

**WSR 06-22-008**  
**PROPOSED RULES**  
**SECRETARY OF STATE**  
[Filed October 20, 2006, 7:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-18-005.

Title of Rule and Other Identifying Information: Changes to voter registration procedures based on required changes by the Help America Vote Act.

Hearing Location(s): Office of the Secretary of State, Elections Division, 520 Union Avenue S.E., Olympia, WA 98501, (360) 902-4180, on December 6, 2006, at 10:00 a.m.

Date of Intended Adoption: January 3, 2007.

Submit Written Comments to: Tami Neilson, P.O. Box 40220, Olympia, WA 98504, e-mail tneilson@sec-state.wa.gov, fax (360) 664-4619, by December 6, 2006.

Assistance for Persons with Disabilities: Contact Tami Neilson by December 5, 2006, TTY (800) 422-8683.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: United States district court for the western district of Washington issued a preliminary injunction on August 1, 2006, enjoining enforcement of RCW 29A.08.107. *Washington Association of Churches, et al. v. Sam Reed* No. C06-0726RSM. These rules implement this injunction and the following will occur: If a voter provides identification when registering to vote but the identification does not pass the matching process required by the Help America Vote Act, the voter will be placed on the registration list. The voter must provide appropriate identification prior to or at the time of voting. Provisional ballots will be issued to these voters not providing identification prior to or at the time of voting. These provisional ballots

may be counted if the voter provides appropriate identification no later than the day before the election is certified.

Statutory Authority for Adoption: RCW 29A.04.611.

Rule is necessary because of federal court decision, *Washington Association of Churches, et al. v. Sam Reed* No. C06-0726RSM.

Name of Proponent: Office of the secretary of state, elections division, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Katie Blinn, P.O. Box 40220, Olympia, WA 98504, (360) 902-4168.

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.

October 20, 2006

Nixon Handy

Director of Elections

NEW SECTION

**WAC 434-250-045 Voters requiring verification of identity.** (1) If the voter registration record of an absentee voter is flagged as requiring verification of identity, a notice must be sent at the time of the election explaining that a photocopy of identification must be provided in order for the ballot to be counted, and listing what forms of identification are acceptable. The county auditor may provide an inner envelope separate from the security envelope for return of the photocopy of the identification.

(2) The notice to the absentee voter must be in substantially the following form:

[date]

Dear Voter:

Based on your recent registration, federal law requires that you provide identification with your ballot. **If you fail to provide identification, your ballot will not be counted.**

Please provide a copy of one of the following:

- Valid photo identification;
- A valid enrollment card of a federally recognized tribe in Washington;
- A current utility bill;
- A current bank statement;
- A current government check;
- A current paycheck; or
- A government document that shows both your name and address.

You may return the photocopy with your ballot but, in order to protect the secrecy of your ballot, do not place the photocopy inside the security envelope.

**If you do not provide a copy of your identification, your ballot will not be counted.**

If you have any questions, please feel free to contact the \_\_\_\_\_ County Auditor's Office at \_\_\_\_\_.

(3) If the voter provides one of the acceptable forms of identification no later than the day before certification of the election, the flag on the voter registration record must be removed and the ballot must be counted.

(4) If the voter fails to provide one of the acceptable forms of identification by the day prior to certification of the election, the ballot may not be counted. If the voter provides one of the acceptable forms of identification at a later date, the ballot cast in that election may not be counted but the flag on the voter registration record must be removed.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 05-24-039, filed 11/30/05, effective 12/31/05)

**WAC 434-253-024 (~~Contents of~~) Poll book of registered voters.** (1) Poll books must be printed utilizing information from the official statewide voter registration data base. The poll book of registered voters must contain the name, residence address, sex, month and day of birth, and county voter registration number of each voter in the precinct, a listing of the districts in which that voter resides, and a designation of the applicable county, legislative district, and precinct, or a ballot code identifying this information. The names must be listed alphabetically by last name. The list must contain a space for each voter to sign his(~~/~~) or her name and to verify his(~~/~~) or her current address, and a space for the inspector or judge to credit the voter with having participated in a particular election.

(2) The auditor may eliminate from poll books ongoing absentee voters and voters requesting absentee ballots for that election. The poll book must clearly indicate whether or not absentee voters are included on the list. If they are included, a notation must be made next to each absentee voter's name.

(3) The list must include a notation for each registered voter who failed to satisfy the identity verification requirement during the registration process. Such a voter must be issued a provisional ballot, and the reason for the provisional ballot must be marked on the outer envelope, unless the voter first shows one of the following forms of identification, in which case the voter may be issued a regular ballot:

(a) Valid photo identification;

(b) A valid enrollment card of a federally recognized tribe in Washington;

(c) A current utility bill;

(d) A current bank statement;

(e) A current government check;

(f) A current paycheck; or

(g) A government document that shows both the voter's name and address, other than a voter registration card.

(4) All voters must show one of the following forms of identification before signing the poll book:

(a) Valid photo identification, such as a driver's license, state identification card, student identification card, or tribal identification card;

(b) A voter registration card;

(c) A current utility bill;

(d) A current bank statement;

(e) A current paycheck;

(f) A government check; or

(g) Another government document.

Any individual who cannot provide one of the above forms of identification must be issued a provisional ballot.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

**WAC 434-253-047 Provisional ballots—Disposition.**

Upon receipt of the provisional ballot, including provisional ballots from other counties or states, the auditor must investigate the circumstances surrounding the provisional ballot prior to certification of the primary or election.

A provisional ballot cannot be counted unless the voter's name, signature and the date of birth, if available, matches a voter registration record.

Once the provisional ballot has been investigated, disposition of the ballot is as follows:

(1) If there is no record of the voter ever having been registered, the voter must be offered the opportunity to register and the provisional ballot is not counted.

(2) If the voter was previously registered and later canceled and the auditor determines that the cancellation was in error, the voter's registration must be immediately restored and the provisional ballot counted.

(3) If the voter was previously registered and later canceled and the auditor determines that the cancellation was not in error, the voter must be offered the opportunity to reregister and the provisional ballot is not counted.

(4) If the voter is a registered voter but has voted a ballot other than the one which the voter would have received for his or her precinct, the auditor must ensure that only those votes for the positions and measures for which the voter was eligible to vote are counted.

(5) If the voter is a registered voter in another county, the auditor shall forward the ballot and a corresponding voter guide, or other means by which the ballot can be interpreted, to the supervisor of elections for the jurisdiction in which the voter is registered. The ballot must be forwarded within seven calendar days after a primary or special election and fifteen calendar days after a general election, and as soon as possible if past that date.

(6) If an absentee voter who voted a provisional ballot at the polls has already returned a voted absentee ballot, the provisional ballot is not counted. If the absentee voter who voted a provisional ballot at the polls has not returned a voted absentee ballot, the provisional ballot is counted. If a voted absentee ballot is returned after the provisional ballot has been counted, the absentee ballot is not counted.

(7) If the voter voted a provisional ballot because he or she failed to produce identification as required by RCW 29A.44.205 and pursuant to WAC 434-253-024(4), the ballot is counted if the signature on the envelope matches the signature in the voter registration record.

(8) If the voter voted a provisional ballot because the voter's registration record is flagged as requiring verification of identity, and the voter failed to provide identification pursuant to WAC 434-253-024(3) or 434-261-055, the provisional ballot is not counted.

(9) Provisional ballots voted for reasons not covered by this section or state statute must be determined by the county canvassing board.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-253-055 Identification.

#### NEW SECTION

**WAC 434-261-055 Returned ballot lacking verification of identity.** If a voter who still must verify his or her identity as part of the registration process votes an absentee or provisional ballot without providing adequate identification, the ballot cannot be counted unless the voter provides adequate identification no later than the day before certification of the election.

AMENDATORY SECTION (Amending WSR 06-14-049, filed 6/28/06, effective 7/29/06)

**WAC 434-262-031 Rejection of ballots or parts of ballots.** Ballots or parts of ballots shall be rejected by the canvassing board in the following instances:

(1) Where two ballots are found folded together, or where a voter has voted more than one ballot;

(2) Where two voted ballots are contained within a returned mail ballot envelope containing only one valid signature under the affidavit, unless both ballots are voted identically, in which case one ballot will be counted. If there are two valid signatures under the affidavit, both ballots must be counted;

(3) Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine the voter's intent;

(4) Where the voter has voted for candidates or issues for whom he or she is not entitled to vote;

(5) Where the voter has voted for more candidates for an office than are permissible;

(6) Where the voter has incorrectly attempted to correct a vote on the ballot contrary to the instructions provided pursuant to WAC 434-250-040 unless the voter provides written instructions directing how the vote should be counted;

(7) In the case of a partisan primary:

(a) For physically separate ballots:

(i) A log must be kept of all voted ballots rejected and included as part of the county canvassing board minutes.

(ii) When a voted nonpartisan ballot and a voted party ballot are both returned, and the nonpartisan section of the party ballot was not voted, the votes from both ballots must be duplicated onto a blank ballot of the same party the voter originally voted for.

(iii) When a party ballot and nonpartisan ballot both have been returned with the nonpartisan offices and ballot measures voted on both ballots, the nonpartisan votes that are the same on each ballot and the party votes shall be duplicated and counted.

(iv) Write-in votes for a partisan candidate on a nonpartisan ballot must not be counted in the final write-in tally.

(v) Write-in votes for a partisan candidate who has not filed a write-in declaration of candidacy, thereby affiliating with a major party, must not be counted in the final write-in tally.

(vi) If physically separate ballots are used and a voter returns more than one voted partisan ballot, no votes cast for candidates for partisan office shall be counted. If votes are cast for nonpartisan offices and/or ballot measures on only one of the partisan ballots, the nonpartisan votes must be counted. If votes are cast for nonpartisan offices and/or ballot measures on more than one party ballot, only those votes which are the same on each ballot shall be duplicated onto a nonpartisan ballot and counted.

(vii) If more than one ballot is returned but only one ballot is voted, the voted ballot must be counted.

(b) For consolidated ballots:

(i) When voting a consolidated ballot, if the voter does not mark the party checkbox, votes cast for candidates for partisan office must not be counted but votes cast on the nonpartisan portion of the ballot shall be counted.

(ii) Write-in votes for a partisan candidate in a partisan office on the nonpartisan section of the ballot must not be counted in the final write-in tally.

(iii) Write-in votes for a partisan candidate who has not filed a write-in declaration of candidacy shall not be counted in the final write-in tally.

(iv) If the voter marks one party checkbox, only those votes for candidates of that party shall count. Votes cast for candidates of other political parties must not be counted and do not cause over-votes.

Additionally, the canvassing board shall reject any ballot cast by a voter not qualified to vote, and shall reject absentee ballots where such rejection is required by law or administrative rule. The disposition of provisional ballots is governed by WAC 434-253-047.

AMENDATORY SECTION (Amending WSR 06-11-041, filed 5/10/06, effective 6/10/06)

**WAC 434-324-010 County election management system—Applications for voter registration.** (1) Each auditor must enter and maintain voter registration records in the official statewide voter registration data base by using a county election management system. Each record must contain at least the following information from the voter registration form in a format compatible with the official statewide voter registration data base:

(a) Name;

(b) Complete residential address;

(c) Complete mailing address;

(d) County registration number;

(e) State registration number;

(f) Gender;

(g) Date of birth;

(h) Date of registration;

(i) Applicable district and precinct codes;

(j) Dates upon which the individual has voted, if available;

(k) Washington state driver license number, Washington state identification card number, and/or the last four digits of

the applicant's Social Security number (~~(if he or she does not have a Washington state driver license or Washington state identification card)~~); and

(1) A scanned image file (format .tiff) of the applicant's signature.

(2) In the case of an applicant who applies for voter registration by mail and sends a copy of ~~((an))~~ one of the alternative forms of identification listed in RCW 29A.08.113 for registration purposes, ((pursuant to RCW 29A.08.113,)) the auditor must either maintain a scanned image of the identifying document or make a notation in the registration record indicating which alternative form of identification was ~~((sent))~~ provided to the auditor. Pursuant to RCW 29A.08.-710, a scanned image of the identification is not available for public inspection or copying.

(3) Upon entry of an applicant's information, the auditor must check for duplicate entries.

(4) Each auditor must have a quality assurance program to maintain accurate data entry into the statewide voter registration data base.

AMENDATORY SECTION (Amending WSR 06-14-050, filed 6/28/06, effective 7/29/06)

**WAC 434-324-040 Data transfer to secretary and registration status.** (1) Following entry into the county election management system, all information in the application for voter registration must be transferred electronically to the secretary for identity verification ~~((, outlined in RCW 29A.08.107)).~~ The secretary must assign the application a state identification number ~~((, and the application must remain in the county election management system in pending status until the applicant's identity has been verified)).~~

(2) If the applicant provided a Washington driver license number or state identification card number, the applicant's identity is verified with the department of licensing. If the applicant provided the last four digits of his or her Social Security number, the applicant's identity is verified with the Social Security Administration through the department of licensing.

(3) If the applicant's identity is not verified ~~((automatically))~~ in the computerized verification process, the secretary must notify the county election management system accordingly. The county auditor must first confirm the accuracy of the information entered in the county election management system from the voter registration application. The county auditor must correct any errors and again attempt to verify the applicant's identity automatically.

(4) If the applicant provided a Washington driver license number or state identification number and the identity is not verified ~~((automatically))~~ in the computerized verification process, the information on the application may be considered a "match" ~~((for purposes of RCW 29A.08.107))~~ if the number on the application exactly matches a number issued by the department of licensing, and it is clear to the county auditor that the information on the application describes the person on the department of licensing record. Reasons that the county auditor may conclude that the information on the application ((matches)) describes the person on the depart-

ment of licensing record ~~((#))~~ include, but are not limited to, the following:

(a) The first ~~((or))~~ middle, or last name on the application is a variation of the first ~~((or))~~ middle, or last name in the department of licensing record;

(b) The first, middle, or last name has transposed letters or another typographical error on the application or in the department of licensing record;

(c) The first and last names are transposed on the application or in the department of licensing record;

(d) The first and middle names are transposed on the application or in the department of licensing record;

(e) The applicant has a compound or hyphenated name which is not accurately or completely set forth on the application or in the department of licensing record;

(f) The first or middle name is abbreviated with initials on the application or in the department of licensing record; ~~((or~~

~~((#))~~ (g) The last name on the application and the last name in the department of licensing record are not the same but, based on other information, the county auditor concludes that one of the names is a maiden name or a former name of the same person; or

(h) The month and day of the applicant's date of birth are transposed on the application or in the department of licensing record.

If the county auditor concludes that the information on the application ~~((matches the information maintained by the department of licensing))~~ describes the person on the department of licensing record, the county auditor ~~((may))~~ must override the ~~((automated))~~ computerized failure to verify and must note the reason it is considered a match. The county auditor must place the applicant on the official list of registered voters in active status.

(5) ~~((If the applicant's driver's license or state identification number cannot be considered a match, the county auditor must attempt to contact the applicant to resolve the discrepancy, as required by RCW 29A.08.107. At a minimum, the county auditor must send a verification notice, as required by RCW 29A.08.030, 29A.08.110, and 29A.08.210, and may attempt to contact the applicant by phone or e-mail. The county auditor may attempt to confirm the applicant's driver's license number or state identification number, obtain the last four digits of the applicant's Social Security number, or obtain an alternative form of identification as allowed by RCW 29A.08.113.~~

(6) If the applicant provided the last four digits of his or her Social Security number and the identity is not verified automatically, the county auditor must contact the applicant to resolve the discrepancy, as required by RCW 29A.08.107. At a minimum, the county auditor must send a verification notice, as required by RCW 29A.08.030, 29A.08.110, and 29A.08.210, and may attempt to contact the applicant by phone or e-mail. The county auditor may attempt to confirm the last four digits of the applicant's Social Security number, obtain a Washington driver's license number or state identification number, or obtain an alternative form of identification as allowed by RCW 29A.08.113.

(7) Once the applicant's identity has been verified, the county auditor must change the voter's registration code in

~~the county election management system from pending status to active. Consistent with RCW 29A.08.110, the applicant is considered registered as of the original date of mailing or date of delivery, whichever is applicable.) If the applicant's identity is not verified in the computerized verification process, the applicant must be placed on the official list of registered voters in active status, but the registration record must be flagged as still requiring verification of the applicant's identity before the applicant's ballot may be counted.~~

the county auditor must verify the applicant's identity before counting the applicant's ballot. The county auditor may use other government resources and public records to confirm the applicant's driver's license or state identification card number or the last four digits of the applicant's Social Security number. The county auditor may also attempt to verify the applicant's identity by contacting the applicant by phone, e-mail or other means.

(2) If the county auditor has not successfully verified the applicant's identity, the county auditor must send the applicant an identity verification notice that includes a postage prepaid, preaddressed form by which the applicant may verify or send information. The identity verification notice must be in substantially the following form:

NEW SECTION

**WAC 434-324-045 Verification of applicant's identity.** (1) If the applicant's identity is not verified in the computerized verification process outlined in WAC 434-324-040,

Dear Voter:

[date]

Thank you for submitting a voter registration application. You are now registered to vote.

However, federal law requires that you provide identification either before or when you vote. **If you fail to provide identification, your ballot will not be counted.**

Please provide one of the following:

- The number on your Washington driver's license or state ID card: \_\_\_\_\_  
Your name and date of birth as it appears on your driver's license or state ID card:

First	M.I.	Last	date of birth
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- The last four digits of your Social Security number: \_\_\_\_\_  
Your name and date of birth as maintained by the Social Security Administration:

First	M.I.	Last	date of birth
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- A copy of one of the following:
  - Valid photo identification;
  - A valid enrollment card of a federally recognized tribe in Washington;
  - A current utility bill;
  - A current bank statement;
  - A current government check;
  - A current paycheck; or
  - A government document that shows both your name and address.

Please provide this documentation as soon possible. **If it is not provided, your ballot will not be counted.**

If you have any questions, please feel free to contact the \_\_\_\_\_ County Auditor's Office at \_\_\_\_\_.

(3) If the applicant responds with updated driver's license, state ID card, or Social Security information, or with a copy of one of the alternative forms of identification, the flag on the voter registration record must be removed, allowing the applicant's ballot to otherwise be counted the first time he or she votes after registering.

(4) If the applicant fails to respond with adequate documentation to verify his or her identity, the applicant's voter

registration record must remain flagged. If the applicant votes absentee, he or she must be notified that the ballot will not be counted unless he or she provides adequate verification of identity.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 06-11-041, filed 5/10/06, effective 6/10/06)

**WAC 434-324-055 Duplicate voter registration search conducted by secretary.** Upon receipt of an applicant's electronic voter registration record from the auditor, and on a monthly basis (~~((pursuant to WAC 434-324-113(3))),~~ the secretary must search for potential duplicate registration records in the official statewide voter registration data base (~~(; required in RCW 29A.08.651,)~~) by comparing the applicant's name and date of birth or other identifying information provided by the applicant on the voter registration form. Duplicates will be determined by comparing the signatures on all available records. If a voter is transferring his or her registration to a new county or if any other information on the application has been updated, the auditor of the new county must update the registration record (~~((pursuant to RCW 29A.08.107(4)))~~) in the state data base. A duplicate registration record must not be (~~(entered)~~) maintained as a new registration record.

AMENDATORY SECTION (Amending WSR 06-11-041, filed 5/10/06, effective 6/10/06)

**WAC 434-324-085 Notice of new registration or transfer.** (1) The auditor must send (~~((notification))~~) an acknowledgement notice to an individual by nonforwardable, address correction requested mail if an individual:

- (a) Registers to vote;
- (b) Transfers his(~~(s)~~) or her registration record within the county;
- (c) Transfers his or her registration record from another county within Washington state; or
- (d) Changes from one precinct to another because of a change in precinct boundaries.

(2) The notice must acknowledge that the request of the individual has been processed and must include:

- (a) Voter's full name;
- (b) Mailing address;
- (c) County name;
- (d) Precinct name and/or number; and
- (e) The date the voter registered.

**WSR 06-22-010  
PROPOSED RULES  
HORSE RACING COMMISSION**

[Filed October 20, 2006, 8:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-17-034.

Title of Rule and Other Identifying Information: WAC 260-36-085 License and fingerprint fees.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on December 14, 2006, at 9:30 a.m.

Date of Intended Adoption: December 14, 2006.

Submit Written Comments to: Robert M. Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-

mail [reichner@whrc.state.wa.us](mailto:reichner@whrc.state.wa.us), fax (360) 459-6461, by December 13, 2006.

Assistance for Persons with Disabilities: Contact Patty Sorby by December 11, 2006, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: License and fingerprint fees may need to be increased to comply with the mandate that license fees cover the cost to administrative [administrate] the licensing program. In addition, the agency plans to continue its efforts towards regulatory reform and to write rules in clear language so they are easily understood by those they apply to.

Reasons Supporting Proposal: In compliance with mandate to charge license fees to cover the administrative costs.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting: Patty Sorby, Olympia, Washington, (360) 459-6462; Implementation and Enforcement: Robert M. Leichner, Olympia, Washington, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

October 18, 2006

R. M. Leichner

Executive Secretary

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-085 License and fingerprint fees.** The following are the license fees for any person actively participating in racing activities:

Apprentice jockey	\$ <del>((67.00))</del> <u>69.00</u>
Assistant trainer	\$ <del>((31.00))</del> <u>32.00</u>
Association employee—management	\$21.00
Association employee—hourly/seasonal	\$11.00
Association volunteer nonpaid	No fee
Authorized agent	\$21.00
Clocker	\$21.00
Exercise ( <del>(rider))</del> <u>person</u>	\$ <del>((67.00))</del> <u>69.00</u>
Groom	\$21.00
Honorary licensee	\$11.00
Jockey agent	\$ <del>((67.00))</del> <u>69.00</u>
Jockey	\$ <del>((67.00))</del> <u>69.00</u>
Other	\$21.00

Owner	<del>\$(67.00)</del> <u>69.00</u>
Pony person	<del>\$(67.00)</del> <u>69.00</u>
Service employee	\$21.00
Spouse groom	\$21.00
Stable license	<del>\$(41.00)</del> <u>42.00</u>
Trainer	<del>\$(67.00)</del> <u>69.00</u>
Vendor	<del>\$(103.00)</del> <u>106.00</u>
Veterinarian	<del>\$(103.00)</del> <u>106.00</u>

The license fee for multiple licenses (~~shall~~) may exceed ~~\$(103.00)~~ 106.00, except persons applying for owner, veterinarian or vendor license (~~shall~~) must pay the license fee established for each of these licenses.

The following are examples of how this section applies:

Example one - A person applies for the following licenses: Trainer (~~\$(67.00)~~ 69.00), exercise person (~~\$(67.00)~~ 69.00), and pony person (~~\$(67.00)~~ 69.00). The total license fee for these multiple licenses would only be ~~\$(103.00)~~ 106.00.

Example two - A person applies for the following licenses: Owner (~~\$(67.00)~~ 69.00), trainer (~~\$(67.00)~~ 69.00) and exercise person (~~\$(67.00)~~ 69.00). The total cost of the trainer and exercise person license would be ~~\$(103.00)~~ 106.00. The cost of the owner license (~~\$(67.00)~~ 69.00) would be added to the maximum cost of multiple licenses (~~\$(103.00)~~ 106.00) (~~to determine the~~) for a total license fee of ~~\$(170.00)~~ 175.00.

Example three - A person applies for the following licenses: Owner (~~\$(67.00)~~ 69.00), vendor (~~\$(103.00)~~ 106.00), and exercise person (~~\$(67.00)~~ 69.00). The license fees for owner (~~\$(67.00)~~ 69.00) and vendor (~~\$(103.00)~~ 106.00) are both added to the license fee for exercise person (~~\$(67.00)~~ 69.00) for a total license fee of ~~\$(237.00)~~ 244.00.

In addition to the above fees, a \$10.00 fee will be added to cover the costs of conducting a fingerprint-based background check. The background check fee will be assessed only once annually per person regardless of whether the person applies for more than one type of license in that year.

The commission (~~shall~~) will review license and fingerprint fees annually to determine if they need to be adjusted to comply with RCW 67.16.020.

**WSR 06-22-031**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Health and Recovery Services Administration)  
(Medical Assistance)

[Filed October 25, 2006, 1:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-14-042.

Title of Rule and Other Identifying Information: WAC 388-490-0005 The department requires proof before authorizing benefits for cash, medical, and Basic Food.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on December 5, 2006, at 10:00 a.m.

Date of Intended Adoption: Not sooner than December 6, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [fernaax@dshs.wa.gov](mailto:fernaax@dshs.wa.gov), fax (360) 664-6185, by 5:00 p.m. on December 5, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by December 1, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at [schilse@dshs.wa.gov](mailto:schilse@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The federal Deficit Reduction Act of 2005 (Public Law 109-171, Section 6036) requires states to obtain documentation of citizenship and identity for all applicants for and recipients of Medicaid.

Reasons Supporting Proposal: The department is proposing these amendments to ensure continuation of federal funding for the state's Medicaid program.

Statutory Authority for Adoption: RCW 74.04.057, 74.04.090, 74.08.090 and Public Law 109-171, Section 6036.

Statute Being Implemented: Public Law 109-171, Section 6036.

Rule is necessary because of federal law, Public Law 109-171, Section 6036.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, P.O. Box 45534, Olympia, WA 98504-5534, e-mail [scotsik@dshs.wa.gov](mailto:scotsik@dshs.wa.gov), fax (360) 664-0910, (360) 725-1330.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not affect small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. DSHS client eligibility rules for medical assis-

tance are exempt from this requirement according to RCW 34.05.328 (5)(b)(vii).

October 20, 2006  
Andy Fernando, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-21-029, filed 10/7/03, effective 11/1/03)

**WAC 388-490-0005 The department requires proof before authorizing benefits for cash, medical, and Basic Food.** This rule applies to cash, medical, and Basic Food.

(1) When you first apply for benefits, the department may require you to provide proof of things that help us decide if you are eligible for benefits. This is also called "verification." The types of things that need to be proven are different for each program.

(2) After that, we will ask you to give us proof when:

- (a) You report a change;
- (b) We find out that your circumstances have changed;

or

(c) The information we have is questionable, confusing, or outdated.

(3) Whenever we ask for proof, we will give you a notice as described in WAC 388-458-0020.

(4) You must give us the proof within the time limits described in:

(a) WAC 388-406-0030 if you are applying for benefits; and

(b) WAC 388-458-0020 if you currently receive benefits.

(5) We will accept any proof that you can easily get when it reasonably supports your statement or circumstances. The proof you give to us must:

- (a) Clearly relate to what you are trying to prove;
- (b) Be from a reliable source; and
- (c) Be accurate, complete, and consistent.

(6) We cannot make you give us a specific type or form of proof.

(7) If the only type of proof that you can get costs money, we will pay for it.

(8) If the proof that you give to us is questionable or confusing, we may:

(a) Ask you to give us more proof, which may include providing a collateral statement. A "collateral statement" is from someone outside of your residence who knows your situation;

(b) Schedule a visit to come to your home and verify your circumstances; or

(c) Send an investigator from the Division of Fraud Investigations (DFI) to make an unannounced visit to your home to verify your circumstances.

(9) By signing the application, eligibility review, or change of circumstances form, you give us permission to contact other people, agencies, or institutions.

(10) If you do not give us all of the proof that we have asked for, we will determine if you are eligible based on the information that we already have. If we cannot determine that you are eligible based on this information, we will deny or stop your benefits.

(11) For all Medicaid programs, you must provide proof of citizenship and identity as specified at Section 6036 of the Deficit Reduction Act of 2005 (PL 106-171 amending USC 1396b). Exempt from this requirement are recipients of:

(a) SSI cash benefits; or

(b) Medicare.

## WSR 06-22-042

### PROPOSED RULES

#### HORSE RACING COMMISSION

[Filed October 26, 2006, 8:32 a.m.]

Supplemental Notice to WSR 06-19-054.

Preproposal statement of inquiry was filed as WSR 06-16-014.

Title of Rule and Other Identifying Information: Three new sections in chapter 260-36 WAC, Licensing, are being adopted to meet anticipated changes to the collection of industrial insurance premiums. The new sections address (1) the new requirements to collect premiums for exercise riders; (2) the number based upon the number of stalls or papers in the race office; and (3) short-duration industrial insurance coverage and reciprocal agreements with other states regarding industrial insurance.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on December 14, 2006, at 9:30 a.m.

Date of Intended Adoption: December 14, 2006.

Submit Written Comments to: Patty Sorby, 6326 Martin Way, Suite 209, Olympia, WA 98516, e-mail psorby@whrc.state.wa.us, fax (360) 459-6462, by December 13, 2006.

Assistance for Persons with Disabilities: Contact Patty Sorby by December 11, 2006, TTY (360) 459-6462.

Reasons Supporting Proposal: Allows for changes in industrial insurance coverage recommended by an industry workgroup and supported by the Washington horse racing commission. These new sections will be necessary if labor and industries adopts the changes requested by the commission.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert M. Leichner, Olympia, Washington, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

October 24, 2006

R. M. Leichner  
Executive Secretary



NEW SECTION**WAC 260-36-220 Industrial insurance premiums.** (1)

At the time of licensing, a trainer must pay industrial insurance premiums established by labor and industries, unless exempted under WAC 260-36-240.

(2) A trainer must pay an industrial insurance premium for exercise riders based upon the number of stalls the trainer has on the grounds of a racing association, or upon the registration papers in the race office, whichever is greater. In the event the number of stalls a trainer has on the grounds or the registration papers in the race office are unavailable, the number of industrial insurance premiums for exercise riders will be based upon the number of stalls or papers in the race office from the previous year. The calculation of exercise rider industrial insurance premiums for trainers at Class C racetracks is the total horses under that trainer at all the Class C racetracks. The number of exercise riders for which a trainer is required to pay industrial insurance premiums will be determined as follows:

(a) For zero to twelve stalls on the grounds or papers in the race office, a trainer must pay an industrial insurance premium for one exercise rider;

(b) For thirteen to twenty-four stalls on the grounds or papers in the race office, a trainer must pay an industrial insurance premium for two exercise riders;

(c) For twenty-five to thirty-six stalls on the grounds or papers in the race office, a trainer must pay an industrial insurance premium for three exercise riders; and

(d) For thirty-seven or more stalls on the grounds or papers in the race office, a trainer must pay an industrial insurance premium for four exercise riders.

(3) If the trainer increases the number of horses or stalls during the license year, the trainer must pay the exercise rider industrial insurance premiums as provided in subsection (2)(a) through (d) of this section.

NEW SECTION

**WAC 260-36-230 Short duration industrial insurance coverage.** (1) Trainers entering horses to run in Washington races will be allowed to obtain short duration industrial insurance coverage under the following conditions:

(a) Trainers who ship in to Class A or B race meets may purchase short duration industrial insurance coverage for seven consecutive calendar days. The trainer must pay twenty percent of the trainer base premium, and twenty percent for each groom slot obtained, assistant trainer hired, and each exercise rider as required in WAC 260-36-220 (all rounded to the next whole dollar). The base premium used for this calculation will be the industrial insurance premiums for Class A or B race meets. A trainer may only purchase Class A or B race meet short duration coverage for three seven-day periods per calendar year.

(b) Trainers who ship in to Class C race meets may purchase short duration industrial insurance coverage for seven consecutive calendar days. The trainer must pay twenty percent of the trainer base premium, and twenty percent of each groom slot obtained, assistant trainer hired, and each exercise rider as required in WAC 260-36-220 (all rounded to the next whole dollar). The base premium used for this calculation

will be the industrial insurance premiums for Class C race meets. A trainer may only purchase Class C race meet short duration coverage for three seven-day periods per calendar year. Class C race meet short duration industrial insurance coverage is not transferable to a Class A or B race meet.

(2) Before short duration coverage will be allowed, a trainer must obtain a license and pay all applicable license and fingerprint fees required in WAC 260-36-085. The trainer is also required to ensure that each groom, assistant trainer, pony rider, and exercise rider hired by the trainer has a proper license. A trainer may only employ persons on the grounds of the racing association who are properly licensed by the commission.

NEW SECTION

**WAC 260-36-240 Industrial insurance coverage—Reciprocal agreements.** The state of Washington has reciprocal agreements with other states. Trainers shipping in from these jurisdictions who have industrial insurance from a reciprocal state need not obtain industrial insurance coverage so long as they comply with the conditions of RCW 51.12.-120 and WAC 296-17-31009.

**WSR 06-22-044****PROPOSED RULES****CENTRAL WASHINGTON UNIVERSITY**

[Filed October 27, 2006, 8:37 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 06-15-078.

Title of Rule and Other Identifying Information: Student ((judicial)) conduct code, chapter 106-120 WAC.

Hearing Location(s): Barge 304, on December 6, 2006, at 2:00 p.m.

Date of Intended Adoption: December 6, 2006.

Submit Written Comments to: Judy B. Miller, President's Office, 400 East University Way, Ellensburg, WA 98926-7501, e-mail miller@cwu.edu, fax (509) 963-3206, by November 13, 2006.

Assistance for Persons with Disabilities: Contact Disability Support Services by November 29, 2006, TTY (509) 963-2143.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Modify existing rules to comply with federal and state regulations and current administrative practice.

Reasons Supporting Proposal: Clarify rules consistent with state and federal law and current internal administrative practice.

Statutory Authority for Adoption: RCW 28B.10.528 and 28B.35.120(12).

Rule is necessary because of federal law, FERPA, Civil Rights Act/1964, Title IX of Education amendment/1972.

Name of Proponent: Judy B. Miller, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Keith Champagne, 400

East University Way, Ellensburg, 98926-7432, (509) 963-1515.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes are in response to federal law and internal processes and do not impact small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Complies with federal law (FERPA, 20 U.S.C. § 1232g; 34 CFR Part 99) - RCW 34.05.328 (5)(b)(iii).

October 25, 2006

Jerilyn S. McIntyre  
President

## Chapter 106-120 WAC

### STUDENT (~~(JUDICIAL)~~) CONDUCT CODE

AMENDATORY SECTION (Amending Order CWU AO 75, filed 10/12/94, effective 11/12/94)

**WAC 106-120-003 Purpose.** The students of Central Washington University are responsible for complying with policies, standards, rules, and requirements for academic and social behavior formulated by the university for the maintenance of ~~((and))~~ an orderly and responsible functioning of the university community. Students enrolled at any of the university's campuses are expected to uphold these standards both on and off campus. The student conduct code shall apply to a student's conduct even if the student withdraws from the university while a disciplinary matter is pending. At the same time, students have protection through orderly procedures against arbitrary or capricious actions or decisions by university authorities. Due process is recognized as essential to the proper enforcement of university rules. The purpose of this chapter is to provide a procedure and rules by which a student will be afforded due process in the matter of alleged violations of university standards, rules and requirements governing academic and social conduct of students.

The university recognizes a responsibility to resolve behavior problems before they escalate into serious problems requiring the application of these rules. Therefore, the vice-president for student affairs and enrollment management shall generally review and/or investigate student behavioral problems which are referred by university community members or any subsidiary (~~(judicial)~~) conduct agencies to the ~~((campus-judicial))~~ student conduct council, or which otherwise come to the attention of the vice-president through ~~((campus-safety-reports))~~ the office of public safety and police services or other official university reports. The vice-president and the problem-solving team shall be as proactive as ~~((is))~~ possible concerning the resolution of student behavioral problems and use reasonable arbitration and conflict resolution methods in order to prevent such problems from further interfering with the university community or the student's own ~~((educational))~~ education progress.

AMENDATORY SECTION (Amending Order CWU AO 75, filed 10/12/94, effective 11/12/94)

**WAC 106-120-004 Definitions.** (1) "University" shall mean Central Washington University.

(2) "Vice-president" shall mean the vice-president for student affairs and enrollment management of the university or the vice-president's designee.

(3) "Student" shall mean a person enrolled either full or part time, pursuing undergraduate or graduate studies, or extension studies, or a person accepted for admission or readmission to the university.

(4) "University community" shall include the employees and students of Central Washington University and all property and equipment of the university.

(5) "Hazing" shall include any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending Central Washington University. The term does not include customary athletic events or other similar contests or competitions.

(6) "Sexual assault" occurs when the act is intentional and is committed either by:

(a) Physical force, violence, threat, or intimidation;

(b) Ignoring the objections of another person;

(c) Causing another's intoxication or impairment through the use of alcohol or drugs; or

(d) Taking advantage of another person's incapacitation, state of intimidation, helplessness, or other inability to consent.

(7) "Sexual misconduct" occurs when an act is committed without intent to harm another and where, by failing to correctly assess the circumstances, a person mistakenly believes that effective consent was given and did not meet his/her responsibility to gain effective consent.

(8) "Sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. More specifically, sexually harassing behavior includes, but is not limited to the following:

(a) Gender harassment, including sexist statements and behaviors that convey insulting, degrading, or sexist attitudes;

(b) Seductive behavior encompassing unwanted, inappropriate, and offensive physical or verbal sexual advances;

(c) Sexual bribery, involving solicitation of sexual activity or other sex-linked behavior by promise of reward;

(d) Sexual coercion of sexual activity or other sex-linked behavior by threat of punishment; and

(e) Sexual assault, attempted rape, and rape. Additional examples of sexual harassment can be found in the university's sexual harassment policy. (CWU Policies Manual 2-2.2.3.2 <http://www.cwu.edu/~pres/policies/Part2-2.2.pdf>).

(9) "Stalking" is a legal term for repeated harassment or other forms of invasion of a person's privacy in a manner that causes fear to its target. Stalking may include such acts as repeated following; unwanted contact (by letter or other means of communication); observing a person's actions

closely for an extended period of time; or contacting family members, friends, or associates of a target inappropriately.

AMENDATORY SECTION (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-005 Provision for due process.** The vice-president shall provide for due process for students throughout the behavioral problem-solving intervention by following the proper steps related to the initiation, investigation, and disposition of complaints against a student ~~((which is))~~ as outlined in WAC 106-120-131.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

**WAC 106-120-006 Students subject to ~~((judicial)) student conduct code.~~** Any student is subject to these rules, independent of any other status the individual may have with the university. Any action taken against a student under these rules shall be independent of other actions taken by virtue of another relationship with the university in addition to that of student.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

**WAC 106-120-007 Cooperation with law enforcement agencies.** Central Washington University distinguishes its responsibility for student conduct from the controls imposed by the larger community beyond the university, and of which the university is a part. ~~((The university does not have the responsibilities of a parent for the conduct of students, and is not responsible for conduct of students off campus.))~~ When students are charged with violations of laws of the nation or state, or ordinances of the county or city, the university will neither request nor agree to special consideration for students because of their status as students, but the university will cooperate with law enforcement agencies, courts, and any other agencies in programs for rehabilitation of students.

Central Washington University reserves the right to impose the provisions of this chapter and apply further sanctions before or after law enforcement agencies, courts, and other agencies have imposed penalties or otherwise disposed of a case.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

**WAC 106-120-021 ~~((Campus-judicial)) Student conduct council.~~** The ~~((campus-judicial)) student conduct~~ council shall be the principal campus-wide ~~((judicial)) conduct~~ body with jurisdiction over all students, whether graduate or undergraduate, and student organizations and authority to hear all charges of misconduct. It has authority to impose the sanctions described in WAC 106-120-028.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

**WAC 106-120-022 Subsidiary judicial agencies.** Other divisions of the university may elect to establish subsidiary ~~((judicial)) conduct~~ agencies over which the ~~((campus-judicial)) student conduct~~ council will have appellate jurisdiction. Subsidiary ~~((judicial)) conduct~~ agencies or persons levying sanctions should devise sanctions which are in proportion to both the nature and extent of the misconduct, and which redress injury, damage, expense, inconvenience and/or grievance as far as possible. Appeal from subsidiary councils or agencies must be made within five working days from the time of publication of findings by said subsidiary ~~((judicial)) conduct~~ agency. Failure to file such an appeal will constitute and be construed as full acceptance by all parties of the findings.

AMENDATORY SECTION (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-023 ~~((Campus-judicial)) Student conduct council—Membership.~~** The ~~((campus-judicial)) student conduct~~ council shall consist of ~~((three)) six~~ faculty members holding the rank of assistant professor or above, and eight students, at least one of whom should be a graduate student if a graduate student files for appointment to the council.

(1) The faculty members of the council shall be designated in accordance with procedures established by the faculty senate.

(2) The student members of the council shall be selected in accordance with procedures established by the constitution of the associated students of Central Washington University. Eight student members shall be appointed, each student being appointed for a term of one calendar year. Terms of office for students begin with the first day of instruction of the academic year for which the student is appointed.

AMENDATORY SECTION (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-024 ~~((Campus-judicial)) Student conduct council—Chair.~~** A ~~((campus-judicial)) student conduct~~ council chair shall be elected at the first meeting each academic year and shall continue in office until the person resigns or is recalled. The duties of the chair are as follows:

(1) To call regular and special meetings of the council by notification to members at least twenty-four hours in advance of the meeting time, except in bona fide emergency situations.

(2) To preside over all regular and special meetings.

(3) To act as presiding officer at all meetings of the proceeding board.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

**WAC 106-120-025 ~~((Campus-judicial)) Student conduct council—Quorum.~~** Two of the faculty members and

three of the student members of the council shall constitute a quorum.

AMENDATORY SECTION (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-026 ((~~Campus judicial~~)) Student conduct council—Advisor.** The vice-president shall appoint a ((~~faculty member~~)) designee as a ((~~judicial~~)) student conduct council advisor whose duties shall be to convene the council, and advise the council during all meetings and hearings.

AMENDATORY SECTION (Amending Orders CWU AO 75 and CWU AO 75A, filed 10/12/94 and 10/19/94, effective 11/12/94 and 11/19/94)

**WAC 106-120-027 Proscribed conduct.** A student shall be subject to disciplinary action or sanction upon violation of any of the following conduct proscriptions:

(1) Disruptive and disorderly conduct which interferes with the rights and opportunities of other students to pursue their academic studies.

(2) Academic dishonesty in all its forms including, but ((~~without being~~)) not limited to:

(a) Cheating on tests.

(b) Copying from another student's test paper.

(c) Using materials during a test not authorized by the person giving the test.

(d) Collaboration with any other person during a test without authority.

(e) Knowingly obtaining, using, buying, selling, transporting, or soliciting in whole or in part the contents of an unadministered test or information about an unadministered test.

(f) Bribing any other person to obtain an unadministered test or information about an unadministered test.

(g) Substitution for another student or permitting any other person to substitute for oneself to take a test.

(h) "Plagiarism" which shall mean the appropriation of any other person's work and the unacknowledged incorporation of that work in one's own work offered for credit.

(i) "Collusion" which shall mean the unauthorized collaboration with any other person in preparing work offered for credit.

(3) Filing a formal complaint with the vice-president for student affairs and enrollment management with the intention of falsely accusing another with having violated a provision of this code.

(4) Furnishing false information to any university official, especially during the investigation of alleged violations of this code.

(5) Furnishing false information to the ((~~campus judicial~~)) student conduct council with the intent to deceive, the intimidation of witnesses, the destruction of evidence with the intent to deny its presentation to the ((~~campus judicial~~)) student conduct council or ((~~the willful failure to appear before the campus judicial council or~~)) the vice-president when properly notified to appear.

(6) Intentionally setting off a fire alarm or reporting a fire or other emergency or tampering with fire or emergency

equipment except when done with the reasonable belief in the existence of a need therefore.

(7) Forgery, alteration, or misuse of university documents, records, or identification cards.

(8) Sexual ((~~assault in any form, including acquaintance rape and other forced and/or nonconsensual sexual activity~~)) harassment including stalking, forced and/or nonconsensual sexual activity in any form, including sexual assault and sexual misconduct.

(9) Actual or attempted physical/emotional abuse of any person or conduct which threatens or endangers the health and safety of any person or which intentionally or recklessly causes a reasonable apprehension of harm to any person.

(10) Harassment of any sort or any malicious act which causes harm to any person's physical or mental well being.

(11) Recklessly engaging in conduct which creates a substantial risk of physical harm to another person.

(12) Creating noise in such a way as to interfere with university functions or using sound amplification equipment in a loud and raucous manner.

(13) Theft or malicious destruction, damage or misuse of university property, private property of another member of the university community, whether occurring on or off campus; or theft or malicious destruction, damage or misuse on campus of property of a nonmember of the university community.

(14) Unauthorized seizure or occupation or unauthorized presence in any university building or facility.

(15) Intentional disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other university activities or programs whether occurring on or off campus or of activities or programs authorized or permitted by the university ((~~to be conducted on campus~~)) pursuant to the provisions of this chapter.

(16) Intentional participation in a demonstration which is in violation of rules and regulations governing demonstrations promulgated by the university pursuant to the provisions of this chapter.

(17) Unauthorized entry upon the property of the university or into a university facility or any portion thereof which has been reserved, restricted in use, or placed off limits; unauthorized presence in any university facility after closing hours; or unauthorized possession or use of a key to any university facility.

(18) Possession or use on campus of any firearm, dangerous weapon or incendiary device or explosive unless such possession or use has been authorized by the university.

(19) Possession, use, or distribution on campus of any controlled substance as defined by the laws of the United States or the state of Washington except as expressly permitted by law.

(20) Violation of the university policy on alcoholic beverages which states:

(a) Persons twenty-one years of age or older may possess and/or consume alcoholic beverages within the privacy of their residence hall rooms or apartments. Washington state law provides severe penalties for the possession or consumption of alcoholic beverages by persons under twenty-one years of age and for persons who furnish alcoholic beverages

to minors. All university students should be aware of these laws and the possible consequences of violations.

(b) The university does not condone the consumption of alcoholic beverages by minors at functions sponsored by Central Washington University organizations. Organizations are held responsible for the conduct of their members at functions sponsored by the organization and for failure to comply with Washington state law.

(c) The ~~((campus judicial))~~ student conduct council may place on probation any organization or prohibit a specific campus social function when the consumption of alcoholic beverages has become a problem of concern to the university.

(21) Conduct which violates the university policies on computer use.

(22) Violation of clearly stated proscriptions in any published rule or regulation promulgated by any official campus committee ~~((or))~~, commission, or council acting within the scope of its authority.

(23) Violation on or off campus of any city, county, state, or federal law ~~((or violation of any state or federal law off campus while participating))~~. This includes participation in any university sponsored activity.

(24) Conspiracy to engage in hazing or participation in hazing of another.

(25) Failure to comply with the directive of a university official acting in the scope of authority may result in disciplinary action.

AMENDATORY SECTION (Amending Order CWU AO 75, filed 10/12/94, effective 11/12/94)

**WAC 106-120-028 Disciplinary sanctions.** The following ~~((definitions of disciplinary terms have been established and))~~ may be the sanctions imposed by the vice-president for student affairs and enrollment management or by the ~~((campus judicial))~~ student conduct council.

(1) Warning. Notice in writing that the student has violated university rules or regulations or has otherwise failed to meet the university's standard of conduct. Such warning will contain the statement that continuation or repetition of the specific conduct involved or other misconduct will normally result in one of the more serious disciplinary actions described below.

(2) Disciplinary probation. Formal action specifying the conditions under which a student may continue to be a student at the university including limitation of specified activities, movement, or presence on the CWU campus, including restricted access to any university building. The conditions specified may be in effect for a limited period of time or for the duration of the student's attendance at the university.

(3) Restitution. An individual student may be required to make restitution for damage or loss to university or other property and for injury to persons. Failure to make restitution will result in suspension ~~((for an indefinite period of time as set forth in subsection (4) below provided that a student may be reinstated upon payment))~~ until payment is made.

(4) Suspension. Dismissal from the university and from status as a student for a stated period. The notice suspending the student will state in writing the term of the suspension and any condition(s) that must be met before readmission is

granted. The student so suspended must demonstrate that the conditions for readmission have been met. There is to be no refund of fees for the quarter in which the action is taken, but fees paid in advance for a subsequent quarter are to be refunded.

(5) Deferred suspension. Notice of suspension from the university with the provision that the student may remain enrolled contingent on meeting a specified condition. Not meeting the contingency shall immediately invoke the suspension for the period of time and under the conditions originally imposed.

(6) Expulsion. The surrender of all rights and privileges of membership in the university community and exclusion from the campus without any possibility for return.

(7) For the specific instance of hazing, forfeiture of any entitlement to state-funded grants, scholarships, or awards for a specified period of time.

AMENDATORY SECTION (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-033 Readmission after suspension.**

Any student suspended from the university under the provisions of the student ~~((judicial))~~ conduct code may be readmitted upon expiration of the time period specified in the document of original suspension.

