

WSR 07-01-025
STATE SUPREME COURT
[Filed December 8, 2006, 2:10 p.m.]

In the matter of the adoption of) ORDER
new GR 14.1, new GR 33 and the)
amendments to RAP 9.5, RAP) NO. 25700-A-863
10.4, CR 10, CR 45, CR 53.4,)
CR 54, CR 78, CrR 4.4, CrR 4.7,)
CrR 4.8, CrR 7.8, RALJ 7.3,)
CRLJ 10 and CrRLJ 4.4)

The Washington State Bar Association having recom-
mended the adoption of New GR 14.1, New GR 33 and the
amendments to RAP 9.5, RAP 10.4, CR 10, CR 45, CR 53.4,
CR 54, CR 78, CrR 4.4, CrR 4.7, CrR 4.8, CrR 7,8, RALJ 7.3,
CRLJ 10 and CrRLJ 4.4, and the Court having approved the
proposed new rules and amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the pro-
posed new rules and amendments as attached hereto are to be
published for comment in the Washington Reports, Washing-
ton Register, Washington State Bar Association and Office of
the Administrator for the Court's web sites in.

(b) The purpose statement as required by GR 9(e), is
published solely for the information of the Bench, Bar and
other interested parties.

(c) Comments are to be submitted to the Clerk of the
Supreme Court by either U.S. Mail or Internet E-Mail by no
later than April 30, 2007. Comments may be sent to the fol-
lowing addresses: P.O. Box 40929, Olympia, Washington
98504-0929, or Camilla.Faulk@courts.wa.gov. Comments
submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 7th day of Decem-
ber, 2006.

For the Court
Gerry L. Alexander
CHIEF JUSTICE

GR 9 Cover Sheet

Suggested Amendment to General Rules (GR) - New Rule
14.1
concerning Citation to Unpublished Opinions

Submitted by the Board of Governors of the Washington
State Bar Association

Purpose: This suggested new General Rule would, in
all Washington Courts, (1) maintain the existing prohibition
on citation to unpublished opinions of the Washington Court
of Appeals (see RAP 10.4(h)); (2) allow citation to unpub-
lished opinions issued by any court from a jurisdiction other
than Washington State, but only if citation to that opinion is
permitted under the law of the jurisdiction of the issuing
court; and (3) require the party citing an unpublished opinion
to file and serve a copy of it.

Concurrent suggested amendments to RAP 10.4(h), CR
10, RALJ 7.3(c), and CRLJ 10 will implement the new rule
by referring parties in all cases to GR 14.1 as the sole rule
governing citation to unpublished decisions.

This amendment is intended to resolve confusion at two
fundamental levels. First, although RAP 10.4(h) clearly pro-
hibits citation of unpublished opinions of the Court of
Appeals, there is no similar prohibition for unpublished opin-
ions issued by a court from a jurisdiction other than Washing-
ton State.1 In the absence of a clear rule, the Divisions of the
Court of Appeals have taken differing approaches to the issue
of whether parties may cite non-Washington unpublished
decisions. See Mendez v. Palm Harbor Homes, Inc., 111 Wn.
App. 446, 472-73, 45 P.3d 594 (2002) (Division III) (citation
to unpublished opinions of other jurisdictions is "inappropri-
ate"); Lindsay v. Pacific Topsoils, Inc., 118 Wn. App. 1037,
2003 WL 22121055, at *19 (2003) (Division I) ("This divi-
sion has not ruled on the matter of citing unpublished opin-
ions from out of state, and we see no need to do so now.");
Starypan v. Metropolitan Park Dist. of Tacoma, 105 Wn.
App. 1025, 2001 WL 285827, at *3 n.3 (2001) (Division II)
(under Washington law unpublished opinions from other
jurisdictions have no precedential value). Without resolving
the issue of whether parties may cite to unpublished federal
opinions, the Washington Supreme Court has both embraced
and rejected such opinions. Compare Weyerhaeuser Co. v.
Commercial Union Ins. Co., 142 Wn.2d 654, 678, 15 P.3d
115 (2000) (citing unpublished federal district court deci-
sions as persuasive) with Washington Banker's Associations
v. Washington Mutual Savings Bank, 92 Wn.2d 453, 462-63,
598 P.2d 719 (1979) (noting that unpublished federal deci-
sion cited by party had no precedential value). These incon-
sistencies highlight the importance of enacting a clarifying
rule, because parties often seek sanctions for an opposing
party's citation to unpublished opinions. See, e.g., Mendez,
111 Wn. App. at 472-73.

Second, the rules addressing the citation to unpublished
decisions currently apply only in appellate proceedings. RAP
10.4(h); RALJ 7.3(c). Parties in other types of proceedings,
including superior court cases, are therefore uncertain about
what rules govern their ability to cite unpublished decision.

This proposal resolves these issues by establishing a
clear rule in a new GR 14.1, which will apply to all Washing-
ton State court proceedings. The proposal has three basic
components:

1. The suggested rule will maintain the current prohibi-
tion on citation to unpublished opinions of the Washington
Court of Appeals at present contained in RAP 10.4(h).
Among the many reasons behind this long-standing rule is
that, by definition, those opinions lack precedential value.
See RCW 2.06.040 ("Decisions determined not to have pre-
cedential value shall not be published."); see also RAP
12.3(d) (criteria to consider when determining whether to
publish an opinion); State v. Fitzpatrick, 5 Wn. App. 661, 491
P.2d 262 (1971). The rule will continue to apply only to
unpublished opinions of the Court of Appeals; it does not
apply to citation to opinions or orders of other tribunals, such
as orders issued by a superior court or court of limited juris-
diction.

2. This proposal recognizes that other jurisdictions may take a different approach to the issue of citation of unpublished opinions. The suggested rule therefore allows citation to an unpublished opinion of a non-Washington court only if citation to that opinion is permitted under the law of the jurisdiction of the issuing court. This proposal does not prescribe the weight a Washington court must give to an unpublished opinion. Although the proposal says that such an opinion may be cited "as an authority," a Washington court is free to determine whether the authority is persuasive or not.

3. The suggested rule requires the party citing an unpublished opinion to file and serve a copy of it, even if that opinion might be available on an electronic database. Because different electronic databases employ different formats, this requirement ensures that the parties and the court will literally be able to work from the same page of any unpublished opinion. Furthermore, because many electronic databases charge access fees, the service requirement avoids unfairly prejudicing a party that is unable to afford independent access to a cited unpublished authority.

The suggested rule both borrows and differs from new Federal Rule of Appellate Procedure 32.1, which was approved by the U.S. Supreme Court in April 2006 and will take effect on December 1, 2006 (unless Congress enacts legislation to reject, modify, or defer it). The new federal rule will allow parties to cite unpublished federal decisions issued after 2006, but the rule does not address the citation of unpublished decisions from non-federal courts. The Washington proposal uses the language from the federal rule to describe the various synonyms for "opinion" and "unpublished." And, like the federal rule, the Washington proposal requires parties to file and serve a copy of each cited, unpublished opinion (though the suggested Washington rule requires filing and service even if the opinion is available in an electronic database). Unlike Fed. R. App. P. 32.1, which permits citation of federal unpublished opinions in the federal courts, the Washington rule would retain the longstanding prohibition on citation of unpublished opinions of the Washington Court of Appeals in Washington courts. Assuming the federal rule goes into effect, new GR 14.1 will allow litigants in Washington courts to cite post-2006 unpublished federal decisions.

¹ Only RALJ 7.3(c), in effect since September 1, 2005, and applicable only to review of decisions of courts of limited jurisdiction, addresses this issue directly by barring citation to any opinion of "any other state or federal court that is not published."

GENERAL RULES (GR)

[New Rule]

RULE 14.1. Citation to Unpublished Opinions

(a) Washington Court of Appeals. A party may not cite as an authority an unpublished opinion of the Court of Appeals. Unpublished opinions of the Court of Appeals are those opinions not published in the Washington Appellate Reports.

(b) Other Jurisdictions. A party may cite as an authority an opinion designated "unpublished," "not for publication," "non-precedential," "not precedent," or the like that has been issued by any court from a jurisdiction other than Washington state, only if citation to that opinion is permitted under

the law of the jurisdiction of the issuing court. The party citing the opinion shall file and serve a copy of the opinion with the brief or other paper in which the opinion is cited.

GR 9 Cover Sheet

Suggested Amendment GENERAL RULES (GR)

New Rule 33 - Requests for Accommodation by Persons with Disabilities

Submitted by the Washington State Access to Justice Board and the Washington State Bar Association

(C) Purpose

Suggested new General Rule 33, submitted by the Access to Justice Board and the WSBA, is intended to facilitate access to the justice system by persons with disabilities at all levels of court systems in the State of Washington. In order to address significant barriers experienced by persons with disabilities, the suggested rule establishes a uniform procedure for informing the court of a need for an accommodation and for the court to determine appropriate accommodations in individual circumstances. The suggested rule is further intended to accelerate the development of a comprehensive access management system to assure a clear, consistent, and effective approach to providing appropriate accommodations in Washington courts.

Both federal law (Americans with Disabilities Act of 1990, 104 Stat. 337, 42 U.S.C. §§ 12131-12165) and state law (RCW Ch. 49.60) prohibit discrimination by state and local government agencies based upon disability. In 2004, the United States Supreme Court ruled that courts have the affirmative obligation under Title II of the Americans with Disabilities Act to reasonably accommodate persons with disabilities in order to ensure their fundamental right of access to courts. *Tennessee v. Lane*, 541 U.S. 509 (2004). The suggested rule will help to ensure that persons with disabilities have equal and meaningful access to the judicial system in Washington and guide courts in discharging this obligation as required by law.

Addressing requests for accommodation in the court system involves a multi-step process consisting of notification, assessment, and, as appropriate, accommodation. The first step requires an effective process for individuals to be able to notify the court of a need for an accommodation and the nature of the accommodation requested. Paragraph (a)(4) of the suggested rule defines the term "person with a disability," and paragraph (b) establishes a process for applicants to present accommodation requests during the normal course of a pending litigation or other proceeding. This process includes a procedure for the automatic sealing of medical and health information used in assessing the request. Second, the court to which an application is directed must evaluate whether to grant the requested accommodation. Paragraph (c) of the suggested rule designates the considerations applicable to the decision, and paragraph (d) describes the circumstances in which a requested accommodation may be denied. Finally, the court must enter an order granting or denying the

application and, if an accommodation has been granted, the court must specify the nature of the accommodation to be provided. Paragraph (e) of the suggested rule identifies the required content of an order deciding an application for accommodation and mandates notice to the applicant and appropriate court personnel. Paragraph (a)(1) of the suggested rule defines "accommodation" and lists examples of the types of accommodations the court may provide. And, if an accommodation is ordered, paragraph (f) directs the court to prescribe the duration of the accommodation, which may be for an indefinite period or for a particular proceeding or appearance.

To assist in the successful implementation of the suggested rule, and to provide a practical guide for judicial officers and court staff in complying with *Tennessee v. Lane* and applicable federal, state, and local law, the Access to Justice Board's Impediments to Access to Justice Committee has also developed a guide for judicial officers and court staff, entitled *Ensuring Equal Access for People with Disabilities: A Guide for Washington Courts*, scheduled for publication and distribution in 2006. The Guide sets out options, devices, and services currently available to courts and other agencies to implement their duty to provide reasonable accommodations to persons with disabilities, including sign language interpreters, readers for people with visual impairments, personal assistants, appointment of counsel, and the like.

The suggested rule has been endorsed in principle by the Superior Court Judges Association and the District and Municipal Court Judges Association.

GENERAL RULES (GR)

NEW RULE 33. Requests for Accommodation by Persons with Disabilities

(a) Definitions. The following definitions shall apply under this rule:

(1) "Accommodation" means measures to make each court service, program, or activity, when viewed in its entirety, readily accessible to and usable by an applicant who is a qualified person with a disability, and may include but is not limited to:

(A) making reasonable modifications in policies, practices, and procedures;

(B) furnishing, at no charge, auxiliary aids and services, including but not limited to equipment, devices, materials in alternative formats, qualified interpreters, or readers; and

(C) as to otherwise unrepresented parties to the proceedings, representation by counsel, as appropriate or necessary to making each service, program, or activity, when viewed in its entirety, readily accessible to and usable by a qualified person with a disability.

(2) "Applicant" means any lawyer, party, witness, juror, or any other individual who has a specific interest in or is participating in any proceeding before any court.

(3) "Court" means any court or other agency or body subject to the rulemaking authority of the Supreme Court.

(4) "Person with a disability" means a person covered by the Americans with Disabilities Act of 1990 (§ 42 U.S.C. 12101 *et seq.*), RCW 49.60 *et seq.*, or other similar local, state, or federal laws. This term includes but is not limited to an individual who has a physical or mental impairment that

limits one or more major life activities, has a documented history of such an impairment, or is regarded as having such an impairment.

(5) "Qualified person with a disability" means a person with a disability who is otherwise entitled to participate in any program, service, or activity made available by any court.

(b) Process for Requesting Accommodation.

(1) An application requesting accommodation may be presented *ex parte* in writing, or orally and reduced to writing, on a form approved by the Administrative Office of the Courts, to the presiding judge or officer of the court or his or her designee.

(2) An application for accommodation shall include a description of the accommodation sought, along with a statement of the impairment necessitating the accommodation. The court may require the applicant to provide additional information about the qualifying impairment to help assess the appropriate accommodation. Medical and other health information shall be submitted under a cover sheet created by the Administrative Office of the Courts for use by applicants designated "SEALED MEDICAL AND HEALTH INFORMATION" and such information shall be sealed automatically. The court may order that such information be sealed if it has not previously automatically been sealed.

(3) An application for accommodation should be made as far in advance as practical of the proceeding for which the accommodation is sought.

(c) Consideration. A request for accommodation shall be considered and acted upon as follows:

(1) In determining whether to grant an accommodation and what accommodation to grant, the court shall:

(A) consider, but not be limited by, the provisions of the Americans with Disabilities Act of 1990 (§ 42 U.S.C. 12101 *et seq.*), RCW 49.60 *et seq.*, and other similar local, state, and federal laws;

(B) give primary consideration to the accommodation requested by the applicant; and

(C) make its decision on an individual- and case-specific basis with due regard to the nature of the applicant's disability and the feasibility of the requested accommodation.

(2) If an application for accommodation is filed five (5) or more court days prior to the scheduled date of the proceeding for which the accommodation is sought, and if the applicant otherwise is entitled under this rule to the accommodation requested, the accommodation shall be provided unless:

(A) it is impossible for the court to provide the requested accommodation on the date of the proceeding; and

(B) the proceeding cannot be continued without prejudice to a party to the proceeding.

