

**WSR 07-21-003**  
**PROPOSED RULES**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**

[Filed October 4, 2007, 8:52 a.m.]

Continuance of WSR 07-17-070.

Preproposal statement of inquiry was filed as WSR 07-13-039.

Title of Rule and Other Identifying Information: Amendments to chapters 391-08, 391-25, 391-35, 391-45, 391-55, 391-65, and 391-95 WAC.

Hearing Location(s): Spokane Academic Center Building, Room 501, Washington State University, Spokane, Washington Campus, on November 2, 2007, at 10:00. Please visit [www.perc.wa.gov](http://www.perc.wa.gov) for more information.

Date of Intended Adoption: December 11, 2007.

Submit Written Comments to: Kenneth J. Latsch, Rules Coordinator, P.O. Box 40919, Olympia, WA 98504, e-mail [KLatsch@perc.wa.gov](mailto:KLatsch@perc.wa.gov), fax (360) 570-7334, by October 26, 2007.

Assistance for Persons with Disabilities: Contact Jim Lohr by October 20, 2007, (360) 570-7310.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To streamline agency practices and procedures, including updating rules to reflect administrative changes in agency functions, update certain rules adopted under the Personnel System Reform Act of 2002 to reflect a greater integration into standard agency practice, repeal certain rules adopted under the Personnel System Reform Act of 2002 that are no longer necessary, and amending certain rules to recommendations by clientele and agency staff to make certain changes in agency practice and procedure. Examples of housekeeping amendments and changes to chapter 391-08 WAC and all areas of practice and procedure, include adopting rules pertaining to public records requests and placing a page limit upon briefs filed with the agency during proceedings under the Administrative Procedure Act, and clarifying when a decision is ripe for appeal before the full commission. Housekeeping amendments and changes in representation rules, chapter 391-25 WAC, include changes to lifespan of showing of interest cards, changes regarding an employer's obligation to maintain the status quo during the pendency of a representation election, and clarifying the cut-off date for employee eligibility to vote in representation elections. Housekeeping amendments and changes in unit clarification rules, chapter 391-35 WAC, include bargaining unit configurations under chapter 184, Laws of 2007, and RCW 41.56.060(2). Housekeeping amendments and changes in unfair labor practice rules, chapter 391-45 WAC, include clarifying the preliminary ruling process and adopting settlements conference rules. Housekeeping rules to impasse resolution rules, chapter 391-55 WAC, include clarifying that the code of professional conduct for labor mediators applies to agency mediators, clarification of interest arbitration processes, and clarifying that the fact-finding rules apply to state civil service employees under chapter 41.80 RCW. Housekeeping amendments and changes to grievance arbitration rules, chapter 391-65 WAC, including a clarification that the agency does not pay for expenses. Housekeeping amendments and changes to union

security dispute rules, chapter 391-95 WAC, include clarifying union's obligation under chapter 41.80 RCW.

Reasons Supporting Proposal: In late 2005, commission staff convened a focus group to examine agency processes and procedures. This group included representatives from both labor and management. The focus group examined all of the commission's rules, and is forwarding the following recommendation for rule amendments to the commission for adoption.

Name of Agency Personnel Responsible for Drafting: Dario de la Rosa, 112 Henry Street, Suite 300, Olympia, WA 98504, (360) 570-7328; Implementation and Enforcement: Kenneth J. Latsch, 112 Henry Street, Suite 300, Olympia, WA 98504, (360) 570-7320.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Agency rules only obligate public employers, public employees, and unions representing public employees, and do not impose costs on profit-making businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Agency rules are excepted by RCW 34.05.328 (5)(a)(i).

October 4, 2007  
Dario de la Rosa  
General Counsel

**WSR 07-21-010**  
**PROPOSED RULES**  
**HIGHLINE COMMUNITY COLLEGE**

[Filed October 5, 2007, 2:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-17-043.

Title of Rule and Other Identifying Information: Highline Community College student rights and responsibilities.

Hearing Location(s): Room - Mt. Skokomish, Building 8, Highline Community College, 2400 South 240th Street, Des Moines, WA 98198-9800, on November 28, 2007, at 1:30 p.m.

Date of Intended Adoption: December 13, 2007.

Submit Written Comments to: Toni Castro, Dean for Student Services, Highline Community College, P.O. Box 98000, 2400 South 240th Street, Des Moines, WA 98198-9800, e-mail [tcastro@highline.edu](mailto:tcastro@highline.edu), fax (206) 870-4801, by November 30, 2007.

Assistance for Persons with Disabilities: Contact Dena Dillon by November 26, 2007, TTY (206) 870-4853 or (206) 878-3710.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These proposed amended rules are required to comport with procedures in place at the college that deal with student complaints and to address proposed changes in the student disciplinary process. The proposed amended rules also address substantive concerns about student conduct that have evolved since these rules were last amended in 1992.

Reasons Supporting Proposal: The Highline Community College student rights and responsibilities rules have not been updated since 1992. These rules are necessary to streamline procedures, make the rules consistent with current practices at the college, and address substantive changes that have occurred in student conduct issues since 1992.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Statute Being Implemented: RCW 28B.50.140(13).

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

Name of Proponent: Highline Community College, Community College District IX, governmental.

Name of Agency Personnel Responsible for Drafting: Dena Dillon, Executive Assistant for Student Services, Highline Community College, P.O. Box 98000, 2400 South 240th Street, Des Moines, WA 98198-9800, (206) 878-3710 ext. 3351; Implementation and Enforcement: Toni Castro, Dean for Student Services, Highline Community College, (206) 878-3710 ext. 3351.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business [economic] impact statement is not required, since these rules will have no impact on businesses in an industry. See RCW 19.85.030(1).

A cost-benefit analysis is not required under RCW 34.05.328. These proposed rules are not subject to the cost-benefits analysis requirement in RCW 34.05.328(5).

October 5, 2007

Toni Castro  
Dean for Student Services

#### CHIEF STUDENT AFFAIRS OFFICER

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

**WAC 1321-120-010 Purpose.** (~~Community College District 9 serves its community and the general public by providing continuing educational opportunities for all persons who are eligible to attend. To fulfill this purpose, the college provides students with broad, comprehensive programs of general education, including university parallel transfer courses, developmental remedial programs, and vocational-technical curricula. The college also provides cultural, recreational, and community service activities. The college provides health, guidance, and counseling services which every student is encouraged to make use of on a voluntary basis. The confidentiality of counseling, health, and adviser services will be strictly maintained except as called for by legal requirement.~~

~~As members of the college community, students are encouraged through free inquiry and free expression, to develop their capacity for critical judgment and to engage in sustained and independent search for knowledge. It is the responsibility of the student to observe and help maintain appropriate conditions in the classroom, on campus, and in the larger community.~~

~~Highline Community College may take appropriate disciplinary action when student conduct unreasonably inter-~~

~~feres with the college's educational responsibilities, its subsidiary responsibilities, or to protect the health and safety of persons on or in college facilities, to maintain and protect college property or private property on college facilities, to protect college records, to provide college services, and/or to sponsor non-classroom activities such as lectures, concerts, athletic events, and social functions.~~

~~The purpose of these rules is to prescribe standards of conduct for students of Community College District No. 9; the violations which may constitute sufficient cause for disciplinary action as described in and in accordance with the procedures established in WAC 1321-120-010 through 1321-120-520.~~

~~A student's registration constitutes acceptance of the responsibility to comply with the general policies and regulations established by the college.)~~ (1) Highline Community College serves its community and the general public by providing opportunities for all persons seeking educational and personal enrichment. The college delivers innovative education and training opportunities to foster personal and professional success in a multicultural society.

Highline Community College is committed to the following values:

**Access:** We believe education should be available to all who seek it.

**Collaboration:** We value teamwork, joint responsibility and ownership.

**Community:** We value our community and are dedicated to serving its educational needs.

**Diversity:** We respect the rights and perspectives of the diverse populations who live, learn and work in our community.

**Excellence:** We strive for the highest quality in all our programs and services.

**Integrity:** We believe in honesty and trustworthiness in all our college practices.

**Internationalization:** We value a global perspective and respect cultural differences.

**Learning:** We develop an interactive, creative, and learner-centered environment that supports student success.

(2) Students have the responsibility to observe and help maintain appropriate conditions in the classroom, on campus, and when officially representing the college in the larger community. Allegiance to these core values and the civility statement (WAC 1321-120-100(1)) allows Highline Community College to offer a learning environment that prepares students to engage actively and responsibly as citizens in the local and global communities.

(3) Highline Community College has jurisdiction to take appropriate disciplinary action when any student acts in a manner that violates this code at any college-sponsored program or event. Jurisdiction is defined in WAC 1321-120-530. The purpose of these rules is to prescribe standards of conduct for students of Highline Community College District No. 9; the violations of which may constitute sufficient cause for disciplinary action as described in accordance with the procedures established in WAC 1321-120-010 through 1321-120-530.

(4) A student's application for admission or registration constitutes acceptance of the responsibility to comply with

the general policies and regulations established by the college and to meet the expectations described in this document.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-120-020 General policies.** (1) Highline Community College is an agency of the state of Washington and adheres to all local, state, and federal laws. The college is obligated to demonstrate respect for the laws by cooperating in their enforcement.

(2) Highline Community College cannot and will not establish regulations which would abridge constitutional rights.

(3) Proper procedures are established to maintain conditions conducive to the effective performance of the function of the college, to protect ~~((individual))~~ students from unfair imposition of penalties, and to assure due process. Highline Community College is granted the right by law to adopt ~~((such))~~ rules ~~((as are))~~ deemed necessary to govern its operations.

(4) If these rules are broken, the college has the right and the obligation to take ~~((that))~~ action ~~((which))~~ that is in the best interest of the ~~((entire))~~ college and ~~((which))~~ that is commensurate with the constitutional rights of the individual.

(5) ~~((If a student is charged with an off-campus violation of the law, the matter shall be of no disciplinary concern to the college unless the student is incarcerated and unable to comply with academic requirements. If the violation of law occurs on-campus and is also a violation of a published college regulation, the college may institute its own proceedings against the offender or may refer the violation to the appropriate civilian authorities for disposition. The college shall not proceed with a disciplinary action that in fact or appearance duplicates punishment for the same offense unless the interests of the college are implicated in some separate way by violation of law.~~

~~((6) The Highline College Student Union will have the right to participate in the formulation and review of all policies and rules pertaining to student conduct and in the enforcement of all such rules as provided by these rules.))~~ Highline Community College reserves the right to impose the provisions of this chapter and provide further sanctions before or after law enforcement agencies, courts, or other agencies have imposed penalties or otherwise disposed of a case. College proceedings are not subject to challenge on the ground that criminal or civil charges involving the same incident have been dismissed or reduced or in which the defendant has been found not guilty or not liable. In addition, the college reserves the right to refer incidents to the appropriate civilian authorities or law enforcement agencies.

(6) The associated students of Highline Community College have the right to participate in the formulation and review of all policies pertaining to student rights and responsibilities and its enforcement as described in the student code of conduct.

(7) Rules of conduct and procedures of enforcement shall be printed and made available to all students via the internet and in hard copy upon request.

~~((8) All rules herein adopted concerning student conduct shall apply to every student attending the college in any college facility.))~~

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

**WAC 132I-120-030 Definitions.** (1) As used in these rules, the following words and phrases shall mean:

(a) "Anabolic steroids" means synthetic derivatives of testosterone or any isomer, ester, salt, or derivative that acts in the same manner on the human body.

(b) "Androgens" means testosterone in one of its forms or a derivative, isomer, ester, or salt that acts in the same manner on the human body.

(c) "ASHCC" refers to the associated students of Highline Community College, the official student government association.

(d) "Assembly" ((means)) refers to any overt activity engaged in by three or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person~~((, persons;))~~ or group ~~((of persons)).~~

~~((b))~~ (e) "Board of trustees" means the board members appointed by the governor of the state of Washington who have final authority for the governance of Highline Community College.

(f) "Chief student affairs officer (CSAO)" means the college administrator who reports to the college president, who serves as the college's student judicial affairs administrator, and who is responsible for administering the student rights and responsibilities code. The CSAO may designate a student judicial affairs administrator to fulfill this responsibility.

(g) "College" means Highline Community College (HCC), or any additional community college hereafter established with Community College District 9, state of Washington, and collectively, those responsible for its control and operation.

~~((e))~~ (h) "College community" means trustees, students, ~~((employees, and guests))~~ staff, faculty, and visitors on college owned or controlled facilities.

~~((d))~~ (i) "College facilities" means and includes any or all property controlled and/or operated by the college.

~~((e))~~ (j) "Day" means a calendar day ~~((except)).~~ The effective ~~((day))~~ date of any provision of these rules shall be the day ~~((following))~~ other than a Saturday, Sunday or holiday.

~~((f))~~ (k) "HCSU" refers to Highline College Student Union, the official student government association.

~~((g))~~ (l) "Faculty complaint process" is the process through which students may seek resolution of complaints against faculty members about instructional matters. The faculty complaint process is explained fully in the *Complaints Against Faculty Members* section 807 of the Highline College Education Association (HCEA) HCC negotiated agreement. Written procedures for the faculty complaint process are available in the office of the chief student affairs officer, and in the academic affairs administrative offices.

(l) "Human growth hormones" means growth hormones, or a derivative, isomer, ester, or salt that act in the same manner on the human body.

(m) "Initial disciplinary hearing" means a meeting between the chief student affairs officer or designee and accused party to review the charges and evidence of any code violation and give opportunity for the accused party to give their account of the incident(s) under investigation.

(n) "President" means the chief executive officer of the college appointed by the board of trustees, and for the purposes of these rules includes "acting president" or the delegated authority in the absence of the president.

~~((h)) "Board of trustees" means the board members appointed by the governor of the state of Washington who have final authority for the governance of Highline Community College.~~

~~((i)) (o) "Student" means and includes ((all)) any person((s)) enrolled at the college, ((both full time and part time)) or a person seeking admission or accepted to the college for admission.~~

~~((j)) (p) "Student group" means a number of students who have not ((complied with)) met the formal requirements ((of becoming)) to be officially recognized as a student organization.~~

~~((k)) (q) "Student code of conduct" means the HCC student rights and responsibilities.~~

~~(r) "Student organization" means a number of students who have ((complied with)) met the formal requirements of ((college)) clubs and organizations recognition as provided by the ((HCSU)) associated students of Highline Community College (ASHCC).~~

(s) "Summary suspension hearing" means a short, concise, and timely hearing administered in emergencies, following a student being summarily suspended from attending a class or classes.

(t) "Student judicial affairs administrator" means the chief student affairs officer or designee.

(2) All other terms have their natural meaning unless the context dictates otherwise.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-100 ((Student responsibilities.)) College community expectations, and code of conduct. ((+)) Students who choose to attend Highline Community College also choose to participate actively in the adult learning process offered by the college. As a process, learning is not a product or commodity which is bought and sold, but rather, is a relationship between teachers who are willing and competent to teach and learners who are willing and competent to learn. Therefore, the responsibility for learning is shared equally between students and staff.

(2) The college is responsible for providing its students with an educational environment rich in the high quality resources needed by students to attain their individual educational goals. In return, students are responsible for making themselves aware of the full breadth of the resources available, for the timely choosing and appropriate use of those resources, and for the specific behavioral tasks necessary for

attaining desired learning outcomes. Examples of specific student responsibilities are:

~~(a) To become knowledgeable of and adhere to the college's policies, practices, and procedures;~~

~~(b) To participate actively in the learning process, both in and out of the classroom;~~

~~(c) To seek timely assistance in meeting educational goals;~~

~~(d) To attend all class sessions;~~

~~(e) To adequately prepare to participate fully in class activities;~~

~~(f) To participate actively in the advising system;~~

~~(g) To develop skills required for learning, e.g., basic skills, time management, motivation, study skills, and openness to the educational process;~~

~~(h) To assume final authority for the selection of appropriate educational goals;~~

~~(i) To select courses appropriate for meeting chosen educational goals;~~

~~(j) To evaluate the quality and quantity of resources available to students; and~~

~~(k) To contribute towards improving the college.~~

~~(3) As members of the Highline community, students are expected to obey all college rules and regulations and are prohibited from engaging in any unlawful conduct. Any student shall be subject to disciplinary action as provided for in this chapter (see WAC 132I-120-410) who, either as a principal actor, aider, abettor, or accomplice as defined in RCW 9A.08.020, as now law or hereafter amended, interferes with the personal rights or privileges of others or the educational process of the college; violates any provision of this chapter; or commits any of the following personal, property or status offenses which are hereby prohibited:~~

~~(a) Personal offenses:~~

~~(i) Assault, reckless endangerment, intimidation, or interference upon another person in the manner set forth in RCW 9A.36.010, 9A.36.020, 9A.36.030, 9A.36.040, 9A.36.050, or 28B.10.570 through 28B.10.572, as now law or hereafter amended.~~

~~(ii) Disorderly, abusive, or bothersome conduct. Disorderly or abusive behavior which interferes with the rights of others or which obstructs or disrupts teaching, research, or administrative functions.~~

~~(iii) Failure to follow instructions. Inattentiveness, inability, or failure of student to follow instructor's instructions, thereby infringing upon the rights and privileges of other students.~~

~~(iv) Illegal assembly, obstruction, or disruption. Any assembly or other act which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the private rights and privileges of others.~~

~~(v) False complaint. Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.~~

~~(vi) False alarms. Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.~~

(vii) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(b) Property offenses.

(i) Theft or robbery. Theft of the property of the district or of another as defined in the RCW 9A.56.010 through 9A.56.060 and 9A.56.100 as now law or hereafter amended.

(ii) Malicious mischief. Intentional or negligent damage to or destruction of any college facility or other public or private real or personal property.

~~(iii) Unauthorized use of college equipment and supplies. Converting of college equipment or supplies for personal gain or use without proper authority.~~

~~(e) Status offenses.~~

(i) Cheating and plagiarism. Submitting to a faculty member any work product that the student fraudulently represents to the faculty member as the student's work product for the purpose of fulfilling any assignment or task required by the faculty member as part of the student's program of instruction.

(ii) Forgery or alteration of records. Forging or tendering any forged records or instruments, as defined in RCW 9A.60.010 through 9A.60.020 as now law or hereafter amended, of any district record or instrument to an employee or agent of the district acting in his official capacity as such.

(iii) Refusal to provide identification in appropriate circumstances. Refusal to provide positive identification (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of said employee's duties.

(iv) Illegal entry. Entering any administrative or other employee office or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(v) Smoking. Smoking in any classroom or laboratory, the library, or in any college facility or office posted "no smoking" or any other smoking not in compliance with chapter 70.160 RCW as now law or hereafter amended.

(vi) Controlled substances. Using, possessing, being demonstrably under the influence of, or selling any narcotic or controlled substance as defined in chapter 69.50 RCW as now law or hereafter amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.50.410 as now law or hereafter amended.

(vii) Alcoholic beverages. Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of alcoholic beverage on college property, with the exception of sanctioned events, approved by the president or his or her designee in compliance with state law.

(d) Failure to comply with the following regulations governing firearms and weapons:

(i) It shall be the policy of the college that carrying, exhibiting, displaying, or drawing any weapon, such as a dagger, sword, knife, or any other cutting or stabbing instrument or club or any other weapons apparently capable of producing

bodily harm and/or property damage is prohibited on or in college facilities.

(ii) Explosives, incendiary devices, or any weapon facsimile are prohibited on or in college facilities.

(iii) It shall be the policy of the college that carrying of firearms on college facilities is prohibited except and unless the firearm is registered with the campus security for a specific period of time that the firearm is carried on campus.

(iv) The above regulations shall not apply to equipment or material owned, used, or maintained, by the college; nor will they apply to law enforcement officers.)) (1) Civility statement. Members of Highline Community College accept the responsibility to promote a learning and working environment which ensures mutual respect, civility, honesty, and fairness. Members are expected to uphold the college's values and ethics necessary to maintain a positive campus climate, which includes health, safety and welfare of the campus community. To be active participants in the process of education, community members will strive to adhere to the following expectations:

(a) To be positive contributors to the college, the city of Des Moines, and the surrounding community.

(b) To conduct themselves with civility and be held accountable as members of the HCC community.

(c) To be honest and take responsibility for treating others with respect and dignity.

(d) To be open to the concepts of leadership, diversity, and wellness.

(e) To be open-minded and prepared to learn.

(2) Educational expectations. Students who choose to attend Highline Community College also choose to participate actively in the adult learning process offered by the college. As a process, learning is not a product or commodity, which is bought and sold, but rather, it is a relationship between instructors who are willing to teach, staff who are willing to support, and students who are willing to learn. Therefore, the responsibility for learning is shared equally between students, staff, and faculty.

(3) Student responsibilities. The college is responsible for providing its students with an educational environment rich in the high quality resources needed by students to attain their individual educational goals. In return, students are responsible for making themselves aware of the full breadth of the resources available, for the timely choosing and appropriate use of these resources, and for the specific behavioral tasks necessary for attaining the desired learning outcomes. Student responsibilities include but are not limited to the following: To actively participate in the learning process by adhering to the college's policies, practices, and procedures; attending all class sessions; utilizing campus resources; participating actively in the advising process; seeking timely assistance in meeting educational goals; and assuming responsibility for the selection of courses to achieve those goals.

(4) Code of conduct. As members of the college community, students are expected to obey all college rules and regulations and are prohibited from engaging in any unlawful conduct. Any student who, either as a principal actor, aid, abettor, or accomplice as defined in RCW 9A.08.020, as now law or hereafter amended, violates any local, state or federal

law, interferes with the personal rights or privileges of others or the educational process of the college, or violates the code of conduct which includes, but is not limited to, the categories listed below, shall be subject to disciplinary action as provided in this chapter (see WAC 132I-120-410).

(a) Personal offenses.

(i) Assault, reckless endangerment, intimidation, or interference upon another person in the manner set forth in RCW 9A.36.010 through 9A.36.050, or 28B.10.570 through 28B.10.572, as now law or hereafter amended.

(ii) Disorderly, disruptive, or abusive behavior which interferes with the rights of others or obstructs or disrupts teaching, learning, research, or administrative functions.

(iii) Inattentiveness, inability, or failure to follow the reasonable instructions of any college employee acting within their professional responsibility, thereby infringing upon the rights and privileges of others.

(iv) Refusal to comply with any lawful order to leave the college campus or any portion thereof by college personnel when necessary for the college to achieve its purpose of providing educational programs and services.

(v) Unauthorized assembly, obstruction, or disruption which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the rights and privileges of others.

(vi) Filing of a formal complaint falsely accusing another member of the college community with violating a provision of this chapter.

(vii) Falsely reporting an emergency, such as by setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(viii) Submitting information known to be false, misinterpreted, or fraudulent to college officials or on college records.

(ix) Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient or a third party, causes discomfort or humiliation, or creates an intimidating, offensive, or hostile work or learning environment.

(x) Stalking behavior in which a student repeatedly engages in a course of conduct directed at another person and makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her family; where the threat is reasonably determined by the college to seriously alarm, torment, or terrorize the person; and where the threat is additionally determined by the college to serve no legitimate purpose.

(xi) Destruction or alteration of any evidence that could be used during an investigation or college proceeding.

(xii) Any malicious act or behavior which causes harm to any person's physical or mental well-being. Harassment includes intentionally and repeatedly following or contacting another person in a manner that alarms, annoys, intimidates, harasses, or causes substantial emotional distress.

(b) Property offenses.

(i) Actual or attempted theft or robbery (RCW 9A.56.010 through 9A.56.060 and 9A.56.100) of property or ser-

vices belonging to the college or college community member including but not limited to knowingly possessing stolen property.

(ii) Malicious mischief that causes damage to or destruction of any college facility or other public, private, or personal property.

(iii) Unauthorized use of college equipment and supplies for personal gain.

(iv) Unauthorized use of a motorized vehicle, skateboard, bicycle, or other personal vehicle on campus pedestrian walkways.

(v) Unauthorized entry, access, or presence upon the property of the college or into a college facility or portion thereof which has been reserved, restricted, or placed off limits or unauthorized possession or use of key, access code, or password to any college facility or system.

(vi) Misuses of information technology. The following is prohibited: Failure to comply with laws, license agreements, and contracts governing network, software and hardware; abuse of communal resources; use of computing resources for illegal or unauthorized commercial purposes or personal gain. It is the obligation of college students to be aware of their responsibilities as outlined in the *Computing Resources Appropriate Use Policy*: <http://flightline.highline.edu/ic/policies/aup.php>. Failure to comply may result in loss of access to college computing resources, as well as administrative, civil or criminal action under Washington state or federal law.

(c) Status offenses.

(i) Forgery, falsification, or alteration of official documents, records, or correspondence.

(ii) Refusal to provide positive identification (e.g., student or state identification card; valid driver's license) when requested by any identified college official.

(d) Offenses pertaining to drugs/alcohol/smoking.

(i) Smoking outside of the designated smoking areas.

(ii) Possession or consumption of alcoholic beverages on college property or at a college-sponsored event is prohibited unless attendees are over the age of twenty-one and an alcohol permit has been obtained.

(iii) Controlled substances. Using, possessing, delivering, selling or being under the influence of legend drugs, including anabolic steroids, androgens, or human growth hormones, as defined by RCW 69.41.010 and 69.41.300 or any other controlled substance as defined in RCW 69.50.101 as now law or hereafter amended, except upon valid prescription or order of a practitioner is subject to additional sanctions, including disqualification from participation in college-sponsored athletic events. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.04.005 as now law or hereafter amended.

(e) Regulations governing firearms and weapons.

(i) It shall be the policy of the college that carrying, exhibiting, displaying, or drawing any weapon, as defined in RCW 9A.41.250 as now law or later amended, is prohibited. Such weapons may include but are not limited to, dagger, sword, knife (with larger than a three-inch blade), or any cutting or stabbing instrument, club, or any other weapons, including fake weapons capable of producing bodily harm, emotional distress, and/or property damage.

(ii) Explosives, incendiary devices, or any weapons fac-similes are prohibited on college property or in college facilities.

(iii) The above regulations shall not apply to equipment or material that is owned, used, or maintained by the college, nor will they apply to law enforcement officers or authorized contractors performing work for the college.

(f) Other misconduct: Any other conduct or action in which the college can demonstrate a clear and distinct threat to college property, the educational process, or any other legitimate function of the college or the health or safety of any member of the college community.

(5) Academic honesty.

(a) Students attending Highline Community College are expected to participate as responsible members of the college community, which includes assuming full responsibility for maintaining honesty and integrity in all work submitted for credit and in any other work assigned by faculty.

(b) Violations of academic honesty include, but are not limited to:

(i) Plagiarism: The unauthorized use or close imitation of the words, ideas, data, images, or product of another and the representation of them as one's own original work.

(ii) Cheating: Use or attempted use of unauthorized materials, information, or study aids; an act of deceit by which a student attempts to misrepresent academic skills or knowledge; unauthorized or attempted unauthorized copying or collaboration.

(iii) Fabrication: Intentional misrepresentation or invention of any information, such as falsifying research, inventing or exaggerating data, or listing incorrect or fictitious references.

(iv) Collusion: Assisting another to commit an act of academic dishonesty, such as paying or bribing someone to acquire a test or assignment, or increase the score on a test or assignment; taking a test or doing an assignment for someone else; helping someone to do these things for one's own benefit.

(v) Academic misconduct: Intentionally violating college policies, such as altering grades, misrepresenting one's identity, failing to report known incidents of academic dishonesty, or participating in obtaining or distributing any part of a test or any information about a test.

(c) Penalties for academic dishonesty.

(d) If a student is found guilty of academic dishonesty, any one or a combination of the following sanctions may be imposed by the faculty member:

(i) Verbal or written warning.

(ii) A grade of 0% (0.0) or otherwise lowered grade for the assignment, project, or test.

(e) The following sanction may be imposed by the faculty member only after a formal hearing is conducted by the chief student affairs officer, and the chief student affairs officer approves the sanction:

A grade of 0% (0.0) or otherwise lowered grade for the course, overriding a student's withdrawal from the course.

(f) The chief student affairs officer may also issue the following disciplinary sanctions, in accordance with the Highline student rights and responsibilities code (WAC 132I-120-410(11)):

(i) Disciplinary admonition and warning.

(ii) Disciplinary probation with or without the loss of privileges for a definite period of time. The violation of the terms of the disciplinary probation or the breaking of any college rule during the probation period may be grounds for suspension or expulsion from the college.

(iii) Suspension from Highline Community College for a definite period of time.

(iv) Dismissal from Highline Community College.

(g) Academic dishonesty complaint and hearing procedures.

(i) The faculty member observing or investigating the apparent act of academic dishonesty shall document the incident by writing down the time, date, place, and a description of the act and/or any other pertinent information.

(ii) The faculty member may collect evidence to corroborate the allegation.

(iii) The faculty member shall provide the student an opportunity to explain the incident.

(iv) The faculty member shall explain to the student the procedures and penalties for academic dishonesty and shall give the student a copy of the Highline Community College academic honesty policy.

(v) The faculty member may resolve the matter informally by determining an appropriate sanction, which may include a verbal or written warning, or a grade of 0% (0.0) or otherwise lowered grade on an assignment, project, or test, or no further action.

(vi) The faculty member shall submit a copy of the Academic Dishonesty Report form to the office of the chief student affairs officer. The report shall be kept on file and may be presented as evidence for more stringent sanctions, should the student commit subsequent violation(s) of the academic honesty policy.

(vii) If the faculty member wishes to initiate more stringent sanctions in addition to lowering or failing an assignment and/or verbal or written warning (e.g., assign a failing grade for the course), the student must be entitled to a formal hearing with the chief student affairs officer. Following a formal hearing, sanctions imposed by the chief student affairs officer may range from no further action (no failing grade for the course) to dismissal from the college (WAC 132I-120-410(11)). The chief student affairs officer may not overturn the sanctions imposed by the faculty member ((d)(i) and (ii) of this subsection).

(viii) The faculty member shall submit a copy of the Academic Dishonesty Report form and any additional evidence to the chief student affairs officer within ten days of the alleged act of academic dishonesty, which initiates the formal hearing process.

(ix) Within ten days of receiving an Academic Dishonesty Report form, the chief student affairs officer or designee shall notify the student in writing of the date, time and location of the hearing. At the hearing, the student shall meet with the chief student affairs officer or designee to hear the charges and present his/her side of the case. If the student chooses not to attend or fails to appear, the hearing will be conducted in the student's absence.

(x) The chief student affairs officer or designee will consider any evidence submitted within seven days of the hear-

ing, and interview persons as warranted. The chief student affairs officer or designee determines if the action recommended by the faculty member is appropriate.

(xi) Within ten days of the hearing, the chief student affairs officer or designee shall send written notification of the results to the student and faculty member. The decision of the chief student affairs officer or designee is final. (With permission, contents of this policy were adapted from "Academic Integrity Policy," Portland Community College, Portland, Oregon.)

(6) Violation of any of the above regulations may also constitute violation of criminal laws or ordinances of various cities, municipalities, counties, the state of Washington, or the United States and may subject a violator to criminal sanctions in addition to any sanctions imposed by the college.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-120-105 Student rights.** The following ~~((enumerated))~~ rights are guaranteed to each student within the limitations of statutory law and college policy ~~((which are))~~ as deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation which is arbitrary ~~((-prejudiced,))~~ or capricious, but are responsible for meeting the standards of academic performance established by ~~((each of))~~ their instructors. Grade complaints are administered through the *Complaints against Faculty Members* section 807 of the Highline College Education Association (HCEA) HCC negotiated agreement.

(d) Students have the right to a learning environment ~~((which))~~ that is free from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.

(2) Due process.

(a) ~~((The rights of students))~~ It is guaranteed that students have the right to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures ~~((is guaranteed)).~~

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this ~~((code of))~~ student rights and responsibilities code is entitled ~~((-upon request,))~~ to procedural due process as set forth in this chapter.

(3) Distribution and posting. Students may distribute or post printed or published material subject to official written procedures ~~((printed and))~~ available in the ~~((dean of))~~ student ~~((s))~~ programs office. All free publications not in violation of state and/or federal laws ~~((such as books, magazines, newspapers, handbills, leaflets, or similar materials))~~ may be distributed ~~((on campus. The college may restrict the distri-~~

bution of any publications, where such distribution unreasonably interferes with college operations. Such materials may be distributed from authorized public areas in the student center and at any outdoor area on campus consistent with the maintenance of college property, with the free flow of traffic and persons, and not in a manner which in itself limits the orderly operation of college affairs. Any person desiring to distribute such publications shall first register with the dean of students so that reasonable areas and times can be assured and the activities of the institution will not be unduly interfered with. All handbills, leaflets, newspapers, and similarly related matter must bear identification as to the publishing agency and distributing organization or individual) from authorized public areas subject to time, place, and manner as determined by the college. Material may not be distributed in college parking lots or be placed on or in automobiles. Students distributing printed materials are responsible for litter control of all distributed material.

(4) Off-campus speakers. Recognized student organizations shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding, and compliance with the college procedures available in the ~~((administrative))~~ student programs office.

(5) ~~((Incidental sales. Students have the right to engage in incidental sales of personal property in a private transaction provided college facilities are not explicitly used for this purpose.~~

~~((6))~~ Commercial activities. The use of college grounds or facilities for commercial or private gain ~~((purposes))~~ is prohibited except ~~((where commercial activity such as sale of books, instructional supplies, or food contribute to the operation of the instructional program or where limited sale is specifically authorized by the dean of students for the benefit of an approved activity.~~

(7) Fund raising. ~~Students have the right to engage in fund raising activities for nonprofit organizations as recognized by the Internal Revenue Service. All fund raising activities must be approved by the dean of students.~~

~~((8))~~ with the approval of the student programs office consistent with vending and fundraising guidelines. Commercial activities which generate contractual and/or financial debt relationships with students are prohibited. The college reserves the right to charge commercial vendors for the use of college facilities.

(6) Sale of merchandise. All merchandise offered for commercial sale may be sold only through the college bookstore or college food services except when approved by the ~~((dean of))~~ student ~~((s))~~ programs office or affiliated academic department as part of the cocurricular experience.

AMENDATORY SECTION (Amending Order 023, filed 3/27/89)

**WAC 132I-120-315 Right of assembly.** (1) Students have the right to conduct or ~~((may))~~ participate in any assembly as defined in WAC 132I-120-030 ~~((+))~~ on facilities that are generally available to the public provided that such assemblies:

(a) Are conducted in an orderly and respectful manner;



(b) Do not unreasonably interfere with classes, scheduled meetings or ceremonies, or ~~((regular functions of the))~~ college sponsored events;

(c) Do not unreasonably interfere with pedestrian or vehicular traffic; or

(d) Do not cause destruction or damage to college property ~~((including library materials, or private property on college facilities))~~.

(2) Any student, group, or ~~((student))~~ organization ~~((which wishes to schedule))~~ planning an assembly on college property must reserve the college facilities ~~((in the office of the coordinator of student activities))~~ with the student programs office.

(3) Assemblies which violate these rules may be ordered to disperse by ~~((the))~~ college personnel in accordance with Washington state statutes.

(4) ~~((A nonstudent who violates any provision of the rule will))~~ Any campus community member who violates any provision of this rule may be required to leave the campus or facility and/or be referred to civilian authorities for criminal prosecution.

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

**WAC 1321-120-330 Rights of ownership of works.** It shall be the policy of Highline Community College that employees of the college shall not use students' published ~~((and))~~ or unpublished works for personal gain without written consent of the student.

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

**WAC 1321-120-340 Right to be interviewed.** (1) Every student has the right to be interviewed on campus by any legal organization desiring to recruit at the college.

(2) Any student, student group, or student organization may assemble in protest against any such organization, provided that such protest does not interfere with ~~((any))~~ other ~~((student's))~~ students' right to have such an interview, and provided that such protest is in accordance with WAC 1321-120-315.

#### NEW SECTION

**WAC 1321-120-350 Student complaint process.** (1) Purpose and definition. The purpose of this procedure is to provide students with guidelines which promote constructive dialogue, understanding, and informal resolution of student complaints and concerns. This process also provides an avenue for formal procedures should an informal approach be ineffective. A complaint is hereby defined as a statement that expresses a student's dissatisfaction with the performance or action of a college employee, which the student believes to be unfair or inconsistent with college policy or procedures.

(2) Exclusions of complaint process. This procedure is not to be used where other procedures are required for the resolution of specific categories of student complaints or student appeals. Student concerns covered by existing college policy or procedures (e.g., *Complaints Against Faculty Mem-*

*bers* section 807 of the HCEA/HCC negotiated agreement) are excluded from this complaint process and should be brought to the attention of the appropriate college administrator.

(3) Time limitations. A student wishing to express a complaint, as previously defined, should do so no later than two weeks from the time the student should have been aware of the concern. Timely initiation of a complaint rests with the student.

(4) Complaint process procedures.

(a) Step 1: Discuss complaint with staff member. The student should discuss the complaint informally and thoroughly with the staff member to whom the complaint is directed. Both parties should openly discuss the student complaint/concern and attempt to understand the other's perspectives, explore alternatives, and arrive at a satisfactory resolution to the complaint. If the student and staff member are unsuccessful at finding a resolution, or the student is dissatisfied with the complaint resolution, the student should then move to step 2.

(b) Step 2: Express complaint in writing. Within ten days of meeting with the staff member, if resolution is unsuccessful through informal discussion, the student shall express the complaint in writing and forward the written complaint to the staff member and the staff member's immediate supervisor. At the student's request, the chief student affairs officer will assign an HCC community member to serve as an advocate to assist in clarifying the complaint process and guiding the student through the complaint process.

(c) Step 3: Supervisor conference. Upon receiving the student's written complaint, the immediate supervisor may ask the staff member for a written response and shall, within five days following receipt of the student's written complaint, hold a conference with the involved parties. The supervisor may request supporting materials from either the staff member or student. If after discussion, mediation, and review of materials at the conference, the involved parties are unable to find a mutually acceptable resolution, the supervisor shall render a verbal decision on the complaint to all parties or shall within five days provide a written copy of his/her decision of the complaint to each involved party.

(d) Step 4: Executive conference. If the decision of the immediate supervisor does not resolve the complaint to the satisfaction of the student, the chief student affairs officer or designee shall, on request of the student, convene a conference of all previously involved parties and any additionally affected supervisors within seven days. All written statements and supporting materials from involved parties will be provided to the chief student affairs officer or designee prior to the conference. Written materials will be retained in the chief student affairs officer's office. If after discussion, mediation, and review of materials at the conference, the involved parties are unable to find a mutually acceptable resolution, the chief student affairs officer or designee shall within seven days render a written decision on the complaint and will provide copies to all involved parties. The decision of the chief student affairs officer or designee will be final.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 1321-120-400 Authority and responsibility for discipline.** (1) The board of trustees, acting by written order and in accordance with Washington state statutes (~~does by written order~~), delegates to the president of the college the authority to administer disciplinary action. (~~All disciplinary action in which there is a recommendation that a student be suspended or expelled from the college shall be acted upon by the president as defined in WAC 1321-120-030 (1)(g).~~)

(2) Administration of the disciplinary procedure is the responsibility of the (~~dean of students~~).