If circumstances warrant reconsideration of the suspension prior to its time of expiration, the student may be readmitted following approval of a written petition submitted to the vice-president. Such petitions must state reasons which either provide new evidence concerning the situation which resulted in the suspension, or demonstrate that earlier readmission is in the best interest of the student and the university. Approval for such readmission must be given by the vice-president or by the ~~((campus judicial))~~ student conduct council.

Students who have been suspended and whose suspension upon appeal is found to have been unwarranted shall be provided full opportunity to reestablish their academic and student standing to the extent possible within the abilities of the university, including an opportunity to retake examinations or otherwise complete course offerings missed by reason of such action.

AMENDATORY SECTION (Amending Order CWU AO 75, filed 10/12/94, effective 11/12/94)

**WAC 106-120-131 Initiation, investigation, and disposition of complaints.** (1) Philosophy.

~~((When))~~ The problem-solving team deals with student ~~((behavioral problems occur, the university employs a team problem-solving approach. The director of housing, director of residence living, and the chief of public safety and police services join the assistant and associate vice-president))~~ behaviors which constitute violations of this code. The problem-solving team meets weekly to review residence ~~((living))~~ hall incident reports filed by ~~((living group advisors))~~ resident assistants and ~~((hall))~~ building managers, as well as ~~((campus))~~ police reports which ~~((cover))~~ deal with both on-~~((campus))~~ and off-campus students. ~~((This problem-solving~~

~~team then deals with student behavioral problems which constitute violations of this code.)~~

The problem-solving team works together to suggest intervention strategies which are considered to be most appropriate and effective for eliminating specific negative student behaviors. The problem-solving team is chaired by the associate vice-president for student affairs and includes representatives from public safety and police services, university housing and new student programs, the center for student empowerment and the wildcat wellness center.

(2) Process.

Incidents (~~which~~) that come to the attention of the problem-solving team may be addressed in one of the following ways:

- (a) No action;
- (b) Informal meetings with relevant university officials;
- (c) Referral to the residence hall arbitration council, for resolving certain disputes within the residence halls;
- (d) Initiate proceedings in the office of the vice-president for student affairs and enrollment management.

Official proceedings in the vice-president's office are conducted when it becomes apparent to the problem-solving team that the initial and more informal forms of intervention with a student have been unsuccessful in positively modifying a student's behavior. ~~((The following rules will govern the processing of alleged violations of the proscribed conduct listed in the student judicial code.))~~

(3) Investigation and disposition of complaints. The following rules will govern the processing of alleged violations of the proscribed conduct listed in the student conduct code with one exception. Allegations of discrimination, based on race, color, creed, religion, national origin, sex (including sexual harassment), sexual orientation, gender identity and gender expression, age, marital status, disability, or status as a protected veteran will utilize a separate process in order to provide both parties their rights under the law and in accordance with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. Copies of the discrimination grievance process are available in the office of the vice-president for student affairs and enrollment management.

(a) A complaint alleging misconduct against any student at the university may be filed by anyone at the office of the vice-president for student affairs and enrollment management. Students, faculty members, administrators, and other employees of the university shall have concurrent authority to request the commencement of the disciplinary proceedings provided for in this chapter. A person filing a complaint shall be complainant of record.

~~((4))~~ (b) Any student charged in a complaint shall receive ((oral or)) written notification from the vice-president. Such notice shall:

~~((a))~~ (i) Inform the student that a complaint has been filed alleging that the student violated specific provisions of the student ((judicial)) conduct code and the date of the violation(s);

~~((b))~~ (ii) Set forth those provisions allegedly violated;

~~((c))~~ (iii) Specify a time and date the student is required to meet with the vice-president or designee; and

~~((d))~~ (iv) Inform the student that failure to appear at the appointed time at the vice-president's office may subject the student to suspension from the university.

~~((5))~~ (4) When the vice-president meets with the student, the vice-president shall:

(a) Provide for the student a copy of the student ((judicial)) conduct code;

(b) Review the facts of the alleged violation with the student; and

(c) Conduct an investigation into the alleged violation.

~~((6))~~ (5) Upon completion of the review with the student and/or the investigation, the vice-president may:

(a) Drop the charges, when they appear to be invalid or without substance or capricious;

(b) Issue a verbal warning;

(c) Apply any of the sanctions as outlined in WAC 106-120-028 if such sanction is warranted by the evidence;

(d) Refer the case to the ((campus-judicial)) student conduct council; or

(e) Invoke the summary suspension procedure as outlined in WAC 106-120-143 when deemed appropriate.

(6) The vice-president shall inform the student that ((the vice-president's sanction)) only suspension and expulsion sanctions may be appealed to the ((campus-judicial)) student conduct council, and that if an appeal is made, the vice-president shall take no action or make any determination, except for summary suspension, in the matter other than to inform the student of the time, date, and location of the proceeding by the ((campus-judicial)) student conduct council.

AMENDATORY SECTION (Amending Order CWU AO 75, filed 10/12/94, effective 11/12/94)

**WAC 106-120-132 Procedures for proceeding before the ((campus-judicial)) student conduct council.** (1) When a case is referred to the ((campus-judicial)) student conduct council the vice-president shall forward to the council:

(a) A statement describing the alleged misconduct;

(b) The name and address of the complainant;

(c) The name and address of the student charged; and

(d) All relevant facts and statements.

(2) The secretary to the council ((chair)) shall call a special meeting of the council and arrange for a proceeding in the following manner:

(a) The council shall determine the time and place of the proceeding, which shall be at least ten days after delivery of written notice to the student. In the interest of timeliness and efficiency, upon the request of either the student or the vice-president, this ten-day interval may be waived by the vice-president, with the student's permission. Time and place shall be set to make the least inconvenience for all interested parties. The chair may change the time and place of the proceeding for sufficient cause.

(b) The council shall draw lots ((for)) to determine a proceeding board consisting of five student names((;)) and three faculty names, with one ((of whom will serve as an)) student and one faculty serving as alternates to be available until the proceeding board has been constituted and the chair selected who will act as the proceeding officer.

(c) No case shall be heard unless the full membership of the proceeding board is present.

(d) All cases will be heard de novo, whether the case be an appeal from a subsidiary judicial body or is heard as an original complaint.

(3) The secretary to the council (~~(chair)~~) shall send written notice by certified mail of the proceeding (~~(to the student)~~) to the student's last known address. The notice shall contain:

(a) A statement of the date, time, place and nature of the proceeding;

(b) To the extent known, a list of witnesses who will appear; and

(c) A summary description of any documentary or other physical evidence that would be presented by the university.

(4) The student shall have all authority possessed by the university to obtain information he/she specifically describes in writing and tenders to the council chair no later than two days prior to the proceeding or to request the presence of witnesses, or the production of other evidence relevant to the proceeding. However, the university shall not be liable for information requested by the student or the presence of any witnesses when circumstances beyond the control of the university prevent the obtaining of such information or the attendance of such witnesses at the proceeding.

(5) Proceedings will ordinarily be held in closed session unless the proceeding board determines there is a compelling reason for the proceeding to be open, or the student requests an open proceeding. A closed proceeding shall include only members of the proceeding board, persons directly involved in the proceeding as parties and persons called as witnesses.

(6) The proceeding shall be audio tape recorded, and the tape shall be on file at the office of the vice-president for a period of three years.

(7) The university shall be represented by the vice-president who shall present the university's case against the student.

(8) The student may be accompanied by counsel, or another third party, who may offer advice. If the student utilizes an attorney as advisor, the student must give to the vice-president two days notice of intent to do so. If the student elects to be advised by an attorney, the vice-president may elect to have the university advised by an assistant attorney general.

(9) The council chair shall insure that:

(a) The proceeding is held in an orderly manner giving full care that the rights of all parties to a full, fair and impartial proceeding are maintained.

(b) The charges and supporting evidence or testimony shall be presented first, and that there is full opportunity for the accused student to challenge the testimony and/or evidence, and to cross examine appropriately.

(c) The student charged shall next present evidence or testimony to refute the charge, and that there is full opportunity for the accuser to challenge testimony and/or evidence, and to cross examine appropriately.

(d) Only those materials and matters presented at the proceeding will be considered as evidence. The presiding officer shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(10) Any person disruptive of the proceeding or any other procedure described in this document may be excluded from the process by the chair of the (~~(campus judicial)~~) student conduct council or by the vice-president, using such means as are necessary to ensure an orderly process. Any student engaging in such interference shall be in contempt and may be summarily suspended from the university by the (~~(campus judicial)~~) student conduct council or the vice-president immediately. The student shall be subject to a suspension or any lesser sanction as may be determined by the (~~(campus judicial)~~) student conduct council or the vice-president at the time the interference takes place or within fifteen working days thereafter.

(11) The student has a right to a fair and impartial proceeding, but the student's failure to cooperate with or attend a proceeding (~~(procedure)~~) shall not preclude the (~~(committee)~~) council from making its finding of facts, conclusions, and recommendations. Failure by the student to cooperate may be taken into consideration by the (~~(campus judicial)~~) student conduct council and the vice-president in deciding the appropriate disciplinary action.

(12) Upon conclusion of the proceeding, the proceeding board in closed session shall consider all the evidence presented and decide by majority vote to exonerate the student or to impose one of the sanctions authorized by this document.

(13) The student shall be provided with a copy of the board's findings of fact and conclusions regarding whether the student did violate any rule or rules of the student (~~(judicial)~~) conduct code and the board's decision as to the appropriate sanction to be imposed.

(14) If a student charged with misconduct under this code has been charged with a crime for the same act or closely related acts by federal, state, or local authorities, or if it appears that such criminal charge is under consideration, the (~~(campus judicial)~~) student conduct council may postpone action on the complaint until there has been a disposition of the criminal charge or of the consideration of filing such charge. However, prior to action by other agencies, the council may proceed to hear and decide the case if in the judgment of the council, the nature of the alleged misconduct and the circumstances surrounding it pose a serious risk to the health or well being of the student or other members of the university. If there is a determination of guilt by the council and if the subsequent criminal proceedings result in a judgment of acquittal, the student may petition the (~~(campus judicial)~~) student conduct council for a rehearing.

**AMENDATORY SECTION** (Amending Order CWU AO 75, filed 10/12/94, effective 11/12/94)

**WAC 106-120-143 Summary suspension proceedings.** The vice-president may summarily suspend any student from the university pending investigation, action of prosecution of charges of an alleged proscribed conduct violation or violations, if the vice-president has reason to believe that the student's physical or emotional safety and well-being, or the safety and well-being of other university community members, or the protection of property requires such suspension.

(1) If the vice-president finds it necessary to exercise the authority to summarily suspend a student the vice-president shall:

(a) Give to the student an oral or written notice of intent to determine if summary suspension is an appropriate action;

(b) Give an oral or written notice of the alleged misconduct and violation(s) to the student;

(c) Give an oral or written explanation of the evidence in support of the charge(s) to the student;

~~(d) ((Give an oral or written notice of the time and place of the summary suspension proceeding before the vice-president; and))~~ Determine a time for the summary suspension proceeding to be held within thirty-six hours;

~~(e) ((Determine a time for the summary suspension proceeding to be held within thirty-six hours;))~~ Give an oral or written notice of the time and place of the summary suspension proceeding before the vice-president; and

(f) Give an oral or written explanation of the summary suspension which may be imposed on the student.

(2) At the place and time designated for the summary suspension proceeding, the vice-president shall:

(a) Consider the evidence relating specifically to the probability of danger to the student, to others on the campus, or to property;

(b) Provide the student with an opportunity to show why continued presence on campus does not constitute a danger to the physical and emotional well being of self or others, or a danger to property;

(c) Give immediate oral notice of ~~((his or her))~~ the decision to the student to be followed by written notice; and

(d) If summary suspension is warranted, summarily suspend the student for no more than fifteen working days with a ~~((judicial))~~ student conduct council proceeding of the allegations to have commenced by the end of the suspension period.

(3) If a student has been instructed by the vice-president to appear for summary suspension proceedings and then fails to appear at the time designated, the vice-president may suspend the student from the university, and shall give written notice of suspension to the student at the last address of record on file with the university.

(4) During the period of summary suspension, the suspended student shall not enter the campus of the university other than to meet with the vice-president. However, the vice-president may grant the student special permission for the express purpose of meeting with faculty, staff, or students in preparation for a proceeding before the ~~((campus judicial))~~ student conduct council.

### WSR 06-22-045

#### PROPOSED RULES

#### CENTRAL WASHINGTON UNIVERSITY

[Filed October 27, 2006, 8:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-08-070.

Title of Rule and Other Identifying Information: Chapter 106-160 WAC, Admission and registration procedures for undergraduate and graduate students.

Hearing Location(s): Barge 412, on December 6, 2006, at 2:45 p.m.

Date of Intended Adoption: December 6, 2006.

Submit Written Comments to: Judy B. Miller, President's Office, 400 East University Way, Ellensburg, WA 98926-7501, e-mail miller@cwu.edu, fax (509) 963-3206.

Assistance for Persons with Disabilities: Contact Disability Support Services by November 29, 2006, TTY (509) 963-2143.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Clarify and update admission and registration rules to reflect current practice.

Reasons Supporting Proposal: Rule modifications will provide appropriate guidance to current and prospective students.

Statutory Authority for Adoption: RCW 28B.10.528 and 28B.35.120(12).

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

Name of Proponent: Judy B. Miller, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tracy Terrell, 400 East University Way, Ellensburg, WA 98926-7465, (509) 963-3076.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not impacted by these rules.

A cost-benefit analysis is not required under RCW 34.05.328. Proposed rule changes are exempt per RCW 34.05.328 (5)(b)(iv).

October 25, 2006

Jerilyn S. McIntyre

President

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-070 Finances.** Each ~~((applicant for admission to))~~ enrolled student at Central Washington University must pay the tuition and fees as established by the board of trustees or the president on or before the dates for payment as designated by the board of trustees or the president.

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-080 Graduating students.** Students shall submit their applications for the appropriate degrees on or before the date designated for the purpose by the board of trustees or the president, which shall be published in the appropriate university catalog. No application shall be accepted after the designated dates. However, the president or ~~((his))~~ designee may waive this requirement.



AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-090 Registration.** Currently enrolled students and all other individuals desiring to enroll in Central Washington University shall do so during the early registration dates or on or before the ~~((preregistration or))~~ registration dates designated by the board of trustees or president, which shall be published in the appropriate university catalog. No registration ~~((or preregistration))~~ shall be accepted after the designated dates: Provided ~~((;))~~ that the registrar may, whenever possible, waive this requirement within the time designated by the board of trustees or president for late registration.

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-110 Registration—Changes in registration and withdrawal.** Students who wish to change their registration or withdraw from a particular course or the university after having completed their registration must do so on or before the date established for such changes or withdrawal by the board of trustees or president and by the completion of the "change ~~((in registration))~~ of schedule" or "withdrawal" forms maintained by the university. Students who leave the university and do not withdraw shall receive failing grades for work not completed and are liable for tuition and fees. For further information, consult the tuition and fee payment policy in Part 7 of the CWU Policies Manual at <http://www.cwu.edu/~pres/policies/Part7-2.2.31.1DelinquencyPolicy.pdf>.

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-120 Admission requirements—To freshman standing.** Central Washington University will admit qualified students who meet the published admissions criteria for any quarter. Admission to the university is based on the student's ability to successfully complete programs offered by the university. Eligibility for admission as a first-time freshman is based on evidence of potential success in university study. Eligibility for ~~((regular))~~ initial admission as a freshman will be guided by the following situations:

Situation 1: ~~((Regular))~~ Initial admission of ~~((freshman under twenty-one years of age. Eligibility for regular admission as a freshman for those twenty-one years of age or younger))~~ freshmen will be determined using both the student's high school grade point average and a nationally normed standardized test, either the ~~((American College Test (ACT)))~~ ACT ~~((;))~~, or the ~~((Scholastic Aptitude Test (SAT)))~~ SAT ~~((;))~~. The high school grade point average and test score will be combined to produce, for each freshman applicant, an admission index number. An offer of acceptance to the university as a freshman will be based on the resulting index number. The minimum index number established by the higher education coordinating board for the three regional universities and The Evergreen State College for regular admission is 13. A 13 index indicates that applicants have at least a sixty-five percent probability of achieving a "C" or better grade point

average at the completion of their freshman year at Central Washington University. Freshman applicants must have prescribed set of high school courses totaling fifteen units. The required high school courses include: Four years of English, three years of math, two years of science, three years of social studies, two years of single foreign language, and one year of fine, visual or performing arts, or an additional year of any of the above college-prep courses.

~~((Situation 2: Regular admission of freshmen twenty-one years of age or older. A student twenty-one years of age or older who is seeking initial entry at the freshman level may be offered regular admission if the student obtained a score of at least eighteen on the Enhanced ACT Exam or seven hundred minimum on the SAT Exam, or he or she has scored at least an eighty-three or higher on WPCT if they took that exam prior to June 1, 1989.))~~

Situation ~~((3))~~ 2: Alternate standards for freshman admissions. Students ~~((seeking freshman admission))~~ who are not admissible through the initial admissions process may be admitted through the ~~((use of alternative criteria. Students applying under the alternative standard must satisfy each of the following requirements:~~

- ~~(1) Submit a score on the ACT or SAT;~~
- ~~(2) Submit a transcript showing achievement of a 2.0 or higher high school grade point average and/or a passing score on the General Education Development Test;~~
- ~~(3) Complete high school course pattern requirements as prescribed with no more than three subject year deficiencies waived; and~~
- ~~(4) Present evidence of success outside the classroom and strong motivation to succeed in college))~~ comprehensive review process. Admission to the university does not guarantee admission into a particular major or program offered by the university.

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-130 Admission requirements for transfer applicants.** Eligibility for admission of transfer applicants with fewer than forty transferable quarter credits is the same as first-time freshmen as they must meet freshman requirements in addition to an assessment of the quality of previous college work.

Applicants who have earned more than forty transferable quarter credits will be admitted based on the quality of college work only. If transcripts do not provide evidence of academic ability, regardless of the grade point average, additional information may be required.

Central Washington University accepts academic credits earned at other accredited collegiate institutions which are essentially equivalent in academic level and nature of work offered at CWU. The university endorses the policy in the Intercollegiate Transfer and Articulation Agreement among Washington public colleges and universities.

~~((Transfer students who have not earned a Washington community college academic associate of arts degree will be admitted on sliding scale. Priority will be given to students with the highest grade point average (gpa) computed from previous transferable college-level work and with the greatest~~

number of hours completed in transfer.)) Students who have completed college-level math and English and those that have completed a Direct Transfer Associates degree (DTA) will do better in the comprehensive review process. See the following web site for a list of accepted DTA degrees: <http://www.cwu.edu/~cwuadmis/dta.html>.

Admission to the university does not guarantee admission into a particular major or program offered by the university.

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-140 Readmission of former students.**

Former CWU students who have interrupted their studies for more than one (year) quarter, or who have attended another college or university after CWU, except for summer school, must (file a returning CWU student application) reapply for admission. Transcripts of any college work completed since last enrolled at Central Washington University must be submitted. (Students will be admitted on a priority basis, based on the additional academic credits taken and the academic standing they had when they left CWU.))

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-160 Nonmatriculating students.**

Students who are not seeking (a) degrees or certificates may (request enrollment) be allowed to enroll in courses as (a nonmatriculant. Upon approval by the office of admissions, they) nonmatriculated students. These students do not need to go through the regular admissions process but should apply through registrar services and may (enroll if) be allowed to register on a space (is) available(, for a maximum of nine credits so long as they meet academic standards) basis. Credits earned ((in this status)) as a nonmatriculated student may not be ((applied)) used to ((any)) satisfy degree or certificate requirements unless the student applies and is ((formally admitted to the university)) accepted as a matriculated student, in which case a maximum of forty-five credits may be applied. ((Nonmatriculant students are not eligible for most financial aid, veterans' benefits, credit evaluations, or other university services.))

Students who have previously attended Central Washington University as matriculated students and have not obtained a degree and students who have applied and been rejected for undergraduate matriculated status will not be allowed to enroll as nonmatriculated students. Nonmatriculated students are not eligible for most financial aid, veteran's benefits, credit evaluations, or other services regularly provided for matriculated students.

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-170 High school enrichment.**

((High school students who wish to enter Central Washington University before graduating from high school may apply for admission under one of the following situations:

Situation 1: Students who wish to enroll as full-time students at the completion of their junior year must have a cumulative gpa of 3.2 or higher and score at least a twenty-seven composite score on the American College Test, or a combined score of one thousand one hundred, including at least six hundred verbal, on the Scholastic Aptitude Test. They must be recommended by their high school principal, have parent or guardian approval if under eighteen years of age, and meet with the director of admissions prior to acceptance.

Situation 2: Students who wish to enrich their high school program may take one or more college level courses while still enrolled in high school. The opportunity is available to students who have completed their junior year and have at least a 3.0 cumulative grade point average. Prior to enrollment, courses must be approved by the high school principal or counselor and the director of admissions.)) Students who have not yet graduated from high school may be allowed to enroll as nonmatriculated students for courses that they need to advance academically, provided that such academic opportunities are not readily available to them elsewhere. To be eligible for the high school enrichment program, students must have demonstrated superior academic performance or preparation in the area of study for which they are applying. High school enrichment applicants must submit either ACT, SAT or compass scores, and official copies of their high school transcript. In addition, they need to explain in writing their reasons for wanting to attend specific courses at the university and offer arguments for their potential to succeed. They must also meet with the registrar and have the approval of their high school principal and the course professor.

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-180 Admission requirements—International students.**

Central Washington University welcomes qualified students from other countries. Students demonstrating the greatest potential for success may be admitted after a thorough review and evaluation of their entire academic background.

Because educational systems vary widely around the world, there is no single uniform admission requirement for international students. However, they must meet the following basic minimum requirements:

(1) Completion of academic course work and national examinations necessary to satisfy admission requirements to colleges and universities in their native country.

(2) Adequate financial support verified by a Confidential Financial Statement Form and a current bank letter or scholarship award from a United States bank or agency.

(3) Competency in English demonstrated by a score of ((at least five hundred twenty five)) 525 or above on the paper-based Test of English As A Foreign Language (TOEFL) or a score of 195 or above on the computer-based TOEFL, or a score of 71 or above on the internet-based TOEFL, or ((, in some cases, transferable)) a 3.0 (B grade) in each of two college level English composition courses from an accredited United States college or university which

would meet the general education writing requirement at Central Washington University.

(4) International students transferring from United States institutions must have a minimum grade point average of ~~((2.75))~~ 2.50 in transferable courses, and must also meet the academic requirements for college entrance in their native country.

~~((5) International students must have two letters of recommendation from a professor or counselor with whom they are currently working.)~~

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-190 Application procedures.** New and former students must submit an application for admission. ~~((All forms are available in the office of admissions, which is located on the first floor of Mitchell Hall.))~~ The preferred way to apply for admission is to apply online, via the following web site: <http://www.cwu.edu/~cwuadmis/apply/html>. Hard copy applications are available by request.

There is a ~~((thirty-five))~~ fifty dollar, nonrefundable application processing fee ~~((for new or former students))~~.

\*Application deadline dates: Fall-~~((June))~~ April 1; winter-November 1; spring-February 1; summer-June 1.

\*Dates are subject to change.

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-200 Required transcripts.** Freshman applicants must have official transcripts sent directly to the office of admissions from their high school ~~((and/or))~~. Transfer applicants must have ~~((necessary))~~ transcripts ~~((mailed))~~ sent from each institution previously attended. All documents must be received by the announced closing dates to be considered for admission. Documents sent by the student received in open envelopes will not be considered official.

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-210 Required tests.** ~~((Undergraduate))~~ Freshman students, or transfer students with fewer than forty college-level transferable quarter credits, applying to the university must submit scores from the ~~((American College Test (ACT)(h)))~~ or ~~((Scholastic Achievement Test (SAT)(h)))~~.

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-220 Admission decision.** Completed application files are reviewed by the office of admissions and decisions are mailed to students in writing. ~~((Students may be admitted under the following situations:~~

~~Situation 1: Admitted, dean's distinction – indicating that academic requirements have been met with an outstanding high school or community college record. Students receiving this acceptance are recommended to the Douglas Honors College.~~

~~Situation 2: Admitted – indicating that all academic requirements have been satisfied.~~

~~Situation 3: Admitted, admissions deficiency – indicating that the student has a high school subject deficiency that needs to be completed prior to graduation from Central Washington University.~~

~~Situation 4: Admitted, probation – indicating that while admission requirements have been marginally met, the student enters on academic probation.~~

~~Situation 5: Denied – indicating that the admission requirements have not been met and the student is not being offered admission. Students denied admission may request a review of the decision by writing a letter of appeal. A letter should be submitted only to present new factual information which will overcome, not simply explain, the academic record. Letters of petition for the denial should be directed to the admission committee for final determination.)~~ Appeals of admissions denials are handled on an individual basis. Students wishing to appeal should contact the office of admissions for the current appeal procedure.

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

**WAC 106-160-230 Accepting the offer of admission.** Students must confirm their intention to enroll to Central Washington University by submitting a ~~((fifty-five dollar))~~ confirmation of admission payment that will be applied to their first quarter's tuition. This payment should not be made until requested by the university, which occurs when students are notified officially of their admission. This payment is due by May 1 for fall quarter, October 1 for winter quarter, and February 1 for spring quarter. ~~((Special attention must be observed for))~~ These dates are subject to change. Priority consideration for registration, as well as completion of financial aid packaging ~~((and assignments of advisors))~~, are designated when this payment is received. Students are encouraged to submit the ~~((fifty-five dollar))~~ confirmation of admission payment as early as possible after receiving the offer of admission. Central Washington University will guarantee a registration position to any student who submits the confirmation of admission payment prior to the announced deadline ~~((dates listed below for each quarter: Fall-May 1; winter-September 1; spring-January 1)).~~

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 106-160-150	Provisional enrollment.
WAC 106-160-260	Admission requirements—Application for fifth year or nondegree study.
WAC 106-160-280	Admission requirements—Procedures for high school graduates.

- WAC 106-160-290 Admission requirements—  
Procedures for advanced  
undergraduate standing.
- WAC 106-160-300 Admission requirements—  
Admission to credential pro-  
gram.

**WSR 06-22-047**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
[Filed October 27, 2006, 8:43 a.m.]

Original Notice.  
Preproposal statement of inquiry was filed as WSR 06-18-027.

Title of Rule and Other Identifying Information: Amendatory sections.

Hearing Location(s): DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (206) 575-8220, on January 12, 2007, at 9:30 a.m.

Date of Intended Adoption: January 12, 2007.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail Susana@wsgc.wa.gov, fax (360) 486-3625, by January 1, 2007.

Assistance for Persons with Disabilities: Contact Shirley Corbett by January 1, 2007, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: License fee increase: The proposed rule change would increase all licensing fees approximately 3% (which is within I-601 limits) effective June 30, 2007. Fees have not been increased since June 30, 2003.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Sharon Reese, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule change clarifies language of rules without changing the effect.

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.

October 25, 2006  
Susan Arland  
Rules Coordinator

AMENDATORY SECTION (Amending Order 417, filed 12/6/02, effective 6/30/03)

**WAC 230-04-202 Fees—Bona fide charitable/non-profit organizations.** Bona fide charitable and nonprofit organizations shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, inspection services, or when assessed the cost of special investigation procedures by the commission:

<u>LICENSE TYPE</u>	<u>DEFINITION</u>	<u>FEE</u>
<b>1. AMUSEMENT GAMES</b>		
	(Fee based on annual gross gambling receipts)	
* Class A	Premises only	\$ ((54)) <u>55</u>
Class B	Up to \$10,000	\$ ((54)) <u>55</u>
Class C	Up to \$25,000	\$ ((294)) <u>303</u>
Class D	Up to \$50,000	\$ ((472)) <u>487</u>
Class E	Over \$50,000	\$ ((822)) <u>848</u>
* Allows a charitable or nonprofit organization to enter into a contract with Class "B" or above commercial amusement game licensee to locate and operate amusement games on their premises.		
<b>2. BINGO GROUP</b>		
	(Fee based on annual gross gambling receipts)	<b>VARIANCE *</b>
Class A	Up to \$ 25,000	\$ 1,000
		\$ ((54)) <u>55</u>
Class B	Up to \$ 75,000	\$ 1,000
		\$ ((474)) <u>176</u>
Class C	Up to \$ 150,000	\$ 2,000
		\$ ((359)) <u>361</u>
Class D	Up to \$ 350,000	\$ 4,000
		\$ ((944)) <u>974</u>
Class E	Up to \$ 650,000	\$ 8,000
		\$ ((1,590)) <u>1,642</u>
Class F	Up to \$ 1,500,000	\$ 15,000
		\$ ((3,196)) <u>3,304</u>
Class G	Up to \$ 2,000,000	\$ 23,000
		\$ ((4,612)) <u>4,766</u>
Class H	Up to \$ 3,000,000	\$ 30,000
		\$ ((6,162)) <u>6,370</u>
Class I	Up to \$ 4,000,000	\$ 38,000
		\$ ((7,700)) <u>7,960</u>
Class J	Up to \$ 5,000,000	\$ 45,000
		\$ ((9,238)) <u>9,550</u>
Class K	Up to \$ 6,000,000	\$ 53,000
		\$ ((10,364)) <u>10,714</u>
Class L	Up to \$ 7,000,000	\$ 60,000
		\$ ((11,846)) <u>12,246</u>
Class M	Up to \$ 8,000,000	\$ 65,000
		\$ ((13,330)) <u>13,780</u>
Class N	Up to \$ 9,000,000	\$ 70,000
		\$ ((14,500)) <u>14,990</u>
Class O	Up to \$ 10,000,000	\$ 75,000
		\$ ((16,000)) <u>16,540</u>
Class P	Up to \$ 11,000,000	\$ 80,000
		\$ ((17,500)) <u>18,090</u>

**2. BINGO GROUP**

(Fee based on annual gross gambling receipts) **VARIANCE \***

Class Q	Up to \$ 12,000,000	\$ 85,000	\$ ((21,000)) <u>21,708</u>
Class R	Up to \$ 13,000,000	\$ 90,000	\$ ((24,000)) <u>24,810</u>
Class S	Up to \$ 14,000,000	\$ 95,000	\$ ((27,000)) <u>27,912</u>

\* A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260: Provided, That a licensee utilizing the variance shall be required to upgrade to the higher license class upon renewal.

**3. CARD GAMES**

Class A	General (Fee to play charged)	\$ ((589)) <u>608</u>
Class B	Limited card games - hearts, rummy, pitch, pinochle, and cribbage (Fee to play charged)	\$ ((171)) <u>176</u>
Class C	Tournament only - no more than ten consecutive days per tournament	\$ ((54)) <u>55</u>
Class D	General (No fee to play charged)	\$ ((54)) <u>55</u>

**4. FUND-RAISING EVENT**

Class A	One event - not more than 24 consecutive hours First time applicant *Previously licensed applicant	\$ ((350)) <u>361</u>  \$ ((206)) <u>212</u>
Class B	One event - not more than 72 consecutive hours First time applicant *Previously licensed applicant	\$ ((589)) <u>608</u>  \$ ((361)) <u>373</u>
Class C	Additional participant in joint event (not lead organization)	\$ ((171)) <u>176</u>
Class D	Limited fund-raising event (one event - not more than six consecutive hours) First time applicant **Previously licensed applicant	\$ ((154)) <u>159</u>  \$ ((103)) <u>106</u>
Class E	Fund-Raising Event Equipment Distributor - rents or leases, equipment for fund-raising event or recreational gaming activity for no more than ten times per year***	\$ ((233)) <u>240</u>
Class F	Fund-Raising Event Equipment Distributor - rents or leases equipment for fund-raising event or recreational gaming activity more than ten times per year.	\$ ((589)) <u>608</u>

\* Provides for a reduced fee when charitable and nonprofit organizations apply for an additional Class A or Class B fund-raising event.

\*\* Provides for a fee reduction when charitable and nonprofit organizations apply for an additional Class D limited fund-raising event.

\*\*\* Charitable and nonprofit organizations licensed to conduct fund-raising events may rent their equipment up to four occasions during the term of the license without getting licensed as a distributor.

**5. PUNCH BOARDS/PULL-TABS**

(Fee based on annual gross gambling receipts) **VARIANCE\***

Class A	Up to \$ 50,000	\$ 5,000	\$ ((561)) <u>579</u>
Class B	Up to \$ 100,000	\$ 5,000	\$ ((1,002)) <u>1,034</u>
Class C	Up to \$ 200,000	\$ 10,000	\$ ((1,892)) <u>1,954</u>
Class D	Up to \$ 300,000	\$ 10,000	\$ ((2,750)) <u>2,842</u>
Class E	Up to \$ 400,000	\$ 10,000	\$ ((3,552)) <u>3,672</u>
Class F	Up to \$ 500,000	\$ 10,000	\$ ((4,288)) <u>4,432</u>
Class G	Up to \$ 600,000	\$ 10,000	\$ ((4,970)) <u>5,136</u>
Class H	Up to \$ 700,000	\$ 10,000	\$ ((5,594)) <u>5,782</u>
Class I	Up to \$ 800,000	\$ 10,000	\$ ((6,162)) <u>6,370</u>
Class J	Up to \$ 1,000,000	\$ 20,000	\$ ((6,986)) <u>7,222</u>
Class K	Up to \$ 1,250,000	\$ 25,000	\$ ((7,756)) <u>8,018</u>
Class L	Up to \$ 1,500,000	\$ 25,000	\$ ((8,470)) <u>8,756</u>
Class M	Up to \$ 1,750,000	\$ 25,000	\$ ((9,058)) <u>9,364</u>
Class N	Up to \$ 2,000,000	\$ 25,000	\$ ((9,594)) <u>9,918</u>
Class O	Up to \$ 2,500,000	\$ 30,000	\$ ((10,542)) <u>10,898</u>
Class P	Up to \$ 3,000,000	\$ 35,000	\$ ((11,200)) <u>11,578</u>
Class Q	Up to \$ 4,000,000	\$ 40,000	\$ ((13,200)) <u>13,646</u>
Class R	Up to \$ 5,000,000	\$ 50,000	\$ ((15,000)) <u>15,506</u>
Class S	Up to \$ 6,000,000	\$ 60,000	\$ ((17,000)) <u>17,574</u>
Class T	Up to \$ 7,000,000	\$ 70,000	\$ ((19,000)) <u>19,642</u>
Class U	Up to \$ 8,000,000	\$ 80,000	\$ ((21,000)) <u>21,708</u>
Class V	Over \$ 8,000,000	\$ 80,000	\$ ((23,000)) <u>23,776</u>

\* A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260: Provided, That a licensee utilizing the variance shall be required to upgrade to the higher license class upon renewal.

**6. RAFFLES**

(Fee based on annual gross gambling receipts)

Class A	Up to \$ 5,000	\$ ((54)) <u>55</u>
Class B	Up to \$ 10,000	\$ ((171)) <u>176</u>

<b>6. RAFFLES</b>		
	(Fee based on annual gross gambling receipts)	
Class C	Up to \$ 25,000	\$ ((350)) <u>361</u>
Class D	Up to \$ 50,000	\$ ((589)) <u>608</u>
Class E	Up to \$ 75,000	\$ ((944)) <u>974</u>
Class F	Over \$ 75,000	\$ ((1,414)) <u>1,460</u>

<b>7. COMBINATION LICENSE</b>		
CLASS A	Allows gross gambling receipts of up to \$ 25,000 from bingo, \$ 7,500 from raffles, and \$ 7,500 from amusement games, not to exceed \$ 30,000 combined gross gambling receipts from all such activities. Allows general card games where no fee to play is charged.	\$ ((106)) <u>109</u>
CLASS B	Allows gross gambling receipts of up to \$ 60,000 from bingo, \$ 15,000 from raffles, and \$ 15,000 from amusement games, not to exceed \$ 75,000 combined gross gambling receipts from all such activities. Allows general card games where no fee to play is charged.	\$ ((276)) <u>285</u>
CLASS C	Allows gross gambling receipts of up to \$ 125,000 from bingo, \$ 30,000 from raffles, and \$ 30,000 from amusement games, not to exceed \$ 150,000 combined gross gambling receipts from all such activities. Allows general card games where no fee to play is charged.	\$ ((639)) <u>660</u>

<b>8. SEPARATE PREMISES</b>		
<b>BINGO</b>	Per occasion (see WAC 230-04-300)	\$ 26

<b>9. PERMITS</b>		
AGRICULTURAL FAIR-BINGO	(See WAC 230-04-191)	\$ 26
RECREATIONAL GAMING ACTIVITY (RGA)	(See WAC 230-25-330 and 230-02-505)	\$ ((54)) <u>55</u>

<b>10. CHANGES</b>		
NAME	(See WAC 230-04-310)	\$ 26
LOCATION	(See WAC 230-04-320) (Date or time)	\$ 26
FRE	(See WAC 230-04-325)	\$ 26
LICENSE CLASS	(See WAC 230-04-260)	\$ 26
DUPLICATE LICENSE	(See WAC 230-04-290)	\$ 26

<b>11. SPECIAL FEES</b>		
INVESTIGATION	(See WAC 230-04-240)	As required

<b>11. SPECIAL FEES</b>		
REPLACEMENT IDENTIFICATION STAMPS	(See WAC 230-08-017)	\$ 26
EXCEEDING LICENSE CLASS REVIEW,	(See WAC 230-04-260)	As required
INSPECTION AND/OR EVALUATION OF EQUIPMENT, PARAPHERNALIA, SERVICES, OR SCHEMES	(See WAC 230-12-315)	As required

<b>12. SIX-MONTH PAYMENT PLAN</b>		
	(See WAC 230-04-190)	\$ 26

**AMENDATORY SECTION** (Amending Order 417, filed 12/6/02, effective 6/30/03)

**WAC 230-04-203 Fees—Commercial stimulant and other business organizations.** All persons seeking to operate gambling activities shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, inspection services, or when assessed the cost of special investigation procedures by the commission:

<u>LICENSE TYPE</u>	<u>DEFINITION</u>	
<b>1. CARD GAMES</b>		
Class B	Up to five tables of limited card games - hearts, rummy, pitch, pinochle, and/or cribbage (Fee to play charged)	\$ ((175)) <u>180</u>
Class C	Tournament only, no more than ten consecutive days per tournament.	
C-5	Up to five tables	\$ ((175)) <u>180</u>
C-10	Up to ten tables	\$ ((348)) <u>328</u>
C-15	Up to fifteen tables	\$ ((529)) <u>546</u>
Class D	General - Up to five tables (No fee to play charged)	\$ ((55)) <u>56</u>
Class E	*General (Fee to play charged)	
E-1	One table only	\$ ((422)) <u>436</u>
E-2	Up to two tables	\$ ((727)) <u>751</u>
E-3	Up to three tables	\$ ((1,210)) <u>1,250</u>
E-4	Up to four tables	\$ ((2,426)) <u>2,506</u>
E-5	Up to five tables	\$ ((3,650)) <u>3,772</u>
	Additional tables up to a maximum of fifteen may be authorized for an additional per table fee of \$ ((1,060)) <u>1,092</u> .	
	*In addition to the above initial license fee, the commission will assess all applicants/licensees the actual costs that exceed the license fee for conducting the initial investigation and inspection, any follow-up reviews or investigations involved in the approval of activities and schemes.	
Class F	Enhanced card room activities endorsement - Includes alternative fee collections (per hand; pot rake) and use of player-supported jackpot schemes.	
	Annual license fee	\$ ((1,590)) <u>1,642</u>

LICENSE TYPE	DEFINITION			
<b>2. CARD GAMES - HOUSE-BANKED</b>				
	All tables within a card room operating any house-banked card game shall be licensed under this license class.			
	*Annual license fee	\$ ((6,368))		<u>6,582</u>
	Per table fee (up to fifteen tables)	\$ ((1,590))		<u>1,642</u>
	*In addition to the above initial license fee, the commission will assess all applicants the actual costs that exceed the license fee for conducting the initial license investigation and premises inspection. Any post licensing follow-up reviews, inspections, internal control evaluations or subsequent phases of operation shall also be charged actual costs. Licensees will be evaluated and charged for these additional authorizations/phases on an individual case by case basis.			
<b>3. COMMERCIAL AMUSEMENT GAMES (Fee based on annual gross gambling receipts)</b>				
* Class A	Premises only		** \$ ((301/\$137))	<u>310/\$143</u>
Class B	Up to \$ 50,000		\$ ((422))	<u>436</u>
Class C	Up to \$ 100,000		\$ ((1,086))	<u>1,122</u>
Class D	Up to \$ 250,000		\$ ((2,426))	<u>2,506</u>
Class E	Up to \$ 500,000		\$ ((4,256))	<u>4,398</u>
Class F	Up to \$ 1,000,000		\$ ((7,306))	<u>7,552</u>
Class G	Over \$ 1,000,000		\$ ((9,140))	<u>9,448</u>
	* Allows a business that is qualified under WAC 230-04-138 (1)(f), (g), (h), (i), or (j) to enter into a contract with a class "B" or above commercial amusement game licensee to locate and operate amusement games upon their premises.			
	** Provides for a fee reduction of \$ 164 when: Renewing an annual license; applying for an additional license(s) at the same premises; and/or applying for multiple licenses at the same premises.			
<b>4. PUNCH BOARDS/ PULL-TABS (Fee based on annual gross gambling receipts)</b>				
			<b>VARIANCE*</b>	
Class A	Up to \$ 50,000	\$5,000	\$ ((577))	<u>596</u>
Class B	Up to \$ 100,000	\$5,000	\$ ((1,030))	<u>1,064</u>
Class C	Up to \$ 200,000	\$10,000	\$ ((1,942))	<u>2,006</u>
Class D	Up to \$ 300,000	\$10,000	\$ ((2,826))	<u>2,920</u>
Class E	Up to \$ 400,000	\$10,000	\$ ((3,650))	<u>3,772</u>
Class F	Up to \$ 500,000	\$10,000	\$ ((4,408))	<u>4,556</u>
Class G	Up to \$ 600,000	\$10,000	\$ ((5,108))	<u>5,280</u>
Class H	Up to \$ 700,000	\$10,000	\$ ((5,748))	<u>5,942</u>
Class I	Up to \$ 800,000	\$10,000	\$ ((6,332))	<u>6,546</u>
Class J	Up to \$ 1,000,000	\$20,000	\$ ((7,180))	<u>7,422</u>

LICENSE TYPE	DEFINITION			
Class K	Up to \$ 1,250,000	\$25,000	\$ ((7,970))	<u>8,238</u>
Class L	Up to \$ 1,500,000	\$25,000	\$ ((8,704))	<u>8,998</u>
Class M	Up to \$ 1,750,000	\$25,000	\$ ((9,310))	<u>9,624</u>
Class N	Up to \$ 2,000,000	\$25,000	\$ ((9,862))	<u>10,194</u>
Class O	Up to \$ 2,500,000	\$30,000	\$ ((10,836))	<u>11,202</u>
Class P	Up to \$ 3,000,000	\$35,000	\$ ((11,200))	<u>11,578</u>
Class Q	Up to \$ 4,000,000	\$40,000	\$ ((13,200))	<u>13,646</u>
Class R	Up to \$ 5,000,000	\$50,000	\$ ((15,000))	<u>15,506</u>
Class S	Up to \$ 6,000,000	\$60,000	\$ ((17,000))	<u>17,574</u>
Class T	Up to \$ 7,000,000	\$70,000	\$ ((19,000))	<u>19,642</u>
Class U	Up to \$ 8,000,000	\$80,000	\$ ((21,000))	<u>21,708</u>
Class V	Over \$ 8,000,000	\$80,000	\$ ((23,000))	<u>23,776</u>

\* A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260: Provided, That a licensee utilizing the variance shall be required to upgrade to the higher license class upon renewal.

<b>5. PUNCH BOARD AND PULL-TAB SERVICE BUSINESS</b>		
	(See WAC 230-04-133)	\$ ((217))
	*Initial application fee	<u>224</u>
	Additional associate	\$ ((136))
		<u>140</u>
	Renewal	\$ ((53))
		<u>54</u>
	*Includes up to two associates.	

<b>6. DISTRIBUTOR (Fee based on annual gross sales of gambling related supplies and equipment)</b>		
(a)	Class A Nonpunch board/pull-tab only	\$ ((605))
		<u>625</u>
	Class B Up to \$ 250,000	\$ ((1,210))
		<u>1,250</u>
	Class C Up to \$ 500,000	\$ ((1,818))
		<u>1,878</u>
	Class D Up to \$ 1,000,000	\$ ((2,426))
		<u>2,506</u>
	Class E Up to \$ 2,500,000	\$ ((3,160))
		<u>3,266</u>
	Class F Over \$ 2,500,000	\$ ((3,890))
		<u>4,020</u>
	In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification.	
(b)	<b>FUND-RAISING EVENT EQUIPMENT DISTRIBUTOR</b>	
	Class A Rents or leases equipment for fund-raising event or recreational gaming activity up to 10 times per year.	\$ ((239))
		<u>247</u>

LICENSE TYPE	DEFINITION	
Class B	Rents or leases equipment for fund-raising event or recreational gaming activity more than 10 times per year.	\$ ((605)) <u>625</u>
<b>7. GAMBLING SERVICE SUPPLIER</b>		
	(See WAC 230-04-119)	\$ ((630)) <u>651</u>
	In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification. A fee of \$ 136 shall be charged for each new contract initiated by the gambling service supplier.	
<b>8. LINKED BINGO PRIZE PROVIDER</b>		
	(See WAC 230-04-126)	\$ ((4,048)) <u>4,184</u>
<b>9. MANUFACTURER</b>	(Fee based on annual gross sales of gambling related supplies and equipment)	
Class A	Pull-tab dispensing devices only	\$ ((605)) <u>625</u>
Class B	Up to \$ 250,000	\$ ((1,210)) <u>1,250</u>
Class C	Up to \$ 500,000	\$ ((1,818)) <u>1,878</u>
Class D	Up to \$ 1,000,000	\$ ((2,426)) <u>2,506</u>
Class E	Up to \$ 2,500,000	\$ ((3,160)) <u>3,266</u>
Class F	Over \$ 2,500,000	\$ ((3,890)) <u>4,020</u>

In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification, quality control inspection for additional activities or product lines, compliance suitability evaluations, and renewal of licenses when travel cost is incurred to complete the investigation.

10. PERMITS		
AGRICULTURAL FAIR/ SPECIAL PROPERTY BINGO		
Class A	One location and event only (See WAC 230-04-191)	\$ 26
Class B	Annual permit for specified different events and locations (See WAC 230-04-193)	\$ ((175)) <u>180</u>
RECREATIONAL GAMING ACTIVITY (RGA)		
	(See WAC 230-02-505 and 230-25-330)	\$ ((55)) <u>56</u>
MANUFACTURER'S SPECIAL SALES PERMIT		
	(See WAC 230-04-115)	*\$ 211

\*The two hundred eleven dollar fee is nonrefundable, whether the sales permit is approved or not. In addition, an applicant may be assessed additional fees incurred to process and determine suitability.

