

WSR 13-01-022
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION

[Filed December 10, 2012, 1:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-21-010.

Title of Rule and Other Identifying Information: New rule WAC 390-37-182 Penalty factors. The new rule will describe factors the public disclosure commission (PDC) may consider in imposing and suspending penalties for violations of chapter 42.17A RCW (formerly codified at chapter 42.17 RCW), in adjudicative proceedings before the commission and in brief adjudicative proceedings conducted by a single commissioner.

Hearing Location(s): 711 Capitol Way, Room 206, Olympia, WA 98504, on January 24, 2013, at 9:30 a.m.

Date of Intended Adoption: January 24, 2013.

Submit Written Comments to: Nancy Krier, 711 Capitol Way, Room 206, Olympia, WA 98504, e-mail nancy.krier@pdc.wa.gov, fax (360) 753-1112, by December 31, 2012.

Assistance for Persons with Disabilities: Contact Jana Greer by e-mail at jana.greer@pdc.wa.gov, (360) 586-0544 or (360) 753-1111.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The PDC implements and enforces chapter 42.17A RCW (formerly codified at chapter 42.17 RCW). The PDC is authorized to impose civil penalties for violations of chapter 42.17/42.17A RCW.

In assessing a penalty in an enforcement case, the commission has historically and informally taken into consideration various factors or information during the adjudicative proceeding (hearing) on the alleged violations. Those factors have included, for example, comparable penalties assessed in similar cases, cooperation by the respondent, information on prior violations or previously suspended penalties, data (amount of money not disclosed, number of days reports are late, etc.) and similar information. To date, those factors have not been described in a rule. However, in brief adjudicative proceedings conducted by a single commissioner, penalties are assessed by using penalty schedules set out in WAC 390-37-155 through 390-37-175. A commissioner presiding in a brief adjudicative proceeding can also suspend a penalty, or refer a case to the full commission.

This new rule will describe factors the commission may consider in assessing penalties in enforcement cases, including factors it may take into account when the commission considers suspending penalties or in accepting stipulated penalties.

This new rule will also provide factors a single commissioner may consider in suspending penalties in brief adjudicative proceedings, or in referring a case to the full commission.

Reasons Supporting Proposal: This new rule will provide guidance and information to parties in enforcement cases, and to the public, with respect to the penalties that the commission may assess for violations of chapter 42.17/42.17A RCW.

Statutory Authority for Adoption: RCW 42.17A.110, 42.17A.755.

Statute Being Implemented: Chapter 42.17A RCW.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This rule should result in no increased costs to the agency.

Name of Proponent: PDC, governmental.

Name of Agency Personnel Responsible for Drafting: Nancy Krier, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 753-1980; Implementation and Enforcement: Andrea McNamara Doyle, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 753-1111.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small business. The PDC is not subject to the requirement to prepare a school district fiscal impact statement, per RCW 28A.305.-135 and 34.05.320.

A cost-benefit analysis is not required under RCW 34.05.328. The PDC is not an agency listed in RCW 34.05.328 (5)(a)(i). Further, the PDC does not voluntarily make that section applicable to the adoption of these rules pursuant to subsection (5)(a)(ii), and to date, the joint administrative rules review committee has not made the section applicable to the adoption of these rules.

December 10, 2012

Nancy Krier

General Counsel

[NEW SECTION]

WAC 390-37-182 Penalty factors. (1) In assessing a penalty, the commission considers the purposes of RCW 42.17A, including the public's right to know of the financing of political campaigns, lobbying and the financial affairs of elected officials and candidates as declared in the policy of RCW 42.17A.001; and, promoting compliance with the law. The commission also considers and applies RCW 42.17A.-755 and may consider any of the additional factors described in (3).

(2) Under RCW 42.17A.755, the commission:

(a) May waive a penalty for a first-time violation;

(b) Shall assess a penalty for a second violation of the same rule by the same person or individual, regardless if the person or individual committed the violation for a different political committee;

(c) Shall assess successively increased penalties for succeeding violations of the same rule.

(3) In addition to the requirements of RCW 42.17A.755, the commission may consider the nature of the violation and any relevant circumstances, including the following factors:

(a) The respondent's compliance history, including whether the non-compliance was isolated or limited in nature, indicative of systematic or on-going problems, or part of a pattern of violations by the respondent;

(b) The impact on the public, including whether the non-compliance deprived the public of timely or accurate information during a time-sensitive period;

(c) Sophistication of respondent, or respondent's organization, or size of campaign;

(d) Amount of financial activity during statement period or election cycle;

(e) Whether the non-compliance resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law;

(f) Whether the late or unreported activity was significant in amount or duration under the circumstances;

(g) Whether the respondent or anyone else benefitted economically from the non-compliance;

(h) Personal emergency or illness of the respondent or member of his or her immediate family;

(i) Other emergencies such as fire, flood, or utility failure preventing filing;

(j) Commission staff or equipment error, including technical problems at the agency preventing or delaying electronic filing;

(k) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when non-compliance brought to respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or overlimit contributions);

(l) Whether the respondent is a first-time filer;

(m) Good faith efforts to comply, including consultation with commission staff prior to initiation of enforcement action and cooperation with commission staff during enforcement action;

(n) Penalties imposed in factually similar cases; and,

(o) Other factors relevant to a particular case.

(4) The commission, and the presiding officer in brief adjudicative proceedings, may consider the factors in (1) - (3) in determining whether to suspend a portion or all of a penalty upon identified conditions, and whether to accept, reject, or modify a stipulated penalty amount recommended by the parties.