(3) If an application for accommodation is filed fewer than five (5) court days prior to the scheduled date of the proceeding for which the accommodation is requested, and if the applicant otherwise is entitled under this rule to the accommodation requested, the accommodation shall be provided unless:

(A) it is impractical for the court to provide the requested accommodation on the date of the proceeding; and

(B) the proceeding cannot be continued without prejudice to a party to the proceeding.

(4) If a requested accommodation is not provided by the court under subsection (c)(2) or (c)(3) of this rule, the court must offer the applicant an alternative accommodation.

(d) Denial. Except as otherwise set forth in subsection (c)(2) or (c)(3) of this rule, an application for accommodation may be denied only if the court finds that:

(1) the applicant has failed to satisfy the substantive requirements of this rule;

(2) the requested accommodation would create an undue financial or administrative burden;

(3) the requested accommodation would fundamentally alter the nature of the court service, program, or activity; or

(4) permitting the applicant to participate in the proceeding with the requested accommodation would create a direct threat to the safety or well-being of the applicant or others.

(e) Order. The court shall issue an order consistent with its decision. If the court denies a requested accommodation pursuant to section (d) of this rule, the order shall specify the reasons for the denial. If a requested accommodation is not provided by the court under subsection (c)(2) or (c)(3) of this rule, the court's order shall include a description of:

(1) the facts and/or circumstances that make the accommodation impossible under subsection (c)(2) or impractical under subsection (c)(3); and

(2) the reasons why the proceeding cannot be continued without prejudicing a party to the proceeding.

The court shall inform the applicant and the court personnel responsible for implementing accommodations that the request for accommodation has been granted or denied, in whole or in part, and the nature of the accommodation to be provided, if any.

(f) Duration of Accommodation. The accommodation ordered shall commence on the date set forth in the order granting the accommodation and shall remain in effect for the period specified in the order, which may be extended as the court deems appropriate. The court may grant an accommodation for an indefinite period or for a particular proceeding or appearance.

Comment

Access to justice for all persons is a fundamental right. It is the policy of the courts of this state to assure that persons with disabilities have equal and meaningful access to the judicial system. Nothing in this rule shall be construed to limit or invalidate the remedies, rights, and procedures accorded to any person with a disability under local, state, or federal law.

GR 9 Cover Sheet

Suggested Amendment to Rule of Appellate Procedure (RAP) 9.5 concerning Filing and Service of Report of Proceedings—Objections

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: This suggested amendment is based on a recommendation originally submitted by David Ponzoha, Clerk/Administrator of Division II of the Court of Appeals.

The suggested amendment to RAP 9.5(d) changes an erroneous internal cross-reference in the rule.

This error was created by a 1990 amendment that moved provisions about settling the record from section (a) of the rule into a new section (c), concerning objections to and settlement of the report of proceedings. See 115 Wn.2d 1129-30 (1990). In section (d), the internal cross-reference to settling the report of proceedings should have been changed from "section (a)" to "section (c)," but this was overlooked.

**RULES OF APPELLATE PROCEDURE (RAP)
RULE 9.5 FILING AND SERVICE OF REPORT OF PROCEEDINGS—OBJECTIONS**

(a) - (c) [Unchanged.]

(d) Substitute Judge May Settle Report of Proceedings. If the judge before whom the proceedings were held is for any reason unable to promptly settle questions as provided in section (a), another judge may act in the place of the judge before whom the proceedings were held.

GR 9 Cover Sheet

Suggested Amendment to Rule of Appellate Procedure (RAP) 10.4 concerning Preparation and Filing of Brief by Party

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Please see the statement of purpose for suggested New GR 14.1. [Note: The text of this suggested amendment to RAP 10.4 assumes adoption of the pending proposed amendment to RAP 10.4, published in the January 17, 2006 Advance Sheets, 156 Wn.2d at Proposed-76 to 77 (2006), which, *inter alia*, eliminates paragraph (i).]

**RULES OF APPELLATE PROCEDURE (RAP)
RULE 10.4 PREPARATION AND FILING OF BRIEF BY PARTY**

(a) - (g) [Unchanged.]

(h) Unpublished Opinions. ~~A party may not cite as an authority an unpublished opinion of the Court of Appeals. Unpublished opinions of the Court of Appeals are those opinions not published in the Washington Appellate Reports. [Reserved. See GR 14.1.]~~

GR 9 Cover Sheet

Suggested Amendment to Civil Rule (CR) 10 concerning Form of Pleadings and Other Papers

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: The suggested addition of new paragraph (f) is intended to alert litigants to the prohibition on the inclusion in court documents of specified personal identifiers. The prohibition, enacted in 2004, is contained in GR 31(e). Under GR 31 (e)(2), the responsibility for redacting personal identifiers rests with counsel and the parties, and the rule subjects a party to the possibility of paying expenses if a motion for a

redaction order is needed. A cross-reference to GR 31(e) will assist litigants in complying with this requirement.

The suggested addition of new paragraph (g) is a component of a new suggested protocol for citation of unpublished opinions. Please see the statement of purpose for suggested New GR 14.1 in this regard. Paragraph (g) will serve to alert litigants about the rules pertaining to citation of unpublished opinions and assist them in complying with that rule. The recommendation to adopt this portion of the suggested amendment is contingent on the adoption of suggested New GR 14.1.

SUPERIOR COURT CIVIL RULES (CR)

CR 10. FORM OF PLEADINGS AND OTHER PAPERS

(a) - (e) [Unchanged.]

(f) **Personal Identifiers Prohibited.** [Reserved. See GR 31(e).]

(g) **Unpublished Opinions.** [Reserved. See GR 14.1.]

GR 9 Cover Sheet

**Suggested Amendment to Civil Rule (CR) 45
concerning Subpoena**

Submitted by the Washington State Bar Association

Purpose: The suggested amendments to CR 45 are primarily intended to conform the rule, to the extent practicable, to Rule 45 of the Federal Rules of Civil Procedure. Additional changes are designed to improve its organization and usefulness. As a whole, this suggested revision will comprehensively consolidate and clarify the rule regarding subpoenas in civil actions, modernize its requirements to reflect current practice in the State of Washington, and eliminate archaisms and anachronisms.

An important substantive change relates to the content of and manner in which a party issues a subpoena *duces tecum*. Currently, Washington law under CR 45 differs from federal practice in that CR 45 does not clearly recognize the so-called document-only subpoena, i.e., a subpoena that requires the recipient to produce documents or records but that is not joined with an obligation on the part of the recipient to appear and testify. Since 1991, the federal rule has expressly permitted issuance of a subpoena for production and inspection of documents and tangible things independent of any command for a person's attendance at a deposition. Although some practitioners in Washington dispense with the formality of scheduling a "records deposition," CR 45 does not clearly authorize such a procedure. See *15A Washington Practice Series: Washington Handbook on Civil Procedure* § 49.12 (2006 ed.) ("the federal language is not found in Washington's version of the rule, and the legal authority for this procedure is less than obvious"). Typically, when a records deposition is noted, the actual deposition is avoided when the recipient voluntarily agrees to deliver all the requested records and the requesting party's lawyer agrees to cancel the scheduled deposition.

The more streamlined federal procedure, incorporated into paragraphs (a)(1)(C), (a)(3), and (c)(2)(A) of the suggested rule, is designed to codify this practice. This is a well-established federal practice and its proposed adoption in

Washington is uncontroversial. The change will serve the interests of both litigants and subpoena recipients and aid in securing the just, speedy, and inexpensive determination of actions.

A related provision, found in paragraph (b)(2) of the suggested rule, requires that a copy of a document-only subpoena be served on all parties five days prior to service of the subpoena on the designated recipient. This requirement is designed to allow parties sufficient time to assert any privileges or objections prior to the recipient complying with the subpoena by delivery of documents to the issuing party. Although Fed. R. Civ. P. 45 (b)(1) similarly requires that "[p]rior notice of any commanded production of documents ... be served on each party," the federal rule does not specify a five-day notice period.

Additionally, the second sentence of paragraph (a)(3) is intended to foreclose the dubious practice of attempting to use a subpoena to compel production of documents from a party without complying with the time requirements of CR 34 governing requests for production directed to a party. Similarly, CR 30 (b)(5) (addressing deposition notices accompanied by CR 34 requests) applies the procedures specified in rule 34, including the prescribed time limits, to depositions of parties.

A second significant change is the addition of express provisions designed for the protection of persons subject to subpoenas. These provisions, contained in paragraph (c) of the suggested rule, are in substantial part identical to those of Fed. R. Civ. P. 45(c). None of these procedures or remedies is inconsistent with existing Washington practice. The actual language of suggested paragraph (c) is included in the form subpoena incorporated into the rule in paragraph (h).

The suggested amendments to CR 45 also incorporate a new paragraph (d), which imposes duties on the recipients of subpoenas. Under subsection (d)(1), a person responding to a subpoena requiring production of documents must produce them as they are maintained in the usual course of business or, alternatively, organize and label them to correspond to categories in the subpoena. Subsection (d)(2) imposes an affirmative obligation to expressly claim privilege if documents are withheld from production and to describe such documents with sufficient particularity to allow the requesting party to contest the claim. The provisions in paragraph (d) correspond to the requirements imposed on a party in responding to a request for production under CR 34. Suggested CR 45(d) is identical to Fed. R. Civ. P. 45(d).

Remaining distinctions between the federal rule and the suggested revision to CR 45 are chiefly attributable to the existence of Washington statutes that continue to govern subpoena procedure to some extent. See RCW ch. 2.40 & ch. 5.56. These statutes govern witness fees, mileage, and other allowances, and impose requirements on the issuance of trial subpoenas that do not apply to issuance of deposition or document subpoenas. These statutes account for variances from the federal rule throughout the suggested revision, as well as for the inclusion of paragraphs (e) and (f), which have no counterpart in the federal rule.

Finally, to guide practitioners in making the transition from the current rule to the revised rule, a suggested form

("Subpoena in a Civil Case") is included and set forth in paragraph (h).

Owing to important distinctions between civil and criminal practice, particularly relating to the issue of providing notice of subpoenas seeking production of documentary and tangible evidence, a simultaneous revision to the Criminal Rules is suggested to separately address the issuance of subpoenas in criminal matters. See the statement of purpose for the suggested amendment to CrR 4.8.

CIVIL RULES (CR)

RULE 45. Subpoena

(a) For Attendance of Witnesses. ~~The subpoena shall be issued as follows:~~

~~(1) Form.~~ To require attendance before a court of record or at the trial of an issue therein, such subpoena may be issued in the name of the State of Washington and be under the seal of the court before which the attendance is required or in which the issue is pending. *Provided*, That such subpoena may be issued with like effect by the attorney of record of the party to the action in whose behalf the witness is required to appear, and the form of such subpoena in each case may be the same as when issued by the court except that it shall only be subscribed by the signature of such attorney.

~~(2) Issuance for Trial.~~ To require attendance before a court of record or at the trial of an issue of fact, the subpoena may be issued by the clerk in response to a praecipe or by an attorney of record.

~~(3) Issuance for Deposition.~~ To require attendance out of such court before a judge, justice of the peace, commissioner, referee or other officer authorized to administer oaths or to take testimony in any matter under the laws of this state, it shall be issued by an attorney of record or by such judge, justice of the peace, commissioner, referee or other officer before whom the attendance is required.

(b) For Production of Documentary Evidence. A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable and oppressive or (2) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(c) Service. A subpoena may be served by any suitable person over 18 years of age, by exhibiting and reading it to the witness, or by giving him a copy thereof, or by leaving such copy at the place of his abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit.

(d) Subpoena for Taking Depositions; Place of Examination.

~~(1) Authorization.~~ Proof of service of a notice to take a deposition as provided in rules 30(b) and 31(a) constitutes a sufficient authorization for the issuance by the attorney of record or the officer taking the deposition of subpoenas for the persons named or described therein. The subpoena may command the person to whom it is directed to produce and permit inspection and copying of designated books, papers,

documents, or tangible things which constitute or contain matters within the scope of the examination permitted by rule 26(b), but in that event the subpoena will be subject to the provisions of rule 26(c) and section (b) of this rule.

~~The person to whom the subpoena is directed may, within 10 days after the service thereof or on or before the time specified in the subpoena for compliance if such time is less than 10 days after service, serve upon the attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena may, if objection has been made, move upon notice to the deponent for an order at any time before or during the taking of the deposition.~~

~~(2) Place of Examination.~~ A resident of the state may be required to attend an examination only in the county wherein he resides or is employed or transacts his business in person, or at such other convenient place as is fixed by an order of the court. A nonresident of the state may be required to attend only in the county wherein he is served with a subpoena, or within 40 miles from the place of service or at such other convenient place as is fixed by an order of the court.

~~(3) Foreign Depositions for Local Actions.~~ When the place of examination is in another state, territory, or country, the party desiring to take the deposition may secure the issuance of a subpoena or equivalent process in accordance with the laws of such state, territory or country to require the deponent to attend the examination.

~~(4) Local Depositions for Foreign Actions.~~ When any officer or person is authorized to take depositions in this state by the law of another state, territory or country, with or without a commission, a subpoena to require attendance before such officer or person may be issued by any judge or justice of the peace of this state for attendance at any places within his jurisdiction.

(e) Subpoena for Hearing or Trial. [Reserved. See RCW 5.56.010.]

(f) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court from which the subpoena issued.

(g) When Excused. A witness subpoenaed to attend in a civil case is dismissed and excused from further attendance as soon as he has given his testimony in chief and has been cross-examined thereon, unless either party moves in open court that the witness remain in attendance and the court so orders; and witness fees will not be allowed any witness after the day on which his testimony is given, except when the witness has in open court been required to remain in further attendance, and when so required the clerk shall note that fact in the minutes.

(a) Form; Issuance.

(1) Every subpoena shall:

(A) state the name of the court from which it is issued;

(B) state the title of the action, the name of the court in which it is pending, and its case number;

(C) command each person to whom it is directed to attend and give testimony or to produce and permit inspection and copying of designated books, documents or tangible

things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified; and

(D) set forth the text of subsections (c) and (d) of this rule.

(2) A subpoena for attendance at a deposition shall state the method for recording the testimony.

(3) A command to a person to produce evidence or to permit inspection may be joined with a command to appear at trial or hearing or at deposition, or may be issued separately. A party may be compelled to produce evidence at a deposition or permit inspection only in accordance with rule 34.