(3) ~~The instructor is responsible for conduct in the classroom and is authorized to take such steps as are necessary when behavior of the student interrupts the normal classroom procedure. When such behavior may be so serious as to result in expulsion from the class, the instructor must report the infraction in writing to the dean of students at the earliest opportunity.~~

(4) ~~The student has the right to appeal any disciplinary action of an instructor to the dean of students as in accordance with the procedures set forth in WAC 1321-120-426 through 1321-120-432)~~ chief student affairs officer. The chief student affairs officer or designee(s) shall serve as the principal investigator and administrator for alleged violations of this code.

(3) Summary action (emergency procedure).

(a) The instructor and students are responsible for conduct in the classroom or at any course-related activity or event. The instructor is authorized to take reasonable steps as necessary when behavior of the student materially or substantially disrupts normal classroom procedures. Instructors may remove a student for the single class session in which disruptive behavior occurs. When such behavior results in expulsion from a class session, the instructor must report the infraction in writing to the chief student affairs officer at the earliest opportunity. When the faculty member, division chair and chief student affairs officer concur that such behavior poses a serious threat, the student may be removed from class pending the outcome of disciplinary action. In all cases involving classroom disruption, the chief student affairs officer or designee will proceed with the investigation and/or disciplinary proceedings at the earliest opportunity consistent with the procedural requirements established in this chapter.

(b) The administrator in charge of any college office, department, or facility is responsible for conduct in that area. Staff shall take reasonable action in response to urgent situations as may be necessary to maintain order when they have reason to believe that such action is necessary for the safety and well-being of the student or the protection of the college community or facilities. Any such summary action must be reported to the chief student affairs officer at the earliest opportunity.

(c) A student being formally charged or under investigation for a violation of this code may not excuse him or herself from disciplinary proceedings by withdrawing from the college.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 1321-120-410 Definition of disciplinary action.** Disciplinary actions include, but are not limited to, the following (~~disciplinary action~~) sanctions that may be imposed upon students according to the procedure outlined in WAC 1321-120-421.

(1) Admonition: An oral statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) Warning: Notice in writing that (~~continuation or repetition of conduct deemed wrongful, within a period of time stated in the warning, may be cause for~~) the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(3) Disciplinary probation: Formal action placing specific conditions upon the student's continued attendance and warning the student that further misconduct may subject (~~him/her to~~) the student to suspension or dismissal. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(4) Restitution: Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(5) (~~Summary suspension: Exclusion from classes and other privileges or activities in accordance with WAC 1321-120-426.~~

(6) Suspension: Exclusion from classes and other privileges or activities as set forth in the notice for a definite period of time.

(7) Dismissal: Termination of student status for an indefinite period of time. Conditions of reinstatement, if any, shall be stated in the order of dismissal.) Suspension: Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.

(6) Dismissal: The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

(7) Professional evaluation: Referral for drug, alcohol, psychological or medical evaluation by a certified or licensed professional may be required. The student will sign all necessary releases to allow the college access to any such evaluation. Recommendations as part of any such evaluation may become part of any sanction. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-120-415 Authority to request identification.** In situations of apparent misconduct or apparent unauthorized presence in a college facility, it may be necessary for properly identified college personnel to ask a person to produce evidence of being a currently enrolled student at the college. Failure to comply with a legitimate request for identification from a properly identified college ~~((personnel))~~ employee is a violation of ~~((this chapter (see)))~~ WAC 132I-120-100 ~~(4)(c)((iii)))~~ (ii) and may result in a disciplinary action if the person is found to be a student. In emergency situations, cases of serious misconduct, or where there is a substantial danger to the college community or college property, failure to produce identification by a student may result in the assumption by college personnel that the person questioned is not a student and may result in ~~((direct))~~ civil or criminal action.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-120-421 Initial disciplinary proceedings.** (1) All disciplinary proceedings ~~((will))~~ shall be initiated by the ~~((appropriate dean or his or her designated representative))~~ chief student affairs officer or designee. ~~((The))~~ Students may be placed on suspension pending commencement of disciplinary action, pursuant to the conditions set forth in WAC 132I-120-426.

(2) Any student accused of violating any provision of the rules of conduct shall be ~~((called for))~~ notified of an initial ~~((meeting and receive written notice of such meeting by first class mail with the appropriate dean or his or her designated representative))~~ disciplinary proceeding either in person or by certified mail and shall be given written notice of such meeting with the chief student affairs officer or designee. The student will be informed in writing of ~~((what))~~ the provision(s) ~~((or provisions of the rules of conduct he/she))~~ the student is charged with violating, and ~~((what appears to be the range of penalties, if any, which might result from initiation of disciplinary proceedings))~~ the range of possible sanctions for the offense. The student will be given seven days to respond. If the student fails to respond or fails to appear, the initial disciplinary hearing may be held in the student's absence.

(3) After considering the evidence in the case ~~((and)),~~ interviewing the accused student, ~~((if the accused student has appeared at the initial meeting, the dean))~~ giving the student the opportunity to respond, and then again reviewing the case with any new information, the chief student affairs officer or designee may take any of the following actions:

- (a) Terminate the proceeding, exonerating the student or students~~(s)~~;
- (b) Dismiss the case after whatever ~~((counseling))~~ intervention and advice ~~((the dean deems))~~ is deemed appropriate;
- (c) Impose ~~((verbal warning to student directly, not subject to the student's right of appeal as provided in this chapter;))~~
- (d) ~~Impose additional sanctions of reprimand, probation, suspension, or dismissal, subject to the student's right of~~

appeal as provided in the following provisions)) any of the sanctions listed in WAC 132I-120-410:

(d) Any disciplinary action taken by the chief student affairs officer or designee may be appealed by the student in accordance with WAC 132I-120-441.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-120-424 Purpose of summary suspension(~~—Purpose~~).** (1) The purpose of summary suspension is to preserve safety, to protect the educational process of the institution, or to restore order.

(2) The purpose of WAC 132I-120-426 through 132I-120-432 is to establish rules implementing RCW 34.05.410 (1)(b) and 34.05.479, which outline authority to conduct emergency adjudicative proceedings at state agencies.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-120-426 Summary suspension proceedings.** (1) If ~~((a dean or his or her))~~ the chief student affairs officer or designee~~((s))~~ has cause to believe that any student~~(s)~~:

- (a) ~~((Has committed a felony; or~~ ~~((b)))~~ Has violated any provision of this chapter; and
- ~~((c))~~ (b) Presents an imminent danger ~~((either to himself or herself, other persons on the college campus, or to the educational process; that student shall be summarily suspended and shall be served by certified and regular mail at the student's last known address, or shall be personally served.~~

~~Summary suspension is appropriate only where (c) of this subsection can be shown, either alone or in conjunction with (a) or (b) of this subsection. The dean or his or her designee shall enter an order as provided by law if the student is to be~~ to other student(s) and/or community members, then the student(s) shall be summarily suspended, and a "notice of summary suspension proceedings" will be served to the student's last known address by regular mail, certified mail and/or in person. The chief student affairs officer or designee shall enter an order as provided by law if the student(s) is to be summarily suspended.

(2) The notice shall be entitled "notice of summary suspension proceedings" and shall state:

- (a) The charges against the student~~(s)~~ including reference to the provisions of WAC 132I-120-100 or statutory law involved; and
- (b) That the student~~(s)~~ charged must appear before the ~~((appropriate dean or his or her))~~ chief student affairs officer or designee at a time specified in the notice for ~~((a))~~ the hearing. The hearing shall be held as soon as ~~((practical after the summary suspension))~~ practicable after the "notice of summary suspension" has been served to the student(s). The hearing may be combined with an initial disciplinary proceeding in accordance with WAC 132I-120-421.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 1321-120-427 Procedures of summary suspension hearing.** (1) The summary suspension hearing shall be considered an emergency adjudicative proceeding. The proceeding must be conducted as soon as ~~((possible and the appropriate dean will preside over the meeting.~~

~~((2) The dean))~~ practicable. The chief student affairs officer or designee will preside over the hearing.

~~((2) The chief student affairs officer or designee shall, at a summary suspension proceeding, determine whether there is probable cause to ((believe that continued))~~ continue suspension ~~((is necessary))~~ and/or whether ~~((some))~~ disciplinary action is appropriate.

~~((3) The student(s) shall have the opportunity to explain why summary suspension is not necessary either through oral testimony or written statement.~~

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 1321-120-428 Posthearing decision by the ~~((dean))~~ chief student affairs officer.** (1) If the ~~((dean))~~ chief student affairs officer or designee, ~~((following))~~ at the conclusion of the summary suspension hearing, finds that there is probable cause to believe that:

~~((1))~~ (a) The student(s) against whom specific violations are alleged has actually committed one or more such violations; and

~~((2))~~ (b) Summary suspension of the said student(s) is necessary for the safety of the student(s) ~~((other students or persons on college facilities, the educational process of the institution, or))~~ and members of the campus community, or to protect the college facilities and/or educational process, and/or to restore order to the campus; and

~~((3))~~ (c) Such violation(s) ~~((or violations))~~ constitute grounds for disciplinary action as provided for in WAC 1321-120-100;

~~((2) Then the ((dean)) chief student affairs officer may continue to enforce the suspension of the student(s) from college and may impose any other appropriate disciplinary action(s) ((appropriate)).~~

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 1321-120-429 Notice of suspension.** (1) If a student's summary suspension is upheld and/or if the student(s) is otherwise disciplined, the student(s) will be provided with a written ~~((notice))~~ notification including the ~~((dean's))~~ findings of fact(s) and conclusions ~~((which))~~ that lead ~~((the dean to believe that the))~~ to the decision that summary suspension of the student should continue.

~~((2) ((The student suspended pursuant to the authority of this rule shall be served a copy of the notice of suspension by personal service or by certified and regular mail at the student's last known address within three working days following the conclusion of the hearing with the dean.))~~ The suspended student(s) shall receive a "notice of suspension," which will be served to the student's last known address by

regular mail, certified mail and/or in person within three working days following the conclusion of the hearing with the chief student affairs officer or designee.

(3) The "notice of suspension" shall state the duration of the suspension or nature of the disciplinary action(s) and conditions under which the suspension may be terminated.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 1321-120-431 Suspension for failure to appear.** The ~~((dean))~~ chief student affairs officer or designee is authorized to enforce the suspension of the summarily suspended student in the event the student has been served ~~((pursuant to the))~~ notice ~~((requirement))~~ and fails to appear at the time designated for the summary suspension proceeding.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 1321-120-432 Appeals from summary suspension hearing.** (1) Any suspended or disciplined student aggrieved by an order issued at the summary suspension proceeding may appeal to the discipline committee. However, no such appeal shall be entertained, ~~((however,))~~ unless:

~~((1))~~ (a) The student has first appeared ~~((before the appropriate dean))~~ at the student hearing in accordance with WAC 1321-120-427;

~~((2))~~ (b) The student has been officially notified of the outcome of the hearing;

~~((3))~~ (c) Summary suspension or other disciplinary sanction has been upheld; and

~~((4))~~ (d) The appeal conforms to the standards set forth in WAC 1321-120-441(2).

~~((2) If the student has met the above criteria, the discipline committee shall, within ((five working)) seven days, conduct a formal hearing in the manner described in WAC 1321-120-442.~~

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 1321-120-435 Discipline committee.** (1) The ~~((college))~~ discipline committee ~~((will))~~ shall hear and make recommendations on all disciplinary cases referred ~~((to it))~~ by the ~~((dean of students))~~ chief student affairs officer or designee, or appealed ~~((to it))~~ by students who have been disciplined by the ~~((dean))~~ chief student affairs officer or designee.

~~((1))~~ (2) The ~~((college))~~ discipline committee ~~((will))~~ shall be composed of the following members, and efforts will be made to ensure that there is gender and racial balance in the makeup of the committee members:

(a) A chair ~~((will))~~ shall be designated by the president of the college ~~((for a period of one year. The chair will be nonvoting. It is the responsibility of the chair to ensure that all procedural guidelines specified in WAC 1321-120-440 are followed))~~ and shall continue in office until the person resigns or is recalled by the president. It is the responsibility of the chair to ensure that all procedural guidelines specified in WAC 1321-120-440 are followed, to call the discipline

committee into session, to preside at all meetings and hearings of the committee, to take whatever steps are necessary during the hearing itself to ensure that the hearing is conducted in a ~~((safe))~~ respectful and orderly manner, to advise the members of the committee concerning precedents and guidelines affecting the individual case, and to inform the student in writing of the action taken by the ~~((college))~~ discipline committee following the hearing.

(b) Two full-time tenured faculty members shall be recommended by the faculty senate and appointed by the president. Two alternatives shall be recommended and appointed to serve in the event that appointees are unable to serve or complete their term. The committee members shall serve for ~~((one))~~ two-year terms. Terms shall begin with the first day of fall quarter and shall include summer quarter.

(c) Two full-time student representatives in good standing shall be chosen by the ~~((HCSU))~~ ASHCC in such manner as the members thereof shall determine. For the purposes of these rules, a full-time student shall be defined as currently enrolled in twelve or more credit hours. Two alternates shall be appointed to serve in the event that members are unable to serve or complete their term. The committee members shall serve for one-year terms. Terms shall begin with the first day of summer quarter and extend through the following spring quarter.

~~((2))~~ (3) The disciplinary committee shall be ~~((formed as early as possible in the fall quarter and shall be))~~ convened by the ~~((dean of students))~~ chief student affairs officer or designee during the ~~((first four weeks of))~~ fall quarter to discuss these rules. Other meetings may be held as determined by the chairperson or requested by the committee members.

~~((3))~~ (4) Faculty or student members may be excused from service ~~((for the entire year, for a particular period of time, or after a particular case)).~~ Replacement ~~((of excused))~~ members shall be ~~((made from respective panels))~~ appointed in accordance with subsection (2)(b) of this section.

(5) A quorum is required to conduct a disciplinary hearing. In addition to the chair, at least one faculty member and one student is required for a quorum.

(6) If a quorum cannot be formed because of the non-availability of members, the president may appoint an ad hoc committee with the same composition as the regular discipline committee, including the temporary appointment of a chair.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-120-441 Appeals of disciplinary action~~((—Generally))~~.** (1) Appeals contesting any disciplinary action may be made in the following order by the student(s) involved~~((—Such appeals shall be made in the following order))~~:

(a) Disciplinary action taken by the ~~((dean or his or her designee(s)))~~ chief student affairs officer or designee may be appealed to the discipline committee, which ~~((may, at the request of the dean, hear the case de novo))~~ shall hear the case and make a decision to uphold or modify the decision or to exonerate the student.

(b) Disciplinary ~~((recommendations))~~ decisions made by the discipline committee may be appealed by the student to the president of the college. The president shall review the record of the proceedings which ~~((give))~~ gave rise to the appeal, as well as the recommendations made by the ~~((dean))~~ chief student affairs officer or designee and the discipline committee. The president will make a decision to uphold or modify the decision or to exonerate the student. The president's decision shall be final.

(2) Any appeal by a student receiving a disciplinary sanction must ~~((meet the following conditions:~~

~~((a) The appeal must be in writing and must clearly state errors in fact or matters in extenuation or mitigation which justify the appeal; and~~

~~((b) The appeal must be filed within twenty-one days from the date of service upon the student of notice that disciplinary action was being taken.~~

~~((3) All decisions shall be sent from the office of the dean to the president. Written decisions shall include the signature of the discipline committee chair. Copies shall be sent to the president of the college or his or her designee and the student involved in the proceeding))~~ be in writing and is limited to the following grounds:

~~((a) New evidence not available during the hearing;~~

~~((b) The hearing was not conducted according to the procedures outlined in this document; and~~

~~((c) The sanction was too severe for the charges.~~

~~((3) The appeal of any action taken by the chief student affairs officer or designee shall be submitted in writing to the chair of the discipline committee, with a copy of all materials submitted also sent to the chief student affairs officer.~~

~~((4) The appeal of any action taken by the discipline committee shall be submitted in writing to the president, with a copy of all materials submitted sent to the chief student affairs officer.~~

~~((5) Any appeal must be filed within ten days from the date that the student was served notice of disciplinary action.~~

~~((6) Written decisions from the discipline committee shall be signed by the discipline committee chair and shall include findings of facts and conclusions that lead to the final decisions made by the discipline committee. Copies shall be sent to the chief student affairs officer or designee and the student through certified mail at the most current registered student address.~~

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-120-442 Hearing procedures before the discipline committee.** (1) The discipline committee shall conduct a hearing within ~~((fourteen working))~~ fifteen days after ~~((disciplinary action has been referred to it.~~

(2) When a person is charged with an offense punishable by suspension, or dismissal of his or her relationship with the institution, and where the person:

~~((a) Waives the opportunity for a brief adjudicative proceeding; or~~

~~((b) By his conduct in the judgment of the hearing officer makes it impossible to conduct a brief adjudicative proceeding; or~~

~~(e) Is dissatisfied with the results of the brief adjudicative proceeding; that person is entitled to an adjudicative proceeding according to the provisions of RCW 34.05.410 and the guidelines of this chapter. Where an adjudicative proceeding is neither required by law nor requested by the student or the college, the matter may be resolved informally. Brief adjudicative proceedings before the discipline committee shall be conducted in any manner which will bring about a prompt, fair resolution of the matter.~~

~~(3))~~ the formal written appeal has been received. The hearing will be conducted pursuant to RCW 34.05.413 through 34.05.476.

~~(2)~~ The student has a right to a fair and impartial hearing ~~((before the discipline committee on any charge of violating the rules of conduct)).~~ However, the student's failure to cooperate with the committee's hearing procedures or failure to appear shall not preclude the discipline committee from making its findings of fact, conclusions, and recommendations.

~~((4))~~ (3) The student may be represented by ~~((counsel of his or her choice))~~ a licensed attorney admitted to practice in the state of Washington as counsel at the disciplinary hearing. If the student elects to ~~((choose a duly licensed attorney admitted to practice in the state of Washington as))~~ be represented by counsel, the student shall notify the chair at the time of appeal or, if the hearing is held at the request of the college, at least ~~((five working))~~ fifteen days prior to the hearing.

~~((5))~~ (4) In all disciplinary proceedings, the college ~~((may))~~ shall be represented by ~~((a designee appointed by the president. That designee will then))~~ the chief student affairs officer or designee. The chief student affairs officer shall present the college's case against the student accused of violating the rules of conduct~~((; provided, that in those))~~. In cases in which the student elects to be represented by a licensed attorney, the ~~((president))~~ chief student affairs officer may elect to have the college represented by an assistant attorney general with the assistance of the chief student affairs officer.

~~((6))~~ (5) The record in a formal hearing shall consist of all documents as required by law and as specified in RCW 34.05.476 as ~~((new))~~ now law or hereafter amended.

~~((7))~~ (6) All records of disciplinary proceedings shall be maintained in the ~~((administrative))~~ chief student affairs officer's office and shall be available only during the course of the disciplinary proceeding~~((s))~~ to the discipline committee, the student, ~~((and his/her))~~ representing attorneys, and any ~~((other))~~ other college official designated by the ((president)) chief student affairs officer or as otherwise required by law.

~~((8))~~ (7) Following the conclusion of the disciplinary proceeding, access to records of the case and the hearing files ~~((with))~~ shall be limited to those designated by the ~~((college president))~~ chief student affairs officer or as otherwise required by law.

~~((9))~~ (8) Following final disposition of the case and any appeals therefrom, the ~~((president))~~ chief student affairs officer may direct the destruction of any records of any disciplinary proceedings, provided that such destruction is in conformance with the requirements of chapter 40.14 RCW, as now law or hereafter amended.

~~((10))~~ (9) The discipline committee may expedite the time of the hearing ~~((may be advanced by the discipline committee))~~ at the request of the student or ~~((continued))~~ continue for good cause.

~~((11))~~ (10) If at any time during the hearing, a visitor disrupts the proceedings, the chair of the discipline committee may exclude that person from the hearing ~~((room)).~~

~~((12))~~ (11) Any student of the college attending the disciplinary hearing who ~~((continues to))~~ disrupts the proceedings after the presiding officer has asked ~~((him/her))~~ the student to cease or to leave the hearing room, shall be subject to disciplinary action.

(12) All testimony of parties and witnesses shall be made under oath or affirmation.

(13) Members of the discipline committee must avoid ex parte (one-sided) communications with any party involved in the hearing regarding any issue other than communications necessary to maintain an orderly procedural flow to the hearing.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-120-443 Evidence admissible in hearings.**

(1) Only those matters presented at the hearing~~((;))~~ in the presence of the accused student (except where the student fails to attend after receipt of proper notice) ~~((with))~~ shall be considered in determining whether the discipline committee has sufficient cause to believe that the accused student is guilty of ~~((violating the rules he or she is charged with having violated. Hearsay evidence is admissible in the hearing.~~

(2) The ~~presiding officer of the discipline committee shall, in the course of presiding at the disciplinary hearing, give effect to the rules of privilege recognized by law and exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.~~

~~(3) Evidence or testimony to be offered by or on behalf of the student in extenuation or mitigation shall not be presented or considered until all substantive evidence or testimony has been presented))~~ misconduct. The rules of evidence as described in the Administrative Procedure Act (RCW 34.05.452), incorporated herein as subsection (2) of this section will be utilized in code hearings.

(2) Evidence, including hearsay evidence, is admissible if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The presiding officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(a) If not inconsistent with this subsection, the presiding officer shall refer to the *Washington Rules of Evidence* as guidelines for evidentiary rulings.

(b) All testimony of parties and witnesses shall be made under oath or affirmation.

(c) Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(d) Official notice may be taken of:

(i) Any judicially cognizable facts;

(ii) Technical or scientific facts within the agency's specialized knowledge; and

(iii) Codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association.

Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed and the sources thereof, including any staff memoranda and data, and they shall be afforded an opportunity to contest the facts and material so noticed. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

(3) Such evidence shall be considered as part of the determination of appropriate sanctions, if the accused has been found guilty of misconduct.

(4) Disciplinary hearings are intended to affirm or modify the sanction, or exonerate the student of alleged violations of the student code of conduct based on evidence and testimony presented at the hearing.

(5) It shall be the responsibility of the college to prove its case by a preponderance of the evidence.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 1321-120-444 Decision by the discipline committee.** (1) Upon conclusion of the disciplinary hearing, the discipline committee shall consider all the evidence ~~((therein))~~ presented and decide by majority ~~((vote whether to uphold the initial disciplinary action or to recommend institution of any of))~~ the following actions:

(a) ~~((That the college))~~ Terminate the proceedings and exonerate the student; or

(b) ~~((That the college impose any of the disciplinary actions as provided in this chapter.))~~ Uphold the initial disciplinary action; or

(c) Impose any of the disciplinary actions as provided in this chapter, and impose more serious sanctions if warranted.

(2) The committee's written decision shall include findings of fact, conclusions ~~((of law))~~, and recommendations for the final disposition of the matter ~~((at issue))~~.

(3) Within ~~((seven working))~~ ten days ~~((of the conclusion of))~~ after the hearing, the student will be provided with a copy of the committee's findings of fact and conclusions. The copy shall be dated and contain a statement advising the student of ~~((his or her))~~ their right~~((s))~~ to submit a written statement to the president of the college appealing the recommendation of the discipline committee.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 1321-120-450 Final appeal.** Any student who is aggrieved by the findings or conclusions of an appeal to the discipline committee may appeal ~~((the same))~~ in writing to the president within ~~((twenty-one))~~ ten days of ~~((service of))~~ official notice ~~((upon))~~ to the student ~~((of the action taken))~~ by the committee. The president may, at his or her discretion, suspend any disciplinary action pending determination of the merits of the findings, conclusions, and disciplinary actions

imposed. In the consideration of such an appeal, the president shall base his or her findings and decision on only ~~((on))~~ the official written record of the case. The president shall not engage in an ex parte communication with any of the parties regarding the appeals. The president shall conduct the review within fifteen days of notice of appeal and shall provide a written conclusion to all parties within twenty days after completion of the appeal process. The president's decision shall be final.

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

**WAC 1321-120-500 Review of rules.** ~~((These rules will be reviewed annually by the dean of students. A review committee shall convene upon the request of the dean of students.))~~ The HCC student rights and responsibilities code shall be reviewed at regular intervals by the chief student affairs officer. An ad hoc review committee shall convene upon the request of the chief student affairs officer.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 1321-120-510 Membership of review committee.** ~~((+))~~ The review committee shall be composed of ~~((eight))~~ nine members. Four of these members shall be students appointed by the ~~((HCSU chair))~~ ASHCC president. ~~((Four members shall be appointed by the dean of students. Each member shall have one vote. The dean of students shall serve as a nonvoting chair.~~

(2) ~~The term of office shall be for one academic year starting at the beginning of fall quarter.))~~ The chief student affairs officer shall accept recommendations from the faculty senate for faculty representation on the review committee, and shall at his or her discretion appoint a maximum of four faculty and/or staff to the committee. Each member shall have one vote. The chief student affairs officer shall serve as a voting chair who shall vote in the case of a tie.

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

**WAC 1321-120-520 Function of the review committee.** (1) The review committee will establish procedures for review and possible revision of these rules.

(2) All proposed amendments shall be submitted to the ~~((dean of students))~~ chief student affairs officer, who will send copies of each proposal to members of the review committee for their consideration. The review committee will hear and consider all proposed amendments and publish proposed recommendations for review by the ~~((college community~~

~~)).~~ (3) ~~Recommendations for revision of these rules shall be made to the board of trustees.~~

(4) ~~These))~~ Highline Community College (HCC) policy development council.

(3) After completion of the above steps, the recommendations for revision of these rules shall be made to the president, who, upon approval and review by the college counsel, shall make final recommendation to the board of trustees.

(4) Upon approval of the board of trustees, the new rules shall be published and be made immediately available to the college community.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-120-530 Jurisdiction.** (1) All rules adopted in this chapter shall apply to every student whenever said student is present upon or in any college or college-controlled facility and whenever said student is present at or engaged in any college-sponsored (~~(activity)~~) program, activity, or event which is held on or in noncollege facilities.

(2) (~~Faculty members, other college employees, students, and~~) Members of the ((public)) campus community who breach or aid or abet another in the breach of any provision of this chapter shall be subject to:

(a) Possible prosecution under (~~the~~) Washington state criminal law;

(b) Any other civil or criminal remedies available to the public; or

(c) Appropriate disciplinary action pursuant to the state of Washington higher education personnel board's rules or the district's policies and regulations.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132I-120-445            Readmission after dismissal.

**WSR 07-21-023**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed October 8, 2007, 11:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-16-073.

Title of Rule and Other Identifying Information: WAC 392-140-600 through 392-140-685, state special education safety net funding.

Hearing Location(s): Old Capitol Building, 600 South Washington Street, Olympia, WA 98504-7200, on November 27, 2007, at 9:00 a.m.

Date of Intended Adoption: November 28, 2007.

Submit Written Comments to: Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, e-mail penny.coker@k12.wa.us, fax (360) 753-4201, by November 26, 2007.

Assistance for Persons with Disabilities: Contact Clarice Nnanabu by November 26, 2007, TTY (360) 664-3631 or (360) 725-6271.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Eliminate the 1077 excess cost methodology implemented in the 2001-02 school year and adopt a full cost accounting methodology;

- Create a new category of state safety net funding for districts with an identified community impact beyond the control of the district that causes extraordinary costs associated with the provision of special education services in the district;
- Describe the application process for districts requesting funding due to a community impact factor; and
- Reflect emergency rule adoption of WAC 392-122-205 State institutional education program.

Statutory Authority for Adoption: RCW 28A.150.290.

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

Name of Proponent: [Superintendent of public instruction], governmental.

Name of Agency Personnel Responsible for Drafting: Mary Ellen Parrish, Office of Superintendent of Public Instruction, (360) 725-6086; Implementation: Doug Gill, Office of Superintendent of Public Instruction, (360) 725-6075; and Enforcement: Bob Harmon, Office of Superintendent of Public Instruction, (360) 725-6170.

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

October 1, 2007  
Dr. Terry Bergeson  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

**WAC 392-140-600 Special education safety net—Applicable provisions.** The provisions of WAC 392-140-600 through 392-140-685 apply to the determination of safety net allocations of state special education moneys and Individuals with Disabilities Education Act (IDEA) federal funds for the (~~(2005-06)~~) 2007-08 school year and thereafter.

#### NEW SECTION

**WAC 392-140-60110 Definition—Community impact.** For the purpose of state special education safety net funding, community impact refers to district identified and quantifiable factor(s) beyond the control of the district which justify disproportional and extraordinary costs associated with the provision of special education services in the district (i.e., demographic, environmental, sociological, or other facts that can be described and calculated in an application consistent with WAC 392-140-617).

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

**WAC 392-140-602 Special education safety net—Eligible applicants.** (1) An individual school district of the state of Washington is eligible to apply for special education safety net moneys on behalf of its resident students. Resident students include those defined as resident pursuant to WAC 392-137-115, those enrolled through choice (RCW 28A.225.225) (~~and~~), those from nonhigh districts (RCW



28A.225.210), and those enrolled as institutional education students pursuant to WAC 392-122-205 (4) and (5). Resident students exclude those residing in another district and enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(2) An interdistrict cooperative of at least fifteen districts in which all excess cost services for special education students of the districts are provided by the cooperative is eligible to apply for special education safety net moneys. The cooperative and the participating school districts shall be treated as a single school district for the purposes of this chapter. Participating school districts are not eligible to apply for safety net moneys individually.

(3) The Washington school for the deaf and the Washington state school for the blind are eligible to apply for high need students under WAC 392-140-616.

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

**WAC 392-140-605 Special education safety net—Application types, certification, worksheets.** Application for safety net funding shall be made on Form SPI 1381 - Certification published by the superintendent of public instruction ~~((as follows:))~~. Applications will be considered and awards made according to the schedule published in the annual *Safety Net Bulletin*.

(1) School districts may make application for safety net funding ~~((for))~~ in two application categories - high need student(s) and/or community impact factors for costs associated with communities that draw a larger number of families with children in need of special education services. The school district making application for either or both categories of safety net funding shall certify that:

(a) The district recognizes that differences in costs attributable to district philosophy, service delivery choice, or accounting practice are not a legitimate basis for safety net awards.

(b) The application complies with the respective safety net application standards of WAC 392-140-616 and 392-140-617;

(c) The application provides true and complete information to the best of the school district's knowledge;

(d) The district understands that safety net funding is not an entitlement, is subject to adjustment and recovery, may not be available in future years, must be expended in program 21 or program 24 as specified in the award letter, and certifies that federal Medicaid has been billed for all services to eligible students;

(e) The district is making reasonable effort to provide appropriate services for students in need of special education using state funding generated by the basic education apportionment and special education funding formulas and federal funding;

(f) The district's special education services are operated in a reasonably efficient manner;

(g) Indirect costs included for purposes of determining safety net allocations do not exceed the allowable percent for federal special education program plus one percent;

(h) Any available state and federal funding is insufficient to address the additional needs;

(i) The costs of any supplemental contracts are not included for purposes of determining safety net awards. Supplemental contracts are those contracts made pursuant to RCW 28A.400.200(4) excluding extended school year contracts (ESY) required by an IEP; and

(j) The costs of any summer school instruction are not included for purposes of making safety net determinations excluding extended school year contracts (ESY) required by an IEP.

(2) Worksheet A shall be included with the application and must demonstrate the need for safety net funding. Worksheet A is used to determine a maximum amount of eligibility for a school district. Award amounts may be less than the maximum amount of eligibility determined on Worksheet A. School districts are encouraged and may be required to submit additional information designed to assist the state oversight committee in analyzing the application.

(3) All high need student applications shall include worksheets "A" and "C" and individuals summary published in the safety net application, and certification of standards and criteria pursuant to WAC 392-140-616.

(4) All community impact applications shall include worksheet A, the community impact application, all supporting documentation, and certification of standards and criteria pursuant to WAC 392-140-617.

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

**WAC 392-140-609 Special education safety net—Standards and criteria—Appropriate and properly and efficiently prepared and formulated IEPs.** Individualized education programs (IEPs) which are appropriate, properly and efficiently prepared and formulated are those IEPs that meet all of the following criteria:

(1) The IEPs comply with federal and state procedural requirements.

(2) The delivery of specially designed instruction identified on the IEP also complies with state and federal requirements (i.e., regularly scheduled teaching or training activities provided or designed by special education qualified staff).

(3) The provision of special education services conforms with areas of need identified in the student's evaluation and/or reevaluation made pursuant to chapter ~~((392-172))~~ 392-172A WAC.

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

**WAC 392-140-616 Special education safety net—Standards—High need student applications.** For districts requesting safety net funding to meet the extraordinary needs of an eligible high need special education student, the district shall demonstrate at a minimum that:

(1) The IEP for the eligible special education student is appropriate, and properly and efficiently prepared and formulated.

(2) All of the following criteria apply to the high need student:

(a) Costs eligible for safety net consideration must be associated with providing direct special education and related services identified in the IEP.

(b) In order to deliver appropriate special education and related services to the student, the district must be providing services which incur costs exceeding:

(i) The annual threshold as established by the office of superintendent of public instruction for state funding; then

(ii) Three times the average per pupil expenditure (as defined in section 9101 of the Elementary and Secondary Education Act of 1965) for the state of Washington for federal funding. Threshold amounts shall be adjusted pro rata for students not counted or expected to be counted for special education services on all eight enrollment count dates (October through May). For example, for a student served and reported for only six of the eight count dates, the threshold amount shall be reduced to three-quarters of the full amount. Where student IEPs are properly formulated for only a portion of the eight count dates, the threshold will be prorated accordingly.

(c) The total cost of educational services must exceed any carryover of federal flow-through special education funding as of August 31 of the prior school year.

(3) The state safety net oversight committee shall adapt the high need student application as appropriate for applications prepared by the Washington state school for the blind and the Washington school for the deaf.

#### NEW SECTION

**WAC 392-140-617 Special education safety net—Standards—Community impact applications.** For districts requesting state safety net funding to meet the extraordinary costs associated with communities that draw a larger number of families with children in need of special education services, the district must meet the standards of WAC 392-140-605 (1)(a) through (j) and convincingly demonstrate that:

(1) Demographic, environmental, sociological or other factor(s) cause the district's special education enrollment to be disproportional by category of disability or the overall number of students identified as eligible for special education;

(2) The unique factor(s) identified by the district is not the result of district philosophy, service delivery choice, or accounting practice;

(3) The identified factor(s) creates a fiscal impact upon the district's special education program; and

(4) The district summarizes the steps taken in prior years or plans to take in the future in response to the factors identified in the application.

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

**WAC 392-140-626 Special education safety net—Worksheet A—Demonstration of need.** Applications for ~~((high need students))~~ safety net funds shall demonstrate district financial need as follows:

(1) Application worksheet "A" shall demonstrate a fiscal need in excess of:

(a) Any previous safety net awards for the current school year; and

(b) All available revenue for special education, including all carryover of state and federal special education revenue.

(2) Awards shall not exceed the ~~((amount of need demonstrated))~~ potential capacity for safety net funding on the worksheet "A."

(3) Beginning with the 2007-08 school year, worksheets submitted with safety net applications are to reflect the ~~((state adopted excess))~~ full cost method of accounting, ~~((consistently applied for both years presented))~~ pursuant to section 501 (1)(k), chapter 372, Laws of 2006.

(4) The safety net oversight committee may revise the district's worksheet "A" submitted for errors or omissions or more current information.

(5) The school district shall provide clarifying information as requested by the state oversight committee.

(6) After the close of the school year, the safety net oversight committee may review the worksheet "A" used to determine need for a district's award against the actual final school year enrollments, revenues, and expenditures reported by the district. Based upon the results of this review:

(a) The safety net allocation for the school year may be adjusted or recovered; or

(b) If the committee finds that a portion of the safety net allocation was not needed to balance revenues and expenditures, the committee may consider that portion of the allocation available to meet the needs of the ensuing school year.

(7) The state safety net oversight committee shall adapt the worksheet "A" - Demonstration of Need as appropriate for applications prepared by districts participating in the pilot program according to the provisions of RCW 28A.630.015 (4).

(8) In accordance with the state of Washington *Accounting Manual for Public School Districts* and statutory federal language, ~~((demonstrated need))~~ potential capacity for safety net funding shall not include legal fees, court costs, or other costs associated with a cause of action brought on behalf of a child to ensure a free appropriated public education.

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

**WAC 392-140-640 Special education safety net—State oversight committee—Membership, structure.** Membership of the state oversight committee shall consist of: Staff ~~((of the office of superintendent of public instruction, staff))~~ of the office of the state auditor who shall be nonvoting, one or more representatives from a school district(s), and one or more representatives from an educational service district.

(1) The state oversight committee members will be appointed by the office of superintendent of public instruction.

(2) The state director of special education shall serve as an ex officio, nonvoting committee member and act as the state oversight committee manager.

(3) Members of the state oversight committee from school districts and/or educational service districts will be appointed based on their knowledge of special education pro-

gram service delivery and funding, geographical representation, size of district(s) served, and other demographic considerations which will guarantee a representative state committee.

(4) Alternate members shall be appointed. In the event a member is unable to ~~((attend))~~ vote at a committee meeting, an alternate member shall ~~((attend))~~ vote.

(5) ~~((Membership appointments shall be made for a period of one year.))~~ The oversight committee manager may replace a portion of the committee each year in order to enhance representation.

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

**WAC 392-140-643 Special education safety net—Definition—State oversight committee—Procedures.** (1) The state oversight committee will review applications as deemed necessary by the superintendent of public instruction pursuant to WAC 392-140-608.

(2) All applications received by the state oversight committee will be reviewed for completeness by the state oversight committee manager or designee. Applications must include all necessary forms, worksheets, and attachments described in the instruction bulletin published by the superintendent of public instruction. ~~((#))~~ Incomplete applications ~~((are not complete, they))~~ will not be considered by the committee.

(3) The state oversight committee manager will forward to the committee members copies of the applications in a timely manner.

(4) The state oversight committee manager or designee will be responsible for presenting each application for consideration to the committee.

(5) Committee members shall review and discuss the application content for completeness, accuracy, and understanding of the reason(s) for the applicant's need for safety net funding.

(6) The committee may request that a submitting school district provide clarifying information.

(7) Committee members will individually indicate their agreement, disagreement, or abstention with the action of the committee pursuant to WAC 392-140-646.

(8) A majority vote by the committee members will be sufficient to determine the committee action.

(9) The state oversight committee manager will ensure that notes are taken which summarize the questions and discussion related to each application. A decision summary for each application shall include the amount of the initial request, funding adjustments recommended by the committee, the amount of any award to be made, and the reasons for and against the action taken by the committee.