(5) The presiding officer in brief adjudicative proceedings may consider whether any of the factors in (1) - (3) are factors that warrant directing a case to the full commission.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 13-01-035

PROPOSED RULES

UNIVERSITY OF WASHINGTON

[Filed December 11, 2012, 3:21 p.m.]

Continuance of WSR 12-21-047.

Preproposal statement of inquiry was filed as WSR 10-04-104.

Title of Rule and Other Identifying Information: Chapter 478-276 WAC, Governing access to public records.

Date of Intended Adoption: February 14, 2013.

December 11, 2012

Rebecca Goodwin Deardorff
Director of Rules Coordination

WSR 13-01-037

PROPOSED RULES

GAMBLING COMMISSION

[Filed December 11, 2012, 4:27 p.m.]

Continuance of WSR 12-12-007.

Preproposal statement of inquiry was filed as WSR 11-15-019.

Title of Rule and Other Identifying Information: New sections WAC 230-11-200 Defining electronic raffle system, 230-11-205 Operating requirements for electronic raffle systems, 230-11-210 Leasing electronic raffle system, and 230-16-152 Remote access of electronic raffle systems.

Hearing Location(s): Vancouver Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, on May 9 or 10, 2013, at 9:00 a.m. or 1:00 p.m.

NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Date of Intended Adoption: May 9 or 10, 2013.

NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Submit Written Comments to: Susan Newer, P.O. Box 42400, Olympia, WA 98504-2400, e-mail SusanA@wsgc.wa.gov, fax (360) 486-3625, by May 1, 2013.

Assistance for Persons with Disabilities: Contact Gail Grate, executive assistant, by May 1, 2013, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 50/50 Central, formerly a licensed manufacturer, is requesting a rule change to allow raffle tickets to be sold using electronic raffle systems. The system is loaded into hand held equipment that prints raffle tickets. For example, an individual representing a charitable/nonprofit organization could walk around an arena with a handheld point of sale (POS) system and ask people if they want to purchase a raffle ticket. If so, the individual representing the nonprofit would collect money, print a receipt from the POS equipment and give the receipt to the purchaser. The raffle number(s) are printed on the receipt. Individuals who purchase tickets would not interact with the equipment. Currently, one discount plan is allowed per raffle (for example, tickets are \$8 each, or buy two for \$10). The rule change would allow raffles that use the electronic accounting system to use up to four discount plans for a raffle.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.0277.

Statute Being Implemented: Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Blair Smith, representing 50/50 Central Ltd., a previously licensed manufacturer, private.

Name of Agency Personnel Responsible for Drafting: Susan Newer, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-

3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because the rule change would not impose additional costs on any licensee. Although there is a cost associated with purchasing the electronic raffle system, licensees would not be required to use the system.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

December 11, 2012
Susan Newer
Rules Coordinator

NEW SECTION

WAC 230-11-200 Defining electronic raffle system. "Electronic raffle system" means computer software and related gambling equipment approved by us and used by raffle licensees to sell tickets, account for sales, and print paper tickets to determine winners.

NEW SECTION

WAC 230-11-205 Operating requirements for electronic raffle systems. Electronic raffle systems must be approved by us prior to use, meet the requirements below, and not perform additional functions.

- (1) Raffle licensees using electronic raffle systems must:
- (a) Conduct their raffles in the same way as other raffles; and
 - (b) Print individual raffle tickets prior to the drawing; and
 - (c) Disconnect all connections that go outside of the electronic raffle system to ensure that internet capability is not available; and
 - (d) Not allow raffle players to interact with the electronic raffle system.
- (2) Approved electronic raffle systems may bundle tickets and sell them at a discount if they:
- (a) Create the discount plan before selling any raffle tickets; and
 - (b) Do not change the discount plan during the raffle; and
 - (c) Make single nondiscounted tickets available to all participants; and
 - (d) Only use up to a maximum of four discount plans for each raffle; and
 - (e) Print each discounted raffle ticket number included in a bundle and a description of the discount plan on a single ticket/receipt.

NEW SECTION

WAC 230-11-210 Leasing electronic raffle system. If a raffle licensee leases an electronic raffle system from a manufacturer, the lease must not be based on, in whole or in

part, the raffle receipts. However, manufacturers may charge a fixed amount per event.

NEW SECTION

WAC 230-16-152 Remote access of electronic raffle systems. Licensed manufacturers or manufacturer representatives may access the electronic raffle systems for maintenance or repair. Remote access will only be enabled for the duration of the maintenance or repair and the connection terminated immediately after.

WSR 13-01-040
PROPOSED RULES
LIQUOR CONTROL BOARD

[Filed December 12, 2012, 10:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-21-039.

Title of Rule and Other Identifying Information: WAC 314-02-015 What is a spirits, beer, and wine restaurant license? and 314-02-045 What is a beer and wine restaurant license?

Hearing Location(s): Washington State Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA 98504, on February 6, 2013, at 10:00 a.m.

Date of Intended Adoption: February 13, 2013.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504, e-mail rules@liq.wa.gov, fax (360) 664-1631, by February 6, 2012.

Assistance for Persons with Disabilities: Contact Karen McCall, by February 6, 2013, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Currently the rules require a restaurant licensee to be open a minimum of five days a week. Many licensees have found that five days a week is difficult during the current economy. Rather than the licensee having to request an exception due to hardship, stakeholders have requested the board amend the rules to require a restaurant licensee be open a minimum of three days a week and remove the hardship exception.