(4) A subpoena may be issued by the court in which the action is pending under the seal of that court or by the clerk in response to a praecipe. An attorney of record of a party or other person authorized by statute may issue and sign a subpoena, subject to RCW 5.56.010.

(b) Service.

(1) A subpoena may be served by any suitable person over 18 years of age by giving the person named therein a copy thereof, or by leaving a copy at the place of such person's abode. When service is made by any person other than an officer authorized to serve process, proof of service shall be made by affidavit.

(2) A subpoena commanding production of documents and things, or inspection of premises, without a command to appear for deposition, hearing or trial, shall be served on each party in the manner prescribed by rule 5(b). Such service shall be made no fewer than five days prior to service of the subpoena on the person named therein, unless the parties otherwise agree or the court otherwise orders for good cause shown. A motion for such an order may be made *ex parte*.

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to subsection (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an

officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden, provided that the court may condition denial of the motion upon a requirement that the subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(e) Subpoena for Taking Deposition, Producing Documents, or Permitting Inspection.

(1) *Witness Fees and Mileage.* [Reserved. See RCW 2.40.020.]

(2) *Place of Examination.* A resident of the state may be required to attend an examination, produce documents, or permit inspection only in the county where the person resides or is employed or transacts business in person, or at such other convenient place as is fixed by an order of the court. A nonresident of the state may be required to attend an examination, produce documents, or permit inspection only in the county where the person is served with a subpoena, or within 40 miles from the place of service, or at such other convenient place as is fixed by an order of the court.

(3) *Foreign Proceedings for Local Actions.* When the place of examination, production, or inspection is in another state, territory, or country, the party desiring to take the deposition, obtain production, or conduct inspection may secure the issuance of a subpoena or equivalent process in accordance with the laws of such state, territory, or country.

(4) *Local Depositions for Foreign Actions.* When any officer or person is authorized to take depositions in this state

by the law of another state, territory, or country, with or without a commission, a subpoena to require attendance before such officer or person may be issued by any court of this state for attendance at any place within its jurisdiction.

(f) Subpoena For Hearing or Trial.

(1) *When Witnesses Must Attend - Fees and Allowances.* [Reserved. See RCW 5.56.010.]

(2) *When Excused.* A witness subpoenaed to attend in a civil case is dismissed and excused from further attendance as soon as the witness has given testimony in chief and has been cross-examined thereon, unless either party moves in open court that the witness remain in attendance and the court so orders. Witness fees will not be allowed any witness after the day on which the witness' testimony is given, except

when the witness has in open court been required to remain in further attendance, and when so required the clerk shall note that fact.

(g) Contempt.

Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a non-party to attend a deposition, produce documents, or permit inspection at a place not within the limits provided by subsection (e)(2).

(h) Form. A subpoena should be substantially in the form below.

Issued by the
SUPERIOR COURT FOR THE STATE OF WASHINGTON
_____ COUNTY

SUBPOENA IN A CIVIL CASE

v.

CAUSE NUMBER:

TO:

YOU ARE COMMANDED to appear in the Superior Court of the State of Washington at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. CR 30 (b)(6).

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or tangible things at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
-------	---------------

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
---	------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

PROOF OF SERVICE

	DATE	PLACE
SERVED		
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the State of Washington that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ DATE/PLACE

SIGNATURE OF SERVER

ADDRESS OF SERVER

CR 45, Sections (c) & (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden, provided that, the court may condition denial of the motion upon a requirement that the subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

GR 9 Cover Sheet

Suggested Amendment to Civil Rule (CR) 53.4 concerning Procedures for Mandatory Mediation of Health Care Claims

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: The suggested addition of new subsection (f)(9) is intended to comply with the legislative requirement that the Supreme Court adopt court rules implementing mandatory mediation of health care claims. See RCW 7.70.100.

CR 53.4, adopted effective March 11, 1997, was enacted to implement this legislation. In the 2006 session, as part of the Medical Malpractice, Patient Safety, and Health Care Liability Reform Act, the legislature amended the statute to require that the implementing court rule include "procedures for the parties to certify to the court the manner of mediation used by the parties..." 2006 Wash. Sess. Laws ch. 8, § 314 (effective June 7, 2006, to be codified at RCW 7.70.100(7)).

The language of the new subsection recognizes that, pursuant to CR 53.4(d), "the mediator may determine that the claim is not appropriate for mediation." A 10-day deadline is appropriate because CR 53.4(c) allows a mediation to take place as late as 30 days before trial; hence, the superior court

should receive prompt notice of the result of the mediation as far in advance of the trial as is reasonably possible.

**SUPERIOR COURT CIVIL RULES (CR)
CR 53.4. PROCEDURES FOR MANDATORY MEDIATION OF
HEALTH CARE CLAIMS**

(a) - (e) [Unchanged.]

(f) **Mediation Procedure.** Promptly upon the designation of a mediator, the plaintiff shall arrange a conference call among the mediator and counsel for each party to discuss the procedural aspects of the mediation. Except to the extent the mediator directs otherwise, the following procedures shall apply:

(1) - (8) [Unchanged.]

(9) Certification of Mediation. Not more than 10 days after the mediation concludes or the mediator determines that the claim is not appropriate for mediation, the parties shall certify in writing to the court the manner of mediation, if any, and compliance with the provisions of this rule.

(g) [Unchanged.]

GR 9 Cover Sheet

**Suggested Amendment to Civil Rule (CR) 54
concerning Judgment and Costs**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: These suggested amendments are based in part on a recommendation of the judges and clerks of the Court of Appeals. By imposing a ten-day deadline on the filing of motions for attorneys' fees, costs, and the like, the amendment to CR 54(d) is intended to prevent parties from raising trial-level attorney fee issues very late in the appellate process, sometimes after one or all appellate briefs have been submitted.

Currently, the Civil Rules contain no deadline by which a party must file a motion for an award of fees in the trial court. Yet RAP 2.4(g) and 7.2(i) allow an appeal of an award of attorney fees (and/or costs) to automatically join an appeal on the merits of the case anytime after the appellate court has accepted review. This can create delay at the appellate level when an aggrieved party seeks to obtain appellate review of a subsequently entered attorney fee award.

The primary purpose of the proposed amendments is to require a prevailing party to move for attorneys' fees (and any other costs not provided by the statute) within 10 days of the entry of judgment—the same deadline imposed for other post-judgment motions. This is done by adding a new section (d)(2) to CR 54.

A secondary purpose of the proposed amendment is to better harmonize the language of the applicable Civil Rules with each other and with the relevant statutes (in particular, RCW 4.84.010, .030, and .090). Language added to new subsection (d)(1) of CR 54 and the amendment to CR 78(e) are designed to expressly include both "costs" and "disbursements" and to clarify that the disbursement "affidavit" can be part of the "cost bill."

**SUPERIOR COURT CIVIL RULES (CR)
RULE 54. JUDGMENT AND COSTS**

(a) - (c) [Unchanged.]

(d) Costs, Disbursements, Attorneys' Fees, and Expenses.

(1) Costs and Disbursements. Costs and disbursements shall be fixed and allowed as provided in RCW 4.84 or by any other applicable statute. If the party to whom costs are awarded does not file a cost bill or an affidavit detailing disbursements within 10 days after the entry of the judgment, the clerk shall tax costs and disbursements pursuant to CR 78(e).

(2) Attorneys' Fees and Expenses. Claims for attorneys' fees and expenses, other than costs and disbursements, shall be made by motion unless the substantive law governing the action provides for the recovery of such fees and expenses as an element of damages to be proved at trial. Unless otherwise provided by statute or order of the court, the motion must be filed no later than 10 days after entry of judgment.

(e) - (f) [Unchanged.]

GR 9 Cover Sheet

**Suggested Amendment to Civil Rule (CR) 78
concerning Clerks**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: Please see statement of purpose for suggested amendment to CR 54.

**SUPERIOR COURT CIVIL RULES (CR)
CR 78. CLERKS**

(a) - (d) [Unchanged.]

(e) Entry of Judgments and Costs. The clerk shall enter judgment or decree pursuant to the provisions of rule 58 and the same shall then be entered for the sum found due or the relief awarded, with costs and disbursements, if any, to be taxed. Entry of judgment shall not be delayed for the taxing of costs. If no cost bill is filed by the party to whom costs are awarded within 10 days after the entry of the judgment or decree, the clerk shall proceed to tax the following costs and disbursements, namely:

(1) The statutory attorney fee;

(2) The clerk's fee; and

(3) The sheriff's fee; and

(4) ~~Other disbursements, the amount whereof plainly appears on the papers in the case, and shall enter the sum thereof in the judgment entry and execution docket.~~ [PARAGRAPH BREAK]

If a cost bill is filed, ~~he~~ the clerk shall enter as the amount to be recovered the amount claimed in such cost bill, and no motion to retax costs shall be considered unless the same be filed within 6 days after the filing of the cost bill.

For purposes of this subsection (e), "cost bill" also includes an affidavit detailing disbursements.

(f) [Unchanged.]

GR 9 Cover Sheet

**Suggested Amendment to Superior Court Criminal Rule
(CrR) 4.4
concerning Severance of Offenses and Defendants**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: Failure of a trial court to exclude an incriminating statement of a nontestifying codefendant may violate a criminal defendant's constitutional right to confront adverse witnesses. See Bruton v. United States, 391 U.S. 123 (1968). To address this issue, CrR 4.4 (c)(1) provides that a defendant's motion to sever under these circumstances will be granted unless:

- (i) the prosecuting attorney elects not to offer the statement in the case in chief;
- (ii) deletion of all references to the moving defendant will eliminate any prejudice to him from the admission of the statement.

There is neither an "and" nor an "or" between subsections (i) and (ii) of this rule, apparently a drafting or typographical error existing since its inception. (By contrast, paragraph (c)(2) of the rule, which is similarly structured, contains two subsections (i) and (ii), with the term "or" appearing between them.)

It has been assumed that the options presented in subsections (c)(1)(i) and (c)(1)(ii) of CrR 4.4 are disjunctive, i.e., that if the defendant moves for severance, the prosecutor may elect to either (1) abandon the statement as evidence in the state's case, or (2) admit the statement only after deleting all references to the moving defendant. See Royce A. Ferguson, 12 Washington Practice Series: Criminal Practice and Procedure § 1712 (3d ed. 2004) (motion will be granted "unless either the prosecuting attorney elects not to offer the statement in the case in chief or deletion of all references to the moving defendant will eliminate any prejudice to him from the admission of the statement").

Nevertheless, the rule in its present form has generated confusion and controversy. In State v. Medina, 112 Wn. App. 40, 48 P.3d 1005 (2002), for example, the Court of Appeals used the term "and" when describing the CrR 4.4 (c)(1) alternatives. The court ultimately held, however, that CrR 4.4 (c)(1) severance was not required because subsection (ii) alone had been satisfied by the prosecution's redaction of the statement at issue. But the Medina court's mistaken description of the rule was cited in a recent appeal in which the defendant expressly argued that the term "and" rather than "or" should be implied in paragraph (c)(1). See State v. Vincent, 131 Wn. App. 147, 120 P.3d 120 (2005) (resolving case without reaching the CrR 4.4 (c)(1) issue).

The amendment inserting "or" between the CrR 4.4 (c)(1)(i) and (ii) will clarify the intent of the rule and prevent further disputes arising from an arguable ambiguity.

SUPERIOR COURT CRIMINAL RULES (CrR)
RULE 4.4. SEVERANCE OF OFFENSES AND DEFENDANTS

(a) - (b) [Unchanged.]

(c) **Severance of Defendants.**

(1) A defendant's motion for severance on the ground that an out-of-court statement of a codefendant referring to him is inadmissible against him shall be granted unless:

- (i) the prosecuting attorney elects not to offer the statement in the case in chief; or
- (ii) deletion of all references to the moving defendant will eliminate any prejudice to him from the admission of the statement.

(2) - (4) [Unchanged.]

(d) - (e) [Unchanged.]

GR 9 Cover Sheet

**Suggested Amendment to Superior Court Criminal Rule
(CrR) 4.7
concerning Discovery**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: This suggested amendment is designed to correct an apparent typographical error in subsection (a)(1)(vi) of CrR 4.7. The subsection requires the prosecuting attorney, as part of the general discovery obligation in a criminal case, to disclose "any record **or** prior criminal convictions known to the prosecuting attorney of the defendant and of person whom the prosecuting attorney intends to call as witnesses at the hearing or trial." (Emphasis added). All indications are that the "or" should be an "of." The corresponding rule for the Courts of Limited Jurisdiction, CrRLJ 4.7 (a)(1)(v), requires the prosecuting authority to disclose "any record **of** prior criminal convictions known to the prosecuting authority of the defendant and of persons whom the prosecuting authority intends to call as witnesses at the hearing or trial." (Emphasis added). In practice, lawyers treat the "or" as an "of." See, e.g., Royce A. Ferguson, 12 Washington Practice Series: Criminal Practice and Procedure § 1306 (3d ed. 2004) ("The prosecuting attorney is required to disclose to the defendant the following material and information within his possession and control no later than the omnibus hearing:... any record of prior criminal convictions known to the prosecuting attorney of the defendant and of persons whom the prosecuting attorney intends to call as witnesses at the hearing or trial."). The error has existed since the Criminal Rules were adopted in 1973.

In crafting what would become the Superior Court Criminal Rules, the Washington Judicial Council Criminal Rules Task Force drafted the provision to read: "Any record of prior criminal convictions known to the prosecuting attorney of the defendant and of persons whom the prosecuting attorney intends to call as witnesses at the hearing or trial." Criminal Rules Task Force to the Washington Judicial Council, Washington Proposed Rules of Criminal Procedure Rule 4.7 (a)(1)(vi), at 70 (1971) (emphasis added). The provision was derived from a corresponding ABA discovery standard, which required disclosure of "any record **of** prior criminal convictions of persons whom the prosecuting attorney intends to call as witnesses at the hearing or trial." Id. at 79 (quoting American Bar Association, Standards Relating to Discovery and Procedure Before Trial § 2.1 (a)(vi)

(Approved Draft 1970)) (emphasis added). When Washington's Criminal Rules were adopted and published, however, the "of" had become an "or." See Criminal Rules for Superior Court, 82 Wn.2d 1114, 1143 (1973). This appears to have been a typographical error.

The intent of this provision is to do no more than require the prosecution to disclose records "of prior criminal convictions." It is applied and interpreted in that fashion. There appears to be no argument or authority to the contrary. Therefore, it is recommended that subsection (a)(1)(vi) of CrR 4.7 be amended to change the "or" to an "of".