11. CHANGES		
NAME	(See WAC 230-04-310)	\$ 26
LOCATION	(See WAC 230-04-320)	\$ 26
BUSINESS	(Same owners)	\$ ((55)) <u>56</u>
CLASSIFICATION	(See WAC 230-04-340)	
LICENSE CLASS	(See WAC 230-04-260) New class fee, less previous fee paid, plus	\$ 26

LICENSE TYPE	DEFINITION	
DUPLICATE LICENSE	(See WAC 230-04-290)	\$ 26
CORPORATE STOCK/LIMITED LIABILITY COMPANY SHARES/UNITS	(See WAC 230-04-360)	\$ ((55)) <u>56</u>
LICENSE TRANSFERS	(See WAC 230-04-125 and 230-04-340)	\$ ((55)) <u>56</u>
<b>12. SPECIAL FEES</b>		
INVESTIGATION	(See WAC 230-04-240)	As required
IDENTIFICATION AND INSPECTION SERVICES STAMPS	(See WAC 230-08-017)	As required
QUALITY CONTROL INSPECTION FEES	(See WAC 230-30-030)	As required
REPLACEMENT OF IDENTIFICATION STAMPS	(See WAC 230-30-017)	\$ 26
EXCEEDING LICENSE CLASS	(See WAC 230-04-260)	As required
REVIEW, INSPECTION AND/OR EVALUATION OF EQUIPMENT, PARAPHERNALIA, SERVICES, OR SCHEMES	(See WAC 230-12-315)	As required
SPECIAL SALES PERMITS	(See WAC 230-04-115)	As required
ELECTRONIC CARD FACSIMILE TABLE IDENTIFICATION STAMP	(See WAC 230-08-017)	*\$ 361.51 *Annually, for each separate table
<b>13. SIX-MONTH PAYMENT PLAN</b>	(See WAC 230-04-190)	\$ 26

**AMENDATORY SECTION** (Amending Order 456, filed 6/19/06, effective 7/20/06)

**WAC 230-04-204 Fees—Individuals.** Individuals shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, or when assessed the cost of special investigation procedures by the commission:

LICENSE TYPE	DEFINITION	DEFINITION	FEE
<b>1. CHARITABLE OR NON-PROFIT GAMBLING MANAGER</b>			
	Original		\$ ((174)) <u>176</u>
	Renewal		\$ ((82)) <u>84</u>
	Change of Employer		\$ ((82)) <u>84</u>
<b>2. LINKED BINGO PRIZE PROVIDER REPRESENTATIVE</b>			
	Original		\$ ((239)) <u>247</u>
	Renewal		\$ ((146)) <u>150</u>
<b>3. COMMERCIAL GAMBLING MANAGER</b>			
	Original		\$ ((175)) <u>180</u>
	Renewal		\$ ((84)) <u>86</u>
	Change of Employer		\$ ((84)) <u>86</u>



LICENSE TYPE	DEFINITION	FEE
4. DISTRIBUTOR'S OR GAMBLING SERVICES SUPPLIER REPRESENTATIVE	Original	\$ ((239)) 247
	Renewal	\$ ((146)) 150
5. MANUFACTURER'S REPRESENTATIVE	Original	\$ ((239)) 247
	Renewal	\$ ((146)) 150
6. PUBLIC CARD ROOM EMPLOYEE		
CLASS A - Performs duties as defined in WAC 230-02-415 in a class E card room.		
	Original	\$ ((175)) 180
	Renewal	\$ ((84)) 86
CLASS B - Performs duties as defined in WAC 230-02-415 in enhanced and house-banked card rooms.		
	Original, in-state	\$ ((237)) 245
	Original, out-of-state	\$ ((295)) 304
	Renewal	\$ ((146)) 150
	Transfer/Additional Employee/Conversion/ Emergency Waiver Request	\$ ((57)) 58
7. OTHER FEES		
CHANGE OF NAME	(See WAC 230-04-310)	\$ 26
DUPLICATE LICENSE	(See WAC 230-04-290)	\$ 26
OUT-OF-STATE RECORDS INQUIRY	(See WAC 230-04-240)	As required

8. If a license expires while an individual is on active military service, the individual may apply to have their license reissued at the renewal fee. The application must be received within six months after completing their active military service. The applicant shall provide evidence of the completion date of active military service.

**AMENDATORY SECTION** (Amending Order 457, filed 3/22/06, effective 1/1/08)

**WAC 230-05-020 Charitable or nonprofit organization fees.** Bona fide charitable and nonprofit organizations must pay the following fees to us when applying for gambling licenses, permits, miscellaneous changes, or inspection services:

**1. Amusement games**

License	Annual Gross Gambling Receipts	Fee
Class A	Premises only	\$((54)) 55
Class B	Up to \$10,000	\$((54)) 55
Class C	Up to \$25,000	\$((294)) 303
Class D	Up to \$50,000	\$((472)) 487
Class E	Over \$50,000	\$((822)) 848

**2. Bingo**

License	Annual Gross Gambling Receipts	Fee	One Time Variance*
Class A	Up to \$25,000	\$((54)) 55	\$1,000
Class B	Up to \$75,000	\$((171)) 176	\$1,000
Class C	Up to \$150,000	\$((350)) 361	\$2,000
Class D	Up to \$350,000	\$((944)) 974	\$4,000
Class E	Up to \$650,000	\$((1,590)) 1,642	\$8,000
Class F	Up to \$1,500,000	\$((3,196)) 3,304	\$15,000
Class G	Up to \$2,000,000	\$((4,612)) 4,766	\$23,000
Class H	Up to \$3,000,000	\$((6,162)) 6,370	\$30,000
Class I	Up to \$4,000,000	\$((7,700)) 7,960	\$38,000
Class J	Up to \$5,000,000	\$((9,238)) 9,550	\$45,000
Class K	Up to \$6,000,000	\$((10,364)) 10,714	\$53,000
Class L	Up to \$7,000,000	\$((11,846)) 12,246	\$60,000
Class M	Up to \$8,000,000	\$((13,330)) 13,780	\$65,000
Class N	Up to \$9,000,000	\$((14,500)) 14,990	\$70,000
Class O	Up to \$10,000,000	\$((16,000)) 16,540	\$75,000
Class P	Up to \$11,000,000	\$((17,500)) 18,090	\$80,000
Class Q	Up to \$12,000,000	\$((21,000)) 21,708	\$85,000
Class R	Up to \$13,000,000	\$((24,000)) 24,810	\$90,000
Class S	Up to \$14,000,000	\$((27,000)) 27,912	\$95,000

\*See chapter 230-06 WAC, Exceeding license class.

**3. Card games**

License	Description	Fee
Class A	Nonhouse-banked - fee to play	\$((589)) 608
Class B	Limited card games - hearts, rummy, pitch, pinochle, and cribbage - fee to play	\$((171)) 176
Class C	Tournament only - no more than thirty consecutive days per tournament	\$((54)) 55
Class D	Nonhouse-banked - no fee to play	\$((54)) 55

**4. Fund-raising event**

License	Description	Fee
Class A	One event - not more than 24 consecutive hours	
	First time applicant	\$((350)) 361
	Previously licensed applicant	\$((206)) 212
Class B	One event - not more than 72 consecutive hours	
	First time applicant	\$((589)) 608
	Previously licensed applicant	\$((361)) 373
Class C	Additional participant in joint event - not lead organization	\$((171)) 176
Class D	Limited fund-raising event - one event - not more than six consecutive hours	

License	Description	Fee
	First time applicant	\$((154)) <u>159</u>
	Previously licensed applicant	\$((103)) <u>106</u>
Class E	Fund-raising event equipment distributor - rents or leases equipment no more than ten times per year	\$((233)) <u>240</u>
Class F	Fund-raising event equipment distributor - rents or leases equipment more than ten times per year	\$((589)) <u>608</u>

**5. Punch boards/pull-tabs**

License	Annual Gross Gambling Receipts	Fee	One Time Variance*
Class A	Up to \$50,000	\$((564)) <u>579</u>	\$5,000
Class B	Up to \$100,000	\$((1,002)) <u>1,034</u>	\$5,000
Class C	Up to \$200,000	\$((1,892)) <u>1,954</u>	\$10,000
Class D	Up to \$300,000	\$((2,750)) <u>2,842</u>	\$10,000
Class E	Up to \$400,000	\$((3,552)) <u>3,672</u>	\$10,000
Class F	Up to \$500,000	\$((4,288)) <u>4,432</u>	\$10,000
Class G	Up to \$600,000	\$((4,970)) <u>5,136</u>	\$10,000
Class H	Up to \$700,000	\$((5,594)) <u>5,782</u>	\$10,000
Class I	Up to \$800,000	\$((6,162)) <u>6,370</u>	\$10,000
Class J	Up to \$1,000,000	\$((6,986)) <u>7,222</u>	\$20,000
Class K	Up to \$1,250,000	\$((7,756)) <u>8,018</u>	\$25,000
Class L	Up to \$1,500,000	\$((8,470)) <u>8,756</u>	\$25,000
Class M	Up to \$1,750,000	\$((9,038)) <u>9,364</u>	\$25,000
Class N	Up to \$2,000,000	\$((9,594)) <u>9,918</u>	\$25,000
Class O	Up to \$2,500,000	\$((10,542)) <u>10,898</u>	\$30,000
Class P	Up to \$3,000,000	\$((11,200)) <u>11,578</u>	\$35,000
Class Q	Up to \$4,000,000	\$((13,200)) <u>13,646</u>	\$40,000
Class R	Up to \$5,000,000	\$((15,000)) <u>15,506</u>	\$50,000
Class S	Up to \$6,000,000	\$((17,000)) <u>17,574</u>	\$60,000
Class T	Up to \$7,000,000	\$((19,000)) <u>19,642</u>	\$70,000
Class U	Up to \$8,000,000	\$((21,000)) <u>21,708</u>	\$80,000
Class V	Over \$8,000,000	\$((23,000)) <u>23,776</u>	\$80,000

\*See chapter 230-06 WAC, Exceeding license class.

**6. Raffles**

License	Annual Gross Gambling Receipts	Fee
Class A	Up to \$5,000	\$((54)) <u>55</u>
Class B	Up to \$10,000	\$((171)) <u>176</u>
Class C	Up to \$25,000	\$((350)) <u>361</u>
Class D	Up to \$50,000	\$((589)) <u>608</u>
Class E	Up to \$75,000	\$((944)) <u>974</u>
Class F	Over \$75,000	\$((1,414)) <u>1,460</u>

**7. Combination license**

License	Description	Fee
Class A	Allows gross gambling receipts of up to \$25,000 from bingo, \$7,500 from raffles, and \$7,500 from amusement games, not to exceed \$30,000 combined gross gambling receipts from all such activities. Allows Class D card games.	\$((106)) <u>109</u>
Class B	Allows gross gambling receipts of up to \$60,000 from bingo, \$15,000 from raffles, and \$15,000 from amusement games, not to exceed \$75,000 combined gross gambling receipts from all such activities. Allows Class D card games.	\$((276)) <u>285</u>
Class C	Allows gross gambling receipts of up to \$125,000 from bingo, \$30,000 from raffles, and \$30,000 from amusement games, not to exceed \$150,000 combined gross gambling receipts from all such activities. Allows Class D card games.	\$((639)) <u>660</u>

**8. Special property bingo**

Once annually	\$26
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**9. Permits**

Recreational gaming activity	\$((54)) <u>55</u>
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**10. Changes**

Type	Fee
Name	\$26
Location	\$26
Fund-raising event date or time	\$26
License class	\$26
Duplicate license	\$26

**11. Other fees**

Type	Fee
Replacement identification stamps	\$26
Failing to apply for license class upgrade	Up to fifty percent of the difference between our fees for the licensee's present license class and the new license class or one thousand dollars, whichever is less, plus \$26

Type	Fee
Review, inspection and/or evaluation of equipment, paraphernalia, services, or schemes	Deposit and fees as required

**12. Two part payment plan participation**

Annual participation	\$26
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AMENDATORY SECTION (Amending Order 457, filed 3/22/06, effective 1/1/08)

**WAC 230-05-025 Commercial stimulant fees.** All commercial stimulant license applicants must pay the following fees to us when applying for gambling licenses:

**1. Card games - Nonhouse-banked**

License	Description	Fee
<b>Class B</b>	Up to five tables of limited card games - hearts, rummy, pitch, pinochle, and/or cribbage - fee to play	\$((175)) 180
<b>Class C</b>	Tournament only, no more than thirty consecutive days per tournament	
C-5	Up to five tables	\$((175)) 180
C-10	Up to ten tables	\$((318)) 328
C-15	Up to fifteen tables	\$((529)) 546
<b>Class D</b>	Up to five tables - no fee to play	\$((55)) 56
<b>Class E</b>	Fee to play	
E-1	One table only	\$((422)) 436
E-2	Up to two tables	\$((727)) 751
E-3	Up to three tables	\$((1,210)) 1,250
E-4	Up to four tables	\$((2,426)) 2,506
E-5	Up to five tables	\$((3,650)) 3,772
Additional tables	Per table - up to a maximum of fifteen tables	\$((1,060)) 1,092
<b>Class F</b>	Endorsement/upgrade of Class E includes permission to use alternative fee collections and use of player-supported jackpots	\$((1,590)) 1,642

**2. Card games - House-banked**

All tables within a card room operating any house-banked card game must be licensed under this license class.

License	Fee
Annual	\$((6,368)) 6,582
Additional fee per table - up to fifteen tables	\$((1,590)) 1,642

**3. Punch boards and pull-tabs**

License	Annual Gross Gambling Receipts	Fee	One Time Variance*
Class A	Up to \$50,000	\$((577)) 596	\$5,000
Class B	Up to \$100,000	\$((1,030)) 1,064	\$5,000
Class C	Up to \$200,000	\$((1,942)) 2,006	\$10,000
Class D	Up to \$300,000	\$((2,826)) 2,920	\$10,000
Class E	Up to \$400,000	\$((3,650)) 3,772	\$10,000
Class F	Up to \$500,000	\$((4,408)) 4,556	\$10,000
Class G	Up to \$600,000	\$((5,108)) 5,280	\$10,000
Class H	Up to \$700,000	\$((5,748)) 5,942	\$10,000
Class I	Up to \$800,000	\$((6,332)) 6,546	\$10,000
Class J	Up to \$1,000,000	\$((7,180)) 7,422	\$20,000
Class K	Up to \$1,250,000	\$((7,970)) 8,238	\$25,000
Class L	Up to \$1,500,000	\$((8,704)) 8,998	\$25,000
Class M	Up to \$1,750,000	\$((9,310)) 9,624	\$25,000
Class N	Up to \$2,000,000	\$((9,862)) 10,194	\$25,000
Class O	Up to \$2,500,000	\$((10,836)) 11,202	\$30,000
Class P	Up to \$3,000,000	\$((11,200)) 11,578	\$35,000
Class Q	Up to \$4,000,000	\$((13,200)) 13,646	\$40,000
Class R	Up to \$5,000,000	\$((15,000)) 15,506	\$50,000
Class S	Up to \$6,000,000	\$((17,000)) 17,574	\$60,000
Class T	Up to \$7,000,000	\$((19,000)) 19,642	\$70,000
Class U	Up to \$8,000,000	\$((21,000)) 21,708	\$80,000
Class V	Over \$8,000,000	\$((23,000)) 23,776	\$80,000

\*See chapter 230-06 WAC, Exceeding license class.

AMENDATORY SECTION (Amending Order 457, filed 3/22/06, effective 1/1/08)

**WAC 230-05-030 Fees for other businesses.** All other business license applicants must pay the following fees to us when applying for gambling licenses, miscellaneous changes, or inspection services:

**1. Commercial amusement games**

License	Annual Gross Gambling Receipts	Fee
Class A	Premises only	*\$((301/\$137)) <u>310/\$143</u>
Class B	Up to \$50,000	\$((422)) <u>436</u>
Class C	Up to \$100,000	\$((1,086)) <u>1,122</u>
Class D	Up to \$250,000	\$((2,426)) <u>2,506</u>
Class E	Up to \$500,000	\$((4,256)) <u>4,398</u>
Class F	Up to \$1,000,000	\$((7,306)) <u>7,552</u>
Class G	Over \$1,000,000	\$((9,140)) <u>9,448</u>

\*We reduce the license fee by \$164 when you apply for additional licenses at the same business premises, apply for multiple licenses at the same business premises, or a licensee is renewing an annual license.

**2. Distributor**

License	Annual Gross Sales	Fee
Class A	Nonpunch board/pull-tab only	\$((605)) <u>625</u>
Class B	Up to \$250,000	\$((1,210)) <u>1,250</u>
Class C	Up to \$500,000	\$((1,818)) <u>1,878</u>
Class D	Up to \$1,000,000	\$((2,426)) <u>2,506</u>
Class E	Up to \$2,500,000	\$((3,160)) <u>3,266</u>
Class F	Over \$2,500,000	\$((3,890)) <u>4,020</u>

**3. Fund-raising event equipment distributor**

License	Description	Fee
Class A	Rents or leases equipment for fund-raising event or recreational gaming activity up to 10 times per year.	\$((239)) <u>247</u>
Class B	Rents or leases equipment for fund-raising event or recreational gaming activity more than 10 times per year.	\$((603)) <u>625</u>

**4. Gambling service supplier**

License	Fee
Annual	\$((630)) <u>651</u>
Financing, consulting, and management contract review	\$136

**5. Linked bingo prize provider**

License	Fee
Annual	\$((4,048)) <u>4,184</u>

**6. Manufacturer**

License	Annual Gross Sales	Fee
Class A	Pull-tab dispensing devices only	\$((605)) <u>625</u>

License	Annual Gross Sales	Fee
Class B	Up to \$250,000	\$((1,210)) <u>1,250</u>
Class C	Up to \$500,000	\$((1,818)) <u>1,878</u>
Class D	Up to \$1,000,000	\$((2,426)) <u>2,506</u>
Class E	Up to \$2,500,000	\$((3,160)) <u>3,266</u>
Class F	Over \$2,500,000	\$((3,890)) <u>4,020</u>

**7. Permits**

Type	Description	Fee
Agricultural fair	One location and event only	\$26
Agricultural fair annual permit	Annual permit for specified different events and locations	\$((175)) <u>180</u>
Recreational gaming activity		\$((55)) <u>56</u>
Manufacturer's special sales permit		\$211
Punch board and pull-tab service business permit	Initial application fee	\$217
Punch board and pull-tab service business permit	Renewal	\$53

**8. Changes**

Application	Description	Fee
Name		\$26
Location		\$26
Business classification	Same owners	\$((55)) <u>56</u>
Exceeding license class	New class fee, less previous fee paid, plus	\$26
Duplicate license		\$26
Corporate stock/limited liability company shares/units		\$((55)) <u>56</u>
License transfers		\$((55)) <u>56</u>

**9. Other fees**

Type	Fee
Defective punch board/pull-tab cost recovery fees	Up to \$100
Failing to apply for license class upgrade	Up to fifty percent of the difference between our fees for the licensee's present license class and the new license class or one thousand dollars, whichever is less, plus \$26
Review of gambling equipment, supplies, services, or games	Cost reimbursement

**10. Identification stamps**

Type	Fee	
<b>(a) Punch boards and pull-tabs</b>		
(i) Standard	Wagers fifty cents and below	\$ .27
	Wagers over fifty cents	\$1.05
(ii) Progressive jackpot pull-tab series	Per series	\$10.60

Type		Fee
(iii) Pull-tab series with carry-over jackpots	Per series	\$1.05
<b>(b) Pull-tab dispensing devices</b>		
(i) Mechanical and electro-mechanical		\$ .27
(ii) Electronic	Dispensing devices that require initial and ongoing evaluation of electronic components or functions, such as reading encoded data on pull-tabs, accounting for income or prizes	\$106.17 annually
Replacement of identification stamps		\$26
<b>(c) Disposable bingo cards</b>		
(i) Single game sets of individual cards or sheets of cards		\$ .27
(ii) Multigame card packets		\$1.16
(iii) Cards used to play for linked bingo prizes	Fee per 250 cards	\$ .42
(iv) Cards used to play for linked bingo prizes	Fee per 5,000 cards	\$8.49
<b>(d) Coin or token-activated amusement games</b>		
Annually - operated at any Class A amusement game license location		\$26.53
<b>(e) Electronic bingo card daubers</b>		
Annual		\$10.60
<b>(f) Electronic card facsimile table</b>		
Annual		\$361.51

**11. Two-part payment plan participation**

Annual participation	\$26
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**AMENDATORY SECTION** (Amending Order 600, filed 6/19/06, effective 1/1/08)

**WAC 230-05-035 Individuals license fees.** Individuals must pay the following fees to us when they apply for gambling licenses, permits, miscellaneous changes:

**1. Charitable or nonprofit gambling manager**

License	Fee
Original	\$((174)) <u>176</u>
Renewal	\$((82)) <u>84</u>
Change of employer	\$((82)) <u>84</u>

**2. Linked bingo prize provider representative**

License	Fee
Original	\$((239)) <u>247</u>
Renewal	\$((146)) <u>150</u>

**3. Commercial gambling manager**

License	Fee
Original	\$((175)) <u>180</u>
Renewal	\$((84)) <u>86</u>
Change of employer	\$((84)) <u>86</u>

**4. Distributor's or gambling services supplier's representative**

License	Fee
Original	\$((239)) <u>247</u>
Renewal	\$((146)) <u>150</u>

**5. Manufacturer's representative**

License	Fee
Original	\$((239)) <u>247</u>
Renewal	\$((146)) <u>150</u>

**6. Public card room employee**

License	Fee
<b>Class A - Performs card room employee duties in a Class E card room</b>	
Original	\$((175)) <u>180</u>
Renewal	\$((84)) <u>86</u>
<b>Class B - Performs card room employee duties in enhanced and house-banked card rooms</b>	
Original, in-state	\$((237)) <u>245</u>
Original, out-of-state	\$((295)) <u>304</u>
Renewal	\$((146)) <u>150</u>
Transfer/additional employee/conversion/emergency waiver request	\$((57)) <u>58</u>

**7. Other fees**

Change of name	\$26
Duplicate license	\$26

**8. Military personnel returning from service**

If a license expires while an individual is on active military service, the individual may apply to have their license reissued at the renewal fee. The application must be received within six months after completing their active military ser-

vice. The applicant must provide evidence of the completion date of active military service.

**WSR 06-22-048**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**

[Filed October 27, 2006, 8:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-18-028.

Title of Rule and Other Identifying Information: Amending section WAC 230-50-562 Final orders—When and how to file a petition for reconsideration of a final order.

Hearing Location(s): DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (206) 575-8220, on January 12, 2007, at 9:30 a.m.

Date of Intended Adoption: January 12, 2007.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail [Susana@wsgc.wa.gov](mailto:Susana@wsgc.wa.gov), fax (360) 486-3625, by January 1, 2007.

Assistance for Persons with Disabilities: Contact Shirley Corbett by January 1, 2007, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Scheduling reconsideration hearings: The proposed rule change authorizes the commission to automatically schedule petitions for reconsideration of final orders issued by the commission. It will also clarify the process for petitioners. If the petition for reconsideration is received less than fifteen business days before a regularly scheduled commission meeting, the petition will be heard at the meeting immediately following the regularly scheduled commission meeting.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Sharon Reese, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule change clarifies language of rules without changing the effect.

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.

October 26, 2006  
Susan Arland  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 96-09-072, filed 4/16/96, effective 7/1/96)

**WAC 230-50-562 Final orders—When and how to file a petition for reconsideration of a final order.** Any party to an adjudicative proceeding may file a petition for reconsideration of a final order. A petition for reconsideration of a final order under RCW 34.05.470 shall be filed with the commission in accordance with WAC 230-50-210 within ten days of service of a final order. The petition for reconsideration shall be administered in accordance with RCW 34.05.-470. If the petition is received at least fifteen business days before the next regularly scheduled meeting, the commission will schedule the petition to be heard at the upcoming meeting. If the petition is received less than fifteen business days before the next regularly scheduled meeting, the commission will schedule the petition for reconsideration at the meeting immediately following the regularly scheduled commission meeting.

**WSR 06-22-049**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**

[Filed October 27, 2006, 8:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-18-024.

Title of Rule and Other Identifying Information: Amending section WAC 230-20-055 Use of proceeds from authorized activities by charitable or nonprofit organizations.

Hearing Location(s): DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (206) 575-8220, on January 12, 2007, at 9:30 a.m.

Date of Intended Adoption: January 12, 2007.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail [Susana@wsgc.wa.gov](mailto:Susana@wsgc.wa.gov), fax (360) 486-3625, by January 1, 2007.

Assistance for Persons with Disabilities: Contact Shirley Corbett by January 1, 2007, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Petition for rule change received from Seattle Jaycee Bingo: The proposed rule change would assist charitable and nonprofit licensees because the potential benefit would be the elimination of tax on punchboard/pull-tab income. The resulting savings (potentially) could be thousands of dollars per licensee.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington state gambling commission, governmental.

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

3446; and Enforcement: Sharon Reese, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule change clarifies language of rules without changing the effect.

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.

October 25, 2006

Susan Arland  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 96-07-076, filed 3/19/96, effective 7/1/96)

**WAC 230-20-055 Use of proceeds from authorized activities by charitable or nonprofit organizations.** All net income from gambling activities must be used exclusively for the lawful purposes of the organization. All proceeds remaining after paying the necessary expenses of operating an activity authorized by RCW 9.46.0311 shall be used by the organization conducting the activity only for those purposes which are set out in RCW 9.46.0209 and as it may be amended and, if a commission licensee, only for those purposes disclosed to the commission in the application for a license.

**WSR 06-22-058**

**PROPOSED RULES**

**DEPARTMENT OF LICENSING**

[Filed October 30, 2006, 9:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-16-122.

Title of Rule and Other Identifying Information: Chapter 308-88 WAC, Rental car taxation and licensing and chapter 308-96A WAC, Vehicle licensing. Specifically, WAC 308-88-020 Application and registration of rental vehicle business and 308-96A-180 Registration of rental vehicles.

Hearing Location(s): Department of Licensing, Conference Room 108, 1125 Washington Street S.E., Olympia, WA 98507, on December 5, 2006, at 2 p.m.

Date of Intended Adoption: January 2, 2007.

Submit Written Comments to: Dale R. Brown, P.O. Box 2957, Mailstop 48200, 1125 Washington Street S.E., Olympia, WA 98507-2957, e-mail [dbrown@dol.wa.gov](mailto:dbrown@dol.wa.gov), fax (360) 902-0140, by December 4, 2006.

Assistance for Persons with Disabilities: Contact Dale R. Brown by December 4, 2006, TTY (360) 664-8885.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule making is required to correct language in these rules to comply with the way the department does business.

Reasons Supporting Proposal: The rules will comply with the way the department does business and language will be corrected.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: RCW 46.87.023.

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

Name of Agency Personnel Responsible for Drafting: Dale Brown, 1125 Washington Street S.E., Olympia, WA, (360) 902-4020; Implementation and Enforcement: Toni Wilson, 1125 Washington Street S.E., Olympia, WA, (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 pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. The contents of the proposed rules are explicitly and specifically dictated by statute.

October 25, 2006

Julie Knittle, Administrator  
Title and Registration Services

AMENDATORY SECTION (Amending WSR 04-01-162, filed 12/22/03, effective 1/22/04)

**WAC 308-88-020 Application and registration of rental vehicle businesses. (1) What is required to become a rental vehicle business?**

(a) Applicants must apply for a rental vehicle business license by submitting a completed master ((~~license~~) business) application to the department of licensing's master license service.

(b) A separate master ((~~license~~) business) application must be filed for each place of business operated as a rental vehicle business. For the purposes of this section, "place of business" means a physical location at which arrangements to rent a rental vehicle may be made.

(c) Businesses operating in the form of a corporation, limited liability company, limited liability partnership, or similar form of legal entity must register their legal entity through the office of the secretary of state before applying for a rental vehicle business license.

(2) **What will I receive as proof that I qualified as a vehicle rental business?** A rental vehicle business registration number will be issued to your business and displayed on the master license.

(3) **Can I transfer my business registration number to another company?** No. The rental vehicle business registration number issued through the master license service is not assignable or transferable, and is valid for the rental vehicle business the registration number (R-number) was issued to.

~~((Rental vehicles must be registered in Washington unless:~~

~~(a) Rented by a customer at a location outside of the state of Washington;~~

~~(b) The vehicle was dropped off at a Washington rental vehicle business by its previous renter and is being rented for a one-way trip out of Washington; or~~

~~(e) The vehicle is part of a properly registered International Registration Plan (IRP) rental vehicle business fleet.~~

~~(4) Does the current certificate of registration issued by the department need to be carried in the rental vehicle? A photocopy of the current certificate of registration may be carried in a rental vehicle in lieu of the original certificate of registration.~~

~~(5) Who may operate a rental vehicle? Rental vehicles may only be used by rental customers, unless the rental vehicle is being moved by the business to another business site, to or from maintenance or repair facilities, or for testing purposes.~~

~~(6) What does a rental vehicle business do when they remove a rental vehicle from their fleet? The rental vehicle business may submit a vehicle seller's report of sale that protects the seller of a vehicle from certain criminal and civil liabilities arising from use of the vehicle by another person after the vehicle has been sold or change in ownership has occurred.))~~

AMENDATORY SECTION (Amending WSR 04-01-162, filed 12/22/03, effective 1/22/04)

**WAC 308-96A-180 Registration of rental vehicles.**

**(1) What is a rental vehicle?**

A rental vehicle is defined in RCW 46.04.465.

**(2) Who registers a rental vehicle?**

Any Washington vehicle licensing office registers rental vehicles.

**(3) How will I register my rental vehicles?**

Annual renewal of rental vehicle registration may be processed through any Washington vehicle licensing office or by mail by meeting the qualifications and paying the appropriate fees. The rental vehicle business registration number must be included on the vehicle registration. The name of the legal or registered owner on a rental vehicle registration must be identical to the business name displayed on the master license.

**(4) Do rental vehicles operated in Washington need to be registered in Washington?**

Rental vehicles must be registered in Washington unless:

(a) Rented by a customer at a location outside of the state of Washington; or

(b) The vehicle was dropped off at a Washington rental vehicle business by its previous renter and is being rented for a one-way trip out of Washington(~~(; or~~

~~(e) The vehicle is part of a properly registered International Registration Plan (IRP) rental vehicle business fleet)).~~

**(5) Does the current certificate of registration issued by the department need to be carried in the rental vehicle?**

A photocopy of the current certificate of registration may be carried in a rental vehicle in lieu of the original certificate of registration.

**(6) Who may operate a rental vehicle?**

Rental vehicles may only be used by rental customers, unless the rental vehicle is being moved by the business to another business site, to or from maintenance or repair facilities, or for testing purposes.

**(7) What does a rental vehicle business do when they remove a rental vehicle from their fleet?**

The rental vehicle business may submit a vehicle seller's report of sale that protects the seller of a vehicle from certain criminal and civil liabilities arising from use of the vehicle by another person after the vehicle has been sold or a change in ownership has occurred.

**WSR 06-22-063**

**PROPOSED RULES**

**DEPARTMENT OF REVENUE**

[Filed October 30, 2006, 12:21 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 458-40-540 Forest land values—2007.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on December 5, 2006, at 10:00 a.m.

Date of Intended Adoption: December 12, 2006.

Submit Written Comments to: Mark Bohe, P.O. Box 47453, Olympia, WA 98504-7453, e-mail markbohe@dor.wa.gov, fax (360) 586-5543, by December 5, 2005 [2006].

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 84.33.140 requires that forest land values be adjusted annually by a statutory formula contained in RCW 84.33.140(3). The proposed rule adjusts the table of forest land values in Washington as required by statute. County assessors will use these published land values for property tax purposes in 2007.

Reasons Supporting Proposal: RCW 84.33.140 requires that the values provided in this rule be adjusted each year.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 84.33.096.

Statute Being Implemented: RCW 84.33.140.

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

Name of Proponent: Washington state department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Mark E. Bohe, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6133; Implementation and Enforcement: Stuart Thronson, 1025 Union Avenue S.E., Suite #300, Olympia, WA, (360) 570-3230.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the rule and the proposed amendments do not impose any requirements or burdens that are not already specifically required by statute.

A cost-benefit analysis is not required under RCW 34.05.328. The content/values set in this rule are explicitly



and specifically dictated by statute. Such rules are not subject to RCW 34.05.328.

October 26, 2006  
 Alan R. Lynn  
 Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 06-02-006, filed 12/22/05, effective 1/1/06)

**WAC 458-40-540 Forest land values—((2006)) 2007.**

The forest land values, per acre, for each grade of forest land for the ((2006)) 2007 assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	((2006)) 2007 VALUES ROUNDED
1	1	\$ ((200)) 201
	2	((198)) 199
	3	((187)) 188
	4	136
2	1	169
	2	164
	3	157
	4	113
3	1	133
	2	129
	3	128
	4	97
4	1	101
	2	98
	3	97
	4	75
5	1	74
	2	67
	3	66
	4	45
6	1	37
	2	34
	3	34
	4	32
7	1	17
	2	17
	3	16
	4	16
8		1

**WSR 06-22-064  
 PROPOSED RULES  
 DEPARTMENT OF REVENUE**

[Filed October 30, 2006, 12:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-09-121.

Title of Rule and Other Identifying Information: WAC 458-20-268 Annual surveys for certain tax adjustments.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on December 6, 2006, at 10:00 a.m.

Date of Intended Adoption: December 13, 2006.

Submit Written Comments to: Allan C. Lau, P.O. Box 47453, Olympia, WA 98504-7453, e-mail AllanL@dor.wa.gov, fax (360) 586-5543, by December 6, 2006.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In order to take certain tax credits, deferrals, and exemptions ("tax adjustments"), taxpayers must file an annual survey with the department of revenue (the "department") containing information about their business activities and employment. This rule explains the survey requirements for the various tax adjustments. This rule also explains who is required to file an annual survey, how to file a survey, and what information must be included in the survey.

The department is proposing this new rule to incorporate provisions of the following: (a) Chapter 2, Laws of 2004, (b) chapter 25, Laws of 2004, (c) chapter 513, Laws of 2005, (d) chapter 514, Laws of 2005, (e) chapter 112, Laws of 2006, (f) chapter 177, Laws of 2006, (g) chapter 178, Laws of 2006, (h) chapter 300, Laws of 2006, and (i) chapter 354, Laws of 2006. These provisions require completion of an annual survey by a person claiming the following tax adjustments:

- B&O tax credit for research and development spending under RCW 82.04.4452,
- Rural counties sales and use tax deferral under chapter 82.60 RCW,
- High technology sales and use tax deferral under chapter 82.63 RCW,
- Sales and use tax deferral for biotechnology product manufacturing under chapter 82.75 RCW,
- Sales and use tax deferral for dairy product manufacturing, seafood product manufacturing, and fresh fruit and vegetable processing under chapter 82.74 RCW,
- B&O tax exemption for dairy products under RCW 82.04.4268, seafood products under RCW 82.04.4269, and fruits and vegetables under RCW 82.04.4266,
- B&O tax credit for aerospace preproduction development under RCW 82.04.4487,
- Reduced B&O tax rate for certain FAR part 145 certificated repair stations under RCW 82.04.250(3),
- B&O tax credit for customized employment training under RCW 82.04.449, and
- Reduced B&O tax rates for timber products under RCW 82.04.260(12).

Reasons Supporting Proposal: To clarify the annual survey requirements.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.04.4452, 82.60.-070, 82.63.020, 82.74.040, 82.32.610, 82.32.630, 82.32.635, 82.32.640, 82.32.645, 82.32.050, 82.32.590, and 82.32.600.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Allan C. Lau, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6134; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not impose any new performance requirement or administrative burden on any small business not required by statute.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is not a significant legislative rule as defined by RCW 34.05.328.

October 26, 2006

Alan R. Lynn  
Rules Coordinator

## NEW SECTION

**WAC 458-20-268 Annual surveys for certain tax adjustments.** (1) **Introduction.** In order to take certain tax credits, deferrals, and exemptions ("tax adjustments"), taxpayers must file an annual survey with the department of revenue (the "department") containing information about their business activities and employment. This section explains the survey requirements for the various tax adjustments. This section also explains who is required to file an annual survey, how to file a survey, and what information must be included in the survey.

Refer to WAC 458-20-267 (Annual reports for certain tax adjustments) for more information on the annual report requirements for certain tax incentive programs.

This section provides examples that identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(2) **Who is required to file the annual survey?** The following persons must file an annual survey:

(a) A person claiming the B&O tax credit provided by RCW 82.04.4452 for engaging in qualified research and development. A separate annual survey must be filed for each tax reporting account. If the person has assigned its entire B&O tax credit provided by RCW 82.04.4452 to another person, the assignor is not required to file an annual survey. In such an instance, the assignee of the B&O tax credit is required to file an annual survey. If the person has assigned a portion of its B&O tax credit to another person, both the assignor and the assignee are required to file an annual survey. Refer to WAC 458-20-24003 (Tax incentives for high technology businesses) for more specific information about this tax adjustment.

(b) An applicant for deferral of taxes under chapter 82.60 RCW for sales and use taxes on an eligible investment project in rural counties. Refer to WAC 458-20-24001 (Sales and use tax deferral—Manufacturing and research/development

activities in rural counties—Applications filed after March 31, 2004) for more specific information about this tax adjustment.

(c) An applicant for deferral of taxes under chapter 82.63 RCW for sales and use taxes on an eligible investment project in high technology. Refer to WAC 458-20-24003 (Tax incentives for high technology businesses) for more specific information about this tax adjustment.

(d) An applicant for deferral of taxes under chapter 82.75 RCW for sales and use taxes on an eligible investment project in biotechnology products.

(e) A lessee of an eligible investment project under chapters 82.60, 82.63, and 82.75 RCW (as defined in RCW 82.60.020 (4)(b)(ii), 82.63.010 (7)(b), or 82.75.010 (5)(b)(ii)) who receives the economic benefit of the deferral and agrees in writing with the department to complete the annual survey. A lessor, by written contract, must agree to pass the economic benefit of the deferral to its lessee. The economic benefit of the deferral to the lessee must be no less than the amount of tax deferred by the lessor as evidenced by written documentation of any type, whether by payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee. An applicant who is a lessor of an eligible investment project that received a deferral of taxes under chapters 82.60, 82.63, and 82.75 RCW and who meets these requirements is not required to complete and file an annual survey.

(f) A person claiming the B&O tax exemption provided by RCW 82.04.4268 for dairy products, RCW 82.04.4269 for seafood products, and RCW 82.04.4266 for fruits and vegetables.

The first survey filed under this subsection must also include employment, wage, and benefit information for the twelve-month period immediately before first use of the B&O tax exemption. In order to meet this requirement, a person must complete a survey for the calendar year immediately preceding the first use of the B&O tax exemption.

(g) An applicant for deferral of taxes under chapter 82.74 RCW for sales and use taxes on an eligible investment project for dairy product manufacturing, seafood product manufacturing, or fresh fruit and vegetable processing. This tax adjustment is effective July 1, 2007.

(h) A lessee of an eligible investment project under chapters 82.74 RCW (as defined in RCW 82.74.010 (4)(b)) who receives the economic benefit of the deferral and agrees in writing with the department to complete the annual survey. A lessor, by written contract, must agree to pass the economic benefit of the deferral to its lessee. The economic benefit of the deferral to the lessee must be no less than the amount of tax deferred by the lessor as evidenced by written documentation of any type, whether by payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee. An applicant who is a lessor of an eligible investment project that received a deferral of taxes under chapter 82.74 RCW and who meets these requirements is not required to complete and file an annual survey. This tax adjustment is effective July 1, 2007.

(i) A person claiming the B&O tax credit provided by RCW 82.04.4487 for persons engaged in qualified preproduction development in the field of aeronautics. A separate

annual survey must be filed for each tax reporting account. If the person has assigned its entire B&O tax credit provided by RCW 82.04.4487 to another person, the assignor is not required to file an annual survey. In such an instance, the assignee of the B&O tax credit is required to file an annual survey. If the person has assigned a portion of its B&O tax credit to another person, both the assignor and the assignee are required to file an annual survey.

(j) A person claiming the B&O tax rate provided by RCW 82.04.250(3) as FAR part 145 certificated repair stations.

(k) A person claiming the B&O tax credit provided by RCW 82.04.449 for customized employment training.

The first survey filed under this subsection must also include employment, wage, and benefit information for the twelve-month period immediately before first use of the B&O tax credit. In order to meet this requirement, a person must complete a survey for the calendar year immediately preceding the first use of the B&O tax credit.

(l) A person claiming the B&O tax rate provided by RCW 82.04.260(12) for timber products.

The first survey filed under this subsection must also include employment, wage, and benefit information for the twelve-month period immediately before first use of the B&O tax rate. In order to meet this requirement, a person must complete a survey for the calendar year immediately preceding the first use of the B&O tax rate.

**(3) How to file annual surveys.**

(a) **Required form.** The department has developed a survey form that must be used to complete the annual survey unless a person obtains prior written approval from the department to file the annual survey in an alternative format.

(b) **Electronic filing.** A survey is filed electronically when the department receives the survey in an electronic format. The department may waive the electronic filing requirement for good cause shown. Any person not statutorily required to electronically file the survey has the option of filing the annual survey electronically.

Persons that claim the following tax adjustments must file the survey electronically with the department:

(i) B&O tax credit for qualified research and development under RCW 82.04.4452 (subsection (2)(a) of this section);

(ii) B&O tax exemptions for dairy products, seafood products or fruits and vegetables under RCW 82.04.4268, 82.04.4269, and 82.04.4266 (subsection (2)(f) of this section);

(iii) Sales and use tax deferral for dairy product manufacturing, seafood product manufacturing, or fresh fruit and vegetable processing under chapter 82.74 RCW (subsection (2)(g) and (h) of this section);

(iv) B&O tax credit for qualified preproduction development in the field of aeronautics under RCW 82.04.4487 (subsection (2)(i) of this section);

(v) B&O tax rate for FAR part 145 certificated repair stations under RCW 82.04.250(3) (subsection (2)(j) of this section); and

(vi) B&O tax rate for timber products under RCW 82.04.260(12) (subsection (2)(l) of this section).

(c) **How to obtain the form.** The form may be filed electronically online or obtained by downloading it from the department's web site ([www.dor.wa.gov](http://www.dor.wa.gov)). It may also be obtained from the department's district offices, by telephoning the telephone information center (800-647-7706), or by contacting the department's special programs division at:

Department of Revenue  
Special Programs Division  
Post Office Box 47477  
Olympia, WA 98504-7477  
Fax: 360-586-2163

(d) **Due date.** For persons claiming any B&O tax credit, tax exemption, or tax rate listed under this section, the survey must be filed or postmarked by March 31st following any calendar year in which the tax credit, tax exemption, or tax rate is claimed.

For applicants of any sales tax deferrals listed under this section, the survey must be filed or postmarked by March 31st of the year following the calendar year in which an eligible investment project is certified by the department as being operationally complete and each of the seven succeeding calendar years.

**(e) Examples.**

(i) Advanced Computing, Inc. qualifies for the B&O tax credit provided by RCW 82.04.4452 and applied it against taxes due in calendar year 2006. Advanced Computing, Inc. must electronically file an annual survey with the department by March 31, 2007.

(ii) In 1999, Biotechnology, Inc. applied for and received a sales and use tax deferral under chapter 82.63 RCW for an eligible investment project in qualified research and development. The investment project was certified by the department as being operationally complete in 2001. Biotechnology, Inc. must file its annual survey with the department for the 2005 calendar year by March 31, 2006. A survey is due from Biotechnology, Inc. by March 31st each following year, with its last survey due March 31, 2008.

(iii) Advanced Materials, Inc. has been conducting manufacturing activities in a building leased from Property Management Services since 2002. Property Management Services is a recipient of a deferral under chapter 82.60 RCW, and the building was certified by the department as operationally complete in 2002. In order to pass on the entire economic benefit of the deferral, Property Management Services charges Advanced Materials, Inc. \$5,000 less in rent each year. Prior to the 2004 calendar year, Advanced Materials, Inc. is not required under chapter 82.60 RCW to file an annual survey. Advanced Materials, Inc., however, must file its annual survey with the department for the 2004 calendar year by March 31, 2005, assuming all the requirements of RCW 82.60.020 (4)(b)(ii) are met. A survey is due from Advanced Materials, Inc. by March 31st each following year, with its last survey due by March 31, 2009.

(iv) Fruit Canning, Inc. claims the B&O tax exemption provided in RCW 82.04.4266 for the gross proceeds of sales derived from the canning of fruit for the first time in 2006. Fruit Canning, Inc. must file two annual surveys with the department by March 31, 2007, one covering calendar year 2005 and one covering calendar year 2006. If Fruit Canning,

Inc. claims the B&O tax exemption during subsequent years, it must file an annual survey for each of those years by March 31 of each following year.

**(4) What information does the annual survey require?** The annual survey requests information about the following:

(a) Amount of tax deferred, the amount of B&O tax exempted, the amount of B&O tax credit taken, or the amount of B&O tax reduced under the preferential rate;

(b) The number of new products or research projects by general classification;

(c) The number of trademarks, patents, and copyrights associated with activities at the investment project.

(d) The following information for employment positions in Washington:

(i) The total number of employment positions;

(ii) Full-time, part-time, and temporary employment positions as a percent of total employment. Refer to subsection (7) of this section for information about full-time, part-time, and temporary employment positions;

(iii) The number of employment positions according to the wage bands of less than \$30,000; \$30,000 or greater, but less than \$60,000; and \$60,000 or greater. A wage band containing fewer than three individuals may be combined with the next lowest wage band; and

(iv) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands; and

(e) Additional information the department requests that is necessary to measure the results of the tax adjustments.

(i) The department is required to report to the state legislature summary descriptive statistics by category and the effectiveness of the tax adjustments, such as job creation, company growth, and such other factors as the department selects or as the statutes identify. The department has included questions related to measuring these effects.

(ii) In addition, the department has included questions related to:

(A) The person's use of the sales and use tax exemption for machinery and equipment used in manufacturing provided in RCW 82.08.02565 and 82.12.02565; and

(B) The Unified Business Identifier used with the Washington state employment security department and all employment security department reference numbers used on quarterly tax reports that cover the employment positions reported in the annual survey.

**(5) What is total employment in the annual survey?**

(a) The annual survey requires information on all full-time, part-time, and temporary employment positions located in Washington state on December 31st of the calendar year covered by the report. Total employment includes persons who are on leaves of absence such as sick leave, vacation, disability leave, jury duty, military leave, and workers compensation leave, regardless of whether those persons are receiving wages. Total employment does not include separation from employment such as layoffs or reductions in force. Vacant positions are not included in total employment.

(b) **Examples.** Assume these facts for the following examples. National Construction Equipment (NCE) manufactures bulldozers, cranes, and other earth-moving equip-

ment in Ridgefield, WA and Kennewick, WA. NCE received a deferral of taxes under chapter 82.60 RCW for sales and use taxes on its new manufacturing site in Kennewick, WA.

(i) NCE employs two hundred workers in Ridgefield manufacturing construction cranes. NCE employs two hundred fifty workers in Kennewick manufacturing bulldozers and other earth-moving equipment. Although NCE's facility in Ridgefield does not qualify for any tax adjustments, NCE's annual survey must report a total of four hundred fifty employment positions. The annual survey includes all Washington state employment positions, which includes employment positions engaged in activities that do not qualify for tax adjustments.

(ii) On November 20th, NCE lays off seventy-five workers. NCE notifies ten of the laid off workers on December 20th that they will be rehired and begin work on January 2nd. The seventy-five employment positions are excluded from NCE's annual survey, because a separation of employment has occurred. Although NCE intends to rehire ten employees, those employment positions are vacant on December 31st.

(iii) On December 31st, NCE has one hundred employees on vacation leave, five employees on sick leave, two employees on military leave, one employee who is scheduled to retire as of January 1st, and three vacant employment positions. The employment positions of employees on vacation, sick leave, and military leave must be included in NCE's annual survey. The one employee scheduled to retire must be included in the annual survey because the employment position is filled on December 31st. The three vacant positions are not included in the annual survey.

(iv) In June, NCE hires two employees from a local college to intern in its engineering department. When the academic year begins in September, one employee ends the internship. The other employee's internship continues until the following June. NCE must report one employment position on the annual survey, representing the one intern employed on December 31st.

**(6) When is an employment position located in Washington state?** The annual survey seeks information about Washington employment positions only. An employment position is located in Washington state if:

(a) The service of the employee is performed entirely within the state;

(b) The service of the employee is performed both within and without the state, but the service performed without the state is incidental to the employee's service within the state;

(c) The service of the employee is performed both within and without the state, and the employee's base of operations is within the state;

(d) The service of the employee is performed both within and without the state, but the service is directed or controlled in this state; or

(e) The service of the employee is performed both within and without the state and the service is not directed or controlled in this state, but the employee's individual residence is in this state.

(f) **Examples.** Assume these facts for the following examples. Acme Computer, Inc. develops computer software and claims the B&O tax credit provided by RCW

82.04.4452 for its research and development spending. Acme Computer, headquartered in California, has employees working at four locations in Washington state. Acme Computer also has offices in Oregon and Texas.

(i) Ed is a software engineer in Acme Computer's Vancouver office. Ed occasionally works at Acme Computer's Portland, Oregon office when other software engineers are on leave. Ed's position must be included in the number of total employment in Washington state that Acme Computer reports on the annual survey. Ed performs services both within and without the state, but the services performed without the state are incidental to the employee services within Washington state.

(ii) John is an Acme Computer salesperson. John travels throughout Washington, Oregon, and Idaho promoting sales of new Acme Computer products. John's activities are directed by his manager in Acme Computer's Spokane office. John's position must be included in the number of total employment in Washington state that Acme Computer reports on the annual survey. John performs services both within and without the state, but the services are directed or controlled in Washington state.

(iii) Jane, vice-president for product development, works in Acme Computer's Portland, Oregon office. Jane regularly travels to Seattle to review the progress of research and development projects conducted in Washington state. Jane's position must not be included in the number of total employment in Washington state that Acme Computer reports on the annual survey. Although Jane regularly performs services within Washington state, her activities are directed or controlled in Oregon.