Reasons Supporting Proposal: This rule making was requested by stakeholders to lessen the difficulties of operating a business during the current economy.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.400, 66.24.-354.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state liquor control board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; Implementation: Alan Rathbun, Licensing Director, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1615; and Enforcement: Justin Nordhorn, Enforcement Chief, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule has a positive impact on businesses or individuals who sell alcohol in the state of Washington.

A cost-benefit analysis is not required under RCW 34.05.328.

December 12, 2012
Sharon Foster
Chairman

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

WAC 314-02-015 What is a spirits, beer, and wine restaurant license? (1) Per RCW 66.24.400, this license allows a restaurant to:

- (a) Serve spirits by the individual glass for on-premises consumption;
- (b) Serve beer by the bottle or can or by tap for on-premises consumption;
- (c) Serve wine for on-premises consumption;
- (d) Allow patrons to remove recorked wine from the licensed premises;
- (e) Sell wine by the bottle for off-premises consumption with the appropriate endorsement; and
- (f) Sell kegs of malt liquor with the appropriate endorsement. This endorsement also allows the sale of beer to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale.

(2) To obtain and maintain a spirits, beer, and wine restaurant license, the restaurant must be open to the public at least five hours a day during the hours of 8:00 a.m. and 11:00 p.m., ~~((five))~~ three days a week. ~~((The board may consider written requests for exceptions to this requirement due to demonstrated hardship, and may grant an exception under such terms and conditions as the board determines are in the best interests of the public.))~~

(3) All applicants for a spirits, beer, and wine license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant. The term "bona fide restaurant" is defined in RCW 66.24.410(2).

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

WAC 314-02-045 What is a beer and/or wine restaurant license? (1) Per RCW 66.24.320 and 66.24.354, this license allows a restaurant to:

Privilege	Annual fee
(a) Serve beer by the bottle or can or by tap for on-premises consumption.	\$200
(b) Serve wine for on-premises consumption (see RCW 66.24.320 regarding patrons removing recorked wine from the premises).	\$200

Privilege	Annual fee
(c) Sell beer and/or wine in the original, unopened containers for off-premises consumption.	\$120
(d) Sell tap beer for off-premises consumption in a sanitary container holding less than four gallons of beer, and brought to the premises by the purchaser.	In conjunction with off-premises privilege outlined in subsection (c).
(e) Sell beer in kegs or other containers holding at least four gallons of beer (see WAC 314-02-115 regarding the requirements for registering kegs).	In conjunction with off-premises privilege outlined in subsection (c).

(2) All applicants for a beer and/or wine restaurant license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant, as defined in RCW 66.04.010(30).

(a) Minimum food service is required, as defined in WAC 314-02-010.

(b) To obtain and maintain a beer and/or wine restaurant license, the restaurant must be open to the public at least five hours a day, ~~((five))~~ three days a week. ~~((The board may consider written requests to this requirement due to demonstrated hardship, and may grant an exception under such terms and conditions as the board determines are in the best interests of the public.))~~

(3) If a beer and/or wine restaurant's dedicated dining area comprises less than fifteen percent of the total customer service area, the premises must maintain a tavern license (see WAC 314-02-070 regarding the tavern license).

WSR 13-01-045
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed December 12, 2012, 1:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-21-038.

Title of Rule and Other Identifying Information: WAC 314-02-105 What is a beer and/or wine specialty store license?

Hearing Location(s): Washington State Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA 98504, on February 6, 2013, at 10:00 a.m.

Date of Intended Adoption: February 13, 2013.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504, e-mail rules@liq.wa.gov, fax (360) 664-9689, by February 6, 2013.

Assistance for Persons with Disabilities: Contact Karen McCall by February 6, 2013, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The passage of Initiative 1183 has created an issue for beer/wine specialty store licensees that hold a spirits retail license. Beer/wine

specialty store licensees are allowed to conduct tastings if over fifty percent of their gross sales are beer and wine. By adding spirits sales to their business it is impossible to sell more than fifty percent beer and wine. Tastings are a large part of promoting Washington wineries and their business. The rule needs to be amended to allow tastings to continue.

Stakeholders also requested the board to amend this rule to allow a greater number of tastings per customer visit and to require employees conducting the tastings to be MAST [mandatory alcohol server training] trained.

Reasons Supporting Proposal: Requiring persons conducting tastings to be MAST trained is an increase in public safety. Allowing additional tastings increases the promotion of Washington wines.

Statutory Authority for Adoption: RCW 66.24.371, 66.08.030.

Statute Being Implemented: RCW 66.24.371.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state liquor control board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; Implementation: Alan Rathbun, Licensing Director, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1615; and Enforcement: Justin Nordhorn, Enforcement Chief, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328.

December 12, 2012

Sharon Foster
Chairman

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

WAC 314-02-105 What is a beer and/or wine specialty store license? (1) Per RCW 66.24.371, a beer and/or wine specialty store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred dollars.

(3) Qualifications for license - To obtain and maintain a beer and/or wine specialty store license, the premises must be stocked with an inventory of beer and/or wine in excess of three thousand dollars wholesale value. This inventory must be:

(a) Stocked within the confines of the licensed premises; and

(b) Maintained on the premises at all times the premises is licensed, with the exception of beginning and closing inventory for seasonal operations or when the inventory is being sold out immediately prior to discontinuing or selling the business.