SUPERIOR COURT CRIMINAL RULES (CrR)
RULE 4.7. DISCOVERY

(a) Prosecutor's Obligations.

(1) Except as otherwise provided by protective orders or as to matters not subject to disclosure, the prosecuting attorney shall disclose to the defendant the following material and information within the prosecuting attorney's possession or control no later than the omnibus hearing:

(i) - (v) [Unchanged.]

(vi) any record ~~or~~ of prior criminal convictions known to the prosecuting attorney of the defendant and of persons whom the prosecuting attorney intends to call as witnesses at the hearing or trial.

(2) - (4) [Unchanged.]

(b) - (h) [Unchanged.]

GR 9 Cover Sheet

**Suggested Amendment to Superior Court Criminal Rule
(CrR) 4.8
concerning Subpoenas**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: The Washington State Bar Association has suggested substantial amendments to CR 45 regarding subpoenas in civil actions. For this reason, existing CrR 4.8 (which currently provides "[s]ubpoenas shall be issued in the same manner as in civil actions") requires contemporaneous amendment. In addition, prior to the decision of the Court of Appeals in *State v. White*, 126 Wn. App. 131, 107 P.3d 753 (2005), the practice for issuing subpoenas in criminal actions (particularly the issue of whether to give notice of issuance of a subpoena *duces tecum*) was not consistent throughout the state. The *White* case, which required compliance with CR 45 notice obligations for service of all subpoenas, underscored problems in engrafting civil procedures onto criminal cases.

The new suggested rule explicitly recognizes two types of subpoenas: (1) those directing a person to attend and give testimony ("a subpoena for testimony") and (2) those requiring production of documentary evidence or tangible things ("a subpoena for production"). A subpoena for testimony compels a person to attend trial, a hearing, or a deposition. Provisions regarding form (subsection (a)(1)), service (subsection (a)(3)), and "when excused" (subsection (a)(4)) are consistent with existing practice. Under subsection (a)(1), a

subpoena may be issued by the court or by an attorney of record. Under subsection (a)(3), service on a person directed to testify is accomplished by personal service, abode service, or mail (provided that a waiver form is filed in case of service by mail). Proof of service or a waiver of service can be evidenced by affidavit or declaration. The waiver provision is intended as an alternative means of service that will facilitate cost-effective service. Under subsection (a)(4), a person is excused from further testimony after his or her examination, unless otherwise ordered by the court. This subsection is identical to existing CR 45(g) and suggested CR 45 (f)(2).

The notice provision in subsection (a)(2) is new and represents a compromise between the positions articulated by prosecutors and defense lawyers. In general, prosecutors favor a rule that requires each party to provide notice to the adverse party whenever a subpoena is issued (as required by CR 45 and the *White* decision), and defense lawyers prefer not to provide such notice. Unlike civil practice, where discovery obligations of all parties generally correspond, procedural and ethical requirements in criminal cases are such that disclosure obligations differ for the prosecution and the defense. In particular, the obligation of a defense lawyer not to act in such a way as to incriminate his or her client creates unique problems, underscoring the need for a carefully crafted subpoena rule. Thus, under subsection (a)(2) of the suggested amendment, notice to all parties is **not** required for issuance of a subpoena for testimony, **unless** it is accompanied by a subpoena for production (in which case notice is required pursuant to subsection (b)(2)(iii)), or unless notice is required elsewhere in the Criminal Rules. Notice of the time and place for taking a court-ordered deposition in a criminal case is separately required by CrR 4.6(b).

The new suggested rule sets forth specific requirements that apply only to a subpoena for production, i.e., a subpoena requiring that the recipient produce books, papers, documents, or tangible things. (Unlike the proposed amendment to CR 45, CrR 4.8(b) does not include a provision to permit inspection of premises because it is not necessary or appropriate to do so in criminal matters; if unique circumstances require inspection of premises, the issue can be addressed by the court, as it is at present, under CrR 4.7.) The form of the subpoena for production is similar to a subpoena for testimony, except that it must include the text of subsection (b)(4) advising the recipient of the availability of a motion to quash in the enumerated circumstances.

Just as in subsection (a)(2), notice provisions in subsection (b)(2) represent a compromise between prosecutors and defense attorneys. This subsection provides that advance notice of a subpoena for production is required whenever a subpoena seeks documentary evidence or tangible things belonging or pertaining to a defendant, an alleged victim or complaining witness, or a member of an alleged victim's family or household. This advance notice must occur at least 5 days before service of the subpoena for production upon the subpoena recipient, although the parties may agree to, or the court may order, a shorter time. Subsection (a)(2)(ii) provides an exception for a defense attorney seeking records pertaining solely to the defendant. Thus, by subpoena a defense attorney can acquire school, medical, telephone, and other records relating to his or her client without notice to the pros-

ecution and without risking disclosure of potentially inculpatory information. A second and independent means of foregoing the notice requirement is by ex parte motion. Under compelling circumstances, a court may order that notice of the subpoena for production (issued either by the prosecution or the defense) is not required. This would allow, for example, a prosecutor to obtain records relating to a victim without disclosure to a defendant or defense counsel.

Service requirements for a subpoena for production depend upon whether the subpoena also directs the person to attend and give testimony. A subpoena that both requires attendance and production must be served on the witness pursuant to subsection (a)(3). Service of a subpoena for production only is accomplished pursuant to CR 5(b).

The suggested amendments to CR 45 incorporate provisions designed for the protection of persons subject to subpoenas. These provisions are in substantial part identical to those of Fed. R. Civ. P. 45(c). The text in subsection (b)(4) of suggested CrR 4.8 synthesizes these provisions for application in criminal cases and provides a mechanism to seek court protection upon timely motion.

Section (c) is identical to paragraph (f) of existing CR 45 (which will become paragraph (g) in the suggested amendment to CR 45).

SUPERIOR COURT CRIMINAL RULES (CrR)
RULE 4.8. SUBPOENAS

~~Subpoenas shall be issued in the same manner as in civil actions.~~

(a) For Attendance of Witnesses. A subpoena directing a person to attend and give testimony ("a subpoena for testimony") shall be issued as follows:

(1) Form. A subpoena for testimony shall state the title of the action, the case number, the name of the court in which the action is pending, and, if different, the name of the court from which the subpoena for testimony is issued. A subpoena for testimony may be issued by the court in which the action is pending or before which attendance is required under the seal of that court or by the clerk in response to a praecipe. A subpoena for testimony may be issued with like effect by the attorney of record of the party to the action in whose behalf the witness is required to appear.

(2) Notice. Notice to each party of the issuance of a subpoena for testimony is not required unless (i) such subpoena also commands the person to whom it is directed to produce any books, papers, documents, or tangible things, or (ii) notice is required elsewhere in these rules. If a subpoena for testimony also commands a person to produce any books, papers, documents, or tangible things, then notice of such subpoena shall be given in the manner described in subsection (b)(2)(iii) of this rule.

(3) Service—How Made. A subpoena for testimony may be served by any suitable person over 18 years of age, by giving the witness a copy thereof, or by leaving a copy at the witness's dwelling house or usual place of abode. When service is made by any person other than an officer authorized to serve process, proof of service shall be made by affidavit or declaration. A subpoena for testimony may also be served by first-class mail, postage prepaid, together with a waiver of personal service and instructions for returning such waiver to

the attorney of record of the party to the action in whose behalf the witness is required to appear. Service by mail shall be deemed complete upon the filing of the returned waiver of personal service, signed in affidavit or declaration form.

(4) When Excused. A witness subpoenaed to attend trial is excused from further attendance as soon as the witness has given testimony in chief and has been cross-examined thereon, unless either party moves in open court that the witness remain in attendance and the court so orders. Witness fees will not be allowed any witness after the day on which the witness's testimony is given, except when the witness has in open court been required to remain in further attendance, and when so required the clerk shall note that fact in the minutes.

(b) For Production of Documentary Evidence or Tangible Things. A subpoena commanding a person to produce and permit inspection and copying of designated books, papers, documents, or tangible things in the possession, custody, or control of that person ("a subpoena for production") shall be issued as follows:

(1) Form. A subpoena for production shall be in the same form and issued in the same manner as described in subsection (a)(1) of this rule. A person on whom a subpoena for production is served need not appear at the place of production or inspection unless directed to appear and give testimony. A subpoena for production shall set forth the text of subsection (b)(4) of this rule.

(2) Notice. Advance notice of a subpoena for production shall be provided as follows:

(i) When Required. Notice of a subpoena for production shall be provided whenever a party seeks documentary evidence or tangible things belonging or pertaining to a defendant, an alleged victim or complaining witness, or a member of an alleged victim's family or household.

(ii) Exceptions. Notice of a subpoena for production is not required when an attorney representing a defendant seeks documentary evidence or tangible things belonging solely to or pertaining solely to such defendant. In all other instances, upon a showing of compelling circumstances by ex parte motion of a party, the court may order that notice of a particular subpoena for production is not required. Such court order, along with a copy of the subpoena for which notice is excused, shall be filed under seal pursuant to GR 15.

(iii) Time and Manner. No fewer than five days prior to service of a subpoena for production on the person commanded therein to produce documentary evidence or tangible things, notice of such subpoena shall be provided to each party by serving a copy thereof in the manner prescribed by CR 5(b). The parties may agree to shorten, or the court may shorten upon a showing of good cause by a party, the time between notice and service of a particular subpoena.

(3) Service—How Made. If a subpoena for production also directs a person to attend and give testimony, service of the subpoena for production on the person to whom it is directed shall be governed by subsection (a)(3) of this rule. A subpoena for production not directing a person to attend and give testimony may be served in the manner prescribed by CR 5(b).

(4) Protection of Persons Subject to Subpoena for Production. On timely motion, the court may quash or modify a

subpoena for production if it (i) fails to allow reasonable time for compliance, (ii) requires disclosure of privileged or other protected matter and no exception or waiver applies, (iii) is unreasonable, oppressive, or unduly burdensome, or (iv) exceeds the scope of discovery otherwise permitted under the criminal rules. The court may condition denial of a motion to quash or modify upon the advancement by the party in whose behalf the subpoena for production is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(c) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued.

GR 9 Cover Sheet

**Suggested Amendment to Superior Court Criminal Rule
(CrR) 7.8
concerning Relief from Judgment or Order**

**Submitted by the Board of Governors of the Washington
State Bar Association**

(A) Name of Proponent: Washington State Bar Association.

(B) Spokesperson: David D. Swartling, Chair, WSBA Court Rules and Procedures Committee.

(C) Purpose: This suggested amendment is based on a recommendation originally submitted by the Washington Association of Prosecuting Attorneys (WAPA). The suggested amendment to CrR 7.8 provides that a motion to vacate a criminal judgment will be transferred to the Court of Appeals for consideration as a personal restraint petition rather than decided by the superior court, except in enumerated circumstances.

A CrR 7.8 motion to vacate is a form of collateral attack on a criminal judgment. Most such motions are not subject to a definite deadline but can be made "within a reasonable time." In many cases, these motions are filed by pro se defendants after the direct appeal and personal restraint processes have been exhausted. Because such motions are classified as collateral attacks, they are subject to a number of procedural restrictions imposed by statute, including the restriction that a collateral attack may not be filed more than one year after judgment (unless an exception applies). See RCW 10.73.090 (2); see also RCW 10.73.100; RCW 10.73.140. In many cases, such a pro se motion is clearly procedurally barred and should be denied, but if the superior court denies the motion, the defendant is entitled to appointed counsel because such an order is appealable under RAP 2.2. An abuse of discretion standard applies on appeal; hence, in the case of procedurally barred motions, there is little appointed counsel can do. Substantial time and effort can be consumed in these abortive appellate proceedings.

Currently, CrR 7.8 permits transfer of a motion to vacate to the Court of Appeals "if such transfer would serve the ends of justice." The WSBA Court Rules and Procedures Committee was advised that the transfer procedure is routinely and successfully invoked in King County Superior Court. The

suggested rule will require the superior court to transfer all motions directly to the Court of Appeals for initial disposition as personal restraint petitions. Excepted are motions not barred by RCW 10.73.090 if either (1) the defendant makes a substantial showing that he or she is entitled to relief or (2) resolution of the motion requires a factual hearing. These situations are appropriately addressed by the superior court. In all other cases, once transferred, the more flexible procedures for initial consideration of a personal restraint petition will apply. See RAP 16.11.

(D) Hearing: A public hearing is not recommended.

(E) Expedited Consideration: Expedited consideration is not requested.

**SUPERIOR COURT CRIMINAL RULES (CrR)
RULE 7.8. RELIEF FROM JUDGMENT OR ORDER**

(a) - (b) [Unchanged.]

(c) Procedure on Vacation of Judgment.

(1) *Motion.* Application shall be made by motion stating the grounds upon which relief is asked, and supported by affidavits setting forth a concise statement of the facts or errors upon which the motion is based.

(2) *Initial Consideration Transfer to Court of Appeals.* ~~The court may deny the motion without a hearing if the facts alleged in the affidavits do not establish grounds for relief. The court may shall transfer a motion filed by a defendant to the Court of Appeals for consideration as a personal restraint petition if such transfer would serve the ends of justice unless the court determines that the motion is not barred by RCW 10.73.090 and either (i) the defendant has made a substantial showing that he or she is entitled to relief or (ii) resolution of the motion will require a factual hearing.~~

(3) *Order to Show Cause.* ~~Otherwise, the court~~ If the court does not transfer the motion to the Court of Appeals, it shall enter an order fixing a time and place for hearing and directing the adverse party to appear and show cause why the relief asked for should not be granted.

GR 9 Cover Sheet

**Suggested Amendment to Rule for Appeal of Decisions of
Courts of Limited Jurisdiction (RALJ) 7.3
concerning Format of Briefs**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: Please see the statement of purpose for suggested New GR 14.1.

**RULES FOR APPEAL OF DECISIONS OF COURTS OF LIMITED
JURISDICTION (RALJ)
RULE 7.3. FORMAT OF BRIEFS**

(a) - (b) [Unchanged.]

(c) Unpublished Opinions. ~~A party may not cite as authority an unpublished opinion of a Washington appellate court, nor of any other state or federal court that is not published. A party may not cite as authority a decision of a superior court, a court of limited jurisdiction, or a decision of a~~

commissioner of the Supreme Court or Court of Appeals.
[Reserved. See GR 14.1.]

GR 9 Cover Sheet

Suggested Amendment to Civil Rule for Courts of Limited Jurisdiction (CRLJ) 10 concerning Form of Pleadings

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Please see the statement of purpose for the suggested amendments to CR 10.