(10) Committee members shall each sign the decision summary.

(11) The state oversight committee manager, on behalf of the committee, will notify the applicant school district in writing of the determination of the committee. The school district will be provided a copy of the decision summary.

(12) All applications received by the state oversight committee will be retained by the superintendent of public

instruction for use in the evaluation of the safety net funding process and to provide the superintendent of public instruction with information with which to make future decisions regarding the safety net process.

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

**WAC 392-140-646 Special education safety net—State oversight committee actions.** The state oversight committee shall take the following actions:

(1) After the state oversight committee determines:

(a) There are no unresolved audit examination issues related to special education that are material in nature;

(b) There are no unresolved child count verification issues which are material in nature; and

(c) All corrections to state enrollment reporting, required for resolution of (a) and (b) of this subsection, are completed.

(2) An application reviewed during an application cycle may be:

(a) Approved; or

(b) Disapproved(~~(or~~

~~(c) Returned to the submitting school district, for possible resubmission at a later date during the school year, because information contained in the application is insufficient to establish a need for safety net funding.))~~

(3) The amount approved shall be equal to or less than the amount for which application was made.

(4) The approval may be contingent on additional requirements imposed by the committee such as development of an action plan to resolve a specified problem prior to submission of any future safety net application to assure school district compliance with the criteria and standards set forth in these safety net regulations.

(5) The approvals are subject to adjustment and recovery pursuant to WAC 392-140-675 through 392-140-685.

AMENDATORY SECTION (Amending WSR 04-08-118, filed 4/6/04, effective 5/7/04)

**WAC 392-140-653 Special education safety net—Reapplication.** If the applicant school district withdrew an application ~~((;))~~ or submitted an incomplete application ~~((; or is dissatisfied with the results of the state oversight committee's decision with regard to its application))~~, the applicant may reapply for safety net funding in a later application cycle for the school year. All applications for each meeting must include all updated worksheets and attachments described in the bulletin published by the superintendent of public instruction and meet the timing requirements of WAC 392-140-608.

AMENDATORY SECTION (Amending WSR 03-02-053, filed 12/26/02, effective 1/26/03)

**WAC 392-140-656 Special education safety net—Request for review and reconsideration of an action.** An applicant district may request review and reconsideration of an action of the state oversight committee made pursuant to WAC 392-140-646.

(1) The district shall make the request in writing to the office of the superintendent of public instruction within thirty

days of the date that the state oversight committee's written determination notice is sent to the district pursuant to WAC 392-140-643(11).

(2) The applicant district shall request reconsideration of the state oversight committee's action on one or more of the following grounds:

(a) The action was outside the statutory authority of the committee;

(b) The action failed to follow prescribed procedures;

(c) The action erroneously interpreted or applied the law;

(d) The action was not supported by substantial evidence; or

(e) The action was inconsistent with the agency rules regarding safety net funding.

(3) If the office of the superintendent of public instruction finds grounds for reconsideration pursuant to subsection (2) of this section, ~~((the superintendent))~~ OSPI shall request reconsideration of the action by the state oversight committee. ~~((The superintendent's request))~~ OSPI shall state the grounds for reconsideration supported by the facts considered ~~((by the superintendent))~~.

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

**WAC 392-140-660 Special education safety net—Approved application—Special education safety net allocations.** (1) The special education safety net allocation for an individual district shall be the smaller of:

(a) The amount requested by the school district; or

(b) The amount authorized by the state oversight committee.

(2) Special education safety net allocations for high need students under WAC 392-140-605(1) shall use appropriated federal and state moneys. ~~((If safety net awards to meet the extraordinary needs of one or more individual special education students exceed the general fund—federal appropriation, the superintendent shall expend all available and otherwise uncommitted federal discretionary funds necessary to meet this need.))~~

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

**WAC 392-140-675 Special education safety net—Adjustments to special education safety net allocations.** Safety net allocations may be adjusted as follows:

(1) For those districts not maximizing Medicaid billing for special education students under RCW 74.09.5255, special education safety net allocations shall be reduced by the estimated potential additional incentive payments for the school year if the district maximized Medicaid incentive payments. Potential additional incentive payments shall be estimated by the superintendent of public instruction based on the district's percent of Medicaid eligible students billed and a statewide average incentive payment per student determined by the superintendent in October of the school year. The average incentive payment per student shall be determined using the prior school year's statewide Medicaid billing data assuming fifty percent incentive payments for all school districts. The superintendent of public instruction

shall update Medicaid billing adjustments to safety net allocations periodically during the school year and again in January following the close of the school year.

(2) Special education safety net allocations for a school district may be adjusted to reflect changes in factors for which additional or revised information becomes available after the awarding of the initial safety net allocation. This means:

(a) High need awards and/or community impact awards may be reduced or nullified when the school district's actual revenues and expenditures for the school year differ significantly from the estimates on which the initial safety net award was based.

(b) A school district's safety net award may be adjusted by the safety net oversight committee based on the results of the review conducted by the special education program audit team pursuant to WAC 392-140-630.

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

**WAC 392-140-685 Special education safety net—Recovery of state and/or federal allocations to school districts.** High need student state and/or federal special education safety net allocations and state community impact awards:

(1) Shall be recovered or awards reduced for the following reasons:

(a) The application contains a falsification or deliberate misrepresentation, including omission of a material fact.

(b) The allocation is unexpended for the purpose allocated including but not limited to situations where the student leaves the district or has a change in services. For students who transfer to another Washington public school district, expenditures for specialized equipment purchased with these funds shall not be recovered provided the district transfers the equipment to the other school district.

(c) The IEP is determined at a later date, through state audit or child count verification, to be inappropriate or improperly prepared and appropriate and proper preparation would materially affect the justification or amount of need for safety net funding.

(2) May be recovered or awards reduced for the following reasons:

(a) The school district has carryover of state and/or federal flow-through special education funding from the school year for which the award was made.

(b) The district's actual revenues are significantly higher than estimated revenues on which the award was based or the district's actual expenditures are significantly lower than the estimated expenditures on which the award was based.

(c) The state oversight committee finds grounds for adjustment in the special education program audit team's review pursuant to WAC 392-140-630.

Recovery adjustments not made in the current school year shall be added to the amount calculated pursuant to WAC 392-140-616 (2)(c) for the following school year. Such amounts reduce state and/or federal safety net awards in the following year.

**WSR 07-21-024**  
**PROPOSED RULES**  
**BOARD OF REGISTRATION**  
**FOR PROFESSIONAL ENGINEERS**  
**AND LAND SURVEYORS**

[Filed October 8, 2007, 11:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-23-080.

Title of Rule and Other Identifying Information: Chapter 196-23 WAC, Stamping and seals.

Hearing Location(s): Clarion Hotel, Rainier Room, 31611 20th Avenue South, Federal Way, WA 98003, on January 23, 2008, at 4:00 p.m.; and at the Davenport Hotel, Cutter Room, 10 South Post Street, Spokane, WA 99201, on March 20, 2008, at 4:00 p.m.

Date of Intended Adoption: March 23, 2008.

Submit Written Comments to: George A. Twiss, PLS, Executive Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9025, Olympia, WA 98507-9025, e-mail engineers@dol.wa.gov, fax (360) 664-2551, by March 17, 2008.

Assistance for Persons with Disabilities: Contact Kim King by March 17, 2008, TTY (360) 664-8885 or (360) 664-1564.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments are necessary to address the stamp/seal usage of professional engineers and/or professional land surveyors in their every day practice.

Reasons Supporting Proposal: Professional engineers and/or professional land surveyors are taking advantage of current technology by sending their work product electronically. The amendments are necessary to address the stamp/seal usage of professional engineers and/or professional land surveyors in their every day practice.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

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

Name of Proponent: Board of registration for professional engineers and land surveyors, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: George A. Twiss, 405 Black Lake Boulevard, Olympia, WA 98502, (360) 664-1565.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no economic impact to licensee.

A cost-benefit analysis is not required under RCW 34.05.328. There is no economic impact to licensee.

October 8, 2007  
George A. Twiss  
Executive Director

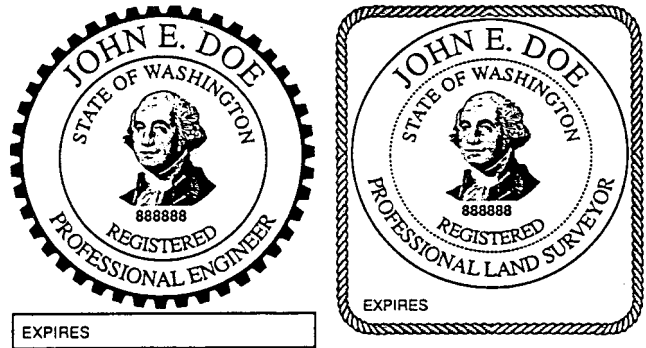
AMENDATORY SECTION (Amending WSR 06-22-036, filed 10/25/06, effective 11/25/06)

**WAC 196-23-010 Seals.** All individuals licensed in accordance with chapter 18.43 RCW (~~shall procure~~) must

utilize a seal/stamp that conforms to the design as authorized by the board. It is the responsibility of the licensee to maintain control over the use of his/her stamp/seal. The impression or image of the seal/stamp (~~shall~~) must conform to the below-illustrated design and be of a size that assures full legibility of the following required information:

- (1) State of Washington;
- (2) Registered professional engineer or registered professional land surveyor;
- (3) Certificate number;
- (4) Licensee's name as shown on wall certificate(;
- (5) ~~Date of license expiration. (Expiration date to be handwritten by licensee.))~~.

~~((STRICKEN GRAPHIC~~



~~STRICKEN GRAPHIC))~~



**AMENDATORY SECTION** (Amending WSR 06-22-036, filed 10/25/06, effective 11/25/06)

**WAC 196-23-020 Seal/stamp usage.** The use of the seal/stamp ~~((shall))~~ must be in accordance with chapter 18.43 RCW or as otherwise described herein:

(1) Final documents are those documents that are prepared and distributed for filing with public officials, use for construction, final agency approvals or use by clients. Any final document must contain the seal/stamp, ~~((handwritten license expiration date by the licensee, (,)))~~ signature and date of signature of the licensee who prepared or directly supervised the work. For the purpose of this section "document" is defined as plans, specifications, plats, surveys~~((,))~~, as-built documents prepared by the licensee~~((,))~~, and reports.

(2) Preliminary documents are those documents not considered final as defined herein, but are released or distributed by the licensee. Preliminary documents must be clearly identified as "PRELIMINARY" or contain such wording so it may be differentiated from a final document. Preliminary documents must be stamped, but need not be signed or dated by the licensee.

(3) Plan sets: Every page of a plan set must contain the seal/stamp, signature of the licensee(s) who prepared or who had direct supervision over the preparation of the work, and date of signature.

(a) Plans/plats containing work prepared by or under the direct supervision of more than one licensee should be sealed/stamped~~((,))~~ and dated by each licensee and shall clearly note the extent of each licensee's responsibility.

(b) As provided for in subsections (1) and (2) of this section, each page of a plan set must contain the seal/stamp of the licensee who prepared or who had direct supervision over the preparation of the work.

(c) Plan/plat sheets containing and/or depicting background and/or supporting information that is duplicated from other plans need only be sealed/stamped by the licensee(s) who prepared or was in direct supervision of the design. The origin of the background information shall be noted on the plan sheet.

(d) All design revisions to final plan/plat sheets shall ~~((shall))~~ clearly identify on each sheet; the revisions made

and shall contain the name and seal of the licensee, and signature of the licensee with the date the sheet was sealed.

(4) Specifications: Specifications that are prepared by or under the direct supervision of a licensee shall contain the seal/stamp, signature of the licensee and the date of signature. If the specifications prepared by a licensee are a portion of a bound specification document that contains specifications other than that of an engineering or land surveying nature, the licensee need only seal/stamp that portion or portions of the documents for which the licensee is responsible. Nothing herein should be construed to require that each page of an engineering or land surveying specification be sealed/stamped by the licensee.

(5) Document review: When a licensee is required to review work prepared by another professional engineer or land surveyor, the reviewing licensee shall fully review those documents and shall prepare a report that discusses the findings of the review with any supporting calculations and sketches. The reviewing licensee would then seal/stamp, sign and date the report. The report would make reference to and/or be attached to the subject document(s) reviewed.

**AMENDATORY SECTION** (Amending WSR 06-22-036, filed 10/25/06, effective 11/25/06)

**WAC 196-23-070 Signature.** The terms "signature or signed," as used in chapter 18.43 RCW and/or Title 196 WAC, shall mean the following:

(1) A handwritten identification that represents the act of putting one's name on a document to attest to its validity. The handwritten identification must be:

- (a) Original and written by hand;
- (b) Permanently affixed to the document(s) being certified;
- (c) Applied to the document by the identified licensee~~((,))~~;
- (d) Placed directly over the seal/stamp of the licensee.

(2) A digital identification that is an electronic authentication process attached to or logically associated with an electronic document. The digital identification must be:

- (a) Unique to the licensee using it;
- (b) Capable of independent verification;
- (c) Under the exclusive control of the licensee using it;

(d) Linked to a document in such a manner that the digital identification is invalidated if any data in the document is changed.

**WSR 07-21-032**

**PROPOSED RULES**

**UNIVERSITY OF WASHINGTON**

[Filed October 9, 2007, 3:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-16-120.

Title of Rule and Other Identifying Information: WAC 478-160-163 Waivers of tuition and fees.

Hearing Location(s): University of Washington, Room 200A, Husky Union Building (HUB), Seattle, WA 98195, on November 29, 2007, at 12:00 noon.

Date of Intended Adoption: January 17, 2008.

Submit Written Comments to: Rebecca Goodwin Dearthoff, Director of Rules Coordination, UW Rules Coordination Office, Box 355509, Seattle, WA 98195-5509, e-mail rules@u.washington.edu, fax (206) 221-6917, by November 29, 2007.

Assistance for Persons with Disabilities: Contact Disability Services Office by November 19, 2007, TTY (206) 543-6452 or (206) 543-6450.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend WAC 478-160-163 Waivers of tuition and fees, incorporating changes to waivers mandated by chapters 450 and 461, Laws of 2007. These amendments include: Addition of a new category of individuals eligible for University of Washington employee/Washington state employee tuition waivers under RCW 28B.15.558; and mandatory tuition waivers for children/spouses of combat troops who have been killed, became totally disabled, are missing in action or are being held as prisoners of war under RCW 28B.15.621.

Statutory Authority for Adoption: RCW 28B.15.558, 28B.15.621, and 28B.20.130.

Statute Being Implemented: RCW 28B.15.558, 28B.15.621, and 28B.20.130.

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

Name of Proponent: University of Washington, governmental.

Name of Agency Personnel Responsible for Drafting: Gary Quarfoth, Interim Vice Provost for Planning and Budgeting, 134C Gerberding Hall, UW, Seattle, WA 98195-1261, (206) 616-2425; Implementation and Enforcement: Eric Godfrey, Vice Provost for Student Life, 476 Schmitz Hall, UW, Seattle, WA 98105, (206) 543-0128.

No small business economic impact statement has been prepared under chapter 19.85 RCW. WAC 478-160-163 Waivers of tuition and fees, does not impose a disproportionate impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. WAC 478-160-163 is not considered a significant legislative rule by the University of Washington.

October 9, 2007

Rebecca Goodwin Dearthoff  
Director of Rules Coordination

AMENDATORY SECTION (Amending WSR 07-13-024, filed 6/11/07, effective 7/12/07)

**WAC 478-160-163 Waivers of tuition and fees.** (1) The board of regents is authorized to grant tuition and fee waivers to students pursuant to RCW 28B.15.910 and the laws identified therein. (~~Each of these laws, with the exception of RCW 28B.15.543 and 28B.15.545,~~) A number of these statutes authorize(s), but (~~do~~) do not require, the board of regents to grant waivers for different categories of students and provides for waivers of different fees. For the waivers that are authorized but not required by state law, the board of regents must affirmatively act to implement the legislature's grant of authority under each individual law. A list of waivers that the board has implemented can be found in the *University of Washington General Catalog*, which is published biennially. The most recent list may be found in the online version of the *General Catalog* at [www.washington.edu/students/reg/tuition\\_exempt\\_reductions.html](http://www.washington.edu/students/reg/tuition_exempt_reductions.html).

(2) Even when it has decided to implement a permissive waiver listed in RCW 28B.15.910, the university, for specific reasons and a general need for flexibility in the management of its resources, may choose not to award waivers to all students who may be eligible under the terms of the laws. Where the university has chosen to impose specific limitations on a permissive waiver listed in RCW 28B.15.910, those limitations are delineated in subsection (5) of this section. If the university has not imposed specific limitations on a permissive waiver listed in RCW 28B.15.910, the waiver is not mentioned in subsection (5) of this section. The university's description of the factors it may consider to adjust a waiver program to meet emergent or changing needs is found in subsection (7) of this section. All permissive waivers are subject to subsection (7) of this section.

(3) The board of regents also has the authority under RCW 28B.15.915 to grant waivers of all or a portion of operating fees as defined in RCW 28B.15.031. Waiver programs adopted under RCW 28B.15.915 are described in the *General Catalog*. The most recent list may be found in the online version of the *General Catalog* at [www.washington.edu/students/reg/tuition\\_exempt\\_reductions.html](http://www.washington.edu/students/reg/tuition_exempt_reductions.html). Waivers granted under RCW 28B.15.915 are subject to subsection (7) of this section.

(4) Waivers will not be awarded to students participating in self-sustaining courses or programs because they do not pay "tuition," "operating fees," "services and activities fees," or "technology fees" as defined in RCW 28B.15.020, 28B.15.031, 28B.15.041, or 28B.15.051, respectively.

(5) Specific limitations on waivers are as follows:

(a) Waivers authorized by RCW 28B.15.621 (2)(a) for eligible veterans and National Guard members, shall be awarded only to:

(i) Undergraduate students pursuing their first bachelor's degree to a maximum of 225 college-level credits, including credits transferred from other institutions of higher education; and

(ii) Full-time graduate or professional degree students pursuing their first advanced degree (including advanced degrees earned at other institutions), provided however, that graduate and professional degree students who received a waiver authorized by RCW 28B.15.621 (2)(a) as undergraduates at any Washington state institution of higher education shall not be eligible for this waiver.

To qualify an individual as an "eligible veteran or National Guard member," the person seeking the waiver must present proof of domicile in Washington state and a DD form 214 (Report of Separation) indicating their service related to specific United States military operations or campaigns fought on foreign soil or in international waters.

~~(b) ((Waivers authorized by RCW 28B.15.621 (2)(b) and (c) for children or spouses of eligible veterans and National Guard members who became totally disabled, or lost their lives, while engaged in active federal military or naval service, or who are prisoners of war or missing in action, shall be awarded only to:~~

~~(i) Undergraduate students pursuing their first bachelor's degree to a maximum of 225 college-level credits, including credits transferred from other institutions of higher education; and~~

~~(ii) Full-time graduate or professional degree students pursuing their first advanced degree (including advanced degrees earned at other institutions), provided however, that graduate and professional degree students who received a waiver authorized by RCW 28B.15.621 (2)(b) or (c) as undergraduates at any Washington state institution of higher education shall not be eligible for this waiver.~~

~~(e))~~ Waivers of nonresident tuition authorized by RCW 28B.15.014 for university faculty and classified or professional staff shall be restricted to four consecutive quarters from their date of employment with the University of Washington. The recipient of the waiver must be employed by the first day of the quarter for which the waiver is awarded. Waivers awarded to immigrant refugees, or the spouses or dependent children of such refugees, shall be restricted to persons who reside in Washington state and to four consecutive quarters from their arrival in Washington state.

~~((d))~~ (c) Waivers authorized by RCW 28B.15.380 for children of police officers or fire fighters who are deceased or permanently disabled, shall be awarded only to undergraduate students pursuing their first bachelor's degree to a maximum of 225 college-level credits, including credits transferred from other institutions of higher education.

~~((e))~~ (d) Waivers authorized by RCW 28B.15.558 shall be awarded only to:

(i) University of Washington employees who are employed half-time or more, hold qualifying appointments as of the first day of the quarter for which the waivers are requested, are paid monthly, and, for classified staff new to the university, have completed their probationary periods prior to the first day of the quarter; or

(ii) State of Washington permanent employees who are employed half-time or more, are not University of Washing-

ton permanent classified employees, are permanent classified or exempt technical college paraprofessional employees, or are permanent faculty members, counselors, librarians or exempt employees at other state of Washington public higher education institutions; or

(iii) Teachers and other certificated instructional staff employed at public common and vocational schools, holding or seeking a valid endorsement and assignment in a state-identified shortage area.

~~(6) ((To qualify an individual as an "eligible veteran or National Guard member," the person seeking the waiver must present proof of domicile in Washington state and a DD form 214 (Report of Separation) indicating their service related to specific United States military operations or campaigns fought on foreign soil or in international waters.))~~ Waivers mandated by RCW 28B.15.621(4), as amended by section 1, chapter 450, Laws of 2007, for children and spouses or surviving spouses of eligible veterans and National Guard members who became totally disabled, or lost their lives, while engaged in active federal military or naval service, or who are prisoners of war or missing in action, shall be awarded in accordance with, and subject to the limitations set forth in state law.

(7) The university may modify its restrictions or requirements pursuant to changes in state or federal law, changes in programmatic requirements, or in response to financial or other considerations, which may include, but are not limited to, the need to adopt fiscally responsible budgets, the management of the overall levels and mix of enrollments, management initiatives to modify enrollment demand for specific programs and management decisions to eliminate or modify academic programs. The university may choose not to exercise the full funding authority granted under RCW 28B.15.910 and may limit the total funding available under RCW 28B.15.915.

## WSR 07-21-041

### PROPOSED RULES

#### PUBLIC DISCLOSURE COMMISSION

[Filed October 10, 2007, 12:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-17-074.

Title of Rule and Other Identifying Information: Amend WAC 390-16-050 Forms for contribution and expenditures of out-of-state political committees.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA 98504, on December 6, 2007, at 10:30 a.m.

Date of Intended Adoption: December 6, 2007.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission (PDC), P.O. Box 40908, Olympia, WA 98504-0908, e-mail dellis@pdc.wa.gov, fax (360) 753-1112, by December 3, 2007.

Assistance for Persons with Disabilities: Contact Kami Madsen by phone (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend exist-



ing form to implement the requirements of RCW 42.17.093 (1)(g) by adjusting the dollar amount for inflation.

Reasons Supporting Proposal: To conform to the provisions of RCW 42.17.093.

Statutory Authority for Adoption: RCW 42.17.370(1) and 42.17.093 (1)(g).

Statute Being Implemented: RCW 42.17.093.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The rule amendment is designed to conform to the provision in RCW 42.17.093 requiring annual modification of the dollar limit based on percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the bureau of economic analysis of the federal department of commerce.

Name of Proponent: PDC, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to the adoption of these rules pursuant to subsection (5)(a)(i) of section 201, and, to date, JARRC has not made section 201 application [applicable] to the adoption of these rules.

October 10, 2007

Vicki Rippie

Executive Director

AMENDATORY SECTION (Amending WSR 06-18-035, filed 8/28/06, effective 9/28/06)

**WAC 390-16-050 Forms for contributions and expenditures of out-of-state political committees.** The official form for the report required by RCW 42.17.093 of contributions and expenditures of an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 is designated "C-5," revised ((8/06)) 1/08. Copies of this form are available at the Commission Office, Room 206, Evergreen Plaza Building, Olympia, Washington 98504-0908. Any paper attachments shall be on 8 1/2" x 11" white paper.

((STRICKEN GRAPHIC))



Form <b>C5</b> 8/06	This space for office use P M A R K  R E C E I V E D
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**OUT OF STATE COMMITTEE CONTRIBUTIONS TO WASHINGTON CANDIDATES OR COMMITTEES**

<b>1. Name and address of committee making the contribution</b> Name _____ Street address _____ City / State / Zip _____	<b>2. Check appropriate box</b> <input type="checkbox"/> This is the first report submitted during 20__ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
<b>3. Provide the purpose of the committee and the identity of any business, union, association or person with which the committee is affiliated (e.g., a State Committee of the Oregon Republican Party, Idaho committee of United Workers Union or federal PAC of XYZ Trade Assn.)</b> _____	

<b>4. Officers or responsible leaders of committee:</b> Name and address _____	Title _____
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**5. Candidate contributions: List each Washington candidate for state, local or judicial office to whom you have made a contribution of more than \$50.00.**

Candidate's name	Office sought	Political Party	Date	Amount given

**6. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.**

Committee name and address	Ballot Number	For or Against?	Date	Amount given

**7. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state, local or judicial candidate, ballot measure or political committee.**

Recipient's name and address	Purpose	Date	Amount given

Check here  if continued \_\_\_\_\_

**8. Total contributions and expenditures (Add parts 5, 6, 7) .....**

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CONTINUE ON REVERSE

\_\_\_\_\_  
(STRICKEN GRAPHIC))

((STRICKEN GRAPHIC \_\_\_\_\_))

<p><b>9. Contributions received from Washington residents:</b> List all contributions of more than \$25.00 in the aggregate to this out-of-state committee during the current calendar year from Washington residents or corporations with their headquarters or a primary place of business in Washington.</p>			
<b>Name and address</b>	<b>Date</b>	<b>Amount</b>	
<p>Check here <input type="checkbox"/> if continued on an attached sheet</p>			
<p><b>10. Contributions received from persons residing outside of Washington:</b> List the name, address, and employer of each person or corporation residing outside the state of Washington who has made contributions of more than \$2,500 in the aggregate to this out-of-state committee during the current calendar year.</p>			
<b>Contributor's name, Address, City, State, Zip</b>	<b>Employer's Name, City and State</b>	<b>Date</b>	<b>Amount</b>
<p>Check here <input type="checkbox"/> if continued on an attached sheet</p>			
<p><b>11. Eligibility to Give to State Office Candidates:</b> During the six months prior to making a contribution to a legislative or statewide executive candidate your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.</p> <p><input type="checkbox"/> A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to legislative and statewide executive office candidates.</p>			
<p><b>12. Certification:</b> I certify the information contained in this report is true, complete and correct to the best of my knowledge.</p>			
Signature of Committee Official	Name – Typed or Printed		
_____	_____		
Title	Daytime Telephone No. (    ) _____		
_____	E-Mail Address _____		

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**INSTRUCTIONS**  
**(Statutory reference: RCW 42.17.093)**

**WHO MUST REPORT**

An out-of-state political committee, including political committees filing with the Federal Election Commission, organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 which has made contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state.

A political committee is considered "out-of-state" if it maintains its office or headquarters in another state or the District of Columbia. If there is no office or headquarters, then the political committee is considered "out-of-state" if its treasurer resides in another state or the District of Columbia.

**WHEN TO REPORT**

A C-5 report is due no later than the 10<sup>th</sup> day of the month following any month in which a contribution or other expenditure of more than \$50 is made to or on behalf of a Washington state candidate or political committee. After filing an initial C-5 report, subsequent reports during the same calendar year shall be filed updating or amending the information previously reported. These follow-up reports are also due no later than the 10<sup>th</sup> day of the month following any month in which an additional contribution or other expenditure of more than \$50 is made.

The C-5 report is considered filed as of the postmark date.

**SEND REPORT TO**

**Public Disclosure Commission  
711 Capitol Way, Room 206  
PO Box 40908  
Olympia, Washington 98504-0908**

**Questions?**

**Contract PDC at [www.pdc.wa.gov](http://www.pdc.wa.gov), toll free at 1-877-601-2828 or 1-360-753-1111**

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Form <b style="font-size: 2em;">C5</b> 1/08	This space for office use P M O A S R T K  R E C E I V E D
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**OUT OF STATE COMMITTEE CONTRIBUTIONS  
TO WASHINGTON CANDIDATES OR COMMITTEES**

<b>1. Name and address of committee making the contribution</b> Name Street address City / State / Zip	<b>2. Check appropriate box</b> <input type="checkbox"/> This is the first report submitted during 20__ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
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**3. Provide the purpose of the committee and the identity of any business, union, association or person with which the committee is affiliated (e.g., a State Committee of the Oregon Republican Party, Idaho committee of United Workers Union or federal PAC of XYZ Trade Assn.)**

**4. Officers or responsible leaders of committee:**

Name and address	Title
------------------	-------

**5. Candidate contributions: List each Washington candidate for state, local or judicial office to whom you have made a contribution of more than \$50.00.**

Candidate's name	Office sought	Political Party	Date	Amount given

**6. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.**

Committee name and address	Ballot Number	For or Against?	Date	Amount given

**7. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state, local or judicial candidate, ballot measure or political committee.**

Recipient's name and address	Purpose	Date	Amount given

Check here  if continued \_\_\_\_\_

**8. Total contributions and expenditures (Add parts 5, 6, 7) .....**

**9. Contributions received from Washington residents:** List all contributions of more than \$25.00 in the aggregate to this out-of-state committee during the current calendar year from Washington residents or corporations with their headquarters or a primary place of business in Washington.

Name and address	Date	Amount

Check here  if continued on an attached sheet

**10. Contributions received from persons residing outside of Washington.** List the name, address, and employer of each person or corporation residing outside the state of Washington who has made contributions of more than \$2,550 in the aggregate to this out-of-state committee during the current calendar year.

Contributor's name, Address, City, State, Zip	Employer's Name, City and State	Date	Amount

Check here  if continued on an attached sheet

**11. Eligibility to Give to State Office Candidates:** During the six months prior to making a contribution to a legislative or statewide executive candidate your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.

A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to legislative and statewide executive office candidates.

**12. Certification:** I certify the information contained in this report is true, complete and correct to the best of my knowledge.

Signature of Committee Official	Name – Typed or Printed
_____	_____
Title	Daytime Telephone No. (     ) _____
_____	E-Mail Address _____

**INSTRUCTIONS**  
(Statutory reference: RCW 42.17.093)

**WHO MUST REPORT**

An out-of-state political committee, including political committees filing with the Federal Election Commission, organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 which has made contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state.

A political committee is considered "out-of-state" if it maintains its office or headquarters in another state or the District of Columbia. If there is no office or headquarters, then the political committee is considered "out-of-state" if its treasurer resides in another state or the District of Columbia.

**WHEN TO REPORT**

A C-5 report is due no later than the 10<sup>th</sup> day of the month following any month in which a contribution or other expenditure of more than \$50 is made to or on behalf of a Washington state candidate or political committee. After filing an initial C-5 report, subsequent reports during the same calendar year shall be filed updating or amending the information previously reported. These follow-up reports are also due no later than the 10<sup>th</sup> day of the month following any month in which an additional contribution or other expenditure of more than \$50 is made.

The C-5 report is considered filed as of the postmark date.

**SEND REPORT TO**

Public Disclosure Commission  
711 Capitol Way, Room 206  
PO Box 40908  
Olympia, Washington 98504-0908

**Questions?**

Contract PDC at [www.pdc.wa.gov](http://www.pdc.wa.gov), toll free at 1-877-601-2828 or 1-360-753-1111

**WSR 07-21-042**  
**PROPOSED RULES**  
**PUBLIC DISCLOSURE COMMISSION**

[Filed October 10, 2007, 12:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-16-001.

Title of Rule and Other Identifying Information: Amend WAC 390-05-400 Changes to dollar amounts as prescribed in RCW 42.17.690 and new rule WAC 390-05-225 relating to registered voter counts for the purposes of chapter 42.17 RCW.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA 98504, on December 6, 2007, at 10:30 a.m.

Date of Intended Adoption: December 6, 2007.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission (PDC), P.O. Box 40908, Olympia, WA 98504-0908, e-mail dellis@pdc.wa.gov, fax (360) 753-1112, by December 3, 2007.

Assistance for Persons with Disabilities: Contact Kami Madsen, by phone (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend existing dollar limits for inflation in accordance with RCW 42.17.690 and include adjustments to limits on contributions to candidates seeking election to port districts and county offices in jurisdictions having over 200,000 registered voters. Also, adjusting limits on contributions to candidates seeking any judicial office in accordance with RCW 42.17.645.

New rule WAC 390-05-225 would bring uniformity on how the number of registered voters is calculated for PDC purposes by not including "inactive voters" as required under RCW 29A.08.130(2).

Reasons Supporting Proposal: To adjust contribution limits based on changes in economic conditions and provide uniformity on the count of registered voters provided by county auditors.

Statutory Authority for Adoption: RCW 42.17.370(1) and 42.17.690.

Statute Being Implemented: RCW 42.17.640, 42.17-645, 42.17.030, and 42.17.405.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The rule amendment is designed to conform to the provisions in RCW 42.17.690 requiring the commission, at the beginning of each even-numbered calendar year, to adjust dollar amounts in RCW 42.17.640 and 42.17.645 based on changes in economic conditions.

The new rule is designed to provide guidance to county auditors and provide uniformity in calculating the count of registered voters for the purposes under chapter 42.17 RCW.

Name of Proponent: PDC, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to the adoption of these rules pursuant to subsection (5)(a)(i) of section 201, and, to date, JARRC has not made section 201 application [applicable] to the adoption of these rules.

October 10, 2007

Vicki Rippie

Executive Director

AMENDATORY SECTION (Amending WSR 07-07-005, filed 3/8/07, effective 4/8/07)

**WAC 390-05-400 Changes in dollar amounts.** Pursuant to the requirement in RCW 42.17.690 that the commission biennially revise the dollar amounts found in Initiative 134 and RCW 42.17.645 to reflect changes in economic conditions, the following revisions are made:

Code Section	Subject Matter	Amount Enacted or Last Revised	<del>((2006))</del> 2008 Revision
.020	Definition of "Independent Expenditure"	\$ <del>((675))</del> <u>700</u>	\$ <del>((700))</del> <u>800</u>
.125	Reimbursement of candidate for loan to own campaign	\$ <del>((4,000))</del> <u>4,300</u>	\$ <del>((4,300))</del> <u>4,700</u>
.180(1)	Report— Applicability of provisions to Persons who made contributions Persons who made independent expenditures	\$ <del>((13,500))</del> <u>14,500</u>  \$ <del>((675))</del> <u>700</u>	\$ <del>((14,500))</del> <u>16,000</u>  \$ <del>((700))</del> <u>800</u>
.640(2)	Contribution Limits— Candidates for state leg. office <u>Candidates for county office</u>	\$ 700  <u>\$ 700</u>	\$ <u>800</u>  <u>\$ 800</u>



Code Section	Subject Matter	Amount Enacted or Last Revised	<del>((2006))</del> 2008 Revision
	Candidates for other state office	\$ 1,400	<u>\$ 1,500</u>
	<u>Candidates for special purpose districts</u>	<u>\$ 1,400</u>	<u>\$ 1,500</u>
.640(3)	Contribution Limits— State official up for recall or pol comm. supporting recall— State Legislative Office	\$ 700	<u>\$ 800</u>
	Other State Office	\$ 1,400	<u>\$ 1,500</u>
.640(4)	Contribution Limits— Contributions made by political parties and caucus committees State parties and caucus committees County and leg. district parties Limit for all county and leg. district parties to a candidate	.70 per voter .35 per voter .35 per voter	<u>.80 per registered voter</u> <u>.40 per registered voter</u> <u>.40 per registered voter</u>
.640(5)	Contribution Limits— Contributions made by pol. parties and caucus committees to state official up for recall or committee supporting recall State parties and caucuses County and leg. district parties Limit for all county and leg. district parties to state official up for recall or pol. comm. supporting recall	.70 per voter .35 per voter .35 per voter	<u>.80 per registered voter</u> <u>.40 per registered voter</u> <u>.40 per registered voter</u>
.640(7)	Limits on contributions to political parties and caucus committees To caucus committee To political party	\$ 700 \$ 3,500	<u>\$ 800</u> <u>\$ 4,000</u>
<u>.645(1)</u>	<u>Candidates for judicial office</u>	<u>\$ 1,400</u>	<u>\$ 1,500</u>
.740	Contribution must be made by written instrument	\$ <del>((65))</del> 70	\$ <del>((70))</del> <u>80</u>

NEW SECTION

**WAC 390-05-225 Registered voters—Count or number of.** In accordance with RCW 29A.08.130, for purposes of chapter 42.17 RCW and Title 390 WAC, the count or number of registered voters shall not include inactive voters.

**WSR 07-21-043  
PROPOSED RULES**

**PUBLIC DISCLOSURE COMMISSION**

[Filed October 10, 2007, 12:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-17-181.

Title of Rule and Other Identifying Information: Amend WAC 390-24-010 Forms for statement of financial affairs, 390-24-020 Forms for amending statement of financial affairs, 390-24-202 Report of compensation from sales com-

missions, and 390-24-301 Changes in dollar amounts of reporting thresholds and code values.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA 98504, on December 6, 2007, at 10:30 a.m.

Date of Intended Adoption: December 6, 2007.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission (PDC), P.O. Box 40908, Olympia, WA 98504-0908, e-mail dellis@pdc.wa.gov, fax (360) 753-1112 by December 3, 2007.

Assistance for Persons with Disabilities: Contact Kami Madsen by phone (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend existing thresholds and code values for reports of financial affairs.

Reasons Supporting Proposal: To adjust thresholds and code values based on changes in economic conditions.

Statutory Authority for Adoption: RCW 42.17.370(1).

Statute Being Implemented: RCW 42.17.240 and 42.17.241.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The rule amendments adjust dollar amounts in thresholds and code values for reporting of financial affairs based on changes in economic conditions.

Name of Proponent: PDC, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small businesses.


A cost-benefit analysis is not required under RCW 34.05.328. The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to the adoption of these rules pursuant to subsection (5)(a)(i) of section 201, and, to date, JARRC has not made section 201 application [applicable] to the adoption of these rules.

October 10, 2007  
Vickie Rippie  
Executive Director

AMENDATORY SECTION (Amending WSR 07-04-084, filed 2/5/07, effective 3/8/07)

**WAC 390-24-010 Forms for statement of financial affairs.** The official form for statements of financial affairs as required by RCW 42.17.240 is designated "F-1," revised ((2/07)) 1/08. Copies of this form are available at the Commission Office, 711 Capitol Way, Room 206, Evergreen Plaza Building, PO Box 40908, Olympia, Washington 98504-0908. Any paper attachments must be on 8-1/2" x 11" white paper.