(4) Qualifications to sample - A beer and/or wine specialty store licensee may allow customers to sample beer and wine for the purpose of sales promotion, if the primary business is the sale of beer and/or wine at retail, and the licensee

meets the requirements outlined in either (a) or (b) of this subsection:

(a) A licensee's gross retail sales of ~~((beer and/or wine))~~ alcohol exceeds fifty percent of all annual gross sales for the entire business; or

(b) The licensed premises is a beer and/or wine specialty store that conducts bona fide cooking classes for the purpose of pairing beer and/or wine with food, under the following conditions:

(i) The licensee must establish to the satisfaction of the board that the classes are bona fide cooking courses. The licensee must charge participants a fee for the course(s).

(ii) The sampling must be limited to a clearly defined area of the premises.

(iii) The licensee must receive prior approval from the board's licensing and regulation division before conducting sampling with cooking classes.

(iv) Once approved for sampling, the licensee must provide the board's enforcement and education division a list of all scheduled cooking classes during which beer and/or wine samples will be served. The licensee must notify the board's enforcement and education division at least forty-eight hours in advance if classes are added.

(5) Licensees who qualify for sampling under subsection (4) of this ~~((rule))~~ section may sample under the following conditions:

(a) Employees conducting sampling must hold a class 12 alcohol server permit:

(b) No more than a total of ~~((eight))~~ twelve ounces of alcohol may be provided to a customer during any one visit to the premises;

~~((b))~~ (c) Each sample must be two ounces or less ~~((; and~~
(e) ~~No more than one sample of any single brand and type of beer or wine may be provided to a customer during any one visit to the premises)).~~

(6) A beer and/or wine specialty store licensee may sell beer in kegs or other containers holding at least four gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

(7) A beer and/or wine specialty store licensee may receive an endorsement to permit the sale of beer to a purchaser in a sanitary container brought to the premises by the purchaser, or provided by the licensee or manufacturer, and filled at the tap by the licensee at the time of sale under the following conditions:

(a) The beer and/or wine specialty store sales must exceed fifty percent of their total sales; or

(b) The board may waive the fifty percent beer and/or wine sale criteria if the beer and/or wine specialty store maintains a wholesale alcohol inventory that exceeds fifteen thousand dollars.

WSR 13-01-065

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed December 18, 2012, 8:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-10-086.

Title of Rule and Other Identifying Information: Chapter 308-96A WAC, Vehicle licensees, to include but not limited to WAC 308-96A-530 Veteran remembrance license plate emblems.

Hearing Location(s): Highways-Licenses Building, Conference Room 413, 1125 Washington Street S.E., Olympia, WA 98501 (check in at counter on first floor), on January 22, 2013, at 1:00 p.m.

Date of Intended Adoption: January 23, 2013.

Submit Written Comments to: Carol Marie Andrew, P.O. Box 9020, Olympia, WA 98507-9020, e-mail candrew@dol.wa.gov, fax (360) 570-7081, by January 21, 2013.

Assistance for Persons with Disabilities: Contact Carol Marie Andrew by January 21, 2013, TTY (360) 664-0116.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To incorporate statutory changes made by SHB 2312 which passed the 2012 legislature.

- Adopts fees to be charged for military service award emblems to offset the costs of production and administration of the program.
- Provides clarity in the cost of fees for military service award emblems.
- Makes additional military service award emblems available.

Reasons Supporting Proposal: Required by RCW 46.18.295 and 46.16A.251.

Statutory Authority for Adoption: RCW 46.01.110 and 46.16A.251.

Statute Being Implemented: RCW 46.18.295.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Carol Marie Andrew, Highways-Licenses Building, Olympia, Washington, (360) 902-3822; Implementation and Enforcement: Toni Wilson, Highways-Licenses Building, Olympia, Washington, (360) 902-3811.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because these rules do not apply to small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this proposed rule under the provisions of RCW 34.05.328 (5)(a)(i).

December 18, 2012

Damon Monroe

Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-21-026, filed 10/9/06, effective 11/9/06)

WAC 308-96A-530 Veteran remembrance and military service award license plate emblems. (1) **What ((veteran remembrance)) license plate emblems are available?** The following ((veteran remembrance)) license plate emblems are available:

(a) ~~((Veteran))~~ Veteran's remembrance ((vehicle license plate)) emblems with the words "((U.S. VETERAN" (referred to as veteran emblem);

~~(b) The United States flag waving on a staff without wording (referred to as the flag emblem); and~~

~~(c) Campaign medal emblem authorized in RCW 46.16.319(3)) U.S. veteran";~~

(b) Military service award emblems in RCW 46.18.295;

(c) Distinguished Flying Cross.

(2) Who may purchase ((veteran remembrance)) license plate emblems? Only persons qualified under RCW ~~((46.16.319))~~ 46.18.295 may purchase ~~((veteran remembrance))~~ license plate emblems.

(3) What will I receive when I purchase ((veteran remembrance)) license plate emblems? In addition to a receipt, you will receive an emblem package including: ~~((a))~~ One U.S. veteran emblem(;

~~(b) One U.S. flag and campaign ribbon emblem; or~~

~~(c) Two campaign ribbon emblems; or~~

~~(d) Two))~~, military service award emblem, or Distinguished Flying Cross emblem; and any two of the following:

(a) Campaign ribbon remembrance emblem.

(b) U.S. flag emblem(s).

(4) What campaign ribbon remembrance emblems or military service award emblems are available ((for purchase))? In addition to those in RCW 46.18.295, the following emblems are available:

(a) Afghanistan Campaign Medal.

(b) ((American Campaign Medal WWII.

~~(c) Armed Forces Expedition Medal.~~

~~(d))~~ Armed Forces Services Medal.

~~((c) Asiatic Pacific Campaign Medal WWII.~~

~~(f) European African Middle Eastern Campaign Medal WWII.~~

~~(g))~~ (c) Iraq Campaign Medal.