**RULES FOR APPEAL OF DECISIONS OF COURTS OF LIMITED JURISDICTION (CRLJ)
RULE 10. FORM OF PLEADINGS**

(a) - (c) [Unchanged.]

(d) Personal Identifiers Prohibited. [Reserved. See GR 31(e).]

(e) Unpublished Opinions. [Reserved. See GR 14.1.]

GR 9 Cover Sheet

Suggested Amendment to Criminal Rule for Courts of Limited Jurisdiction (CrRLJ) 4.4 concerning Severance of Offenses and Defendants

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Please see the statement of purpose for the suggested amendment to CrR 4.4.

**CRIMINAL RULES FOR COURTS OF LIMITED JURISDICTION (CrRLJ)
RULE 4.4. SEVERANCE OF OFFENSES AND DEFENDANTS**

(a) - (b) [Unchanged.]

(c) Severance of Defendants.

(1) A defendant's motion for severance on the ground that an out-of-court statement of a codefendant referring to him or her is inadmissible against him or her shall be granted unless:

(i) the prosecuting attorney elects not to offer the statement in the case in chief; or

(ii) deletion of all references to the moving defendant will eliminate any prejudice to him or her from the admission of the statement.

(2) - (3) [Unchanged.]

(d) - (e) [Unchanged.]

Reviser's note: The spelling errors in 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.

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.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 07-03-003

**NOTICE OF PUBLIC MEETINGS
OFFICE OF THE INTERAGENCY COMMITTEE
(Interagency Committee for Outdoor Recreation)
[Memorandum—December 26, 2006]**

Meeting Schedule

At a regular meeting on September 21, 2006, the interagency committee for outdoor recreation adopted the following meeting schedule:

February 8 and 9, 2007	Regular Meeting	Olympia
June 7 and 8, 2007	Regular Meeting and Possible Tour	Spokane Area
September 13 and 14, 2007	Regular Meeting and Possible Tour	Bellingham Area
November 1 and 2, 2007	Regular Meeting	Olympia

WSR 07-03-004

**NOTICE OF PUBLIC MEETINGS
OFFICE OF THE INTERAGENCY COMMITTEE
(Salmon Recovery Funding Board)
[Memorandum—December 26, 2006]**

Meeting Schedule

At a regular meeting on September 12, 2006, the salmon recovery funding board adopted the following meeting schedule:

Date	Days	Location
January 25 and 26, 2007	Thursday-Friday	NRB Room 172 Olympia, Washington
March 8 and 9, 2007	Thursday-Friday	NRB Room 172 Olympia, Washington
May 3 and 4, 2007	Thursday-Friday	To be determined
July 12 and 13, 2007	Thursday-Friday	To be determined
September 27 and 28, 2007	Thursday-Friday	NRB Room 172 Olympia, Washington
December 13 and 14, 2007	Thursday-Friday	To be determined

WSR 07-03-005

**NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER**

[Memorandum—January 3, 2007]

A regular meeting of the Washington state convention and trade center board of directors will be held on Tuesday, January 16, 2007, at 2:00 p.m. in Room 303 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

WSR 07-03-006A
AGENDA
DEPARTMENT OF AGRICULTURE

[Filed January 4, 2007, 2:01 p.m.]

Following is the department of agriculture's semi-annual rules development agenda for the period of January 1, 2007,

through June 30, 2007. This document is being sent to you in compliance with RCW 34.05.314.

The department may undertake additional rule-making activity as conditions warrant. If you have any questions, please call Teresa Norman at (360) 902-2043 or e-mail tnorman@agr.wa.gov.

Semi-Annual Rules Agenda
January 1, 2007 - June 30, 2007 [2007]
P.O. Box 42560, Olympia, WA 98504-2560

WAC Number	Rule Title	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101	CR-102	CR-103	
Agency Operations						
Chapter 16-08	Practice and procedure	Dannie McQueen Administrative Regulations Program Manager Phone (360) 902-1809	Expedited July 2006		February 2007	Updating the rules for adjudicative proceedings.
Chapter 16-06	Public records	Dannie McQueen Administrative Regulations Program Manager Phone (360) 902-1809	January 2007	February 2007	April 2007	Amending WAC 16-06-210, the department public disclosure rule to include the 2006 legislative exemptions regarding animal identification and animal diseases.
Animal services division						
Chapter 16-30	Restricted feedlots	Lynn Briscoe Special Assistant to the State Veterinarian Phone (360) 902-1987	December 2006	January 2007	February 2007	Title change to "restricted feedlots and holding facilities." Adding a restricted holding facility and eliminating the category II restricted feedlot.
Chapter 16-54	Animal importation	Lynn Briscoe Special Assistant to the State Veterinarian Phone (360) 902-1987	July 2006	January 2007	February 2007	Rewrite rules in plain talk and bring them up-to-date with current disease requirements.
Chapter 16-59	Importation and movement of poultry and hatching eggs	Lynn Briscoe Special Assistant to the State Veterinarian Phone (360) 902-1987	January 2007	April 2007	June 2007	Title change to make this chapter regarding in-state poultry. Rewrite rules in plain talk and remove references to importation (move to chapter 16-54 WAC).
Chapter 16-70	Animal diseases—Reporting	Lynn Briscoe Special Assistant to the State Veterinarian Phone (360) 902-1987	July 2006	January 2007	February 2007	Bring the reportable disease list in line with the World Organization of Animal Health's Terrestrial Animal Health Code.
Chapter 16-71	Equine infectious anemia	Lynn Briscoe Special Assistant to the State Veterinarian Phone (360) 902-1987	January 2007	February 2007	June 2007	Title change to "equine diseases regulated in Washington state." Rewrite rules in plain talk and bring them up-to-date with current disease requirements; adding section on equine viral arteritis.
Chapter 16-86	Brucellosis and tuberculosis in cattle and goats	Lynn Briscoe Special Assistant to the State Veterinarian Phone (360) 902-1987	August 2006	January 2007	June 2007	Title change to "cattle diseases regulated in Washington state." Rewrite rules in plain talk and bring them up-to-date with current disease requirements.
Chapter 16-89	Sheep and goat scrapie disease control	Lynn Briscoe Special Assistant to the State Veterinarian Phone (360) 902-1987	August 2006	February 2007	June 2007	Rewrite rules in plain talk and bring them up-to-date with current disease requirements.

WAC Number	Rule Title	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101	CR-102	CR-103	
Chapter 16-604	Public livestock markets	Lynn Briscoe Special Assistant to the State Veterinarian Phone (360) 902-1987	Expedited January 2007		March 2007	Correcting a reference to the Code of Federal Regulation and adding an additional special sale day.
Chapter 16-610	Livestock inspection and identification	Leslie Alexander Livestock Identification Program Supervisor Phone (509) 543-7383	July 2006	January 2007	February 2007	Amend the section regarding fees and adopt a new section pertaining to the LID advisory committee.
New WAC	Dead livestock disposal	Lynn Briscoe Special Assistant to the State Veterinarian Phone (360) 902-1987	December 2005	January 2007	February 2007	Adopting rules related to the disposal of animals that have died from disease.
Commodity Inspection Division						
Chapter 16-240	WSDA grain inspection program—Definitions, standards, and fees	Randy Deike Grain Inspection Program Manager Phone (360) 902-1921	January 2007	TBD	TBD	Reduce fees and simplify the grain inspection program fee schedule.
Chapter 16-301	General seed regulations	Victor Shaul Seed Program Operations Manager Phone (509) 225-2630	December 2006	TBD	TBD	Phytosanitary field inspection application due dates; crucifer quarantine; other items as per seed industry requests.
Chapter 16-390	WSDA fruit and vegetable inspection districts, inspection fees and other charges	Jim Quigley Fruit and Vegetable Program Manager Phone (360) 902-1883	January 2007	February 2007	March 2007	Add in the hourly charge for performing GAP/GHP audits verifications, increasing to \$75.00 per audit hour by July 1, 2007.
Chapter 16-403	Standards for apples marketed within the state of Washington	Jim Quigley Fruit and Vegetable Inspection Program Manager Phone (360) 902-1883	Expedited January 2007		March 2007	Rewrite in a clear and readable format. No substantive changes.
Chapter 16-409	Standards for asparagus	Jim Quigley Fruit and Vegetable Inspection Program Manager Phone (360) 902-1883	October 2006	December 2006	February 2007	Rewrite in plain talk. In response to an industry request, the department may be amending some of the grading standards.
Chapter 16-414	Washington standards for cherries	Jim Quigley Fruit and Vegetable Inspection Program Manager Phone (360) 902-1883	Expedited December 2006		February 2007	Housekeeping changes, clarifying section titles for ease of use, replacing tables with standard text format. No substantive changes.
Chapter 16-436	Washington standards for peaches	Jim Quigley Fruit and Vegetable Inspection Program Manager Phone (360) 902-1883	Expedited December 2006		February 2007	Rewrite in a clear and readable format. No new requirements.
Chapter 16-439	Pears, summer and fall	Jim Quigley Fruit and Vegetable Inspection Program Manager Phone (360) 902-1883	Expedited December 2006		February 2007	Rewrite in a clear and readable format. No new requirements.
Chapter 16-442	Winter pears	Jim Quigley Fruit and Vegetable Inspection Program Manager Phone (360) 902-1883	Expedited April 2007		June 2007	Rewrite in a clear and readable format. No new requirements.
Food Safety and Consumer Services						
Chapter 16-06	Public records	Nora Mena Program Manager Livestock Nutrient Management Program Phone (360) 902-2894	February 2006	January 2007	May 2007	Disclosure of certain information.
New WAC	Livestock nutrient management	Nora Mena Program Manager Livestock Nutrient Management Program Phone (360) 902-2894	June 2007	September 2007	March 2008	Violations and compliance process.

WAC Number	Rule Title	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101	CR-102	CR-103	
Pesticide Management Division						
Chapter 16-228	General pesticide rules	Ann Wick Program Development Program Manager Phone (360) 902-2051	January 2007	February 2007	April 2007	Define phenoxy pesticides, housekeeping changes.
Chapter 16-230	Use of chemicals and chemically treated materials in certain counties	Ann Wick Program Development Program Manager Phone (360) 902-2051	January 2007	February 2007	April 2007	Define rules relating to use restricted pesticides in county orders.
Chapter 16-231	Restricted use herbicides	Ann Wick Program Development Program Manager Phone (360) 902-2051	January 2007	February 2007	April 2007	Define rules relating to use restricted pesticides, housekeeping.
Chapter 16-232	Restricted use herbicides in certain counties	Ann Wick Program Development Program Manager Phone (360) 902-2051	January 2007	February 2007	April 2007	Define rules relating to use restricted pesticides in county orders.
Chapter 16-230	Use of chemicals and chemically treated materials in certain counties	Cliff Weed Compliance Program Program Manager Phone (360) 902-2036	March 2007	April 2007	May 2007	Modify the nozzle requirements for air and ground applications.
Chapter 16-231	Restricted use herbicides	Cliff Weed Compliance Program Program Manager Phone (360) 902-2036	March 2007	April 2007	May 2007	Modify the nozzle requirements for air and ground applications.
Chapter 16-232	Restricted use herbicides in certain counties	Cliff Weed Compliance Program Program Manager Phone (360) 902-2036	March 207 [2007]	April 2007	May 2007	Modify the nozzle requirements for air and ground applications.
Chapter 16-228	Wood destroying organisms	Cliff Weed Compliance Program Program Manager Phone (360) 902-2036	February 2007	March 2007	April 2007	Modify wood destroying reporting requirements.
Plant Protection Division						
New WAC	Weed-free forage	Tom Wessels Plant Services Program Manager Phone (360) 902-1984	November 2006	February 2007	April 2007	The department is considering implementing a program to provide voluntary certification services for weed-free forage.
New WAC	Weights and measures penalties	Kirk Robinson Weights and Measures Program Manager Phone (360) 902-1856	January 2007	March 2007	May 2007	The department is considering adopting penalty matrices related to violations of chapter 19.94 RCW.
New WAC	Motor fuel quality penalties	Kirk Robinson Weights and Measures Program Manager Phone (360) 902-1856	January 2007	March 2007	May 2007	The department is considering adopting penalty matrices related to violations of chapter 19.112 RCW.
Chapter 16-324	Rules for the certification of seed potatoes	Tom Wessels Plant Services Program Manager Phone (360) 902-1984	November 2006	February 2007	April 2007	The department is proposing to revise the current seed potato certification rules to require compliance with the State National Harmonization Program for Seed Potatoes.
Chapter 16-401	Nursery inspection fees	Tom Wessels Plant Services Program Manager Phone (360) 902-1984	January 2007	March 2007	May 2007	The department is considering increasing the nursery inspection fees and the permit fee for businesses exempted from a nursery dealer's license by the OFM fiscal growth factor for fiscal year 2008 (5.49%).

WAC Number	Rule Title	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101	CR-102	CR-103	
Chapter 16-470	Plant pathology fees	Tom Wessels Plant Services Program Manager Phone (360) 902-1984	January 2007	March 2007	May 2007	The department is considering increasing the laboratory diagnostic hourly fees, nematode laboratory diagnostic fees, and post entry inspection services fee within the OFM fiscal growth factor for fiscal year 2008 (5.49%).
Chapter 16-482	Seed potato quarantine	Tom Wessels Plant Services Program Manager Phone (360) 902-1984	November 2006	February 2007	April 2007	The department is considering revising the current seed potato quarantine to require all seed potatoes planted in Washington comply with the State National Harmonization Program for Seed Potatoes.
Chapter 16-484	Seed potato Y-N quarantine	Tom Wessels Plant Services Program Manager Phone (360) 902-1984	November 2006	February 2007	April 2007	The department is considering repealing the current seed potato Y-N quarantine.
Chapter 16-623	Commission Merchant Act—Licensing fees, proof of payment, cargo manifests and registration of acreage commitments	Kirk Robinson Commission Merchants Program Manager Phone (360) 902-1856	January 2007	March 2007	May 2007	The department is considering increasing the licensing fees for commission merchants, dealers, limited dealers, brokers, cash buyers, and agents within the OFM fiscal growth factor for fiscal year 2008 (5.49%).
Chapter 16-662	Weights and measures—National Handbook	Kirk Robinson Weights and Measures Program Manager Phone (360) 902-1856	September 2006	January 2007	February 2007	The department is proposing to adopt quality and labeling standards relative to liquid motor fuels (including biofuels).
Chapter 16-664	National type evaluation program	Kirk Robinson Weights and Measures Program Manager Phone (360) 902-1856	TBD	TBD	TBD	The department is considering amending the rule to accommodate devises dispensing alternative fuels.
Chapter 16-675	Calibration services, special inspection and testing fees	Kirk Robinson Weights and Measures Program Manager Phone (360) 902-1856	January 2007	March 2007	May 2007	The department is considering increasing the hourly and device inspection/testing fees charged by the metrology laboratory within the OFM fiscal growth factor for fiscal year 2008 (5.49%).