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 <p><b>PUBLIC DISCLOSURE COMMISSION</b>                  711 CAPITOL WAY RM 206                  PO BOX 40908                  OLYMPIA WA 98504-0908                  (360) 753-1111                  TOLL FREE 1-877-601-2828</p>	PDC FORM <b>F-1</b> (2/07)	<b>PERSONAL FINANCIAL AFFAIRS STATEMENT</b>	P M PDC OFFICE USE O A S R T K  R E C E I V E D												
Refer to instruction manual for detailed assistance and examples. <b>Deadlines:</b> Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position. <b>SEND REPORT TO PUBLIC DISCLOSURE COMMISSION</b>		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">DOLLAR CODE</th> <th style="text-align: left;">AMOUNT</th> </tr> <tr> <td>A</td> <td>\$1 to \$2,999</td> </tr> <tr> <td>B</td> <td>\$3,000 to \$14,999</td> </tr> <tr> <td>C</td> <td>\$15,000 to \$29,999</td> </tr> <tr> <td>D</td> <td>\$30,000 to \$74,999</td> </tr> <tr> <td>E</td> <td>\$75,000 or more</td> </tr> </table>	DOLLAR CODE	AMOUNT	A	\$1 to \$2,999	B	\$3,000 to \$14,999	C	\$15,000 to \$29,999	D	\$30,000 to \$74,999	E	\$75,000 or more	
DOLLAR CODE	AMOUNT														
A	\$1 to \$2,999														
B	\$3,000 to \$14,999														
C	\$15,000 to \$29,999														
D	\$30,000 to \$74,999														
E	\$75,000 or more														
Last Name _____ First _____ Middle Initial _____		Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.													
Mailing Address (Use PO Box or Work Address) _____															
City _____ County _____ Zip + 4 _____															
Filing Status (Check only one box.) <input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ year _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional staff of the Governor's Office and the Legislature		Office Held or Sought Office title: _____ County, city, district or agency of the office, name and number: _____ Position number: _____ Term begins: _____ ends: _____													
<b>1 INCOME</b> List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member received \$1,500 or more during the period. (Report interest and dividends in Item 3 on reverse)															
Show Self (S) Spouse (SP) Dependent (D)	Name and Address of Employer or Source of Compensation _____	Occupation or How Compensation Was Earned _____	Amount: (Use Code) _____												
Check Here <input type="checkbox"/> if continued on attached sheet															
<b>2 REAL ESTATE</b> List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$7,500 in which you or a family member held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)															
Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received												
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms												
		Security Given	Mortgage Amount - (Use Code) Original Current												
All Other Property Entirely or Partially Owned															
Check here <input type="checkbox"/> if continued on attached sheet															

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<b>3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS</b>		List bank and savings accounts, insurance policies, stock, bonds and other intangible property held during the reporting period.		
A. Name and address of each bank or financial institution in which you or a family member had an account over \$15,000 any time during the report period.	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount (Use Code)	
B. Name and address of each insurance company where you or a family member had a policy with a cash or loan value over \$15,000 during the period.				
C. Name and address of each company, association, government agency, etc. in which you or a family member owned or had a financial interest worth over \$1,500. Include stocks, bonds, ownership, retirement plan, IRA, notes, and other intangible property.				
Check here <input type="checkbox"/> if continued on attached sheet.				
<b>4 CREDITORS</b>		List each creditor you or a family member owed \$1,500 or more any time during the period. Don't include retail charge accounts, credit cards, or mortgages or real estate reported in Item 2.		AMOUNT (USE CODE)
Creditor's Name and Address	Terms of Payment	Security Given	Original	Present
Check here <input type="checkbox"/> if continued on attached sheet.				
<b>5 All filers answer questions A thru D below. If the answer is YES to any of these questions, the F-1 Supplement must also be completed as part of this report. If all answers are NO and you are a candidate for state or local office, an appointee to a vacant elective office, or a state executive officer filing your initial report, no F-1 Supplement is required.</b>				
<b>Incumbent elected officials and state executive officers filing an annual financial affairs report also must answer question E. An F-1 Supplement is required of these officeholders unless all answers to questions A thru E are NO.</b>				
A. At any time during the reporting period were you, your spouse or dependents (1) an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity or (2) a partner or member of any limited partnership, limited liability partnership, limited liability company or similar entity including but not limited to a professional limited liability company? ___ If yes, complete Supplement, Part A.				
B. Did you, your spouse or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business at any time during the reporting period? ___ If yes, complete Supplement, Part A.				
C. Did you, your spouse or dependents own a business at any time during the reporting period? ___ If yes, complete Supplement, Part A.				
D. Did you, your spouse or dependents prepare, promote or oppose state legislation, rules, rates or standards for current or deferred compensation (other than pay for a currently-held public office) at any time during the reporting period? ___ If yes, complete Supplement, Part B.				
E. <b>Only for Persons Filing Annual Report.</b> Regarding the receipt of items not provided or paid for by your governmental agency during the previous calendar year: 1) Did you, your spouse or dependents (or any combination thereof) accept a gift of food or beverages costing over \$50 per occasion? ___ or 2) Did any source other than your governmental agency provide or pay in whole or in part for you, your spouse and/or dependents to travel or to attend a seminar or other training? ___ If yes to either or both questions, complete Supplement, Part C.				
<b>ALL FILERS EXCEPT CANDIDATES.</b> Check the appropriate box.		<b>CERTIFICATION:</b> I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.		
<input type="checkbox"/> I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.		Signature _____ Date _____		
<input type="checkbox"/> I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.		Contact Telephone: ( ) _____		
		Email: _____(work)		
		Email: _____(Home)		

REPORT NOT ACCEPTABLE WITHOUT FILER'S SIGNATURE

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**Information Continued**

**F-1**

Name				
<b>1 INCOME</b> (continued)				
Show Self (S) Spouse (SP) Dependent (D)	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)	
<b>2 REAL ESTATE</b> (continued)				
Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser		Nature and Amount (Use Code) of Payment or Consideration Received
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given
All Other Property Entirely or Partially Owned				Mortgage Amount - (Use Code) Original   Current
<b>3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS</b> (continued)				
A. Name and address of each bank or financial institution	Type of Account or Description of Asset		Asset Value (Use Code)	Income Amount (Use Code)
B. Name and address of each insurance company				
C. Name and address of each company, association, government agency				
<b>4 CREDITORS</b> (continued)				<b>AMOUNT (USE CODE)</b>
Creditor's Name and Address		Terms of Payment	Security Given	Original   Present

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 <p><b>PUBLIC DISCLOSURE COMMISSION</b>  711 CAPITOL WAY RM 206  PO BOX 40908  OLYMPIA WA 98504-0908  (360) 753-1111  TOLL FREE 1-877-601-2828  EMAIL: pdc@pdc.wa.gov</p>	PDC FORM <b>F-1</b> SUPPLEMENT (207)	<b>SUPPLEMENT PAGE</b> PERSONAL FINANCIAL AFFAIRS STATEMENT	
<b>PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD</b>			
Last Name	First	Middle Initial	DATE
<p><b>A OFFICE HELD, BUSINESS INTERESTS:</b> Provide the following information if, during the reporting period, you, your spouse or dependents</p> <p>(1) were an officer, director, general partner, trustee, or 10 percent or more owner of a corporation, non-profit organization, union, partnership, joint venture or other entity; and/or</p> <p>(2) were a partner or member of a limited partnership, limited liability partnership, limited liability company or similar entity, including but not limited to a professional limited liability company.</p> <ul style="list-style-type: none"> <li>• Legal Name: Report name used on legal documents establishing the entity.</li> <li>• Trade or Operating Name: Report name used for business purposes if different from the legal name.</li> <li>• Position or Percent of Ownership: The office, title and/or percent of ownership held.</li> <li>• Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered.</li> <li>• Payments from Governmental Unit: If the governmental unit in which you hold or seek office made payments to the business entity concerning which you're reporting, show the purpose of each payment and the actual amount received.</li> <li>• Payments from Business Customers and Other Government Agencies: List each corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity and each government agency (other than the one you seek/hold office) which paid compensation of \$7,500 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation.</li> <li>• Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met.</li> </ul>			
ENTITY NO. 1		Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/>	
LEGAL NAME:		POSITION OR PERCENT OF OWNERSHIP	
TRADE OR OPERATING NAME:			
ADDRESS:			
BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:			
PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:			
Purpose of payments		Amount (actual dollars)	
		\$	
PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OF \$7,500 OR MORE:			
Customer name:		Purpose of payment (amount not required)	
WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):			
Check here <input type="checkbox"/> if continued on attached sheet			

CONTINUE PARTS B AND C ON NEXT PAGE

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Page 2

**F-1 Supplement**

Name				
<b>ENTITY NO. 2</b>		Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/>		
LEGAL NAME:		POSITION OR PERCENT OF OWNERSHIP		
TRADE OR OPERATING NAME:				
ADDRESS:				
BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:				
PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:				
Purpose of payments		Amount (actual dollars)		
		\$		
PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OF \$7,500 OR MORE:				
Customer name:		Purpose of payment (amount not required)		
WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):				
Check here <input type="checkbox"/> if continued on attached sheet				
<b>B LOBBYING:</b> List persons for whom you or any immediate family member lobbied or prepared state legislation or state rules, rates or standards for current or deferred compensation. Do not list pay from government body in which you are an elected official or professional staff member.				
Person to Whom Services Rendered		Description of Legislation, Rules, Etc.		Compensation (Use Code)
Check here <input type="checkbox"/> if continued on attached sheet				
<b>C FOOD TRAVEL SEMINARS</b> Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.				
Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	
Check here <input type="checkbox"/> if continued on attached sheet				

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**Information Continued**

**F-1 Supplement**

Name				
<b>ENTITY NO.</b> <span style="float: right;">Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/></span> <b>LEGAL NAME:</b> <span style="float: right;">POSITION OR PERCENT OF OWNERSHIP</span> <b>TRADE OR OPERATING NAME:</b> <b>ADDRESS:</b>  <b>BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:</b>  <b>PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:</b> Purpose of payments <span style="float: right;">Amount (actual dollars)</span> <span style="float: right;">\$</span>  <b>PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OF \$7,500 OR MORE:</b> Customer name: <span style="float: right;">Purpose of payment (amount not required)</span>				
WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):				
<b>B LOBBYING:</b> (Continued)				
Person to Whom Services Rendered	Description of Legislation, Rules, Etc.	Compensation (Use Code)		
<b>C FOOD TRAVEL SEMINARS</b> (continued)				
Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount \$	Value (Use Code)

~~STRICKEN GRAPHIC))~~



<b>PUBLIC DISCLOSURE COMMISSION</b>  711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828	PDC FORM <b>F-1</b> (1/08)	<b>PERSONAL FINANCIAL AFFAIRS STATEMENT</b>	PDC OFFICE USE P M A R K S T K  R E C E I V E D											
Refer to instruction manual for detailed assistance and examples.  <b>Deadlines:</b> Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position.  <b>SEND REPORT TO PUBLIC DISCLOSURE COMMISSION</b>		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="width:15%;">DOLLAR CODE</th> <th style="width:85%;">AMOUNT</th> </tr> <tr> <td>A</td> <td>\$1 to \$3,999</td> </tr> <tr> <td>B</td> <td>\$4,000 to \$19,999</td> </tr> <tr> <td>C</td> <td>\$20,000 to \$39,999</td> </tr> <tr> <td>D</td> <td>\$40,000 to \$99,999</td> </tr> <tr> <td>E</td> <td>\$100,000 or more</td> </tr> </table>	DOLLAR CODE	AMOUNT	A	\$1 to \$3,999	B	\$4,000 to \$19,999	C	\$20,000 to \$39,999	D	\$40,000 to \$99,999	E	\$100,000 or more
DOLLAR CODE	AMOUNT													
A	\$1 to \$3,999													
B	\$4,000 to \$19,999													
C	\$20,000 to \$39,999													
D	\$40,000 to \$99,999													
E	\$100,000 or more													
Last Name _____ First _____ Middle Initial _____  Mailing Address (Use PO Box or Work Address) _____  City _____ County _____ Zip + 4 _____		Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.												
Filing Status (Check only one box.) <input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ year _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional staff of the Governor's Office and the Legislature		Office Held or Sought Office title: _____ County, city, district or agency of the office, name and number: _____ Position number: _____ Term begins: _____ ends: _____												
<b>1 INCOME</b> List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member received \$2,000 or more during the period. (Report interest and dividends in Item 3 on reverse)														
Show Self (S) Spouse (SP) Dependent (D)		Name and Address of Employer or Source of Compensation _____ Occupation or How Compensation Was Earned _____ Amount: (Use Code) _____												
Check Here <input type="checkbox"/> if continued on attached sheet														
<b>2 REAL ESTATE</b> List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$10,000 in which you or a family member held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)														
Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received											
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms											
			Security Given											
			Mortgage Amount - (Use Code) Original Current											
All Other Property Entirely or Partially Owned														
Check here <input type="checkbox"/> if continued on attached sheet														

**CONTINUE ON NEXT PAGE**

<b>3</b>	<b>ASSETS / INVESTMENTS - INTEREST / DIVIDENDS</b>	List bank and savings accounts, insurance policies, stock, bonds and other intangible property held during the reporting period.		
A.	Name and address of each bank or financial institution in which you or a family member had an account over \$20,000 any time during the report period.	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount (Use Code)
B.	Name and address of each insurance company where you or a family member had a policy with a cash or loan value over \$20,000 during the period.			
C.	Name and address of each company, association, government agency, etc. in which you or a family member owned or had a financial interest worth over \$2,000. Include stocks, bonds, ownership, retirement plan, IRA, notes, and other intangible property.			
Check here <input type="checkbox"/> if continued on attached sheet.				

<b>4</b>	<b>CREDITORS</b>	List each creditor you or a family member owed \$2,000 or more any time during the period. Don't include retail charge accounts, credit cards, or mortgages or real estate reported in Item 2.			<b>AMOUNT</b>	<b>(USE CODE)</b>
	Creditor's Name and Address	Terms of Payment	Security Given	Original	Present	
Check here <input type="checkbox"/> if continued on attached sheet.						

**5** All filers answer questions A thru D below. If the answer is YES to any of these questions, the F-1 Supplement must also be completed as part of this report. If all answers are NO and you are a candidate for state or local office, an appointee to a vacant elective office, or a state executive officer filing your initial report, no F-1 Supplement is required.

**Incumbent elected officials and state executive officers filing an annual financial affairs report also must answer question E. An F-1 Supplement is required of these officeholders unless all answers to questions A thru E are NO.**

- A. At any time during the reporting period were you, your spouse or dependents (1) an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity or (2) a partner or member of any limited partnership, limited liability partnership, limited liability company or similar entity including but not limited to a professional limited liability company? \_\_\_ If yes, complete Supplement, Part A.
- B. Did you, your spouse or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business at any time during the reporting period? \_\_\_ If yes, complete Supplement, Part A.
- C. Did you, your spouse or dependents own a business at any time during the reporting period? \_\_\_ If yes, complete Supplement, Part A.
- D. Did you, your spouse or dependents prepare, promote or oppose state legislation, rules, rates or standards for current or deferred compensation (other than pay for a currently-held public office) at any time during the reporting period? \_\_\_ If yes, complete Supplement, Part B.
- E. **Only for Persons Filing Annual Report.** Regarding the receipt of items not provided or paid for by your governmental agency during the previous calendar year: 1) Did you, your spouse or dependents (or any combination thereof) accept a gift of food or beverages costing over \$50 per occasion? \_\_\_ or 2) Did any source other than your governmental agency provide or pay in whole or in part for you, your spouse and/or dependents to travel or to attend a seminar or other training? \_\_\_ If yes to either or both questions, complete Supplement, Part C.

<p><b>ALL FILERS EXCEPT CANDIDATES.</b> Check the appropriate box.</p> <p><input type="checkbox"/> I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.</p> <p><input type="checkbox"/> I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.</p>	<p><b>CERTIFICATION:</b> I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.</p> <p>Signature _____ Date _____</p> <p>Contact Telephone: (    ) _____</p> <p>Email: _____(work)</p> <p>Email: _____(Home)</p>
--	---

**REPORT NOT ACCEPTABLE WITHOUT FILER'S SIGNATURE**

**Information Continued**

**F-1**

Name				
<b>1 INCOME</b> (continued)				
Show Self (S) Spouse (SP) Dependent (D)				
	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)	
<b>2 REAL ESTATE</b> (continued)				
Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received	
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given
All Other Property Entirely or Partially Owned				Mortgage Amount - (Use Code) Original   Current
<b>3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS</b> (continued)				
A. Name and address of each bank or financial institution	Type of Account or Description of Asset		Asset Value (Use Code)	Income Amount (Use Code)
B. Name and address of each insurance company				
C. Name and address of each company, association, government agency				
<b>4 CREDITORS</b> (continued)				<b>AMOUNT (USE CODE)</b>
Creditor's Name and Address	Terms of Payment	Security Given	Original	Present

 <p><b>PUBLIC DISCLOSURE COMMISSION</b>  711 CAPITOL WAY RM 206  PO BOX 40908  OLYMPIA WA 98504-0908  (360) 753-1111  TOLL FREE 1-877-601-2828  EMAIL: pdc@pdc.wa.gov</p>	PDC FORM <b>F-1</b> SUPPLEMENT (1/08)	<b>SUPPLEMENT PAGE</b> PERSONAL FINANCIAL AFFAIRS STATEMENT	
<b>PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD</b>			
Last Name	First	Middle Initial	DATE
<p><b>A OFFICE HELD, BUSINESS INTERESTS:</b> Provide the following information if, during the reporting period, you, your spouse or dependents</p> <p>(1) were an officer, director, general partner, trustee, or 10 percent or more owner of a corporation, non-profit organization, union, partnership, joint venture or other entity; and/or</p> <p>(2) were a partner or member of a limited partnership, limited liability partnership, limited liability company or similar entity, including but not limited to a professional limited liability company.</p> <ul style="list-style-type: none"> <li>• Legal Name: Report name used on legal documents establishing the entity.</li> <li>• Trade or Operating Name: Report name used for business purposes if different from the legal name.</li> <li>• Position or Percent of Ownership: The office, title and/or percent of ownership held.</li> <li>• Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered.</li> <li>• Payments from Governmental Unit: If the governmental unit in which you hold or seek office made payments to the business entity concerning which you're reporting, show the purpose of each payment and the actual amount received.</li> <li>• Payments from Business Customers and Other Government Agencies: List each corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity and each government agency (other than the one you seek/hold office) which paid compensation of \$10,000 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation.</li> <li>• Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met.</li> </ul>			
<b>ENTITY NO. 1</b>		Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/>	
LEGAL NAME:		POSITION OR PERCENT OF OWNERSHIP	
TRADE OR OPERATING NAME:			
ADDRESS:			
BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:			
PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:		Amount (actual dollars)	
Purpose of payments		\$	
PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE:		Purpose of payment (amount not required)	
Agency name:			
PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE		Purpose of payment (amount not required)	
Customer name:			
WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$20,000. List street address, assessor parcel number, or legal description and county for each parcel):			
Check here <input type="checkbox"/> if continued on attached sheet			

**CONTINUE PARTS B AND C ON NEXT PAGE**

Name				
<b>ENTITY NO. 2</b> <span style="float: right;">Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/></span> LEGAL NAME: <span style="float: right;">POSITION OR PERCENT OF OWNERSHIP</span> TRADE OR OPERATING NAME: ADDRESS:  BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:  PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE: Purpose of payments <span style="float: right;">Amount (actual dollars)</span> <span style="float: right;">\$</span>  PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE: Agency name: <span style="float: right;">Purpose of payment (amount not required)</span>  PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE: Customer name: <span style="float: right;">Purpose of payment (amount not required)</span>  WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$20,000. List street address, assessor parcel number, or legal description and county for each parcel):  Check here <input type="checkbox"/> if continued on attached sheet				
<b>B LOBBYING:</b> <span style="float: right;">List persons for whom you or any immediate family member lobbied or prepared state legislation or state rules, rates or standards for current or deferred compensation. Do not list pay from government body in which you are an elected official or professional staff member.</span>				
Person to Whom Services Rendered	Description of Legislation, Rules, Etc.	Compensation (Use Code)		
Check here <input type="checkbox"/> if continued on attached sheet				
<b>C FOOD TRAVEL SEMINARS</b> <span style="float: right;">Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.</span>				
Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	
Check here <input type="checkbox"/> if continued on attached sheet				

**Information Continued**

**F-1 Supplement**

Name	
<b>ENTITY NO.</b> LEGAL NAME: TRADE OR OPERATING NAME: ADDRESS:  BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:  PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE: Purpose of payments	Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/> POSITION OR PERCENT OF OWNERSHIP  Amount (actual dollars) \$  Purpose of payment (amount not required)
PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE: Agency name:	Purpose of payment (amount not required)
PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE: Customer name:	Purpose of payment (amount not required)
WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$20,000. List street address, assessor parcel number, or legal description and county for each parcel):	

<b>B LOBBYING:</b> (Continued)		
Person to Whom Services Rendered	Description of Legislation, Rules, Etc.	Compensation (Use Code)

<b>C FOOD TRAVEL SEMINARS</b> (continued)				
Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	

AMENDATORY SECTION (Amending WSR 05-06-070, filed 3/1/05, effective 4/1/05)

**WAC 390-24-020 Forms for amending statement of financial affairs.** (1) The official form for amending statements of financial affairs as required by RCW 42.17.240 for all persons who have previously filed the Form F-1 is designated Form "F-1A," revised (~~2/05~~) 1/08.

(2) No more than three F-1A forms may be filed to amend a previously submitted statement of financial affairs (Form F-1). The form can be used only to update information required on an F-1.

(3) The commission reserves the right to reject amendatory forms and require a new statement of financial affairs (Form F-1) at any time the amendments are confusing or create misunderstandings. Authority is delegated to the commission's executive director to make this determination.

(4) Copies of Form F-1A are available at the Commission Office, 711 Capitol Way, Room 206, Evergreen Plaza Building, PO Box 40908, Olympia, Washington 98504-0908. Any paper attachments must be on 8-1/2" x 11" white paper.

((STRICKEN GRAPHIC))



PDC FORM <b>F-1A</b> (2/05)	<b>PERSONAL FINANCIAL          AFFAIRS STATEMENT</b> Short Form	P M PDC OFFICE USE O A S R T K												
The F-1A form is designed to simplify reporting for persons who have no changes or only minor changes to an F-1 report previously filed. <b>A complete F-1 form must be filed at least every four years; an F-1A form may be used for no more than three consecutive reports.</b> <b>Deadlines:</b> Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position.		R E C E I V E D												
<table border="1"> <tr> <th>DOLLAR CODE</th> <th>AMOUNT</th> </tr> <tr> <td>A</td> <td>\$1 to \$2,999</td> </tr> <tr> <td>B</td> <td>\$3,000 to \$14,999</td> </tr> <tr> <td>C</td> <td>\$15,000 to \$29,999</td> </tr> <tr> <td>D</td> <td>\$30,000 to \$74,999</td> </tr> <tr> <td>E</td> <td>\$75,000 or more</td> </tr> </table>		DOLLAR CODE	AMOUNT	A	\$1 to \$2,999	B	\$3,000 to \$14,999	C	\$15,000 to \$29,999	D	\$30,000 to \$74,999	E	\$75,000 or more	
DOLLAR CODE	AMOUNT													
A	\$1 to \$2,999													
B	\$3,000 to \$14,999													
C	\$15,000 to \$29,999													
D	\$30,000 to \$74,999													
E	\$75,000 or more													

Last Name	First	Middle Initial	Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.
Mailing Address (Use PO Box or Work Address)			
City	County	Zip + 4	

Filing Status (Check only one box.) <input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional Staff	Office Held or Sought Office title: _____ County, city, district or agency of the office, name and number: _____ Position number: _____ Term begins: _____ ends: _____
---	--

Select either "No Change Report" or "Minor Change Report," whichever reflects your situation. Supply all the requested information.

- NO CHANGE REPORT.** I have reviewed my last complete F-1 report dated \_\_\_\_\_ and F-1A reports (if any) dated (1) \_\_\_\_\_ and (2) \_\_\_\_\_. The information disclosed on those reports is accurate for the current reporting period.
- MINOR CHANGES REPORT.** I have reviewed my last complete F-1 report dated \_\_\_\_\_. The changes listed below have occurred during the reporting period. Specify F-1 Form Item numbers describing changes. Provide all information required on F-1 report.

Check here  if continued on attached sheet

**FOOD TRAVEL SEMINARS** Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
Check here <input type="checkbox"/> if continued on attached sheet				

**ALL FILERS EXCEPT CANDIDATES.** Check the appropriate box.

- I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.
- I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.


**CERTIFICATION:** I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.

Signature _____	Date _____
Contact Telephone: (     ) _____	
Email: _____ (work)	
Email: _____ (Home)	

**Report Not Acceptable Without Filer's Signature**

((STRICKEN GRAPHIC))



 <p><b>PUBLIC DISCLOSURE COMMISSION</b>                  711 CAPITOL WAY RM 206                  PO BOX 40908                  OLYMPIA WA 98504-0908                  (360) 753-1111                  TOLL FREE 1-877-601-2828</p>	PDC FORM <h1 style="margin: 0;">F-1A</h1> (1/08)	<h2 style="margin: 0;">PERSONAL FINANCIAL AFFAIRS STATEMENT</h2> Short Form	P M PDC OFFICE USE O A S R T K  R E C E I V E D												
The F-1A form is designed to simplify reporting for persons who have no changes or only minor changes to an F-1 report previously filed. <b>A complete F-1 form must be filed at least every four years;</b> an F-1A form may be used for no more than three consecutive reports. <b>Deadlines:</b> Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position.		<table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <th style="text-align: left;">DOLLAR CODE</th> <th style="text-align: left;">AMOUNT</th> </tr> <tr> <td>A</td> <td>\$1 to \$3,999</td> </tr> <tr> <td>B</td> <td>\$4,000 to \$19,999</td> </tr> <tr> <td>C</td> <td>\$20,000 to \$39,999</td> </tr> <tr> <td>D</td> <td>\$40,000 to \$99,999</td> </tr> <tr> <td>E</td> <td>\$100,000 or more</td> </tr> </table>	DOLLAR CODE	AMOUNT	A	\$1 to \$3,999	B	\$4,000 to \$19,999	C	\$20,000 to \$39,999	D	\$40,000 to \$99,999	E	\$100,000 or more	
DOLLAR CODE	AMOUNT														
A	\$1 to \$3,999														
B	\$4,000 to \$19,999														
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D	\$40,000 to \$99,999														
E	\$100,000 or more														
Last Name First Middle Initial  Mailing Address (Use PO Box or Work Address)  City County Zip + 4		Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.													
Filing Status (Check only one box.) <input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional staff of the Governor's Office and the Legislature		Office Held or Sought Office title: _____ County, city, district or agency of the office, name and number: _____ Position number: _____ Term begins: _____ ends: _____													
Select either "No Change Report" or "Minor Change Report," whichever reflects your situation. Supply all the requested information. <input type="checkbox"/> <b>NO CHANGE REPORT.</b> I have reviewed my last complete F-1 report dated _____ and F-1A reports (if any) dated (1) _____ and (2) _____. The information disclosed on those reports is accurate for the current reporting period. <input type="checkbox"/> <b>MINOR CHANGES REPORT.</b> I have reviewed my last complete F-1 report dated _____. The changes listed below have occurred during the reporting period. Specify F-1 Form Item numbers describing changes. Provide all information required on F-1 report.															
Check here <input type="checkbox"/> if continued on attached sheet															
<b>FOOD TRAVEL SEMINARS</b> Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.															
Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount Value (Use Code)												
Check here <input type="checkbox"/> if continued on attached sheet															
<b>ALL FILERS EXCEPT CANDIDATES.</b> Check the appropriate box. <input type="checkbox"/> I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns. <input type="checkbox"/> I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.		<b>CERTIFICATION:</b> I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.  _____ Signature Date Contact Telephone: ( ) Email: _____(work) Email: _____(Home)													

**Report Not Acceptable Without Filer's Signature**

**Information Continued**

**F-1A**

Name

Select either "No Change Report" or "Minor Change Report," whichever reflects your situation. Supply all the requested information.

**NO CHANGE REPORT.** I have reviewed my last complete F-1 report dated \_\_\_\_\_ and F-1A reports (if any) dated (1) \_\_\_\_\_ and (2) \_\_\_\_\_. The information disclosed on those reports is accurate for the current reporting period.

**MINOR CHANGES REPORT.** I have reviewed my last complete F-1 report dated \_\_\_\_\_. The changes listed below have occurred during the reporting period. Specify F-1 Form Item numbers describing changes. Provide all information required on F-1 report.

**FOOD  
TRAVEL  
SEMINARS** (Continued)

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	

AMENDATORY SECTION (Amending WSR 92-08-105, filed 4/1/92, effective 5/2/92)

**WAC 390-24-202 Report of compensation from sales commissions.** When a person receives compensation in the form of a commission on sales, the reporting of the compensation, required in RCW 42.17.241, shall include:

- (1) The name and address of the person or persons through whom a commission was paid;
- (2) For purposes of RCW 42.17.241 (1)(f), the name and address of each person (other than an individual) for whom a service was rendered or to whom a product was sold that resulted in a commission of ~~\$(1,000)~~ 2,000 or more in the aggregate;
- (3) For purposes of RCW 42.17.241 (1)(g)(i), the name and address of each governmental unit for whom a service was rendered or to whom a product was sold that resulted in a commission;
- (4) For purposes of RCW 42.17.241 (1)(g)(ii), the name and address of each person (other than an individual) for whom a service was rendered or to whom a product was sold that resulted in a commission of ~~\$(5,000)~~ 10,000 or more in the aggregate.

AMENDATORY SECTION (Amending WSR 97-23-020, filed 11/10/97, effective 1/1/98)

**WAC 390-24-301 Changes in dollar amounts of reporting thresholds and code values.** Pursuant to the commission's authority in RCW 42.17.370(11) to revise the monetary reporting thresholds and code values found in chapter 42.17 RCW to reflect changes in economic conditions, the following revisions are made:

Statutory Section	Subject Matter	Revision Effective	
		Amount Enacted or Last Revised	January 1, <del>(1998)</del> <u>2008</u>
.241(1)(b)	Bank Accounts	<del>\$(10,000)</del> <u>15,000</u>	<del>\$(15,000)</del> <u>20,000</u>
.241(1)(b)	Other Intangibles	<del>\$(1,000)</del> <u>1,500</u>	<del>\$(1,500)</del> <u>2,000</u>
.241(1)(c)	Creditors	<del>\$(1,000)</del> <u>1,500</u>	<del>\$(1,500)</del> <u>2,000</u>
.241(1)(f)	Compensation	<del>\$(1,000)</del> <u>1,500</u>	<del>\$(1,500)</del> <u>2,000</u>
.241(1)(g)(ii)	Compensation to Business Entity	<del>\$(5,000)</del> <u>7,500</u>	<del>\$(7,500)</del> <u>10,000</u>
.241(1)(g)	Bank Interest Paid	<del>\$(1,200)</del> <u>1,800</u>	<del>\$(1,800)</del> <u>2,400</u>
.241(1)(h)	Real Property— Acquired	<del>\$(5,000)</del> <u>7,500</u>	<del>\$(7,500)</del> <u>10,000</u>
.241(1)(i)	Real Property— Divested	<del>\$(5,000)</del> <u>7,500</u>	<del>\$(7,500)</del> <u>10,000</u>
.241(1)(j)	Real Property— Held	<del>\$(5,000)</del> <u>7,500</u>	<del>\$(7,500)</del> <u>10,000</u>
.241(1)(k)	Real Property— Business	<del>\$(10,000)</del> <u>15,000</u>	<del>\$(15,000)</del> <u>20,000</u>
<del>(.241(1)(l))</del>	<del>Food and Beverages</del>	<del>\$50</del>	<del>(\$50)</del>
.241(2)	Dollar Code A	Up to <del>\$(1,999)</del> <u>2,999</u>	Up to <del>\$(2,999)</del> <u>3,999</u>

Dollar Code B	<del>(\$2,000— \$9,999)</del> <u>\$3,000— \$14,999</u>	<del>(\$3,000— \$14,999)</del> <u>\$4,000— \$19,999</u>
Dollar Code C	<del>(\$10,000— \$19,999)</del> <u>\$15,000— \$29,999</u>	<del>(\$15,000— \$29,999)</del> <u>\$20,000— \$39,999</u>
Dollar Code D	<del>(\$20,000— \$49,999)</del> <u>\$30,000— \$74,999</u>	<del>(\$30,000— \$74,999)</del> <u>\$40,000— \$99,999</u>
Dollar Code E	<del>\$(50,000)</del> <u>75,000 and up</u>	<del>\$(75,000)</del> <u>100,000 and up</u>

**WSR 07-21-044  
PROPOSED RULES  
BOARD OF INDUSTRIAL  
INSURANCE APPEALS**

[Filed October 10, 2007, 1:03 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Chapter 263-12 WAC, Practice and procedure before the board of industrial insurance appeals.

Hearing Location(s): Board of Industrial Insurance Appeals, Main Conference Room, 2430 Chandler Court S.W., Olympia, WA 98502, on November 28, 2007, at 11:00 a.m.

Date of Intended Adoption: November 29, 2007.

Submit Written Comments to: David E. Threedy, P.O. Box 42401, Olympia, WA 98502, e-mail [threedy@biaa.wa.gov](mailto:threedy@biaa.wa.gov), fax (360) 586-5611, by November 21, 2007.

Assistance for Persons with Disabilities: Contact Donald Ball by November 14, 2007, (360) 753-6823 ext. 183.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To revise the board's rules of practice and procedure by amending WAC 263-12-016, 263-12-018, 263-12-115, 263-12-135, and 263-12-165; and by adding new section WAC 263-12-092 regarding mediation conferences.

WAC 263-12-016, the proposed revision amends the RCW chapter regarding public record information.

WAC 263-12-018, the proposed revision amends the RCW chapter regarding public record information.

WAC 263-12-115, the proposed revisions adds the language "or willful misrepresentation" to subsection (2)(a) regarding the presentation of evidence.

WAC 263-12-135, the proposed revision adds language indicating that the record in any appeal disposed of by order denying appeal or order granting relief on the record as provided in RCW 51.52.080, shall include those documents found in the department record that are relevant to the board's disposition.

WAC 263-12-165, amends language to a more clear and concise format.

WAC 263-12-092, adds a section regarding mediation conferences.

Reasons Supporting Proposal: Rules are being modified to meet current business needs.

Statutory Authority for Adoption: RCW 51.52.020.

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

Name of Proponent: Board of industrial insurance appeals, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David E. Threedy, 2430 Chandler Court S.W., Olympia, WA 98502, (360) 753-6823.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no impact on financial issues in the amendments being made. They are basically clarification of procedural rules relating to administrative hearings.

A cost-benefit analysis is not required under RCW 34.05.328. These rule changes are not legislative; they relate to procedures related to agency hearings or clarify language of a rule without changing its effect.

October 9, 2007

David E. Threedy  
Executive Secretary

#### NEW SECTION

**WAC 263-12-092 Mediation conferences.** (1) A statement made by any party, representative or other participant in the course of mediation conducted pursuant to RCW 51.52.095, whether verbal or written, is privileged as provided in subsection (2) of this section and is not subject to discovery or admissible in evidence in a proceeding unless waived or reduced to writing and made part of a settlement agreement.

(2) In a proceeding, the following privileges apply: (a) A mediation party may refuse to disclose and may prevent any other person from disclosing a statement; (b) A mediator may refuse to disclose and may prevent any other person from disclosing a statement of the mediator; and (c) A non-party participant may refuse to disclose and may prevent any other person from disclosing a statement of the non-party participant.

(3) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation unless otherwise privileged by section 2 (a)-(c) above.

(4) Mediation conferences are confidential and non-parties may be excluded from the proceedings.

AMENDATORY SECTION (Amending WSR 00-23-021, filed 11/7/00, effective 12/8/00)

**WAC 263-12-016 Public records—Location.** (1) Public records available. All public records of the board as defined in chapter 42.~~((47))~~56 RCW are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.~~((47-340))~~56.210-480.

(2) General information concerning the board may be obtained at its headquarters, 2430 Chandler Ct. S.W., P.O. Box 42401, Olympia, Washington 98504-2401.

(3) Public records officer. The public records officer shall be responsible for the following: The implementation of the board's rules and regulations regarding release of public records, coordinating the staff of the board in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 42.~~((47))~~56 RCW.

(4) Indices are available providing identifying information as to the following: (a) Final decisions and orders of the board, including concurring and dissenting opinions; (b) proposed decisions and orders of the board's industrial appeals judges; (c) in addition, any indices maintained for intra-agency use are available for public inspection and copying.

(5) No fee will be charged for inspection of public records. Inspection will be during office hours in a space provided by the board and must be accomplished without excessive interference with the essential functions of the agency, and without causing damage or disorganization to public records.

(6) A fee shall be charged for copies of documents made with the board's equipment in an amount necessary to cover the cost to the agency of providing such service.

AMENDATORY SECTION (Amending WSR 86-03-021 (Order 20), filed 1/10/86)

**WAC 263-12-018 Public records—Exemptions.** (1) The board shall determine which public records requested in accordance with these rules are exempt under the provisions of RCW 42.~~((47-340))~~56.210-480.

(2) Pursuant to RCW 42.~~((47-260))~~56.070, the board may delete identifying details when it makes available or publishes any public record in any case where there is reason to believe that disclosure of such details would be an invasion of personal privacy.

(3) Denials of requests for public records will be accompanied by a written statement specifying the reason for the denial. A statement of the specific exemption in chapter 42.~~((47))~~56 RCW authorizing withholding the record and a brief explanation of how the exemption applies to the record held will be included.

AMENDATORY SECTION (Amending WSR 03-02-038, filed 12/24/02, effective 1/24/03)

**WAC 263-12-115 Procedures at hearings.** (1) **Industrial appeals judge.** All hearings shall be conducted by an industrial appeals judge who shall conduct the hearing in an orderly manner and rule on all procedural matters, objections and motions.

(2) **Order of presentation of evidence.**

(a) In any appeal under either the Industrial Insurance Act, the Worker and Community Right to Know Act or the Crime Victims Compensation Act, the appealing party shall initially introduce all evidence in his or her case-in-chief except that in an appeal from an order of the department that alleges fraud or willful misrepresentation the department or

self-insured employer shall initially introduce all evidence in its case-in-chief.

(b) In all appeals subject to the provisions of the Washington Industrial Safety and Health Act, the department shall initially introduce all evidence in its case-in-chief.

(c) After the party with the initial burden has presented his or her case-in-chief, the other parties may then introduce the evidence necessary to their cases-in-chief. In the event there is more than one other party, they may either present their cases-in-chief successively or may join in their presentation. Rebuttal evidence shall be received in the same order. Witnesses may be called out of turn in contravention of this rule only by agreement of all parties.

(3) **Objections and motions to strike.** Objections to the admission or exclusion of evidence shall be in short form, stating the legal grounds of objection relied upon. Extended argument or debate shall not be permitted.

(4) **Rulings.** The industrial appeals judge on objection or on his or her own motion shall exclude all irrelevant or unduly repetitious evidence and statements that are inadmissible pursuant to WAC 263-12-095(5). All rulings upon objections to the admissibility of evidence shall be made in accordance with rules of evidence applicable in the superior courts of this state.