(iv) Roberta, a service technician, travels throughout the United States servicing Acme Computer products. Her activities are directed from Acme Computer's corporate offices in California, but she works from her home office in Tacoma. Roberta's position must be included in the number of total employment in Washington state that Acme Computer reports on the annual survey. Roberta performs services both within and without the state and the service is not directed or controlled in this state, but her residence is in Washington state.

**(7) What are full-time, part-time and temporary employment positions?** The survey must separately identify the number of full-time, part-time, and temporary employment positions as a percent of total employment.

(a) **Full-time and part-time employment positions.** A position is considered full-time or part-time if the employer intends for the position to be filled for at least fifty-two consecutive weeks or twelve consecutive months, excluding any leaves of absence.

(i) A full-time position is a position that requires the employee to work, excluding overtime hours, thirty-five hours per week for fifty-two consecutive weeks, four hundred fifty-five hours a quarter, or one thousand eight hundred twenty hours during a period of twelve consecutive months.

(ii) A part-time position is a position in which the employee may work less than the hours required for a full-time position.

(iii) In some instances, an employee may not be required to work the hours required for full-time employment because

of paid rest and meal breaks, health and safety laws, disability laws, shift differentials, or collective bargaining agreements. If, in the absence of these factors, the employee would be required to work the number of hours for a full-time position to receive their current wage, the position must be reported as a full-time employment position.

(b) **Temporary positions.** There are two types of temporary positions.

(i) **Employees of the person required to complete the survey.** In the case of a temporary employee directly employed by the person required to complete the survey, a temporary position is a position intended to be filled for a period of less than fifty-two consecutive weeks or twelve consecutive months. For example, seasonal employment positions are temporary positions. These temporary positions must be included in the information required in subsections (5), (8), and (9) of this section.

(ii) **Workers furnished by staffing companies.** A temporary position also includes a position filled by a worker furnished by a staffing company, regardless of the duration of the placement. These temporary positions must be included in the information required in subsections (5), (8), and (9) of this section. In addition, the person filling out the annual survey must provide the following additional information:

(A) Total number of staffing company employees furnished by staffing companies;

(B) Top three occupational codes of all staffing company employees; and

(C) Average duration of all staffing company employees.

(c) **Examples.** Assume these facts for the following examples. Worldwide Materials, Inc. is a developer of materials used in manufacturing electronic devices at a facility located in Everett, WA. Worldwide Materials claims the B&O tax credit provided by RCW 82.04.4452 for its research and development spending. Worldwide Materials has one hundred employees.

(i) On December 31st, Worldwide Materials has five employees on workers' compensation leave. At the time of the work-related injuries, the employees worked forty hours a week and were expected to work for fifty-two consecutive weeks. Worldwide Materials must report these employees as being employed in a full-time position. Although the five employees are not currently working, they are on workers' compensation leave and Worldwide Materials had intended for the full-time positions to be filled for at least fifty-two consecutive weeks.

(ii) In September, Worldwide Materials hires two employees on a full-time basis for a two-year project to design composite materials to be used in a new airplane model. Because the position is intended to be filled for a period exceeding twelve consecutive months, Worldwide Materials must report these positions as two full-time positions.

(iii) Worldwide Materials has two employees who clean laboratories during the evenings. The employees regularly work 5:00 p.m. to 11:00 p.m., Monday through Friday, fifty-two weeks a year. Because the employees work less than thirty-five hours a week, the employment positions are reported as part-time positions.

(iv) On November 1st, a Worldwide Materials engineer begins twelve weeks of family and medical leave. The engineer was expected to work forty hours a week for fifty-two consecutive weeks. While the engineer is on leave, Worldwide Materials hires a staffing company to furnish a worker to complete the engineer's projects. Worldwide Materials must report the engineer as a full-time position on the annual report. Worldwide Materials must also report the worker furnished by the staffing company as a temporary employment position and include the information as required in (b) of this subsection.

(v) Worldwide Materials allows three of its research employees to work on specific projects with a flexible schedule. These employees are not required to work a set amount of hours each week, but are expected to work twelve consecutive months. The three research employees are paid a comparable wage as other research employees who are required to work a set schedule of forty hours a week. Although the three research employees may work fewer hours, they are receiving comparable wages as other research employees working forty hours a week. Worldwide Materials must report these positions as full-time employment positions, because each position is equivalent to a full-time employment position.

(vi) Worldwide Materials has a large order to fulfill and hires ten employees for the months of June and July. Five of the employees leave at the end of July. Worldwide Materials decides to have the remaining five employees work on an on-call basis for the remainder of the year. As of December 31st, three of the employees are working for Worldwide Materials on an on-call basis. Worldwide Materials must report three temporary employment positions on the annual survey and include these positions in the information required in subsections (5), (8), and (9) of this section.

(8) **What are wages?** For the purposes of the annual survey, "wages" means compensation paid to an individual for personal services, whether denominated as wages, salary, commission, or otherwise as reported on the W-2 forms of employees. Stock options granted as compensation to employees are wages to the extent they are reported on the W-2 forms of the employees and are taken as a deduction for federal income tax purposes by the employer. The compensation of a proprietor or a partner is determined in one of two ways:

(a) If there is net income for federal income tax purposes, the amount reported subject to self-employment tax is the compensation.

(b) If there is no net income for federal income tax purposes, reasonable cash withdrawals or cash advances is the compensation.

(9) **What are employer-provided benefits?** The annual survey requires persons to report the number of employees that have employer-provided medical, dental, and retirement benefits, by each of the wage bands. An employee has employer-provided medical, dental, and retirement benefits if the employee is currently eligible to participate or receive the benefit. A benefit is "employer-provided" if the medical, dental, and retirement benefit is dependent on the employer's establishment or administration of the benefit. A

benefit that is equally available to employees and the general public is not an "employer-provided" benefit.

(a) **What are medical benefits?** "Medical benefits" means compensation, not paid as wages, in the form of a health plan offered by an employer to its employees. A "health plan" means any plan, fund, or program established, maintained, or funded by an employer for the purpose of providing for its employees or their beneficiaries, through the purchase of insurance or otherwise, medical and/or dental care services.

(i) Health plans include any:

(A) "Employee welfare benefit plan" as defined by the Employee Retirement Income Security Act (ERISA);

(B) "Health plan" or "health benefit plan" as defined in RCW 48.43.005;

(C) Self-funded multiple employer welfare arrangement as defined in RCW 48.125.010;

(D) "Qualified health insurance" as defined in Section 35 of the Internal Revenue Code;

(E) "Archer MSA" as defined in Section 220 of the Internal Revenue Code;

(F) "Health savings plan" as defined in Section 223 of the Internal Revenue Code;

(G) "Health plan" qualifying under Section 213 of the Internal Revenue Code;

(H) Governmental plans; and

(I) Church plans.

(ii) "Health care services" means services offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(b) **What are dental benefits?** "Dental benefits" means a dental health plan offered by an employer as a benefit to its employees. "Dental health plan" has the same meaning as "health plan" in (a) of this subsection, but is for the purpose of providing for employees or their beneficiaries, through the purchase of insurance or otherwise, dental care services. "Dental care services" means services offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease of human teeth, alveolar process, gums, or jaw.

(c) **What are retirement benefits?** "Retirement benefits" means compensation, not paid as wages, in the form of a retirement plan offered by an employer to its employees. An employer contribution to the retirement plan is not required for a retirement plan to be employer-provided. A "retirement plan" means any plan, account, deposit, annuity, or benefit, other than a life insurance policy, that provides for retirement income or deferred income to employees for periods after employment is terminated. The term includes pensions, annuities, stock bonus plans, employee stock ownership plans, profit sharing plans, self-employed retirement plans, individual retirement accounts, individual retirement annuities, and retirement bonds, as well as any other plan or program, without regard to its source of funding, and without regard to whether the retirement plan is a qualified plan meeting the guidelines established in the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code.

(d) **Examples.** Assume these facts for the following examples. Medical Resource, Inc. is a pharmaceutical manufacturer located in Spokane, WA. Medical Resource, Inc. claims the B&O tax credit provided by RCW 82.04.4452 for its research and development spending. It employs two hundred full-time employees and fifty part-time employees. Medical Resource, Inc. also hires a staffing company to furnish seventy-five workers.

(i) Medical Resource, Inc. offers its employees two different health plans as a medical benefit. Plan A is available at no cost to full-time employees. Employees are not eligible to participate in Plan A until completing thirty days of employment. Plan B costs employees \$200 each month. Full-time and part-time employees are eligible for Plan B after six months of employment. One hundred full-time employees are enrolled in Plan A. One hundred full-time and part-time employees are enrolled in Plan B. Forty full-time and part-time employees chose not to enroll in either plan. Ten part-time employees are not yet eligible for either Plan A or Plan B. Medical Resource, Inc. must report two hundred employees as having employer-provided medical benefits, because this is the number of employees enrolled in the health plans it offers.

(ii) Medical Resource, Inc. does not offer medical benefits to the employees of the staffing company. However, twenty-five of these workers have enrolled in a health plan through the staffing company. Medical Resource, Inc. must report these twenty-five employment positions as having employer-provided medical benefits.

(iii) Medical Resource, Inc. does not offer its employees dental insurance, but has arranged with a group of dental providers to provide all employees with a 30% discount on any dental care service. No action, other than Medical Resource, Inc. employment, is required by employees to receive this benefit. Unlike the medical benefit, employees are eligible for the dental benefit as of the first day of employment. This benefit is not provided to the workers furnished by the staffing company. Medical Resource, Inc. must report two hundred and fifty employment positions as having dental benefits, because this is the number of employees enrolled in this dental plan.

(iv) Medical Resource, Inc. offers a 401(k) Plan to its full-time and part-time employees after six months of employment. Medical Resource, Inc. makes matching contributions to an employee's 401(k) Plan after two years of employment. On December 31st, two hundred and twenty-five workers are eligible to participate in the 401(k) Plan. Two hundred workers are enrolled in the 401(k) Plan. One hundred of these workers receive matching contributions. Medical Resource, Inc. must report two hundred employment positions as having employer-provided retirement benefits, because this is the number of employees enrolled in the 401(k) Plan.

(v) Medical Resource, Inc. coordinates with a bank to insert information in employee paycheck envelopes on the bank's Individual Retirement Account (IRA) options offered to bank customers. Employees who open an IRA with the bank can arrange to have their contributions directly deposited from their paychecks into their accounts. Fifty employees open IRAs with the bank. Medical Resource, Inc. cannot

report that these fifty employees have employer-provided retirement benefits. IRAs are not an employer-provided benefit because the ability to establish the IRA is not dependent on Medical Resource, Inc.'s participation or sponsorship of the benefit.

(10) **Is the annual survey confidential?** The annual survey is subject to the confidentiality provisions of RCW 82.32.330. However, information on the amount of tax adjustment taken is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request. More confidentiality provisions in regards to the annual surveys are as follows:

(a) **Failure to timely file a complete annual survey subject to disclosure.** If the following taxpayers fail to timely file a complete annual survey for claiming the tax adjustment, then the fact that such taxpayers fail to timely file a complete annual survey is not confidential:

(i) Persons receiving deferral of taxes under chapter 82.75 RCW on an eligible investment project in biotechnology products (RCW 82.32.645(6));

(ii) Persons claiming the B&O tax exemption provided by RCW 82.04.4266 for fruits and vegetables, RCW 82.04.-4268 for dairy products, and RCW 82.04.4269 for seafood products (RCW 82.32.610(5)); and

(iii) Persons claiming the B&O tax credit provided by RCW 82.04.449 for customized employment training (RCW 82.32.650(5)).

(b) **Amount reported in annual survey is different from the amount claimed or allowed.** If the following taxpayers report the amount of the tax adjustment on the annual survey which is different than the amount actually claimed on the taxpayers' tax returns or otherwise allowed by the department, then the amount actually claimed or allowed may be disclosed:

(i) Persons claiming the high technology B&O tax credit provided by RCW 82.04.4452 (RCW 82.04.4452 (6)(d)(i));

(ii) Persons claiming the B&O tax credit provided by RCW 82.04.4487 for engaging in qualified preproduction development in the field of aeronautics (RCW 82.32.635 (2)(c));

(iii) Persons claiming the B&O tax rate provided by RCW 82.04.250(3) as FAR part 145 certificated repair stations (RCW 82.32.640 (2)(c)); and

(iv) Persons claiming the B&O tax rate provided by RCW 82.04.260(12) for timber products (RCW 82.32.630 (2)(d)).

(c) **Tax adjustment is less than ten thousand dollars.** If the tax adjustment of the following taxpayers is less than ten thousand dollars during the period covered by the annual survey, then such taxpayers may request the department to treat the tax adjustment as confidential under RCW 82.32.-330. The request must be made for each survey in writing, dated and signed by the owner, corporate officer, partner, guardian, executor, receiver, administrator, or trustee of the business, and filed with the department's special programs division at the address provided above in subsection (3) of this section.

(i) Persons claiming the high technology B&O tax credit provided by RCW 82.04.4452 (RCW 82.04.4452 (6)(d)(ii));

(ii) Persons claiming the B&O tax credit provided by RCW 82.04.4487 for engaging in qualified preproduction development in the field of aeronautics (RCW 82.32.635 (2)(d));

(iii) Persons claiming the B&O tax rate provided by RCW 82.04.250(3) as FAR part 145 certificated repair stations (RCW 82.32.640 (2)(d)); and

(iv) Persons claiming the B&O tax rate provided by RCW 82.04.260(12) for timber products (RCW 82.32.630 (2)(e)).

**(11) What are the consequences for failing to timely file a complete annual survey?**

(a) **What is a "complete annual survey"?** An annual survey is complete if:

(i) The annual survey is filed on the form required by this section or in an electronic format as required by law; and

(ii) The person makes a good faith effort to substantially respond to all survey questions required by this section.

Responses such as "varied," "various," or "please contact for information" are not good faith responses to a question.

(b) **High technology business and occupation (B&O) tax credit.** If a person claiming the B&O tax credit provided by RCW 82.04.4452 for persons engaged in qualified research and development fails to timely file a complete annual survey by the date due, the person is not eligible to take or assign the credit in the year the person failed to timely complete the annual survey. See RCW 82.04.4452. For example, if a person claims the credit in 2006 but fails to file a complete annual survey by March 31, 2007, then the person is not eligible to take or assign the credit in 2007. If a person claims the B&O tax credit during this period of ineligibility, the department will declare the amount of taxes for which the credit was claimed during the period of ineligibility to be immediately due and payable with interest and penalties, as provided in chapter 82.32 RCW.

If a person fails to file the survey by the due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

(c) **Tax deferrals for investment projects in rural counties.** If a recipient of the deferral fails to timely file a complete annual survey required under RCW 82.60.070 by the date due, 12.5% of the total deferred tax is immediately due. See RCW 82.60.070. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.60.020 (4), the lessee is responsible for payment to the extent the lessee has received the economic benefit. No penalties or interest will be assessed on the deferred sales/use tax; however, all other penalties and interest applicable to excise tax assessment may be assessed and imposed. For example, if a person fails to file a complete annual survey by March 31, 2007, then 12.5% of the total deferred tax is immediately due, with applicable penalties and interest beginning to accrue on the due date.

(d) **Tax deferrals for investment projects for high technology businesses.** If a recipient of the deferral fails to timely file a complete annual survey required under RCW

82.63.020 by the date due, 12.5% of the total deferred tax is immediately due with interest, but not penalties, as provided in chapter 82.32 RCW. See RCW 82.63.045. Interest is computed retroactively to the date the tax deferral was claimed and accrues until the liability is paid in full. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.63.010(7), the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(e) **Business and occupation (B&O) tax exemption for fruit and vegetable, dairy product, and seafood product businesses.** If a person fails to timely file a complete annual survey for the B&O tax exemption under RCW 82.04.4266, 82.04.4268, or 82.04.4269 by the due date, the amount of taxes exempted for the previous calendar year is immediately due and payable. See RCW 82.32.610. Interest, but not penalties, applies to the amounts due under this subsection. The amount due must be calculated using a rate of 0.138%. Interest is computed retroactively to the date the tax exemption was claimed and accrues until the liability is paid in full.

If a person fails to file the survey by the due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

(f) **Tax deferrals for investment projects for fruit and vegetable, dairy product, and seafood product businesses.** If a recipient of the deferral fails to file a complete annual survey required under RCW 82.74.040 by the date due, 12.5% of the total deferred tax is immediately due with interest, but not penalties, as provided in chapter 82.32 RCW. See RCW 82.74.040. Interest begins to accrue on the due date and accrues until the liability is paid in full. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.74.010(4), the lessee must be responsible for payment to the extent the lessee has received the economic benefit.

If a person fails to file the survey by the due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

(g) **Tax deferrals for investment projects for biotechnology products.** If a recipient of the deferral fails to file a complete annual survey required under RCW 82.32.645 by the due date, 12.5% of the total deferred tax is immediately due with interest, but not penalties, as provided in chapter 82.32 RCW. See RCW 82.32.645. Interest begins to accrue on the due date and accrues until the liability is paid in full.

(h) **Business and occupation (B&O) tax credit for qualified preproduction development in the field of aeronautics under RCW 82.04.4487.** If a person fails to timely file a complete annual survey for the B&O tax credit under RCW 82.04.4487 by the due date, the amount of tax credit claimed for the previous calendar year is immediately due and payable. See RCW 82.32.635. Interest, but not penalties, applies to the amounts due under this subsection. Inter-



est is computed retroactively to the date the tax credit was claimed and accrues until the liability is paid in full.

If a person fails to file the survey by the due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

A person is not required to file a complete annual survey under this subsection if the person is required to and timely files the annual report under RCW 82.32.545.

**(i) Reduced business and occupation (B&O) tax rate for FAR part 145 certified repair stations.** If a person fails to timely file a complete annual survey for the reduced B&O tax rate under RCW 82.04.250(3) by the due date, the amount of tax reduced for the previous calendar year is immediately due and payable. See RCW 82.32.640. Interest, but not penalties, applies to the amounts due under this subsection. Interest is computed retroactively to the date the reduced taxes were due and accrues until the liability is paid in full.

If a person fails to file the survey by due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

**(j) Business and occupation (B&O) tax credit for customized employment training.** If a person fails to timely file a complete annual survey for the B&O tax credit under RCW 82.04.449 by the due date, the amount of tax credit claimed for the previous calendar year is immediately due and payable. See RCW 82.32.650. Interest, but not penalties, applies to the amounts due under this subsection. Interest is computed retroactively to the date the tax credit was claimed and accrues until the liability is paid in full.

If a person fails to file the survey by the due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

**(k) Reduced business and occupation (B&O) tax credit for timber products.** If a person fails to timely file a complete annual survey for the reduced B&O tax rate under RCW 82.04.260(12) by the due date, the amount of tax reduced for the previous calendar year is immediately due and payable. See RCW 82.32.630. Interest, but not penalties, applies to the amounts due under this subsection. Interest is computed retroactively to the date the reduced taxes were due and accrues until the liability is paid in full.

If a person fails to file the survey by the due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must

be made in writing before the due date to the address provided in subsection (3)(c) of this section.

**WSR 06-22-066**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed October 30, 2006, 1:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-17-024.

Title of Rule and Other Identifying Information: Adding new section WAC 260-12-145 Persons bound by laws and rules and repealing WAC 260-12-130 Participants, patrons, bound by rules and 260-12-140 Owners, etc., bound by rules.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on December 14, 2006, at 9:30 a.m.

Date of Intended Adoption: December 14, 2006.

Submit Written Comments to: Robert M. Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail rleichner@whrc.state.wa.us, fax (360) 459-6461, by December 12, 2006.

Assistance for Persons with Disabilities: Contact Patty Sorby by December 12, 2006, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In an effort to continue the agency's regulatory reform effort, to write rules in clear language and to adopt into this chapter the national model horse racing rules whenever applicable.

Reasons Supporting Proposal: To comply with governor's Executive Orders 97-02, 05-03 and 06-02, writing rules in clear, concise language.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert M. Leichner, Olympia, Washington, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

October 30, 2006

R. M. Leichner  
Executive Secretary

NEW SECTION

**WAC 260-12-145 Persons bound by laws and rules.**

Any person on the grounds of any racing association or satellite location under the jurisdiction of the commission must comply with the laws of Washington and the rules promulgated by the commission.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 260-12-130	Participants, patrons, bound by rules.
WAC 260-12-140	Owners, etc., bound by rules.

**WSR 06-22-067**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed October 30, 2006, 1:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-16-014.

Title of Rule and Other Identifying Information: WAC 260-36-010 License required, 260-36-015 Age requirement for license, 260-36-030 Veterinarians—License required, 260-36-050 Application for license, 260-36-060 Application for license—Stewards' review, 260-36-062 Fitness to participate, 260-36-065 Approval of application for license, 260-36-080 Duration of a license, 260-36-100 Fingerprints, 260-36-110 Display of license, 260-36-120 Denial, suspension, and revocation—Grounds, 260-36-150 Employing or harboring an unlicensed person, 260-36-180 Authority to search, 260-36-200 Application for owner's license by trainer, and 260-36-210 Owner's license.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on December 14, 2006, at 9:30 a.m.

Date of Intended Adoption: December 14, 2006.

Submit Written Comments to: Robert M. Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail [reichner@whrc.state.wa.us](mailto:reichner@whrc.state.wa.us), fax (360) 459-6461, by December 12, 2006.

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Name of Proponent: Washington horse racing commission, governmental.

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No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

October 30, 2006  
R. M. Leichner  
Executive Secretary

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-010 License required.** Any person acting in an official capacity or any person participating directly in horse racing must have a valid license. Commissioners and employees of the commission ((and commissioners are)) do not ((required to be licensed)) require a license. Persons employed by a racing association who only perform duties of concessions, housekeeping, parking, food and beverage, landscaping or similar functions, and do not act in an official capacity or participate directly in horse racing are not required to be licensed. Decisions regarding who is required to be licensed, if not addressed in this chapter, ~~((shall))~~ will be made by the executive secretary. It ~~((shall be))~~ is a violation of these rules for any person to act in an official capacity or participate directly in horse racing unless licensed by the commission.

~~((This rule applies retroactively to all licensing for the 2006 racing season. Any person that is not required to be licensed by this rule, but was required to be licensed in 2005, shall not be required to obtain a 2006 license.))~~

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-015 Age requirement for license.** Applicants for licensing ~~((shall))~~ must be at least fourteen years of age unless otherwise specified. An applicant may be required to submit a certified copy of his/her birth certificate.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-030 Veterinarians—License required.** Veterinarians licensed by the commission may also apply for a trainer's license. A licensee holding a veterinarian and a trainer's license ~~((shall be))~~ is subject to the following restrictions:

(1) The licensee may treat, using veterinary methods, only those horses for which he/she is the trainer of record.

(2) Notwithstanding subsection (1) of this section, during an emergency on the grounds of the racing association, the licensee may respond and assist at the scene of the emergency. Any veterinary treatment provided at the scene ~~((shall))~~ must be reported in writing to the official veterinarian. The report ~~((shall))~~ will include, at a minimum, the names of horses treated and treatment rendered. The report must be filed by the next race day's first race.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-050 Application for license.** All applications for a license ~~((shall))~~ must be made to the commission

on approved forms. It ~~((shall be))~~ is a violation of these rules for any person applying for a license to provide false information or fail to provide accurate and complete information. Persons completing an application ~~((shall be))~~ are responsible for the accuracy and completeness of the information contained on the application. Applicants may be required to have their photograph taken. The commission, executive secretary, stewards, or security investigators, in their discretion, may require a photograph from any applicant or licensee at any time.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-060 Application for license—Stewards' review.** (1) Applications for an initial license submitted by trainers, assistant trainers, jockeys, apprentice jockeys, jockey agents, exercise riders, pony ~~((persons))~~ riders, or outriders must be reviewed by a steward to determine if the applicant is qualified for the license requested.

(a) All assistant trainers must also obtain a groom license.

(b) Jockeys must have an exercise rider license to perform exercise rider duties.

(2) The determination whether an applicant is qualified for the license ~~((shall))~~ will be made by a steward based on review of the application, and, at the discretion of the steward, the applicant may also be required to do one or more of the following:

(a) Pass a written exam;

(b) Appear for an oral interview either in person or by phone; or

(c) Demonstrate skills required for the license.

If a steward determines that an applicant is not qualified to receive the license requested, the applicant ~~((shall))~~ will be notified and provided an opportunity to request a stewards' ruling conference on that issue.

(3) If an applicant has been previously determined, within the past five years, to be qualified for the license requested, review of the applicant's qualifications for that license is not necessary for subsequent license applications for the same type of license. An applicant may be determined to be qualified for the license requested if that person has been licensed in this state or other recognized jurisdiction in the past five years.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-062 Fitness to participate.** (1) All applicants for a jockey, apprentice jockey, exercise rider, pony ~~((person))~~ rider or outrider license ~~((shall))~~ must certify on their application that they are physically fit to ride.

(2) During the conduct of a race meet, if the board of stewards finds that a threat to the public health, safety or welfare requires emergency action, the board of stewards may require a jockey, apprentice jockey, exercise rider, pony ~~((person))~~ rider or outrider to provide a physician's written statement verifying fitness to ride before being allowed to ride in a race or on the grounds of the racing association.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-065 Approval of application for license.** The procedure for processing license applications ~~((shall))~~ will be determined by the executive secretary.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-080 Duration of a license.** (1) Every license issued by the commission ~~((shall))~~ will be for a term not exceeding one year. Licenses ~~((shall))~~ expire on December 31st of each year except as otherwise provided in this rule.

(2) Licenses issued to employees of a ~~((class-1))~~ racing association ~~((shall))~~ will be for a term of one year and expire on ~~((March 1st))~~ the last day of February of each year.

(3) A license ~~((shall))~~ will be considered expired as of the date a licensee is no longer performing the activities for which he or she was licensed, or, if applicable, the date the licensee is no longer employed by the employer who hired the licensee. The commission or its designee may, at its sole discretion, reinstate such a license if the licensee is reemployed or begins performing the activities for which he or she was licensed prior to the end of the license period for which the license had been originally issued.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-100 Fingerprints ~~((and photographs))~~.** Every person applying for a license ~~((shall))~~ must furnish the commission his or her fingerprints ~~((and photograph))~~ upon making an initial application for a license and at least once every three years thereafter. However, the commission, executive secretary, stewards, or security investigators, in ~~((its))~~ their discretion, may require fingerprints ~~((and a photograph))~~ from any applicant or licensee at any time.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-110 Display of license.** (1) Licensees ~~((shall))~~ must present their license when requested to do so by racing association security personnel or commission employees.

(2) The commission may require licenses to be ~~((worn))~~ displayed in plain view while on association grounds.

(3) Every licensee must have his/her commission license in his/her immediate possession at all times when in any restricted area of racing association grounds, acting in an official capacity or participating directly in horse racing.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-120 Denial, suspension, and revocation—Grounds.** (1) The commission or its designee may refuse to issue or may deny a license to an applicant, may modify or place conditions upon a license, may suspend or

revoke a license issued, ~~((or))~~ may order disciplinary measures, or may ban a person from all facilities under the commission's jurisdiction, if the applicant ~~((or))~~ licensee, or other person:

~~((a))~~ ~~((Has been convicted of a felony, as classified by the laws of the state of Washington or the laws of the jurisdiction in which the conviction occurred;~~

~~((b))~~ Has been convicted of violating any law regarding gambling or a controlled substance;

~~((c))~~ ~~((b))~~ Has pending misdemeanor or gross misdemeanor criminal charges, as classified by the laws of the state of Washington or the laws of the jurisdiction in which the conviction occurred;

~~((d))~~ ~~((c))~~ Has failed to meet the minimum qualifications required for the license for which they are applying;

~~((e))~~ ~~((d))~~ Has failed to disclose or states falsely any information required in the application;

~~((f))~~ ~~((e))~~ Has been found in violation of statutes or rules governing racing in this state or other jurisdictions;

~~((g))~~ ~~((f))~~ Has a proceeding pending to determine whether the applicant or licensee has violated the rules of racing in this state or other racing jurisdiction;

~~((h))~~ ~~((g))~~ Has been or is currently excluded from ~~((association grounds))~~ a racetrack at which parimutuel wagering on horse racing is conducted by a recognized racing jurisdiction;

~~((i))~~ ~~((h))~~ Has had a license denied by any racing jurisdiction;

~~((j))~~ ~~((i))~~ Is a person whose conduct or reputation may adversely reflect on the honesty and integrity of horse racing or who may interfere or has interfered with the orderly conduct of a race meeting;

~~((k))~~ ~~((j))~~ Demonstrates financial irresponsibility by accumulating unpaid obligations, defaulting in obligations or issuing drafts or checks that are dishonored or payment refused;

~~((l))~~ ~~((k))~~ Has violated any of the alcohol or substance abuse provisions outlined in chapter 260-34 WAC;

~~((m))~~ ~~((l))~~ Has violated any of the provisions of chapter 67.16 RCW;

~~((n))~~ ~~((m))~~ Has violated any provisions of Title 260 WAC;

~~((o))~~ ~~((n))~~ Has association with persons of known disreputable character; or

~~((p))~~ ~~((o))~~ Has not established the necessary skills or expertise to be qualified for a license as required by WAC 260-36-060.

(2) The commission or its designee ~~((shall))~~ must deny the application for license or suspend or revoke an existing license if the applicant or licensee:

(a) Has been convicted of any felony crime against a person. "Crime against a person" means a conviction for any offense enumerated in chapters 9A.32, 9A.36, 9A.40, 9A.42, and 9A.44 RCW, or an offense which would constitute an offense enumerated in those chapters if committed in Washington state;

(b) ~~((Has been convicted of any felony property crime within the past ten years. "Property crime" means a conviction for an offense enumerated in chapters 9A.48, 9A.52, 9A.56, and 9A.60 RCW, or an offense which would consti-~~

~~tute an offense enumerated in those chapters if committed in Washington state;~~

~~((e))~~ Has been convicted of any felony drug crime involving the possession or use of any drug as defined in chapter 69.41 RCW or any controlled substance as defined in chapter 69.50 RCW within the past three years~~((-~~

~~((d))~~);

~~((c))~~ Has been convicted of any other felony drug crime as defined in chapter 69.41 RCW or felony crime involving a controlled substance as defined in chapter 69.50 RCW~~((-~~ or a felony drug crime which would constitute an offense enumerated in those chapters if committed in Washington state;

~~((d))~~ Has been convicted of any other felony crime within the past ten years. Other felony crime includes any felony conviction not listed in (a), (b), and (c) of this subsection. This also includes an offense committed in another jurisdiction, which would constitute a felony if committed in Washington state;

(e) Has five or more convictions for gross misdemeanors within the last three years, as classified by the laws of the state of Washington or the laws of the jurisdiction in which the conviction occurred;

(f) Is subject to current prosecution or pending charges for any felony crime;

(g) Has ~~((a))~~ any felony conviction under appeal;

(h) Is currently suspended or revoked in Washington or by another recognized racing jurisdiction;

(i) Is certified under RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order; or

(j) Has any outstanding arrest warrants.

(3) In considering a challenge of a decision denying or revoking a license pursuant to subsection (2) of this section, the commission may only reverse the denial or revocation on a showing by the appellant of mitigating information and that the best interests of horse racing would not be compromised by granting or reinstating a license.

(4) A license suspension or revocation ~~((shall))~~ will be reported in writing to the applicant or licensee and the Association of Racing Commissioners International, Inc.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-150 Employing or harboring an unlicensed person.** No racing association or licensee ~~((shall))~~ may employ an unlicensed person in a position for which a license is required by these rules. No licensee ~~((shall))~~ may harbor any unlicensed person in the restricted areas on the grounds of any class A or B racing association.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-180 Authority to search.** In order to protect the integrity of horse racing and to protect the interests and safety of the public and participants, the commission and its employees ~~((shall))~~ have the right to enter into or upon the buildings, stables, rooms, motor vehicles or other places within the grounds of a racing association to examine the same and to inspect and examine the personal property and

effects of any licensee within such places. Any person who has been granted a license by the commission, by accepting a license, authorizes the commission or its employees to search his/her person and the areas indicated herein and to seize any medication, drugs, paraphernalia or device prohibited by the rules of racing, or other evidence of a violation of the rules of racing. If a licensee refuses to allow a search, the board of stewards (~~(shall)~~) must revoke his/her license and refer the matter to the commission.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-200 Application for owner's license by trainer.** (1) A trainer may submit an application for an owner's license on behalf of an owner (~~(providing)~~). Upon submitting such application, the trainer (~~(pays)~~) must pay all license fees and required labor and industries premiums (~~(are submitted with the application)~~).

(2) Within fourteen days of the trainer's submission of a license application on behalf of an owner, the owner must complete the license application process by providing fingerprints, a photograph, and any other information required by the commission. If the owner fails to complete the application process within the fourteen days, the board of stewards may revoke the owner's license.

AMENDATORY SECTION (Amending WSR 06-05-039, filed 2/9/06, effective 3/12/06)

**WAC 260-36-210 Owner's license.** There (~~(shall be)~~) is no age limitation for a person to apply for and be granted an owner's license, except that persons under the age of eighteen must have a parent or guardian assume financial responsibility for them.

**WSR 06-22-072  
PROPOSED RULES**

**UNIVERSITY OF WASHINGTON**

[Filed October 31, 2006, 9:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-17-061.

Title of Rule and Other Identifying Information: Chapter 478-04 WAC, Organization.

Hearing Location(s): Room 310, Husky Union Building (HUB), University of Washington, Seattle Campus, Box 352230, Seattle, WA 98195, on December 6, 2006, at 1:00 p.m.

Date of Intended Adoption: January 18, 2007.

Submit Written Comments to: Rebecca Goodwin Dearth, Director of Rules Coordination, University of Washington, Box 355509, Seattle, WA 98195, e-mail rules@u.washington.edu, fax (206) 221-6917, by December 6, 2006.

Assistance for Persons with Disabilities: Contact UW Disability Services Office by November 22, 2006, TTY (206) 543-6452 or (206) 543-6450.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To clarify the meeting practices of the University of Washington's board of regents and other UW governing boards with respect to the Open Public Meetings Act.

Statutory Authority for Adoption: RCW 28B.20.130.

Statute Being Implemented: RCW 28B.20.130 and chapter 42.30 RCW.

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

Name of Proponent: University of Washington, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michele Sams, Secretary of the University of Washington Board of Regents, 139 Gerberding Hall, Box 351264, Seattle, WA 98195-1264, (206) 543-1633.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendments to chapter 478-04 WAC do not impose a disproportionate impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed amendments to chapter 478-04 WAC are not considered to be a significant legislative rule by the University of Washington.

October 30, 2006

Rebecca Goodwin Dearth

UW Director of Rules Coordination

AMENDATORY SECTION (Amending WSR 05-21-133, filed 10/19/05, effective 11/19/05)

**WAC 478-04-030 Meetings of the board of regents.**

(1) Public meetings. Regular and special meetings of the board of regents and committees thereof as required by applicable law shall be open to the public, except for executive sessions which may be held as permitted by applicable law. Board members may appear at any meeting through any means that permits communications with all other persons at the meeting. Persons wishing to appear before the board to make a presentation shall comply with the procedures as specified in subsection (8) of this section.

(2) Regular meetings. Regular meetings of the board shall be held pursuant to a schedule and at locations established yearly by resolution of the board and published periodically in the *Washington State Register*. The president of the board, with the concurrence of a majority of the members of the board, may cancel any regular meeting. All such regular meetings will be conducted in conformance with the laws of the state of Washington governing such meetings.

~~((The board shall give no less than twenty-four hours notice of cancellation of a regular meeting.~~

~~(2))~~ (3) Special meeting. The president of the university, the president of the board, or any six members of the board may call a special meeting at any time. Not less than twenty-four hours before any special meeting, the secretary shall have notified each member of the board by written notice of the time, place, and the business to be transacted at the meeting. Such notice shall be distributed (~~(and posted)~~) in accordance with the laws of the state governing such meetings.

The presence of a regent at the meeting or the regent's written waiver of notice filed with the secretary shall constitute a waiver of receiving written notice of the meeting. When the meeting is called to deal with an emergency involving injury or damage, or the likelihood of injury or damage, to persons or property, and the time requirements for notice provided for above would be impractical and increase the likelihood of such injury or damage, such required notice may be dispensed with and the secretary shall notify each member of the board by the best means possible under the circumstances.

~~((3) Notice of agenda for regular meeting. Not less than four days before any regular meeting, the secretary shall mail to each member of the board a reminder of the regular meeting and a preliminary agenda setting forth the matters which are to be considered at the meeting.))~~

(4) Addenda to the agenda at regular or special meetings. Addenda to the agenda of either a regular or a special meeting may be permitted at the commencement of or during such meeting, except that final disposition shall not be taken on addenda to the agenda of a special meeting unless notice as required by applicable law has been given.

(5) Quorum. A majority of the entire board shall be necessary to constitute a quorum at all regular meetings and special meetings.

~~(6) ((Order of business. The following shall be the order of business at each regular meeting of the board:~~

- ~~Report of the president of the board;~~
- ~~Report of the president of the university;~~
- ~~Consent agenda (including approval of minutes);~~
- ~~Reports of standing committees of the board;~~
- ~~Reports of special committees of the board; and~~
- ~~Any other business that may properly come before the board.~~

~~The following shall be the order of business at each special meeting of the board:~~

- ~~Reading of notice of meeting;~~
- ~~The special business for which the meeting was called;~~
- ~~and~~
- ~~Any other business that may properly come before the board.~~

~~The order of business of the board may be changed or suspended at any meeting by a majority of the regents present. An item shall be removed from the consent agenda by request of any regent.~~

(7)) Minutes. The minutes of all regular and special meetings of the board shall be kept by the secretary. Such minutes, following approval, shall be open to public inspection in the office of the secretary of the board of regents during regular university business hours.

~~((8) Public meetings. Regular and special meetings of the board of regents and committees thereof as required by applicable law shall be open to the public, except for executive sessions which may be held as permitted by applicable law. Board members may appear at any meeting through a telephone or video conferencing device that permits communications with all other persons at the meeting. Persons wishing to appear before the board to make a presentation shall comply with the procedures as specified in subsection (11) of this section.~~

~~(9))~~ (7) Committee of the whole meetings. Meetings of the board as a committee of the whole may be held before regular or special meetings of the board or at such time and such place as the president of the board may direct from time to time.

~~((10) Executive sessions. During any regular or special meeting of the board or committee, the board or committee may hold an executive session to discuss matters as permitted in applicable laws of the state of Washington.~~

~~(11))~~ (8) Communications to and appearance before the board. Any persons who wish to communicate to the board or appear before the board shall do so as follows:

(a) Communications to the board. Any person who wishes to bring a matter to the attention of the board may do so by submitting such communication in writing to the secretary of the board of regents. The secretary shall bring such written communications to the attention of the president of the board and the president of the university for direction as to response and/or transmittal to the board.

(b) Appearance before the board. The meetings of the board of regents are intended for presentation of agenda items by the chairs of the respective standing committees and by the president of the university for discussion and action by the members of the board. Public testimony on agenda items, or on other relevant items which any person may wish to call to the attention of the board, may be taken by the appropriate standing committee or by the committee of the whole. The chair of each committee shall have the discretion to limit the time and order of appearances as deemed desirable for a fair presentation of views consistent with the other business before the committee. In an unusual case, this subsection may be waived by the president of the board or by any other six members of the board.

(c) Petition to board for promulgation, amendment, or repeal of rule. Persons having an interest in the promulgation, amendment, or repeal of a "rule" as defined in RCW 34.05.010 may submit a written petition to the university's rules coordination office. Any petition so submitted shall contain the name and address of the petitioner or petitioners, a description of the persons on whose behalf the petition is presented if it is presented in a representative capacity, a statement of the interest of the petitioner and/or the persons on whose behalf it is presented, and a statement of the reasons supporting the petition. If the petition is for the promulgation of a rule, it shall contain the proposed rule. If the petition is for an amendment of an existing rule, it shall contain the rule with the proposed deletions lined out and proposed additions underlined or italicized. If the petition is for the repeal of a rule, it shall contain a copy of the rule proposed to be repealed. The petition shall be considered by the board at the first regular meeting held not less than thirty days after the date the petition was submitted to the rules coordination office, provided that the board may consider the petition at any earlier regular or special meeting of the board.

Within sixty days after submission of a petition to the rules coordination office that is for the promulgation, amendment, or repeal of a "rule," as defined in RCW 34.05.010, the board shall either deny the petition in writing or initiate rule-making procedures in accordance with RCW 34.05.330.

~~((12))~~ (9) Rules of procedure. *Robert's Rules of Order*, latest revised edition, shall govern all meetings of the board and its committees except where such rules of order are superseded by the bylaws of the board of regents or standing orders of the board. Any member of the board may make a motion which need not be seconded in order to bring the subject of the motion before the board for action.

#### NEW SECTION

**WAC 478-04-035 Meetings of other university governing boards.** Regular meetings of university governing boards shall be held pursuant to schedules and at locations published periodically in the *Washington State Register*. All such regular meetings will be conducted in conformance with the laws of the state of Washington and policies of the board of regents governing such meetings.

**WSR 06-22-074**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed October 31, 2006, 2:18 p.m.]

We request the withdrawal of a proposed rule making (CR-102) having to do with license reciprocity with the state of Oregon, filed as WSR 06-19-032 on September 13, 2006, at 2:18 p.m.

We will be starting this process anew as we incorporate text, referenced from existing statute, in order to meet the policy intent of the rule.

Morris Barker  
 Rules Coordinator

**WSR 06-22-077**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Children's Administration)  
 [Filed October 31, 2006, 3:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-22-087.

Title of Rule and Other Identifying Information: The department is proposing revisions to chapter 388-61A WAC, Shelters for victims of domestic violence, to clarify (1) confidentiality requirements; (2) fire safety requirements for shelter homes; and (3) appeal rights.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on December 5, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 6, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [fernax@dshs.wa.gov](mailto:fernax@dshs.wa.gov), fax (360) 664-6185, by 5:00 p.m. on December 5, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by December 1, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at [schilse@dshs.wa.gov](mailto:schilse@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed amendment:

1. Clarifies, defines, and specifies the confidentiality requirements for emergency domestic violence shelter programs, and incorporates recently enacted federal and state legislative requirements. The anticipated effect will be strengthened confidentiality protections for recipients of services from emergency domestic violence shelter programs.

2. Clarifies the fire safety requirements for emergency domestic violence shelter homes. The anticipated effect will be that contractors obtain annual life and safety inspections from local fire departments or the fire marshal, and DSHS will be relieved from measuring the contractor's compliance with requirements of the state building code.

3. Repeals appeal rights on advice of the assistant attorney general because dispute remedies for contractors are incorporated in the contract for services.

Reasons Supporting Proposal: This amendment incorporates recently enacted federal and state legislative requirements; simplifies the fire safety requirements for emergency domestic violence shelter homes; and repeals unnecessary appeal rights language.

Statutory Authority for Adoption: Chapter 70.123 RCW.

Statute Being Implemented: Chapter 259, Laws of 2006 (ESHB 2848), and federal Public Law 109-162.

Rule is necessary because of federal law, Public Law 109-162 (HR 3402).

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Hannibal, 4045 Delridge Way S.W., Room 200, Seattle, 98106, (206) 923-4910.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses. The statute outlines information that must be included in a small business economic impact statement (SBEIS). Preparation of an SBEIS is required when a proposed rule has the potential of placing a disproportionate economic impact on small businesses.

Children's administration (CA) distributed an electronic survey to forty-one of the forty-three agencies that DSHS currently contracts with to provide emergency domestic violence shelter and advocacy services. Based on the survey results, CA analyzed the proposed rule amendments and concluded that they will impose no new costs on small busi-

nesses. The preparation of a comprehensive SBEIS is not required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Susan Hannibal, 4045 Delridge Way S.W., Room 200, Seattle, WA 98106, phone (206) 923-4910, fax (206) 923-4899, e-mail hsus300@dshs.wa.gov.

October 23, 2006

Andy Fernando, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-07-053, filed 3/16/01, effective 4/16/01)

**WAC 388-61A-0025 What definitions apply to domestic violence shelters and services? "Advocacy-based counseling"** means that the client is involved with an advocate counselor in individual, family, or group sessions with the primary focus on safety planning, empowerment, and education of the client through reinforcing the client's autonomy and self-determination.

**"Advocate counselor"** means a trained staff person who works in a domestic violence service and provides advocacy-based counseling, counseling, and supportive temporary shelter services to clients.

**"Client"** means a victim of domestic violence or dependent child of the victim.

**"Cohabitant"** means a person who is married or is living with a person as a husband or wife at the present time or at some time in the past. Any person who has one or more children in common with another person, regardless of whether they have been married or have lived together at any time, is considered a cohabitant.

**"Confidential communication"** means all information, oral, written or nonverbal, transmitted between a victim of domestic violence and a domestic violence advocate counselor in the course of their relationship and in confidence by means which, so far as the victim is aware, does not disclose the information to a third person.

**"Confidential information"** includes, but is not limited to, any information, advice, notes, reports, statistical data, memoranda, working papers, records or the like, made or given during the relationship between a victim of domestic violence and a domestic violence advocate counselor, however maintained. Confidential information specifically includes the name, address, telephone number, social security number, date of birth, nine-digit ZIP code, and other personally identifying information, physical appearance of, and case file or history of, any victim of domestic violence who seeks or has received services from a domestic violence advocate counselor or domestic violence service.

**"Department"** means the department of social and health services (DSHS).

**"Domestic violence"** includes, but is not limited to, the criminal offenses defined in RCW 10.99.020 when committed by one cohabitant against another.

**"Domestic violence service"** means an agency that provides shelter, advocacy, and counseling for domestic violence clients in a safe, supportive environment.

**"Lodging unit"** means one or more rooms used for a victim of domestic violence including rooms used for sleeping or sitting.

**"Personally identifying information"** includes, but is not limited to, first and last name, home or other physical address, telephone number, social security number, date of birth, nine-digit ZIP code, and other personally identifying information, physical appearance of, and case file or history of, any victim of domestic violence who seeks or has received services from a domestic violence advocate counselor or domestic violence service, or such other information which, taken individually or together with other identifying information, could identify a particular individual.

**"Program"** means the DSHS domestic violence program.

**"Safe home"** means a shelter that has two or less lodging units and has a written working agreement with a domestic violence service.

**"Secretary"** means the DSHS secretary or the secretary's designee.

**"Shelter"** means a safe home or shelter home that provides temporary refuge and adequate food and clothing offered on a twenty-four hour, seven-day-per-week basis to victims of domestic violence and their children.

**"Shelter home"** means a shelter that has three or more lodging units and either is a component of or has a written working agreement with a domestic violence service.

**"Staff"** means persons who are paid or who volunteer services and are a part of a domestic violence service.

**"Victim"** means a cohabitant who has been subjected to domestic violence.

**"We, us and our"** refers to the department of social and health services and its employees.

**"You, I and your"** refers to the domestic violence service or shelter.

AMENDATORY SECTION (Amending WSR 01-07-053, filed 3/16/01, effective 4/16/01)

**WAC 388-61A-0135 What are the additional requirements for a shelter home?** Shelter homes must meet the following additional requirements in order for a domestic violence service to contract with us:

(1) When a shelter home is not a component of a domestic violence service, the shelter home and domestic violence service must have a written working agreement before the shelter home receives clients from the domestic violence service. The written working agreement must include:

(a) Confirmation that the domestic violence service has inspected the shelter home and that the shelter home complies with the general facility and additional requirements for shelter homes;

(b) How the domestic violence service will provide supportive services to shelter home residents; and

(c) Verification that shelter home staff received initial basic training as outlined in this rule by the domestic violence service.

(2) Shelter homes must provide at least one toilet, sink, and bathing facility for each fifteen clients or fraction of this



number. The floors of all toilet and bathing facilities must be resistant to moisture.

(3) You must have at least one telephone at the shelter for incoming and outgoing calls. Next to the telephone in shelter homes you must post:

(a) Emergency telephone numbers; and

(b) Instructions on how residents can access domestic violence service staff.

(4) In shelter homes all bathrooms, toilet rooms, laundry rooms, and janitor closets containing wet mops and brushes must have natural or mechanical ventilation in order to prevent objectionable odors and condensation.

(5) When staff serve food to clients in shelter homes, the staff must prepare the food in compliance with WAC 246-215-190, Temporary food service establishment.

(6) Shelter homes must develop and post hygiene procedures for handling and storing diapers and sanitizing the changing area.