Teresa Norman
Rules Coordinator

WSR 07-03-016
NOTICE OF PUBLIC MEETINGS
STATE BOARD OF EDUCATION

[Memorandum—January 4, 2007]

There will be a special K-20 video conference meeting of the state board of education on Tuesday, January 9, at 1:00 p.m. The primary location for the meeting will be the Billings Conference Room (3rd Floor), Office of Superintendent of Public Instruction, Old Capitol Building, 600 Washington Street S.E., Olympia, WA 98504-7200.

Other locations will be posted on the state board of education web site (www.sbe.wa.gov) as soon as they are secured.

The only agenda items for discussion will be:

- Whether or not to consider the additional high school level math classes the board recommends requiring of students who have not passed the WASL to be a formal alternative method of meeting standard similar to the collection of evidence.
- Board clarification of November 28, 2006, motion passed on the requirement that students of the classes of 2008-10 who have not passed the mathematics WASL will be required to continue to take two additional high school level math classes; and
- Board decision on whether or not to separate the certificate of academic achievement from the diploma for the classes of 2008-10.

If you have any questions, please do not hesitate to contact the state board of education office at (360) 725-6025.

September 27, 2007
 October 25, 2007
 November 15, 2007
 December 20, 2007

WSR 07-03-023
AGENDA
INTERAGENCY COMMITTEE FOR
OUTDOOR RECREATION
SALMON RECOVERY FUNDING BOARD
 [Filed January 5, 2007, 1:35 p.m.]

SEMIANNUAL RULE DEVELOPMENT AGENDA

To comply with RCW 34.05.314, the interagency committee for outdoor recreation and salmon recovery funding board has prepared the following agenda for rules under development. We have filed this with the code reviser for publication in the state register and copies will be provided to each person so requesting, the director of office of financial management, the rules review committee, and other state agencies interested in this subject.

Contact: Greg Lovelady, Rules Coordinator, (360) 902-3008, GregL@IAC.WA.GOV.

Rules Development Agenda January - June 2007	
Subject of possible rule making	Reasons why rules on this subject may be needed and what might be accomplished
Chapter 286-06 WAC	Update the references in IAC's WACs to the state's public disclosure law. That law was recently recodified from chapter 42.17 RCW to chapter 42.56 RCW.

WSR 07-03-024
NOTICE OF PUBLIC MEETINGS
PUGET SOUND
CLEAN AIR AGENCY
 [Memorandum—January 3, 2007]

Following is our agency's list of board of directors meeting dates for the year 2007. If you have any questions, please call Carol Pogers at (206) 689-4080.

**BOARD OF DIRECTORS
 MEETING DATES FOR YEAR 2007**

- Regular Monthly Meetings**
 January 25, 2007
 February 22, 2007
 March 22, 2007
 April 26, 2007
 May 24, 2007
 June 28, 2007
 July 26, 2007
 August (No Meeting)

WSR 07-03-025
NOTICE OF PUBLIC MEETINGS
UNIFORM LEGISLATION COMMISSION
 [Memorandum—January 3, 2007]

Following are the 2007 meetings of the Washington uniform law commission for publication in the Washington state register. Aside from the January 11 meeting, these meetings will take place at 10 a.m. on the second Wednesday in January, April, July, and October in the office of Professor Anita Ramasastry, commission chair, at the University of Washington School of Law, Room 417, William H. Gates Hall, Seattle, WA 98195-3020. The January 11 meeting will take place half an hour later, at 10:30 a.m. The actual dates are:

January 10
 April 11
 July 11
 October 10

WSR 07-03-026
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
 (Real Estate Appraiser Commission)
 [Memorandum—January 5, 2007]

Regular Real Estate Appraiser Commission Meetings

Per WAC 308-125-225, regular commission meetings are scheduled in February, May, August and November on the third Friday.

Following is the schedule for 2007:

- February 16, 2007**
 Department of Transportation
 Spokane County Conference Room
 2714 North Mayfair
 Spokane, WA
- May 18, 2007**
 Department of Transportation
 Wenatchee Maintenance Site Building B
 2830 Euclid Avenue
 Wenatchee, WA
- August 16, 2007**
 Best Western Summit Inn
 Snoqualmie, Washington
- November 16, 2007**
 Seattle Metro Area
 Location to be determined

WSR 07-03-028
RULES COORDINATOR
CENTRAL WASHINGTON UNIVERSITY

[Filed January 8, 2007, 9:38 a.m.]

The new rules coordinator for Central Washington University is Kristy Magdlin, President's Office, 400 East University Way, Ellensburg, WA 98926-7501, (509) 963-2154, magdlink@cwu.edu.

Jerilyn S. McIntyre
 President

WSR 07-03-030
AGENDA
UNIVERSITY OF WASHINGTON

[Filed January 8, 2007, 3:30 p.m.]

Semiannual Agenda for Rules under Development
 (Per RCW 34.05.314)
 January 2007

1. Rule making for chapter 478-136 WAC, Use of University of Washington facilities, concerning smoking limitations, will be completed during the first half of 2007.

2. Rule making for chapter 478-04 WAC, Organization, concerning the meetings of the board of regents and other UW governing bodies, will be completed during the first half of 2007.

3. Expedited rule making for various Title 478 WAC rules requiring housekeeping amendments will be completed during the first half of 2007.

4. Rule making concerning the animal control policy, currently part of chapter 478-124 WAC, General conduct code for the University of Washington, will continue during the first half of 2007.

5. Rule making for a new chapter concerning cost savings on course materials will continue during the first half of 2007.

6. Rule making for chapter 478-276 WAC, Governing access to public records, is anticipated during the first half of 2007.

7. Rule making for chapter 478-120 WAC, Student conduct code for the University of Washington, is anticipated during 2007.

For more information concerning the above rules contact Rebecca Goodwin Deardorff, Director of Rules Coordination, University of Washington, 4046 12th Avenue N.E., Seattle, WA 98105, campus mail Box 355509, phone (206) 543-9219, fax (206) 221-6917, e-mail rules@u.washington.edu.

WSR 07-03-036
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE

[Memorandum—January 10, 2007]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday,

January 18, 2007, 9:00 - 11:00 a.m., in the college services board room on the Bellingham Technical College campus. Call 752-8334 for information.

WSR 07-03-040
NOTICE OF PUBLIC MEETINGS
WASHINGTON SCHOOL
FOR THE DEAF

[Memorandum—January 8, 2007]

The February 2, 2007, board of trustees meeting for the Washington School for the Deaf has been cancelled.

WSR 07-03-041
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE

[Memorandum—January 11, 2007]

The board of trustees of Bellingham Technical College will meet in special session with the governor and other representatives in a roundtable discussion concerning her 2007 legislative agenda on Wednesday, January 10, 2007, at 11:15 a.m., at 210 Central Avenue, Bellingham, WA. Call 752-8334 for information.

WSR 07-03-045
INTERPRETIVE AND POLICY STATEMENT
DEPARTMENT OF ECOLOGY

[Filed January 11, 2007, 1:32 p.m.]

INTERPRETIVE AND POLICY STATEMENT

Purpose: Pursuant to the Administrative Procedure Act, RCW 34.05.230, the department of ecology submits the following:

Document Title: 2003 Municipal Water Law Interpretive and Policy Statement.

Subject: To describe and provide interpretation of parts of the municipal water law, and describe generally applicable procedures ecology will use in managing municipal water rights.

Document Description: This interpretive and policy statement is a review of the applicable sections of the state water code (chapter 90.03 RCW) amended or added by the 2003 municipal water law. The statement describes how ecology intends to apply the various sections of the law to municipal water management. This statement is the second of three policy documents prepared by the department of ecology and the department of health. The first policy document is entitled Draft Section 5(2) Policy Statement, which was circulated for comment on February 17, 2006, and covers coordinated review of water system planning documents. A copy of the 5(2) Policy Statement can be found on ecology's web site at http://www.ecy.wa.gov/programs/wr/rights/muni_wtr.html. This second document, interpretive and policy statement, contains ecology's interpretation of elements

of the municipal water law within ecology's jurisdiction. The third document will be a memorandum of understanding between ecology and department of health addressing coordination efforts relative to water system planning review. The department of health will be developing its own policies, rules and guidance concerning their sections of the municipal water law.

To receive a copy of the municipal water interpretive and policy statement, contact Doug Rushton, Water Resources Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6513, fax (360) 407-6574, e-mail drus461@ecy.wa.gov, web site http://www.ecy.wa.gov/programs/wr/rights/muni_wtr.html.

WSR 07-03-058
RULES COORDINATOR
DEPARTMENT OF HEALTH
 [Filed January 15, 2007, 9:51 a.m.]

The department of health designates Andy Fernando, DOH regulatory affairs manager, as the department's rules coordinator under RCW 34.05.312. His office address is P.O. Box 47890, Olympia, WA 98504-7890. His phone number is (360) 236-4044, and fax number is (360) 586-7424.

Mary C. Selecky
 Secretary

WSR 07-03-059
DEPARTMENT OF REVENUE
 [Filed January 15, 2007, 10:26 a.m.]

November 28, 2006

Mr. Kyle Thiessen
 The Code Reviser
 Post Office Box 40551
 Olympia, Washington 98504-0551

Re: SHB 3190 (Chapter 84, Laws of 2006) - Effective December 1, 2006

Dear Mr. Thiessen:

Based on information provided to the Department of Revenue (Department), the Department determined that the contingencies in SHB 3190 have been met. Therefore, the tax incentives provided in this act will take effect December 1, 2006. The incentives expire 12 years after the effective date.

What the Act Requires

- Requires a single person to invest at least \$350 million of actual expenditures in a semiconductor materials fabrication facility in Washington that produces 300 millimeter semiconductor wafers for sale.
- Requires affected taxpayers to report annual employment data and to file the report and all returns electronically with the Department.

- Requires the Department to determine the effective date of the act based on information provided by the investing taxpayer.
- Requires the Department to provide notice of the effective date of the act to affected taxpayers, the Legislature, the Office of the Code Reviser, and others as deemed appropriate.
- Requires the Department to report to the Legislature on the effectiveness of this act in years five and eleven.

What the Act Provides

- Provides a preferential business and occupation (B&O) tax rate of 0.275 percent to manufacturers or processors-for-hire of semiconductor materials.
- Provides a sales and use tax exemption for gases and chemicals used by a manufacturer or processor-for-hire in the production of semiconductor materials.

Thank you for the opportunity to notify you of the effective date of this act. If you have any questions or concerns, please contact me at (360) 586-3462.

Sincerely,

Cindi L. Holmstrom
 Director, Department of Revenue

cc:

The Honorable Joseph Zarelli, State Senate
 The Honorable Margarita Prentice, State Senate
 The Honorable Jim McIntire, House of Representatives
 The Honorable Jeff Morris, House of Representatives
 The Honorable Deb Wallace, House of Representatives
 Bart Phillips, Columbia River Economic Development Council
 Juli Wilkerson, Department of Community, Trade & Economic Development
 Jim Schmidt, Office of Financial Management
 Marc Baldwin, Office of the Governor

WSR 07-03-060
NOTICE OF PUBLIC MEETINGS
BARLEY COMMISSION
 [Memorandum—January 10, 2007]

To keep in compliance with the Open Public Meeting[s] Act, the Washington barley commission is filing the following schedule of the times, dates, and locations of our 2007 scheduled meetings:

Meeting Type	Date	Time
Regular Meeting	March 21, 2007	9:00 a.m.
Annual Meeting	June 29, 2007	9:00 a.m.
Regular Meeting	October 3, 2007	9:00 a.m.
Regular Meeting	December 5, 2007	9:00 a.m.

All of the meetings will be held in the Washington Wheat Commission's Conference Room, West 907 Riverside Avenue, Spokane, WA.

If you have any questions, please call our office at (509) 456-4400.

WSR 07-03-061
NOTICE OF PUBLIC MEETINGS
HOP COMMISSION

[Memorandum—January 10, 2007]

2007 Regular Meeting Schedule

The Washington hop commission has scheduled its 2007 regular meetings, as follows. This information is being filed as required by RCW 42.30.075:

Tuesday, February 20	Moxee
Tuesday, April 17	Moxee
Tuesday, June 19	Prosser
Tuesday, October 16	Mabton

Interested individuals may contact the Washington hop commission at (509) 453-4749 prior to each scheduled date for the specific time and location of each meeting.

WSR 07-03-073
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE STATE ACTUARY

[Memorandum—January 15, 2007]

2007 SELECT COMMITTEE ON PENSION POLICY MEETINGS

Select Committee on Pension Policy Full and Executive Committee	Select Committee on Pension Policy Subgroup Meetings (As formed)
January 16, 2007 - meeting cancelled Room to be determined	January - no meeting scheduled
February 13, 2007 Room to be determined Time to be determined	February 12, 2007 - As needed
March 20, 2007 Room to be determined Time to be determined	March 19, 2007 - As needed
April 17, 2007 Room to be determined Time to be determined	April 16, 2007 - As needed Room to be determined Time to be determined
May 22, 2007 Room to be determined Time to be determined	May 21, 2007 - As needed Room to be determined Time to be determined
June 19, 2007 Room to be determined Time to be determined	June 18, 2007 - As needed Room to be determined Time to be determined
July 17, 2007 Room to be determined Time to be determined	July 16, 2007 - As needed Room to be determined Time to be determined
August 14, 2007 Room to be determined Time to be determined	August 13, 2007 - As needed Room to be determined Time to be determined

Select Committee on Pension Policy Full and Executive Committee

September 18, 2007 Room to be determined Time to be determined
October 16, 2007 Room to be determined Time to be determined
November 13, 2007 Room to be determined Time to be determined
December 18, 2007 Room to be determined Time to be determined

Select Committee on Pension Policy Subgroup Meetings (As formed)

September 17, 2007 - As needed Room to be determined Time to be determined
October 15, 2007 - As needed Room to be determined Time to be determined
November 14, 2007 - As needed Room to be determined Time to be determined
December 17, 2007 - As needed Room to be determined Time to be determined

WSR 07-03-079

NOTICE OF PUBLIC MEETINGS
BLUEBERRY COMMISSION

[Memorandum—January 16, 2007]

Listed below are the Washington blueberry commission meetings set for 2007:

January 23, 2007	10:00 a.m.	Chicona Room WSU Puyallup
April 10, 2007	10:00 a.m.	Chicona Room WSU Puyallup
June 5, 2007	9:00 a.m.	Teleconference
October 16, 2007	10:00 a.m.	Chicona Room WSU Puyallup

WSR 07-03-080

NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE

[Memorandum—January 12, 2007]

In compliance with the Open Public Meetings Act, the Shoreline Community College board of trustees will hold a special meeting with the Shoreline School District board of directors, beginning at 6:00 p.m. on Tuesday, January 16, 2007, for the purpose of discussing the following topics: Running start; transition math project; biotech grant; WASL alternatives; improving communication between the college and the district to facilitate high school graduates in attending Shoreline Community College; and science project collaboration.