(5) **Interlocutory appeals to the board - Confidentiality of trade secrets.** A direct appeal to the board shall be allowed as a matter of right from any ruling of an industrial appeals judge adverse to the employer concerning the confidentiality of trade secrets in appeals under the Washington Industrial Safety and Health Act.

(6) **Interlocutory review by a chief industrial appeals judge.**

(a) Except as provided in subsection (5) of this section interlocutory rulings of the industrial appeals judge are not subject to direct review by the board. A party to an appeal or a witness who has made a motion to quash a subpoena to appear at board related proceedings, may within five working days of receiving an adverse ruling from an industrial appeals judge request a review by a chief industrial appeals judge or his or her designee. Such request for review shall be in writing and shall be accompanied by an affidavit in support of the request and setting forth the grounds for the request, including the reasons for the necessity of an immediate review during the course of conference or hearing proceedings. Within ten working days of receipt of the written request, the chief industrial appeals judge, or designee, may decline to review the ruling based upon the written request and supporting affidavit; or, after such review as he or she deems appropriate, may either affirm or reverse the ruling, or refer the matter to the industrial appeals judge for further consideration.

(b) Failure to request review of an interlocutory ruling shall not constitute a waiver of the party's objection, nor shall an unfavorable response to the request preclude a party from subsequently renewing the objection whenever appropriate.

(c) No conference or hearing shall be interrupted for the purpose of filing a request for review of the industrial appeals judge's rulings; nor shall any scheduled proceedings be canceled pending a response to the request.

(7) **Recessed hearings.** Where, for good cause, all parties to an appeal are unable to present all their evidence at the

time and place originally set for hearing, the industrial appeals judge may recess the hearing to the same or a different location so as to insure that all parties have reasonable opportunity to present their respective cases. No written "notice of hearing" shall be required as to any recessed hearing.

(8) **Failure to present evidence when due.** If any party is due to present certain evidence at a hearing or recessed hearing and, for any reason on its part, fails to appear and present such evidence, the industrial appeals judge may conclude the hearing and issue a proposed decision and order on the record, or recess or set over the proceedings for further hearing for the receipt of such evidence.

(9) **Offers of proof in colloquy.** When an objection to a question is sustained an offer of proof in question and answer form shall be permitted unless the question is clearly objectionable on any theory of the case.

AMENDATORY SECTION (Amending WSR 00-23-021, filed 11/7/00, effective 12/8/00)

**WAC 263-12-135 Record.** The record in any contested case shall consist of the order of the department, the notice of appeal therefrom, all orders issued by the board (including litigation orders and judge's report of proceeding), responsive pleadings, if any, and notices of appearances, and any other written applications, motions, stipulations or requests duly filed by any party. Such record shall also include all depositions, the transcript of testimony and other proceedings at the hearing, together with all exhibits offered. No part of the department's record or other documents shall be made part of the record of the board unless offered in evidence.

The record in any appeal disposed of by order denying appeal or order granting relief on the record as provided in RCW 51.52.080, shall include those documents found in the Department record that are relevant to the board's disposition.

AMENDATORY SECTION (Amending WSR 95-12-062, filed 6/5/95, effective 7/6/95)

**WAC 263-12-165 Attorney's fees.** (1) **Applications for attorney's fees.** (a) For the fixing of attorney fees as provided by RCW 51.52.120, ((F))the board shall fix a reasonable attorney fee to be paid by the worker, crime victim or beneficiary for services rendered before the board if written application therefor is made by the attorney, worker, crime victim or beneficiary, ((as provided in RCW 51.52.120,)) within one year after the board's final decision and order is communicated to the party making the application. If such application for fixing of a fee is made by the attorney, it shall set forth therein the monetary amount which the attorney considers reasonable for all services rendered before the board in an appeal and the justification supporting the requested fee. The board shall afford to all parties affected a minimum of ten days in which to submit comments and material information which may be helpful to the board in setting a fair and reasonable fee.

(b) For the ordered payment of attorney fees as provided by RCW 51.32.185, the board shall set the attorney fee in a manner consistent with applicable provisions of subsections (2) and (3) below.

(2) **Fee fixing criteria.** All attorney fees fixed by the board, where application therefor has been made, shall be established in accordance with Rule 1.5 of the Rules of Professional Conduct and the following general principles:

(a) Only one fee shall be fixed for legal services in any one appeal regardless of the number of attorneys representing the worker, crime victim or beneficiary, except that in cases of multiple beneficiaries represented by one or multiple attorneys the board has the discretion to set more than one attorney fee if so requested.

(b) The board shall defer fixing a fee until such time as information, which it deems sufficient upon which to base a fee, is available.

(c) A fee shall be fixed only in those cases where the attorney's services are instrumental in securing additional benefits to the worker, crime victim or beneficiary or in sustaining the worker's or beneficiary's right to benefits upon an appeal by another party.

(d) Where increased compensation is obtained, the fee may be fixed without regard to any medical benefits secured.

(e) In setting all fees, the following factors shall be carefully considered and weighed:

(i) Nature of the appeal.

(ii) Novelty and complexity of the issues presented or other unusual circumstances.

(iii) Time and labor expended.

(iv) Skill and diligence in conducting the case.

(v) Extent and nature of the relief. In computing the extent of additional benefits, or the retention of benefits awarded by the department, the cost to the worker, crime victim or beneficiary of the litigation, i.e., medical examination and witness fees, shall be first deducted and the net benefits considered.

(vi) The amount of accrued time-loss payments as a result of proceedings before the board.

(vii) The prevalent practice of charging contingency fees in cases before the board.

(viii) The worker's or crime victim's circumstances and the remedial social purposes of the Industrial Insurance Act and of the Crime Victims Compensation Act, which are intended to provide sure and adequate relief to injured workers and crime victims and their families.

(f) In those cases where the payment of accumulated benefits is insufficient to allow payment of the fee set and allow the worker, crime victim or beneficiary to retain a reasonable monetary amount, the board may also set the schedule and manner in which such fee shall be payable.

**(3) Amount of fees.**

(a) Where additional compensation for permanent partial disability, loss of earning power, or total temporary disability is obtained as a result of settlement of the appeal on agreement of the parties prior to presentation of testimony, a fee of from 10 to 25 percent of the increased compensation due the worker, crime victim or beneficiary on the date of the board's order on agreement of the parties and by reason thereof shall be fixed after considering all factors.

(b) Where additional compensation for permanent partial disability, loss of earning power or total temporary disability is obtained after the presentation of testimony, a fee of from 10 to 30 percent of the increased compensation shall be fixed

after considering all factors. This provision shall also apply to retroactive permanent total disability (pension) benefits.

(c) Where no additional compensation is obtained, but the worker or crime victim is relieved of the payment for medical benefits, a fee of from 10 to 25 percent of the amount the worker or crime victim is so relieved of paying shall be fixed after considering all factors.

(d) Where permanent total disability (pension) benefits are obtained for survivors of a deceased worker or crime victim, 10 percent of the first \$40,000.00 of the pension reserve as calculated by the department of labor and industries, and 15 percent of the pension reserve in excess of \$40,000.00 shall constitute the usual fee, which may be decreased or increased after weighing all factors.

(e) Where indeterminate additional compensation is obtained because the claimant is successful in establishing a proper claim for benefits which was previously rejected or for which responsibility was denied, a fee in accordance with the preceding principles and factors shall be fixed.

(f) Where, upon an appeal by a party other than the worker or his or her beneficiary, the right to receive the benefits awarded by the department is affirmed, a fee in accordance with the preceding principles and factors shall be fixed.

(4) **Excess fee unlawful.** Where the board, pursuant to written application by an attorney, worker, crime victim or beneficiary, fixes a reasonable fee for the services of the attorney in proceedings before this board, it is unlawful for the attorney to charge or receive any fee for such services in excess of that fee so fixed, per RCW 51.52.132.

**WSR 07-21-058**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed October 12, 2007, 8:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-14-098.

Title of Rule and Other Identifying Information: The department is amending WAC 388-406-0005 Can I apply for cash, medical, or Basic Food?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on November 27, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 28, 2007.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [schilse@dshs.wa.gov](mailto:schilse@dshs.wa.gov), fax (360) 664-6185, by 5 p.m. on November 27, 2007.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS Rules Consultant, by November 20, 2007, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This change would allow youth confined in juvenile rehabilitation administration (JRA) and county juvenile detention facilities to apply for medical assistance forty-five days prior to release from confinement. The change is noted in subsection (9) of WAC 388-406-0005. The proposal also clarifies language in subsection (8) to reflect current policies and practice. Subsection (8) was revised to more accurately mirror the language in subsection (7).

Reasons Supporting Proposal: The additional language in subsection (9) is necessary to allow applications for youth prior to release from confinement as required by chapter 359, Laws of 2007, signed by Governor Christine O. Gregoire on May 8, 2007. The revision in subsection (8) is necessary to more accurately mirror the policy in subsection (7).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.060, 74.08.090, 74.09.555.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.060, 74.08.090, 74.09.555.

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

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

Name of Agency Personnel Responsible for Drafting: Logan MacGregor, 1009 College S.E., Lacey, WA 98504, (360) 725-4605; Implementation and Enforcement: Sharon Fedder, 1009 College S.E., Lacey, WA 98504, (360) 725-4517.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by allowing youth confined in JRA facilities and county detention facilities to apply for expedited medical benefits upon release.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

October 8, 2007

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-08-047, filed 3/30/06, effective 4/30/06)

**WAC 388-406-0005 Can I apply for cash, medical, or Basic Food?** (1) You can apply for any benefit the department offers, including cash assistance, medical assistance, or Basic Food.

(2) You must meet certain eligibility requirements in order to receive a program benefit.

(3) You can apply for someone else if you are:

(a) A legal guardian, caretaker, or authorized representative applying for:

- (i) A dependent child;
- (ii) An incapacitated person; or
- (iii) Someone who is deceased.

(b) Applying for someone who cannot apply for some other reason. We may ask why the applicant is unable to apply on their own behalf.

(4) If you get Supplemental Security Income (SSI), you do not need to apply for medical benefits. We automatically open medical benefits for you.

(5) A person or agency may apply for GAU or medical assistance for you if:

- (a) You temporarily live out-of-state; and
- (b) You are a Washington state resident.

(6) When you are confined or incarcerated in a Washington state public institution, you may apply for cash or medical assistance within forty-five days prior to your expected release date if you meet the following criteria:

(a) You are confined by or in the following public institutions:

- (i) Department of corrections;
- (ii) City or county jail; or
- (iii) Institution for mental diseases (IMD).

(b) Staff at the public institution provide medical records including diagnosis by a mental health professional that you have a mental disorder (as defined in the Diagnostic and Statistical Manual of Psychiatric Disorders, most recent edition) that affects your thoughts, mood or behavior so severely that it prevents you from performing any kind of work.

(7) ~~((The department))~~ We will make an eligibility determination for medical assistance prior to your release from confinement and will authorize medical benefits upon your release from confinement when you:

- (a) Meet the criteria of subsection (6) in this section; and
- (b) Were receiving Medicaid or general assistance benefits immediately before confinement or within the five years prior to confinement.

(8) If you meet the criteria in subsection (6) but did not receive Medicaid or general assistance benefits within the ~~((past))~~ five years prior to confinement, the department will process your request for medical assistance within the time frames in WAC 388-406-0035.

(9) If you are applying for assistance for a youth leaving incarceration in a Juvenile Rehabilitation Administration or county juvenile detention facility, you may apply for assistance within forty-five days prior to release. We will process your application for medical assistance when we receive it and if eligible, we will authorize medical benefits upon your release from confinement.

**WSR 07-21-067**

**PROPOSED RULES**

**PUBLIC EMPLOYMENT  
RELATIONS COMMISSION**

[Filed October 14, 2007, 2:59 p.m.]

Supplemental Notice to WSR 07-17-070.

Preproposal statement of inquiry was filed as WSR 07-13-039.

Title of Rule and Other Identifying Information: Amendments to chapters 391-08, 391-25, 391-35, 391-45, 391-55, 391-65, and 391-95 WAC.

Hearing Location(s): PERC Headquarters Large Conference Room, 112 Henry Street N.E., Suite 300, Olympia, WA 98504-0919, on December 7, 2007, at 10:00. Please visit [www.perc.wa.gov](http://www.perc.wa.gov) for more information.

Date of Intended Adoption: January 15, 2008.

Submit Written Comments to: Kenneth J. Latsch, Rules Coordinator, P.O. Box 40919, Olympia, WA 98504, e-mail [KLatsch@perc.wa.gov](mailto:KLatsch@perc.wa.gov), fax (360) 570-7334, by October 26, 2007.

Assistance for Persons with Disabilities: Contact Jim Lohr by November 28, 2008 [2007], (360) 570-7310.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To streamline agency practices and procedures, including updating rules to reflect administrative changes in agency functions, update certain rules adopted under the Personnel System Reform Act of 2002 to reflect a greater integration into standard agency practice, repeal certain rules adopted under the Personnel System Reform Act of 2002 that are no longer necessary, and amending certain rules to recommendations by clientele and agency staff to make certain changes in agency practice and procedure. Examples of housekeeping amendments and changes to chapter 391-08 WAC and all areas of practice and procedure, include adopting rules pertaining to public records requests and placing a page limit upon briefs filed with the agency during proceedings under the Administrative Procedure Act, and clarifying when a decision is ripe for appeal before the full commission. Housekeeping amendments and changes in representation rules, chapter 391-25 WAC, include changes to lifespan of showing of interest cards, changes regarding an employer's obligation to maintain the status quo during the pendency of a representation election, and clarifying the cut-off date for employee eligibility to vote in representation elections. Housekeeping amendments and changes in unit clarification rules, chapter 391-35 WAC, include bargaining unit configurations under chapter 184, Laws of 2007 and RCW 41.56.060(2). Housekeeping amendments and changes in unfair labor practice rules, chapter 391-45 WAC, include clarifying the preliminary ruling process and adopting settlements conference rules. Housekeeping rules to impasse resolution rules, chapter 391-55 WAC, include clarifying that the code of professional conduct for labor mediators applies to agency mediators, clarification of interest arbitration processes, and clarifying that the fact-finding rules apply to state civil service employees under chapter 41.80 RCW. Housekeeping amendments and changes to grievance arbitration rules, chapter 391-65 WAC, including a clarification that the agency does not pay for expenses. Housekeeping amendments and changes to union security dispute rules, chapter 391-95 WAC, include clarifying union's obligation under chapter 41.80 RCW.

Reasons Supporting Proposal: This supplemental notice includes new proposals not included in WSR 07-17-070 and changes to rules originally proposed in WSR 07-17-070. Additionally, date of intended adoption for all proposals,

including those posted in WSR 07-17-070 is January 15, 2008.

Statutory Authority for Adoption: WAC 391-08-010 is RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080; for WAC 391-25-051, 391-25-210, and 391-35-301 is RCW 41.56.060, 41.56.090, 41.58.050; for WAC 391-25-110, 391-25-140, 391-25-350, 391-25-370, 391-25-390, 391-25-530, 391-35-020, 391-35-170, 391-35-190, 391-45-290, 391-45-310, 391-45-350, 391-95-010, 391-95-030, 391-95-050, 391-95-070, 391-95-130, 391-95-220, 391-95-230 and 391-95-250 is RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060; for WAC 391-25-397 and 391-35-026 is RCW 41.58.050, 41.80.080; and for WAC 391-95-036, 391-95-056, 391-95-076 and 391-95-136 is RCW 41.58.050, 41.80.100.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The agency is proposing that these rules changes be adopted.

Name of Agency Personnel Responsible for Drafting: Dario de la Rosa, 112 Henry Street, Suite 300, Olympia, WA 98504, (360) 570-7328; Implementation and Enforcement: Kenneth J. Latsch, 112 Henry Street, Suite 300, Olympia, WA 98504, (360) 570-7320.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Agency rules only obligate public employers, public employees, and unions representing public employees, and do not impose costs on profit-making businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Agency rules are excepted by RCW 34.05.328 (5)(a)(i).

October 4, 2007  
Dario de la Rosa  
General Counsel

AMENDATORY SECTION (Amending WSR 00-14-048, filed 6/30/00, effective 8/1/00)

**WAC 391-08-010 Appearance and practice before agency—Who may appear—Notice of appearance.** (1) No person may appear in a representative capacity before the agency other than the following:

- (a) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;
- (b) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law;
- (c) A bona fide officer, employee or other authorized representative of: (i) Any employer subject to the jurisdiction of the agency, ~~((or))~~ (ii) any labor or employee organization, or (iii) individual.

(2) Except where the information is already listed in the agency's docket records for the particular case, a person appearing in a representative capacity shall file and serve a



notice of appearance listing the representative's name, address, telephone number, fax number, and e-mail address.

AMENDATORY SECTION (Amending WSR 03-03-064, filed 1/14/03, effective 2/14/03)

**WAC 391-25-051 Special provision—Individual providers ~~(under)~~ of home care ~~((quality authority))~~ under RCW 74.39A.270 and 74.39A.300—Child care providers under RCW 41.56.208—Adult family home providers under RCW 41.56.029.** This rule consolidates special rules applicable to:

(1) Individual providers under ~~((chapter 3, Laws of 2002, Initiative Measure No. 775 (I-775) passed by Washington voters in November of 2001. I-775 extended))~~ RCW 74.39A.270 and 74.39A.300, which extend the coverage of chapter 41.56 RCW to "individual providers" defined as a person, including a personal aide, who has contracted with the department of social and health services to provide personal care or respite care services to functionally disabled persons under the Medicaid personal care, community options program entry system, chore services program, or respite care program, or to provide respite care or residential services and support to persons with developmental disabilities under chapter 71A.12 RCW, or to provide respite care as defined in RCW 74.13.270.

~~((H))~~ (2) Child care providers under RCW 41.56.028, which extends coverage of chapter 41.56 RCW to "child care providers" defined as persons who:

(a) Provide regularly scheduled care for a child or children in the home of the provider or in the home of the child or children for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours;

(b) Receive child care subsidies; and

(c) Are either licensed by the state under RCW 74.15.030 or are exempt from licensing under chapter 74.15 RCW.

(3) Adult family home providers under RCW 41.56.029, which extends coverage of chapter 41.56 RCW to "adult family home providers" who are persons defined as a provider as defined in RCW 70.128.010 who receives payments from the Medicaid and state-funded long-term care programs.

(4) The showing of interest requirement in WAC 391-25-110 is modified for the bargaining unit affected by ~~((I-775))~~ RCW 74.39A.270 and 74.39A.300, to require a ten percent showing of interest for either a petitioner or an intervenor.

~~((Z))~~ (5) The posting of notice requirement in WAC 391-25-140 is inapplicable to the bargaining unit affected by ~~((I-775))~~ RCW 74.39A.270, 74.39A.300, 41.56.028 and 41.56.029.

~~((Z))~~ (6) A party wishing to participate as an intervenor in representation proceedings governed by this rule must file a motion to intervene no later than ten days following receipt of the petition for investigation of a question concerning representation.

(7) The description of bargaining unit requirement of WAC 391-25-190 is limited to a single, statewide unit of:

(a) Individual providers under ~~((I-775))~~ RCW 74.39A.270 and 74.39A.300; or

(b) Child care providers under RCW 41.56.028; or

(c) Adult family home providers under RCW 41.56.029.

~~((4))~~ (8) The description of bargaining unit requirement of WAC 391-25-210(2) is limited to a single, statewide unit of:

(a) Individual providers under ~~((I-775))~~ RCW 74.39A.270 and 74.39A.300; or

(b) Child care providers under RCW 41.56.028; or

(c) Adult family home providers under RCW 41.56.029.

~~((5))~~ (9) The provisions of WAC 391-25-210(3) relating to alternative units or mergers of units are inapplicable to the bargaining unit affected by ~~((I-775))~~ RCW 74.39A.270, 74.39A.300, 41.56.028 and 41.56.029.

~~((6))~~ (10) The posting requirement in WAC 391-25-220(2), relating to investigation statements, is inapplicable to the bargaining unit affected by ~~((I-775))~~ RCW 74.39A.270, 74.39A.300, 41.56.028 and 41.56.029.

~~((7))~~ (11) The posting requirement in WAC 391-25-230(2), relating to election agreements, is inapplicable to the bargaining unit affected by ~~((I-775))~~ RCW 74.39A.270, 74.39A.300, 41.56.028 and 41.56.029.

~~((8))~~ (12) The cross-check procedures in WAC 391-25-250, 391-25-391, and 391-25-410 are inapplicable to the bargaining unit affected by ~~((I-775))~~ RCW 74.39A.270, 74.39A.300, 41.56.028 and 41.56.029.

~~((9))~~ (13) The unit determination election procedures in WAC 391-25-420 are inapplicable to the bargaining unit affected by ~~((I-775))~~ RCW 74.39A.270, 74.39A.300, 41.56.028 and 41.56.029.

~~((H))~~ (14) The requirements of WAC 391-25-430, relating to posting of election notices on the employer's premises, is inapplicable to the bargaining unit affected by ~~((I-775))~~ RCW 74.39A.270, 74.39A.300, 41.56.028 and 41.56.029.

~~((H))~~ (15) Any representation election for the bargaining unit affected by ~~((I-775))~~ RCW 74.39A.270, 74.39A.300, 41.56.028 and 41.56.029 shall be conducted by mail ballot under WAC 391-25-470, with the following modifications:

(a) Together with the procedures for casting ballots, the notice supplied to ~~((individual providers))~~ employees may describe the collective bargaining rights established by ~~((I-775))~~ RCW 74.39A.270, 74.39A.300, 41.56.028 and 41.56.029 and agreements reached by a petitioning union and the employer concerning the election process;

(b) The notice and ballot materials supplied to ~~((individual providers))~~ employees shall be set forth in English ~~((and Spanish))~~ and any other language the agency deems reasonably necessary to conduct a fair election;

(c) The ballot materials supplied to ~~((individual providers))~~ employees shall include a card return-addressed to the commission, by which ~~((individual providers))~~ eligible voters can individually request notice and ballot materials in ~~((Cambodian, Korean, Mandarin, Russian, Tagalog, Ukrainian, or Vietnamese))~~ languages other than those received. Upon receipt of such a request ~~((from an individual provider))~~ card, the agency shall promptly supply notice and ballot materials to the ~~((individual provider))~~ eligible voter in the requested language.

(d) At least ~~((twenty-four))~~ twenty-one days shall be provided between the date on which ballot materials are mailed to ~~((individual providers))~~ employees and the deadline for return of cast ballots to the commission.

(e) The executive director shall have discretion to vary tally arrangements and procedures from those customarily used, because of the large size of the bargaining unit involved.

(f) The reference in ~~((WAC 391-25-470 to))~~ WAC 391-25-140 through 391-25-470 shall be interpreted in light of subsection ~~((2))~~ (5) of this section.

~~((12))~~ (16) The procedure for on-site elections in WAC 391-25-490 is inapplicable to the bargaining unit affected by ~~((1-775))~~ RCW 74.39A.270, 74.39A.300, 41.56.028 and 41.56.029.

AMENDATORY SECTION (Amending WSR 01-14-009, filed 6/22/01, effective 8/1/01)

**WAC 391-25-110 Supporting evidence—Showing of interest confidential.** (1) A petition filed by employees or an employee organization shall be accompanied by a showing of interest indicating that the petitioner has the support of thirty percent or more of the employees in the bargaining unit which the petitioner claims to be appropriate. The showing of interest shall be furnished under the same timeliness standards applicable to the petition, and shall consist of original or legible copies of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. Authorization cards or letters shall not be valid unless signed and dated during the one-year period preceding the filing of the petition.

(2) The agency shall not disclose the identities of employees whose authorization cards or letters are furnished to the agency in proceedings under this chapter.

(a) A petitioner or intervenor shall not serve its showing of interest on any other party to the proceeding.

(b) The question of whether a showing of interest requirement for a petition or for intervention has been satisfied is a matter for administrative determination by the agency and may not be litigated at any hearing.

(c) In order to preserve the confidentiality of the showing of interest and the right of employees freely to express their views on the selection of a bargaining representative, the agency shall not honor any attempt to withdraw any authorization submitted for purposes of this section.

AMENDATORY SECTION (Amending WSR 01-14-009, filed 6/22/01, effective 8/1/01)

**WAC 391-25-140 Notice to employees—Limitations on employer actions.** (1) The employer shall post a copy of the petition and a notice, in the form specified by the commission, to inform employees of the existence of proceedings under this chapter. The agency shall furnish the employer with copies of the petition and notice, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted. The petition and notice shall remain posted until a certification or interim certification is issued in the proceeding.

(2) Changes of the status quo concerning wages, hours or other terms and conditions of employment of employees in the bargaining unit are prohibited during the period that a petition is pending before the commission under this chapter.

(3) The employer shall not express or otherwise indicate any preference between competing organizations, where two or more employee organizations are seeking to represent its employees.

(4) Where a petition filed under this chapter involves employees who are represented for the purposes of collective bargaining, the employer shall suspend negotiations with the incumbent exclusive bargaining representative on a successor collective bargaining agreement involving employees affected by the petition. The employer and incumbent union may proceed with negotiations covering employees not affected by the petition, and shall resume negotiations on a successor agreement covering the affected employees after the question concerning representation is resolved, if the incumbent exclusive bargaining representative retains its status.

(5) When an order of dismissing under WAC 391-25-390 (1)(a) is served upon the parties, the obligations to maintain the status quo under subsection (2) of this section and suspend negotiations with the incumbent exclusive bargaining representative under subsection (4) of this section are lifted.

(a) If a party to the proceeding files a timely notice of appeal of the order of dismissal, then the obligations under subsections (2) and (4) of this section shall be reinstated once the parties to the proceeding are served the notice of appeal. Those obligations shall remain in effect until a final order is issued by the commission under WAC 391-25-670, unless governed by (b) of this subsection.

(b) Where a timely filed notice of appeal reinstates the obligation to maintain the status quo or suspend bargaining, any party to the proceeding may petition the commission to stay either of those obligations where the petitioning party demonstrates a need for a change in terms and conditions of employment due to circumstances that are beyond that party's control, or where the failure to resume bargaining would substantially harm the petitioned-for employees and leave them without an adequate administrative remedy. A petition filed under this subsection shall be accompanied by affidavits and evidence.

(c) Following the receipt of a petition under (b) of this subsection, the due date for any counter-affidavits from other parties is seven days following the date on which that party is served with the petition.

(d) The executive director shall forward all petitions and affidavits to the commission, who shall determine whether to stay the obligations under subsections (2) and (4) of this section at the next regularly scheduled commission meeting.

(e) If the commission uses its authority under (b) of this subsection, any party seeking review of the commission's decision shall seek relief through the courts.

AMENDATORY SECTION (Amending WSR 03-11-029, filed 5/15/03, effective 6/15/03)

**WAC 391-25-210 Bargaining unit configurations.** (1) In proceedings on a petition for "decertification" under WAC 391-25-070 (6)(c) or 391-25-090(2), the parties shall not be permitted to remove positions from or add positions to the existing bargaining unit;

(2) An organization which files a motion for intervention under WAC 391-25-190 shall not be permitted to seek a bargaining unit configuration different than proposed by the original petitioner.

(3) If petitions filed by two or more organizations under this chapter are pending before the agency at the same time and involve any or all of the same employees, the timeliness of the respective petitions and the sufficiency of the respective showings of interest shall be determined separately and the proceedings shall be consolidated for resolution of all issues concerning the description(s) of the bargaining unit(s). A petition filed after the issuance of a notice of election in another proceeding under WAC 391-25-430 or after the commencement of a cross-check in another proceeding under WAC 391-25-410 shall be dismissed as untimely.

(4) A party to proceedings under this chapter shall not be permitted to propose more than one bargaining unit configuration for the same employee or employees, except where a merger of bargaining units is proposed under WAC 391-25-420.

(5) Where a petitioning union seeks severance of a portion of an existing bargaining unit of classified employees at a school district or educational service district, appropriate bargaining units existing on July 25, 2005, may not be divided into more than one appropriate bargaining unit without the agreement of the employer and certified bargaining representative of the unit where severance is sought.

AMENDATORY SECTION (Amending WSR 01-14-009, filed 6/22/01, effective 8/1/01)

**WAC 391-25-350 Hearings—Reopening of hearings—Briefs.** (1) Hearings shall be public, except where a protective order is issued under WAC 10-08-200(7), and shall be limited to matters concerning the determination of a question concerning representation.

(a) The parties shall be responsible for the presentation of their cases.

(b) The hearing officer shall ascertain the respective positions of the parties, to obtain a full and complete factual record upon which the agency may discharge its responsibilities under the applicable statute. The hearing officer has authority, under WAC 10-08-200 (8) and (9), to ask questions, call witnesses, and explore matters not raised or only partially raised by the parties.

(2) Once a hearing has been declared closed, it may be reopened only upon the timely motion of a party upon discovery of new evidence which could not with reasonable diligence have been discovered and produced at the hearing.

(3) The hearing officer may allow or direct the filing of briefs as to any or all of the issues in a case. Arrangements and due dates for briefs shall be established by the hearing officer. Any brief shall be filed with the hearing officer as

required by WAC 391-08-120(1), and copies shall be served on all other parties to the proceeding as required by WAC 391-08-120 (3) and (4).

(4) A party filing a brief under this section must limit its total length to twenty-five pages (double-spaced, twelve-point type), unless:

(a) It files and serves a motion for permission to file a longer brief in order to address novel or complex issues raised by the objections; and

(b) The executive director or his or her designee grants such a motion for good cause shown.

AMENDATORY SECTION (Amending WSR 01-14-009, filed 6/22/01, effective 8/1/01)

**WAC 391-25-370 Blocking charges—Suspension of proceedings—Request to proceed.** (1) The executive director may suspend the processing of a representation petition under this chapter pending the outcome of related unfair labor practice proceedings, where:

(a) A complaint charging unfair labor practices is filed under the provisions of chapter 391-45 WAC; and

(b) It appears that the facts as alleged may constitute an unfair labor practice; and

(c) Such unfair labor practice could improperly affect the outcome of a representation election.

(2) The complainant(s) in the unfair labor practice case may file and serve, as required by WAC 391-08-120, a written request to proceed with the executive director. The request to proceed shall specify the case number of the representation proceeding, shall request that the representation petition be processed notwithstanding the pending unfair labor practice case, and shall waive the right to file objections under WAC 391-25-590 (1)(a) based on conduct alleged in the unfair labor practice case. Upon the filing of a request to proceed under this subsection, the executive director (~~shall~~) may resume the processing of the representation petition and shall summarily dismiss any objections filed in conflict with the request to proceed.

(3) Where a complaint charging unfair labor practices is filed after the issuance of a notice of election, the executive director (~~shall~~) may proceed with the determination of the question concerning representation, subject to the right of any party to file objections as provided in WAC 391-25-590.

AMENDATORY SECTION (Amending WSR 01-14-009, filed 6/22/01, effective 8/1/01)

**WAC 391-25-390 Proceedings before the executive director.** (1) The executive director may proceed upon the record, after submission of briefs or after hearing, as may be appropriate.

(a) The executive director shall determine whether a question concerning representation exists, and shall issue a direction of election, dismiss the petition or make other disposition of the matter.

(b) Unless otherwise provided in a direction of election, the cut-off date for eligibility to vote in an election shall be the date of issuance of the direction of election.

(2) Where the executive director determines that employee eligibility issues exist, the executive director may

delegate authority to the hearing officer to decide those issues.

(3) A direction of election and other rulings in the proceedings up to the issuance of a tally are interim orders, and may only be appealed to the commission by objections under WAC 391-25-590 after the election. ~~((An exception is made for rulings on whether the employer or employees are subject to the jurisdiction of the commission, which may be appealed under WAC 391-25-660.))~~

(4)(a) A party seeking review by the commission of an interlocutory decision of the executive director or his or her designee must file a motion for discretionary review with the commission and a copy with the executive director or his or her designee within seven days after the decision is issued.

(b) Discretionary review of an interlocutory decision issued by the executive director or his or her designee will be accepted by the commission only:

(i) If the executive director or his or her designee has committed an obvious error which would render further proceedings useless; or

(ii) If the executive director or his or her designee has committed probable error and the decision of the executive director or his or her designee substantially alters the status quo or substantially limits the freedom of a party to act; or

(iii) If the executive director or hearing officer has so far departed from the accepted and usual course of administrative proceedings as to call for the exercise of revisory jurisdiction by the commission.

(c) A motion for discretionary review under this rule, and any response, should not exceed fifteen pages double spaced, excluding appendices.

(d) Denial of discretionary review of a decision does not affect the right of a party to obtain later review of the executive director's or hearing officer's decision or the issues pertaining to that decision.

(5) Unless appealed to the commission under WAC 391-25-660, a decision issued under this section shall be the final order of the agency, with the same force and effect as if issued by the commission.

#### NEW SECTION

**WAC 391-25-397 Special provision—State employees.** (1) Where only one organization is seeking certification as the representative of unrepresented employees covered by chapters 41.06 and 41.80 RCW, and the showing of interest submitted in support of the petition indicates that the organization has been authorized by a majority of the employees to act as their representative for the purposes of collective bargaining, the executive director shall issue a direction of cross-check.

(2) A direction of cross-check and other rulings in the proceedings up to the issuance of a tally are interim orders, and may only be appealed to the commission by objections under WAC 391-25-590 after the cross-check. An exception is made for rulings on whether the employer or employees are subject to the jurisdiction of the commission, which may be appealed under WAC 391-25-660.

AMENDATORY SECTION (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-530 Votes needed to determine election.** (1) Unit determination elections shall be decided by a majority of those eligible to vote in the election.

(2) Unless governed by WAC 391-25-531, representation elections shall be decided by a majority of those voting. Where there are only two choices on the ballot, a tie vote shall result in a certification of no representative.

AMENDATORY SECTION (Amending WSR 01-14-009, filed 6/22/01, effective 8/1/01)

**WAC 391-35-020 Time for filing petition—Limitations on results of proceedings.**

#### TIMELINESS OF PETITION

(1) A unit clarification petition may be filed at any time, with regard to:

(a) Disputes concerning positions which have been newly created by an employer.

(b) Disputes concerning the allocation of employees or positions claimed by two or more bargaining units.

(c) Disputes under WAC 391-35-300 concerning a requirement for a professional education certificate.

(d) Disputes under WAC 391-35-310 concerning eligibility for interest arbitration.

(e) Disputes under WAC 391-35-320 concerning status as a confidential employee.

(f) Disputes under WAC 391-35-330 concerning one-person bargaining units.

(2) A unit clarification petition concerning status as a supervisor under WAC 391-35-340, or status as a regular part-time or casual employee under WAC 391-35-350, is subject to the following conditions:

(a) The signing of a collective bargaining agreement will not bar the processing of a petition filed by a party to the agreement, if the petitioner can demonstrate that it put the other party on notice during negotiations that it would contest the inclusion or exclusion of the position or class through a unit clarification proceeding, and it filed the petition prior to signing the current collective bargaining agreement.

(b) Except as provided under subsection (2)(a) of this section, the existence of a valid written and signed collective bargaining agreement will bar the processing of a petition filed by a party to the agreement unless the petitioner can demonstrate, by specific evidence, substantial changed circumstances during the term of the agreement which warrant a modification of the bargaining unit by inclusion or exclusion of a position or class.

#### LIMITATIONS ON RESULTS OF PROCEEDINGS

(3) Employees or positions may be removed from an existing bargaining unit in a unit clarification proceeding filed within a reasonable time period after a change of circumstances altering the community of interest of the employees or positions.

(4) Employees or positions may be added to an existing bargaining unit in a unit clarification proceeding:

(a) Where a petition is filed within a reasonable time period after a change of circumstances altering the community of interest of the employees or positions; or

(b) Where the existing bargaining unit is the only appropriate unit for the employees or positions.

(5) Except as provided under subsection (4) of this section, a question concerning representation will exist under chapter 391-25 WAC, and an order clarifying bargaining unit will not be issued under chapter 391-35 WAC:

(a) Where a unit clarification petition is not filed within a reasonable time period after creation of new positions.

(b) Where employees or positions have been excluded from a bargaining unit by agreement of the parties or by a certification, and a unit clarification petition is not filed within a reasonable time period after a change of circumstances.

(c) Where addition of employees or positions to a bargaining unit would create a doubt as to the ongoing majority status of the exclusive bargaining representative.

(6) Where a petitioning union seeks severance of a portion of an existing bargaining unit of classified employees at a school district or educational service district, appropriate bargaining units existing on July 25, 2005, may not be divided into more than one appropriate bargaining unit without the agreement of the employer and certified bargaining representative of the unit where severance is sought.

AMENDATORY SECTION (Amending WSR 03-03-064, filed 1/14/03, effective 2/14/03)

**WAC 391-35-026 Special provision—State civil service employees.** (1) In addition to the circumstances described in WAC 391-35-020, ~~((bargaining units of state civil service employees may be modified under this section until RCW 41.80.050 and 41.80.080 take effect on July 1, 2004.~~

~~(1) Bargaining units)) the addition of a relatively small group of state civil service employees ~~((in existence on June 13, 2002, shall be subject to being "divided" into separate units of supervisors and nonsupervisory employees under this section.~~~~

~~(a) A petition to have)) to an existing bargaining unit ~~((divided may be filed by the exclusive bargaining representative, by the employer, or by those parties jointly.~~~~

~~(b) The separation of bargaining units shall be implemented on or before July 1, 2004.~~

(2) Bargaining units)) where these additional state civil service employees share a community of interest with the existing appropriate unit of state civil service employees ~~((in existence on June 13, 2002, shall be subject to being "perfected")) and where the additional civil service employees have no separate bargaining identity may be accomplished under this section.~~

~~((a)) (2) A petition to have additional employees accreted into an existing appropriate bargaining unit ~~((perfected)) to "perfect" the existing bargaining unit may be filed by the exclusive bargaining representative~~((r))~~ or by the employer and exclusive bargaining representative jointly.~~~~

~~((b)) (3) The executive director shall investigate all petitions to accrete state civil service employees into an existing appropriate bargaining unit and all of the unit determina-~~

tion criteria set forth in RCW 41.80.070 shall be applicable to proceedings under this section. The history of bargaining in a unit configuration that is fragmentary and/or was based on narrower considerations shall not preclude creation of a "perfected" bargaining unit ~~((as to which a))~~ where community of interests is demonstrated with regard to:

~~((a)) (a) The duties, skills and working conditions of all positions or classifications in the existing appropriate bargaining unit; and~~

(b) The duties, skills and working conditions of all positions or classifications of the petitioned-for employees to be included in the "perfected" bargaining unit; and

~~((c)) (c) The extent of organization and avoidance of unnecessary fragmentation shall be ~~((implemented))~~ considered to avoid stranding of other positions or classifications in units so small as to prejudice their statutory bargaining rights; and~~

~~((iii) The required separation of supervisors and nonsupervisory employees is implemented based on the delegations of authority then in existence; and~~

~~(iv) Two or more existing bargaining units can be merged through the procedure set forth in this section; and~~

~~((d)) (d) The petitioned-for employees sought to be accreted into the larger existing appropriate bargaining unit could constitute a separate appropriate bargaining unit; and~~

(e) The exclusive bargaining representative demonstrates that it has majority support among any employees to be accreted to the bargaining unit(s) being "perfected."