~~((h))~~ (d) Korean Defense Medal.

~~((i) Korean Service Medal.~~

~~(j))~~ (e) Kosovo Campaign Medal.

~~((k))~~ (f) Merchant Marines Atlantic War Zone Medal.

~~((H))~~ (g) Merchant Marines Middle East War Zone Medal.

~~((m))~~ (h) Merchant Marines Pacific War Zone Medal.

~~((n))~~ (i) National Defense Medal.

~~((o) South Asia Service Medal.~~

~~(p) U.S. Flag decal.~~

~~(q) U.S. Veteran decal.~~

~~(r) Vietnam Service Medal.~~

~~(s))~~ (j) War on Terrorism Expeditionary Medal.

~~((t))~~ (k) War on Terrorism Service Medal.

~~((u) World War I Victory Medal.)~~

(5) How much do ((veteran remembrance)) license plate emblem packages cost? ~~((Veteran remembrance))~~ License plate emblem packages cost ten dollars per package, in addition to fees authorized in RCW ~~((46.01.140 (5)(b)))~~ 46.17.040(2).

(6) How do I display my license plate emblems? In addition to the requirements and limitations in RCW ~~((46.16.327))~~ 46.16A.210:

(a) When the ~~((VETERAN))~~ veteran emblem, military service award emblem, or Distinguished Flying Cross emblem is

displayed on a license plate, it must be displayed between the bottom license plate bolt holes;

(b) ~~((The FLAG))~~ U.S. flags and emblems described in subsection (4) of this section must be displayed ~~((to the left of the bottom left license plate bolt hole. When two FLAG emblems are displayed, one is displayed))~~ on the outside of each bottom license plate bolt hole. No more than two ~~((FLAG))~~ flags or small emblems may be affixed to any one license plate;

(c) ~~((The CAMPAIGN emblem must be displayed to the right of the bottom right license plate bolt hole. When two CAMPAIGN emblems are displayed, one is displayed on the outside of each bottom license plate bolt hole. No more than two CAMPAIGN emblems may be affixed to any one license plate;~~

~~((d))~~ For two-plated vehicles, you may display the emblems on either the front or rear license plate ~~((, or))~~. You may buy a second package if you want to display emblems on both license plates.

Note: When a license plate displaying veteran's remembrance emblems is transferred to a new owner, the emblems must be removed.

(7) Do the ~~((veteran remembrance))~~ license plate emblems on my front license plate have to match the emblems on the rear license plate? No, emblems displayed on the front license plate do not need to match emblems displayed on the rear license plate.

(8) May I obtain a replacement or additional ~~((veteran remembrance))~~ license plate emblem package? Yes:

(a) If you choose to purchase an additional set, you will be charged the fee in subsection ~~((4))~~ (5) of this section; or

(b) When the original emblems become faded or unrecognizable, you may obtain a replacement set at no fee; or

(c) When the license plates are replaced as required by the mandatory plate replacement law, you may obtain a replacement set ~~((will be provided))~~ at no fee.

WSR 13-01-068

PROPOSED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket UT-120451—Filed December 18, 2012, 9:40 a.m.]

Supplemental Notice to WSR 12-18-018.

Preproposal statement of inquiry was filed as WSR 12-09-084.

Title of Rule and Other Identifying Information: WAC 480-120-251 Directory service, this rule making proposes modifications to, or the elimination of, the requirement that local exchange companies provide each customer a copy of a telephone directory for the customer's exchange area.

Hearing Location(s): Commission Hearing Room 206, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on February 14, 2013, at 9:30 a.m.

Date of Intended Adoption: February 14, 2013.

Submit Written Comments to: Washington Utilities and Transportation Commission, 1300 South Evergreen Park

Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, e-mail records@utc.wa.gov, fax (360) 586-8203, by January 22, 2013. Please include: "Docket UT-120451" in your comments.

Assistance for Persons with Disabilities: Contact Debbie Aguilar by January 31, 2013, TTY (360) 586-8203 or (360) 664-1132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal revises the existing rule to require local exchange carriers to distribute white pages telephone directories only to customers who request them. The proposal would minimize the burden on regulated carriers to print and distribute directories and would substantially reduce the amount of waste resulting from disposal of unwanted printed directories.

The supplemental CR-102 amends the proposal so that carriers have the flexibility to comply with their obligation to make basic directory listings available to their local exchange customers either by providing those customers with access to electronic listings and making printed directories available to customers who request them, or by distributing printed directories to all customers except those who request not to receive them.

Reasons Supporting Proposal: Consumers primarily rely on the internet as a resource for telephone number listings, rendering unnecessary a requirement that companies distribute printed white pages directories except to those customers who request them. Eliminating distribution of unwanted directories also enhances environmental stewardship in cooperation with cities and municipalities by reducing the volume of paper waste that must be processed and disposed of.

Statutory Authority for Adoption: RCW 80.01.040 and 80.04.160.

Statute Being Implemented: Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington utilities and transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting: John Cupp, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1113; Implementation and Enforcement: David W. Danner, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1208.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not result in or impose more than minor costs. Because there will not be more than minor increase in costs resulting from the proposed rule changes, a small business economic impact statement is not required under RCW 19.85.030(1).

A cost-benefit analysis is not required under RCW 34.05.328. The commission is not an agency to which RCW 34.05.328 applies. The proposed rule is not a significant legislative rule of the sort referenced in RCW 34.05.328(5).

