We respond to all comments at the end of the rulemaking process using a Concise Explanatory Statement (CES). During this time, we also consider whether the rule has a significant impact on small businesses.
6. **File a rulemaking order to adopt the rule (CR-103).** Once the rule is finalized we file a final form, a CR-103, with the code reviser. Most rules are effective 31 days after being filed.

## OIC – Transparency Rule Website (R 2022-01)

---

### **The OIC Transparency Rule Website provides additional information on this rulemaking, including:**

- CR-101 Preproposal Statement of Inquiry – Filing Initiating Rulemaking
- Comments – Record of Written Comments Submitted by Filing
- Links to Additional Rule Related Websites
- Contact Information for the OIC Rules Coordinator

### **OIC Transparency Rule Website (R 2022-01)**

<https://www.insurance.wa.gov/transparency-insurance-underwriting-r-2022-01>



# OIC – Insurance and Rulemaking Updates


---

OIC will be providing regular updates on our rulemaking through the GovDelivery application. This application automatically sends updates to those who sign up to receive them, via email or SMS/Text messaging.

The link to sign up for OIC GovDelivery updates is [here](https://public.govdelivery.com/accounts/WAOIC/subscriber/new)  
(<https://public.govdelivery.com/accounts/WAOIC/subscriber/new>)

Upon attempting to sign up for these updates, the system will request which updates you would like to receive.

For rulemaking updates, please select *OIC Administrative Rules*, which appears as follows:

OIC administrative rules 

## What are we attempting to achieve with this rulemaking?

- OIC is beginning rulemaking to increase transparency in underwriting. The rules will define and clarify the scope of insurer responsibility for adverse actions, premiums, rate changes and consumer notice requirements.
- Without transparency in these transactions insurance consumers are prevented from making informed decisions about their insurance policies, renewals, coverages, and pricing.
- The CR-101 for is the best resource to refer to for the specific details, goals, and scope of this rule.

## Current Status

- OIC's Rule Team has been assembled and briefed on this rulemaking. The Rule Team will continue meet regularly to coordinate our efforts on this assignment. We will also utilize our technology to work efficiently in a virtual environment.
- OIC has filed the Preproposal Statement of Inquiry (CR-101) to initiate rulemaking on this topic.
- OIC has engaged in outreach efforts to encourage interested party participation with this rulemaking.
- OIC has classified this rulemaking as 'complex' and anticipates conducting multiple interested party meetings and drafts. This is a fluid process and interested party meetings/drafts will be prioritized according to their potential.

# Interested Party Consideration

---

## Interested Party Involvement – meetings, drafts, and public hearing(s)

The transparency assignment is considered **complex rulemaking**, which will benefit from conducting **several interested party meetings and drafts**.

Do the interested parties have any input or feedback for our strategy?

- Should we do more or less meetings or drafts?
- How long should we provide for meetings?
- Who are the interested parties here?
- What are the interested parties hoping to gain from our meetings and drafts (i.e. insight, feedback to optimize rules for all affected parties, etc.)?

## Rule scope

---

Rulemaking that will seek to achieve complete transparency in insurance underwriting by requiring insurers to provide notices to consumers for all factors evaluated in any associated insurer actions. The required notice should provide the consumer with complete information indicating the exact changes in their insurance, whether related to costs, coverages, or insurer actions against the consumer.

- Will this rule apply to either personal policies, commercial policies or both?
- Should the rule consider only P&C insurance, or other types such as health, disability, or others (i.e. life insurance, etc.)?
- Within the type of insurance, should the regulations only consider certain lines (e.g. homeowners, automotive, etc.)?

# Rulemaking Authorities

---

- **RCW 48.02.060(3)(a)** authorizes the Commissioner to “[m]ake *reasonable rules* for effectuating any provision of this code, except those relating to his or her election, qualifications, or compensation.
- **RCW 48.02.060 OIC General powers and duties.**
  - RCW 48.02.060(3) General rulemaking authority to effectuate the following provisions of the Insurance Code:
    - RCW 48.01.030, 48.18.180, 48.18.2901, 48.18.292, 48.18.480, 48.18.545, 48.19.020, 48.19.035, and 48.30.010.

## OIC Rulemaking – Legal Limitations

---

- **OIC rulemaking is limited by our enabling authorities.**
- **OIC rulemaking must also comply with federal law, such as the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 et seq.**

# Comments – Received for CR-101

---

## Three Comments Submitted –

1. CAMBIA – communicated concerns with the scope of rule including health and disability insurers.
2. APCIA – contends the rules will provide significant amounts of public information to consumers, but will not actually best serve the consumers; explains the notice does not cite any real need on data, such as complaints to the OIC; raises multiple legal issues; suggests impracticability/impossibility of regulations; communicates a lack of clarity; proposes regulatory authority is sufficient without new rules; references legal limits; and offers examples and information on better methods to achieve transparency goals.
3. NAMIC – explains P&C insurers provide transparent information to consumers; cites existing authorities; contends adverse action notices are sufficient; argues positive impacts with adverse actions is confusing to consumers; states responsibility is for OIC and not consumers to regulate insurers; references limits in the Uniform Trade Secrets Act;



# Next Steps

---

1. Prepare and Publish Initial Interested Party Draft
2. Conduct Additional Rule Team and Interested Party Meetings
3. Continued Research on Foreign Jurisdictions, National Association Practices, and Consumer/Insurer Impacts
4. Plan Secondary Interested Party Draft and Meetings

# Questions, Comments, Concerns, or Feedback

---

## Open Discussion

Michael Walker

Policy Analyst

[MichaelW@oic.wa.gov](mailto:MichaelW@oic.wa.gov)

(360) 725-7036

Connect with us!

- Facebook: <https://www.facebook.com/WSOIC>
- Twitter: [https://twitter.com/WA\\_OIC](https://twitter.com/WA_OIC)
- [www.insurance.wa.gov](http://www.insurance.wa.gov)