AMENDATORY SECTION (Amending WSR 01-14-009, filed 6/22/01, effective 8/1/01)

**WAC 391-35-170 Hearings—Reopening of hearings—Briefs.** (1) Hearings shall be public, except where a protective order is issued under WAC 10-08-200(7), and shall be limited to matters concerning the clarification of the existing bargaining unit.

(a) The parties shall be responsible for the presentation of their cases.

(b) The hearing officer shall ascertain the respective positions of the parties, to obtain a full and complete factual record upon which the agency may discharge its responsibilities under the applicable statute. The hearing officer has authority, under WAC 10-08-200 (8) and (9), to ask questions, call witnesses, and explore matters not raised or only partially raised by the parties.

(2) Once a hearing has been declared closed, it may be reopened only upon the timely motion of a party upon discovery of new evidence which could not with reasonable diligence have been discovered and produced at the hearing.

(3) The hearing officer may allow or direct the filing of briefs as to any or all of the issues in a case. Arrangements and due dates for briefs shall be established by the hearing officer. Any brief shall be filed with the hearing officer as required by WAC 391-08-120(1), and copies shall be served on all other parties to the proceeding as required by WAC 391-08-120 (3) and (4).

(4) A party filing a brief under this section must limit its total length to twenty-five pages (double-spaced, twelve-point type), unless:

(a) It files and serves a motion for permission to file a longer brief in order to address novel or complex issues raised by the objections; and

(b) The executive director or his or her designee grants such a motion for good cause shown.

AMENDATORY SECTION (Amending WSR 01-14-009, filed 6/22/01, effective 8/1/01)

**WAC 391-35-190 Proceedings before the executive director.** (1) The executive director may proceed upon the record, after submission of briefs or after hearing, as may be appropriate. The executive director shall determine the status of each position, classification or group of employees over which there is a disagreement and issue an order clarifying bargaining unit, dismiss the petition or make other disposition of the matter.

(2) Where the executive director determines that employee eligibility issues exist, the executive director may delegate authority to the hearing officer to decide those issues.

(3)(a) A party seeking review by the commission of an interlocutory decision of the executive director or his or her designee must file a motion for discretionary review with the commission and a copy with the executive director or his or her designee within seven days after the decision is issued.

(b) Discretionary review of an interlocutory decision issued by the executive director or his or her designee will be accepted by the commission only:

(i) If the executive director or his or her designee has committed an obvious error which would render further proceedings useless; or

(ii) If the executive director or his or her designee has committed probable error and the decision of the executive director or his or her designee substantially alters the status quo or substantially limits the freedom of a party to act; or

(iii) If the executive director or his or her designee has so far departed from the accepted and usual course of administrative proceedings as to call for the exercise of revisory jurisdiction by the commission.

(c) A motion for discretionary review under this rule, and any response, should not exceed fifteen pages double-spaced, excluding appendices.

(d) Denial of discretionary review of a decision does not affect the right of a party to obtain later review of the executive director's or hearing officer's decision or the issues pertaining to that decision.

(4) Unless appealed to the commission under WAC 391-35-210, a decision issued under this section shall be the final order of the agency, with the same force and effect as if issued by the commission.

#### NEW SECTION

**WAC 391-35-301 Higher education employees.** A bargaining unit of higher education employees under RCW 41.56.021 shall not include any employees eligible for collective bargaining rights under RCW 41.56.022, 41.56.024, or 41.56.203, chapter 28B.52, 41.76, or 41.80 RCW. Employees whose eligibility for collective bargaining is covered by

chapter 28B.52, 41.76, or 41.80 RCW are exempt from the provisions of RCW 41.56.021.

AMENDATORY SECTION (Amending WSR 00-14-048, filed 6/30/00, effective 8/1/00)

**WAC 391-45-290 Briefs.** (1) Any party shall be entitled, upon request made before the close of the hearing, to file a brief. The examiner may direct the filing of briefs as to any or all of the issues in a case. Arrangements and due dates for briefs shall be established by the examiner. Any brief shall be filed with the examiner as required by WAC 391-08-120(1), and copies shall be served on all other parties to the proceeding as required by WAC 391-08-120 (3) and (4).

(2) A party filing a brief under this section must limit its total length to twenty-five pages (double-spaced, twelve-point type), unless:

(a) It files and serves a motion for permission to file a longer brief in order to address novel or complex issues raised by the objections; and

(b) The hearing examiner grants such a motion for good cause shown.

AMENDATORY SECTION (Amending WSR 00-14-048, filed 6/30/00, effective 8/1/00)

**WAC 391-45-310 Examiner decisions.** (1)(a) A party seeking review by the commission of an interlocutory decision of the hearing examiner must file a motion for discretionary review with the commission and a copy with the executive director or his or her designee within seven days after the decision is issued.

(b) Discretionary review of an interlocutory decision issued by the hearing examiner will be accepted by the commission only:

(i) If the hearing examiner has committed an obvious error which would render further proceedings useless; or

(ii) If the hearing examiner has committed probable error and the decision of the interlocutory decision of the hearing examiner substantially alters the status quo or substantially limits the freedom of a party to act; or

(iii) If the hearing examiner has so far departed from the accepted and usual course of administrative proceedings as to call for the exercise of revisory jurisdiction by the commission.

(c) The commission will not accept motions for discretionary review of:

(i) The issuance of a preliminary ruling by the executive director or his or her designee or a hearing examiner under WAC 391-45-110; or

(ii) Any evidentiary ruling by a hearing examiner during the course of an administrative hearing.

(d) A motion for discretionary review under this rule, and any response, should not exceed fifteen pages double-spaced, excluding appendices.

(e) Denial of discretionary review of a decision does not affect the right of a party to obtain later review of the executive director's or hearing officer's decision or the issues pertaining to that decision.

(2) After the close of the hearing and the filing of all briefs, the examiner shall issue a decision containing findings

of fact, conclusions of law, and an order. Unless appealed to the commission under WAC 391-45-350, a decision issued under this section shall be the final order of the agency, with the same force and effect as if issued by the commission.

AMENDATORY SECTION (Amending WSR 03-03-064, filed 1/14/03, effective 2/14/03)

**WAC 391-95-010 Notice of union security obligation.**

(1) ~~((Whenever))~~ Before union security obligations of a collective bargaining agreement negotiated under ((the provisions of)) chapter 28B.52, 41.56, 41.59, 41.76, or 41.80 RCW ((contains a union security provision, the exclusive bargaining representative shall provide each affected employee with)) can be enforced on an employee, the affected employee must be provided a copy of the collective bargaining agreement((, and)).

(2) The exclusive bargaining representative shall specifically advise ((each employee of his or her obligations under that agreement, including informing)) the employee of the amount owed, the method used to compute that amount, when such payments are to be made, and the effects of a failure to pay.

~~((2)) Disputes concerning whether an employee is within the bargaining unit covered by a union security provision shall be resolved through unit clarification proceedings under chapter 391-35 WAC, and shall not be a subject of proceedings under this chapter.)~~

(3) ~~((Disputes concerning interpretation or application of a union security provision shall be resolved through grievance arbitration or other procedures for interpretation or application of the collective bargaining agreement, and shall not be a subject of proceedings under this chapter.))~~ Failure to give the notice required by this section shall prevent enforcement of union security obligations for any period prior to the date notice is given, but shall not void the union security obligation for periods after the date notice is given.

AMENDATORY SECTION (Amending WSR 00-14-048, filed 6/30/00, effective 8/1/00)

**WAC 391-95-030 Assertion of right of nonassociation.** An employee who ~~((claims))~~ desires to assert a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall provide written notice of that claim to the exclusive bargaining representative~~((, and))~~.

An employee asserting the right of nonassociation under RCW 28B.52.045, 41.56.113, 41.56.122, 41.59.100, or 41.76.045 shall, at the same time, provide the exclusive bargaining representative with the name(s) and address(es) of one or more nonreligious charitable organizations to which the employee is prepared to make alternative payments in lieu of the payments required by the union security provision.

NEW SECTION

**WAC 391-95-036 Special provision—State civil service employees.** An employee asserting the right of nonassociation under RCW 41.80.100 may provide the exclusive bargaining representative with his or her choice to receive funds

paid under the union security provision, if the employee organization has previously issued a list of union programs and/or charities eligible to receive such funds.

AMENDATORY SECTION (Amending WSR 00-14-048, filed 6/30/00, effective 8/1/00)

**WAC 391-95-050 Response by exclusive bargaining representative.** Within sixty days after it is served with written notice of a claimed right of nonassociation under WAC 391-95-030, the exclusive bargaining representative shall provide a written response to the employee, setting forth the position of the exclusive bargaining representative ~~((as to both))~~ on the matter.

For employees asserting the right of nonassociation under RCW 28B.52.045, 41.56.113, 41.56.122, 41.59.100, or 41.76.045, the response of the exclusive bargaining representative shall address:

(1) The eligibility of the employee to make alternative payments; and

(2) The acceptance or rejection of the charitable organization(s) suggested by the employee under WAC 391-95-030.

NEW SECTION

**WAC 391-95-056 Special provision—State civil service employees—Response of exclusive bargaining representative.** (1) For employees asserting the right of nonassociation under RCW 41.80.100, the response of the exclusive bargaining representative shall address:

(a) The eligibility of the employee to make alternative payments; and either

(b) Acceptance or rejection of the program or charitable organization designated by an employee under WAC 391-95-036; or

(c) The program(s) of the employee organization and/or the charitable organization(s) designated by the employee organization to receive funds paid under the nonassociation provision. Within sixty days after being presented with a list under this paragraph, the employee asserting a right of nonassociation shall provide the employee organization with written notice of his or her designation of the purpose or purposes on that list, if any, that are in harmony with his or her individual conscience.

(2) The requirements of this section are procedural only, and shall not be a basis to void or negate obligations under the union security provisions of a collective bargaining agreement.

AMENDATORY SECTION (Amending WSR 00-14-048, filed 6/30/00, effective 8/1/00)

**WAC 391-95-070 Disputes resolved by commission.** ~~((If the exclusive bargaining representative:))~~

(1) Either the employee or the exclusive bargaining representative may file a petition to obtain a ruling from the commission if:

(a) The exclusive bargaining representative disputes the eligibility of the employee to ((make alternative payments)) assert the right of nonassociation; or

~~((2))~~ (b) The exclusive bargaining representative disputes the charity or charitable organization which ~~(is to receive such)~~ the employee desires to be the recipient of alternative payments; or

~~((3))~~ (c) The exclusive bargaining representative fails to make a timely response under WAC 391-95-050 ~~(either the employee or the exclusive bargaining representative may obtain a ruling from the commission)~~; or

(d) The employee claiming nonassociation fails to name a charity or charitable organization to receive alternative payments.

(2) Disputes concerning whether an employee is within the bargaining unit covered by a union security provision shall not be a subject of proceedings under this chapter.

(3) Disputes concerning interpretation or application of the collective bargaining agreement containing the union security provision shall not be a subject of proceedings under this chapter.

#### NEW SECTION

**WAC 391-95-076 Special provision—State civil service employees—Disputes resolved by commission.** (1) Either the employee or the exclusive bargaining representative may file a petition to obtain a ruling from the commission if:

(a) The exclusive bargaining representative disputes the eligibility of the employee to assert the right of nonassociation; or

(b) The exclusive bargaining representative disputes the program of the employee organization which the employee desires to be the recipient of alternative payments; or

(c) The exclusive bargaining representative fails to make a timely response under WAC 391-95-056; or

(d) The employee claiming nonassociation fails to name a program of the employee organization to receive alternative payments.

(2) Disputes concerning whether an employee is within the bargaining unit covered by a union security provision shall not be a subject of proceedings under this chapter.

(3) Disputes concerning interpretation or application of the collective bargaining agreement containing the union security provision shall not be a subject of proceedings under this chapter.

AMENDATORY SECTION (Amending WSR 00-14-048, filed 6/30/00, effective 8/1/00)

**WAC 391-95-130 Escrow of disputed funds ~~(by employer)~~.** Funds at issue in a nonassociation proceeding under this chapter shall be kept separate while the case remains pending before the commission. Upon being served with a copy of a petition filed under WAC 391-95-070 concerning employees asserting the right of nonassociation under RCW 28B.52.045, 41.56.113, 41.56.122, 41.59.100, or 41.76.045, the employer shall preserve the status quo by withholding and retaining the disputed dues for periods during the pendency of the proceedings before the commission. Funds held in escrow shall draw interest at the rate provided by commercial banks for regular passbook savings accounts. While the proceedings remain pending before the commis-

sion, the employer shall not honor or otherwise act upon any request for discharge or other action against the affected employee based on the employee's union security obligations. This section shall be applicable to employees covered by chapter 41.56 RCW only upon the employee submitting to the employer a signed authorization for the deduction and escrow of disputed funds.

#### NEW SECTION

**WAC 391-95-136 Special provision—State civil service employees—Escrow of funds.** (1) Upon being served with a copy of a petition filed under WAC 391-95-076 concerning an employee asserting the right of nonassociation under RCW 41.80.100, the employee organization shall preserve the status quo by holding the disputed funds in a separate account, and shall not request the discharge or other action against the affected employee based on the employee's union security obligations, until the proceedings under this chapter are concluded.

(2) While the nonassociation proceedings remain pending before the commission, the employer shall not honor or otherwise act upon any request for discharge or other action against the affected employee based on the employee's union security obligations.

#### NEW SECTION

**WAC 391-95-220 Settlement conference.** Separate from any prehearing conference held under WAC 10-08-130 to discuss procedural matters, a settlement conference to discuss substantive issues may be held on the examiner's own motion under WAC 10-08-200(15), or at the request of any party to the proceeding. A commission staff member other than the assigned examiner shall be assigned to mediate between the parties on substantive issues, and any settlement conference shall be held in advance of the scheduled hearing date. During a settlement conference, the parties will be encouraged, on factual and legal grounds including precedent on the particular subject, to resolve the nonassociation dispute. Participation in a settlement conference is voluntary and refusal by a party to participate shall not prejudice that party in any manner. Conversations had and offers made in a settlement conference shall not be admissible in evidence at a hearing.

AMENDATORY SECTION (Amending WSR 00-14-048, filed 6/30/00, effective 8/1/00)

**WAC 391-95-230 Hearings—Reopening of hearings—Briefs.** (1) Hearings shall be public and shall be limited to the portions of a petition found to state a cause of action under WAC 391-95-150.

(2) The employee has the burden to make a factual showing, through testimony of witnesses and/or documentary evidence, of the legitimacy of his or her beliefs, as follows:

(a) In cases where the claim of a right of nonassociation is based on the teachings of a church or religious body, the claimant employee shall demonstrate:

(i) His or her bona fide religious objection to union membership; and



(ii) That the objection is based on a bona fide religious teaching of a church or religious body; and

(iii) That the claimant employee is a member of such church or religious body.

(b) In cases where the claim of a right of nonassociation is based on personally held religious beliefs, the claimant employee shall demonstrate:

(i) His or her bona fide religious objection to union membership; and

(ii) That the religious nature of the objection is genuine and in good faith.

(3) Once a hearing has been declared closed, it may be reopened only upon the timely motion of a party upon discovery of new evidence which could not with reasonable diligence have been discovered and produced at the hearing.

(4) Any party shall be entitled, upon request made before the close of the hearing, to file a brief. The examiner may direct the filing of briefs as to any or all of the issues in a case. Arrangements and due dates for briefs shall be established by the examiner. Any brief shall be filed with the examiner as required by WAC 391-08-120(1), and copies shall be served on all other parties to the proceeding as required by WAC 391-08-120 (3) and (4).

(5) A party filing a brief under this section must limit its total length to twenty-five pages (double-spaced, twelve-point type), unless:

(a) It files and serves a motion for permission to file a longer brief in order to address novel or complex issues raised by the objections; and

(b) The executive director or his or her designee grants such a motion for good cause shown.

AMENDATORY SECTION (Amending WSR 00-14-048, filed 6/30/00, effective 8/1/00)

**WAC 391-95-250 Examiner decision.** (1)(a) A party seeking review by the commission of an interlocutory decision of the hearing examiner must file a motion for discretionary review with the commission and a copy with the executive director or his or her designee within seven days after the decision is issued.

(b) Discretionary review of an interlocutory decision issued by the hearing examiner will be accepted by the commission only:

(i) If the hearing examiner has committed an obvious error which would render further proceedings useless; or

(ii) If the hearing examiner has committed probable error and the decision of the interlocutory decision of the hearing examiner substantially alters the status quo or substantially limits the freedom of a party to act; or

(iii) If the hearing examiner has so far departed from the accepted and usual course of administrative proceedings as to call for the exercise of revisory jurisdiction by the commission.

(c) The commission will not accept motions for discretionary review of:

(i) The issuance of a preliminary ruling by the executive director or his or her designee or a hearing examiner under WAC 391-95-150; or

(ii) Any evidentiary ruling by a hearing examiner during the course of an administrative hearing.

(d) A motion for discretionary review under this rule, and any response, should not exceed fifteen pages double-spaced, excluding appendices.

(e) Denial of discretionary review of a decision does not affect the right of a party to obtain later review of the executive director's or hearing officer's decision or the issues pertaining to that decision.

(2) After the close of the hearing and the filing of all briefs, the examiner shall issue a decision containing findings of fact, conclusions of law, and an order. Unless appealed to the commission under WAC 391-95-270, a decision issued under this section shall be the final order of the agency, with the same force and effect as if issued by the commission.

## WSR 07-21-074

### PROPOSED RULES

### HORSE RACING COMMISSION

[Filed October 15, 2007, 4:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-11-120.

Title of Rule and Other Identifying Information: WAC 260-20-160 (~~Ambulances~~) Medical aid, amending this section to not only address requirements of a racing association to provide medical aid personnel and equipment during training and live racing, but to also change the title of this section.

Hearing Location(s): Emerald Downs Racetrack, 2800 Emerald Downs Drive, 3rd Floor, Auburn, WA 98001, on December 13, 2007, at 9:30 a.m.

Date of Intended Adoption: December 13, 2007.

Submit Written Comments to: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail rlopez@whrc.state.wa.us, fax (360) 459-6461, by December 7, 2007.

Assistance for Persons with Disabilities: Contact Patty Sorby by December 7, 2007, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The provisions of the current rule related to "horse ambulance" is now obsolete. A new section, WAC 260-20-165, was adopted on June 18, 2007, to address the requirements of an equine ambulance. WAC 260-20-160 is being amended to address medical aid personnel and equipment for the human participants of horse racing.

Reasons Supporting Proposal: Provides greater safety measures to our human participants, both during racing and training periods.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforce-

ment: Robert M. Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

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

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

October 15, 2007

R. J. Lopez

Deputy Secretary

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-20-160 (~~(Ambulances-)~~) Medical aid.**  
 ((~~Racing associations shall furnish and maintain both a man ambulance and a horse ambulance each day that their tracks may be opened for racing or exercising horses, equipped and ready for immediate duty.~~)) (1) Racing associations must provide a vehicle properly equipped and staffed with two emergency medical technicians, one hour before post time until the last race is official, each day the track is open for racing.

(2) Class A or B racing associations must also provide a first-aid room equipped with at least two beds and other appropriate equipment.

## WSR 07-21-081

### PROPOSED RULES

#### FOREST PRACTICES BOARD

[Filed October 16, 2007, 3:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-20-097.

Title of Rule and Other Identifying Information: Achieving desired future conditions in riparian management zones. This rule proposal amends WAC 222-30-021 to change timber harvest and leave tree requirements in riparian management zones adjacent to Type S and F waters as defined in WAC 222-16-030. It pertains to forest lands in western Washington.

Hearing Location(s): Holiday Inn, 3105 Pine Street, Everett, (425) 993-2000, on Tuesday, March 18, 2008, at 6:00 p.m.; and at the Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, (360) 902-1400, on Thursday, March 20, 2008, at 6:00 p.m.

Date of Intended Adoption: May 14, 2008.

Submit Written Comments to: Patricia Anderson, DNR Forest Practices Division, 1111 Washington Street S.E., P.O. Box 47012, Olympia, WA 98504-7012, e-mail forest.practicesboard@wadnr.gov, fax (360) 902-1428, by March 21, 2008.

Assistance for Persons with Disabilities: Contact forest practices division at (360) 902-1400, by March 10, 2008, TTY (360) 902-1125.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 222-30-021 provides prescriptions and options to harvesting trees in for-

ested "riparian management zones" as defined in WAC 222-16-010.

Pursuant to RCW 76.09.370, the forest practices board incorporates a scientific-based adaptive management process to determine the effectiveness of forest practices rules in aiding Washington's salmon recovery effort. Under this adaptive management process, a scientific study was completed by the forest practices board's cooperative monitoring, evaluation, and research committee. The study, entitled *Validation of the Western Washington Riparian Desired Future Condition (DFC) Performance Targets in the Washington State Forest Practices Rules with Data From Mature, Unmanaged, Conifer-Dominated Riparian Stands*. The study's findings were that basal areas per acre of mature, unmanaged conifer-dominated riparian stands are greater than the values used in the rule (see WAC 222-20-021(1) for values in existing rule).

The board is considering two alternative rule amendments to respond to the study findings. The effects of both would increase the basal area retained in riparian management zones, thereby decreasing allowable harvest.

- The first would increase the target basal area per acre (325 sq. ft. for all site classes) that a forest stand is projected to reach at one hundred forty years from the year of harvest in the riparian management zone.
- The second would increase the target basal area per acre the same as the first alternative rule amendment, and also change the methods of thinning trees in the inner zones - see WAC 222-30-021 (1)(b)(ii)(B)(I) and (II).

Reasons Supporting Proposal: The proposed rule changes are based on recommendations resulting from the scientifically based adaptive management process outlined in WAC 222-12-045. Through this process, the board has determined that the forest practices rules should be adjusted to ensure that appropriate riparian buffers are maintained on forest land covered by the Forest Practices Act.

Statutory Authority for Adoption: RCW 76.09.040 and 76.09.370(6).

Statute Being Implemented: Not applicable.

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

Name of Proponent: Forest practices board, governmental.

Name of Agency Personnel Responsible for Drafting: Marc Engel, 1111 Washington Street S.E., Olympia, (360) 902-1390; Implementation: Gary Graves, 1111 Washington Street S.E., Olympia, (360) 902-1483; and Enforcement: Lenny Young, 1111 Washington Street S.E., Olympia, (360) 902-1744.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

See Reviser's note below.

A copy of the statement may be obtained by contacting Gretchen Robinson, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1705, fax (360) 902-1428, e-mail gretchen.robinson@dnr.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Gretchen Robinson, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1705, fax (360) 902-1428, e-mail [gretchen.robinson@dnr.wa.gov](mailto:gretchen.robinson@dnr.wa.gov). Note: The small business economic impact statement and the preliminary cost-benefit analysis are combined in the document, *Preliminary Economic Analysis, Forest Practices Rule Making, Affecting Timber Harvest in Riparian Zones in Western Washington*.

October 4, 2007  
Victoria Christiansen  
Chair

**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 07-22 issue of the Register.

**WSR 07-21-088**  
**PROPOSED RULES**  
**PUBLIC DISCLOSURE COMMISSION**

[Filed October 17, 2007, 3:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-17-150.

Title of Rule and Other Identifying Information: Amend WAC 390-05-210 Definition—Contribution, 390-05-245 Officer of a candidate's committee or political committee—Definition, 390-16-011 Forms—Registration statement for political committees, 390-16-012 Forms—Registration statement for candidates, and propose new WAC 390-05-243 Ministerial functions by persons holding administrative offices.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA 98504, on December 6, 2007, at 9:30 a.m.

Date of Intended Adoption: December 6, 2007.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, e-mail [dellis@pdc.wa.gov](mailto:dellis@pdc.wa.gov), fax (360) 753-1112, by December 3, 2007.

Assistance for Persons with Disabilities: Contact Kami Madsen by phone (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To implement ESB 6128 (chapter 358, Laws of 2007), including clarifying "ministerial functions," amending registrations forms for candidates and political committees, and amending the definition of contribution.

Reasons Supporting Proposal: To provide guidance and clarification to candidates and political committees affected by 2007 statutory changes.

Statutory Authority for Adoption: RCW 42.17.370(1).

Statute Being Implemented: Chapter 358, Laws of 2007.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The rule amendments and the new rule are

designed to clarify the reporting requirements under ESB 6128 (chapter 358, Laws of 2007).

Name of Proponent: Public disclosure commission (PDC), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to the adoption of these rules pursuant to subsection (5)(a)(i) of section 201, and, to date, JARRC has not made section 201 application [applicable] to the adoption of these rules.

October 15, 2007

Vicki Rippie  
Executive Director

AMENDATORY SECTION (Amending WSR 06-11-132, filed 5/23/06, effective 6/23/06)

**WAC 390-05-210 Definition—Contribution.** (1) The term "contribution" as defined in RCW 42.17.020 shall be deemed to include, among other things, furnishing services or property or rights on a discriminatory basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. When such in-kind contribution of goods or services is provided, it shall be reported at its fair market value per WAC 390-05-235 and, pursuant to RCW 42.17.640, the fair market value is the amount of the contribution to be allocated to the contributor in determining compliance with the contributor's contribution limit.

(2) **Duplicating political advertising.** The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising prepared by a candidate, a political committee, or the authorized agent of a candidate or political committee is a contribution to the candidate or political committee.

(3) **Consulting with a state, local or judicial candidate.** An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent is a contribution to such candidate. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent when:

(a) Any arrangement, coordination or direction by the candidate, the candidate's authorized committee or agent is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or electioneering communications or prior to an expenditure being

made by that person supporting that candidate or opposing one or more of that candidate's opponents; or

(b) An expenditure is made based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, the candidate's authorized committee or agent with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the candidate's authorized committee; or

(d) The expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the candidate, the candidate's authorized committee or agent. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17.020 and WAC 390-05-243.

(4) ***Consulting with a caucus political committee.*** An expenditure, that does not qualify as a contribution to a candidate under subsection (3) of this section, made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent is a contribution to such caucus political committee. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent when:

(a) Any arrangement, coordination or direction by the caucus political committee, its agent or another political committee financed, controlled or operated by the caucus is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that caucus political committee or one or more of the candidates supported by it or opposing one or more of those candidates' opponents; or

(b) An expenditure is made based on information about the caucus political committee's plans, projects or needs provided to the expending person by the caucus political committee, its agent or another political committee financed, controlled or operated by the caucus with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the caucus political committee or another political committee financed, controlled or operated by the caucus; or

(d) The expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the caucus political committee, its agent or another political committee financed, controlled or operated by the caucus. However, there is no presumption that an expenditure is made in coop-

eration, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17.020 and WAC 390-05-243.

(5) ***Consulting with a bona fide political party.*** An expenditure, that does not qualify as ~~((an))~~ a contribution to a candidate under subsection (3) of this section, made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a bona fide political party or its agent is a contribution to such bona fide political party. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a bona fide political party when:

(a) Any arrangement, coordination or direction by the bona fide political party, its agent or a political committee financed, controlled or operated by the party is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that bona fide political party or one or more of the candidates supported by it or opposing one or more of those candidates' opponents; or

(b) An expenditure is made based on information about the bona fide political party's plans, projects or needs provided to the expending person by the bona fide political party or its agent with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the bona fide political party or a political committee financed, controlled or operated by the bona fide political party; or

(d) The expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the bona fide political party, its agent or a political committee financed, controlled or operated by the bona fide political party. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of the bona fide political party, a political committee financed, controlled, or operated by a bona fide political party or their agents, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17.020 and WAC 390-05-243.

(6) ***Consulting with other political committees.*** An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a political committee is a contribution to such political committee. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a political committee when:

(a) Any arrangement, coordination or direction by the political committee, its agent or another political committee financed, controlled or operated by the committee is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or prior to an

expenditure being made by that person benefiting that political committee; or

(b) An expenditure is made based on information about the political committee's plans, projects or needs provided to the expending person by the political committee or its agent with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the political committee or another political committee financed, controlled or operated by the committee; or

(d) An expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the political committee, its agent or another political committee financed, controlled or operated by the committee. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a political committee or its agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17.020 and WAC 390-05-243.

#### NEW SECTION

**WAC 390-05-243 Ministerial functions by persons holding administrative offices.** For the purposes of RCW 42.17.020 and 42.17.040:

(1) "Ministerial functions" mean the activities and duties of an administrative office that satisfy RCW 42.17.020 (15) and (34) and require:

(a) Data entry for a candidate or political committee;

(b) Filing reports that have been reviewed and approved for filing by the candidate or political committee officer;

(c) Maintaining campaign finance and other similar records including making them available for inspection upon direction by the candidate or political committee officer;

(d) Writing and depositing checks at the direction of the candidate or political committee officer;

(e) Communications related to ministerial functions (to respond to questions about data entry, to discuss or review a candidate or committee's bank account balance, to schedule times to receive contribution checks at events, to review reports with the candidate or committee prior to filing, and similar communications) but do not involve attending strategy or campaign planning meetings or portions of meetings with candidates or political committee officers or their agents; and

(f) Other similar campaign finance activities and duties.

(2) "Administrative office" means a person performing campaign finance related clerical support or recordkeeping activities on behalf of candidates and political committees, when, for the purposes of RCW 42.17.020 (15) and (34), those activities:

(a) Are directed by the candidate or political committee officer and require performance of activities by the administrative office in a prescribed manner;

(b) Are approved by the candidate or political committee officer for whom the services are performed;

(c) Do not involve the exercise of personal judgment or discretion, including authorizing expenditures;

(d) Do not involve the disclosure, except as required by law, of any information regarding a candidate or committee's plans, projects, activities or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available, or otherwise engage in activity that is a contribution; and

(e) Do not involve the performance of functions other than ministerial functions.

(3) A person performing only ministerial functions on behalf of two or more candidates or political committees is not:

(a) Considered an agent so long as he or she has no authority to authorize expenditures or make decisions on behalf of the candidate or committee; or

(b) An officer pursuant to WAC 390-05-245. However, that person's name, address and title must be reported on the C-1 or C-1pc registration form.


AMENDATORY SECTION (Amending WSR 96-09-015, filed 4/8/96, effective 5/9/96)

**WAC 390-05-245 Officer of a candidate's committee or political committee—Definition.** For purposes of chapter 42.17 RCW and Title 390 WAC, "officer of a candidate's authorized committee," or "officer of a candidate's committee" or "officer of a political committee" includes the following persons: ~~((The treasurer,))~~ Any person designated by the committee as an officer on the C-1 or C-1pc registration statement and any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee.

AMENDATORY SECTION (Amending WSR 06-08-039, filed 3/29/06, effective 4/29/06)

**WAC 390-16-011 Forms—Registration statement for political committees.** The official form for providing the statement of organization by political committees for designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting is designated "C-1pc," revised ~~((3/06))~~ 1/08. Copies of this form are available at the Commission Office, 711 Capitol Way, Room 206, P.O. Box 40908, Olympia, Washington 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.

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 <p><b>PUBLIC DISCLOSURE COMMISSION</b>                  711 CAPITOL WAY RM 206                  PO BOX 44908                  OLYMPIA WA 98504-0908                  (360) 783-1111                  Toll Free 1-877-801-2828</p>		<p><b>Political Committee Registration</b></p>		<p><b>C1PC</b> (306)</p>							
Committee Name (Show entire official name.)				Acronym: _____ Telephone: ( ) _____							
Mailing Address				Fax: ( ) _____							
City _____		County _____		Zip + 4 _____							
NEW OR AMENDED REGISTRATION? <input type="checkbox"/> NEW. Complete entire form. <input type="checkbox"/> AMENDS previous report. Complete entire form.				COMMITTEE STATUS <input type="checkbox"/> Continuing (On-going; not established in anticipation of any particular campaign election.) <input type="checkbox"/> _____ election year only. Date of general or special election: _____ (Year)							
1. What is the purpose or description of the committee? <input type="checkbox"/> Bona Fide Political Party Committee - official state or county central committee or legislative district committee. If you are not supporting the entire party ticket, attach a list or specify here the names of the candidates you support  <input type="checkbox"/> Ballot Committee - Initiative, Bond, Levy, Recall, etc. Name or description of ballot measure: _____ Ballot Number _____ FOR <input type="checkbox"/> AGAINST <input type="checkbox"/>  <input type="checkbox"/> Other Political Committee - PAC, caucus committee, political club, etc. If committee is related or affiliated with a business, association, union or similar entity, specify name: _____  For single election-year only committees (not continuing committees): Is the committee supporting or opposing (a) one or more candidates? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach a list of each candidate's name, office sought and political party affiliation. (b) the entire ticket of a political party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify the party: _____  2. Related or affiliated committees. List name, address and relationship. <span style="float: right;"><input type="checkbox"/> Continued on attached sheet</span>											
3. How much do you plan to spend during this entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. (If your committee status is continuing, estimate spending on a calendar year basis.) If no box is checked you are obligated to use Full Reporting. See instruction manuals for information about reports required and changing reporting options. <input type="checkbox"/> <b>MINI REPORTING</b> Mini Reporting is selected. No more than \$3,500 will be raised or spent and no more than \$300 in the aggregate will be accepted from any one contributor.						<input type="checkbox"/> <b>FULL REPORTING</b> Full Reporting is selected. The frequent, detailed campaign reports mandated by law will be filed as required.					
4. Campaign Manager's or Media Contact's Name and Address				Telephone Number: ( ) _____							
5. Treasurer's Name and Address (List deputy treasurers on attached sheet.) <span style="float: right;"><input type="checkbox"/> Continued on attached sheet</span>				Daytime Telephone Number: ( ) _____							
6. Committee Officers. List name, title, and address. Continue on attached sheet if necessary. See reverse for definition of "officer." <span style="float: right;"><input type="checkbox"/> Continued on attached sheet</span>											
7. Campaign Bank or Depository		Branch		City							
8. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address. Street Address, Room Number, City where campaign books will be available for inspection  In order to make an appointment, contact the campaign at (telephone, fax, e-mail): ( ) _____											
9. Eligibility to Give to State Office Candidates: During the 180 days prior to making a contribution to a state office candidate, your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State. <input type="checkbox"/> A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to state office candidates (legislative and statewide executive candidates).				10. Signature and Certification. I certify that this statement is true, complete and correct to the best of my knowledge.  Committee Treasurer's Signature _____ Date _____							

SEE INSTRUCTIONS ON REVERSE

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Please consult PDC instruction manuals when completing this report.  
Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.

**Who Must File**                      Persons, committees, organizations or groups that receive contributions or make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.

**When To File**                      Within 2 weeks of organizing a committee or first expecting to receive contributions or make expenditures, whichever occurs first. **(Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.)**

File an amended C-1pc form within 10 calendar days of any material change to the registration information furnished previously. For single election-year only committees, a material change includes providing or modifying the list of candidates the committee is supporting or opposing.

Continuing political committees using Mini Reporting must also file a C-1pc annually in January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.


**Where To File**                      Send the **original to PDC** at the above address. Send a **copy to County Auditor** (county elections office) of the county in which the committee headquarters is located. If there is no headquarters, send to the County Auditor of the county in which the treasurer resides. Keep a copy as part of the committee's records.

**“Officer” of a Political Committee – Definition**                      Officer of a political committee includes the following persons:

- the treasurer,
- any person designated as an officer on the C-1pc registration statement, and
- any person who alone or in conjunction with other persons makes contribution, expenditure, strategic or policy decisions on behalf of the committee. (WAC 390-05-245)

**For Instruction Manuals and Reporting Forms or look under the “Filer Assistance” menu category on PDC’s Web Site: [www.pdc.wa.gov](http://www.pdc.wa.gov)**

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 <p><b>PUBLIC DISCLOSURE COMMISSION</b> 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 763-1111 Toll Free 1-877-601-2828</p>	<h2>Political Committee Registration</h2>	<h1>C1PC</h1> <p>(1/2008)</p>	
Committee Name (Show entire official name.)		Acronym:	
Mailing Address		Telephone: ( )	
		Fax: ( )	
City _____ County _____ Zip + 4 _____		E-mail: _____	
<b>NEW OR AMENDED REGISTRATION?</b> <input type="checkbox"/> NEW. Complete entire form. <input type="checkbox"/> AMENDS previous report. Complete entire form.		<b>COMMITTEE STATUS</b> <input type="checkbox"/> Continuing (On-going; not established in anticipation of any particular campaign election.) <input type="checkbox"/> _____ election year only. Date of general or special election: _____ (Year)	
1. What is the purpose or description of the committee? <input type="checkbox"/> <b>Bona Fide Political Party Committee</b> - official state or county central committee or legislative district committee. If you are not supporting the entire party ticket, attach a list of the names of the candidates you support.			
<input type="checkbox"/> <b>Ballot Committee</b> - Initiative, Bond, Levy, Recall, etc. Name or description of ballot measure: _____		Ballot Number _____	FOR <input type="checkbox"/> AGAINST <input type="checkbox"/>
<input type="checkbox"/> <b>Other Political Committee</b> - PAC, caucus committee, political club, etc. If committee is related or affiliated with a business, association, union or similar entity, specify name: _____			
<b>For single election-year only committees (not continuing committees):</b> Is the committee supporting or opposing (a) one or more candidates? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach a list of each candidate's name, office sought and political party affiliation. (b) the entire ticket of a political party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify the party: _____			
2. Related or affiliated committees. List name, address and relationship. <span style="float: right;"><input type="checkbox"/> Continued on attached sheet.</span>			
3. How much do you plan to spend during this entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. (If your committee status is continuing, estimate spending on a calendar year basis.) <b>If no box is checked you are obligated to use Full Reporting. See instruction manuals for information about reports required and changing reporting options.</b> <input type="checkbox"/> <b>MINI REPORTING</b> Mini Reporting is selected. No more than \$5,000 will be raised or spent and no more than \$500 in the aggregate will be accepted from any one contributor.			
		<input type="checkbox"/> <b>FULL REPORTING</b> Full Reporting is selected. The frequent, detailed campaign reports mandated by law will be filed as required.	
4. Campaign Manager's or Media Contact's Name and Address		Telephone Number: ( )	
5. Treasurer's Name and Address. Does treasurer perform <u>only</u> ministerial functions? Yes ____ No ____ See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet. <input type="checkbox"/> Continued on attached sheet.		Daytime Telephone Number: ( )	
6. Persons who perform only ministerial functions on behalf of this committee <u>and</u> on behalf of candidates or other political committees. List name, title, and address of these persons. See WAC 390-05-243 and next page for details. <input type="checkbox"/> Continued on attached sheet.			
7. Committee Officers and other persons who authorize expenditures or make decisions for committee. List name, title, and address. See next page for definition of "officer." <input type="checkbox"/> Continued on attached sheet.			
8. Campaign Bank or Depository	Branch	City	
9. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address. <b>Street Address, Room Number, City where campaign books will be available for inspection</b>  In order to make an appointment, contact the campaign at (telephone, fax, e-mail): ( )			
10. <b>Eligibility to Give to State Office Candidates:</b> During the 180 days prior to making a contribution to a state office candidate, your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State. <input type="checkbox"/> A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to state office candidates (legislative and statewide executive candidates).		11. <b>Signature and Certification.</b> I certify that this statement is true, complete and correct to the best of my knowledge.  Committee Treasurer's Signature _____ Date _____	

SEE INSTRUCTIONS ON NEXT PAGE



Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.