December 18, 2012

David W. Danner
Executive Director
and Secretary

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

~~WAC 480-120-251 Directory ((service)) listings. (((+)) A local exchange company (LEC) must ensure that a telephone directory is regularly published for each local exchange it serves, listing the name, address (unless omission is requested), and primary telephone number for each customer who can be called in that local exchange and for whom subscriber list information has been provided.~~

~~(2) Any residential customer may request from the LEC a dual-name primary directory listing that contains, in addition to the customer's surname, the customer's given name or initials (or combination thereof) and either one other person with the same surname who resides at the same address or a second name, other than surname, by which the customer is also known, including the married name of a person whose spouse is deceased.~~

~~(3) A LEC must provide each customer a copy of the directory for the customer's local exchange area. If the directory provided for in subsection (1) of this section does not include the published listing of all exchanges within the customer's local calling area, the LEC must, upon request, provide at no charge a copy of the directory or directories that contain the published listing for the entire local calling area.~~

~~(4) Telephone directories published at the direction of a LEC must be revised at least once every fifteen months, except when it is known that impending service changes require rescheduling of directory revision dates. To keep directories correct and up to date, companies may revise the directories more often than specified.~~

~~(5) Each LEC that publishes a directory, or contracts for the publication of a directory, must print an informational listing (LEC name and telephone number) when one is requested by any other LEC providing service in the area covered by the directory. The LEC to whom the request is made may impose reasonable requirements on the timing and format of informational listings, provided that these requirements do not discriminate between LECs.~~

~~(6) Telephone directories published at the direction of the LEC must include a consumer information guide that details the rights and responsibilities of its customer. The guide must describe the:~~

~~(a) Process for establishing credit and determining the need and amount for deposits;~~

~~(b) Procedure by which a bill becomes delinquent;~~

~~(c) Steps that must be taken by the company to discontinue service;~~

~~(d) Washington telephone assistance program (WTAP);~~

~~(e) Federal enhanced tribal lifeline program, if applicable; and~~

~~(f) Right of the customer to pursue any dispute with the company, including the appropriate procedures within the company and then to the commission by informal or formal complaint.)~~

(1) Basic local exchange service includes access to directory listings comprised of the name, address, and primary telephone number for each customer that the local exchange company (LEC) serves in a local calling area unless the customer requests to exclude some or all of this information from the LEC's directory listings.

(2) A LEC must ensure that each of its basic local exchange service customers has access to directory listings for the customer's local calling area using at least one of the following means:

(a) Electronically via a document, data base, or link on the LEC's web site, provided that the LEC also distributes or arranges to distribute printed directory listings to all of the LEC's customers who request a printed directory; or

(b) In hard copy via publishing or arranging to be published a printed telephone directory that includes the directory listings and distributing that directory to the LEC's customers, provided that a printed telephone directory shall not be distributed to any customer who requests not to receive a printed directory.

(3) A LEC must establish or arrange for reasonable means for its customers to request to exclude some or all of their information from the LEC's directory listings and to request to receive, or not to receive, a printed directory.

(4) The directory listings must be updated no less frequently than every fifteen months.

WSR 13-01-085
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Division of Consumer Services)
[Filed December 18, 2012, 5:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-21-119.

Title of Rule and Other Identifying Information: Amending the rules (chapter 208-620 WAC) that implement the Consumer Loan Act (CLA) (chapter 31.04 RCW) to increase the number of required preclicensing education hours specific to Washington law for mortgage loan originator (MLO) applicants.

Hearing Location(s): Department of Financial Institutions, 150 Israel Road S.W., Room 319, Tumwater, WA 98501, on January 24, 2013, at 1-3 p.m.

Date of Intended Adoption: February 20, 2013.

Submit Written Comments to: Sara Rietcheck, P.O. Box 41200, 150 Israel Road S.W., Olympia, WA 98504-1200, e-mail sara.rietcheck@dfi.wa.gov, by January 24, 2013.

Assistance for Persons with Disabilities: Contact Sara Rietcheck by January 17, 2013, TTY (360) 664-8126 or (360) 902-8786.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rules is to increase the number of required preclicensing education hours specific to Washington law in order to ensure that Washington MLO applicants are properly educated about Washington law prior to licensing. In the spring of 2013, a uniform state test section will be added to the national SAFE test and if a state adopts the uniform state test, the state's separate test may be eliminated. Washington expects to adopt the use of the uniform state test along with a large majority of other states and the Washington specific

component test will be phased out. The elimination of the separate Washington component test will cause a decrease in the number of test questions specific to Washington law.

Reasons Supporting Proposal: Because there will be fewer test questions specific to Washington law, mortgage loan originators must use prelicensing education as a tool to gain knowledge of Washington law prior to licensure.

This rule making is proposed under OFM Guideline 3.d.

Statutory Authority for Adoption: Chapter 43.320 RCW, RCW 31.04.165.

Statute Being Implemented: Chapter 31.04 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of financial institutions, governmental.

Name of Agency Personnel Responsible for Drafting: Cindy Fazio, 150 Israel Road, Olympia, WA, (360) 902-8800; Implementation and Enforcement: Deborah Bortner, 150 Israel Road, Olympia, WA, (360) 902-8800.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule amendments will not impose more than minor costs on the businesses impacted by the proposed rules.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable to the proposed rules.

December 18, 2012

Deborah Bortner, Director
Division of Consumer Services

AMENDATORY SECTION (Amending WSR 09-24-090, filed 12/1/09, effective 1/1/10)

WAC 208-620-720 Loan originator—Prelicensing education. Must I complete prelicensing education in order to receive a loan originator license? Yes.