This special meeting will take place in the Sherrick Room at the Shoreline Center, 18560 1st Avenue N.E., Shoreline, WA.

Please call (206) 546-4552 or e-mail Lori Y. Yonemitsu at lyonemitsu@shoreline.edu if you need further information.

WSR 07-03-091
OFFICE OF THE GOVERNOR

[Filed January 18, 2007, 3:49 p.m.]

NOTICE OF APPEAL
RCW 34.05.330(3)

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On November 30, 2006, the Governor received an appeal from Rhys Sterling relating to the Office of the Secretary of State's denial of a petition to amend Chapters 434-220, 434-230, and 434-335 WAC. The Governor's Office denied Mr. Sterling's Petition on January 12, 2007.

DATE: January 17, 2007

Richard E. Mitchell
General Counsel to the Governor

January 12, 2007

Rhys Sterling
P.O. Box 218
Hobart, WA 98025-0218

Re: Rule Petition Concerning Chapters 434-220, 434-230, and 434-335 WAC

Dear Mr. Sterling:

This letter is in response to your renewed petition dated November 29, 2006. In that petition, you requested that I recommend to the Secretary of State the adoption of amended rules allowing the addition of a "None of the Above" option on the party preference section of a partisan primary election ballot.

You first petitioned to the Governor's Office on this issue on August 10, 2006. By letter dated September 19, 2006, we responded to that petition noting that the Governor lacked jurisdiction to consider petitions to adopt *new* rules under the Administrative Procedure Act (APA). On September 25, 2006, you requested a clarification of that letter, which denied your petition on jurisdictional grounds. On September 26, 2006, we sent the clarification. You subsequently revised your petition to the Secretary of State to *amend* rules, which was denied, and are now appealing the second denial.

After reviewing your re-petition concerning *amended* rules and the Office of the Secretary of State's response, I concur with its decision and am therefore also denying your repetition to me.

During the 2006 Legislative Session, the Legislature heard testimony on the issue of whether to include a "None of the Above" option on a consolidated primary ballot and declined to pass the bill. *See* House Bill 2484, 2006 Legislative Session. Additionally, the Secretary of State expressed reasonable concerns about your recommended amendments. Considering these concerns and the Legislature's interest in this matter, I decline to recommend your suggested changes to the Secretary of State.

I appreciate your commitment to ensuring the protection of our election system and encourage you to continue to work with your local representative on this issue.

Sincerely,

Christine O. Gregoire
Governor

cc:

Katie Blim, Assistant Director of Elections, Secretary of State
Antonio Ginatta, Executive Policy Advisor, Governor's Office

WSR 07-03-092
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES
(Advisory Board of Plumbers)
[Memorandum—January 19, 2007]

Rescheduled Public Meeting

Per chapter 42.30 RCW, the Open Public Meetings Act, the advisory board of plumbers rescheduled the January 16, 2007, meeting due to weather for:

DATE	TIME	LOCATION
February 6, 2007	9:30 a.m.	Department of Labor and Industries 12806 Gateway Drive Tukwila, WA

Please call (360) 902-6411, if you have questions.

WSR 07-03-093
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
(Pesticide Incident Reporting and Tracking Review Panel)
[Memorandum—January 19, 2007]

2007 PIRT Meetings
(Third Thursday of each month)

DATE	SITE	ADDRESS
January 18	DOH Tumwater	Town Center 1 Room 163 9:30 a.m. - 12:30 p.m.
February 15	DOH Tumwater	Town Center 2 Room 145 9:30 a.m. - 12:30 p.m.
March 15	Seattle Public Health Lab	Room S4 9:30 a.m. - 12:30 p.m.
April 19	Yakima WSDA	21 North First Avenue Conference Room 238 10:00 a.m. - 3:00 p.m.
May 17	Seattle Public Health Lab	Room S4 9:30 a.m. - 12:30 p.m.

DATE	SITE	ADDRESS
June 21	DOH Tumwater	Town Center 2 Room 145 9:30 a.m. - 12:30 p.m.
July 19	Seattle Public Health Lab	Room S4 9:30 a.m. - 12:30 p.m.
August	NO MEETING	
September 20	DOH Tumwater	Town Center 2 Room 145 9:30 a.m. - 12:30 p.m.
October 18	Seattle Public Health Lab	Room S4 9:30 a.m. - 12:30 p.m.
November 15	DOH Tumwater	Town Center 2 Room 145 9:30 a.m. - 12:30 p.m.
December	NO MEETING	

WSR 07-03-094

**NOTICE OF PUBLIC MEETINGS
SOUTH PUGET SOUND
COMMUNITY COLLEGE**

[Memorandum—January 16, 2007]

To ensure a quorum, the South Puget Sound Community College board of trustees has changed the date of their regular meeting in February. The meeting on Thursday, February 8, 2007, has been changed to Tuesday, February 13, 2007, 3:00 p.m. in Building 25-Boardroom on the campus of South Puget Sound Community College.

If you have any questions, please contact Diana Toledo at 596-5206.

WSR 07-03-095

**NOTICE OF PUBLIC MEETINGS
LIQUOR CONTROL BOARD**

[Memorandum—January 19, 2007]

DATE	TIME	MEETING TYPE	LOCATION
January 9	8:30 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
January 9	10:00 a.m.	Board Work/Review Session	Board Room 3000 Pacific Avenue S.E. Olympia
January 10	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
January 10	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
January 11	10:30 a.m.	Business Advisory Council	Board Room 3000 Pacific Avenue S.E. Olympia
January 16	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia

DATE	TIME	MEETING TYPE	LOCATION
January 17	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
January 17	11:00 a.m.	Executive Session	Board Room 3000 Pacific Avenue S.E. Olympia
January 17	10:00 a.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
January 23	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
January 24	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
January 24	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
January 30	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
January 31	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
January 31	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
February 6	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
February 7	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
February 7	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
February 13	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
February 14	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
February 14	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
February 20	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
February 20	10:00 a.m.	Staff Open Forum	Board Room 3000 Pacific Avenue S.E. Olympia
February 21	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
February 21	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
February 27	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
February 28	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia

DATE	TIME	MEETING TYPE	LOCATION	DATE	TIME	MEETING TYPE	LOCATION
February 28	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	April 17	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
March 6	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	April 18	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
March 7	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	April 18	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
March 7	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	April 24	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
March 13	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	April 25	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
March 14	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	April 25	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
March 14	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	May 1	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
March 16	10:30 a.m.	Distillers Associated Representative of WA	4401 East Marginal Way Seattle	May 2	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
March 20	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	May 2	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
March 21	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	May 8	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
March 21	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	May 9	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
March 27	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	May 9	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
March 28	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	May 22	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
March 28	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	May 23	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
April 3	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	May 23	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
April 4	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	May 29	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
April 4	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	May 30	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
April 10	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	May 30	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
April 11	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	June 5	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
April 11	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	June 6	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
				June 6	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia

DATE	TIME	MEETING TYPE	LOCATION	DATE	TIME	MEETING TYPE	LOCATION
June 12	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	August 7	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
June 13	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	August 8	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
June 13	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	August 8	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
June 19	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	August 14	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
June 20	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	August 15	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
June 20	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	August 15	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
June 26	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	August 21	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
June 27	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	August 22	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
June 27	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	August 22	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
July 3	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	August 28	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
July 10	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	August 29	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
July 11	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	August 29	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
July 11	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	September 4	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
July 17	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	September 5	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
July 18	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	September 5	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
July 18	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	September 11	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
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July 25	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	September 12	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
July 25	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	September 18	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
July 31	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	September 19	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
August 1	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	September 19	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia

DATE	TIME	MEETING TYPE	LOCATION	DATE	TIME	MEETING TYPE	LOCATION
September 25	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	November 13	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
September 26	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	November 14	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
September 26	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	November 14	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
October 2	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	November 20	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
October 3	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	November 21	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
October 3	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	November 21	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
October 9	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	November 27	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
October 10	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	November 28	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
October 10	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	November 28	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
October 16	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	December 4	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia
October 17	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	December 5	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
October 17	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	December 5	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
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October 24	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	December 12	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
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October 31	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia	December 19	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
November 6	9:00 a.m.	Board Caucus	Board Offices 3000 Pacific Avenue S.E. Olympia	December 26	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia
November 7	10:00 a.m.	Board Meeting	Board Room 3000 Pacific Avenue S.E. Olympia	December 26	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia
November 7	1:00 p.m.	Executive Management Team	Board Room 3000 Pacific Avenue S.E. Olympia				

WSR 07-03-100
POLICY STATEMENT
UNIVERSITY OF WASHINGTON
 [Filed January 19, 2007, 10:20 a.m.]

The University of Washington has recently revised the following policy statements:

- "Civil Disorders," Administrative Order No. 2, revised effective September 20, 2006 (*University Handbook*, Vol. 2, Part I, Chapter 12, Section 12-21, Subsection C.2).
- "Tuition Exemption Program," revised effective September 27, 2006 (Administrative Policy Statement 22.1).
- "Internal Support of Graduate Study and Research," Executive Order No. 26, revised effective October 2, 2006 (*University Handbook*, Vol. 4, Part II, Chapter 5, Sections 1-6).
- "Serving and Sale of Alcoholic Beverages at University Facilities," revised effective November 2, 2006 (Administrative Policy Statement 13.9).
- "Acceptance of Gifts or Contributions from Representatives of the Alcohol Beverage Industry," revised effective November 2, 2006 (Administrative Policy Statement 47.5).
- "Policy Governing Acceptance of Honoraria," Executive Order No. 43, revised effective December 11, 2006 (*University Handbook*, Vol. 4, Part V, Chapter 6, Section 7).
- "Outside Professional Work Policy," Executive Order No. 57, revised effective December 11, 2006 (*University Handbook*, Vol. 4, Part V, Chapter 6, Sections 1-6).
- "Personal Use of University Facilities, Computers, and Equipment by University Employees," revised effective December 14, 2006 (Administrative Policy Statement 47.2).
- "Outside Consulting Activities and Part-Time Employment by Professional or Classified Staff Employees," revised effective December 20, 2006 (Administrative Policy Statement 47.3).

To view any current policy statement from the *University Handbook*, go to <http://www.washington.edu/faculty/facsenate/handbook/handbook.html>; to view a UW Administrative Policy Statement, go to <http://www.washington.edu/admin/rules/APS/APSIndex.html>. Or, to request a paper copy of any policy statement, contact Rebecca Goodwin Deardorff, Director of Rules Coordination, University of Washington, Box 355509, Seattle, WA 98195, by e-mail rules@u.washington.edu or by fax (206) 221-6917.

WSR 07-03-103
INTERPRETIVE AND POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 [Filed January 19, 2007, 3:27 p.m.]

Notice of Interpretive/Policy Statements

In accordance with RCW 34.05.230(12), the following interpretive/policy statements issued by the department of social and health services have been filed:

Economic Services Administration
Division of Child Support

Document Title: 2007 Changes to the Need Standard and Minimum Wage.

Subject: PCM 07-001: 2007 Changes to the need standard and minimum wage.

Effective Date: January 17, 2007.

Document Description: This policy clarification memo (PCM) explains to the division of child support staff the changes to the need standard and minimum wage effective January 1, 2007.

To receive a copy of the interpretive or policy statements, contact Fran Ferry, Economic Services Administration, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5322, TDD/TTY (360) 753-9122, fax (360) 586-3274, e-mail fferry@dshs.wa.gov.

WSR 07-03-107
NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE
 [Memorandum—January 18, 2007]

In compliance with the Open Public Meetings Act, this letter is to notify the code reviser's office that the Shoreline Community College board of trustees will hold a special meeting, beginning at 11:50 a.m. on Monday, January 22, 2007, for the purpose of discussing legislative contacts and priorities.

This special meeting will take place in the Fir Ballroom at the Red Lion Hotel, 2300 Evergreen Park Drive, Olympia, WA.

Please call (206) 546-4552 or e-mail Lori Y. Yonemitsu at lyonemitsu@shoreline.edu if you need further information.

WSR 07-03-108
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
 [Memorandum—January 18, 2007]

The board of directors of the Washington state convention and trade center has approved the following meeting dates through fiscal year 2007-2008. The dates were approved at the January 16, 2007, regular board meeting.

Regular Board Meeting Dates

All to be held at the Washington State Convention and Trade Center

April 3, 2007 (date change from March 20, 2007)

May 15, 2007
 July 17, 2007
 September 18, 2007
 November 20, 2007
 January 15, 2008
 March 18, 2008
 May 20, 2008

With the exception of the April 3, 2007, meeting, all meetings are scheduled bimonthly for the third Tuesday of the month. All board meetings are scheduled to begin at 2:00 p.m. Meeting rooms are not noted because the location may be changed on short notice as event needs dictate.

WSR 07-03-109**NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE**

[Memorandum—January 16, 2007]

At the January 9, 2007, Skagit Valley College board of trustees meeting it was approved to change the date of the regular February board meeting of the Skagit Valley College board of trustees to Tuesday, February 20, 4:30 p.m. from Tuesday, February 13, 4:30 p.m. The meeting location will remain the same: Mount Vernon Campus, Czarna Collins Room.

WSR 07-03-110**NOTICE OF PUBLIC MEETINGS
RENTON TECHNICAL COLLEGE**

[Memorandum—January 19, 2007]

Pursuant to RCW 42.30.075, please be advised that the Renton Technical College board of trustees' regular meetings during 2007 will be held as follows:

The second Tuesday of each month except for the months of July and August

Meetings will be held at 8:00 a.m.