**Who Must File** – Persons, committees, organizations or groups that receive contributions or make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.

**When To File** – Within 2 weeks of organizing a committee or first expecting to receive contributions or make expenditures, whichever occurs first. **(Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.)**

File an amended C-1pc form within 10 calendar days of any material change to the registration information furnished previously. For single election-year only committees, a material change includes providing or modifying the list of candidates the committee is supporting or opposing.

Continuing political committees using Mini Reporting must also file a C-1pc annually in January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

**Where To File** – Send the **original to PDC** at the above address. Send a **copy to County Auditor** (county elections office) of the county in which the committee headquarters is located. If there is no headquarters, send to the County Auditor of the county in which the treasurer resides. Keep a copy as part of the committee's records.

**“Officer” of a Political Committee** – Officer of a political committee includes the following persons:

- any person designated as an officer on the C-1pc registration statement, and
- any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee. [WAC 390-05-245]

**Persons who perform “Ministerial Functions” for two or more campaigns**

A person may perform ministerial functions for a candidate and a political committee without jeopardizing that political committee's eligibility to make independent expenditures or electioneering communications regarding that candidate as long as:

- the person performs solely ministerial functions for both the candidate and the political committee;
- the person is identified on both the candidate's and political committee's registration statements as a person performing ministerial functions for the campaign; and
- the person does not share information from or about one of the campaigns with the other campaign, or does not use information from or about one of the campaigns to assist the other campaign. [See RCW 42.17.020 (15)(b)(ix) and WAC 390-05-243 for more detailed information.]


“Ministerial functions” means activities carried out as part of the duties of an administrative office without exercise of personal judgment or discretion. RCW 42.17.020(34). Also see WAC 390-05-243 for a non-exclusive list of ministerial functions and a definition of administrative office. Typically, persons performing ministerial functions may, under the supervision of a candidate or committee officer, file PDC reports, make deposits, pay bills and maintain campaign finance records. However, if a person performs functions for both a candidate and a political committee and those functions for one or both campaigns entail duties beyond those deemed ministerial, any expenditure by the committee benefiting the candidate may be a contribution, rather than an independent expenditure or electioneering communication. [RCW 42.17.020(34) and WACs 390-05-243 and 390-05-210]

**For Instruction Manuals and Reporting Forms click on the “Filer Resources” tab at [www.pdc.wa.gov](http://www.pdc.wa.gov)**

AMENDATORY SECTION (Amending WSR 06-08-039, filed 3/29/06, effective 4/29/06)

**WAC 390-16-012 Forms—Registration statement for candidates.** The official form for providing the statement of organization by candidates and candidate's committees, for designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting is designated "C-1," revised ~~((3/06))~~ 1/08. Copies of this form are available at the Commission Office, 711 Capitol Way, Room 206, P.O. Box 40908, Olympia, Washington, 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.

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 <b>PUBLIC DISCLOSURE COMMISSION</b> 711 CAPITOL WAY RM 206 PO BOX 40103 OLYMPIA WA 98504-0908 (360) 753-1111 Toll Free 1-877-801-2828		<h1>Candidate Registration</h1>	<h1>C1</h1> <small>(3/06)</small>
Candidate's Name (Give candidate's full name.)		Telephone Number ( )	
Candidate's Committee Name (Do not abbreviate.)		Fax Number ( )	
Mailing Address		Candidate's E-Mail Address	
City	County	Zip + 4	Campaign E-Mail Address
1. What office are you running for? <small>Legislative District, County or City</small>		Position No.	Do you now hold this office? Yes <input type="checkbox"/> No <input type="checkbox"/>
2. Political party (if partisan office)		3. Date of general or special election	
4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. If no box is checked you are obligated to use Option II, Full Reporting. See instruction manuals for information about reports required and changing reporting options.			
<input type="checkbox"/> Option I MINI REPORTING: In addition to my filing fee of \$_____, I will raise and spend no more than \$3,500, including any charges for inclusion in state and local voters pamphlets. I will not accept more than \$300 in the aggregate from any contributor except myself.			
<input type="checkbox"/> Option II FULL REPORTING: I will use the Full Reporting system. I will file the frequent, detailed campaign reports required by law.			
5. Treasurer's Name and Address. Candidate may be treasurer. List deputy treasurers on attached sheet. <input type="checkbox"/> Continued on attached sheet		Daytime Telephone Number ( )	
6. Committee Officers. List name, title and address. Continue on attached sheet if necessary. See reverse for definition of "officer."			<input type="checkbox"/> Continued on attached sheet
7. Campaign Bank or Depository	Branch	City	
8. Related or Affiliated Political Committees. List name, address and relationship.  <input type="checkbox"/> Continued on attached sheet			
9. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address.  Street Address, Room Number, City where campaign books will be available for inspection  In order to make an appointment, contact the campaign at (telephone, fax, e-mail): ( )			
10. CERTIFICATION: I certify that this report is true, complete and correct to the best of my knowledge. Candidate's Signature _____ Date _____			

SEE INSTRUCTIONS ON REVERSE

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Please consult PDC instruction manuals when completing this report.  
Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.

- Who Must File** Candidates who seek
  - state office (legislative or statewide executive),
  - a state supreme court or state court of appeals position,
  - local office in jurisdictions having 5,000 or more registered voters as of the last general election or in jurisdictions covering an entire county.
  
- When To File** Within 2 weeks of becoming a candidate. A person becomes a candidate for PDC purposes when he or she **first** does any of the following:
  - receives contributions, makes expenditures, or reserves space or facilities with intent to promote his or her candidacy;
  - purchases commercial advertising space or broadcast time to promote his or her candidacy;
  - authorizes another person to take one of these above actions on his or her behalf;
  - announces publicly that he or she is seeking office; or
  - files a declaration of candidacy with the appropriate elections official.

File an amended registration within 10 days of a material change to information provided on previously filed C-1. Reports are considered filed as of the postmark date or date hand-delivered to PDC.
  
- Where To File** Send the **original to PDC** at the above address. Send a **copy to County Auditor** (county elections office) of the county in which the candidate resides. Candidates for city offices are advised to contact their City Clerk to learn if local filing is required by local ordinance. Keep a copy as part of the campaign's records.
  
- “Officer” of a Candidate’s Committee – Definition** Officer of a candidate’s authorized committee or officer of a candidate’s committee includes the following persons:
  - the treasurer,
  - any person designated as an officer on the C-1 registration statement, and
  - any person who alone or in conjunction with other persons makes contribution, expenditure, strategic or policy decisions on behalf of the committee. (WAC 390-05-245)

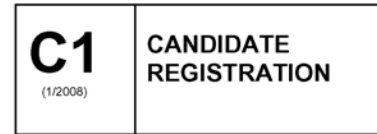
**For Instruction Manuals and Reporting Forms look under the “Filer Assistance” menu category on PDC’s Web Site: [www.pdc.wa.gov](http://www.pdc.wa.gov)**

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 <b>PUBLIC DISCLOSURE COMMISSION</b> 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 763-1111 Toll Free 1-877-601-2828		<h2 style="margin: 0;">Candidate Registration</h2>	<h1 style="margin: 0;">C1</h1> <p style="font-size: small;">(1/2008)</p>
Candidate's Name (Give candidate's full name.)		Telephone Number (    )	
Candidate's Committee Name (Do not abbreviate.)		Fax Number (    )	
Mailing Address		Candidate's E-Mail Address	
City	County	Zip + 4	Campaign E-Mail Address
1. What office are you running for?		Legislative District, County or City	Position No.      Do you now hold this office? Yes <input type="checkbox"/> No <input type="checkbox"/>
2. Political party (if partisan office)		3. Date of general or special election	
4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. If no box is checked you are obligated to use Option II, Full Reporting. See instruction manuals for information about reports required and changing reporting options.			
<input type="checkbox"/> <b>Option I MINI REPORTING:</b> In addition to my filing fee of \$ _____, I will raise and spend no more than \$5,000, including any charges for inclusion in state and local voters pamphlets. I will not accept more than \$500 in the aggregate from any contributor except myself.			
<input type="checkbox"/> <b>Option II FULL REPORTING:</b> I will use the Full Reporting system. I will file the frequent, detailed campaign reports required by law.			
5. Treasurer's Name and Address. Does treasurer perform <u>only</u> ministerial functions? Yes ___ No ___ See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet.		Daytime Telephone Number (    )	
6. Persons who perform only ministerial functions on your behalf <u>and</u> on behalf of other candidates or political committees. List name, title and address of these persons. See WAC 390-05-243 and next page for details.		<input type="checkbox"/> Continued on attached sheet.	
7. Committee Officers and other persons who authorize expenditures or make decisions on your behalf. List name, title and address. See next page for definition of "officer."			
<input type="checkbox"/> Continued on attached sheet.			
8. Campaign Bank or Depository	Branch	City	
9. Related or Affiliated Political Committees. List name, address and relationship.			<input type="checkbox"/> Continued on attached sheet.
10. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address.			
Street Address, Room Number, City where campaign books will be available for inspection			
In order to make an appointment, contact the campaign at (telephone, fax, e-mail): (    )			
11. <b>CERTIFICATION:</b> I certify that this report is true, complete and correct to the best of my knowledge.			
Candidate's Signature			Date

SEE INSTRUCTIONS ON NEXT PAGE

Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.



**Who Must File** – Candidates who seek:

- state office (legislative or statewide executive),
- a state supreme court or state court of appeals position,
- local office in jurisdictions having 5,000 or more registered voters as of the last general election or in jurisdictions covering an entire county,
- local office in jurisdictions of any size if the candidate receives or expects to receive \$5,000 or more in contributions.

**When To File** – Within 2 weeks of becoming a candidate. A person becomes a candidate for PDC purposes when he or she **first** does any of the following:

- receives contributions, makes expenditures, or reserves space or facilities with intent to promote his or her candidacy;
- purchases commercial advertising space or broadcast time to promote his or her candidacy;
- authorizes another person to take one of these above actions on his or her behalf;
- announces publicly that he or she is seeking office; or
- files a declaration of candidacy with the appropriate elections official.

File an amended registration within 10 days of a material change to information provided on previously filed C-1. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

**Where To File** – Send the **original to PDC** at the above address. Send a **copy to County Auditor** (county elections office) of the county in which the candidate resides. Candidates for city offices are advised to contact their City Clerk to learn if local filing is required by local ordinance. Keep a copy for the campaign's records.

**“Officer” of a Candidate’s Committee** – Officer of a candidate’s committee includes the following persons:

- any person designated as an officer on the C-1 registration statement, and
- any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee. [WAC 390-05-245]

**Persons who perform “Ministerial Functions” for two or more campaigns**

A person may perform ministerial functions for a candidate and a political committee without jeopardizing that political committee’s eligibility to make independent expenditures or electioneering communications regarding that candidate as long as:

- the person performs solely ministerial functions for both the candidate and the political committee;
- the person is identified on both the candidate’s and political committee’s registration statements as a person performing ministerial functions for the campaign; and
- the person does not share information from or about one of the campaigns with the other campaign, or does not use information from or about one of the campaigns to assist the other campaign. [See RCW 42.17.020 (15)(b)(ix) and WAC 390-05-243 for more detailed information.]

“Ministerial functions” means activities carried out as part of the duties of an administrative office without exercise of personal judgment or discretion. RCW 42.17.020(34). Also see WAC 390-05-243 for a non-exclusive list of ministerial functions and a definition of administrative office. Typically, persons performing ministerial functions may, under the supervision of a candidate or committee officer, file PDC reports, make deposits, pay bills and maintain campaign finance records. However, if a person performs functions for both a candidate and a political committee and those functions for one or both campaigns entail duties beyond those deemed ministerial, any expenditure by the committee benefiting the candidate may be a contribution, rather than an independent expenditure or electioneering communication. [RCW 42.17.020(34) and WACs 390-05-243 and 390-05-210]

**For Instruction Manuals and Reporting Forms click on the “Filer Resources” tab at [www.pdc.wa.gov](http://www.pdc.wa.gov)**

**WSR 07-21-092**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed October 18, 2007, 10:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-16-035.

Title of Rule and Other Identifying Information: WAC 230-14-045 Authorized pull-tab dispensers and 230-05-030 Fees for other businesses.

Hearing Location(s): DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (206) 575-8220, on January 11, 2008, at 9:30 a.m.

Date of Intended Adoption: January 11, 2008.

Submit Written Comments to: Susan Arland, P.O. Box 42400, Olympia, WA 98504-2400, e-mail Susan2@wsgc.wa.gov, fax (360) 486-3625, by January 1, 2008.

Assistance for Persons with Disabilities: Contact Gail Grate, Executive Assistant, by January 1, 2008, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Pull-tab dispensing devices that feature slot like video displays and read barcodes on pull-tabs have been approved by the commission since 1997 and are being operated at pull-tab licensees. There are two different types of video pull-tab dispensing devices that open and/or read encoded data on a pull-tab, Gold Crown and the VIP dispensing devices. ZDI is licensed and manufactures the VIP device. In 2004, ZDI petitioned for a rule change to allow pull-tabs to be stored electronically on a CD in the dispensing device in lieu of the actual paper pull-tab. The commission voted not to file this petition. Then in September 2005, ZDI filed a petition for a declaratory ruling with the commission seeking approval to add a gift card acceptor to the dispensing device to allow players to purchase pull-tabs and for prizes under \$20 to be awarded as additional credits on the gift card. In 2006, an administrative law judge and the commission found that such a device did not meet WAC requirements. In 2006, ZDI filed a petition for rule change to allow punch board or pull-tab winnings to be paid in the form of a gift certificate or gift card if the prize was \$20 or less. ZDI also requested that participants be able to use gift certificates and gift cards to participate in gambling activities. ZDI appealed the commission's ruling to Thurston County Superior Court. On August 17, 2007, the superior court issued an order approving the gift card technology and remanding the case back to the commission for action in compliance with the order. The judge also entered a finding of fact that "the VIP display is intentionally designed to emulate a video slot machine." As a result, commissioners expressed concerns about the potential impact of the court's ruling. Staff was asked to bring these amendments forward to start a discussion on whether these electronic video pull-tab dispensing devices: (1) Are consistent with the commission's legislative authorization to define a pull-tab game; (2) are consistent with the original authorizing rules; and (3) authorized by the court [to] increase the possibility of an unintentional expansion of electronic machine gambling in Washington. The commission riled [filed] the proposal at their October commission [meeting] and asked that staff

work with the industry to come up with an alternative proposal that would set out specific requirements for the dispensing devices and bring it to the November 2007 commission meeting.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

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

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

October 18, 2007

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 606, filed 1/18/07, effective 1/1/08)

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

**1. Commercial amusement games**

License	Annual Gross Gambling Receipts	Fee
Class A	Premises only	*\$310/ \$143
Class B	Up to \$50,000	\$436
Class C	Up to \$100,000	\$1,122
Class D	Up to \$250,000	\$2,506
Class E	Up to \$500,000	\$4,398
Class F	Up to \$1,000,000	\$7,552
Class G	Over \$1,000,000	\$9,448

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

**2. Distributor**

License	Annual Gross Sales	Fee
Class A	Nonpunch board/pull-tab only	\$625
Class B	Up to \$250,000	\$1,250
Class C	Up to \$500,000	\$1,878
Class D	Up to \$1,000,000	\$2,506
Class E	Up to \$2,500,000	\$3,266
Class F	Over \$2,500,000	\$4,020

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

License	Description	Fee
Class A	Rents or leases equipment for fund-raising event or recreational gaming activity up to 10 times per year.	\$247
Class B	Rents or leases equipment for fund-raising event or recreational gaming activity more than 10 times per year.	\$625

**4. Gambling service supplier**

License	Fee
Annual	\$651
Financing, consulting, and management contract review	\$136

**5. Linked bingo prize provider**

License	Fee
Annual	\$4,184

**6. Manufacturer**

License	Annual Gross Sales	Fee
Class A	Pull-tab dispensing devices only	\$625
Class B	Up to \$250,000	\$1,250
Class C	Up to \$500,000	\$1,878
Class D	Up to \$1,000,000	\$2,506
Class E	Up to \$2,500,000	\$3,266
Class F	Over \$2,500,000	\$4,020

**7. Permits**

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

**8. Changes**

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

**9. Other fees**

Type	Fee
Defective punch board/pull-tab cost recovery fees	Up to \$100

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

**10. Identification stamps**

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

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

Annual participation	\$26
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AMENDATORY SECTION (Amending Order 614, filed 8/10/07, effective 1/1/08)

**WAC 230-14-045 Authorized pull-tab dispensers. (1)** Authorized pull-tab dispensers must:

- (a) Be made by a licensed manufacturer; and
- (b) Conspicuously display a stamp, seal, or label identifying the manufacturer, city, and state where manufactured; and



- (c) Be stamped with a serial number on the case.
- (2) Perforated window type pull-tab dispensers must:
- (a) Have a resettable counter visible to the customer indicating the number of pull-tabs left in the dispenser; or
- (b) Be made so that players can:
- (i) Clearly see each pull-tab in the dispenser, except for that area at the bottom, not more than one inch in height, covered for security or mechanical reasons; and
- (ii) Estimate how many pull-tabs remain within the dispenser using permanent markings which divide the pull-tabs remaining into divisions of approximately twenty-five tabs.
- (3) "Jar" or "banded" type pull-tab dispensers must:
- (a) Have a resettable counter visible to the player indicating the number of jar or banded tabs left in the dispenser; or
- (b) Be made so that players can clearly see all jar or banded tabs or jar tab bundles within the dispenser.
- (4) Dispensers with bill acceptors or similar mechanisms must inform the player if they do not return change.
- (5) Pull-tab dispensers must not:
- (a) Have a video display; or
- (b) Open a pull-tab and/or read encoded data.

**WSR 07-21-099**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed October 19, 2007, 7:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-18-007.

Title of Rule and Other Identifying Information: WAC 260-44-150 Horseshoes, amending this section to prohibit the use of toe-grabs with a height greater than four millimeters worn on the front shoes of a horse while racing or training.

Hearing Location(s): Emerald Downs Racetrack, 2800 Emerald Downs Drive, 3rd Floor, Auburn, WA 98001, on December 13, 2007, at 9:30 a.m.

Date of Intended Adoption: December 13, 2007.

Submit Written Comments to: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail rlopez@whrc.state.wa.us, fax (360) 459-6461, by December 7, 2007.

Assistance for Persons with Disabilities: Contact Patty Sorby by December 7, 2007, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amendment to this section is intended to prohibit the use of toe-grabs on the front shoes of any race horse while racing or in training in an attempt to reduce catastrophic injuries while racing. The ban on front toe-grabs is also a new model rule.

Reasons Supporting Proposal: Provides greater safety to race horses while racing and in training. This ban is also a new model rule.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert M. Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578 (360) 459-6462.

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

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

October 15, 2007

R. J. Lopez

Deputy Secretary

AMENDATORY SECTION (Amending WSR 07-07-035, filed 3/12/07, effective 4/12/07)

**WAC 260-44-150 Horseshoes.** (1) A horse starting in a race must be fully shod with racing plates.

(2) During off-track conditions the trainer is required to report any additional traction devices to the board of stewards or designee.

(3) For turf racing, horses must be shod with racing plates approved by the association.

(4) Toe grabs with a height greater than four millimeters worn on the front shoes of horses while racing or training on any surface or conditions are prohibited.

**WSR 07-21-102**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**

[Filed October 19, 2007, 11:35 a.m.]

Supplemental Notice to WSR 07-14-136.

Preproposal statement of inquiry was filed as WSR 06-19-118.

Title of Rule and Other Identifying Information: What are the forms of acceptable identification?, WAC 314-11-025.

Hearing Location(s): Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA, on December 5, 2007, at 10:00 a.m.

Date of Intended Adoption: December 26, 2007.

Submit Written Comments to: Pam Madson, P.O. Box 43080, Olympia, WA 98504-3080, e-mail rules@liq.wa.gov, fax (360) 704-4921, by December 14, 2007.

Assistance for Persons with Disabilities: Contact Pam Madson by December 14, 2007, TTY (800) 855-2880 or (360) 664-1648.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to modify WAC 314-11-025. This rule lists the types of official identification that a person must present if their age is questioned when purchasing alcohol. Changes in RCW 66.16.040 require changes in the agency rule to reflect the current list of official documents to prove age for purchasing alcohol. The proposed rule also requires that if an official document has an expiration date, the document may not be used after its expiration date. The rule will

no longer require that an official document have an expiration date to be a valid official document, but if it does, its use must occur before the expiration date. The rule will no longer address the use of a temporary Washington driver's license.

Reasons Supporting Proposal: RCW 66.16.040 was amended to eliminate the liquor control authority identification cards and add tribal enrollment cards of federally recognized tribes located in Washington state. The rule is amended to reflect the changes in statute. Use of expired documents is subject to abuse by persons other than the owner of the document. Liquor licensees may not sell alcohol to persons under the age of twenty-one nor allow those under twenty-one into areas restricted to minors. If a person's age is questioned, it is a business decision of the licensee whether to accept proof in the form of a temporary driver's license without additional documentation. The rule will no longer reference use of a Washington temporary driver's license. The Washington temporary license now includes a photograph of the person but is not intended to be a permanent document.

Statutory Authority for Adoption: RCW 66.16.040.

Statute Being Implemented: RCW 66.16.040.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This proposal replaces an earlier proposal filed under WSR 07-14-136. This proposal modifies the existing rule rather than repealing it.

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

Name of Agency Personnel Responsible for Drafting: Pam Madson, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1648; Implementation and Enforcement: Pat Parmer, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business economic impact statement was prepared. This proposal imposes only minor impact on businesses in the industry.

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

October 19, 2007

Lorraine Lee  
Chairman

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

**WAC 314-11-025 What are the forms of acceptable identification?** (1) Per RCW 66.16.040, following are the forms of identification that are acceptable to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol:

(a) ~~((Liquor control authority card of identification of any state or province of Canada;~~

~~(b)))~~ Driver's license, instruction permit, or identification card of any state or province of Canada, or "identocard" issued by the Washington state department of licensing per RCW 46.20.117;

~~((c)))~~ (b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded digital signature in lieu of a visible signature;

~~((d)))~~ (c) Passport; ~~(and~~

~~(e)))~~ (d) Merchant Marine identification card issued by the United States Coast Guard; and

(e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

(2) ~~((In order for the identification to be acceptable to verify a person's age, it must:~~

~~(a) Show the person's photo, date of birth, signature, and expiration date; and~~

~~(b) Not be expired (except that an expired Washington driver's license card together with a current temporary paper license or a current expiration extension sticker is acceptable).))~~ If the identification document has an expiration date, a person may not use the document after the expiration date to verify his or her age.

## WSR 07-21-104

### PROPOSED RULES

### PUBLIC DISCLOSURE COMMISSION

[Filed October 19, 2007, 12:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-18-012.

Title of Rule and Other Identifying Information: Amend WAC 390-16-105 Mini campaign reporting—Eligibility, 390-16-111 Mini campaign reporting—Special fund raising events, and 390-16-125 Mini campaign reporting—Exceeding limitations.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA 98504, on December 6, 2007, at 10:30 a.m.

Date of Intended Adoption: December 6, 2007.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, e-mail dellis@pdc.wa.gov, fax (360) 753-1112, by December 3, 2007.

Assistance for Persons with Disabilities: Contact Kami Madsen by phone (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To revise monetary reporting thresholds for mini reporting and amend the criteria used when changing from the mini to full reporting option.

Reasons Supporting Proposal: To adjust threshold amounts consistent with action taken by the legislature and provide guidance and clarification to candidates and political committees applying for a change in reporting options.

Statutory Authority for Adoption: RCW 42.17.370 (1) and (8).

Statute Being Implemented: RCW 42.17.370(8).

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The rule amendments are designed to reflect changing economic conditions and provide consistency with 2006 legislative action amending RCW 42.17.405 as well as clarifying the process when applying to change from mini to full reporting.

Name of Proponent: Public disclosure commission (PDC), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to the adoption of these rules pursuant to subsection (5)(a)(i) of section 201, and, to date, JARRC has not made section 201 application [applicable] to the adoption of these rules.

October 10, 2007  
Vicki Rippie  
Executive Director

AMENDATORY SECTION (Amending WSR 05-11-001, filed 5/4/05, effective 6/4/05)

**WAC 390-16-105 Mini campaign reporting—Eligibility.** (1) A candidate or candidate's authorized committee, as those terms are defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW 42.17.065 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures exceed the amount of the candidate's filing fee provided by law plus a sum not to exceed ~~((three))~~ five thousand ~~((five hundred))~~ dollars and no contribution or contributions from any person other than the candidate within such aggregate exceed ~~((three))~~ five hundred dollars. However, a bona fide political party may pay the candidate's filing fee provided by law without that payment disqualifying that candidate from eligibility under this section.

(2) A political committee, as that term is defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW 42.17.065 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures exceed ~~((three))~~ five thousand ~~((five hundred))~~ dollars and no contribution or contributions from any person exceed ~~((three))~~ five hundred dollars.

(3) A continuing political committee, as that term is defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW 42.17.065 through 42.17.090

except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures during a calendar year exceed ~~((three))~~ five thousand ~~((five hundred))~~ dollars and no contribution or contributions from any person exceed ~~((three))~~ five hundred dollars.

(4) Candidates and political committees are required to comply with all applicable provisions of chapter 42.17 RCW including, but not limited to, false political advertising, sponsor identification and public inspection of campaign books of account unless specifically exempted under subsections (1) through (3) of this section.

AMENDATORY SECTION (Amending WSR 01-10-051, filed 4/26/01, effective 6/1/01)

**WAC 390-16-111 Mini campaign reporting—Special fund raising events.** The term "any person" as used in WAC 390-16-105 does not mean a fund-raising activity conducted pursuant to RCW 42.17.067. Candidates and committees using mini reporting as provided in chapter 390-16 WAC shall not be limited to receiving ~~((three))~~ five hundred dollars from a fund-raising event provided that the payments from any person do not exceed ~~((three))~~ five hundred dollars from all fund raising conducted during a campaign or calendar year as provided in WAC 390-16-105.

AMENDATORY SECTION (Amending WSR 05-11-001, filed 5/4/05, effective 6/4/05)

**WAC 390-16-125 Mini campaign reporting—Exceeding limitations.** (1) A candidate or political committee shall apply in writing to the commission for authorization to change reporting options before the limitations specified in WAC 390-16-105 are exceeded. A complete application shall include all of the following documents:

(a) An amended registration statement (Form C-1 for candidates, Form C-1pc for political committees) selecting the full reporting option as provided in RCW 42.17.065 - 42.17.090;

(b) PDC forms C-3 and C-4 with relevant schedules and attachments disclosing all contributions and expenditures to date reportable under RCW 42.17.090 for the election campaign, or in the case of continuing political committees, for the calendar year; and

(c)(i) If the applicant is a candidate, a statement affirming that all candidates registered with the commission for the office being sought have been notified personally in writing of the application, and the manner and date of such notification;

(ii) If the applicant is the treasurer of a political committee supporting or opposing a ballot proposition, a statement affirming that all treasurers of all political committees registered with the commission as supporting or opposing the proposition have been notified personally in writing of the application, and the manner and date of such notification; or

(iii) If the applicant is the treasurer of a county or legislative district party committee, a statement affirming that the treasurer of that party committee's counterpart in any other major political party has been notified personally in writing

of the application, and the manner and date of such notification.

(2) An application that is submitted without the required documents described in subsection (1) of this section is incomplete and will not be processed or approved. If the applicant provides the missing documents, the application will be determined to be complete on the date the documents are postmarked or delivered to the commission.

(3) If a complete application is postmarked or delivered to the commission on or before thirty business days prior to the date of the election, the application shall be approved by the executive director.

(4) If a complete application is postmarked or delivered to the commission on or after twenty-nine business days prior to the election, the application shall be approved by the executive director only if one or more of the following factors are present:

(a) The applicant's campaign had its respective C1 or C1pc on file with the commission forty-one or more days before the election and the commission staff did not send to the applicant's campaign in a timely and proper manner, either electronically or by other mail delivery service, a notice that the thirtieth business day deadline for unrestricted changes in reporting options is approaching. To be timely and proper, this notice must be sent at least forty business days before the election to the campaign's electronic mail address or postal service mailing address specified on the registration statement;

(b) The applicant is a candidate and, within thirty business days of the election, a write-in opponent has filed for office in accordance with chapter 29A.24 RCW;

(c) Within thirty business days of the election, an independent expenditure as defined in RCW 42.17.020 is made in support of the applicant's opponent or in opposition to the applicant; or

(d) When a candidate or political committee on one side of an election campaign or proposition has been approved to change reporting options under this section, each opponent of that candidate or political committee is approved to change options as of the date that opponent postmarks or delivers a complete application to the commission.

(5) Exceeding the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 without complying with the provisions of this section shall constitute one or more violations of chapter 42.17 RCW or 390-17 WAC.

**WSR 07-21-107**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed October 19, 2007, 2:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-16-111.

Title of Rule and Other Identifying Information: The department is amending WAC 388-478-0015 Need standards for cash assistance.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on November 27, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 28, 2007.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [schilse@dshs.wa.gov](mailto:schilse@dshs.wa.gov), fax (360) 664-6185, by 5 p.m. on November 27, 2007.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS Rules Consultant, by November 20, 2007, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [johnsjl4@dshs.wa.gov](mailto:johnsjl4@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule is being amended to revise basic need standards for cash assistance based on the 2008 forecast.

Reasons Supporting Proposal: RCW 74.04.770 requires the department to annually establish consolidated standards of need. A forecast of basic needs costs is being used to establish new basic needs standards.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jenny Grayum, 1009 College S.E., Lacey, WA 98504, (360) 725-4583.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by outlining the need standards for cash assistance programs.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

October 16, 2007

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-06-066, filed 3/5/07, effective 4/5/07)

**WAC 388-478-0015 Need standards for cash assistance.** The need standards for cash assistance units are:

(1) For assistance units with obligation to pay shelter costs:

Assistance Unit Size	Need Standard
1	<del>\$(1,016)</del> <u>1,060</u>
2	<del>((1,285))</del> <u>1,341</u>
3	<del>((1,587))</del> <u>1,655</u>
4	<del>((1,873))</del> <u>1,953</u>
5	<del>((2,158))</del> <u>2,251</u>
6	<del>((2,444))</del> <u>2,549</u>
7	<del>((2,825))</del> <u>2,947</u>
8	<del>((3,126))</del> <u>3,261</u>
9	<del>((3,428))</del> <u>3,576</u>
10 or more	<del>((3,729))</del> <u>3,890</u>

(2) For assistance units with shelter provided at no cost:

Assistance Unit Size	Need Standard
1	<del>\$(546)</del> <u>566</u>
2	<del>((691))</del> <u>717</u>
3	<del>((853))</del> <u>885</u>
4	<del>((1,007))</del> <u>1,044</u>
5	<del>((1,161))</del> <u>1,203</u>
6	<del>((1,314))</del> <u>1,362</u>
7	<del>((1,519))</del> <u>1,575</u>
8	<del>((1,681))</del> <u>1,743</u>
9	<del>((1,843))</del> <u>1,911</u>
10 or more	<del>((2,005))</del> <u>2,079</u>

**WSR 07-21-108**  
**PROPOSED RULES**  
**LOWER COLUMBIA COLLEGE**  
 [Filed October 19, 2007, 3:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-18-045.

Title of Rule and Other Identifying Information: Chapter 132M-121 WAC, adopting new student code of conduct, repealing former student conduct code.

Hearing Location(s): Lower Columbia College, Administration Building, Heritage Room, 1600 Maple Street, Longview, WA 98632, on November 27, 2007, at 5:00 p.m.

Date of Intended Adoption: November 21, 2007.

Submit Written Comments to: Mary Harding, Vice President, Lower Columbia College, P.O. Box 3010, 1600 Maple Street, Longview, WA 98632, e-mail mharding@lowercolumbia.edu, fax (360) 442-2109, by November 5, 2007.

Assistance for Persons with Disabilities: Contact Twylla Corrie by TTY (360) 442-2344 or (360) 442-2341.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Repeal the current student conduct code; adopt new student conduct code.

Reasons Supporting Proposal: The code of conduct replaces the old student conduct code. It more clearly enumerates prohibited acts and behaviors and disciplinary consequences. It updates position titles and personnel responsible for matters involving student conduct. It also clarifies college disciplinary procedures and the appeal process.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Name of Proponent: Lower Columbia College, District 13, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mary L. Harding, Vice-President for Student Success, 1600 Maple Street, Longview, WA 98632, (360) 442-2301.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No economic impact on small businesses. Under chapter 19.85 RCW, none required.

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

September 18, 2007

J. L. McLaughlin

President

**Chapter 132M-121 WAC**

**STUDENT CODE OF CONDUCT**

NEW SECTION

**WAC 132M-121-010 Statement of policy and purpose.** (1) Lower Columbia College, an agency of the state of Washington, exists for the development of students and to provide a variety of educational opportunities, and the opportunity to examine cultural, social and recreational aspects of society. Lower Columbia College as an institution of society

must maintain conditions conducive to the effective performance of its functions. Consequently, Lower Columbia College has special expectations regarding the conduct of students. Student conduct that detracts from, or interferes with, the accomplishment of college purposes is not acceptable.

(2) The student is, first of all, a member of the community at large, and as such has the rights and responsibilities of any citizen. In addition, admission to Lower Columbia College carries with it the presumption that students will conduct themselves as responsible members of the college community. This includes an expectation that students will obey the law, will comply with rules and regulations of the college, will maintain a high standard of integrity and honesty, and will respect the rights, privileges and property of other members of the college community. Lower Columbia College expects an environment of integrity, respect, collaboration, cooperation, diversity, and innovation that fosters personal growth, academic excellence and accountability.

(3) The following rules regarding the conduct of students are adopted in order to provide students a full understanding of the rules that will enable the college to maintain conditions conducive to the effective performance of the college's functions. Sanctions for violations of the rules of student conduct will be administered by the college in the manner provided by said rules. When violations of laws of the state of Washington and/or the United States are also involved, the college may refer such matters to the appropriate authorities. In cases of minors, this conduct may also be referred to parents or legal guardians.

#### NEW SECTION

**WAC 132M-121-020 Definitions.** As used in this chapter, unless the context requires otherwise:

(1) "Administration" and "administrator" include the president, vice-presidents, deans, directors of programs or functions, and others designated as a member of the administration.

(2) "Arbitrary or capricious" refers to willful or unreasonable action, taken without consideration of, or in disregard of, facts or circumstances of a particular case. Where there is room for two reasonable opinions, an action shall not be deemed to be arbitrary or capricious when taken honestly and upon due consideration, however much it may be believed that an erroneous conclusion has been reached.

(3) "Assembly" means any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons, or group of persons.

(4) "College" means Lower Columbia College or any additional community college established within Community College District 13.

(5) "College community" is composed of all individuals who are enrolled in classes and/or employed by the college.

(6) "College facilities" mean and include any and all real and personal property owned, rented, leased or operated by the board of trustees of Community College District 13, and shall include all buildings and appurtenances attached thereto and all parking lots and other grounds.

(7) "Designee" means a person appointed in writing by an officer or other person designated in a rule to perform a function, to perform that function on the appointer's behalf.

(8) "Disciplinary action" and "discipline" shall mean and include warning, reprimand, probation, suspension, dismissal, monetary fine, restitution, and any other action taken against a student as a sanction or penalty for violation of a designated rule of student conduct.

(9) "District" means Community College District 13.

(10) "Faculty member" and "instructor" mean any employee of Community College District 13 who is employed on a full- or part-time basis as a teacher, instructor, counselor or librarian.

(11) "President" is the chief executive officer of the college appointed by the board of trustees.

(12) "Recognized student organization" means an organization established by and operated pursuant to the Constitution of the associated students of Lower Columbia College.

(13) "Student code of conduct" shall mean those rules regulating student conduct as herein adopted.

(14) "Service," "serve," "filing" and "file" shall have the meanings in WAC 10-08-110.

(15) "Student" is any person who is enrolled for classes or is formally in the process of applying for admission to the college.

(16) The singular includes the plural and vice versa, the masculine includes the feminine and vice versa, and the disjunctive includes the conjunctive and vice versa.

#### NEW SECTION

**WAC 132M-121-030 Jurisdiction.** This chapter shall apply to students and student conduct which occurs:

(1) On or in a college facility; or

(2) Whenever a student is present at or engaged in any college-sponsored program or function.

This chapter is not exclusive, and where conduct becomes known which may also violate any other rule or provision of law, nothing herein shall limit the right or duty of any person to report elsewhere or seek another remedy for that conduct.

#### NEW SECTION

**WAC 132M-121-040 Right to demand identification.**

(1) For the purpose of determining identity of a person as a student, any college administrator or member of the security staff, or designee of the president, may demand that any person produce evidence of student enrollment at the college. Presenting a current student identification card with a picture I.D. card will be deemed proof of student status.

(2) Refusal by a student to produce identification as required shall be cause for disciplinary action.

#### NEW SECTION

**WAC 132M-121-041 Freedom of expression.** The right of free speech is fundamental to the democratic process. Students and other members of the college community shall be free to express their views or support causes by orderly

means which do not disrupt the regular and essential operations of the college.

#### NEW SECTION

**WAC 132M-121-042 Right to assembly.** (1) Students shall have the right of assembly upon college facilities that are generally available to the public. Such assembly shall:

- (a) Be conducted in an orderly manner;
- (b) Not unreasonably interfere with vehicular or pedestrian traffic;
- (c) Not unreasonably interfere with classes, scheduled meetings or ceremonies; and
- (d) Not unreasonably interfere with the regular activities of the college.

(2) A student who conducts or participates in an assembly in a manner which causes or helps to cause a violation of this section shall be subject to discipline.

(3) All speakers at an assembly shall allow time, insofar as circumstances reasonably permit, for a question and answer session.