(1) You must complete at least twenty two hours of prelicensing education approved by the NMLSR. The prelicensing education must include:

- (a) Three hours of federal law and regulations;
- (b) Three hours of ethics, which includes instruction on fraud, consumer protection, and fair lending issues;
- (c) Two hours of training related to lending standards for the nontraditional mortgage product marketplace; and
- (d) At least (~~two~~) four hours of training specifically related to Washington law.

(2) You will receive credit for having completed the prelicensing education for every state once you have successfully completed the prelicensing education requirements approved by the nationwide mortgage licensing system and registry for any state.

(3) Must I take continuing education in the year I complete the prelicensing education? No. You will not have a continuing education requirement in the year in which you complete the core twenty hours of prelicensing education.

AMENDATORY SECTION (Amending WSR 09-24-090 [12-18-047], filed 12/1/09 [8/29/12], effective 1/1/10 [11/1/12])

WAC 208-620-725 Mortgage loan originator—Testing. Must I pass a test prior to becoming a loan originator? Yes.

(1) You must take and pass the NMLS sponsored loan originator test. The test has two parts; one on federal law and regulation, and one on (~~Washington specific~~) uniform state law and regulation. You must receive a score of seventy-five percent or higher to pass the test.

(2) **Where may I find information about the loan originator test?** The NMLS web site will publish the names and contact information of approved testing providers.

(3) **How much does the loan originator test cost?** Testing costs are set by the test provider and the NMLS and may be modified from time to time. The NMLS web site will publish the current testing fee with the testing provider contact information.

(4) **How do I register to take the loan originator test?** Register through the NMLS web site.

(5) **What topics may be covered in the loan originator test?** At a minimum, the test topics will include ethics, federal and state law and regulation pertaining to mortgage origination, federal and state law and regulation on fraud, consumer protection, nontraditional mortgage products, and fair lending.

(6) **After passing the loan originator test, will I have to take it again?** If you fail to maintain a valid license for a period of five years or longer you must retake the test, not taking into account any time during which you were a registered mortgage loan originator.

(7) **How soon after failing the loan originator test may I take it again?** After taking and failing the test you must wait thirty days before taking it again. After failing three consecutive times, you must then wait at least six months before taking the test again.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 13-01-086
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Division of Consumer Services)
[Filed December 18, 2012, 5:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-21-120.

Title of Rule and Other Identifying Information: Amending the rules (chapter 208-660 WAC) that implement the Mortgage Broker Practices Act (MBPA) (chapter 19.146 RCW) to increase the number of required prelicensing education hours specific to Washington law for mortgage loan originator (MLO) applicants.

Hearing Location(s): Department of Financial Institutions, 150 Israel Road S.W., Room 319, Tumwater, WA 98501, on January 24, 2013, at 1-3 p.m.

Date of Intended Adoption: February 20, 2013.

Submit Written Comments to: Sara Rietcheck, P.O. Box 41200, 150 Israel Road S.W., Olympia, WA 98504-1200, e-mail sara.rietcheck@dfi.wa.gov, by January 24, 2013.

Assistance for Persons with Disabilities: Contact Sara Rietcheck by January 17, 2013, TTY (360) 664-8126 or (360) 902-8786.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rules is to increase the number of required prelicensing education hours specific to Washington law in order to ensure that Washington MLO applicants are properly educated about Washington law prior to licensing. In the spring of 2013, a uniform state test section will be added to the national SAFE test and if a state adopts the uniform state test, the state's separate test may be eliminated. Washington expects to adopt the use of the uniform state test along with a large majority of other states and the Washington specific component test will be phased out. The elimination of the separate Washington component test will cause a decrease in the number of test questions specific to Washington law.

Reasons Supporting Proposal: Because there will be fewer test questions specific to Washington law, mortgage loan originators must use prelicensing education as a tool to gain knowledge of Washington law prior to licensure.

This rule making is proposed under OFM Guideline 3.d.

Statutory Authority for Adoption: Chapter 43.320 RCW, RCW 19.146.223.

Statute Being Implemented: Chapter 19.146 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of financial institutions, governmental.

Name of Agency Personnel Responsible for Drafting: Cindy Fazio, 150 Israel Road, Olympia, WA, (360) 902-8800; Implementation and Enforcement: Deborah Bortner, 150 Israel Road, Olympia, WA, (360) 902-8800.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule amendments will not impose more than minor costs on the businesses impacted by the proposed rules.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable to the proposed rules.

December 18, 2012

Deborah Bortner, Director
Division of Consumer Services

AMENDATORY SECTION (Amending WSR 12-18-048, filed 8/29/12, effective 11/1/12)

WAC 208-660-355 Loan originators—Prelicensing education. (1) **Must I obtain prelicensing education before I will be given a license?** Yes. You must ~~((take))~~ complete at least ((20)) twenty two hours of prelicensing education from an NMLS approved provider. The prelicensing education must include at least three hours of federal law and regulations; three hours of ethics, which must include instruc-

tion on fraud, consumer protection, and fair lending issues; two hours related to lending standards for the nontraditional mortgage product marketplace; and at least ~~((two))~~ four hours of training specifically related to Washington law.

(2) **Who provides prelicensing education?** The NMLS approves course providers and courses for prelicensing education. See the NMLS Resource Center for a list of approved providers and courses.

(3) **Must I take continuing education in the year I complete the prelicensing education?** No. You will not have a continuing education requirement in the year in which you complete the core twenty hours of prelicensing education.