Roberts Campus Center Board Room, Room 202

Renton Technical College
 3000 Northeast 4th Street
 Renton, WA 98056-4195

January 9, 2007

~~February 13, 2007~~ February 6, 2007

March 13, 2007

April 10, 2007

May 8, 2007

June 12, 2007

July/August - No regular meetings

September 11, 2007

October 9, 2007

November 13, 2007

December 11, 2007

If you need further information, please contact Karen DeBruyn at (425) 235-2426.

WSR 07-03-111**NOTICE OF PUBLIC MEETINGS
GRAYS HARBOR COLLEGE**

[Memorandum—January 17, 2007]

This is to inform you that the Grays Harbor College board of trustees' meeting scheduled for February 20, 2007, has been rescheduled to February 27, 2007. It will be held in the president's boardroom in the Jewell C. Manspeaker Instructional Building.

WSR 07-03-112**NOTICE OF PUBLIC MEETINGS
COMMUNITY COLLEGES
OF SPOKANE**

[Memorandum—January 16, 2007]

Notice of Special Board Meeting

The board of trustees of Washington State Community College District 17 will hold a special meeting on Friday, January 26, 2007, at 12:00 p.m., in the Parkwood South Community Center, 2000 Block of South Parkwood Circle, Spokane, Washington. The purpose for the meeting is a workshop to review the state board's strategic plan for community and technical colleges. Adjournment is scheduled for 4:00 p.m. No action will be taken.

Should you have questions regarding this memo please contact Christine Pearl, executive assistant to the chancellor/CEO and liaison to the board of trustees, at (509) 434-5006.

WSR 07-03-116**AGENDA
FOREST PRACTICES BOARD**

[Filed January 22, 2007, 1:16 p.m.]

**Rule Development Agenda
January - June 2007**

The forest practices board's mandate is to adopt rules to protect the state's public resources while maintaining a viable forest products industry. The following rule proposals are under development or are anticipated during this time period.

1. **Desired Future Condition.** The board is considering amending chapter 222-30 WAC related to desired future condition performance targets in riparian management zones.

2. **Historic Sites.** The board is considering amending WAC 222-16-050 relating to Class IV-Special classifications to include historic sites as a SEPA trigger.

3. **Long-Term Application for Small Forest Landowners.** The board will consider draft rule language that amends chapters 222-12 and 222-20 WAC to allow small forest landowners to develop long-term applications for up to fifteen years at the February 14, 2007, meeting.

4. **Northern Spotted Owl.** The board may consider rule making for northern spotted owl habitat conservation in WAC 222-10-041 and 222-16-010.

5. **Taylor's Checkerspot Butterfly.** The board is considering amending WAC 222-16-080 to provide habitat protection for the Taylor's Checkerspot Butterfly.

6. **Upland Wildlife.** The board, with the department of fish and wildlife, continues to conduct a comprehensive review of the forest practices rules and science for upland wildlife protection and development of cooperative management planning processes. This review and planning process,

along with new species listings, and the designation of critical habitat, may result in a rule proposal.

Contact Person: Patricia Anderson, Forest Practices Board, Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, fax (360) 902-1428, e-mail patricia.anderson@dnr.wa.gov.

WSR 07-03-122

AGENDA

DEPARTMENT OF TRANSPORTATION

[Filed January 22, 2007, 3:06 p.m.]

Following please find the department of transportation's January 1st through June 30, 2007, semi-annual rules development agenda for publication in the Washington state register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on this agenda as conditions warrant.

**Semi-Annual Rules Agenda
RCW 34.05.314
January 2007 - June 2007**

WAC Chapter	Chapter Title	Sections	Purpose of Rule	Agency Contact	Approximate Filing Date
468-30	Highway property	70 and 75	Transfer right of way to cities or counties.	Tom Swafford (360) 705-7237	3/2007
468-34	Utility lines; franchises and permits	190-260	Encasement of gas pipelines.	Tom Swafford (360) 705-7237	5/2007
468-63	Commute trip reduction (CTR) program rules	All new sections in chapter	Specify the requirements for commute trip reduction plans and implementation procedures.	Keith Cotton (360) 705-7910	CR-102 12/20/06 Public Hearing on January 29, 2007
468-60	Trip reduction performance program	Minor revisions throughout chapter	Updating to clarify the commute trip reduction, trip reduction performance program and the parameters for participation by private employers, public agencies, nonprofit organizations, developers and property managers.	Robin Hartsell (360) 705-7508	CR-102 12/20/06 Public Hearing on January 29, 2007
468-300	Toll policy	800	Rules regulating bridge and highway toll collections.	Lucinda Broussard (253) 534-4640	CR-102 1/3/06 Public Hearing on February 9, 2007
468-300	Toll rates	900	Establishment of toll rate.	Lucinda Broussard (253) 537[534]-4640	Early 2007

WAC Chapter	Chapter Title	Sections	Purpose of Rule	Agency Contact	Approximate Filing Date
468-600	Transportation innovative partnerships program	Entire chapter	Proposed by the transportation commission in response to SHB 1541 enacted by the 2005 legislature.	Jeff Doyle (360) 705-7039	Public hearing held on 11/15/2006. Rule is pending further review by transportation commission.
468-240	Obstruction marking and lighting	468-240-002 thru 468-240-380	Markings and lighting standards for obstructions.	John Sibold (360) 651-6301	2/7/2007
468-220	Aircraft—Indicia of registration	468-220-010	Requirement to display decal on aircraft to prove state registration.	John Sibold (360) 651-6301	2/7/2007
12-04	General organization and public disclosure	12-04-010 thru 12-04-150	General organization of aeronautics commission.	John Sibold (360) 651-6301	2/7/2007
12-08	Practice and procedure	12-08-010 thru 12-08-040	Practice and procedures of the aeronautics commission.	John Sibold (360) 651-6301	2/7/2007

Cathy Downs
WAC Rules Coordinator

WSR 07-03-126
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE
INTERAGENCY COMMITTEE
(Biodiversity Council)
[Memorandum—January 22, 2007]

The next public meeting of the biodiversity council will be Thursday, February 15, 2007, from 8:30 a.m. to 3:30 p.m. at the Nisqually National Wildlife Refuge, 100 Brown Farm Road, Olympia, WA 98516.

For further information, please contact Jennifer Dial, Interagency Committee for Outdoor Recreation (IAC), (360) 902-3012 or check the web page <http://www.biodiversity.wa.gov>.

The IAC schedules all public meetings at barrier free sites. Persons who need special assistance, such as large type materials, may contact Jennifer Dial at the number listed above or by e-mail at JenniferD@iac.wa.gov.

WSR 07-03-133
ATTORNEY GENERAL'S OFFICE
[Filed January 23, 2007, 10:40 a.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL

The Washington attorney general issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the attorney general's office have information or expertise that will assist in

the preparation of a particular opinion, a summary of that opinion request will be published in the opinion listserv. If you are interested in commenting on a request listed here, you should notify the attorney general's office of your interest by February 14, 2007. This is not the due date by which comments must be received. However, if you do not notify the attorney general's office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the attorney general's office of your intention to comment by calling (360) 664-3027, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you may be provided with a copy of the opinion request in which you are interested; information about the attorney general's opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The attorney general's office seeks public input on the following opinion request(s):

07-01-02 Request by Jim Hargrove
State Senator, 24th Legislative District

Is it lawful to carry a short-barreled shotgun (as defined in RCW 9.41.010) in this state?

WSR 07-03-157

AGENDA

DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed January 23, 2007, 4:10 p.m.]

Semi-Annual Agenda for Rules Under Development
January 1, 2007 - June 30, 2007

DIVISION OF CREDIT UNIONS

- The division has filed as CR-101 regarding a possible rule interpreting the definition of "equivalent share insurance program" under RCW 31.12.408. The rule would clarify the requirements for credit unions that want to insure under an equivalent share insurance program and would set forth the requirements for the private share insurer.

DIVISION OF SECURITIES

- Multi-jurisdictional Disclosure System Rule Changes:** Amends chapter 460-11A WAC to maintain uniformity with other states concerning the registration of certain Canadian issuers. These rules provide for a streamlined registration process of securities offerings of certain Canadian companies. The rules are based on model rules developed by the North American Securities Administrators Association (NASAA). A hearing was held December 27, 2006, and the amended rules were adopted. Effective date is approximately January 29, 2007.
- IA Custody Rule:** A CR-101 was filed in January 2005 to amend WAC 460-24A-105, concerning requirements imposed on investment advisers who take custody of client funds or securities. In general, the amendment would require investment advisers to indicate in their registration application whether they take custody of client funds, require investment advisers to keep such funds with a qualified custodian, and define certain key terms such as "custody." The rule would also update and make more uniform the language in the current rule. No further action has been taken on this proposal.

DIVISION OF CONSUMER SERVICES

- Interpretive Letters and Policy Statements.** The division will begin rule making on the process by which it will communicate current opinions, approaches, and likely courses of action. The division expects to create rules for issuing interpretive letters - written opinions as to the meaning of a statute or other provision of law, of a court decision, or of a division order; and policy statements - written descriptions of the division's current approach for implementing a statute or other provision of law, a court decision, or division order. The rules will also include processes by which the division will respond to general requests for division or agency information, or the location of such information, or requests for division opinions based on hypothetical scenarios.

- Public Records Act.** The division has not updated its rules on public records since 1996. Since that time, the Public Records Act (formerly called the Public Disclosure Act), chapter 42.56 RCW, has been recodified and model rules have been prepared by the office of the attorney general. The division anticipates updating the current rules, chapter 208-12 WAC, to conform to any changes in the statute and to reflect the statute's recodification.
- Consumer Loan Act, Chapter 208-620 WAC.** The division plans to make some technical changes to the rules that were drafted last year when the rules were redrafted to follow the clear rules writing format. Included in these technical amendments will be a rule allowing certain fee waivers.

WSR 07-03-164

NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE
SCHOOL FOR THE DEAF

[Memorandum—January 19, 2007]

Below is information regarding special meetings by the Washington School for the Deaf board of trustees:

Tuesday, January 23, 2007

5:00 p.m. Special meeting with board members and the superintendent
Coastal Kitchen
429 15th Avenue East
Seattle, WA 98112

Meeting is scheduled to end at 6:30 p.m.

7:00 p.m. Special meeting with the Washington State Institute for Public Policy (IPP) facilitators
Hearing, Speech, & Deafness Center
Artz Communication Center
1625 19th Avenue
Seattle, WA 98122

Meeting is scheduled to end at 8:30 p.m.

No action will be taken at either of these meetings.

WSR 07-03-176

NOTICE OF PUBLIC MEETINGS
SEED POTATO COMMISSION

[Memorandum—January 24, 2007]

The Washington seed potato commission has scheduled its 2007 regular meetings, as follows. This information is being filed as required by RCW 42.30.075:

Thursday, February 6	3:00 p.m.	Moses Lake Ardell Pavilion Grant County Fairgrounds
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Thursday, April 5	12:00 p.m.	Lynden, Board Room Homestead Farms
Thursday, June 7	12:00 p.m.	Lynden, Board Room Homestead Farms
Thursday, August 2	12:00 p.m.	Lynden, Board Room Homestead Farms
Thursday, October 4	12:00 p.m.	Lynden, Board Room Homestead Farms
Thursday, December 6	12:00 p.m.	Lynden, Board Room Homestead Farms

Interested individuals may contact the Washington seed potato commission at (360) 354-4670 to confirm meeting time and location.

WSR 07-03-179**AGENDA****DEPARTMENT OF HEALTH
STATE BOARD OF HEALTH**

[Filed January 24, 2007, 11:27 a.m.]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 07-04 issue of the Register.

WSR 07-03-182**DEPARTMENT OF ECOLOGY**

[Filed January 24, 2007, 11:43 a.m.]

**Public Hearing
Air Quality Program****Including Vancouver Carbon Monoxide Maintenance
Plan
in the State Implementation Plan (SIP)**

The department of ecology (ecology) is holding a public hearing on including a second ten-year carbon monoxide (CO) maintenance plan for Vancouver, Washington in the state implementation plan (SIP). The SIP is a statewide plan for meeting federal air quality standards.

Background information: The federal Environmental Protection Agency (EPA) redesignated the Vancouver area to attainment of the CO standard in 1996 after finding that the area met Clean Air Act requirements for redesignation. These requirements include:

- Monitoring data showing the area meets the standard, and
- An EPA-approved plan for maintaining the standard for an initial ten-year period.

After a redesignated area has met the standard for ten years, the Clean Air Act requires a maintenance plan for the second ten years of the maintenance period as part of the SIP. The Southwest Clean Air Agency developed a maintenance plan for the Vancouver area. The maintenance plan assures

that the area will continue to meet the carbon monoxide standard for a second ten-year period.

Since Vancouver's carbon monoxide levels are so low, EPA has determined the area is not likely to exceed the standard. Therefore, EPA is requiring only a limited maintenance plan to meet the Clean Air Act requirement. Since the area is unlikely to exceed the standard, the plan continues the existing control strategy, does not need to demonstrate maintenance of the standard, and exempts the area from regional transportation conformity determinations. Other conformity requirements, such as project conformity and consultation, remain.

The hearing: Ecology will hold a hearing following the Southwest Clean Air Agency's March board meeting. The board will adjourn after completing its business meeting and ecology will provide a short break before beginning the SIP hearing.

The date and location of the hearing are: Thursday, March 1, 2007, at 3:00 p.m., at the Southwest Clean Air Agency, 11815 N.E. 99th Street, Suite 1294, Vancouver, WA 98682.

The purpose of the hearing is to receive public comment on including the Southwest Clean Air Agency's maintenance plan in the SIP.

Review copies are available:

You can review copies of the SIP revision at the following locations:

Southwest Clean Air Agency
11815 N.E. 99th Street, Suite 1294
Vancouver, WA 99682-2394 [98682-2394]

Department of Ecology
Air Quality Program
300 Desmond Drive
Lacey, WA 98503

Vancouver Community Library
1007 East Mill Plain Boulevard
Vancouver, WA 98663

Department of Ecology
Vancouver Field Office
2108 Grand Boulevard
Vancouver, WA 98661-4622

How to comment: You can comment in person at the hearings, or mail, e-mail or fax your comments to Doug Schneider, Department of Ecology, P.O. Box 4700 [47600], Olympia, WA 98504-7600, phone (360) 407-6874, fax (360) 407-7534, e-mail dsch461@ecy.wa.gov.

You must provide your comments by 5:00 p.m., March 2, 2007.

For more information please contact Doug Schneider.

If you need special accommodations, please contact Tami Dahlgren at (360) 407-6830 by February 20, 2007. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call (877) 833-6341.