(7) Shelter homes must ~~((comply with the fire and life safety requirements as outlined in chapter 51-40 WAC))~~ request an annual fire and life safety inspection from their local fire department or fire marshal. The domestic violence service must maintain documentation of the request as well as any report issued as a result of the inspection. Any violations noted by the inspector must be immediately corrected by the domestic violence service.

(8) Shelter homes must meet the following requirements for bedrooms:

(a) Bedrooms must have a minimum ceiling height of seven and half feet;

(b) Bedrooms must provide at least fifty square feet of usable floor area per bed; and

(c) Floor area where the ceiling height is less than five feet cannot be considered as usable floor area.

(9) When clients are residing in a shelter home at least one domestic violence service staff member must be present or on-call to go to the shelter home twenty-four-hours a day, seven-days-per-week.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 388-61A-0146 What information must the domestic violence service keep confidential?** (1) Agents, employees, and volunteers of a domestic violence service must maintain the confidentiality of all personally identifying information, confidential communications, and all confidential information as defined by WAC 388-61A-0025. Information which individually or together with other information could identify a particular victim of domestic violence must also be kept confidential.

(2) Any reports, records, working papers, or other documentation, including electronic files, maintained by the domestic violence service, including information provided to the domestic violence service on behalf of the client. Any information considered privileged by statute, rule, regulation or policy that is shared with the domestic violence service on behalf of the client shall not be divulged without a valid writ-

ten waiver of the privilege that is based on informed consent, or as otherwise required by law.

(3) You must comply with the provisions of this section regarding confidential communications concerning clients regardless of when the client received the services of the domestic violence service.

#### NEW SECTION

**WAC 388-61A-0147 What information can be disclosed?** (1) You can disclose confidential information only when:

(a) The client provides informed, written consent to the waiver of confidentiality that relates only to the client or the client's dependents;

(b) Failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the client or other person;

(c) Disclosure is required under Chapter 26.44 RCW, Abuse of Children;

(d) Release of information is made to an authorized person to the extent necessary for a management audit, financial audit, or program evaluation with the following restrictions:

(i) The authorized person shall sign a confidentiality agreement with the domestic violence service that demonstrates his or her acknowledgment of the requirement that client information be kept confidential;

(ii) No personally identifying information about the client can be copied or removed from the domestic violence service;

(iii) No copies of working papers or other documentation about the client can be removed from the domestic violence service; and

(iv) The client file cannot be removed from the premises of the domestic violence service.

(e) Release of information is otherwise required by law or court order, with the following additional requirements:

(i) The domestic violence service shall make reasonable attempts to provide notice to the person affected by the disclosure of the information; and

(ii) If personally identifying information is or will be disclosed, the domestic violence service shall take steps necessary to protect the privacy and safety of the persons affected by the disclosure of information.

(2) Any release of information subject to any of the exceptions set forth above shall be limited to the minimum necessary to meet the requirement of the exception, and such release does not void the client's right to confidentiality and privilege on any other confidential communication between the client and the domestic violence service.

(3) In the case of an unemancipated minor, the minor and the parent or guardian must provide the written consent. Consent for release may not be given by a parent who has abused the minor or the minor's other parent. In the case of a disabled adult who has been appointed a guardian, the guardian must consent to release unless the guardian is the abuser of the disabled adult.

(4) To comply with federal, state, tribal, or territorial reporting, evaluation, or data collection requirements, domestic violence programs may disclose nonpersonally iden-

tifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information.

(5) If requested, a copy of the disclosed information shall be provided to the client.

NEW SECTION

**WAC 388-61A-0148 What information needs to be included in a written waiver of confidentiality?** (1) To be valid, a written waiver of confidentiality must:

- (a) Be voluntary;
- (b) Relate only to the client or the client's dependents;
- (c) Clearly describe the scope and any limitations of the information to be released;
- (d) Include an expiration date for the release; and
- (e) Inform the client that consent can be withdrawn at any time whether it is made orally or in writing.

(2) If the written waiver of confidentiality does not include an expiration date, it shall expire ninety days after the date it was signed.

NEW SECTION

**WAC 388-61A-0149 What information must be provided to clients about their right to confidentiality?** (1) You must provide each client with a written "Notice of Rights" at the time of initial and any subsequent intake into the domestic violence service. At a minimum, the Notice of Rights shall inform clients of the following:

- (a) The client's right to privacy and confidentiality of the information shared with the domestic violence service;
- (b) Exceptions to confidentiality as described in this chapter;
- (c) That if the client signs a written waiver of confidentiality that allows their information to be shared with others, the client does not give up their right to have that information protected under other statutes, rules or laws;
- (d) That the client has the right to withdraw a written waiver of confidentiality at any time; and
- (e) That the domestic violence service will not condition the provision of services to the client based on a requirement that the client sign one or more releases of confidential information.

(2) Information on the "Notice of Rights" must be explained to the client at the time of intake into the domestic violence service and then again, at the time the client is considering whether to sign a written waiver of confidentiality.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-61A-0185      What are my rights if DSHS suspends, revokes, or denies funding?
- WAC 388-61A-0190      Will I be notified if my funding has been suspended, revoked, or denied?

WAC 388-61A-0195      How do I request an agency hearing?

**WSR 06-22-078**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Aging and Disability Services Administration)  
[Filed October 31, 2006, 3:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-17-070.

Title of Rule and Other Identifying Information: WAC 388-513-1380 Determining a client's financial participation in the cost of care for long-term care (LTC) services.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097, on December 5, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 6, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [fernaax@dshs.wa.gov](mailto:fernaax@dshs.wa.gov), fax (360) 664-6185, by 5:00 p.m. on December 5, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by December 1, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at [schilse@dshs.wa.gov](mailto:schilse@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing these amendments:

- To increase the personal needs allowance (PNA) for clients residing in medical institutions to \$53.68 effective July 1, 2006.
- To increase the community spouse income and family allowance to \$1,650 per month effective July 1, 2006.
- To increase the community spouse housing allowance to \$495 per month effective July 1, 2006.
- To change the community spouse maintenance allowance to \$2,541 effective January 1, 2007, due to federal standard change.
- To add language to state that the deduction for medical and remedial care expenses that were incurred as the result of imposition of assets penalty period is limited to zero.
- To make changes to the language to make rules more clear.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530, chapter 372, Laws of 2006 (2005-07 revised omnibus operating budget-2006 supplement), 42 C.F.R. 435.725, 42 C.F.R. 435.726.

Statute Being Implemented: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530, chapter 372, Laws of 2006 (2005-07 revised omnibus operating budget-2006 supplement), 42 C.F.R. 435.725, 42 C.F.R. 435.726.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lori Rolley, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2271.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed these rules and determined that no new costs will be imposed on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are exempt per RCW 34.05.328 (5)(b)(vii), regarding DSHS rules relating only to client medical or financial eligibility.

October 26, 2006

Andy Fernando, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 06-07-144, filed 3/21/06, effective 4/21/06)

**WAC 388-513-1380 Determining a client's financial participation in the cost of care for long-term care (LTC) services.** This rule describes how the department allocates income and excess resources when determining participation in the cost of care (in the post-eligibility process). The department applies rules described in WAC 388-513-1315 to define which income and resources must be used in this process.

(1) For a client receiving institutional or hospice services in a medical institution, the department applies all subsections of this rule.

(2) For a client receiving waiver services at home or in an alternate living facility, the department applies only those subsections of this rule that are cited in the rules for those programs.

(3) For a client receiving hospice services at home, or in an alternate living facility, the department applies rules used for the community options program entry system (COPES) for hospice applicants with income under the Medicaid special income level (SIL), if the client is not otherwise eligible for another noninstitutional categorically needy Medicaid program. (Note: For hospice applicants with income over the Medicaid SIL, medically needy Medicaid rules apply.)

(4) Excess resources are reduced in an amount equal to medical expenses incurred by the institutional client (for definition see WAC 388-519-0110(10)) that are not subject to third-party payment and for which the client is liable, including:

(a) Health insurance and Medicare premiums, deductions, and co-insurance charges of the institutional client;

(b) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan with the exception of the deduction for medical and remedial care expenses that were incurred during a transfer of asset penalty

established per WAC 388-513-1363, WAC 388-513-1364 or WAC 388-513-1365; and

(c) The amount of excess resources is limited to the following amounts:

(i) For LTC services provided under the categorically needy (CN) program, the amount described in WAC 388-513-1315(3); or

(ii) For LTC services provided under the medically needy (MN) program, the amount described in WAC 388-513-1395 (2)(a) or (b).

(5) The department allocates nonexcluded income in the following order and the combined total of (5)(a), (b), (c), and (d) cannot exceed the medically needy income level (MNIL):

(a) A personal needs allowance (PNA) of:

(i) One hundred sixty dollars for a client living in a state veterans' home;

(ii) Ninety dollars for a veteran or a veteran's surviving spouse, who receives the ninety dollar VA improved pension and does not live in a state veterans' home; or

(iii) Forty-one dollars and sixty-two cents for all clients in a medical institution receiving general assistance.

(iv) Effective July 1, (~~(2005)~~ 2006, (~~(fifty-one)~~ fifty-three dollars and (~~(sixty-two)~~ sixty-eight cents for all other clients in a medical institution.

(b) Mandatory federal, state, or local income taxes owed by the client.

(c) Wages for a client who:

(i) Is related to the supplemental security income (SSI) program as described in WAC 388-503-0510(1); and

(ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction employment expenses are not deducted.

(d) Guardianship fees and administrative costs including any attorney fees paid by the guardian, after June 15, 1998, only as allowed by chapter 388-79 WAC.

(6) The department allocates nonexcluded income after deducting amounts described in subsection (5) in the following order:

(a) Income garnished for child support:

(i) For the time period covered by the PNA; and

(ii) Not deducted under another provision in the post-eligibility process.

(b) A monthly maintenance needs allowance for the community spouse not to exceed, effective January 1, (~~(2006)~~ 2007, two thousand (~~(four)~~ five hundred (~~(eighty-nine)~~ forty-one dollars, unless a greater amount is allocated as described in subsection (8) of this section. The community spouse maintenance allowance is increased each January based on the consumer price index increase (from September to September, <http://www.bls.gov/cpi/>). The monthly maintenance needs allowance:

(i) Consists of a combined total of both:

(A) An amount added to the community spouse's gross income to provide a total of one thousand six hundred (~~(four)~~ fifty dollars (~~(, effective April 1, 2005)~~). This standard is based on one hundred fifty percent of the two person federal poverty level and increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>); and

(B) Excess shelter expenses as described under subsection (7) of this section; and

(ii) Is allowed only to the extent the client's income is made available to the community spouse.

(c) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community spouse or institutionalized person who:

(i) Resides with the community spouse:

(A) In an amount equal to one-third of one thousand six hundred (~~four~~) fifty dollars less the dependent family member's income. This standard is based on one hundred fifty percent of the two person federal poverty level and increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>). (~~and~~

~~(B) Is effective April 1, 2005.~~)

(ii) Does not reside with the community spouse or institutionalized person, in an amount equal to the MNIL for the number of dependent family members in the home less the dependent family member's income.

(iii) Child support received from noncustodial parent is the child's income.

(d) Incurred medical expenses described in subsections (4)(a) and (b) not used to reduce excess resources with the following exceptions:

(i) Private health insurance premiums for Medicare/Medicaid integration project (MMIP); (~~and~~)

(ii) Managed care health insurance premiums for program of all-inclusive care for the elderly (PACE); and

(iii) The deduction for medical and remedial care expenses that were incurred during a transfer of asset penalty per WAC 388-513-1363, WAC 388-513-1364 or WAC 388-513-1365.

(e) Maintenance of the home of a single client or institutionalized couple:

(i) Up to one hundred percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period;

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) When social services staff documents initial need for the income exemption.

(7) For the purposes of this section, "excess shelter expenses" means the actual expenses under subsection (7)(b) less the standard shelter allocation under subsection (7)(a). For the purposes of this rule:

(a) The standard shelter allocation is four hundred (~~eighty-one~~) ninety-five dollars (~~, effective April 1, 2005~~). This standard is based on thirty percent of one hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>); and

(b) Shelter expenses are the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) The food stamp standard utility allowance for four persons, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(8) The amount allocated to the community spouse may be greater than the amount in subsection (6)(b) only when:

(a) A court enters an order against the client for the support of the community spouse; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(9) A client who is admitted to a medical facility for ninety days or less and continues to receive full SSI benefits is not required to use the SSI income in the cost of care for medical services. Income allocations are allowed as described in this section from non-SSI income.

## WSR 06-22-079

### PROPOSED RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed October 31, 2006, 3:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-18-083.

Title of Rule and Other Identifying Information: In this proposal, the department is:

- Amending WAC 388-112-0250 What is cardiopulmonary resuscitation (CPR) training?
- Amending WAC 388-112-0270 Who must take residential care administrator training and when?
- Adding sections in chapter 388-112 WAC, Residential long-term care services, related to requirements for human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) training.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on December 5, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 6, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [fernaax@dshs.wa.gov](mailto:fernaax@dshs.wa.gov), fax (360) 664-6185, by 5:00 p.m. on December 5, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by December 1, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at [schilse@dshs.wa.gov](mailto:schilse@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 249, Laws of 2006 (RCW 70.128.120) requires that all prospective adult family home providers take the residential care administrator training prior to being licensed. The purpose of

the new language in WAC 388-112-0270 is to add this requirement. The purpose for new language in WAC 388-112-0250 is to clarify that CPR training must include written and skills tests. The purpose of new rules in chapter 388-112 WAC is to add content requirements for HIV/AIDS training.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 18.20.090, 70.128.040, chapter 70.128 RCW.

Statute Being Implemented: RCW 74.08.090, 18.20.-090, 70.128.040, chapter 70.128 RCW as amended by chapter 249, Laws of 2006.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barbara Hanneman, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2540.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed these rules and determined that no new costs will be imposed on small businesses or nonprofits, or costs, if any, would be minor.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Tiffany Sevrut, Home and Community Services, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2538, fax (360) 407-7582, e-mail sevruta@dshs.wa.gov.

October 26, 2006

Andy Fernando, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 06-16-072, filed 7/28/06, effective 8/28/06)

**WAC 388-112-0250 What is CPR training?** Cardiopulmonary resuscitation (CPR) training is training that requires successful completion of skills testing and is provided by an authorized CPR instructor.

NEW SECTION

**WAC 388-112-02605 What is HIV/AIDS training?** HIV/AIDS training is training that meets the Department of Health and Washington Industrial Safety and Health Act (WISHA) standards.

NEW SECTION

**WAC 388-112-02610 What content must be included in HIV/AIDS training?** HIV/AIDS training must be taught in classroom style, using the Washington State Department of Health's "KNOW HIV Prevention Education for Health Care Facility Employees" manual, in a minimum of 2-3 hours, and by an expert instructor who can answer technical questions. Topics must include all of the following:

(1) Causes of HIV and how it is spread, including:

(a) Reported cases in the United States and Washington State; and

(b) Risk groups and risky behaviors.

(2) Transmission and infection control, including:

(a) Infection control precautions;

(b) Factors affecting the risk for transmission; and

(c) Risks for transmission to health care workers.

(3) Legal and ethical issues, including:

(a) Confidentiality;

(b) Informed consent;

(c) Legal reporting requirements;

(d) Ethical issues; and

(e) Civil rights.

(4) Psychosocial issues, including:

(a) Personal impact of HIV continuum;

(b) The human response to death and dying;

(c) Issues for care providers;

(d) Family issues; and

(e) Special populations.

NEW SECTION

**WAC 388-112-02615 Is competency testing required for HIV/AIDS training?** No competency testing is required for HIV/AIDS training.

NEW SECTION

**WAC 388-112-02620 Is there a challenge test for HIV/AIDS training?** There is no challenge test for HIV/AIDS training.

NEW SECTION

**WAC 388-112-02625 What documentation is required for completion of HIV/AIDS training?** HIV/AIDS training must be documented by a certificate of completion issued by the instructor or training entity to include:

(1) The name of the trainee;

(2) The name of the training curriculum;

(3) The name of the home or training entity giving the training;

(4) The instructor's name and signature;

(5) The date(s) of the training session; and

(6) The trainee must be given an original certificate. A home must keep a copy of the certificate on file.

NEW SECTION

**WAC 388-112-02630 Who is required to complete HIV/AIDS training, and when?**

**Adult family homes:**

(1) Licensed, certified or registered staff must meet the HIV/AIDS training requirements for their specific Department of Health license, certification or registration.

(2) All other adult family home staff who may have potential exposure to bodily fluids must meet the HIV/AIDS requirements before having routine interaction with any resident.

**Boarding homes:**

(3) Licensed, certified, or registered staff must meet the HIV/AIDS training requirements for their specific Department of Health license, certification, or registration.

(4) All other boarding home staff who may have potential exposure to bodily fluids must meet the HIV/AIDS requirements before having routine interaction with any resident.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

**WAC 388-112-0270 Who must take the forty-eight hour adult family home residential care administrator training and when? Providers licensed prior to December 31, 2006: Before operating more than one adult family home, the provider (including an entity representative as defined under chapter 388-76 WAC) must successfully complete the department approved forty-eight hour residential care administrator training.**

Prospective providers applying for a license after January 1, 2007: Before a license for an adult family home is granted, the prospective provider must successfully complete the department approved forty-eight hour residential care administrator training for adult family homes.

### WSR 06-22-083

#### PROPOSED RULES

#### DEPARTMENT OF REVENUE

[Filed October 31, 2006, 3:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-16-025.

Title of Rule and Other Identifying Information: WAC 458-20-17902 Brokered natural gas—Use tax, RCW 82.12.022 and 82.14.230 impose state and local use taxes on the use of natural gas or manufactured gas by a consumer, if the person who sold the gas to the consumer has not paid public utility tax with respect to the gas. This use tax is imposed only for natural gas delivered to a consumer through a pipeline, and the tax rate that applies is the same rate as the state and city public utility taxes. Rule 17902 explains how this use tax applies and the reporting requirements.

Hearing Location(s): Capital Plaza Building, 4th Floor, Large L&P Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on December 5, 2006, at 1:30 p.m.

Date of Intended Adoption: December 12, 2006.

Submit Written Comments to: Pat Moses, P.O. Box 47453, Olympia, WA 98504-7453, e-mail PatM@dor.wa.gov, fax (360) 586-5543, by December 5, 2006.

Assistance for Persons with Disabilities: Contact Sandy Davis at (360) 725-7499 no later than ten days before the hearing date. Deaf and hard of hearing individuals may call 1-800-451-7985 (TTY users).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Consumers currently report and pay this use tax on a separate "natural gas use tax return." The department is considering a revision to rule 17902, so that the "natural gas use tax return" can be incorporated into the excise tax return and reported with the other taxes included on that return, such as the business and occupation (B&O) and public utility taxes.

Reasons Supporting Proposal: The proposed change allows increased efficiency in the reporting and processing of the tax.

Statutory Authority for Adoption: RCW 82.12.022(9), 82.32.300, and 82.01.060(2).

Statute Being Implemented: RCW 82.12.022 and 82.14.230.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Pat Moses, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6116; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the rule and the amendments do not impose any requirements or burdens upon small business that are not already required by statute.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is not a significant legislative rule as defined by RCW 34.05.328.

October 31, 2006

Janis P. Bianchi

Assistant Director

Interpretations and

Technical Advice Division

AMENDATORY SECTION (Amending WSR 90-17-068, filed 8/16/90, effective 9/16/90)

### WAC 458-20-17902 Brokered natural gas—Use tax.

(1) **Introduction.** RCW 82.12.022 and 82.14.230 impose state and local use taxes on the use of natural gas or manufactured gas by a consumer, if the person who sold the gas to the consumer has not paid public utility tax on that sale. This use tax is imposed only for natural gas delivered to a consumer through a pipeline. The use tax is applied at the same rate as the state and city public utility taxes. This section explains how this use tax applies and how it is reported to the department.

#### (2) Definitions. For the purpose of this section:

(a) "Brokered natural gas" (~~as used in this section is~~) means natural gas purchased by a consumer from a source out of the state and delivered to the consumer in this state.

(b) "Value of gas consumed or used" (~~as used in this section shall be~~) means the purchasing price of the gas to the consumer and generally (~~shall~~) must include all or part of the transportation charges as explained later.

~~((2))~~ (3) **Applicability of use tax.** The distribution and sale of natural gas in this state is generally taxed under the state and city public utility taxes. With changing conditions and federal regulations, it is now possible to have natural gas brokered from out of the state and sold directly to the consumer. If this occurs and the public utility taxes have not been paid, RCW 82.12.022 (state) and RCW 82.14.230 (city)

impose a use tax on the brokered natural gas at the same rate as the state and city public utility taxes.

~~((3))~~ **(4) State tax.** When the use tax applies, the rate of tax imposed is equal to the public utility tax on gas distribution business under RCW 82.16.020 (1)(c). The rate of tax applies to the value of the gas consumed or used and is imposed upon the consumer.

~~((4))~~ **(5) City tax.** Cities are given the authority to impose a use tax on brokered natural gas. When imposed and applicable, the rate of tax is equal to the tax on natural gas business under RCW 35.21.870 on the value of gas consumed or used and is imposed on the consumer.

~~((5))~~ **(6) Transportation charges.**

(a) If all or part of the transportation charges for the delivery of the brokered natural gas are separately subject to the state's and cities' public utility taxes (RCW 82.16.020 (1)(c) and RCW 35.21.870), those transportation charges are excluded from measure of the use tax. The transportation charges not subject to the public utility taxes are included in the value of the gas consumed or used.

(b) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. In actual practice, the tax status of a situation must be determined after a review of all of the facts and circumstances.

(i) Public university purchases natural gas from an out of the state source through a broker. The natural gas is delivered by interstate pipeline to the local gas distribution system who delivers it to the university. The university pays the supplier for the gas, the pipeline for the interstate transportation charge, and the gas distribution system for its local transportation charge. The transportation charge by the pipeline is not subject to public utility tax because it is an interstate transportation charge. The transportation charge paid to the local gas distribution system is subject to the public utility taxes as an intrastate delivery. The value of the gas consumed or used is the purchase price paid to the supplier plus the transportation charge paid to pipeline company.

(ii) The above factual situation applies except that the natural gas is delivered directly by the interstate pipeline to the university. The university pays the supplier for the gas and the pipeline for the transportation charge. As the transportation charge is not subject to the public utility tax, it will be included in the measure of the tax. The value of the gas consumed or used is the purchase price plus the transportation charge paid to the pipeline.

~~((6))~~ **(7) Credits against the taxes.**

(a) A credit is allowed against the use taxes described in this section for any use tax paid by the consumer to another state which is similar to this use tax and is applicable to the gas subject to this tax. Any other state's use tax allowed as a credit ~~((shall))~~ will be prorated to the state's and cities' portion of the tax based on the relative rates of the two taxes.

(b) A credit is also allowed against the use tax imposed by the state for any gross receipts tax similar that imposed pursuant to RCW 82.16.020 (1)(c) by another state on the seller of the gas with respect to the gas consumed or used.

(c) A credit is allowed against the use tax imposed by the cities for any gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by another state or political subdivi-

sion of the state on the seller of the gas with respect to the gas consumed or used.

~~((7))~~ **(8) Reporting requirements.** The person who delivers the gas to the consumer ~~((shall))~~ must make a report to the miscellaneous tax division of the department by the fifteenth day of the month following a calendar quarter. The report ~~((shall))~~ must contain the following information:

(a) The name and address of the consumer to whom gas was delivered,

(b) The volume of gas delivered to each consumer during the calendar quarter, and,

(c) Service address of consumer if different from mailing address.

~~((8))~~ **(9) Collection and administration.** ~~((A separate quarterly return for))~~ Use tax on brokered natural gas ((shall)) must be filed with the department by the consumer on ((or before the last day of the month following a calendar quarter)) forms and records prescribed by the department. Such forms and records must be filed according to the reporting frequency assigned by the department and must be accompanied by the remittance of the tax. ((The collection and administration for the cities of the use tax described in this section shall be done by the department under RCW 82.14.050.)) The department's authority to collect this tax is found in RCW 82.12.020 and 82.14.050. It may be of interest to note that the use tax on brokered natural gas has historically been reported and paid on a specific "natural gas use tax return," filed on a quarterly basis. However, starting no sooner than the first period of 2007, the department intends to be able to have taxpayers report and pay their natural gas use tax with their regular excise tax return, to be filed at whatever frequency has been assigned by the department to that particular tax reporting account.

**WSR 06-22-084**

**PROPOSED RULES**

**DEPARTMENT OF REVENUE**

[Filed October 31, 2006, 3:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-18-095.

Title of Rule and Other Identifying Information: WAC 458-20-131 ~~((Games of chance))~~ Gambling activities.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on December 7, 2006, at 9:30 a.m.

Date of Intended Adoption: December 14, 2006.

Submit Written Comments to: Gayle Carlson, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, e-mail GayleC@dor.wa.gov, fax (360) 586-5543, by December 7, 2006.

Assistance for Persons with Disabilities: Contact Sandy Davis at (360) 725-7499 no later than ten days before the hearing date. Deaf and hard of hearing individuals may call 1-800-451-7985 (TTY users).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing changes to WAC 458-20-131 (Rule 131) to recog-

nize legislation (chapter 369, Laws of 2005). The legislation established a specific business and occupation (B&O) tax for income derived from contests of chance (codified as RCW 82.04.285). This income was previously subject to the 1.5% service and other activities B&O tax. Reporting instructions for prior to and after the effective date of the legislation are included. Chapter 369 also imposes a new B&O tax on income from pari-mutuel wagering (codified as RCW 82.04.-286), which was previously exempt from B&O tax.

Reasons Supporting Proposal: To recognize recent legislation.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.04.285, 82.04.-4286, and Title 82 RCW as it applies to gambling activities and games of chance.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Gayle Carlson, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6126; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not impose any new performance requirement or administrative burden on any small business not required by statute.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is not a significant legislative rule as defined by RCW 34.05.328.

October 31, 2006

Janis P. Bianchi

Assistant Director

Interpretations and

Technical Advice Division

AMENDATORY SECTION (Amending WSR 99-08-090, filed 4/6/99, effective 5/7/99)

**WAC 458-20-131 ((Games of chance.)) Gambling activities.** (1) **Introduction.** This ((rule)) section explains the business and occupation (B&O), retail sales, and use tax reporting requirements of persons operating contests of chance such as pull-tab and punch board games((~~It also explains the application of tax to persons conducting amusement games~~)), card games, bingo games, ((and)) raffles, and persons operating amusement games such as dart-toss games, ball-throw or ball-roll games, and crane games. It also explains the B&O tax reporting requirements of persons engaged in the business of conducting parimutuel wagering, which became effective July 1, 2005. Nonprofit organizations conducting ((these games as a part of their)) activities for fund-raising ((activities)) purposes should also refer to RCW 82.04.3651, 82.08.02573, and WAC 458-20-169 (Religious, charitable, benevolent, nonprofit service organizations, and sheltered workshops) to determine if a B&O, retail sales, or use tax exemption is available for their activities.

Persons ((operating or selling these types of games)) conducting the types of activities described above should also be aware that the Washington state gambling commission regulates these activities. These persons should refer to chapter 9.46 RCW (Gambling—1973 Act), Title 230 WAC (Gambling commission), and/or contact the Washington state gambling commission with any questions regarding their licensing and reporting responsibilities with the commission. Persons engaging in the business of parimutuel wagering should refer to chapter 67.16 RCW (Horse racing) and/or contact the Washington horse racing commission for additional reporting responsibilities.

(2) ((Measure of tax. The business and occupation (B&O) and retail sales taxes apply to income as described below. These guidelines apply equally whether the game is mechanically or electronically operated.

(a) Pull tab, punch board, and bingo games.)) Parimutuel wagering. Effective July 1, 2005, persons engaging within this state in the business of conducting race meets for which a license must be obtained from the Washington horse racing commission are taxable under the parimutuel wagering B&O tax classification. Chapter 369, Laws of 2005. This tax is in addition to any tax imposed under chapter 67.16 RCW. Unlike the parimutuel tax, the B&O tax applies to both in-state and out-of-state parimutuel wagering. The measure of tax is the gross income of the business derived from parimutuel wagering. For purposes of this classification, "gross income" does not include amounts paid to players for winning wagers, or taxes imposed or other distributions required under chapter 67.16 RCW (i.e., RCW 67.16.102 owners bonus, RCW 67.16.105 fair fund, RCW 67.16.175 breeders award).

(3) **Contests of chance.** Contests of chance means any contests, games, gaming schemes, or gaming devices, other than the state lottery as defined in RCW 67.70.010, in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor in the outcome. The term includes social card games, bingo, raffle, and punch board games, and pull-tabs as those terms are defined in chapter 9.46 RCW. Contests of chance does not include race meets for the conduct of which a license must be secured from the Washington horse racing commission, or "amusement game" as defined in RCW 9.46.0201.

(a) **Taxability of contests of chance on or after July 1, 2005.** Effective July 1, 2005, persons operating contests of chance are taxable under one of two new B&O tax classifications on their total gross income for all contests of chance. Chapter 369, Laws of 2005. Persons whose gross income from contests of chance is less than fifty thousand dollars in a calendar year will report all such income under the "gambling contests of chance (less than \$50,000 a year)" tax classification. Persons whose gross income from contests of chance is fifty thousand dollars or more in a calendar year will report all such income under the "gambling contests of chance (\$50,000 a year or greater)" tax classification.

(b) **Taxability of contests of chance before July 1, 2005.** Before July 1, 2005, persons operating contests of chance were taxable on their gross income under the service and other activities B&O tax classification.



(c) Measure of tax. Persons operating contests of chance are subject to B&O tax on the gross income of the business derived from contests of chance. With respect to income from contests of chance, "gross income" of the business does not include the monetary value or actual cost of any prizes that are awarded, amounts paid to players for winning wagers, accrual of prizes for progressive jackpot contests, or repayment of amounts used to seed guaranteed progressive jackpot prizes. In the case of donated merchandise, the operator may deduct the fair-market value of the merchandise. Costs of operating the game, including the amount paid for the purchase of the actual game (e.g., a punch board), may not be deducted.

Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(i) Example 1. Persons operating ~~((pull-tab, punch board, or))~~ for-profit weekly bingo games at the Town & Country Social Club are taxable ~~((under the service and other activities B&O tax classification))~~ upon ~~((all "increases"))~~ gross income arising from the ~~((conduct))~~ operation of ~~((such))~~ their games. ~~((The term "increases" as used in this subsection, means gross gambling receipts less the monetary value or, in the case of merchandise, the actual cost, of any prizes that are awarded. The actual cost of the merchandise is the amount actually paid by the operator without any markup. In the case of donated merchandise, the operator may deduct the fair market value of the merchandise. While the cost of merchandise prizes may be deducted, other costs of operating the game, including the amount paid for the purchase of the actual game (e.g., a punch board), may not be deducted.~~

Prior to April 1, 1999, operators of pull-tab and punch board games awarding merchandise as prizes were considered to be selling the prizes for the gross income derived from the games. As a result, this income was subject to the retailing B&O and retail sales taxes.

(b) Card games. The fees charged to card players as a condition for their participation in card games, whether the fees are based on time, on a per-hand basis, or on a percentage of the wagered amount (commonly referred to as a "rake"), are subject to the service and other activities B&O tax. In those cases where the operator of the card room participates in the card game as a house or central bank, the measure of tax is the amount of winnings less the amount of losses.

(c) Raffles. Effective April 1, 1999, persons conducting raffles are subject to the service and other activities B&O tax upon all "increases" (as defined in subsection (2)(a) above) arising from the conduct of the raffles. Prior to this date, the measure of tax was the gross income from the sale of raffle tickets or chances without any deduction for the value or cost of any prizes awarded.

(d)) As their annual gross income from the bingo games is \$30,000, they will report under the gambling contests of chance (less than \$50,000 a year) tax classification.

(ii) Example 2. The Lucky Card Room (LCR) charges a fee to all card players as a condition for participating in their

card games. Depending on the game, the LCR may charge a fee based on time, on a per-hand basis, or on a percentage of the wagered amount (commonly referred to as a "rake"). Their annual gross income from card game fees and percentages of wagers is \$120,000, and thus they will report under the gambling contests of chance (\$50,000 a year or greater) tax classification.

(iii) Example 3. Take A Chance (TAC) is a business offering customers several types of gambling activities, such as pull-tabs, bingo, and punch board games. Based on last year's income and this year's anticipated income, TAC started the year out reporting their gross income under the gambling contests of chance (less than \$50,000 a year) tax classification. As their income from gambling activities was better than anticipated, they passed the \$50,000 threshold. TAC must now start reporting their gross income under the gambling contests of chance (\$50,000 a year or greater) tax classification. They must also reclassify, by filing amended excise tax returns, all income reported for the year under the tax classification for less than \$50,000 a year to \$50,000 a year or greater.

(4) Amusement games. Chapter 369, Laws of 2005, made no change to the taxability of income derived from amusement games as defined in RCW 9.46.0201. The gross receipts derived from the operation of ~~((amusement games as defined in RCW 9.46.0201))~~ these games are subject to the service and other activities B&O tax. The cost of any prizes awarded may not be deducted from the measure of tax. ~~((+))~~ Businesses computing their gross income from contests of chance, for reporting under the gambling contests of chance tax classification, should not include income derived from their amusement games.

For example. The Lucky Card Room in Example 2 of subsection (3)(c)(ii) of this section also provides games for customers to play that do not involve wagering. Prizes, such as free or discounted meal vouchers or home appliances, are awarded to the winners. The cost of these prizes is not allowed as an adjustment to computing the LCR's gross income.

(a) What is an amusement game? The term "amusement game" is defined in RCW 9.46.0201 ~~((defines amusement games to be))~~ as a game played for entertainment in which:

~~((A))~~ (i) The contestant actively participates;  
~~((B))~~ (ii) The outcome depends in a material degree upon the skill of the contestant;  
~~((C))~~ (iii) Only merchandise prizes are awarded; ~~((and~~  
~~((D))~~ (iv) The outcome is not in the control of the operator;

(v) The wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game; and

(vi) The game is conducted or operated by any agricultural fair, person, association, or organization in such manner and at such locations as may be authorized by rules adopted by the gambling commission under chapter 9.46 RCW.

~~((+))~~ (b) Examples of amusement games. Crane machines, coin-toss and dart-toss games at fairs and carnivals, and skill-stop games are examples of games qualifying as amusement games under RCW 9.46.0201. For additional

examples of amusement games, refer to WAC 230-20-508 (Authorized amusement games—Types, standards and classifications) issued by the gambling commission.

**(c) Coin-operated games are not amusement games.**

Persons operating coin-operated games that do not qualify under the definition of amusement games in RCW 9.46.0201 (e.g., pinball, video, and pool games) should refer to WAC 458-20-187 (Coin-operated vending machines, amusement devices and service machines) for an explanation of their tax reporting responsibilities.

~~((e))~~ **(5) Sales of foods and beverages.** Sales of foods, beverages, and other tangible personal property by persons operating or conducting any of the activities described above are retail sales and subject to the retailing B&O and retail sales taxes, unless a specific exemption applies (e.g., see WAC 458-20-124 regarding sales of food and beverages by restaurants, taverns, and similar businesses and WAC 458-20-244 for exemptions available for certain food products). Persons conducting dice games to determine the amount that the customer will pay for food or beverages are subject to tax upon the amount the customer actually pays for the food or drink.

~~((3))~~ **(6) Merchandise prizes.** Persons operating or conducting any of the activities described ~~((in subsection (2)(a) through (d) of this rule))~~ above are the consumers of any merchandise delivered to the players in the form of prizes or awards. Purchases of this merchandise are purchases at retail and subject to the retail sales tax, unless a specific exemption applies (e.g., see WAC 458-20-244 for exemptions available for certain food products). Purchases of supplies, devices, and other equipment used in the conduct of these ~~((games))~~ activities are also subject to the retail sales tax.

~~((a))~~ If retail sales tax is not collected by the seller, the person conducting these ~~((games))~~ activities must remit the retail sales tax (often referred to as deferred retail sales tax) or use tax directly to the department of revenue. See also WAC 458-20-178 (Use tax).

~~((b) Prior to April 1, 1999, operators of punch board and pull tab games awarding merchandise as prizes were considered to be selling the prizes for the gross income derived from the games. The purchase of the merchandise prizes by the operators of these games were purchases at wholesale and not subject to either the retail sales or use tax.~~

~~For the purposes of determining the taxability of merchandise prizes awarded by operators of punch board and pull tab games that were in operation both before and after April 1, 1999, the operator should remit retail sales or use tax on the value of the prizes awarded on or after April 1, 1999.)~~

Title of Rule and Other Identifying Information: WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on December 5, 2006, at 10:00 a.m.

Date of Intended Adoption: December 12, 2006.

Submit Written Comments to: Mark Bohe, P.O. Box 47453, Olympia, WA 98504-7453, e-mail mark-bohe@dor.wa.gov, fax (360) 586-5543, by December 5, 2006.

Assistance for Persons with Disabilities: Contact Sandy Davis at (360) 725-7499 no later than ten days before the hearing date. Deaf and hard of hearing individuals may call 1-800-451-7985 (TTY users).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 84.33.091 requires the department to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax. This valuation is for the 1st half of 2007 stumpage value adoption (WAC 458-40-660).

Reasons Supporting Proposal: The proposed rule would provide a more accurate value for timber harvested for firewood.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 84.33.096.

Statute Being Implemented: RCW 84.33.091.

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

Name of Proponent: Washington state department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Mark E. Bohe, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6133; Implementation and Enforcement: Stuart Thronson, 1025 Union Avenue S.E., Suite #300, Olympia, WA, (360) 570-3230.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Mark Bohe, P.O. Box 47453, Olympia, WA 98504-7453, e-mail markbohe@dor.wa.gov, fax (360) 586-5543, by December 5, 2006. The proposed rule is a significant legislative rule as defined by RCW 34.05.328.

October 26, 2006

Alan R. Lynn

Rules Coordinator

**WSR 06-22-085**

**PROPOSED RULES**

**DEPARTMENT OF REVENUE**

[Filed October 31, 2006, 3:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-18-036.

AMENDATORY SECTION (Amending WSR 06-14-064, filed 6/30/06, effective 7/1/06)

**WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((July)) January 1 through ((December 31, 2006)) June 30, 2007:

**((TABLE 1 Proposed Stumpage Value Table Stumpage Value Area 1 July 1 through December 31, 2006**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$632	\$625	\$618	\$611	\$604
		2	469	462	455	448	441
		3	463	456	449	442	435
		4	412	405	398	391	384
Western Redcedar <sup>(2)</sup>	RC	1	559	552	545	538	531
		2	383	376	369	362	355
		3	347	340	333	326	319
		4	302	295	288	281	274
Western Hemlock <sup>(3)</sup>	WH	1	383	376	369	362	355
		2	347	340	333	326	319
		3	302	295	288	281	274
		4	302	295	288	281	274
Red Alder	RA	1	367	360	353	346	339
		2	268	261	254	247	240
Black Cottonwood	BC	1	34	27	20	13	6
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles	DFL	1	796	789	782	775	768
Western Redcedar Poles	RCL	1	1373	1366	1359	1352	1345
Chipwood <sup>(4)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	174	167	160	153	146
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Alaska Cedar.  
<sup>(3)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(4)</sup> Stumpage value per ton.  
<sup>(5)</sup> Stumpage value per cord.  
<sup>(6)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(7)</sup> Stumpage value per lineal foot.

**TABLE 2 Proposed Stumpage Value Table Stumpage Value Area 2 July 1 through December 31, 2006**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$632	\$625	\$618	\$611	\$604
		2	505	498	491	484	477
		3	490	483	476	469	462
		4	474	467	460	453	446
Western Redcedar <sup>(2)</sup>	RC	1	559	552	545	538	531
Western Hemlock <sup>(3)</sup>	WH	1	383	376	369	362	355
		2	361	354	347	340	333
		3	334	327	320	313	306
		4	334	327	320	313	306
Red Alder	RA	1	367	360	353	346	339
		2	268	261	254	247	240
Black Cottonwood	BC	1	34	27	20	13	6
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles	DFL	1	796	789	782	775	768
Western Redcedar Poles	RCL	1	1373	1366	1359	1352	1345
Chipwood <sup>(4)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	174	167	160	153	146
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Alaska Cedar.  
<sup>(3)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(4)</sup> Stumpage value per ton.  
<sup>(5)</sup> Stumpage value per cord.  
<sup>(6)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(7)</sup> Stumpage value per lineal foot.

**TABLE 3—Proposed Stumpage Value Table  
Stumpage Value Area 3**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas-Fir <sup>(2)</sup>	DF	1	\$542	\$535
		2	457	450	443	436	429
		3	402	395	388	381	374
		4	402	395	388	381	374
Western Redcedar <sup>(3)</sup>	RC	1	559	552	545	538	531
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	383	376	369	362	355
		2	347	340	333	326	319
		3	288	281	274	267	260
		4	247	240	233	226	219
Red Alder	RA	1	367	360	353	346	339
		2	268	261	254	247	240
Black Cottonwood	BC	1	34	27	20	13	6
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles	DFL	1	796	789	782	775	768
Western Redcedar Poles	RCL	1	1373	1366	1359	1352	1345
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	174	167	160	153	146
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Western Larch.

<sup>(3)</sup> Includes Alaska Cedar.

<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

<sup>(5)</sup> Stumpage value per ton.

<sup>(6)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 4—Proposed Stumpage Value Table  
Stumpage Value Area 4**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas-Fir <sup>(2)</sup>	DF	1	\$632	\$625
		2	528	521	514	507	500
		3	465	458	451	444	437
		4	465	458	451	444	437
Lodgepole Pine	LP	1	221	214	207	200	193
Ponderosa Pine	PP	1	317	310	303	296	289
		2	211	204	197	190	183
Western Redcedar <sup>(3)</sup>	RC	1	559	552	545	538	531
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	383	376	369	362	355
		2	320	313	306	299	292
		3	316	309	302	295	288
		4	316	309	302	295	288
Red Alder	RA	1	367	360	353	346	339
		2	268	261	254	247	240
Black Cottonwood	BC	1	34	27	20	13	6
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles	DFL	1	796	789	782	775	768
Western Redcedar Poles	RCL	1	1373	1366	1359	1352	1345
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	174	167	160	153	146
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Western Larch.

<sup>(3)</sup> Includes Alaska Cedar.

<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

<sup>(5)</sup> Stumpage value per ton.

<sup>(6)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 5—Proposed Stumpage Value Table  
Stumpage Value Area 5**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas-Fir <sup>(2)</sup>	DF	1	\$655	\$648
		2	534	527	520	513	506
		3	493	486	479	472	465
		4	493	486	479	472	465
Lodgepole Pine	LP	1	221	214	207	200	193
Ponderosa Pine	PP	1	317	310	303	296	289
		2	211	204	197	190	183
Western Redcedar <sup>(2)</sup>	RC	1	559	552	545	538	531
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	383	376	369	362	355
		2	348	341	334	327	320
		3	331	324	317	310	303
		4	328	321	314	307	300
Red Alder	RA	1	367	360	353	346	339
		2	268	261	254	247	240
Black Cottonwood	BC	1	34	27	20	13	6
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles	DFL	1	796	789	782	775	768
Western Redcedar Poles	RCL	1	1373	1366	1359	1352	1345
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	174	167	160	153	146
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Western Larch.  
<sup>(3)</sup> Includes Alaska Cedar.  
<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(5)</sup> Stumpage value per ton.  
<sup>(6)</sup> Stumpage value per cord.  
<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 6—Proposed Stumpage Value Table  
Stumpage Value Area 6**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas-Fir <sup>(2)</sup>	DF	1	\$357	\$350
Lodgepole Pine	LP	1	221	214	207	200	193
Ponderosa Pine	PP	1	317	310	303	296	289
		2	211	204	197	190	183
Western Redcedar <sup>(2)</sup>	RC	1	480	473	466	459	452
True Firs and Spruce <sup>(4)</sup>	WH	1	253	246	239	232	225
Western White Pine	WP	1	320	313	306	299	292
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	480	473	466	459	452
Small Logs <sup>(5)</sup>	SML	1	37	36	35	34	33
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCF	1	76	69	62	55	48
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Western Larch.  
<sup>(3)</sup> Includes Alaska Cedar.  
<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(5)</sup> Stumpage value per ton.  
<sup>(6)</sup> Stumpage value per cord.  
<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(8)</sup> Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.  
<sup>(9)</sup> Stumpage value per lineal foot.

**TABLE 7—Proposed Stumpage Value Table  
Stumpage Value Area 7**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas-Fir <sup>(2)</sup>	DF	1	\$402	\$395
Lodgepole Pine	LP	1	265	258	251	244	237
Ponderosa Pine	PP	1	321	314	307	300	293
		2	200	193	186	179	172
Western Redcedar <sup>(2)</sup>	RC	1	480	473	466	459	452
True Firs and Spruce <sup>(4)</sup>	WH	1	285	278	271	264	257
Western White Pine	WP	1	320	313	306	299	292
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	480	473	466	459	452
Small Logs <sup>(5)</sup>	SML	1	33	32	31	30	29
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	76	69	62	55	48
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

<sup>(4)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Western Larch.

<sup>(3)</sup> Includes Alaska Cedar.

<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

<sup>(5)</sup> Stumpage value per ton.

<sup>(6)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

<sup>(9)</sup> Stumpage value per lineal foot.

**TABLE 8—Proposed Stumpage Value Table  
Stumpage Value Area 10**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas-Fir <sup>(2)</sup>	DF	1	\$618	\$611
		2	514	507	500	493	486
		3	451	444	437	430	423
		4	451	444	437	430	423
Lodgepole Pine	LP	1	221	214	207	200	193
Ponderosa Pine	PP	1	317	310	303	296	289
		2	211	204	197	190	183
Western Redcedar <sup>(2)</sup>	RC	1	545	538	531	524	517
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	369	362	355	348	341
		2	306	299	292	285	278
		3	302	295	288	281	274
		4	302	295	288	281	274
Red Alder	RA	1	353	346	339	332	325
		2	254	247	240	233	226
		Black Cottonwood	BC	1	20	13	6
Other Hardwood	OH	1	151	144	137	130	123
Douglas-Fir Poles	DFL	1	782	775	768	761	754
Western Redcedar Poles	RCL	1	1359	1352	1345	1338	1331
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	174	167	160	153	146
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(4)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Western Larch.

<sup>(3)</sup> Includes Alaska Cedar.

<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

<sup>(5)</sup> Stumpage value per ton.

<sup>(6)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 1—Proposed Stumpage Value Table  
Stumpage Value Area 1**  
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$612	\$605	\$598	\$591	\$584
		2	510	503	496	489	482
		3	473	466	459	452	445
		4	468	461	454	447	440
Western Redcedar <sup>(2)</sup>	RC	1	631	624	617	610	603
Western Hemlock <sup>(3)</sup>	WH	1	339	332	325	318	311
		2	330	323	316	309	302
		3	317	310	303	296	289
		4	315	308	301	294	287
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood <sup>(4)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	164	157	150	143	136
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Alaska-Cedar.  
<sup>(3)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(4)</sup> Stumpage value per ton.  
<sup>(5)</sup> Stumpage value per cord.  
<sup>(6)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(7)</sup> Stumpage value per lineal foot.

**TABLE 2—Proposed Stumpage Value Table  
Stumpage Value Area 2**  
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$612	\$605	\$598	\$591	\$584
		2	522	515	508	501	494
		3	502	495	488	481	474
		4	502	495	488	481	474
Western Redcedar <sup>(2)</sup>	RC	1	631	624	617	610	603
Western Hemlock <sup>(3)</sup>	WH	1	351	344	337	330	323
		2	351	344	337	330	323
		3	351	344	337	330	323
		4	335	328	321	314	307
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood <sup>(4)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	164	157	150	143	136
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Alaska-Cedar.  
<sup>(3)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(4)</sup> Stumpage value per ton.  
<sup>(5)</sup> Stumpage value per cord.  
<sup>(6)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(7)</sup> Stumpage value per lineal foot.