AMENDATORY SECTION (Amending WSR 12-18-048, filed 8/29/12, effective 11/1/12)

WAC 208-660-360 Loan originators—Testing. (1) **Must I pass a test prior to becoming a loan originator?** Yes. You must take and pass the NMLS ~~((national and state tests prior to becoming a))~~ sponsored loan originator test. The test has two parts: one on federal law and regulation and one on uniform state law and regulation. You must receive a score of seventy-five percent or higher to pass the test.

(2) **Where may I find information about the loan originator test?** The NMLS contracts for its test provider. You will find information on the test provider on the NMLS web site at www.stateregulatoryregistry.org.

(3) **How much does the loan originator test cost?** Testing costs are set by contract between the test provider and the NMLS and may be modified from time to time. The department will publish the current testing fee on its web site or you may find it on the NMLS web site at www.statereregulatoryregistry.org.

(4) **How do I register to take the loan originator test?** The department will provide a link to the NMLS test provider on its web site.

(5) **What topics may be covered in the loan originator test?** At a minimum, the test topics will include ethics, federal and state law and regulation pertaining to mortgage origination, federal and state law and regulation on fraud, consumer protection, nontraditional mortgage products, and fair lending.

(6) **After passing the loan originator test, will I have to take it again?** You must retake the loan originator test if you have not been a loan originator within the past five years.

(7) **How soon after failing the loan originator test may I take it again?** You may retake a test three consecutive times with each consecutive taking occurring at least thirty days after the preceding test. After failing three consecutive tests, you must wait at least six months before taking the test again.

WSR 13-01-095**PROPOSED RULES****OFFICE OF****INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2012-09—Filed December 19, 2012, 11:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-08-029.

Title of Rule and Other Identifying Information: Reinsurance program.

Hearing Location(s): Office of the Insurance Commissioner, Training Room T-120, 5000 Capitol Way South, Olympia, WA 98504, on January 22, 2013, at 10:00 a.m.

Date of Intended Adoption: February 6, 2013.

Submit Written Comments to: Meg Jones, P.O. Box 40258, Olympia, WA 98504, e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109, by January 21, 2013.

Assistance for Persons with Disabilities: Contact Lori Villaflores by January 20, 2013, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 48.43.720 directs the commissioner to establish the state's reinsurance program by rule. This proposed rule accomplishes that directive.

Reasons Supporting Proposal: The commissioner worked with an advisory group of carriers to review options for the reinsurance program prior to developing this proposed rule. The proposed rule represents a consensus of the advisor group, which used voluntarily data submitted from the carriers to develop the proposed rule.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.720.

Statute Being Implemented: RCW 48.43.720.

Rule is necessary because of federal law, Pub. L. 111-148, as amended (2010).

Name of Proponent: Office of the insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Meg Jones, 302 Syd Snyder Boulevard, Olympia, WA, (360) 725-7170; Implementation: Barb Flye, 302 Syd Snyder Boulevard, Olympia, WA, (360) 725-7043; and Enforcement: Carol Sureau, 5000 Capitol Boulevard South, Olympia, WA, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. None of the affected entities constitutes a small business.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Meg Jones, P.O. Box 40258, Olympia, WA 98502, phone (360) 725-7170, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

December 19, 2013 [2012]

Mike Watson

Chief Deputy

Insurance Commissioner

NEW SECTION

WAC 284-170-001 Transitional reinsurance program (1) Issuers of health benefit plans in Washington State, and third party administrators of health benefit coverage offered in Washington, must participate as contributing entities in the transitional reinsurance program established pursuant to RCW 48.43.720.

(2) The U.S. Department of Health and Human Services (HHS) will operate the transitional health plan reinsurance program for the state of Washington. The program ceases operation on June 30, 2017 for payment of claims incurred through December 31, 2016.

(3) Contributing entities are not required to remit reinsurance contributions for the following types of coverage:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Limited scope dental or vision benefits;

(i) Benefits for long-term care, nursing home care, home health care, community-based care or any combination thereof;

(j) benefits provided under a health flexible spending arrangement as defined in Internal Revenue Code section 106 (c)(2) ("Health FSA") if other group health plan coverage, not limited to excepted benefits, is made available for the year to the class of participants by reason of their employment, and the Health FSA is structured so that the maximum benefit payable to any participant in the class for a year cannot exceed two times the participant's salary reduction election under the arrangement for the year (or, if greater, cannot exceed \$500 plus the amount of the participant's salary reduction election). For this purpose, any amount that an employee can elect to receive as taxable income but elects to apply to the Health FSA is considered a salary reduction election (regardless of whether the amount is characterized as salary or as a credit under the Health FSA);

(k) Coverage for a specified disease or illness, if offered as independent, noncoordinated benefits;

(l) Hospital indemnity or other fixed indemnity insurance if offered as independent, noncoordinated benefits;

(m) Medicare supplemental health insurance, and similar supplemental coverage provided to coverage under a group health plan, provided such coverage is offered as a separate insurance policy;

(n) Other similar insurance coverage under which benefits for medical care are secondary or incidental to other insurance benefits, or that qualify as HIPAA-excepted benefits;

(o) Medicare advantage/Medicaid, or any federal coverage program except multistate OPM plans;

(p) Washington State Health Insurance Pool and the Pre-existing Condition Insurance Plan - Washington.

(4) A carrier must report to the commissioner the contribution payments made to HHS under the program, and identify as part of its rate filing for each product the estimated reinsurance payment amounts for each plan associated with the product for the prior plan or policy year.

(5) A carrier must notify the commissioner of the method elected to count its covered lives for purposes of calculating its per capita contribution rate.

(6) This rule expires September 1, 2017.