**TABLE 3—Proposed Stumpage Value Table**  
**Stumpage Value Area 3**  
 January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$612	\$605	\$598	\$591	\$584
		2	519	512	505	498	491
		3	489	482	475	468	461
		4	429	422	415	408	401
Western Redcedar <sup>(3)</sup>	RC	1	631	624	617	610	603
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	346	339	332	325	318
		2	346	339	332	325	318
		3	346	339	332	325	318
		4	336	329	322	315	308
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	164	157	150	143	136
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Western Larch.  
<sup>(3)</sup> Includes Alaska-Cedar.  
<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(5)</sup> Stumpage value per ton.  
<sup>(6)</sup> Stumpage value per cord.  
<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 4—Proposed Stumpage Value Table**  
**Stumpage Value Area 4**  
 January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$612	\$605	\$598	\$591	\$584
		2	546	539	532	525	518
		3	502	495	488	481	474
		4	502	495	488	481	474
Lodgepole Pine	LP	1	208	201	194	187	180
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar <sup>(3)</sup>	RC	1	631	624	617	610	603
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	339	332	325	318	311
		2	338	331	324	317	310
		3	338	331	324	317	310
		4	336	329	322	315	308
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	164	157	150	143	136
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Western Larch.  
<sup>(3)</sup> Includes Alaska-Cedar.  
<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(5)</sup> Stumpage value per ton.  
<sup>(6)</sup> Stumpage value per cord.  
<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(8)</sup> Stumpage value per lineal foot.



**TABLE 5—Proposed Stumpage Value Table**  
**Stumpage Value Area 5**  
 January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$661	\$654	\$647	\$640	\$633
		2	513	506	499	492	485
		3	488	481	474	467	460
		4	488	481	474	467	460
Lodgepole Pine	LP	1	208	201	194	187	180
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar <sup>(3)</sup>	RC	1	631	624	617	610	603
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	339	332	325	318	311
		2	336	329	322	315	308
		3	336	329	322	315	308
		4	327	320	313	306	299
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	164	157	150	143	136
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
 (2) Includes Western Larch.  
 (3) Includes Alaska-Cedar.  
 (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
 (5) Stumpage value per ton.  
 (6) Stumpage value per cord.  
 (7) Stumpage value per 8 lineal feet or portion thereof.  
 (8) Stumpage value per lineal foot.

**TABLE 6—Proposed Stumpage Value Table**  
**Stumpage Value Area 6**  
 January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$361	\$354	\$347	\$340	\$333
Lodgepole Pine	LP	1	208	201	194	187	180
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar <sup>(3)</sup>	RC	1	489	482	475	468	461
True Firs and Spruce <sup>(4)</sup>	WH	1	239	232	225	218	211
Western White Pine	WP	1	281	274	267	260	253
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	489	482	475	468	461
Small Logs <sup>(5)</sup>	SML	1	42	41	40	39	38
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCF	1	76	69	62	55	48
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
 (2) Includes Western Larch.  
 (3) Includes Alaska-Cedar.  
 (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
 (5) Stumpage value per ton.  
 (6) Stumpage value per cord.  
 (7) Stumpage value per 8 lineal feet or portion thereof.  
 (8) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.  
 (9) Stumpage value per lineal foot.

**TABLE 7—Proposed Stumpage Value Table  
Stumpage Value Area 7**  
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$400	\$393	\$386	\$379	\$372
Lodgepole Pine	LP	1	278	271	264	257	250
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar <sup>(3)</sup>	RC	1	489	482	475	468	461
True Firs and Spruce <sup>(4)</sup>	WH	1	302	295	288	281	274
Western White Pine	WP	1	281	274	267	260	253
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	489	482	475	468	461
Small Logs <sup>(5)</sup>	SML	1	32	31	30	29	28
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCF	1	76	69	62	55	48
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Western Larch.

<sup>(3)</sup> Includes Alaska-Cedar.

<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

<sup>(5)</sup> Stumpage value per ton.

<sup>(6)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

<sup>(9)</sup> Stumpage value per lineal foot.

**TABLE 8—Proposed Stumpage Value Table  
Stumpage Value Area 10**  
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$598	\$591	\$584	\$577	\$570
		2	532	525	518	511	504
		3	488	481	474	467	460
		4	488	481	474	467	460
Lodgepole Pine	LP	1	208	201	194	187	180
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar <sup>(3)</sup>	RC	1	617	610	603	596	589
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	325	318	311	304	297
		2	324	317	310	303	296
		3	324	317	310	303	296
		4	322	315	308	301	294
Red Alder	RA	1	342	335	328	321	314
		2	197	190	183	176	169
Black Cottonwood	BC	1	55	48	41	34	27
Other Hardwood	OH	1	163	156	149	142	135
Douglas-Fir Poles & Piles	DFL	1	772	765	758	751	744
Western Redcedar Poles	RCL	1	1369	1362	1355	1348	1341
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	164	157	150	143	136
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Western Larch.

<sup>(3)</sup> Includes Alaska-Cedar.

<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

<sup>(5)</sup> Stumpage value per ton.

<sup>(6)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber**—Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber**—Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ~~((July)) January 1 through ((December 31, 2006)) June 30, 2007:~~

**TABLE 9—Harvest Adjustment Table  
Stumpage Value Areas 1, 2, 3, 4, 5, and 10**

~~((July)) January 1 through ((December 31, 2006)) June 30, 2007~~

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	- \$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	- \$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	- \$30.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

**TABLE 10—Harvest Adjustment Table  
Stumpage Value Areas 6 and 7**

~~((July)) January 1 through ((December 31, 2006)) June 30, 2007~~

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	- \$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$20.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$30.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00

**TABLE 11—Domestic Market Adjustment**

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through 6, and 10	\$0.00
Class 2:	SVA 7	\$0.00

Note: The adjustment will not be allowed on special forest products.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

**WSR 06-22-089**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)

(Mental Health Division)

[Filed November 1, 2006, 9:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-07-145.

Title of Rule and Other Identifying Information: WAC 388-865-0420 Intake evaluation.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on December 5, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 6, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [fernaax@dshs.wa.gov](mailto:fernaax@dshs.wa.gov), fax (360) 664-6185, by 5:00 p.m. on December 5, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by December 1, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at [schilse@dshs.wa.gov](mailto:schilse@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule would expand the options for intake evaluation to allow for an abbreviated process for intake evaluation when the individual is expected to need short term mental health services, or had full evaluation previously and is resuming services.

Reasons Supporting Proposal: Amended rules are needed to lessen burden of paperwork and create efficiencies for mental health provider's performing intake evaluations.

Statutory Authority for Adoption: RCW 71.24.035.

Statute Being Implemented: Chapter 71.24 RCW.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Melena Thompson, P.O. Box 45320, Olympia, WA 98504-5320, (360) 902-0873.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The mental health division has analyzed the proposed rules and concludes that the rule changes proposed do not impose any additional compliance costs or administrative burdens on small businesses. Therefore, preparation of a small business economic impact statement is not required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Melena Thompson, P.O. Box 45320, Olympia, WA 98504-5320, phone (360) 902-0873, fax (360) 902-0809, e-mail [thompml@dshs.wa.gov](mailto:thompml@dshs.wa.gov).

October 27, 2006

Andy Fernando, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 05-14-082, filed 6/30/05, effective 7/31/05)

**WAC 388-865-0420 Intake evaluation.** ~~((The community support service provider must complete an intake evaluation in collaboration with the consumer within fourteen days of admission to service. If seeking this information presents a barrier to service, the item may be left incomplete provided that the reasons are documented in the clinical record. The~~

following must be documented in the consumer's intake evaluation:

(1) A consent for treatment or copy of detention or involuntary treatment order;

(2) Consumer strengths, needs and desired outcomes in their own words. At the consumer's request also include the input of people who provide active support to the consumer;

(3) The consumer's age, culture/cultural history, and disability;

(4) History of substance use and abuse or other co-occurring disorders;

(5) Medical and mental health services history and a list of medications used;

(6) Documentation that consumers receiving court ordered treatment or treatment ordered by the department of corrections (DOC) have been asked if they are under supervision by the department of corrections. The consumer is required to disclose this information.

(7) For children:

(a) Developmental history; and

(b) Parent's goals and desired outcomes.

(8) Sufficient information to justify the diagnosis;

(9) Review of the intake evaluation by a mental health professional)) (1) Each consumer requesting services must receive an intake evaluation. The intake evaluation or brief intake evaluation must be provided by a Mental Health Professional and:

(a) Be initiated prior to the provision of any non-crisis mental health services;

(b) Be initiated within ten working days of the request for services;

(c) Be developed in collaboration with the consumer;

(d) Be inclusive of input of people who provide active support to the consumer, if the consumer requests or if the consumer is under age thirteen;

(e) Be completed within thirty working days of the initiation of the intake evaluation; and

(f) Include a consent for treatment or a copy of detention or involuntary treatment order.

(2) Except as when a brief intake evaluation as described in WAC 388-865-0420(4) is provided, a full intake evaluation must include:

(a) A description of the presenting problem, presented needs;

(b) A description of the consumer's and family's strengths;

(c) Consumer's needs and desired outcomes in the consumer's own words;

(d) Consumer's culture/cultural history (including, but not limited to, ethnicity or race, and religion);

(e) History of other disorders, substance/alcohol abuse, developmental disability, any other relevant disability, and treatment, if any;

(f) Medical history, hospitalizations, treatment, past and current medications;

(g) Mental health services history, past and current medication;

(h) Assessment of suicide/homicide and self harm risk. A referral for provision of emergency/crisis services, consis-

tent with WAC 388-865-0452, must be made if indicated in the risk assessment;

(i) Sufficient information to justify the provisional diagnosis;

(j) Documentation showing the consumer has been asked if they are under the supervision of the department of corrections or juvenile court;

(k) If the consumer is a child:

(i) Developmental history;

(ii) Parental goals and desired outcomes (if consent is obtained or not required due to age or state custody); and

(iii) Family and/or placement issues, including, if appropriate, family dynamics, placement disruptions, and current placement needs.

(3) If seeking any of the information required in subsection (2) of this section presents a barrier to the provision of services for the consumer, any portion of the intake may be left incomplete providing the reason for the omission is clearly documented in the clinical record.

(4) A brief intake evaluation may be used when it is reasonably believed services to the consumer will be completed within a six-month period. A brief intake evaluation may also be substituted for a full intake evaluation if a consumer is resuming services after being out of services for a period of less than twelve months and had received a full intake evaluation as part of the previous service provision. A brief intake evaluation must include:

(a) A description of presenting problem, presented needs, desired outcomes, and consumer strengths identified by both the consumer and the clinician;

(b) Sufficient information to justify the provisional diagnosis;

(c) The consumer's current physician and prescribed medications;

(d) Current and historical substance use/abuse or other co-occurring disorders including developmental disabilities;

(e) Mental health services history including past and current medications;

(f) Assessment of suicide/homicide and self-harm risk. A referral for provision of emergency/crisis services, consistent with WAC 388-865-0452, must be made if indicated in the risk assessment;

(g) Documentation that the consumer has been asked if they are under the supervision by the department of corrections or juvenile court; and

(h) Identification of mutually agreed upon outcomes that are expected to be accomplished within the six-month period that will be the basis of the treatment plan.

(5) In cases where a consumer initially receives services based on a brief intake evaluation, the community support service provider must complete the additional elements required in a full intake evaluation if the consumer is expected to continue to receive services after six months.

(6) If seeking any of the information required in subsection (4) of this section presents a barrier to the provision of services for the consumer, any portion of the intake may be left incomplete providing the reason for the omission is clearly documented in the clinical record.

**WSR 06-22-092**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed November 1, 2006, 9:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-17-185.

Title of Rule and Other Identifying Information: WAC 458-20-244 Food and food ingredients, this rule provides guidelines for determining if food or food ingredients qualify for the retail sales tax and use tax exemptions provided in RCW 82.08.0293 and 82.12.0293.

Hearing Location(s): Capital Plaza Building, 4th Floor, Large L&P Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on December 13, 2006, at 9:30 a.m.

Date of Intended Adoption: December 20, 2006.

Submit Written Comments to: Kate M. Adams, Interpretations and Technical Advice, P.O. Box 47453, Olympia, WA 98504-7453, e-mail katea@dor.wa.gov, phone (360) 570-6115, fax (360) 586-5543, by December 13, 2006.

Assistance for Persons with Disabilities: Contact Sandy Davis at (360) 725-7499 no later than ten days before the hearing date. Deaf and hard of hearing individuals may call 1-800-451-7985 (TTY users).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amendment incorporates changes to the definitions of food and food ingredients, and in particular, the defined term "prepared foods" promulgated by chapter 153, Laws of 2004. The rule includes the methodology for determining whether a seller of prepared foods must collect and remit sales tax on all sales of food and food ingredients, or only items qualifying as prepared foods under particular definitions.

Reasons Supporting Proposal: RCW 82.08.0293 and 82.12.0293 provide, respectively, a retail sales tax and use tax exemption for food and food ingredients. In 2003 and 2004, the legislature amended these statutes to alter the definitions used to determine whether a particular food or food ingredient qualifies for the exemptions. The amendments were made in compliance with the national streamlined sales and use tax agreement (SSUTA). Amendments to Rule 244 incorporate these statutory changes, as well as the final interpretations adopted by the SSUTA advisory council.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.08.0293 and 82.12.0293.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Kate M. Adams, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6115; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

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

omic impact statement is not required because the rule and the amendments do not impose new performance requirements for administrative burdens on any small business not required by statute as interpreted under the SSUTA.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is not a significant legislative rule as defined by RCW 34.05.328.

October 31, 2006

Janis P. Bianchi

Assistant Director

Interpretations and

Technical Advice Division

AMENDATORY SECTION (Amending WSR 03-24-031, filed 11/25/03, effective 1/1/04)

**WAC 458-20-244 Food and food ingredients.** (1) **Introduction.** (~~RCW 82.08.0293 and 82.12.0293 provide retail sales tax and use tax exemptions for certain foods sold for human consumption. In 2003, the legislature adopted the food definitions set forth in the national Streamlined Sales and Use Tax Agreement. The 2003 amendments to these statutes significantly change how sales of food and food ingredients are taxed on and after January 1, 2004. This rule provides guidelines for determining if the sale of a food or food ingredient is subject to retail sales tax.~~)

~~There is no general business and occupation (B&O) tax exemption for sales of food and food ingredients. Therefore, even if a sale of food is exempt from retail sales tax, the income from that sale is included in gross proceeds when calculating the business's retailing B&O tax.~~

(2) ~~**Related rules.** The department has adopted other rules that provide important tax reporting information to persons who sell food and prepared meals:~~

- ~~(a) WAC 458-20-119 (Sales of meals);~~
- ~~(b) WAC 458-20-124 (Restaurants, cocktail bars, taverns and similar businesses);~~
- ~~(c) WAC 458-20-12401 (Special stadium sales and use tax);~~
- ~~(d) WAC 458-20-166 (Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.);~~
- ~~(e) WAC 458-20-167 (Education institutions, school districts, student organizations, and private schools);~~
- ~~(f) WAC 458-20-168 (Hospitals, medical care facilities, and adult family homes); and~~
- ~~(g) WAC 458-20-169 (Nonprofit organizations).~~

(3) ~~**"Food and food ingredients" defined.** "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.~~

~~"Food and food ingredients" does not include:~~

- ~~(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and~~
- ~~(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other items that contain tobacco.~~

(4) ~~**Taxability of prepared food.** The exemption for "food and food ingredients" provided in RCW 82.08.0293 does not apply to prepared food. The sale of prepared food is~~

subject to retail sales tax, unless otherwise exempt by law. See subsection (5) of this section for information about the taxability of soft drinks and subsection (6) of this section for information about the taxability of dietary supplements.

(a) **Prepared food.** "Prepared food" means:

(i) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food;

(ii) Food sold in a heated state or heated by the seller; or

(iii) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(A) Food that is only cut, repackaged, or pasteurized by the seller;

(B) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, part 401.11 of The Food Code, published by the Food and Drug Administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness; or

(C) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(b) **Food sold with eating utensils.** Food sold with eating utensils provided by the seller is prepared food and thus subject to tax, even if the seller does not otherwise prepare the food.

(i) **Eating establishments that sell food with eating utensils.** Generally food sold by an eating establishment is subject to sales tax. An eating establishment may be mobile or in a fixed location and may or may not provide seating accommodations for its customers. Eating establishments include restaurants, caterers, pizzerias, bars, taverns, night clubs, yogurt or ice cream stores/stands, coffee or donut shops, diners, refreshment stands, drive-ins, fast food restaurants, bagel shops, lunch counters, cafeterias, private and social clubs, sandwich shops, snack bars, hot dog carts, espresso stands, concession stands at a fair or a mall, sidewalk vendors or like places of business where food is served to individuals and is customarily sold for consumption shortly after it is sold.

(A) All food served at eating establishments is subject to tax unless the seller maintains adequate records for sale of food items that are generally not sold with eating utensils and do not otherwise qualify as prepared food, such as gallons of milk, loaves of bread, whole pies, a dozen donuts, wedding or birthday cakes, and packages of rolls or muffins. The information shown on invoices, cash register receipts, or sales tickets must provide an adequate description of the food items sold to show that the sale was not of food items that are generally served with eating utensils or do not otherwise qualify as prepared food.

(B) Food sold by grocery stores, convenience stores, and department stores is generally not considered to be sold with eating utensils provided by the seller, even though eating utensils may be available to customers (e.g., napkins on the counter). For example, the sale of yogurt is not subject to retail sales tax even if napkins are available for the customer's use at the checkout stand. The food may be taxable if it is generally served with eating utensils (see part (ii) below). A

grocery store is a business primarily engaged in the retail sale of a wide variety of food products. They generally contain the following departments: Dairy, baked goods, canned and dry goods, frozen foods, meats, fresh fruits and vegetables and household supplies.

Grocery stores, department stores, and convenience stores that have a separately identifiable eating establishment, such as a salad bar, sushi bar, or deli, are required to collect the tax on food items sold at that establishment unless the store maintains adequate records for sale of food items that are generally not sold with eating utensils or do not otherwise qualify as prepared food.

(ii) **Food that is generally sold with eating utensils.** Food that is generally sold with eating utensils, including plates, knives, forks, spoons, glasses, cups, napkins, or straws, is subject to tax, even if the seller does not in all cases actually provide the utensils. For example, sales from salad bars or "make your own sandwich" bars at a grocery store are taxable since salads and sandwiches are generally eaten with eating utensils (a fork for the salad and a napkin for the sandwich). "Make your own ice cream sundae" bars are taxable for the same reason. These items are taxable regardless of where they are sold. Cold cut platters, cheese platters, vegetable and fruit platters are taxable since the platter is an eating utensil.

(A) Box lunches are taxable since they are generally sold with eating utensils provided by the seller.

(B) If the eating utensil is provided by the manufacturer rather than by the seller, the sale of the food is not subject to retail sales tax. For example, a box of crackers and cheese that includes a spreader, is not subject to tax since the seller does not provide the spreader.

(c) **"Prepared food" examples.** The examples in this subsection identify a number of facts and then state a conclusion. These examples should only be used as a general guide. Similar determinations for other situations can be made only after a review of all facts and circumstances.

(i) If a carton of milk is purchased from a grocery store, the sale is exempt from retail sales tax because the milk, in this case, is an exempt food item. If an individual purchases a glass of milk from a restaurant, however, it is subject to retail sales tax because the seller provided an eating utensil, a glass.

(ii) A grocery store deli sells pasta salad that it prepares itself and potato salad that it purchases in bulk. The deli packages the pasta salad for sale, and repackages the potato salad the deli purchased in bulk into smaller containers. Sales of the potato salad are exempt from retail sales tax because "prepared food" does not include food that is merely repackaged. Sales of the pasta salad are subject to retail sales tax because the deli mixed or combined two or more food ingredients, doing something more than cutting or repackaging the food ingredients.

(iii) A grocery store meat department prepares ready-to-bake stuffed pork chops. The stuffed pork chops are not "prepared foods" and are not subject to tax even though the seller combined two or more ingredients because "prepared foods" does not include raw meat, or foods containing raw animal foods that require cooking by the consumer, to prevent foodborne illness.

(iv) **Pizza.** The taxability of pizza depends on who prepares it and in what form it is sold. The following examples explain the taxability of pizza in its various forms:

(A) Pizza prepared by the seller and sold in a heated state. Pizza sold by the slice and whole hot pizzas ready to eat, including delivered pizzas, are taxable because they are sold in a heated state. Additionally, the sale of the pizza is a taxable sale of a "prepared food" because the seller mixed or combined two or more food ingredients.

(B) Ready-to-bake pizzas prepared by the seller. Fresh or frozen ready-to-bake pizza prepared by the seller is taxable as a "prepared food" because the seller mixed or combined two or more food ingredients.

(C) Ready-to-bake pizzas prepared by a third party. Fresh or frozen ready-to-bake pizza procured by the seller from a third party or wholesaler is exempt from sales tax because it does not fall under the definition of "prepared food" as the seller did not mix or combine two or more food ingredients.

~~(d) **Exemption from taxation for certain meals (prepared food).** Notwithstanding subsection (4)(a) and (b), above, meals sold under a state-administered nutrition program for the aged as provided for in the Older Americans Act (Public Law 95-478 Title III) and RCW 74.38.040, and meals sold to or for senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW are exempt from retail sales and use tax. There is a sales tax exemption for meal sales for certain fund-raising by nonprofit organizations. See WAC 458-20-169.~~

(5) **Taxability of soft drinks.** The exemption for "food and food ingredients" provided in RCW 82.08.0293 does not apply to "soft drinks."

(a) **"Soft drinks" defined.** "Soft drinks" are nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include:

(i) Beverages that contain milk or milk products, soy, rice, or similar milk substitutes; or

(ii) Beverages that contain greater than fifty percent vegetable or fruit juice by volume.

(b) **"Soft drink" examples.** The examples in this subsection identify a number of facts and then state a conclusion. These examples should only be used as a general guide. Similar determinations for other situations can be made only after a review of all facts and circumstances.

(i) The sale of bottled water, carbonated water, and flavored water, without natural or artificial sweeteners, is exempt from tax because they are defined as food in RCW 82.08.0293 and do not fall within the definition of "soft drinks." If these products are sold in a cup or glass, however, the sale is a sale of a "prepared food" and is subject to sales tax. See subsection (4)(a)(i) above. Bottled water, carbonated water, and flavored water that contain natural or artificial sweeteners are subject to sales tax because they are "soft drinks."

(ii) Sports drinks that contain natural or artificial sweeteners are subject to sales tax because they fall within the definition of "soft drinks."

(iii) Fruit or vegetable juice that contains natural or artificial sweeteners and contains fifty percent or less by volume

of fruit or vegetable juice is subject to sales tax because it falls within the definition of "soft drinks."

(iv) Bottled coffee or tea drinks with natural or artificial sweeteners, but without milk or milk products, are "soft drinks" and are subject to retail sales tax. Bottled coffee or tea drinks, with or without sweeteners that contain milk or milk products are not subject to sales tax because they do not fall within the definition of "soft drinks."

(6) **Taxability of dietary supplements.** The exemption for "food and food ingredients" provided in RCW 82.08.0293 does not apply to "dietary supplements."

(a) **"Dietary supplements" defined.** "Dietary supplement" means any product, other than tobacco, intended to supplement the diet and that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, soft gel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "Supplement Facts" box found on the label and as required under 21 Code of Federal Regulations (CFR) § 101.36, as amended or renumbered as of January 1, 2003.

(b) **"Dietary supplements" examples.** The examples in this subsection identify a number of facts and then state a conclusion. These examples should only be used as a general guide. Similar determinations for other situations can be made only after a review of all facts and circumstances.

(i) Nutrition products in bar or liquid form formulated to provide balanced nutrition as a sole source of nourishment are considered a food and not a dietary supplement and are therefore exempt from taxation.

(ii) A product sold for human consumption may have one or more of the following federal Food and Drug Administration labels, a "Nutrition Facts," a "Dietary Supplements Facts," or a "Drug Facts" label. If a product label contains a "Supplement Facts" and "Nutrition Facts" box, the product is a food and not subject to tax if it does not otherwise qualify as prepared food.

(7) **Is ice sold for human consumption taxed?** Ice sold for human consumption is considered a food or food ingredient and is therefore exempt from retail sales tax. "Ice sold for human consumption" means ice sold in cube, shaved, or crushed form and in quantities of ten pounds or less in weight per bag or container. Blocks of ice of any weight are not considered a food or food ingredient and are therefore taxable. See WAC 458-20-120 (Sales of ice) for additional guidance on the sale of ice.

(8) **Combination businesses.** The sale of "food and food ingredients" or "prepared food" sold in the same manner



should receive the same tax treatment regardless of the establishment in which the item is sold. Persons operating a combination of two kinds of food sales businesses at one location must keep their accounting records and sales receipts segregated between taxable and tax-exempt sales. Examples of combination businesses are a grocery store with a lunch counter or salad-deli bar, a bakery that sells tax-exempt baked goods and also sells baked goods with eating utensils or as part of a meal, and a gas station/convenience store.

(a) **Tax collecting responsibility.**—Combination businesses must collect and report retail sales tax upon their charges for prepared foods. It is sufficient segregation for accounting purposes if cash registers or electronic checking machines are programmed to identify and separately tax food that is not tax-exempt. If the combined food business' sales are commingled in their accounting records, all sales of food and food ingredients are subject to retail sales tax.

(b) **Combination business examples.**—The examples in this subsection identify a number of facts and then state a conclusion. These examples should only be used as a general guide. Similar determinations for other situations can be made only after a review of all facts and circumstances.

(i) A consumer purchases his wedding cake, a donut, and a cup of coffee from Bakery. The sale of the wedding cake is not taxable if Bakery maintains adequate records for sale of food items that are generally not sold with eating utensils and do not otherwise qualify as prepared food. The sale of the donut is taxable because it is a food that is generally sold with eating utensils, a napkin. The sale of the coffee is taxable because it is served with an eating utensil, the cup, and because it is sold in a heated state by the seller.

(ii) Grocery Store has a deli section that prepares and sells deli foods and provides a salad bar where the customer can make a salad. A customer purchases a salad that he made from the salad bar and a bottle of apple juice that is one hundred percent fruit juice. The sale of a salad from the salad bar is taxable because it is generally sold with eating utensils (e.g., a plate, fork, knife, spoon, or napkin). The sale of the apple juice is exempt because it is food and not a "soft drink" because it is more than fifty percent fruit juice.

(iii) Gas Station has a convenience store that sells "food and food ingredients," "prepared food," and nonfood products. The sale of "food and food ingredients" is not taxable if Gas Station maintains adequate records for sale of food items that are generally not sold with eating utensils and do not otherwise qualify as prepared food.

(9) **How are packages of food items that contain taxable and nontaxable items taxed?** When a package consists of both food and nonfood products, such as a holiday or picnic basket containing beer and pretzels, cups or glasses containing food items, or soft drinks along with cheese and crackers, the food portion may be tax-exempt if its price is stated separately. If the price is a lump sum, the sales tax applies to the entire price.

Nonfood items given to buyers to promote food or food ingredient sales such as coffee sold in a decorative apothecary container or cheese sold in a serving dish are not taxable and are not deemed combination packages where it is clear that the nonfood item is simply a gift furnished as a sales inducement for the food. In the same way, promotional give-

aways of food items as an inducement for sales of nonfood items are not exempt (e.g., the sale of crystal ware containing candy or nuts is fully subject to sales tax).

(10) **Purchases made under the Food Stamp Act of 1977.** RCW 82.08.0297 provides a retail sales tax exemption for the sale of eligible foods that are purchased with coupons issued only under the federal Food Stamp Act of 1977. The term "food coupon" does not include manufacturers' coupons, grocers' coupons, or other coupons issued by private parties. "Eligible foods" has the same meaning as established under federal law for the purposes of the Food Stamp Act of 1977. The term includes any food or food ingredient intended for human consumption except alcoholic beverages, tobacco, and hot foods or hot food ingredients prepared for immediate consumption. 7 U.S.C. § 2012(g), as amended or renumbered as of January 1, 2003. The term "coupon," as used in this subsection, means any coupon, stamp, type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number issued pursuant to the provisions of the Food Stamp Act of 1977. 7 CFR § 271.2, as amended or renumbered as of January 1, 2003.

(a) **Purchasing nonfood products with food coupons.** Some nonfood products may be exempt if purchased with food coupons. For example, seeds and growing plants are considered "nonfood products," even though they may be sold at grocery stores and can be ingested by humans. However, seeds and plants to grow foods for the personal consumption of eligible households are "eligible foods" under the Food Stamp Act of 1977. 7 CFR § 271.2, as amended or renumbered as of January 1, 2003. Therefore, in this limited circumstance, the sale of seeds and plants is tax-exempt.

When both coupons and cash (or check) are used to make purchases, the coupons must be applied first to "eligible foods" which are not otherwise tax-exempt "food or food ingredients." For example, soft drinks and garden seeds are "eligible foods" under the food stamp program but are not tax-exempt under RCW 82.08.0293. The intent is always to apply the coupons and cash in such a way as to provide the greatest possible amount of retail sales tax exemption under the law.

(b) **Food coupon examples.**—The examples in this subsection identify a number of facts and then state a conclusion. These examples should only be used as a general guide. Similar determinations for other situations can be made only after a review of all facts and circumstances. The following examples demonstrate how the tax exemption applies in cases where a purchase of ten dollars each is made for meat (a food ingredient), soda pop (an eligible food), and soap (a nonfood item) using both coupons and cash.

(i) The customer pays with fifteen dollars in coupons and fifteen dollars in cash. The coupons are applied first to the soda pop (ten dollars worth) and then to the meat (five dollars worth). The cash applies to the rest of the meat and the soap. Retail sales tax is due on the ten-dollar purchase of soap because soap is not an "eligible food" under the food stamp program.

(ii) A customer pays the thirty-dollar selling price with ten dollars worth of coupons and twenty dollars cash. The coupons are applied to the soda pop, making the soda pop exempt. The cash is applied towards the purchase of the meat

and soap. The result is that retail sales tax is due only on the ten-dollar purchase of soap.

(iii) The customer pays with five dollars worth of coupons and twenty-five dollars in cash. Again, the coupons are first applied towards the soda pop, leaving five dollars of the value to be purchased with cash. Retail sales tax is due on fifteen dollars, the ten-dollar purchase of soap and five dollars worth of soda pop.

**(11) ~~How are food vending van sales taxed?~~** Food and food ingredient sales from vehicular vending vans are taxable or exempt of retail sales tax in the same manner as food sales at grocery stores. Thus, sales of candy bars, gum, or any pre-wrapped food and food ingredients which are prepackaged by a manufacturer or preparer other than the person operating the van are exempt from retail sales tax. Sales of any prepared food items or soft drinks, including, but not limited to, hot dogs, sandwiches, soups, and hot or cold beverages are subject to retail sales tax. See definition of "prepared food" in subsection (4)(a), above.)

**(a) What is the purpose of this section?** This section, WAC 458-20-244, provides guidelines for determining if food or food ingredients qualify for the retail sales tax and use tax exemptions under RCW 82.08.0293 and 82.12.0293 (collectively referred to in this section as the "exemptions").

There is no corresponding business and occupation (B&O) tax exemption. Even if a sale of food or food ingredients is exempt from retail sales tax or use tax under the exemptions, gross proceeds from sales of food or food ingredients remain subject to the retailing B&O tax.

**(b) How has the law changed since the prior version of this section was published?** In 2003 and 2004, the legislature amended RCW 82.08.0293 and 82.12.0293 to comply with the national Streamlined Sales and Use Tax Agreement. These amendments alter the definitions used to determine whether a particular food or food ingredient qualifies for the exemptions.

**(c) What other sections might apply?** The following sections may contain additional relevant information:

- WAC 458-20-119 (Sales of meals);
- WAC 458-20-124 (Restaurants, cocktail bars, taverns and similar businesses);
- WAC 458-20-12401 (Special stadium sales and use tax);
- WAC 458-20-166 (Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.);
- WAC 458-20-167 (Education institutions, school districts, student organizations, and private schools);
- WAC 458-20-168 (Hospitals, medical care facilities, and adult family homes); and
- WAC 458-20-169 (Nonprofit organizations).

**(2) What qualifies for the exemptions?**

**(a) In general.** The exemptions apply to food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

**(b) Items not used for ingestion or chewing.** Items that are commonly ingested or chewed by humans for their taste or nutritional value but which may also be used for other purposes are treated as food or food ingredients. For example,

pumpkins are presumed to be a food or food ingredient unless the pumpkin is sold painted or is otherwise clearly for decorative purposes rather than consumption. This is true even though the purchaser may use an undecorated pumpkin for carving and display rather than for eating.

**(3) What does not qualify for the exemptions?** The exemptions do not apply to the following items, which are not considered "food or food ingredients" or which are otherwise specifically excluded from the exemptions:

**(a) Items sold for medical or hygiene purposes.** Items commonly used for medical or hygiene purposes, such as cough drops, breath sprays, toothpaste, etc., are not ingested for taste or nutrition and are not considered a food or food ingredient. In contrast, breath mints are commonly ingested for taste and are considered a food or food ingredient.

**(b) Bulk sales of ice.** Ice sold in bags, containers, or units of greater than ten pounds and blocks of ice of any weight are not considered a food or food ingredient. Ice sold in cubed, shaved, or crushed form in packages or quantities of ten pounds or less is considered a food or food ingredient. Refer to WAC 458-20-120 (Sales of ice) for additional guidance on the sale of ice.

**(c) Alcoholic beverages.** Alcoholic beverages are excluded from the definition of food and food ingredients. "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

**(d) Tobacco.** Tobacco is excluded from the definition of food and food ingredients. "Tobacco" includes cigarettes, cigars, chewing or pipe tobacco, or any other items that contain tobacco.

**(e) Soft drinks.** Soft drinks are excluded from the exemptions. "Soft drinks" means any nonalcoholic beverage that contains natural or artificial sweeteners, except beverages that contain:

- Milk or milk products;
- Soy, rice, or similar milk substitutes; or
- More than fifty percent by volume of vegetable or fruit juice.

For example, sweetened sports beverages are considered "soft drinks," but a sweetened soy beverage is a food or food ingredient.

Beverage mixes that are not sold in liquid form are not soft drinks even though they are intended to be made into a beverage by the customer. Examples include powdered fruit drinks, powdered tea or coffee drinks, and frozen concentrates. These items are a food or food ingredient and are not subject to retail sales tax.

**(f) Dietary supplements.** Dietary supplements are excluded from the exemptions. "Dietary supplement" means any product intended to supplement the diet, other than tobacco, which meets all of the following requirements:

- Contains a vitamin; mineral; herb or other botanical; amino acid; a substance for use by humans to increase total dietary intake; or a concentrate, metabolite, constituent, extract; or combination of any of them;
- Is intended for ingestion in tablet, capsule, powder, soft gel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is

not represented for use as a sole item of a meal or of the diet; and

- Is required to be labeled with a Food and Drug Administration "supplement facts" box. If a product is otherwise considered a food or food ingredient and labeled with both a "supplement facts" box and "nutrition facts" box, the product is treated as a food or food ingredient.

Nutrition products formulated to provide balanced nutrition as a sole source of a meal or of the diet are considered a food or food ingredient and not a dietary supplement. Refer to RCW 82.08.925 for information on the sales tax exemption applicable to dietary supplements dispensed under a prescription.

**(g) Prepared food.** Prepared food is excluded from the exemptions. Prepared food generally means heated foods, combined foods, or foods sold with utensils provided by the seller, as described in more detail in subsection (4) of this section. "Prepared food" does not include food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), unless the food is sold with utensils provided by the seller (see subsection (4)(c) of this section).

**(4) What is "prepared food"?** Food or food ingredients are "prepared foods" if any one of the following are true:

**(a) Heated foods.** Food or food ingredients are "prepared foods" if sold in a heated state or are heated by the seller, except bakery items. "Bakery items" include bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. Food is sold in a heated state or is heated by the seller when the seller provides the food to the customer at a temperature that is higher than the air temperature of the seller's establishment. Food is not sold in a heated state or heated by the seller if the customer, rather than the seller, heats the food in a microwave provided by the seller.

**(b) Combined foods.** Food or food ingredients are "prepared foods" if the item sold consists of two or more foods or food ingredients mixed or combined by the seller for sale as a single item, unless the food or food ingredients are any of the following:

- Bakery items (defined in (a) of this subsection);
- Items that the seller only cuts, repackages, or pasteurizes;
- Items that contain eggs, fish, meat, or poultry, in a raw or undercooked state requiring cooking to prevent food-borne illness; or
- Items sold in an unheated state as a single item at a price that varies based on weight or volume.

**(c) Food sold with utensils provided by the seller.** Food or food ingredients are "prepared foods" if sold with utensils provided by the seller. Utensils include plates, knives, forks, spoons, glasses, cups, napkins, and straws. A plate does not include a container or packaging used to transport the food.

**(i) Utensils are customarily provided by the seller.** Food or food ingredients are "sold with utensils provided by the seller" if the seller's customary practice is to physically deliver or hand a utensil to the customer with the food or food ingredient as part of the sales transaction. If the food or food

ingredients are prepackaged with a utensil, the seller is considered to have physically delivered a utensil to the customer unless the food and utensil are prepackaged together by a food manufacturer classified under sector 311 of the NAICS. Examples of utensils provided by such manufacturers include juice boxes that are packaged with drinking straws, and yogurt or ice cream cups that are packaged with wooden or plastic spoons.

**(ii) Utensils are necessary to receive the food.** Individual food or food ingredient items are "sold with utensils provided by the seller" if a plate, glass, cup, or bowl is necessary to receive the food or food ingredient and the seller makes those utensils available to its customers. For example, items obtained from a self-serve salad bar are sold with utensils provided by the seller, because the customer must use a bowl or plate provided by the seller in order to receive the items.

**(iii) Seller of predominantly prepared food makes utensils available.** All food and food ingredients sold at an establishment are "sold with utensils provided by the seller" if the seller makes utensils available to its customers and the seller is in the business of selling predominantly prepared food. A seller is in the business of selling predominantly prepared food if the seller's gross sales of prepared food under (a), (b), and (c)(ii) of this subsection equal more than seventy-five percent of the seller's gross sales of food, food ingredients, soft drinks and dietary supplements.

**(A) Exception for four or more servings.** Even if a seller is in the business of selling predominantly prepared food, four servings or more of food or food ingredients packaged for sale as a single item and sold for a single price are not "sold with utensils provided by the seller" unless the seller's customary practice is to physically hand or otherwise deliver a utensil to the customer as part of the sales transaction. Whenever available, the number of servings included in a package of food or food ingredients is to be determined based on the manufacturer's product label. If no label is available, the seller must reasonably determine the number of servings.

**(B) Determining total sales of prepared foods.** The seller must determine a single prepared food sales percentage annually for all the seller's establishments in the state based on the prior year of sales. The seller may elect to determine its prepared food sales percentage based either on the prior tax year or on the prior fiscal year. A seller may not change its elected method for determining its prepared food percentage without the written consent of the department of revenue. The seller must determine its annual prepared food sales percentage as soon as possible after accounting records are available, but in no event later than ninety days after the beginning of the seller's tax or fiscal year. A seller may make a good faith estimate of its first annual prepared food sales percentage if the seller's records for the prior year are not sufficient to allow the seller to calculate the prepared food sales percentage. The seller must adjust its good faith estimate prospectively if its relative sales of prepared foods in the first ninety days of operation materially depart from the seller's estimate.

**(d) Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of

other situations must be determined after a review of all of the facts and circumstances.

(i) **Example 1.** Fast Cafe sells hot and cold coffee and mixed coffee and milk beverages, cold soft drinks, bottled water, milk and juice in single-serving containers, sandwiches, whole fruits, cold pasta salad, cookies and other pastries. Fast Cafe prepares the pasta salad on-site. It orders the pastries from a local bakery, including specialty cakes which it sells both as whole cakes and by the slice. It purchases its sandwiches from a local caterer. The sandwiches are delivered by the caterer prewrapped in plastic with condiments and a plastic knife. Fast Cafe makes straws, napkins and cup lids available for all customers by placing them on a self-service stand. In its first full year of operation, Fast Cafe gross sales of food and food ingredients, soft drinks, and dietary supplements is \$100,000. Of this gross sales total, \$80,000 is from the sale of hot coffee and hot and cold mixed coffee and milk beverages, all sold in disposable paper or plastic cups with the Fast Cafe logo.

Because more than 75% of Fast Cafe's total sales of food, food ingredients, soft drinks and dietary supplements are sales of food or food ingredients that are heated or combined by the seller or sold with a utensil (cups) necessary to receive the food, Fast Cafe is in the business of selling predominantly prepared food. Because Fast Cafe makes utensils available for its customers, all food and food ingredients sold by Fast Cafe are considered "prepared food," including the cold milk beverages, cookies and pastries, pasta salad, sandwiches and whole fruits. The only exception is the sale of whole specialty cakes. Because a whole cake contains four or more servings, it is not subject to retail sales tax unless Fast Cafe customarily hands a utensil to the customer as part of the sale transaction.

(ii) **Example 2.** Assume the same facts as in Example 1, but that only \$60,000 of Fast Cafe's Year 1 gross sales were sales of hot coffee and hot and cold mixed coffee and milk beverages. The remainder of its sales were sales of sandwiches, whole fruits, cookies and other pastries. Under these facts, Fast Cafe is not considered to be in the business of selling predominantly prepared food. The items sold by Fast Cafe are taxed as follows:

- Hot coffee and milk beverages are heated by the seller and are also sold by Fast Cafe with a utensil (a paper cup) necessary to receive the food. The hot coffee and milk beverages are "prepared food" for either reason and are subject to retail sales tax.

- Cold milk beverages or a combination of two or more foods or food ingredients are also sold by Fast Cafe with a utensil (a paper or plastic cup) necessary to receive the food. The cold milk beverages are "prepared food" for either reason and are subject to retail sales tax.

- Cold soft drinks are not exempt and are subject to retail sales tax.

- Sandwiches prepared by the caterer are subject to retail sales tax. Even though the caterer, rather than the seller, combines the ingredients and includes a utensil, Fast Cafe is considered to have provided the utensil because the caterer is not a food manufacturer classified under sector 311 of the NAICS.

- Pasta salad is combined by the seller and is subject to retail sales tax. Note that if the pasta salad was sold by the pound, rather than by servings, it would not be subject to retail sales tax.

- Bottled water, milk and juice in single serving containers, whole fruit, cookies, pastries, slices of cake, and whole cakes are not subject to retail sales tax unless the seller's customary practice is to hand a utensil to the customer as part of the sales transaction. None of these items are heated by the seller, combined by the seller, or require a plate, glass, cup, or bowl in order to receive the item. Even if Fast Cafe heats the pastries for its customers, the pastries are not subject to retail sales tax.

**(5) How are combined sales of taxable and exempt items taxed?**

(a) **Combined sales.** Where two or more distinct and identifiable items, at least one of which is a food or food ingredient, are sold for one nonitemized price:

- The entire transaction is taxable if the seller's purchase price or sales price of the taxable items is greater than fifty percent of the combined purchase price or sales price; and

- The entire transaction is exempt from retail sales tax if the seller's purchase price or sales price is fifty percent or less of the combined purchase price or sales price.

The seller may make the determination based on either purchase price or sales price, but may not use a combination of the purchase price and sales price.

**(b) Examples.**

(i) A combination wine and cheese picnic basket contains four items packaged together: A bottle of wine, a wine opener, single-serving cheeses, and the picnic basket holding these items. The seller's purchase price for the wine, wine-opener, and picnic basket totals ten dollars. The seller's purchase price for the cheeses is two dollars. The seller must collect retail sales taxes on the entire package, because the seller's purchase price for the taxable items (ten dollars) is greater than fifty percent of the combined purchase price (twelve dollars).

(ii) A retailer sells a decorative jar containing individually wrapped candies for the selling price of fifteen dollars. The retailer sells the decorative jar by itself for the price of five dollars. The retailer's selling price for the candy alone is seven dollars. The retailer is not required to collect retail sales taxes on the decorative jar filled with candies, because the retailer's selling price for the tax exempt candies is greater than its selling price for the taxable jar.

(c) **Incidental packaging.** "Distinct and identifiable items" does not include packaging which is immaterial or incidental to the sale of another item or items. For example, a decorative bag sold filled with candy is not the sale of "distinct and identifiable" items where the bag is merely ornamental packaging immaterial in the sale of the candy.

(d) **Free items.** "Distinct and identifiable items" does not include items provided free of charge. An item is only provided free of charge if the seller's sales price does not vary depending on whether the item is included in the sale.

(6) **What are the seller's accounting requirements?** All sales of food and food ingredients at an establishment will be treated as taxable unless the seller separately accounts for sales of exempt and nonexempt food and food ingredients. It

is sufficient separation for accounting purposes if cash registers or the like are programmed to identify items that are not tax exempt and to calculate and assess the proper sales tax accordingly.

**(7) Are there any other retail sales tax exemptions that apply?**

**(a) Meals served by not-for-profit organizations.** The exemptions apply to meals sold under a state-administered nutrition program for the aged as provided for in the Older Americans Act (Public Law 95-478 Title III) and RCW 74.38.040, and meals sold to or for senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW. The exemptions apply even if the meals would otherwise be considered prepared food.

**(b) Foods exempt under the Federal Food Stamp Act.** Under RCW 82.08.0297, eligible foods under the Food Stamp Act of 1977 purchased with food coupons are exempt from the retail sales tax. This is a separate and broader exemption than the retail sales exemption for food and food ingredients under RCW 82.08.0293. For example, soft drinks and garden seeds are "eligible foods" but are not a "food or food ingredients." If such items are purchased with food coupons, they are exempt from the retail sales tax under RCW 82.08.0297, even though the items do not qualify for the exemption under RCW 82.08.0293.

**(i) Definition of food coupons.** The term "food coupons," as used in this subsection means any coupon, stamp, type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number issued pursuant to the provisions of the Food Stamp Act of 1977. See 7 CFR § 271.2, as amended or renumbered as of January 1, 2003.

**(ii) Use of food coupons combined with other means of payment.** When both food coupons and other means of payment are used in the same sales transaction, for purposes of collecting retail sales taxes, the other means of payment shall be applied first to items which are food and food ingredients exempt under RCW 82.08.0293. The intent is to apply the coupons and other means of payment in such a way as to provide the greatest possible exemption from retail sales tax.

**(iii) Example.** A customer purchases the following at a grocery store: Meat for three dollars, cereal for three dollars, canned soft drinks for five dollars, and soap for two dollars for a total of thirteen dollars. The customer pays with seven dollars in coupons and six dollars in cash. The cash is applied first to the soap because the soap is neither exempt under RCW 82.08.0293 nor an eligible food under the Food Stamp Act. The remaining cash (four dollars) is applied first to the meat and the cereal. The food stamps are applied to the balance of the meat and cereal (two dollars) and to the soft drinks (five dollars). Retail sales tax is due only on the soap.

**(8) Vending machine sales.** The exemptions do not apply to sales of food and food ingredients dispensed from vending machines. There are special requirements for reporting sales tax collected on vending machine sales, discussed in (a) of this subsection. "Honor box" sales (sales of snacks or other items from open display trays) are not considered vending machine sales.

**(a) Calculating and reporting retail sales tax collected on vending machine sales.** Vending machine owners do not need to state the retail sales tax amount separately from the selling price. See RCW 82.08.050(5) and 82.08.0293. Instead, vending machine owners must determine the amount of retail sales tax collected on the sale of food or food ingredients by using one of the following methods:

**(i) Food or food ingredients dispensed in a heated state.** For food or food ingredients dispensed from vending machines in a heated state (e.g., hot coffee, soups, tea, and hot chocolate), a vending machine owner must calculate the amount of retail sales tax that has been collected ("tax in gross") based on the gross vending machine proceeds. The "tax in gross" is a deduction against the gross amount of both retailing B&O and retail sales. The formula is:

$$\text{gross machine proceeds} - [(\text{gross machine proceeds}) / (1 + \text{sales tax rate})] = \text{tax in gross}$$

**(ii) All other food or food ingredients.** For all other food and food ingredients dispensed from vending machines, a vending machine owner must calculate the amount of retail sales tax that has been collected ("tax in gross") based on fifty-seven percent of the gross vending machine proceeds. The "tax in gross" is a deduction against the gross amount of both retailing B&O and retail sales. The formula is:

$$(\text{gross machine proceeds} \times .57) \times \text{sales tax rate} = \text{tax in gross}$$

The remaining 43% of the gross vending machine proceeds, less the "tax in gross" amount, is reported as an exempt food sales deduction against retail sales proceeds only calculated as follows:

$$(\text{gross machine proceeds} \times .43) - \text{tax in gross} = \text{exempt food deduction}$$

**(b) Example.** Jane owns a vending machine business with machines in Spokane and Seattle. In each location, she has a vending machine selling candy, soft drinks, and water and a second vending machine selling hot cocoa and coffee drinks. Her annual sales for the vending machines and the combined retail sales tax rates for Seattle and Spokane are as follows:

	<u>Coffee Machine (cocoa &amp; coffee)</u>	<u>Candy Machine (candy, soft drinks, &amp; water)</u>	<u>Combined Retail Sales Tax Rate</u>
<u>Seattle</u>	<u>\$2,500</u>	<u>\$10,000</u>	<u>.088</u>
<u>Spokane</u>	<u>\$3,000</u>	<u>\$6,000</u>	<u>.086</u>

To determine the amount of retail sales tax she collected on the sale of cocoa and coffee (food dispensed in a heated state), Jane calculates the "tax in gross" amount as follows:

$$\text{gross machine proceeds} - [(\text{gross machine proceeds}) / (1 + \text{sales tax rate})] = \text{tax in gross}$$

$$\begin{aligned} & \$2,500 - (\$2,500 / 1.088) = \$202.21 \text{ (Seattle coffee machine)} \\ & \$3,000 - (\$3,000 / 1.086) = \$237.57 \text{ (Spokane coffee machine)} \end{aligned}$$

\$439.78

Thus, for both retailing B&O and retail sales, Jane must report her total gross coffee machine proceeds of \$5,500 with a "tax in gross" deduction of \$439.78.

To determine the amount of retail sales tax she collected on the sale of candy, soft drinks and water, Jane calculates the "tax in gross" amount as follows:

(gross machine proceeds x .57) x sales tax rate = tax in gross  
\$10,000 x .57 x .088 = \$294.12 (Seattle candy machine)

\$6,000 x .57 x .086 = \$501.60 (Spokane candy machine)

\$795.72

Thus, for both retailing B&O and retail sales, Jane must report her total gross candy machine proceeds of \$16,000 with a "tax in gross" deduction of \$795.72.

Jane must also report an exempt food sales deduction representing the remaining 43% of the gross candy machine proceeds.

(43% x gross machine proceeds) - tax in gross = exempt food deduction

(.43 x \$16,000) - \$795.72 = \$6,084.28

Jane reports the exempt food sales deduction only against the gross amount of her retail sales. The deduction does not apply to retailing B&O.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

### WSR 06-22-096A

#### PROPOSED RULES

#### EXECUTIVE ETHICS BOARD

[Filed November 1, 2006, 10:50 a.m.]

Continuance of WSR 06-20-039.

Preproposal statement of inquiry was filed as WSR [06-16-129 on] August 1, 2006.

Title of Rule and Other Identifying Information: WAC 292-100-007 Definitions, 292-100-045 Executive director dismissals, 292-100-050 Determination on reasonable cause, 292-100-150 Discovery—Production of documents and use at hearing, and 292-100-160 Conduct of hearings.

Hearing Location(s): 2425 Bristol Court, Conference Room 148, Olympia, WA 98504, on November 17, 2006, at 12:30 p.m. **NOTICE: TIME CHANGE.**

Date of Intended Adoption: November 17, 2006.

Submit Written Comments to: Susan Harris, P.O. Box 40149, Olympia, WA 98504-0149, e-mail [susanh4@atg.wa.gov](mailto:susanh4@atg.wa.gov), fax (360) 586-3955.

Assistance for Persons with Disabilities: Contact Ruthann Bryant by November 13, 2006, (360) 586-3265.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This is being filed to notify interested parties of the time change for the hearing. The date of the hearing remains the same.

Statutory Authority for Adoption: RCW 42.52.360 (2)(b).

Statute Being Implemented: Chapter 42.52 RCW.

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

Name of Proponent: Executive ethics board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Harris, 2425 Bristol Court, Olympia, WA 98504, (360) 586-6759.

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.

Susan Harris  
Executive Director

### WSR 06-22-097

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Filed November 1, 2006, 10:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-084.

Title of Rule and Other Identifying Information: WAC 246-854-030 Osteopathic physician assistant prescriptions, establishes standards to allow osteopathic physician assistants to prescribe, order and dispense legend drugs and schedule II-V controlled substances.

Hearing Location(s): St. Francis Hospital, 34515 9th Avenue South, Federal Way, WA 98003, on January 26, 2007, at 9:30 a.m.

Date of Intended Adoption: January 26, 2007.

Submit Written Comments to: Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2406, by January 19, 2007.

Assistance for Persons with Disabilities: Contact Arlene Robertson by January 19, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal establishes and clarifies the types of drugs that can be prescribed, ordered, and dispensed by an osteopathic physician assistant. The proposal also indicates that prescriptions must be written in accordance with state and federal drug laws. In addition, the proposal removes the requirement that the osteopathic physician supervisor must approve or sign for all drugs prior to administration, dispensing, or releasing the medication to the patient.

Reasons Supporting Proposal: The proposed changes will establish parity and consistent practice standards for prescribing legend drugs and schedule II-V controlled substances between osteopathic and allopathic physician assistants. The rules will result in greater access to care. The osteopathic physician supervisor remains responsible for patient oversight.

Statutory Authority for Adoption: RCW 18.57A.020.

Statute Being Implemented: Chapter 18.57A RCW.

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

Name of Proponent: Department of health, board of osteopathic medicine and surgery, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Arlene Robertson, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4945.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Per RCW 19.85.030, a small business economic impact statement was not prepared because the proposed rule language does not impose more than minor costs to businesses within an industry. In fact, they do not impose additional costs at all.

A copy of the statement may be obtained by contacting Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail arlene.robertson@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail arlene.robertson@doh.wa.gov.

October 31, 2006

Blake T. Maresh  
Executive Director

AMENDATORY SECTION (Amending WSR 93-24-028, filed 11/22/93, effective 12/23/93)

**WAC 246-854-030 Osteopathic physician assistant prescriptions.** (1) An osteopathic physician assistant may issue written or oral prescriptions as provided (~~herein~~) in this section when designated by the supervising physician on the practice plan and approved by the board (~~and assigned by the supervising physician~~).

~~((1) Except for schedule two controlled substances as listed under federal and state controlled substances acts, a physician assistant may issue prescriptions for a patient who is under the care of the physician responsible for the supervision of the physician assistant.~~

~~(a) Written prescriptions shall be written on the blank of the supervising physician and shall include the name, address and telephone number of the physician and physician assistant. The prescription shall also bear the name and address of the patient and the date on which the prescription was written.~~

~~(b) The physician assistant shall sign such a prescription by signing his or her own name followed by the letters "P.A." and the physician assistant license number or~~ (a) An osteopathic physician assistant certified by the National Commission on Certification of Physician Assistants (P.A.-C.) may issue prescriptions for legend drugs and Schedule II through V controlled substances.

(b) A noncertified osteopathic physician assistant (P.A.) may issue prescriptions for legend drugs and Schedule III through V controlled substances.

(2) Written prescriptions shall comply with state and federal prescription writing laws. The osteopathic physician

assistant shall sign a prescription by using his or her own name followed by the letters "P.A." to designate a noncertified osteopathic physician assistant, or "P.A.-C." to designate a certified osteopathic physician assistant and the physician assistant's license number.

~~(3) Prescriptions for Schedule II through V controlled substances must include the osteopathic physician assistant drug enforcement administration registration number or, if none, the supervising physician's drug enforcement administration registration number(, followed by the initials "P.A." and the physician assistant license number issued by the board.~~

~~(e) Prescriptions for legend drugs and schedule three through five controlled substances must each be approved or signed by the supervising physician prior to administration, dispensing or release of the medication to the patient, except as provided in subsection (5) of this section).~~

~~((2) A)) (4) An osteopathic physician assistant may issue prescriptions for a patient who is under his or her care or the care of the supervising osteopathic physician.~~

(5) An osteopathic physician assistant employed or having been extended privileges by a hospital, nursing home or other health care institution may, if permissible under the bylaws(;) and rules ((and regulations)) of the institution, ((write medical orders, except those for schedule two controlled substances,)) order pharmaceutical agents for inpatients under his or her care or the care of the supervising osteopathic physician ((responsible for his or her supervision)).

~~((3) The license of a physician assistant who issues a prescription in violation of these provisions shall be subject to revocation or suspension.~~

~~(4)) (6) An osteopathic physician assistant may dispense legend drugs and controlled substances from office supplies. An osteopathic physician assistant(s) may ((not)) dispense prescription drugs ((to exceed)) for treatment ((for)) up to forty-eight hours(, except as provided in subsection (6) of this section). The medication so dispensed must comply with the state law prescription labeling requirements.~~

~~((5) Authority to issue prescriptions for legend drugs and schedule three through five controlled substances without the prior approval or signature of the supervising physician may be granted by the board to an osteopathic physician assistant who has:~~

~~(a) Provided a statement signed by)) (7) The supervising physician ((that he or she)) shall assume((s)) full responsibility ((and that he or she will)) for review of the osteopathic physician assistant's prescription writing practice on an ongoing basis(;~~

~~(b) A certificate from the National Commission on Certification of Physician Assistants;~~

~~(c) Demonstrated the necessity in the practice for authority to be granted permitting a physician assistant to issue prescriptions without prior approval or signature of the supervising physician.~~

~~(6) A physician assistant authorized to issue prescriptions under subsection (5) of this section may dispense medications the physician assistant has prescribed from office supplies. The physician assistant shall comply with the state laws concerning prescription labeling requirements).~~

**WSR 06-22-098**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (Board of Pharmacy)  
 [Filed November 1, 2006, 10:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-11-022.

Title of Rule and Other Identifying Information: New chapter 246-860 WAC, Standards of professional conduct, including WAC 246-860-010 Purpose of chapter, 246-860-020 Definitions, and 246-860-100 Sexual misconduct. The proposed rules establish clear and consistent definitions of sexual misconduct by health care practitioners regulated by the board of pharmacy.

Hearing Location(s): Department of Health, Center-Point Corporate Park, Creekside Building #3, 2nd Floor, Room 1, 20435 72nd Avenue, Kent, WA 98032, on December 14, 2006, at 9:00 a.m.

Date of Intended Adoption: December 14, 2006.

Submit Written Comments to: Doreen Beebe, Washington Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 586-4359, by November 30, 2006.

Assistance for Persons with Disabilities: Contact Doreen Beebe by December 4, 2006, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will provide an additional tool to protect patients' health and safety by establishing clear definitions for sexual misconduct. The proposed rules are anticipated to help the pharmacist, pharmacy interns, and pharmacy ancillary personnel avoid sexual misconduct and to educate consumers about the expectations for professional conduct related to this issue.

Reasons Supporting Proposal: There are no rules that currently define sexual misconduct related to the practice of pharmacy. In response to the Governor's Executive Order 06-03, the proposed rule provides a comprehensive definition of sexual misconduct and establishes clear expectations for pharmacists, interns and pharmacy ancillary personnel.

Statutory Authority for Adoption: RCW 18.64.005 and 18.130.050.

Statute Being Implemented: RCW 18.130.180.

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

Name of Proponent: Department of health, board of pharmacy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lisa Salmi, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, (360) 236-4825.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department of health has reviewed the proposal and determined no small business economic impact statement is required. The proposed rules are exempt from RCW 19.85.030 because it does not impose more than minor costs on businesses within the practice of pharmacy. There will be no cost to health care

practitioners who comply with the proposed rules and do not engage in the unprofessional conduct of sexual misconduct.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Doreen Beebe, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, phone (360) 236-4834, fax (360) 586-4359, e-mail [doreen.beebe@doh.wa.gov](mailto:doreen.beebe@doh.wa.gov).

November 1, 2006

Lisa Salmi

Acting Executive Director

### Chapter 246-860 WAC

#### STANDARDS OF PROFESSIONAL CONDUCT

##### NEW SECTION

**WAC 246-860-010 Purpose of chapter.** The rules in this chapter define certain acts of unprofessional conduct for all individual holders of licenses, registrations and certifications issued by the board of pharmacy.

##### NEW SECTION

**WAC 246-860-020 Definitions.** (1) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(2) "Health care provider" means an individual applying for a credential or credentialed as a pharmacist, pharmacy intern or pharmacy ancillary personnel.

(3) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(4) "Legitimate health care purpose" means activities consistent with community standards for the practice of pharmacy as defined in RCW 18.64.011(11).

(5) "Patient" or "client" means an individual who receives health care from a health care provider.

(6) "Pharmacist" means a person licensed by the Washington state board of pharmacy to engage in the practice of pharmacy.

(7) "Pharmacy ancillary personnel" means persons certified as a pharmacy technician or registered as a pharmacy assistant under chapter 18.64A RCW to engage in the practice of pharmacy under the direct supervision of a licensed pharmacist and to the extent permitted by the board in accordance with chapter 18.64A RCW.

(8) "Pharmacy intern" means a person registered by the Washington state board of pharmacy to engage in the practice of pharmacy.



**SEXUAL MISCONDUCT**NEW SECTION

**WAC 246-860-100 Sexual misconduct.** (1) A health care provider shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes but is not limited to:

- (a) Sexual intercourse;
- (b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice within the health care practitioner's scope of practice;
- (c) Rubbing against a patient or client or key party for sexual gratification;
- (d) Kissing;
- (e) Hugging, touching, fondling or caressing of a romantic or sexual nature;
- (f) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;
- (g) Not providing the patient or client a gown or draping except as may be necessary in emergencies;
- (h) Dressing or undressing in the presence of the patient, client or key party;
- (i) Removing patient's or client's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;
- (j) Encouraging masturbation or other sex act in the presence of the health care provider;
- (k) Masturbation or other sex act by the health care provider in the presence of the patient, client or key party;
- (l) Suggesting or discussing the possibility of a dating, sexual or romantic relationship after the professional relationship ends;
- (m) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;
- (n) Soliciting a date with a patient, client or key party;
- (o) Discussing the sexual history, preferences or fantasies of the health care provider;
- (p) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;
- (q) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;
- (r) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;
- (s) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and
- (t) Showing a patient, client or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) A health care provider shall not:

- (a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the health care provider's sexual needs.

(3) A health care provider shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section if:

(a) There is a significant likelihood that the patient, client or key party will seek or require additional services from the health care provider; or

(b) There is an imbalance of power, influence, opportunity and/or special knowledge of the professional relationship.

(4) When evaluating whether a health care provider is prohibited from engaging, or attempting to engage, in sexual misconduct, the board will consider factors, including but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the provider-patient relationship;

(b) Transfer of care to another health care provider;

(c) Duration of the provider-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient or client;

(e) Communication between the health care provider and the patient or client between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's or client's personal or private information was shared with the health care provider;

(g) Nature of the patient or client's health condition during and since the professional relationship;

(h) The patient or client's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

(5) Patient, client or key party initiation or consent does not excuse or negate the health care provider's responsibility.

(6) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to that profession; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the health care provider where there is no evidence of, or potential for, exploiting the patient or client.

**WSR 06-22-099****PROPOSED RULES****DEPARTMENT OF HEALTH**

(Veterinary Board of Governors)

[Filed November 1, 2006, 10:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-11-021.

Title of Rule and Other Identifying Information: New chapter 246-934 WAC, Standards of professional conduct, including WAC 246-934-010 Purpose of chapter, 246-934-020 Definitions, and 246-934-100 Sexual misconduct. The proposed rules establish a clear definition of sexual misconduct for health care providers regulated by the veterinary board of governors including individuals who have applied for a credential or who are credentialed as a veterinarian, veterinary technician or veterinary medication clerk.

Hearing Location(s): Center Point Corporate Park, 20435 72nd South, Kent, WA, on December 11, 2006, at 10:00 a.m.

Date of Intended Adoption: December 11, 2006.

Submit Written Comments to: Judy Haenke, Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, (360) 236-4947, judy.haenke@doh.wa.gov, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 586-4359, by December 1, 2006.

Assistance for Persons with Disabilities: Contact Judy Haenke by December 1, 2006, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will establish a clear definition for sexual misconduct. The proposed rules will help health care providers regulated by the veterinary board of governors avoid sexual misconduct and educate consumers about what should be expected from health care providers.

Reasons Supporting Proposal: Currently, there is no definition of sexual misconduct for veterinary professions. The proposed rules will establish a clear definition of sexual misconduct and establish expectations for conduct by veterinary health care providers. Executive Order 06-03, Investigation of Health Professional Sexual Misconduct, requires a comprehensive definition of sexual misconduct.

Statutory Authority for Adoption: RCW 18.92.030 and 18.130.050 (1), (12).

Statute Being Implemented: RCW 18.130.180 and 18.92.030.

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

Name of Proponent: Department of health, veterinary board of governors, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Haenke, Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, (360) 236-4947.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department of health has reviewed the proposal and determined no small business economic impact statement is required because the proposed rules do not impose more than minor costs on businesses within the industry per RCW 19.85.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Judy Haenke, P.O. Box 47868, Olym-

pia, WA 98504-7868, phone (360) 236-4947, fax (360) 586-4359, e-mail judy.haenke@doh.wa.gov.

October 31, 2006

Lisa Salmi

Acting Executive Director

## Chapter 246-934 WAC

### STANDARDS OF PROFESSIONAL CONDUCT

#### NEW SECTION

**WAC 246-934-010 Purpose of chapter.** The rules in this chapter define certain acts of unprofessional conduct for applicants or holders of licenses or registrations issued by the veterinary board of governors.

#### NEW SECTION

**WAC 246-934-020 Definitions.** (1) "Animal" means every creature, either alive or dead, other than a human being.

(2) "Board" means the veterinary board of governors.

(3) "Health care information" means any health care information, in any form that is associated with the key party, the patient or the health care of a patient.

(4) "Health care provider" means an individual applying for a credential or credentialed as a veterinary medication clerk, veterinary technician or veterinarian.

(5) "Key party" means persons who would be reasonably expected to play a significant role in the health care decisions for the patient and includes the owner, human companion, guardian, manager or trainer.

(6) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of patients, including palliative care, as consistent with community standards of practice for the profession. The activity must be within the scope of practice of the health care provider.

(7) "Patient" means an animal under the care and treatment of a health care provider.

(8) "Veterinary medication clerk" means a person who is registered under chapter 18.92 RCW to practice as a veterinary medication clerk.

(9) "Veterinary technician" means a person who is registered under chapter 18.92 RCW to practice as a veterinary technician.

(10) "Veterinarian" means a person who is licensed under chapter 18.92 RCW to practice veterinary medicine, surgery and dentistry in the state of Washington.

### SEXUAL MISCONDUCT

#### NEW SECTION

**WAC 246-934-100 Sexual misconduct.** (1) A health care provider shall not engage, or attempt to engage, in sexual misconduct with a key party, inside or outside the health care setting. Key party initiation or consent does not excuse or negate the health care provider's responsibility. Sexual mis-

conduct shall constitute grounds for disciplinary action. Sexual misconduct includes but is not limited to:

- (a) Sexual intercourse;
  - (b) Touching the breasts, genitals, anus or any sexualized body part;
  - (c) Rubbing against a key party for sexual gratification;
  - (d) Kissing, touching, fondling or caressing of a romantic or sexual nature;
  - (e) Encouraging masturbation or other sex act in the presence of the health care provider;
  - (f) Masturbation or other sex act by the health care provider in the presence of the key party;
  - (g) Suggesting the possibility of a dating, sexual or romantic relationship;
  - (h) Discussing the sexual history, preferences or fantasies of the health care provider;
  - (i) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;
  - (j) Making statements regarding the key party's body, sexual history, or sexual orientation;
  - (k) Any verbal or physical contact which may reasonably be interpreted as sexually demeaning;
  - (l) Taking sexually explicit photographs or films of a key party;
  - (m) Showing a key party sexually explicit photographs.
- (2) A health care provider shall not:
- (a) Offer to provide health care services or professional knowledge in exchange for sexual favors;
  - (b) Use health care information to contact the key party for the purpose of engaging in sexual misconduct or to meet the health care provider's sexual needs.
  - (3) A health care provider shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former key party when:
    - (a) There is a significant likelihood that the key party will seek or require additional services from the health care provider; or
    - (b) The provider uses or exploits the trust, knowledge, influence or emotions derived from the professional relationship; or
    - (c) The health care provider uses or exploits privileged information or access to privileged information to meet the health care provider's sexual needs.
  - (4) When evaluating whether a health care provider is attempting to engage, or has engaged, in sexual misconduct, the board may consider factors, including but not limited to:
    - (a) Documentation of a formal termination and the circumstances of termination of the health care provider-patient relationship;
    - (b) Transfer of care to another health care provider;
    - (c) Duration of the health care provider-patient relationship;
    - (d) Amount of time that has passed since the last health care services were rendered to the patient;
    - (e) Communication between the health care provider and the key party between the last health care services rendered and commencement of the personal relationship;
    - (f) Nature of the patient's health condition during and since the professional relationship;

- (g) The key party's emotional dependence and vulnerability; and
  - (h) Normal revisit cycle for the profession and service.
- (5) These rules do not prohibit:
- (a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;
  - (b) Contact that is necessary for legitimate health care purpose and that meets the standard of care appropriate to the profession; or
  - (c) Providing health care services for a legitimate health care purpose to an animal patient for a key party who is in a preexisting, established personal relationship with a health care provider where there is no evidence of, or potential for, exploiting the key party.
  - (6) Sexual conduct or sexual contact with an animal as defined in RCW 16.52.205 is unprofessional conduct. Violation of RCW 16.52.205 will be reported to the appropriate jurisdiction.

#### WSR 06-22-100

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Filed November 1, 2006, 10:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-17-056.

Title of Rule and Other Identifying Information: New sections WAC 246-854-010 Approved training and additional skills and procedures, 246-854-015 Utilization and supervision of an osteopathic physician assistant, 246-854-025 Remote practice site—Utilization, 246-854-035 Osteopathic physician assistant—Scope of practice and 246-854-085 Interim permit—Qualifications and interim permit requirements; amended section WAC 246-854-080 Osteopathic physician assistant application for licensure—Qualifications and requirements; and repealed sections WAC 246-854-020 and 246-854-090.

Hearing Location(s): St. Francis Hospital, 34515 9th Avenue South, Federal Way, WA 98003, on January 26, 2007, at 9:30 a.m.

Date of Intended Adoption: January 26, 2007.

Submit Written Comments to: Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2406, by January 19, 2007.

Assistance for Persons with Disabilities: Contact Arlene Robertson by January 19, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 246-854-020, the proposal specifies the level of education and training needed for osteopathic physician assistants (PA) by identifying approved programs. Accredited programs will provide consistent training standards for licensure eligibility. Proposed language also provides for training and approval of new skills.

WAC 246-854-080, the proposal identifies the National Commission on Certification of Physician Assistants examination as being approved by the board of osteopathic medicine and surgery (board) to meet the minimal qualifications for licensure. The examination implements legislative changes made by SB 5702 in 1999.

New section WAC 246-854-085, the proposal provides for an interim permit for one-year until the licensee can pass the examination. Since the interim permit is a new license category, a new section has been established which defines permitted practice. The interim permit implements legislative changes made by SB 5702.

WAC 246-854-090, the proposed modifications will permit an osteopathic physician to supervise multiple PAs without special board approval; address required chart reviews for licensed PAs; clarify that PAs may sign birth and death certificates; require notification of termination of the osteopathic physician/osteopathic physician assistant relationship to the board from both parties. These proposed changes are needed so that practice standards will be similar to allopathic physician assistants. The proposals will reduce the supervisory burden on osteopathic physicians while maintaining oversight of the PAs' practice.

Reasons Supporting Proposal: The proposed rules will allow more flexibility in most practices, especially rural areas and remote practices, by allowing 10% of the charts to be reviewed after the first thirty days of practice. These and the other proposed changes provide more consistency with the practice and supervision standards established for allopathic physician assistants.

Statutory Authority for Adoption: RCW 18.57.005, 18.57A.020.

Statute Being Implemented: Chapter 18.57A RCW.

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

Name of Proponent: Department of health, board of osteopathic medicine and surgery, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Arlene Robertson, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4945.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department did not complete a small business economic impact statement under RCW 19.85.030(1) because the rule does not impose costs to businesses within an industry.

A copy of the statement may be obtained by contacting Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail arlene.robertson@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail arlene.robertson@doh.wa.gov.

October 16, 2006

Blake T. Maresh  
Executive Director

#### NEW SECTION

**WAC 246-854-010 Approved training and additional skills or procedures.** (1) "Board approved program" means a physician assistant program accredited by:

(a) The committee on allied health education and accreditation (CAHEA);

(b) The commission on accreditation of allied health education programs (CAAHEP);

(c) The accreditation review committee on education for the physician assistant (ARC-PA); or

(d) Any successor accrediting organization utilizing the same standards.

(2) An individual enrolled in an accredited board approved program for physician assistants may function only in direct association with his or her preceptorship physician or a delegated alternate physician in the immediate clinical setting. A trainee may not function in a remote location or in the absence of the preceptor.

(3) If an osteopathic physician assistant is being trained to perform additional skills or procedures beyond those established by the board, the training must be carried out under the direct, personal supervision of the supervising osteopathic physician or other qualified physician familiar with the practice plan of the osteopathic physician assistant. The training arrangement must be mutually agreed upon by the supervising osteopathic physician and the osteopathic physician assistant.

(4) Requests for approval of newly acquired skills or procedures shall be submitted in writing to the board, including a certificate by the program director or other acceptable evidence showing that he or she was trained in the additional skill or procedure for which authorization is requested. The board will review the evidence to determine whether the applicant has adequate knowledge to perform the additional skill or procedure.

#### NEW SECTION

**WAC 246-854-015 Utilization and supervision of an osteopathic physician assistant.** (1) Unless otherwise stated, for the purposes of this section reference to "osteopathic physician assistant" means a licensed osteopathic physician assistant or interim permit holder.

(2) A credentialed osteopathic physician assistant may not practice until the board approves a practice plan jointly submitted by the osteopathic physician assistant and osteopathic physician or physician group under whose supervision the osteopathic physician assistant will practice. The osteopathic physician assistant must submit the fee under WAC 246-853-990(5) with the practice plan.

(3) An osteopathic physician may supervise three osteopathic physician assistants. The board may consider requests to supervise more than three osteopathic physician assistants based on the individual qualifications and experience of the osteopathic physician and osteopathic physician assistant, community need, and review mechanisms identified in the approved practice plan.

(4) The osteopathic physician assistant shall practice only in the locations designated in the practice plan.

(5) The osteopathic physician assistant and supervising osteopathic physician shall ensure that:

(a) The supervising osteopathic physician timely reviews all reports of abnormalities and significant deviations, including the patient's chart;

(b) The charts of all patients seen by the osteopathic physician assistant are immediately and properly documented to include the activities, functions, services and treatment measures performed by the osteopathic physician assistant;

(c) All telephone advice given through the osteopathic physician assistant by the supervising osteopathic physician, alternate supervising physician, or member of a supervising physician group are documented in the patient's record;

(d) The supervising osteopathic physician provides adequate supervision and review of the osteopathic physician assistant's practice. The supervising osteopathic physician or designated alternate physician shall review and countersign:

(i) All charts of the licensed osteopathic physician assistant within seven working days for the first thirty days of practice and thereafter ten percent of their charts, including clinic, emergency room, and hospital patients within seven working days.

(ii) Every chart entry of an interim permit holder within two working days;

(e) The osteopathic physician assistant, at all times when meeting or treating patients, wears identification or a badge identifying him or her as an osteopathic physician assistant;

(f) The osteopathic physician assistant is represented in a manner which would not be misleading to the public as to his or her title.

(6) The osteopathic physician assistant shall notify the supervisor within twenty-four hours of any significant deviation in a patient's ongoing condition as identified by EKGs, laboratory tests, or X rays not read by a radiologist.

(7) In the temporary absence of the supervising osteopathic physician, the osteopathic physician assistant may carry out those tasks for which he or she is credentialed, if the supervisory and review mechanisms are provided by a designated alternate supervisor. If an alternate osteopathic physician is not available in the community or practice, the board may authorize a physician licensed under chapter 18.71 RCW or physician group to act as the alternate physician supervisor. If a physician group is proposed as a designated alternate supervisor, the practice plan must specify how supervising responsibility is to be assigned among the members of the group.

(8) The supervising osteopathic physician and the osteopathic physician assistant shall advise the board of the termination date of the working relationship. The notification must be submitted in writing within thirty days of termination and include a written report indicating the reasons for termination.

(9) In the event that an osteopathic physician assistant who is currently credentialed desires to become associated with another osteopathic physician or physician group, he or she must submit a new practice plan and submit the fee under WAC 246-853-990(5). Board approval of the new relationship is required before the osteopathic physician assistant may begin practice under the new supervising physician. A physician assistant being supervised by an allopathic physi-

cian (MD) must be licensed and have an approved practice plan as provided in chapter 18.71A RCW.

(10) An osteopathic physician assistant working in or for a hospital, clinic or other health organization must be credentialed. His or her responsibilities to any other physicians must be defined in the board approved practice plan.

#### NEW SECTION

##### **WAC 246-854-025 Remote practice site—Utilization.**

(1) "Remote practice site" means a setting physically separate from the supervising osteopathic physician's primary practice location or a setting where the osteopathic physician is present less than twenty-five percent of the practice time of the osteopathic physician assistant.

(2) The board may approve a practice plan proposing utilization of an osteopathic physician assistant at a remote practice site if:

(a) There is a demonstrated need for this utilization;

(b) There is adequate means for immediate communication between the primary osteopathic physician or alternate physician and the osteopathic physician assistant;

(c) The supervising osteopathic physician spends at least ten percent of the documented and scheduled practice time of the osteopathic physician assistant in the remote office site. In the case of part time or unique practice settings, the osteopathic physician may petition the board to modify the on-site requirement provided adequate supervision is maintained by an alternate method. The board will consider each request on an individual basis;

(d) The names of the supervising osteopathic physician and osteopathic physician assistant must be prominently displayed at the entrance to the clinic or in the reception area.

(3) No osteopathic physician assistant holding an interim permit shall be utilized in a remote practice site.

#### NEW SECTION

##### **WAC 246-854-035 Osteopathic physician assistant—**

**Scope of practice.** (1) For the purpose of this section, reference to "osteopathic physician assistant" means a licensed osteopathic physician assistant or interim permit holder.

(2) The osteopathic physician assistant may perform services for which they have been trained and approved in a practice plan by the board. Those services summarized in the standardized procedures reference and guidelines established by the board may be performed by the osteopathic physician assistant unless limited in the approved practice plan.

(3) An osteopathic physician assistant may sign and attest to any document that might ordinarily be signed by a licensed osteopathic physician, to include, but not be limited to, such things as birth and death certificates.

(4) An osteopathic physician assistant may prescribe legend drugs and controlled substances as permitted in WAC 246-854-030.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

##### **WAC 246-854-080 Osteopathic physician assistant licensure—Qualifications and requirements.** ((The appli-

education shall detail the education, training, and experience of the osteopathic physician assistant and provide such other information as may be required. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250. Each applicant shall furnish proof satisfactory to the board of the following:

(1) That the applicant has completed an accredited physician assistant program approved by the board and is eligible to take the National Commission on Certification of Physician Assistants examination;

(2) That the applicant has not committed unprofessional conduct as defined in RCW 18.130.180; and

(3) That the applicant is physically and mentally capable of practicing as an osteopathic physician assistant with reasonable skill and safety.) (1) Individuals applying to the board under chapter 18.57A RCW after July 1, 1999, must have graduated from an accredited board approved physician assistant program and successfully passed the National Commission on Certification of Physician Assistants examination;

(2) Subsection (1) of this section does not apply to an osteopathic physician assistant licensed prior to July 1, 1999.

(3) An applicant applying for licensure as an osteopathic physician assistant must submit an application on forms supplied by the board. The application must detail the education, training, and experience of the osteopathic physician assistant and provide other information as may be required. The application must be accompanied by a fee determined by the secretary under RCW 43.70.250 as specified in WAC 246-853-990(5).

(4) Each applicant shall furnish proof of the following, which must be approved by the board:

(a) The applicant has completed an accredited board approved physician assistant program;

(b) The applicant has successfully passed the National Commission on Certification of Physician Assistants examination;

(c) The applicant has not committed unprofessional conduct as defined in RCW 18.130.180; and

(d) The applicant is physically and mentally capable of practicing as an osteopathic physician assistant with reasonable skill and safety.

(5) The board will only consider complete applications with all supporting documents for licensure.

(6) An osteopathic physician assistant may not begin practice without written board approval of the practice plan for each working relationship.

#### NEW SECTION

**WAC 246-854-085 Interim permit—Qualifications and interim permit requirements.** (1) Individuals applying to the board for an interim permit under RCW 18.57A.020(1) must have graduated from an accredited board approved physician assistant program.

(2) Interim permit holders will have one year from issuance of the interim permit to successfully pass the National Commission on Certification of Physician Assistants examination.

(3) An applicant applying for an osteopathic physician assistant interim permit must submit an application on forms supplied by the board. The application must detail the education, training, and experience of the osteopathic physician assistant and provide other information as may be required. The application must be accompanied by a fee determined by the secretary under RCW 43.70.250 as specified in WAC 246-853-990(5).

(4) Each applicant shall furnish proof of the following, which must be approved by the board:

(a) The applicant has completed an accredited physician assistant program approved by the board;

(b) The applicant is eligible to take the National Commission on Certification of Physician Assistants examination;

(c) The applicant has not committed unprofessional conduct as defined in RCW 18.130.180; and

(d) The applicant is physically and mentally capable of practicing as an osteopathic physician assistant with reasonable skill and safety.

(5) The board will only consider complete applications with all supporting documents for the interim permit.

(6) An osteopathic physician assistant may not begin practice without written board approval of the practice plan for each working relationship.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-854-020	Osteopathic physician assistant program.
WAC 246-854-090	Osteopathic physician assistant practice plan.

#### WSR 06-22-101

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

(Board of Nursing Home Administrators)

[Filed November 1, 2006, 10:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-11-090.

Title of Rule and Other Identifying Information: New rule WAC 246-843-270 Definitions for sexual misconduct and 246-843-280 Sexual misconduct, the proposed rules establish clear and consistent definitions of sexual misconduct by nursing home administrators.

Hearing Location(s): Department of Health, Point Plaza East, Room 139, 310 Israel Road S.E., Tumwater, WA, on December 8, 2006, at 10:00.

Date of Intended Adoption: December 8, 2006.

Submit Written Comments to: Kendra Pitzler, Department of Health, P.O. Box 47864, Olympia, WA 98504-7864, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4738, by December 7, 2006.

Assistance for Persons with Disabilities: Contact Kendra Pitzler by November 27, 2006, TTY (800) 833-6388 or 711.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The proposed rules will establish clear definitions for sexual misconduct by nursing home administrators. The proposed rules are anticipated to help nursing home administrators avoid sexual misconduct and to educate consumers about what they should expect from nursing home administrators.

**Reasons Supporting Proposal:** Currently, nursing home administrators have no definition for sexual misconduct. The proposed rules will establish a clear and consistent definition of sexual misconduct and establish expectations for nursing home administrator conduct. Executive Order 06-03, Investigation of Health Professional Sexual Misconduct, requires a comprehensive definition of sexual misconduct for all health care professionals.

**Statutory Authority for Adoption:** RCW 18.130.050 (1) and (12) and 18.52.061(1).

**Statute Being Implemented:** RCW 18.130.180.

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

**Name of Proponent:** Department of health, board of nursing home administrators, governmental.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Kendra Pitzler, Department of Health, P.O. Box 47864, Olympia, WA 98504-7864, (360) 236-4723.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department of health has reviewed the proposal. Per RCW 19.85.030, no small business economic impact statement is required because the proposed rules do not impose more than minor costs on businesses within the industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kendra Pitzler, Department of Health, P.O. Box 47864, Olympia, WA 98504-7864, phone (360) 236-4723, fax (360) 236-4738, e-mail kendra.pitzler@doh.wa.gov.

October 31, 2006

Kendra Pitzler

Health Services Consultant 3

## STANDARDS OF SEXUAL MISCONDUCT

### NEW SECTION

**WAC 246-843-270 Definitions for sexual misconduct.** (1) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(2) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(3) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of patients or clients, including palliative care, as consistent with community standards of practice for the profession. The activity must be within the scope of practice of the nursing home administrator.

(4) "Nursing home administrator" means an individual applying for a credential or credentialed as a nursing home administrator under chapter 18.52 RCW.

(5) "Patient" or "client" means an individual who receives health care in a nursing home under the administrative charge of the nursing home administrator.

### NEW SECTION

**WAC 246-843-280 Sexual misconduct.** (1) A nursing home administrator shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes but is not limited to:

- (a) Sexual intercourse;
- (b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice for examination, diagnosis and treatment and within the nursing home administrator's scope of practice;
- (c) Rubbing against a patient or client or key party for sexual gratification;
- (d) Kissing of a romantic or sexual nature;
- (e) Hugging, touching, fondling or caressing of a romantic or sexual nature;
- (f) Examination of or touching genitals without using gloves;
- (g) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;
- (h) Not providing the patient or client a gown or draping except as may be necessary in emergencies;
- (i) Dressing or undressing in the presence of the patient, client or key party;
- (j) Removing patient or client's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;
- (k) Encouraging masturbation or other sex act in the presence of the nursing home administrator;
- (l) Masturbation or other sex act by the nursing home administrator in the presence of the patient, client or key party;
- (m) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;
- (n) Soliciting a date with a patient, client or key party;
- (o) Discussing the sexual history, preferences or fantasies of the nursing home administrator;
- (p) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;
- (q) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;

(r) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;

(s) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and

(t) Showing a patient, client or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) A nursing home administrator shall not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the nursing home administrator's sexual needs.

(3) A nursing home administrator shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former patient, client or key party within two years after the provider-patient/client relationship ends.

(4) After the two-year period of time described in subsection (3) of this section, a nursing home administrator shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section if:

(a) There is a significant likelihood that the patient, client or key party will seek or require additional services from the nursing home administrator; or

(b) There is an imbalance of power, influence, opportunity and/or special knowledge of the professional relationship.

(5) When evaluating whether a nursing home administrator is prohibited from engaging, or attempting to engage, in sexual misconduct, the board of examiners for nursing home administrators will consider factors, including but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the nursing home administrator-patient relationship;

(b) Transfer of care to another nursing home administrator;

(c) Duration of the nursing home administrator-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient or client;

(e) Communication between the nursing home administrator and the patient or client between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's or client's personal or private information was shared with the nursing home administrator;

(g) Nature of the patient or client's health condition during and since the professional relationship;

(h) The patient or client's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

(6) Patient, client or key party initiation or consent does not excuse or negate the health care provider's responsibility.

(7) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another nursing home administrator;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to nursing home administrators; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the nursing home administrator where there is no evidence of, or potential for, exploiting the patient or client.

## WSR 06-22-102

### PROPOSED RULES

### DEPARTMENT OF HEALTH

(Podiatric Medical Board)

[Filed November 1, 2006, 10:58 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-084.

Title of Rule and Other Identifying Information: The proposed rules will add new sections to chapter 246-922 WAC including WAC 246-922-510 Use of controlled substance for pain control, 246-922-520 What specific guidance should a podiatric physician follow?, 246-922-530 What knowledge should a podiatric physician who elects to treat chronic pain patients possess?, and 246-922-540 How will the board evaluate prescribing for pain?

Hearing Location(s): Clarion Hotel, 3000 South 176th Street, SeaTac, WA 98188, on January 18, 2007, at 9:30 a.m.

Date of Intended Adoption: January 18, 2007.

Submit Written Comments to: Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2406, by January 12, 2007.

Assistance for Persons with Disabilities: Contact Arlene Robertson by January 12, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The podiatric medical board (board) adopted pain management guidelines for prescribing, dispensing, and administering opioids. These guidelines became effective on November 1, 1996. However, guidelines are used as a reference tool but do not have the force of law. Rules are being established to set standards when prescribing and treating acute, chronic and intractable pain patients. Currently without rules in place the access to pain management care for podiatric patients is limited. As a result of establishing rules, under-treatment of chronic pain may be reduced and access to care enhanced.

Reasons Supporting Proposal: The proposed rules will alleviate the legal concerns and apprehensions of providers when managing pain with opioid therapy. The proposed rules will also increase access to appropriate medical treatment for pain management patients. Productivity and quality



of life of patients will be improved with effective pain management.

Statutory Authority for Adoption: RCW 18.22.015, 18.130.050.

Statute Being Implemented: Chapter 18.22 RCW.

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

Name of Proponent: Department of health, podiatric medical board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Arlene Robertson, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4945.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

**1. Briefly describe the proposed rule:** The Washington podiatric medical board (board) adopted podiatric physician guidelines for prescribing, dispensing, and administering opioids, also known as pain management guidelines. These guidelines became effective on September 13, 1996. The guidelines describe approved opioid therapy for acute, chronic, and intractable pain patients. However, the guidelines do not protect the podiatric physician who manages pain through opioid therapy to practice without fear of injudicious discipline from the board regarding such things as drug addition and diversion. As a result, under-treatment of chronic pain affects the public health, safety, and welfare of the resi-

dents of Washington state. In order to improve patient care and access to care, new sections in the Washington Administrative Code (WAC) are needed to reassure podiatric physicians they can use opioids to effectively manage pain.

The proposed rule will:

- Reassure podiatric physicians who are treating pain consistent with currently acceptable medical practice that they need not fear disciplinary action by the board for prescribing, dispensing, or administering controlled substances, including opioids.
- Advise podiatric physicians to follow the preestablished pain management guidelines that specifically address the patient evaluation and treatment plan, informed consent, periodic reviews, use of consultations and the necessity for maintaining accurate and complete medical records.
- Describe the need for a podiatric physician to possess knowledge about the complexity of pain terminology and treatment modalities.
- Assure that patient care is clinically sound. The proposal will provide a basis for the board to assess care provided against established standards.

**2. Is a small business economic impact statement (SBEIS) required for this rule?** Yes. The proposed rules have more than a minor impact on small businesses.

**3. Which industries are affected by this rule?** In preparing this SBEIS, the department of health (DOH) used the following codes:

SIC Industry Code and Title	# of Businesses	# of Employees	Average # of Employees for Smallest Businesses <=50	Average # of Employees for Largest Businesses >50
8043 Offices and Clinics of Podiatrists	136	480	3.6	0
8049 Offices and Clinics of Health Practitioners, Not Elsewhere Classified	913	5450	4.5	102.9
8062 General Medical and Surgical Hospitals	146	78593	11.1	758.4

**4. What are the costs of complying with this rule for small businesses (those with fifty or fewer employees) and for the largest 10% of businesses affected?** The costs associated with the proposed rules include:

Time with Patient and Record keeping:

- It will be necessary for providers to spend additional time with each patient. Periodic reviews of pain patients will be required to ensure effective interventions and compliance with treatment modalities, including opioid therapy. Since podiatrists' scope of practice does not include treatment of systemic conditions, very few podiatric physicians provide long-term pain management. They would only provide this type of care if there is no one else that the patient can be referred to. The number of treating podiatrists is limited to five or six podiatrists within the state. Each of these podiatrists will have only one or two patients they would manage with controlled substances. Since controlled substances cannot be refilled, patients will need

to be seen at least once a month to have new prescriptions written for them and their progress monitored. Based on a DOH survey it is estimated that an additional fifteen minutes per visit will be required and will cost the provider an additional \$19.34. An average pain management patient will require approximately twelve visits per year. The annual additional cost per pain patient will be [(12 patient visits x \$19.34)] \$232.08.

- Since these types of patients are considered more complex and take more time to manage, the practitioner can charge more for their services. It is likely that the additional time spent will be reimbursed by insurance carriers.
- More frequent patient screenings will therefore require additional record keeping and maintenance. Since the standard of care requires record keeping, the costs associated with this are assumed to be minimal.

The proposed rules will require additional time for each pain patient visit to ensure adherence to the podiatric pain

guidelines. The costs are estimated to cost an additional \$232.08 annually for each pain patient. Since most pain patients will be referred to family practice or pain specialist physicians, management of pain patients will be limited in podiatric practices.

Since reimbursement rates are determined by the complexity of a patient’s condition, systems evaluated, diagnostic tests performed, etc., it is likely that the estimated costs to the practitioner would be fully or partially reimbursed.

Podiatric Physician Education:

- Knowledge of pain management treatment is required for podiatric physicians to treat chronic pain patients. It is estimated that a basic training course will consist of a minimum of eight hours. The cost of a course is estimated to be \$800. In addition, personal expenses and costs associated with the course is estimated at \$200. The total cost for obtaining a basic course is estimated to be \$1,000. If they choose to take a comprehensive course in pain management, it would only be taken one time.
- Periodically it may be necessary for podiatric physicians to obtain additional education to continue to treat chronic pain patients by keeping informed about new therapies and medications. Since continuing education is required to maintain their license, any additional courses pertaining to the practice of pain management could be obtained to fulfill that requirement. The additional education would be related to their general practice and not attributed directly to the cost of the proposed rule.
- Most podiatric physicians obtain educational courses during nonbusiness hours and therefore the additional

training would not interfere with their ability to see patients.

Each podiatric physician who chooses to treat chronic pain patients may decide to take a comprehensive training course to gain knowledge regarding pain management. An initial comprehensive training course is estimated to cost a practitioner \$1,000. It is assumed that initially all podiatric physicians practicing pain management will take a comprehensive training course. Subsequent continuing education courses may also be obtained periodically to learn new treatment modalities and become familiar with new medications. However, if a practitioner chose to take additional courses in pain management, these would be taken to benefit their general practice and those costs would not be attributed directly to the proposed rules. These courses could be used to fulfill the continuing education requirements needed to maintain their license.

Most podiatric physicians obtain educational courses during nonbusiness hours and therefore the additional training would not interfere with their ability to see patients. The cost is the same for all practitioners. However, for those businesses that pay for practitioners' education, the costs will vary depending on the number of practitioners in each business that treats pain patients.

The education costs of compliance with the proposed rules are \$1,000 and are the same for practitioners in small businesses as those in large businesses if practitioners pay for the costs of their education.

**5. Does the rule impose a disproportionate impact on small businesses?** If practitioners pay for the costs of their education, then the \$1,000 education costs will be the same for all. However, if education costs were paid by institutions that hire these practitioners, then small businesses would disproportionately be impacted as the following table indicates.

Education: Podiatric Physicians

SIC Industry Code and Title	Average # of Employees for Smallest Businesses	Average # of Employees for 10% of Largest Businesses	Costs of Rule Change Small Businesses	Costs of Rule Change Large Businesses	Average Cost Per Employee Small Businesses	Average Cost Per Employee Large Businesses
8043 Offices & Clinics of Podiatrists	3.6	7.8	\$1000	\$1000	\$277.77	\$128.21
8049 Offices and Clinics of Health Practitioners, Not Elsewhere Classified	4.5	27.4	\$1000	\$1000	\$222.22	\$36.50
8062 General Medical and Surgical Hospitals	11.1	2027.7	\$1000	\$1000	\$90.09	\$.49

Both small and large businesses may incur a benefit from the additional time spent to properly manage pain with, among other remedies, opioids. Additional time taken to appropriately treat a patient's pain with medications could

alleviate the cost incurred for unnecessary return visits because of ineffective pain interventions and improper self-medicating.

**6. If the rule imposes a disproportionate impact on small businesses, what efforts were taken to reduce that impact (or why is it not "legal and feasible" to do so) by:** It is not legal or feasible to mitigate the impact to small businesses because the standard of care must be followed by all podiatric physicians.

**7. How are small businesses involved in the development of this rule?** Small businesses have been involved through individuals on the DOH interested parties list and also through professional associations.

A copy of the statement may be obtained by contacting Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail arlene.robertson@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail arlene.robertson@doh.wa.gov.

October 31, 2006  
Blake T. Maresh  
Executive Director

#### NEW SECTION

**WAC 246-922-510 Use of controlled substances for pain control.** (1) **Purpose.** The podiatric medical board recognizes that effective pain management is an essential component of quality medical care and that no single approach to the treatment of pain is exclusively correct.

(2) The board wishes to reassure podiatric physicians that they need not fear disciplinary action from the board for prescribing, dispensing, or administering controlled substances, including opioids, when treating pain so long as the care provided is consistent with currently acceptable podiatric medical practice. This includes acute, chronic, and intractable pain (RCW 69.50.308(g)) patients.

#### NEW SECTION

**WAC 246-922-520 What specific guidance should a podiatric physician follow?** (1) The board has adopted guidelines for the management of pain in order to acquaint podiatric physicians with recognized national standards in the field of pain treatment.

(2) These guidelines specifically address the patient evaluation and treatment plan, informed consent, periodic reviews, use of consultations, and the necessity for maintaining accurate and complete medical records.

(3) These guidelines may be revised from time to time to reflect changes in the practice of pain management.

(4) Podiatric physicians who cannot, or choose not to, treat patients who have complex or chronic pain conditions should offer appropriate referrals for those patients.

#### NEW SECTION

**WAC 246-922-530 What knowledge should a podiatric physician who elects to treat chronic pain patients possess?** Podiatric physicians treating pain should be:

- (1) Knowledgeable about the complex nature of pain;
- (2) Familiar with the pain treatment terms used in the board's pain treatment guidelines; and
- (3) Knowledgeable about acceptable pain treatment modalities.

#### NEW SECTION

**WAC 246-922-540 How will the board evaluate prescribing for pain?** The podiatric physician's treatment will be evaluated by a review of the provided care to see if it is clinically sound and in accordance with currently acceptable podiatric medical practice regarding the treatment of pain.

#### **WSR 06-22-103**

#### **PROPOSED RULES**

#### **DEPARTMENT OF HEALTH**

(Board of Osteopathic Medicine and Surgery)

[Filed November 1, 2006, 10:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-086.

Title of Rule and Other Identifying Information: Adds new sections WAC 246-853-510/246-854-120 Use of controlled substances for pain control, 246-853-520 What specific guidance should an osteopathic physician follow?, 246-854-130 What specific guidance should an osteopathic physician assistant follow?, 246-853-530 What knowledge should an osteopathic physician who elects to treat chronic pain patients possess?, 246-854-140 What knowledge should an osteopathic physician assistant who elects to treat chronic pain patients possess?, and 246-853-540/246-854-150 How will the board evaluate prescribing for pain?

Hearing Location(s): St. Francis Hospital, 34515 9th Avenue South, Federal Way, WA 98003, on January 26, 2007, at 9:30 a.m.

Date of Intended Adoption: January 26, 2007.

Submit Written Comments to: Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2406, by January 19, 2007.

Assistance for Persons with Disabilities: Contact Arlene Robertson by January 19, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board of osteopathic medicine and surgery (board) adopted pain management guidelines for osteopathic physicians and osteopathic physician assistants for prescribing, dispensing, and administering opioids on November 1, 1996. However guidelines are used as a reference tool but do not have the force of law. Rules are being established to set standards when prescribing and treating acute, chronic and intractable pain patients. Currently without rules in place the access to pain management care for osteopathic patients is limited. By establishing rules[,] under treatment of chronic pain may be reduced and access to care enhanced.

Reasons Supporting Proposal: The proposed rules will alleviate the legal concerns and apprehensions of providers

when managing pain with opioid therapy. The proposed rules will increase access to appropriate medical treatment for pain management patients. Productivity and quality of life of patients will be improved with effective pain management.

Statutory Authority for Adoption: RCW 18.57.005, 18.130.050.

Statute Being Implemented: Chapters 18.57, 18.57A RCW.

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

Name of Proponent: Department of health, board of osteopathic medicine and surgery, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Arlene Robertson, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4945.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

**1. Briefly describe the proposed rule:** The Washington board of osteopathic medicine and surgery (board) adopted pain management guidelines for osteopathic physicians and osteopathic physician assistants for prescribing, dispensing, and administering opioids. These guidelines became effective on November 1, 1996. The guidelines describe approved opioid therapy for acute, chronic and intractable pain patients. However, the guidelines do not protect the osteopathic physician or osteopathic physician assistant who manages pain through opioid therapy to practice without fear of injudicious discipline from the board regarding such things as drug addition [addiction] and diversion. As a result, under-treatment of chronic pain is affecting the public health, safety, and welfare of the residents of Wash-

ington state. In order to improve patient care and access to care, new sections in the Washington Administrative Code (WAC) are needed to outline appropriate standards for pain management and to reassure osteopathic physicians and osteopathic physician assistants that they can use opioids to effectively manage pain.

The proposed rule will:

- Reassure osteopathic physicians and osteopathic physician assistants who are treating pain consistent with currently acceptable medical practice that they need not fear disciplinary action by the board for prescribing, dispensing, or administering controlled substances, including opioids.
- Advise osteopathic physicians and osteopathic physician assistants to follow the preestablished pain management guidelines that specifically address the patient evaluation and treatment plan, informed consent, periodic reviews, use of consultations and the necessity for maintaining accurate and complete medical records.
- Describe the need for an osteopathic physician or an osteopathic physician assistant to possess knowledge about the complexity of pain terminology and treatment modalities.
- Assure that patient care is clinically sound. The proposal will provide a basis for assessing care provided against established standards.

**2. Is a small business economic impact statement (SBEIS) required for this rule?** Yes. The proposed rules have more than a minor impact on small businesses.

**3. Which industries are affected by this rule?** In preparing this SBEIS, the department of health (DOH) used the following codes:

SIC Industry Code and Title	# of Businesses	# of Employees	Average # of Employees for Smallest Businesses <=50	Average # of Employees for Largest Businesses >50
8031 Osteopathic Physicians, offices & clinics of	120	680	4.8	
8049 Offices and Clinics of Health Practitioners, Not Elsewhere Classified	913	5450	4.5	102.9
8051 Skilled Nursing Care Facilities	281	26407	14.7	116
8062 General Medical and Surgical Hospitals	146	78593	11.1	758.4
8063 Psychiatric Hospitals	6	3177	N/A	147.3
8069 Specialty Hospitals, Except Psychiatric	23	4106	15.4	167.7
8082 Home Health Care Services	93	1484	7.0	64.3

**4. What are the costs of complying with this rule for small businesses (those with fifty or fewer employees) and for the largest 10% of businesses affected?** The costs associated with the proposed rules include:

Time with Patient and Record Keeping:

- If an osteopathic physician were to treat a patient for pain management, it will be necessary for them to spend additional time with each patient. Periodic reviews of pain patients will be required to ensure effective interventions and compliance with treatment modalities, including opioid therapy. Based on a DOH survey it is estimated that an additional fifteen minutes per visit will be required and will cost an osteopathic physician an additional \$19.34. Since controlled substances (i.e. opioids) cannot be refilled, patients will need to be seen at least once a month to have new prescriptions written for them and to monitor their progress. If an osteopathic physician spends fifteen minutes per patient in a seven hour day, it is estimated an average of twenty-eight patients would be seen per day. If an osteopathic physician sees one pain patient per year, the annual cost to treat the one patient would be \$232.08 [(twelve patient visits) x \$19.34]. If one-fourth of an osteopathic physician's patient visits are pain patients (seven patient visits per day/four days a week), the costs would be \$135.38 per day, \$2166.08 per month or \$25,992.96 per year. It is assumed that the additional costs to the osteopathic physician would range from \$232.08 to \$25,992.96, depending on the number of pain patients that are treated.
- If an osteopathic physician assistant were to treat a patient for pain management, it will also be necessary for them to spend additional time with each patient. Periodic reviews of pain patients will be required to ensure effective interventions and compliance with treatment modalities, including opioid therapy. Based on a DOH survey it is estimated that an additional fifteen minutes per visit will be required and will cost an osteopathic physician assistant an additional \$9.44. Since controlled substances (i.e. opioids) cannot be refilled, patients will need to be seen at least once a month to have new prescriptions written for them and to monitor their progress. If an osteopathic physician assistant spends fifteen minutes per patient in a seven hour day, it is estimated an average of twenty-eight patients would be seen per day. If an osteopathic physician assistant sees one pain patient per year, the annual cost to treat the one patient would be \$113.28 [(twelve patient visits) x \$9.44]. If one-fourth of an osteopathic physician assistant's patient visits are pain patients (seven patient visits per day/four days a week), the additional cost would be \$66.08 per day, \$1057.28 per month or \$12,687.36 per year. It is assumed that the costs to the osteopathic physician assistant would range from \$113.28 to \$12,687.36, depending on the number of pain patients that are treated.
- Since these types of patients are considered more complex and take more time to manage, the practitioner can charge more for their services. It is likely that the addi-

tional time spent will be reimbursed by insurance carriers.

- More frequent patient screenings will therefore require additional record keeping and maintenance. Since the standard of care requires record keeping, the costs associated with this are assumed to be minimal.

The proposed rules require additional time for each pain patient visit to ensure proper adherence to the osteopathic pain guidelines. The costs could potentially range from \$232.08 for one pain patient and \$25,992.96 annually for approximately 1456 patient visits, estimated to be one-fourth of the practice time for an osteopathic physician. The costs estimated for osteopathic physician assistants would range from \$113.28 for one pain patient and \$12,687.36 annually for approximately 1456 patient visits, estimated to be one-fourth of the practice time for an osteopathic physician assistant.

Since reimbursement rates are determined by the complexity of a patient's condition, systems evaluated, diagnostic tests performed, etc., it is likely that the estimated costs to the practitioner would be fully or partially reimbursed.

Osteopathic Physician Education:

- Knowledge of pain management treatment is required for osteopathic physicians to treat chronic pain patients. It is estimated that a basic training course will consist of a minimum of eight hours. The cost of a course is estimated to be \$800. In addition, personal expenses and costs associated with the course are estimated at \$200. The total cost for obtaining a basic course is estimated to be \$1000. If they choose to take a comprehensive course in pain management, it would only be taken one time.
- Periodically it may be necessary for osteopathic physicians to obtain additional education to continue to treat chronic pain patients by keeping informed about new therapies and medications. Since continuing education is required to maintain their license, any additional courses pertaining to the practice of pain management could be obtained to fulfill that requirement. The additional education would be related to their general practice and not attributed directly to the cost of the proposed rule.
- Most osteopathic physicians obtain educational courses during nonbusiness hours and therefore the additional training would not interfere with their ability to see patients.

Osteopathic Physician Assistant Education:

- Knowledge of pain management treatment is required for osteopathic physician assistants to treat chronic pain patients. It is estimated that a basic training course will consist of a minimum of eight hours. The cost of a course are estimated to be \$800. In addition, personal expenses and costs associated with the course are estimated at \$200. The total cost for obtaining a basic course is estimated to be \$1000. If they choose to take a comprehensive course in pain management, it would only be taken one time.
- Periodically it may be necessary for osteopathic physician assistants to obtain additional education to continue to treat chronic pain patients by keeping informed

about new therapies and medications. Since continuing education is required to maintain their license, any additional courses pertaining to the practice of pain management could be obtained to fulfill that requirement. The additional education would be related to their general practice and not be attributed directly to the cost of the proposed rule.

- Most osteopathic physician assistants obtain educational courses during nonbusiness hours and therefore the additional training would not interfere with their ability to see patients.

Each practitioner who chooses to treat chronic pain patients may decide to take a comprehensive training course to gain knowledge regarding pain management. An initial comprehensive training course is estimated to cost a practitioner \$800 with attendance costs of \$200. It is assumed that initially all practitioners who practice pain management will take a comprehensive training course. Subsequent continuing education courses may also be obtained periodically to learn new treatment modalities and become familiar with new medications. However, if a practitioner chose to take additional courses in pain management, these would be taken to benefit their general practice and those costs would not be

attributed directly to the proposed rules. These additional courses could be used to fulfill the continuing education requirements needed to maintain their license.

Most osteopathic physicians and physician assistants obtain educational courses during nonbusiness hours and therefore the additional training would not interfere with their ability to see patients. The cost is the same for all practitioners. However, for those businesses that pay for practitioners' education, the costs will vary depending on the number of practitioners in each business that treats pain patients.

The education costs of compliance with the proposed rules are \$1,000 and are the same for practitioners in small businesses as those in large businesses if practitioners pay for the costs of their education.

**5. Does the rule impose a disproportionate impact on small businesses?** If practitioners pay for the costs of their education, then the \$1,000 education costs will be the same for all. However, if education costs were paid by institutions that hire these practitioners then small businesses would disproportionately be impacted as the following table indicates.

Education: Osteopathic Physician and Osteopathic Physician Assistants

SIC Industry Code and Title	Average # of Employees for Smallest Businesses	Average # of Employees for 10% of Largest Businesses	Costs of Rule Change Small Businesses	Costs of Rule Change Large Businesses	Average Cost Per Employee Small Businesses	Average Cost Per Employee Large Businesses
8031 Osteopathic Physicians, offices & clinics of	4.8	13.2	\$1000	\$1000	\$208.33	\$75.76
8049 Offices and Clinics of Health Practitioners, Not Elsewhere Classified	4.5	27.4	\$1000	\$1000	\$222.22	\$36.50
8051 Skilled Nursing Care Facilities	14.7	144.2	\$1000	\$1000	\$68.03	\$6.93
8062 General Medical and Surgical Hospitals	11.1	2027.7	\$1000	\$1000	\$90.09	\$.49
8063 Psychiatric Hospitals	N/A	147.3	N/A	\$1000	N/A	\$6.78
8069 Specialty Hospitals, Except Psychiatric	15.4	167.7	\$1000	\$1000	\$64.94	\$5.96
8082 Home Health Care Services	14.2	162.6	\$1000	\$1000	\$70.42	\$6.15

Both small and large businesses may incur a benefit from the additional time spent to properly manage pain with,

among other remedies, opioids. Additional time taken to appropriately treat a patient's pain with medications could

alleviate the cost incurred for unnecessary return visits because of ineffective pain interventions and improper self-medicating.

**6. If the rule imposes a disproportionate impact on small businesses, what efforts were taken to reduce that impact (or why is it not "legal and feasible" to do so) by:** It is not legal or feasible to mitigate the impact to small businesses because the standard of care must be followed by all osteopathic physicians and physician assistants.

**7. How are small businesses involved in the development of this rule?** Small businesses have been involved through individuals on the DOH interested parties list and also through professional associations.

A copy of the statement may be obtained by contacting Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail arlene.robertson@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail arlene.robertson@doh.wa.gov.

October 31, 2006

Blake T. Maresh  
Executive Director

#### NEW SECTION

**WAC 246-853-510 Use of controlled substances for pain control.** (1) **Purpose.** The board of osteopathic medicine and surgery recognizes that effective pain management is an essential component of quality medical care and that no single approach to the treatment of pain is exclusively correct.

(2) The board wishes to reassure osteopathic physicians that they need not fear disciplinary action from the board for prescribing, dispensing, or administering controlled substances, including opioids, when treating pain so long as the care provided is consistent with currently acceptable osteopathic medical practice. This includes acute, chronic, and intractable pain (RCW 69.50.308(g)) patients.

#### NEW SECTION

**WAC 246-853-520 What specific guidance should an osteopathic physician follow?** (1) The board has adopted guidelines for the management of pain in order to acquaint osteopathic physicians with recognized national standards in the field of pain treatment.

(2) These guidelines specifically address the patient evaluation and treatment plan, informed consent, periodic reviews, use of consultations, and the necessity for maintaining accurate and complete medical records.

(3) These guidelines may be revised from time to time to reflect changes in the practice of pain management.

(4) Osteopathic physicians who cannot, or choose not to, treat patients who have complex or chronic pain conditions should offer appropriate referrals for those patients.

#### NEW SECTION

**WAC 246-853-530 What knowledge should an osteopathic physician who elects to treat chronic pain patients possess?** Osteopathic physicians treating pain should be:

- (1) Knowledgeable about the complex nature of pain;
- (2) Familiar with the pain treatment terms used in the board's pain treatment guidelines; and
- (3) Knowledgeable about acceptable pain treatment modalities.

#### NEW SECTION

**WAC 246-853-540 How will the board evaluate prescribing for pain?** The osteopathic physician's treatment will be evaluated by a review of the provided care to see if it is clinically sound and in accordance with currently acceptable osteopathic medical practice regarding the treatment of pain.

#### NEW SECTION

**WAC 246-854-120 Use of controlled substances for pain control.** (1) **Purpose.** The board of osteopathic medicine and surgery recognizes that effective pain management is an essential component of quality medical care and that no single approach to the treatment of pain is exclusively correct.

(2) The board wishes to reassure osteopathic physician assistants that they need not fear disciplinary action from the board for prescribing, dispensing, or administering controlled substances, including opioids, when treating pain so long as the care provided is consistent with currently acceptable medical practice. This includes acute, chronic, and intractable pain (RCW 69.50.308(g)) patients.

#### NEW SECTION

**WAC 246-854-130 What specific guidance should an osteopathic physician assistant follow?** (1) The board has adopted guidelines for the management of pain in order to acquaint osteopathic physician assistants with recognized national standards in the field of pain treatment.

(2) These guidelines specifically address the patient evaluation and treatment plan, informed consent, periodic reviews, use of consultations, and the necessity for maintaining accurate and complete medical records.

(3) These guidelines may be revised from time to time to reflect changes in the practice of pain management.

(4) Osteopathic physician assistants who cannot, or choose not to, treat patients who have complex or chronic pain conditions should offer appropriate referrals for those patients.

#### NEW SECTION

**WAC 246-854-140 What knowledge should an osteopathic physician assistant who elects to treat chronic pain patient possess?** Osteopathic physician assistants treating pain should be:

- (1) Knowledgeable about the complex nature of pain;

- (2) Familiar with the pain treatment terms used in the board's paid treatment guidelines; and
- (3) Knowledgeable about acceptable pain treatment modalities.

**NEW SECTION**

**WAC 246-854-150 How will the board evaluate prescribing for pain?** The osteopathic physician assistant's treatment will be evaluated by a review of the provided care to see if it is clinically sound and in accordance with currently acceptable medical practice regarding the treatment of pain.

**WSR 06-22-108  
PROPOSED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**  
[Filed November 1, 2006, 11:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-07-138.

Title of Rule and Other Identifying Information: Industrial insurance premium rates, chapter 296-17 WAC, General reporting rules, classifications, audit and record keeping, rates and rating system for Washington workers' compensation insurance.

Hearing Location(s): On December 13, 2006, at 1:00 p.m., at the Department of Labor and Industries, Tukwila Service Location, 12806 Gateway Drive, Seattle, WA 98168-1050, phone (206) 835-1000; on December 14, 2006, at 10:00 a.m., at the Ridpath Hotel, 515 West Sprague Avenue, Spokane, WA 99201, phone (509) 838-2711; on December 15, 2006, at 10:00 a.m., at the Department of Labor and Industries, Room S117, 7273 Linderson Way S.W., Tumwater, WA 98501, phone (360) 902-5799; and on December 18, 2006, at 1:00 p.m., at the Department of Labor and Industries, Yakima Service Location, 15 West Yakima Avenue, Yakima, WA 98902, phone (509) 454-3700.

Date of Intended Adoption: January 24, 2007.

Submit Written Comments to: Ronald Moore, Acting Programing Manager, Employer Services, P.O. Box 44140, Olympia, WA 98504-4140, e-mail mooa235@lni.wa.gov, fax (360) 902-4729, by 5 p.m., December 18, 2006.

Assistance for Persons with Disabilities: Contact Office of Information and Assistance, TTY (360) 602-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will reduce the medical aid premium base rates for the six months beginning July 1, 2007, which will ultimately reduce the medical aid contingency reserve. During this time period, medical aid premiums will not be assessed for employers and workers and therefore it is anticipated that this will reduce the balance of the medical aid fund by \$315 million.

As a result of lower medical aid (account 608) premiums collected the accident fund (account 609) premium base rates would be reduced because of the impact on anticipated retrospective rating refunds. These refunds are a percentage of the accident plus medical aid premiums, and are expected to

decrease by \$30 million. As a result, the upfront premium income for the accident fund is expected to decrease by \$30 million. Associated changes in the retrospective rating size tables are also included in this rule making. Because of the potential impact on the total of retrospective rating refunds we are specifically interested in receiving comments and input from retrospective rating participants.

Reasons Supporting Proposal: The medical aid fund, which is paid half by workers and half by employers, as of June 30, 2006, has a contingency reserve of close to \$1.1 billion. This equates to approximately 38% of total medical aid liabilities and is more money than is felt necessary to maintain solvency in the medical aid fund.

Statutory Authority for Adoption: RCW 51.06.035 Base rates, 51.32.073 Supplemental pension, 51.08.010 Retrospective rating, and 51.04.020(1) General authority.

Statute Being Implemented: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1).

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Bill Moomau, Tumwater, Washington, (360) 902-4774; Implementation: Ronald Moore, Tumwater, Washington, (360) 902-4748; and Enforcement: Bob Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In this rule making the agency is exempt from preparing a small business economic impact statement when the proposed rules set or adjust fees or rates pursuant to legislative standards. This exemption is described in RCW 34.05.310 (4)(f).

A cost-benefit analysis is not required under RCW 34.05.328. In this rule making, the agency is exempt from conducting a cost-benefit analysis since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.328 (5)(b)(vi).

November 1, 2006  
Judy Schurke  
Acting Director

**AMENDATORY SECTION** (Amending WSR 05-23-162, filed 11/22/05, effective 1/1/06)

**WAC 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry.** Industrial insurance accident fund and medical aid fund base rates by class of industry shall be as set forth below.

Class	((Base Rates Effective January 1, 2006	
	Accident Fund	Medical Aid Fund
0101	1.6667	0.7139
0103	2.0294	0.9182
0104	1.1890	0.5209
0105	1.6273	0.8626
0107	1.5402	0.6622



Class	((Base Rates Effective January 1, 2006		Class	((Base Rates Effective January 1, 2006	
	Accident Fund	Medical Aid Fund		Accident Fund	Medical Aid Fund
0108	1.1890	0.5209	1005	10.0606	4.3933
0112	0.9342	0.4573	1007	0.4532	0.2273
0201	3.1182	1.1403	1101	0.7815	0.4640
0202	3.7959	1.7571	1102	1.6467	0.7382
0210	1.5605	0.6115	1103	1.3317	0.7833
0212	1.6140	0.6799	1104	0.5551	0.4086
0214	1.6659	0.6528	1105	1.0710	0.5933
0217	1.3891	0.6051	1106	0.3395	0.2765
0219	1.0705	0.5971	1108	0.7077	0.4348
0301	0.6494	0.4089	1109	1.5600	0.9744
0302	2.4810	0.8697	1301	0.8487	0.3704
0303	2.4361	0.8739	1303	0.2469	0.1507
0306	1.3038	0.5123	1304	0.0306	0.0187
0307	1.1135	0.5331	1305	0.4485	0.2772
0308	0.5709	0.3927	1401	0.5165	0.3556
0403	1.9319	1.1305	1404	0.7903	0.5117
0502	1.9519	0.7404	1405	0.6079	0.3753
0504	1.6418	0.8019	1407	0.6990	0.4668
0507	3.4346	1.7575	1501	0.6613	0.3673
0508	2.5557	0.8931	1507	0.5901	0.3266
0509	1.9463	0.7589	1701	1.0877	0.5505
0510	1.8251	0.9186	1702	2.7163	0.9725
0511	2.0611	0.8811	1703	1.2060	0.3676
0512	1.8684	0.7535	1704	1.0877	0.5505
0513	1.0999	0.4801	1801	0.6202	0.3491
0514	2.2714	1.0608	1802	0.8298	0.4127
0516	2.0142	0.8931	2002	0.7620	0.5293
0517	2.0049	1.0194	2004	1.0344	0.6347
0518	1.9774	0.8082	2007	0.4941	0.3051
0519	2.7292	1.1580	2008	0.3583	0.2182
0521	0.6453	0.3491	2009	0.3974	0.3136
0601	0.7893	0.3779	2101	0.7442	0.4735
0602	0.9445	0.4256	2102	0.6095	0.4198
0603	1.3300	0.4828	2104	0.3415	0.2937
0604	1.0466	0.6733	2105	0.6561	0.4143
0606	0.5768	0.3671	2106	0.4611	0.3139
0607	0.5473	0.3210	2201	0.2725	0.1811
0608	0.4546	0.2440	2202	0.8065	0.4685
0701	2.8537	0.7345	2203	0.5048	0.3752
0803	0.5366	0.3250	2204	0.2725	0.1811
0901	1.9774	0.8082	2401	0.5503	0.3272
1002	1.0991	0.6519	2903	0.7091	0.4978
1003	0.9242	0.5153	2904	0.8083	0.5403
1004	0.6115	0.3001	2905	0.5751	0.4428

Class	((Base Rates Effective -January 1, 2006		Class	((Base Rates Effective -January 1, 2006	
	Accident Fund	Medical Aid Fund		Accident Fund	Medical Aid Fund
2906	0.3735	0.2377	3903	1.0957	0.8900
2907	0.5634	0.4034	3905	0.1523	0.1408
2908	1.2207	0.6328	3906	0.5216	0.3715
2909	0.4155	0.2960	3909	0.2685	0.2180
3101	1.1844	0.5697	4002	1.7271	0.7695
3102	0.3060	0.2070	4101	0.3168	0.1947
3103	0.6309	0.3837	4103	0.4050	0.3712
3104	0.6947	0.3585	4107	0.1815	0.1226
3105	0.8220	0.5389	4108	0.1533	0.1091
3303	0.4833	0.3067	4109	0.2331	0.1498
3304	0.4806	0.3905	4201	0.8508	0.3682
3309	0.4740	0.3056	4301	0.7154	0.5029
3402	0.5977	0.3631	4302	0.7207	0.4572
3403	0.2248	0.1408	4304	1.0793	0.7356
3404	0.5414	0.3628	4305	1.5167	0.6592
3405	0.3571	0.2217	4401	0.4228	0.2897
3406	0.2129	0.1716	4402	0.8686	0.6393
3407	0.7800	0.4469	4404	0.5823	0.4166
3408	0.1977	0.1193	4501	0.1970	0.1556
3409	0.1760	0.1425	4502	0.0415	0.0340
3410	0.2818	0.2192	4504	0.1056	0.1033
3411	0.5652	0.3113	4601	0.8062	0.5159
3412	0.7102	0.3337	4802	0.2995	0.2156
3414	0.6435	0.3556	4803	0.2554	0.2277
3415	0.8990	0.4995	4804	0.5866	0.3966
3501	1.1818	0.7067	4805	0.2944	0.2376
3503	0.2910	0.2762	4806	0.0589	0.0447
3506	1.4514	0.5401	4808	0.5288	0.3427
3509	0.4156	0.3285	4809	0.3928	0.2985
3510	0.4011	0.2721	4810	0.1413	0.1223
3511	0.8038	0.5052	4811	0.2620	0.2207
3512	0.3479	0.2775	4812	0.4157	0.3024
3513	0.4784	0.3590	4813	0.1615	0.1322
3602	0.1317	0.0959	4900	0.4203	0.1921
3603	0.5061	0.3332	4901	0.0918	0.0518
3604	0.8491	0.5972	4902	0.1100	0.0712
3605	0.6089	0.3368	4903	0.1710	0.1008
3701	0.3060	0.2070	4904	0.0327	0.0242
3702	0.4924	0.3347	4905	0.3334	0.2884
3708	0.7507	0.4214	4906	0.1089	0.0696
3802	0.1986	0.1380	4907	0.0532	0.0387
3808	0.5082	0.2679	4908	0.0871	0.1458
3901	0.1598	0.1472	4909	0.0402	0.0640
3902	0.5475	0.3830	4910	0.4994	0.3196

Class	((Base Rates Effective January 1, 2006		Class	((Base Rates Effective January 1, 2006	
	Accident Fund	Medical Aid Fund		Accident Fund	Medical Aid Fund
5001	6.2800	2.4003	6308	0.0682	0.0465
5002	0.6881	0.3928	6309	0.1806	0.1456
5003	2.4567	0.9638	6402	0.2992	0.2395
5004	1.0147	0.6423	6403	0.1587	0.1366
5005	0.6985	0.3299	6404	0.2227	0.1714
5006	2.0512	0.8452	6405	0.6891	0.4046
5101	1.0291	0.6327	6406	0.1121	0.0943
5103	0.7765	0.5937	6407	0.2903	0.2129
5106	0.7765	0.5937	6408	0.4236	0.2778
5108	0.9811	0.6798	6409	1.0814	0.5343
5109	0.7020	0.4028	6410	0.3073	0.2082
5201	0.4875	0.2933	6501	0.1833	0.1293
5204	1.0538	0.6174	6502	0.0428	0.0320
5206	0.4817	0.2459	6503	0.0935	0.0427
5207	0.1662	0.1577	6504	0.3848	0.3529
5208	0.9682	0.5996	6505	0.1001	0.0962
5209	0.8769	0.5024	6506	0.1040	0.0890
5301	0.0338	0.0261	6509	0.3704	0.3088
5302	0.0226	0.0160	6510	0.5882	0.2795
5305	0.0522	0.0465	6511	0.3178	0.2617
5306	0.0632	0.0500	6601	0.1971	0.1535
5307	0.5971	0.3322	6602	0.4588	0.3286
6103	0.0762	0.0752	6603	0.3750	0.2278
6104	0.3845	0.2969	6604	0.0873	0.0646
6105	0.3820	0.2308	6605	0.2871	0.2751
6107	0.1253	0.1285	6607	0.1886	0.1281
6108	0.4155	0.3619	6608	0.7260	0.2664
6109	0.1019	0.0671	6614	970*	759*
6110	0.6422	0.4177	6615	332*	278*
6201	0.3859	0.2058	6616	237*	167*
6202	0.6887	0.4884	6617	90*	64*
6203	0.0839	0.1007	6618	99*	50*
6204	0.1301	0.1093	6620	5.2052	3.1434
6205	0.2585	0.1960	6704	0.1870	0.1224
6206	0.2400	0.1717	6705	0.7436	0.8004
6207	0.9595	0.9400	6706	0.3189	0.2689
6208	0.2284	0.2140	6707	3.5422	2.7284
6209	0.3065	0.2502	6708	7.2474	7.7311
6301	0.1540	0.0733	6709	0.2805	0.2541
6302	0.1712	0.1291	6801	0.6933	0.3908
6303	0.0735	0.0513	6802	0.4493	0.3320
6304	0.3980	0.3448	6803	1.0793	0.4628
6305	0.0939	0.0882	6804	0.3197	0.1970
6306	0.3622	0.2446	6809	4.9672	3.9116

Class	((Base Rates Effective January 1, 2006		Class	Base Rates Effective July 1, 2007	
	Accident Fund	Medical Aid Fund		Accident Fund	Medical Aid Fund
6901	0.0000	0.0646	0101	1.4441	0.0000
6902	1.3737	0.4702	0103	1.8441	0.0000
6903	9.2654	4.0006	0104	1.0471	0.0000
6904	0.4954	0.2367	0105	1.4077	0.0000
6905	0.4448	0.2549	0107	1.4177	0.0000
6906	0.0000	0.2549	0108	1.0471	0.0000
6907	1.3407	0.8325	0112	0.8436	0.0000
6908	0.5268	0.3400	0201	2.8726	0.0000
6909	0.1194	0.0930	0202	3.4259	0.0000
7100	0.0343	0.0242	0210	1.3927	0.0000
7101	0.0267	0.0173	0212	1.5098	0.0000
7102	3.2317	4.2799	0214	1.5128	0.0000
7103	0.6939	0.3507	0217	1.2339	0.0000
7104	0.0325	0.0227	0219	0.9753	0.0000
7105	0.0320	0.0252	0301	0.5953	0.0000
7106	0.1962	0.1576	0302	2.3194	0.0000
7107	0.2121	0.1954	0303	2.1917	0.0000
7108	0.1801	0.1781	0306	1.1630	0.0000
7109	0.1319	0.1071	0307	1.0409	0.0000
7110	0.4097	0.2124	0308	0.5092	0.0000
7111	0.4567	0.2412	0403	1.7135	0.0000
7112	0.6717	0.4732	0502	1.7842	0.0000
7113	0.3535	0.3104	0504	1.5954	0.0000
7114	0.5515	0.4804	0507	2.9782	0.0000
7115	0.5717	0.4762	0508	2.3176	0.0000
7116	0.7301	0.5178	0509	1.8414	0.0000
7117	1.6140	1.1401	0510	1.6070	0.0000
7118	1.3678	1.0116	0511	1.8365	0.0000
7119	1.4485	0.9175	0512	1.7591	0.0000
7120	6.7543	4.2809	0513	0.9492	0.0000
7121	6.3091	4.0293	0514	2.0764	0.0000
7122	0.5515	0.4804	0516	1.8075	0.0000
7201	1.5727	0.7553	0517	1.8350	0.0000
7202	0.0454	0.0232	0518	1.8255	0.0000
7203	0.1113	0.1192	0519	2.5147	0.0000
7204	0.0000	0.0000	0521	0.5759	0.0000
7301	0.5252	0.3714	0601	0.7069	0.0000
7302	1.0210	0.7168	0602	0.8858	0.0000
7307	0.5208	0.3937	0603	1.2102	0.0000
7308	0.2623	0.2718	0604	0.9451	0.0000
7309	0.2590	0.2375	0606	0.5266	0.0000
			0607	0.5126	0.0000
			0608	0.4103	0.0000
			0701	2.6359	0.0000

\* These rates are calculated on a per license basis for parimutuel race tracks and are base rated.)

<u>Base Rates Effective</u> <u>July 1, 2007</u>			<u>Base Rates Effective</u> <u>July 1, 2007</u>		
<u>Class</u>	<u>Accident</u> <u>Fund</u>	<u>Medical Aid</u> <u>Fund</u>	<u>Class</u>	<u>Accident</u> <u>Fund</u>	<u>Medical Aid</u> <u>Fund</u>
0803	0.4693	0.0000	2204	0.2367	0.0000
0901	1.8255	0.0000	2401	0.5054	0.0000
1002	0.9761	0.0000	2903	0.6179	0.0000
1003	0.8079	0.0000	2904	0.7204	0.0000
1004	0.5534	0.0000	2905	0.5031	0.0000
1005	9.2633	0.0000	2906	0.3260	0.0000
1007	0.4041	0.0000	2907	0.5038	0.0000
1101	0.7105	0.0000	2908	1.1036	0.0000
1102	1.4608	0.0000	2909	0.3644	0.0000
1103	1.2313	0.0000	3101	1.0341	0.0000
1104	0.4934	0.0000	3102	0.2688	0.0000
1105	0.9470	0.0000	3103	0.5649	0.0000
1106	0.3006	0.0000	3104	0.6399	0.0000
1108	0.6481	0.0000	3105	0.7386	0.0000
1109	1.4471	0.0000	3303	0.4365	0.0000
1301	0.7334	0.0000	3304	0.4218	0.0000
1303	0.2258	0.0000	3309	0.4274	0.0000
1304	0.0278	0.0000	3402	0.5487	0.0000
1305	0.4095	0.0000	3403	0.2005	0.0000
1401	0.4553	0.0000	3404	0.4699	0.0000
1404	0.7186	0.0000	3405	0.3226	0.0000
1405	0.5638	0.0000	3406	0.1802	0.0000
1407	0.5753	0.0000	3407	0.7307	0.0000
1501	0.5999	0.0000	3408	0.1764	0.0000
1507	0.5503	0.0000	3409	0.1533	0.0000
1701	0.9726	0.0000	3410	0.2594	0.0000
1702	2.5047	0.0000	3411	0.5000	0.0000
1703	1.0873	0.0000	3412	0.6506	0.0000
1704	0.9726	0.0000	3414	0.5926	0.0000
1801	0.5499	0.0000	3415	0.8293	0.0000
1802	0.7670	0.0000	3501	1.0634	0.0000
2002	0.6904	0.0000	3503	0.2504	0.0000
2004	0.9509	0.0000	3506	1.3291	0.0000
2007	0.4558	0.0000	3509	0.3677	0.0000
2008	0.3199	0.0000	3510	0.3591	0.0000
2009	0.3635	0.0000	3511	0.7134	0.0000
2101	0.6569	0.0000	3512	0.3092	0.0000
2102	0.5258	0.0000	3513	0.4192	0.0000
2104	0.3032	0.0000	3602	0.1196	0.0000
2105	0.5836	0.0000	3603	0.4587	0.0000
2106	0.4067	0.0000	3604	0.7512	0.0000
2201	0.2367	0.0000	3605	0.5488	0.0000
2202	0.7291	0.0000	3701	0.2688	0.0000
2203	0.4431	0.0000	3702	0.4521	0.0000

<u>Base Rates Effective</u> <u>July 1, 2007</u>			<u>Base Rates Effective</u> <u>July 1, 2007</u>		
<u>Class</u>	<u>Accident</u> <u>Fund</u>	<u>Medical Aid</u> <u>Fund</u>	<u>Class</u>	<u>Accident</u> <u>Fund</u>	<u>Medical Aid</u> <u>Fund</u>
3708	0.6745	0.0000	4906	0.0922	0.0000
3802	0.1822	0.0000	4907	0.0476	0.0000
3808	0.4528	0.0000	4908	0.0692	0.0000
3901	0.1402	0.0000	4909	0.0324	0.0000
3902	0.4682	0.0000	4910	0.4528	0.0000
3903	0.9614	0.0000	4911	0.0650	0.0000
3905	0.1317	0.0000	5001	5.7925	0.0000
3906	0.4472	0.0000	5002	0.6190	0.0000
3909	0.2273	0.0000	5003	2.2687	0.0000
4002	1.5571	0.0000	5004	0.9002	0.0000
4101	0.2994	0.0000	5005	0.6246	0.0000
4103	0.3697	0.0000	5006	1.8305	0.0000
4107	0.1572	0.0000	5101	0.9063	0.0000
4108	0.1383	0.0000	5103	0.6809	0.0000
4109	0.2069	0.0000	5106	0.6809	0.0000
4201	0.7887	0.0000	5108	0.8550	0.0000
4301	0.6222	0.0000	5109	0.6173	0.0000
4302	0.6559	0.0000	5201	0.4392	0.0000
4304	0.9447	0.0000	5204	0.9382	0.0000
4305	1.3782	0.0000	5206	0.4467	0.0000
4401	0.3796	0.0000	5207	0.1408	0.0000
4402	0.7717	0.0000	5208	0.8313	0.0000
4404	0.5272	0.0000	5209	0.7692	0.0000
4501	0.1701	0.0000	5300	0.1029	0.0000
4502	0.0366	0.0000	5301	0.0305	0.0000
4504	0.0913	0.0000	5302	0.0193	0.0000
4601	0.7250	0.0000	5305	0.0455	0.0000
4802	0.2770	0.0000	5306	0.0559	0.0000
4803	0.2219	0.0000	5307	0.5539	0.0000
4804	0.5001	0.0000	6103	0.0682	0.0000
4805	0.2586	0.0000	6104	0.3291	0.0000
4806	0.0524	0.0000	6105	0.3491	0.0000
4808	0.4625	0.0000	6107	0.1101	0.0000
4809	0.3483	0.0000	6108	0.3822	0.0000
4810	0.1218	0.0000	6109	0.0916	0.0000
4811	0.2294	0.0000	6110	0.5950	0.0000
4812	0.3683	0.0000	6120	0.2793	0.0000
4813	0.1372	0.0000	6121	0.3491	0.0000
4900	0.3719	0.0000	6201	0.3385	0.0000
4901	0.0820	0.0000	6202	0.6125	0.0000
4902	0.1029	0.0000	6203	0.0727	0.0000
4903	0.1576	0.0000	6204	0.1117	0.0000
4904	0.0282	0.0000	6205	0.2290	0.0000
4905	0.2933	0.0000	6206	0.2185	0.0000

<u>Base Rates Effective</u> <u>July 1, 2007</u>			<u>Base Rates Effective</u> <u>July 1, 2007</u>		
<u>Class</u>	<u>Accident</u> <u>Fund</u>	<u>Medical Aid</u> <u>Fund</u>	<u>Class</u>	<u>Accident</u> <u>Fund</u>	<u>Medical Aid</u> <u>Fund</u>
6207	0.8211	0.0000	6801	0.6322	0.0000
6208	0.2009	0.0000	6802	0.4230	0.0000
6209	0.2771	0.0000	6803	0.9852	0.0000
6301	0.1459	0.0000	6804	0.2765	0.0000
6302	0.1638	0.0000	6809	4.3497	0.0000
6303	0.0678	0.0000	6901	0.0000	0.0000
6304	0.3435	0.0000	6902	1.2425	0.0000
6305	0.0827	0.0000	6903	8.3159	0.0000
6306	0.3178	0.0000	6904	0.4573	0.0000
6308	0.0624	0.0000	6905	0.4042	0.0000
6309	0.1638	0.0000	6906	0.0000	0.0000
6402	0.2611	0.0000	6907	1.2307	0.0000
6403	0.1460	0.0000	6908	0.4614	0.0000
6404	0.2021	0.0000	6909	0.1079	0.0000
6405	0.6011	0.0000	7100	0.0304	0.0000
6406	0.1025	0.0000	7101	0.0238	0.0000
6407	0.2596	0.0000	7102	2.6801	0.0000
6408	0.3868	0.0000	7103	0.6433	0.0000
6409	0.9449	0.0000	7104	0.0288	0.0000
6410	0.2746	0.0000	7105	0.0293	0.0000
6501	0.1599	0.0000	7106	0.1737	0.0000
6502	0.0374	0.0000	7107	0.1830	0.0000
6503	0.0860	0.0000	7108	0.1542	0.0000
6504	0.3307	0.0000	7109	0.1158	0.0000
6505	0.0854	0.0000	7110	0.3679	0.0000
6506	0.0910	0.0000	7111	0.4048	0.0000
6509	0.3206	0.0000	7112	0.6022	0.0000
6510	0.5190	0.0000	7113	0.3085	0.0000
6511	0.3011	0.0000	7114	0.4792	0.0000
6512	0.2520	0.0000	7115	0.4943	0.0000
6601	0.1709	0.0000	7116	0.6450	0.0000
6602	0.4358	0.0000	7117	1.4802	0.0000
6603	0.3352	0.0000	7118	1.2294	0.0000
6604	0.0772	0.0000	7119	1.2961	0.0000
6605	0.2516	0.0000	7120	6.0135	0.0000
6607	0.1629	0.0000	7121	5.5883	0.0000
6608	0.6671	0.0000	7122	0.4793	0.0000
6620	4.5525	0.0000	7200	1.1759	0.0000
6704	0.1641	0.0000	7201	1.4699	0.0000
6705	0.6228	0.0000	7202	0.0393	0.0000
6706	0.2759	0.0000	7203	0.0940	0.0000
6707	3.1499	0.0000	7204	0.0000	0.0000
6708	6.1802	0.0000	7205	0.0000	0.0000
6709	0.2483	0.0000	7301	0.4695	0.0000

Class	Base Rates Effective July 1, 2007	
	Accident	Medical Aid
	Fund	Fund
7302	0.9081	0.0000
7307	0.4507	0.0000
7308	0.2411	0.0000
7309	0.2195	0.0000
7400	1.4699	0.0000

\* These rates are calculated on a per license basis for parimutuel race tracks and are base rated.

**AMENDATORY SECTION** (Amending WSR 05-23-162, filed 11/22/05, effective 1/1/06)

**WAC 296-17-89502 Industrial insurance accident fund, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications.** The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

((Base Rates Effective  
January 1, 2006

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
0540	0.0301	0.0115	0.0005
0541	0.0169	0.0061	0.0005
0550	0.0412	0.0128	0.0005
0551	0.0230	0.0073	0.0005))

Base Rates Effective  
July 1, 2007

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
0540	0.0258	0.0000	0.0005
0541	0.0155	0.0000	0.0005
0550	0.0363	0.0000	0.0005
0551	0.0211	0.0000	0.0005

**NEW SECTION**

**WAC 296-17-89504 Horse racing industry industrial insurance, medical aid, and supplemental pension by class.**

Base Rates Effective  
July 1, 2007

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
6614	44*	0*	1*
6615	309*	0*	1*
6616	14*	0*	1*

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
6617	104*	0*	1*
6618	99*	0*	1*
6622	564**	0**	1**
6623	204**	0**	1**

\* These rates are calculated on a per license basis for parimutuel race tracks and are base rated.

\*\* These rates are calculated on a per 12 horse stalls for parimutuel race tracks and are base rated.

**AMENDATORY SECTION** (Amending WSR 05-23-162, filed 11/22/05, effective 1/1/06)

**WAC 296-17-90492 Table I.**

((RETROSPECTIVE RATING PLANS A, A1, A2, A3, AND B  
STANDARD PREMIUM SIZE RANGES  
Effective January 1, 2006

Size Group Number	Standard Premium Range
63	\$4,852 - \$5,862
62	5,863 - 7,040
61	7,041 - 8,376
60	8,377 - 9,910
59	9,911 - 11,665
58	11,666 - 13,639
57	13,640 - 15,889
56	15,890 - 18,269
55	18,270 - 20,789
54	20,790 - 23,439
53	23,440 - 26,239
52	26,240 - 29,179
51	29,180 - 32,249
50	32,250 - 35,479
49	35,480 - 38,859
48	38,860 - 42,289
47	42,290 - 45,729
46	45,730 - 49,509
45	49,510 - 53,709
44	53,710 - 58,389
43	58,390 - 63,569
42	63,570 - 69,369
41	69,370 - 75,869
40	75,870 - 83,119
39	83,120 - 91,309
38	91,310 - 100,579
37	100,580 - 111,019
36	111,020 - 122,199
35	122,200 - 134,299
34	134,300 - 147,799



<u>Size Group Number</u>	<u>Standard Premium Range</u>	<u>Size Group Number</u>	<u>Standard Premium Range</u>
33	147,800 - 162,499	54	15,710 - 17,709
32	162,500 - 178,799	53	17,710 - 19,829
31	178,800 - 195,699	52	19,830 - 22,049
30	195,700 - 214,499	51	22,050 - 24,369
29	214,500 - 235,799	50	24,370 - 26,809
28	235,800 - 259,899	49	26,810 - 29,359
27	259,900 - 287,799	48	29,360 - 31,959
26	287,800 - 319,899	47	31,960 - 34,549
25	319,900 - 356,799	46	34,550 - 37,409
24	356,800 - 399,999	45	37,410 - 40,579
23	400,000 - 450,899	44	40,580 - 44,119
22	450,900 - 510,399	43	44,120 - 48,029
21	510,400 - 581,599	42	48,030 - 52,419
20	581,600 - 667,499	41	52,420 - 57,329
19	667,500 - 770,499	40	57,330 - 62,809
18	770,500 - 897,399	39	62,810 - 68,999
17	897,400 - 1,055,599	38	69,000 - 75,999
16	1,055,600 - 1,282,999	37	76,000 - 83,889
15	1,283,000 - 1,597,999	36	83,890 - 92,299
14	1,598,000 - 2,041,999	35	92,300 - 101,499
13	2,042,000 - 2,609,999	34	101,500 - 111,699
12	2,610,000 - 3,332,999	33	111,700 - 122,799
11	3,333,000 - 4,417,999	32	122,800 - 135,099
10	4,418,000 - 6,119,999	31	135,100 - 147,899
9	6,120,000 - 8,820,999	30	147,900 - 162,099
8	8,821,000 - 12,779,999	29	162,100 - 178,199
7	12,780,000 - 18,819,999	28	178,200 - 196,399
6	18,820,000 - 29,259,999	27	196,400 - 217,499
5	29,260,000 - 46,189,999	26	217,500 - 241,699
4	46,190,000 & Over (99,999,999))	25	241,700 - 269,599
		24	269,600 - 302,199
		23	302,200 - 340,699
		22	340,700 - 385,699
		21	385,700 - 439,499
		20	439,500 - 504,399
		19	504,400 - 582,199
		18	582,200 - 678,099
		17	678,100 - 797,599
		16	797,600 - 968,999
		15	969,000 - 1,206,999
		14	1,207,000 - 1,542,999
		13	1,543,000 - 1,971,999
		12	1,972,000 - 2,517,999
		11	2,518,000 - 3,337,999
		10	3,338,000 - 4,623,999

RETROSPECTIVE RATING PLANS A, A1, A2, A3, AND B  
 STANDARD PREMIUM SIZE RANGES  
 Effective January 1, 2007

<u>Size Group Number</u>	<u>Standard Premium Range</u>	<u>Size Group Number</u>	<u>Standard Premium Range</u>
63	\$3,666 - \$4,429	18	582,200 - 678,099
62	4,430 - 5,319	17	678,100 - 797,599
61	5,320 - 6,329	16	797,600 - 968,999
60	6,330 - 7,488	15	969,000 - 1,206,999
59	7,489 - 8,814	14	1,207,000 - 1,542,999
58	8,815 - 10,309	13	1,543,000 - 1,971,999
57	10,310 - 12,009	12	1,972,000 - 2,517,999
56	12,010 - 13,809	11	2,518,000 - 3,337,999
55	13,810 - 15,709	10	3,338,000 - 4,623,999

<u>Size Group Number</u>			<u>Standard Premium Range</u>
<u>9</u>	<u>4,624,000</u>	=	<u>6,664,999</u>
<u>8</u>	<u>6,665,000</u>	=	<u>9,659,999</u>
<u>7</u>	<u>9,660,000</u>	=	<u>14,219,999</u>
<u>6</u>	<u>14,220,000</u>	=	<u>22,109,999</u>
<u>5</u>	<u>22,110,000</u>	=	<u>34,899,999</u>
<u>4</u>	<u>34,900,000 &amp; Over</u>		