(4) Sound amplifying equipment shall not be used without permission of the vice-president for student success or designee.

#### NEW SECTION

**WAC 132M-121-043 Right to outside speakers.** (1) Any recognized student organization, after written notification to the vice-president for student success or director of student activities as prescribed herein, may invite a speaker to the college, subject to any restraints imposed by law.

(2) The appearance of an invited speaker at the college does not represent an endorsement, either implicit or explicit, by the college.

(3) The scheduling of facilities for hearing invited speakers shall be made through the student activities office.

(4) All speakers shall allow time, insofar as circumstances reasonably permit, for a question and answer session.

#### NEW SECTION

**WAC 132M-121-044 Distribution of materials.** (1) Handbills, leaflets, newspapers and similar materials may be distributed free of charge upon college facilities designated by the director of student activities, provided that such distribution does not interfere with the ingress and egress of persons or interfere with the free flow of vehicle or pedestrian traffic.

(2) All students and nonstudents shall register with the director of student activities prior to distributing any handbill, leaflet, newspaper or related matter, including, but not limited to, materials to be posted on college bulletin boards. **Materials to be posted on college bulletin boards shall have prior approval by the director of student activities.**

(3) The distribution of materials is prohibited in parking areas.

(4) All handbills, leaflets, newspapers and similar materials should identify the publisher and the distributing organization or individual.

(5) Distribution by means of accosting individuals or unreasonably disruptive behavior is prohibited.

(6) Any student who violates any provision of this rule relating to the distribution and sale of handbills, leaflets, newspapers or similar materials shall be subject to discipline.

(7) Any distribution of the materials regulated in this section shall not be construed as approval of the same by the college.

#### NEW SECTION

**WAC 132M-121-045 Denial of access to Lower Columbia College.** (1) The vice-president for student success or designee may deny admission to a prospective student, or continued attendance to an enrolled student, if it reasonably appears that the student would not be competent to profit from the curriculum offerings of the college, or would, by the student's presence or conduct, create a disruptive atmosphere within the college or a substantial risk of actual harm to a member of the campus community.

(2) Denial of access decisions may be appealed, as or like disciplinary actions, to the student conduct committee.

#### NEW SECTION

**WAC 132M-121-046 Trespass.** (1) In the instance of any event that the vice-president for student success or designee deems to be disruptive of order, or deems to impede the movement of persons or vehicles, or deems to disrupt or threaten to disrupt the ingress or egress of persons from college facilities, the vice-president for student success or designee is authorized to:

(a) Prohibit the entry of any person, or withdraw from any person the license or permission to enter onto or remain upon any portion of a college facility;

(b) Give notice against trespass to any person from whom the license or permission has been withdrawn or who has been prohibited from entering onto or remaining upon all or any portion of a college facility;

(c) Order any person to leave or vacate all or any portion of a college facility.

(2) Any student who disobeys a lawful order given by the vice-president for student success or designee pursuant to subsection (1) of this section shall be subject to discipline.

#### NEW SECTION

**WAC 132M-121-050 Smoking.** Smoking in college buildings and in areas of the campus not specifically posted by the administration as a designated smoking area, is not permitted. Violations of this section shall be cause for discipline.

#### NEW SECTION

**WAC 132M-121-051 Liquor.** Any student who, while in any college facility or participating in a college-related program, uses, possesses, consumes, is demonstrably under the influence of, or sells any liquor as defined in RCW 66.04.010, in violation of law or in a manner which signifi-

cantly disrupts a college activity, shall be subject to discipline.

NEW SECTION

**WAC 132M-121-052 Drugs/substance abuse.** Any student who, while in any college facility or participating in a college-related program, uses, possesses, consumes, is demonstrably under the influence of, or sells, delivers or distributes any narcotic drug or controlled substance as defined in RCW 69.50.101, in violation of law or in a manner which significantly disrupts a college activity, shall be subject to discipline. For purposes of this section, "sell" includes the statutory meaning in RCW 69.50.410.

NEW SECTION

**WAC 132M-121-053 Hazing.** Any student who commits hazing, defined as any method of initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm to any student or other person attending any college of Lower Columbia College, shall be subject to discipline, and/or in addition to any other disciplinary action which may be imposed under this chapter, forfeit any entitlement to student-funded grants, scholarships, or awards of a period of time determined by the college.

In addition, any group or organization found to have knowingly permitted hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by the college.

NEW SECTION

**WAC 132M-121-054 Failure to comply.** Any student who fails to comply with the direction of college officials acting in the legitimate performance of their duties shall be subject to discipline.

NEW SECTION

**WAC 132M-121-055 Disorderly or disruptive conduct.** (1) Any student who significantly disrupts any college function by intentionally engaging in conduct that renders it difficult or impossible to continue such a function in an orderly manner, shall be subject to discipline. A college function for this purpose includes, but is not limited to, meetings, business activities, administrative functions, college-sponsored activities, and any disciplinary, grievance, or appeal meeting or hearing under these rules.

(2) Instructors or building/facility managers have the authority to take necessary and appropriate action to maintain order and proper conduct in the classroom or building/facility.

(3) Any student who is so disorderly or disruptive that it is difficult or impossible to maintain classroom decorum, may be excluded from any class session during which the disruption occurs, by the instructor. The instructor shall report any such exclusion from class to the supervising dean who

shall refer the matter to the vice-president for student success or designee. Upon receiving a written complaint and description of the conduct, the vice-president for student success or designee may initiate disciplinary action as provided in this policy.

(4) A building/facility manager may exclude a student for the single day in which such disorderly or disruptive behavior occurs. The building/facility manager shall report the infraction and exclusion in writing to the vice-president for student success or designee at the earliest opportunity. Upon receiving a written complaint and description of the conduct, the vice-president for student success or designee may initiate disciplinary action as provided in this policy.

NEW SECTION

**WAC 132M-121-056 Theft—Stolen property—Robbery.** Any student who commits theft from college premises and/or property: Theft of property of a member of the college community on college premises; or possesses property stolen from college premises and/or a member of the college community while on college premises shall be subject to discipline.

NEW SECTION

**WAC 132M-121-057 Damaging property.** Any student who causes or attempts to cause physical damage to property owned, controlled, or operated by the district, or to property owned, controlled, or operated by another person while said property is located on college facilities, shall be subject to discipline.

NEW SECTION

**WAC 132M-121-058 Interference—Intimidation—Physical abuse—Verbal abuse—Threats—Harassment—Stalking.** Any student who, while in any college facility or participating in a college-related program, shall interfere by force or violence with, or intimidate by threat of force or violence, or verbally abuse; verbally threaten, physically abuse or harass another person who is in the peaceful discharge or conduct of his/her duties or studies, shall be subject to discipline.

Any student who stalks another person, defined as the willful malicious and/or repeated following or contact of another person with the reasonable intent of creating fear or emotional distress, and/or the making of a threat with the intent to place that person in reasonable fear of death or bodily harm, shall be subject to discipline.

NEW SECTION

**WAC 132M-121-059 Obscene, lewd or indecent conduct.** Any student who engages in obscene, lewd or indecent behavior shall be subject to discipline.

NEW SECTION

**WAC 132M-121-060 Racial harassment.** Any student who engages in racial harassment, which included ethnic and



racial jokes, racial slurs, demeaning comments, looks or gestures or other verbal, written or physical conduct deliberately designed to humiliate and/or cause discomfort to the recipient or which interferes with job or school performance shall be subject to discipline.

NEW SECTION

**WAC 132M-121-061 Sexual harassment.** Any student who, while in any college facility or participating in a college-related program, knowingly engages in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from an education program or activity, or to create a hostile or abusive educational environment, shall be subject to discipline.

NEW SECTION

**WAC 132M-121-062 Forgery or alteration of records.** Any student, who, while in any college facility or participating in a college-related program, engages in forgery, shall be subject to discipline. Additionally, any student who alters or misuses college documents, records, funds, or instruments of identification shall be subject to discipline.

NEW SECTION

**WAC 132M-121-063 Computer trespass.** (1) Any student who, without authorization, intentionally gains access to a computer system or electronic data of another student, a faculty member, or the district; shall be subject to discipline.

(2) Any student who uses college computers or electronic communication devices for other than legitimate college activities, or violates the *Student Computing Resources Policy*, or uses computers to view pornography, or download music or videos using any program, web sites, servers, or other network equipment, is subject to discipline.

NEW SECTION

**WAC 132M-121-064 Firearms/explosives.** Any student who, while in any college facility or participating in a college-related program, uses or has on his/her person firearms or explosive materials or dangerous chemicals, without written permission of the vice-president for student success or director of security services or designee, shall be subject to discipline.

NEW SECTION

**WAC 132M-121-065 Other punishable acts.** Any student who, while in any college facility or participating in a college-related program, commits any other act which is a crime under the laws of the state of Washington or the United States and which act does not otherwise violate a rule of student conduct, shall be subject to discipline.

NEW SECTION

**WAC 132M-121-066 False information.** Providing false information to the college or the intentional making of false statements and/or filing of false charges against the college and/or members of the college community.

NEW SECTION

**WAC 132M-121-067 Academic dishonesty.** All forms of student academic dishonesty, including cheating, falsification, plagiarism or facilitating, aiding and abetting academic dishonesty.

NEW SECTION

**WAC 132M-121-068 Malicious harassment.** Malicious harassment that involves intimidation or bothersome behavior directed toward another person because of, or related to that person's race, color, religion, gender, sexual orientation, ancestry, national origin, or mental, physical or sensory disability.

NEW SECTION

**WAC 132M-121-100 Initiation of discipline.** (1) Any member of the Lower Columbia College community may file a complaint against a student for violations of the student code of conduct. The complaint should be filed in writing with the vice-president for student success. A complaint should be submitted as soon as possible after the event takes place, and normally within ten academic calendar days.

(2) The vice-president for student success or designee is responsible for initiating disciplinary proceedings for violations of the student code of conduct.

(3) The vice-president for student success may conduct an investigation to determine if the complaint has merit and/or if the matter(s) can be disposed of administratively by mutual consent of the parties involved on a basis acceptable to the vice-president for student success or designee. Such disposition shall be final and there shall be no subsequent proceedings. If the charges described in the complaint are not admitted and/or cannot be disposed of by mutual consent, the vice-president for student success or designee may later serve in the same matter as the student conduct committee or a member thereof. If the student admits violating code of conduct rules, but sanctions are not agreed to, subsequent process, including a hearing if necessary, shall be limited to determining the appropriate sanction(s).

(4) In order that any informality in disciplinary proceedings not mislead any student as to the seriousness of the matter under consideration, the vice-president for student success shall inform the student of the rule that he or she is charged with violating, and what appear to be the range of sanctions, if any.

(5) The vice-president for student success, or designee, after meeting or attempting to meet with the student, and considering the evidence in the complaint, may take any of the following actions:

(a) Terminate the proceeding, exonerating the student or students.

(b) Dismiss the case after providing whatever counseling and advice may be appropriate.

(c) Impose verbal warning or reprimand not subject to student's right of appeal.

(d) Impose additional disciplinary sanctions, subject to the student's right of appeal as described in this procedure. The student shall be notified in writing of the action taken, the reason for the decision and information about the appeals process.

(e) Refer the matter to the student conduct committee for appropriate action. The student shall be notified in writing that the matter has been referred to the committee.

(6) If the student fails to appear at the scheduled meeting without prior notification or evidence of extenuating circumstances, the vice-president for student success may impose any sanctions authorized by this code.

(7) The written decision of the vice-president for student success shall become final unless appealed.

#### NEW SECTION

**WAC 132M-121-105 Sanctions.** Sanctions for violations of the code of conduct may be imposed independent of any action taken by civil authorities. In the case of minors, misconduct may be referred to parents or legal guardians.

Any of the following disciplinary sanctions may be imposed for violations of one or more provisions of this student code of conduct:

(1) Warning: An oral or written notice to a student that college expectations about conduct have not been met.

(2) Reprimand: A written notice, designated as a reprimand, which censures a student for improper conduct and includes a warning that continuation or repetition of improper conduct may result in other, further discipline.

(3) Probation: A written statement placing specific conditions upon the student's continued attendance at the college, for a stated period of time not exceeding termination of the student's enrollment. Violation of any such condition shall be cause for further disciplinary action.

(4) Suspension or dismissal: Written termination of status as a student at the college, for a period of time that is limited (suspension) or indefinite or open-ended (dismissal). The written notice shall indicate any condition(s) for readmission, and that written application for readmission must be made to the vice-president for student success. Upon receipt of such an application, with justification deemed adequate by the vice-president for student success, the student may be readmitted. No fees will be refunded for the quarter in which the action is taken.

(5) Monetary fine or restitution: A written order, alone or combined with another disciplinary action, requiring the student to pay, within a stated time limit, appropriate restitution for a financial loss caused by the student's misconduct and/or a monetary fine not exceeding one quarter's tuition. Failure to pay shall be cause for further disciplinary action and/or canceling and barring the student's registration and/or withholding a degree.

#### NEW SECTION

##### **WAC 132M-121-110 Student conduct committee.** (1)

The student conduct committee is hereby established. The purpose of the student conduct committee is to provide a student with an opportunity to be heard by an independent body with regard to nonacademic discipline.

(2) The student conduct committee shall be composed of five members, who will be chosen no later than November 1st of each academic year. The committee members shall be selected as follows:

(a) One administrator or exempt employee appointed by the president of the college or a designee;

(b) An exempt employee or other supervisory employee appointed by the president of the college;

(c) Two members of the tenured faculty, appointed by the president of the Lower Columbia College Faculty Association of Higher Education ("LCCFAHE");

(d) One representative from the student body appointed by ASLCC executive council;

(e) Two alternates for each position will be appointed at the same time. Additional alternates may be appointed at such time as necessary.

(3) None of the above-named persons shall sit on any case in which he or she is a complainant or witness; or in which he or she has a direct or personal interest, in which he/she has acted previously in an advisory or official capacity. Decisions in this regard, including the selection of alternates, shall be made by the committee as a whole. The chair of the student conduct committee shall be elected by members of the committee.

#### NEW SECTION

**WAC 132M-121-115 Appeals.** A student may appeal any nonacademic disciplinary action except warning and reprimand by filing a written appeal addressed to the vice-president for student success, within five calendar days of notification of the disciplinary action. The appeal must clearly state errors in fact or matters in extenuation or mitigation which justify the appeal.

Disciplinary action by any college employee may be appealed to, and shall be reviewed by, the vice-president for student success or designee.

Disciplinary action imposed by the vice-president for student success may be appealed to, and shall be reviewed by, the student conduct committee.

Disciplinary action by the student conduct committee may be appealed to and shall be reviewed by the college president or his/her designee. The president of the college or his/her designated representative, after reviewing the case, including the decision of the committee and any statements filed by the student, shall either indicate his/her approval of the conclusions of the committee by sustaining its decision, shall give directions as to what other disciplinary action shall be taken by modifying its decision or shall nullify previous sanctions imposed by reversing its decision. The president shall then notify the vice-president for student success, the student and the committee chair. The decision of the president is final.

NEW SECTION**WAC 132M-121-120 Groups and organizations.** (1)

Recognized student groups and organizations may be charged with violations of this code. Such a group or organization and its officers may be held collectively or individually responsible when violations of this code by those associated with the group or organization have received the tacit or overt consent or encouragement of the organization, its leaders, officers or spokespersons.

(2) The vice-president for student success may withdraw a student organization's recognition and funding for good cause. Such cause shall include, but not be limited to:

(a) Failure to comply with this rule or other college requirements; or

(b) Hazing.

Additional sanctions for group or organization misconduct may include revocation of the use of college facilities for a specified period of time, denial of funds, as well as other appropriate sanctions permitted under this code. Sanctions imposed on groups or organizations are subject to the appeal process upon request.

NEW SECTION**WAC 132M-121-200 Summary suspension.** (1) A student

who presents an imminent danger to the health, safety or welfare of any member of the college community, to college property, or is of significant disruption to the educational process or other normal operations of the college shall be subject to summary suspension.

(2) The vice-president for student success or designee may summarily suspend a student for a period of up to five academic days; and/or for any time period through the final determination of the student's appeal by the student conduct committee. During summary suspension, a student shall be denied access to the campus (including classes) and/or all other activities or privileges for which the student might otherwise be eligible, as the vice-president for student success or designee may determine to be appropriate. The student may enter college premises only to meet with the vice-president for student success or designee; to deliver a written appeal; to attend a hearing; or as otherwise permitted by the vice-president for student success.

(3) The vice-president for student success shall give the student oral or written notice of the reasons for summary suspension, duration of the summary suspension, and of any possible additional disciplinary action that may be taken. If oral notice is given, written notice shall follow within two calendar days. In addition, the vice-president for student success shall set a date for an informal hearing on the summary suspension as soon as practicable.

(a) The presiding officer for an informal hearing shall be an administrator designated by the college president other than the administrator who initially imposed the summary suspension. The presiding officer will decide whether reasonable cause exists to support and continue the summary suspension.

(b) The presiding officer shall issue a written decision within two days of the informal hearing. If summary suspension is continued, the written notice shall stipulate the dura-

tion of the summary suspension and conditions under which they may be terminated.

(c) The student may request a *de novo* review of the informal hearing decision before the student conduct committee. Either party may request the review to be consolidated with any other disciplinary proceeding arising from the same matter.

(4) At the end of the summary suspension period, the student shall be reinstated to prior status subject to any other disciplinary sanctions that may have been imposed.

NEW SECTION**WAC 132M-121-300 Adjudicative proceedings before the student conduct committee.** (1) The hearing

shall be conducted in accordance with chapters 34.05 RCW, 10-08 and 132M-121 WAC. The committee or chair shall prepare a written opinion that shall include findings of fact, conclusions, and recommendations.

(2) The student's failure to answer the charges, appear at the hearing or cooperate in the hearing shall not preclude the student conduct committee from making its findings of facts, conclusions, and recommendations. This shall not limit the possibility of a default pursuant to RCW 34.05.440.

(3) The committee chair shall give written notice of the time and place of the hearing to all parties in accordance with RCW 34.05.434 and WAC 10-08-040. Such notice shall be given not less than ten calendar days before the date set for the hearing.

(4) The student shall be entitled to:

(a) Hear and examine the evidence against him/her and be informed of the identity of its source; and

(b) Present evidence and argument in his/her own behalf and to cross-examine witnesses.

(5) The student may have one advisor present at the hearing. The advisor may be allowed to advise the student during the proceedings, but is not permitted to speak to the committee; conduct examinations of witnesses; or disrupt the proceeding. No attorney representative of any party may participate in a hearing unless a notice of appearance has been filed and served at least five days before the hearing, but in the event of such notice the college may be represented by an assistant attorney general.

(6) In all disciplinary proceedings, the college may be represented by a designee appointed by the vice-president for student success; that designee may then present the college's case against the student accused of violating the rules of conduct.

(7) The presiding officer is responsible for causing the hearing to be recorded. All hearings shall be recorded by manual, electronic, or other type of recording device. Hearings shall be recorded in accordance with WAC 10-08-170.

(8) The record in an adjudicative proceeding shall consist of all documents as required by law and as specified in RCW 34.05.476 as now or hereafter amended.

(9) The time of the hearing may be continued for good cause by the committee chair upon timely request of any party.

(10) In accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, hearings conducted

by the student conduct committee will be held in closed session; provided, the student(s) involved may waive in writing this requirement and request the hearing to be held in open session. The chair may exclude from the hearing room any person who is disruptive of the proceedings and may limit the number who may attend the hearing in order to afford orderliness to the proceedings. Any person attending the disciplinary hearing who continues to disrupt the proceedings after the chair has asked him/her to cease or leave the hearing room shall be subject to disciplinary action.

#### NEW SECTION

**WAC 132M-121-310 Recordkeeping.** (1) The vice-president for student success shall maintain for at least six years the following records of student grievance and disciplinary actions and proceedings:

(a) Only initial and final orders in cases where a student's grievance has been sustained or a disciplinary action against a student has been reversed and the student fully exonerated;

(b) The complete records, including all orders, in all other cases where adjudication has been requested;

(c) A list or other summary of all disciplinary actions reported or known to the vice-president and not appealed.

(2) Final disciplinary actions shall be entered into student records, provided that the vice-president for student success shall have discretion to remove some or all of that information from a student's record upon the student's request and showing of good cause.

#### NEW SECTION

**WAC 132M-121-320 Evidence admissible in hearings.** (1) Only those matters presented at the hearing, in the presence of the accused student, except where the student fails to attend after receipt of proper notice, will be considered in determining whether the student conduct committee has sufficient cause to believe that the accused student is guilty of violating the rules he/she is charged with having violated. In determining the appropriate sanction that should be recommended, evidence of past misconduct that the committee chair deems relevant may be considered.

(2) The chair of the student conduct committee shall, in the course of presiding at the disciplinary hearing, give effect to the rules of privilege recognized by the law and exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Hearsay evidence is admissible.

(3) Evidence or testimony to be offered by or on behalf of the student in extenuation or mitigation shall not be presented or considered until all substantive evidence or testimony has been presented.

#### NEW SECTION

**WAC 132M-121-330 Initial order—Petition for administrative review—Final order.** (1) The burden of proof shall be on the party seeking to uphold the discipline to establish sufficient cause by a preponderance of the evidence. Upon conclusion of the disciplinary hearing, the student conduct committee shall consider all the evidence therein presented and decide by majority vote whether to uphold the

decision of the vice-president for student success or to recommend any of the following actions:

(a) That the college terminate the proceedings and exonerate the student; or

(b) That the college impose any of the disciplinary actions as provided in this chapter.

(2) Within ninety days specified in RCW 34.05.461, and preferably within thirty days, the chair shall serve on the parties and the president an initial order. At the same time, a full and complete record of the proceedings shall also be transmitted to the president. The initial order shall include a statement of findings and conclusions and otherwise comply with RCW 34.05.461 and WAC 10-08-210. It shall also describe the available administrative review procedures specified in subsection (3) of this section.

(3) The initial order shall become the final order without further action, unless within twenty days of service of the initial order:

(a) The president or designee upon his/her own motion, determines that the initial order should be reviewed; or

(b) A party to the proceedings files with the president a written petition for administrative review of the initial order. The president or designee shall be the reviewing officer and RCW 34.05.464 and WAC 10-08-211 shall apply to any such determination or petition.

#### NEW SECTION

**WAC 132M-121-340 Suspension for failure to appear.** The vice-president for student success is authorized to enforce the suspension of the summarily suspended student in the event the student has been served notice pursuant to WAC 132M-121-200 and fails to appear at the time designated for the summary suspension proceeding.

#### NEW SECTION

**WAC 132M-121-350 Final decision.** The president or his/her designee(s) shall review the findings and conclusions of the vice-president for student success in conjunction with the recommendations of the student conduct committee and will issue a final decision within three days.

#### NEW SECTION

**WAC 132M-121-500 Severability.** If any provision of this policy is adjudged by a court to be unconstitutional or otherwise illegal, the remaining provisions shall continue in effect.

**WSR 07-21-109**

**PROPOSED RULES**

**WASHINGTON STATE UNIVERSITY**

[Filed October 19, 2007, 3:24 p.m.]

Continuance of WSR 07-18-047.

Preproposal statement of inquiry was filed as WSR 07-03-063.

Title of Rule and Other Identifying Information: Amendment of chapter 504-26 WAC, Standards of conduct for students.

Date of Intended Adoption: January 31, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To change the adoption date.

Statutory Authority for Adoption: RCW 28B.30.150.

October 19, 2007

Ralph T. Jenks, Director  
Procedures, Records, and Forms  
and University Rules Coordinator

A cost-benefit analysis is not required under RCW 34.05.328. This is a local agency rule and pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule.

October 19, 2007

Joe R. Southwell  
Air Quality Engineer

**WSR 07-21-113**  
**PROPOSED RULES**  
**SPOKANE REGIONAL**  
**CLEAN AIR AGENCY**  
[Filed October 22, 2007, 8:31 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: SRCAA Regulation I, Article II, Section 2.09 Source Tests.

Hearing Location(s): Spokane County Public Works Building, 1206 West Broadway, Hearing Room Lower Level, Spokane, WA 99201, on December 6, 2007, at 9:00 a.m.

Date of Intended Adoption: December 6, 2007.

Submit Written Comments to: Joe Southwell, 1101 West College, Suite 403, Spokane, WA 99201, e-mail jsouthwell@spokanecleanair.org, fax (509) 477-6828 by 4:30 p.m. on November 30, 2007.

Assistance for Persons with Disabilities: Contact Barbara Nelson by 4:30 p.m. on November 30, 2007, (509) 477-4727.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: New section in Regulation I, Article II, to establish notification, performance, and reporting requirements for source tests performed in Spokane Regional Clean Air Agency's (SRCAA) jurisdiction.

Reasons Supporting Proposal: SRCAA does not currently have a source test regulation in place.

Statutory Authority for Adoption: RCW 70.94.141(1), 70.94.380(2).

Statute Being Implemented: RCW 70.94.151(2).

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

Name of Proponent: SRCAA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joe Southwell, SRCAA, 1101 West College, Suite 403, Spokane, WA 99201, (509) 477-4727.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a local air pollution control authority rule and as such, chapter 19.85 RCW does not apply.

**NEW SECTION**

REGULATION I, ARTICLE II, SECTION 2.09

**ARTICLE II**

**SECTION 2.09 SOURCE TESTS**

A. Purpose. This Section establishes notification, performance, and reporting requirements for all source tests and combustion tests performed to determine compliance with applicable air quality regulations and/or emission standards.

B. Applicability. This Section applies to any source test performed on sources established or operated in Spokane County that will be submitted to the Agency for regulatory purposes. Tests performed on gasoline dispensing facilities are exempt from the requirements of this section, unless otherwise required by the Agency.

Combustion tests performed on fuel burning equipment shall meet the requirements of Section 2.09.K.

C. Definitions. In addition to the definitions given in SRCAA Regulation I, Article I, Section 1.04, and unless a different meaning is clearly required by context, words and phrases used in this Section shall have the following meaning:

1. Combustion test means a test performed on fuel burning equipment, using a combustion analyzer, for purposes of analyzing the combustion products produced by the equipment.

2. Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or improper operation are not malfunctions.

3. Regulated pollutant means any air contaminant regulated under the Federal Clean Air Act, the Washington Clean Air Act, Washington Administrative Code, and/or SRCAA regulations.

4. Regulatory purposes means to determine compliance with an applicable air quality regulation or emission standard or as otherwise required by the Agency.

5. Representative operating conditions means the range of combined process, production, and control measure conditions under which the source normally operates or will normally operate (regardless of the frequency of the conditions). Operations during startup, shutdown, and malfunctions do not constitute representative operating conditions.

6. Source test means any testing performed at a source that measures i) the amount or concentration of a regulated pollutant, pollutants, or surrogates being emitted; ii) the capture efficiency of a capture system; and/or iii) the destruction or removal efficiency of a control device used to reduce emissions. Combustion tests and data accuracy assessments of continuous emission monitoring systems (i.e., relative accu-

racy tests, cylinder gas audits, etc.) are not considered source tests.

D. Test Methods. Testing of sources for regulatory purposes shall be performed in accordance with U.S. Environmental Protection Agency (EPA) approved methods as found in 40 CFR Parts 51, 60, 61, and 63, as in effect on the date identified in SRCAA Regulation I, Article II, Section 2.13. Alternative methods may be used, provided the method(s) has been approved by the Agency and/or EPA prior to performing the test.

E. Test Notifications and Plans. SRCAA shall be notified of any source testing at least 30 calendar days prior to performing the test, unless a different notification timeline is required by Federal or Washington State regulations. At least 15 calendar days prior to performing the source test, a test plan shall be submitted to the Agency for review and approval. Test notifications and plans shall be submitted in writing by either hard copy, facsimile, or e-mail. The 15-day submittal requirement may be waived upon receipt of written Agency approval. The test plan shall include, unless otherwise specified in writing by the Agency, the following information:

1. Facility name, mailing address, and source location;
2. Facility contact name(s) and telephone number(s);
3. Source testing company name, company contact name(s), and telephone number;
4. Source testing schedule and date(s);
5. Source description including a description of the pollution control device and sample locations;
6. Pollutant(s) to be measured;
7. Test methods;
8. Number of test runs and length of each individual test run;
9. A description of what constitutes representative process and control conditions for the source to be tested (i.e., production rate, etc.). This shall include the expected process and control conditions (including production rate) during testing, and description of potential malfunction/upset issues that might be encountered during testing;
10. Applicable process and/or production information to be collected during the source test;
11. Control device operating parameters to be monitored during the source test;
12. Fuel and/or raw material samples (if applicable), type of analysis, how the samples will be collected, and who will collect the samples;
13. Timeline for submittal of the final test report to SRCAA;
14. Any other testing information required by the Agency.

Once approved, the source test plan shall be followed. Changes to approved plans may be implemented, upon receipt of Agency approval prior to completion of the source test. Test plan modification requests may be submitted in writing by either hard copy, facsimile, or e-mail. SRCAA may require a new series of tests for test plan modifications submitted after initiation of the tests and prior to completion of the tests.

F. Test Procedures.

1. The source test shall consist of a minimum of three (3) individual runs, unless otherwise required in the test method or written Agency approval is given for an alternative testing scenario prior to performing the source test.

2. The individual pollutant test runs for any source test shall be performed consecutively, with no overlap of any test runs. Test runs may overlap provided the overlapping test runs are not testing for the same pollutant or are not being performed under the same test method. Each consecutive test run shall be initiated as soon as practicable after completion of the previous test run, unless Agency approval is given for an alternative testing scenario prior to performing the source test.

3. During each source test, the source to be tested shall be operated as described in the approved source test plan, unless an alternative operating scenario is approved by the Agency prior to performing the source test. Upon acceptance of the source test, the source will be limited to no more than 110% of the average production rate that the source operated during that source test, unless otherwise allowed by regulation or Agency issued Order.

G. Stoppages.

1. A source test may be stopped only because of safety reasons or testing and/or process equipment malfunction. The testing shall be resumed as soon as practicable. A source test may not be stopped solely due to the expected or known failure of one or more test runs to meet applicable standards.

2. The Agency shall be notified of any test stoppage as soon as practicable, but no later than the next working day (i.e., Monday through Friday, excluding legal holidays observed by the Agency).

3. The reason for the test stoppage shall be documented and included in the source test report. All test data collected during a stopped test shall be included in the source test report. The Agency will evaluate the reason for the stoppage and determine if it meets the stoppage provisions in Section 2.09.G.1.

H. Invalidation of Test Results. For any test results that are found or considered to be invalid, due to stoppages, sampling or analysis problems or errors, or other reasons, the invalid data must be included in the test report. The reason that the test results were invalidated shall be documented and included in the test report. The Agency will evaluate the reason for the test results invalidation and determine whether to accept or reject the source test results.

I. Postponements/Rescheduling. A source test shall not be postponed and/or rescheduled without prior Agency approval. Requests to postpone a scheduled source test shall include the reason(s) for the requested postponement and the date of the rescheduled source test. Postponement and/or rescheduling requests shall be submitted in writing by either hard copy, facsimile, or e-mail.

J. Test Reports.

1. Reports of all source tests performed under this section shall be submitted to the Agency regardless of the source test results (i.e., failure to meet an emission limit or standard, test stoppage, equipment malfunction, test data invalidation, etc.).

2. Source test reports shall be submitted to the Agency as described in the approved test plan, unless an alternative test

report submittal timeline has received written Agency approval.

3. The source test report shall, at a minimum, include the following information:

- a) Source testing company name, company contact name(s), and phone number;
- b) Facility name, mailing address, and source location;
- c) Facility contact name(s) and telephone number(s);
- d) Description of the source and the sampling locations;
- e) Date(s) of the source test;
- f) Summary of results, reported in units and averaging periods consistent with the applicable emission standard.
- g) Length, in minutes, of each individual test run, including start and end times for each individual test run;
- h) Description of any test stoppages and re-starts, and the reasons for each test stoppage;
- i) Description of any deviations from the approved source test plan and the reason for the deviation;
- j) Description of the test methods and quality assurance procedures employed;
- k) Operating parameters and production data for the source and control equipment during the test, as specified in the approved test plan under Section 2.09E.10-12;
- l) Company name, contact name, and telephone number of the laboratory processing any samples;
- m) All field data collected and example calculations;
- n) Any reasons for considering a test run(s) to be invalid;
- o) Any reasons for objection of use of a test run(s) for regulatory purposes;
- p) A statement signed by the responsible official of the testing company certifying the validity of the source test report; and
- q) Any other information specified and/or required by the Agency in the approved test plan.

K. Combustion Tests. Unless otherwise required by the Agency, combustion tests performed on fuel burning equipment for regulatory purposes shall meet all of the following requirements:

- 1. The Agency shall be notified at least 15 days prior to performing the combustion test, unless an alternative notification timeline is approved the Agency.
- 2. The fuel burning equipment shall be operated at high fire (80% or higher load) during the combustion test. The combustion test shall be performed under representative operating conditions for the equipment.
- 3. The combustion test equipment shall be capable of analyzing for the pollutant to be measured.
- 4. The combustion analyzer shall be calibrated using certified calibration gases, immediately prior to the test.
- 5. During each combustion test, the following operational parameters shall be measured and recorded:
  - a) Concentration (ppmv) of the measured pollutant in the exhaust gases;
  - b) Exhaust gas temperature;
  - c) Percent oxygen for each pollutant concentration reading; and
  - d) Average load for the fuel burning equipment tested.
- 6. A report documenting the results of each combustion test shall be submitted to SRCAA within 30 calendar days of

each test, unless an alternative test result submittal timeline has been approved the Agency. The report shall include:

- a) Calibration report for the combustion analyzer, including the type and concentration of each gas used to calibrate the combustion analyzer;
- b) Summary of the measured pollutant emissions given in ppmv and corrected to 3% oxygen, unless a different correction is required by regulation or Agency issued Order;
- c) Parameters listed under Section 2.09.K.5 above; and
- d) Copies of actual data sheets.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Spokane Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

## WSR 07-21-123

### PROPOSED RULES

### DEPARTMENT OF FISH AND WILDLIFE

[Filed October 23, 2007, 9:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-18-044.

Title of Rule and Other Identifying Information: WAC 232-12-011 Wildlife classified as protected shall not be hunted or fished.

Hearing Location(s): Red Lion Hotel, 221 North Lincoln, Port Angeles, WA 98362, (360) 452-9215, on December 7-8, 2007, at 8:00 a.m.

Date of Intended Adoption: January 10-12, 2008.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2162, by Monday, November 19, 2007.

Assistance for Persons with Disabilities: Contact Susan Yeager by December 5, 2007, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Protected wildlife are designated into three subcategories: Threatened, sensitive, and other. The proposed rule would change the classification of the bald eagle from state threatened to state sensitive status.

Reasons Supporting Proposal: The bald eagle is currently listed as a threatened species in Washington. Population numbers have increased in Washington and primary threats to the eagle such as DDT contamination and habitat destruction have been addressed through existing habitat protection laws. The bald eagle was removed from the federal list of endangered and threatened species in 2007. The department conducted a draft status review of the bald eagle in Washington in 2001 and updated it as a final in 2007. The final will be released for a thirty-day public review prior to the commission meeting per WAC 232-12-297 Endangered, threatened, and sensitive wildlife species classification. The status review recommends downlisting the bald eagle from state threatened to state sensitive status.

Statutory Authority for Adoption: RCW 77.12.047, 77.12.020.

Statute Being Implemented: RCW 77.12.047, 77.12.-020.

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

Name of Proponent: Washington fish and wildlife commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

October 23, 2007  
 Loreva M. Preuss  
 Rules Coordinator

**AMENDATORY SECTION** (Amending Order 06-09, filed 1/30/06, effective 3/2/06)

**WAC 232-12-011 Wildlife classified as protected shall not be hunted or fished.** Protected wildlife are designated into three subcategories: Threatened, sensitive, and other.

(1) Threatened species are any wildlife species native to the state of Washington that are likely to become endangered within the foreseeable future throughout a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as threatened include:

Common Name	Scientific Name
western gray squirrel	<i>Sciurus griseus</i>
Steller (northern) sea lion	<i>Eumetopias jubatus</i>
North American lynx	<i>Lynx canadensis</i>
<del>(bald eagle</del>	<del><i>Haliaeetus leucocephalus</i>)</del>
ferruginous hawk	<i>Buteo regalis</i>
marbled murrelet	<i>Brachyramphus marmoratus</i>
green sea turtle	<i>Chelonia mydas</i>
loggerhead sea turtle	<i>Caretta caretta</i>
sage grouse	<i>Centrocercus urophasianus</i>
sharp-tailed grouse	<i>Phasianus columbianus</i>
Mazama pocket gopher	<i>Thomomys mazama</i>

(2) Sensitive species are any wildlife species native to the state of Washington that are vulnerable or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as sensitive include:

Common Name	Scientific Name
Gray whale	<i>Eschrichtius gibbosus</i>
Common Loon	<i>Gavia immer</i>
<u>bald eagle</u>	<u><i>Haliaeetus leucocephalus</i></u>
Peregrine Falcon	<i>Falco peregrinus</i>
Larch Mountain salamander	<i>Plethodon larselli</i>
Pygmy whitefish	<i>Prosopium coulteri</i>
Margined sculpin	<i>Cottus marginatus</i>
Olympic mudminnow	<i>Novumbra hubbsi</i>

(3) Other protected wildlife include:

Common Name	Scientific Name
cony or pika	<i>Ochotona princeps</i>
least chipmunk	<i>Tamias minimus</i>
yellow-pine chipmunk	<i>Tamias amoenus</i>
Townsend's chipmunk	<i>Tamias townsendii</i>
red-tailed chipmunk	<i>Tamias ruficaudus</i>
hoary marmot	<i>Marmota caligata</i>
Olympic marmot	<i>Marmota olympus</i>
Cascade golden-mantled ground squirrel	<i>Spermophilus saturatus</i>
golden-mantled ground squirrel	<i>Spermophilus lateralis</i>
Washington ground squirrel	<i>Spermophilus washingtoni</i>
red squirrel	<i>Tamiasciurus hudsonicus</i>
Douglas squirrel	<i>Tamiasciurus douglasii</i>
northern flying squirrel	<i>Glaucomys sabrinus</i>
wolverine	<i>Gulo gulo</i>
painted turtle	<i>Chrysemys picta</i>
California mountain kingsnake	<i>Lampropeltis zonata;</i>

All birds not classified as game birds, predatory birds or endangered species, or designated as threatened species or sensitive species; all bats, except when found in or immediately adjacent to a dwelling or other occupied building; mammals of the order *Cetacea*, including whales, porpoises, and mammals of the order *Pinnipedia* not otherwise classified as endangered species, or designated as threatened species or sensitive species. This section shall not apply to hair seals and sea lions which are threatening to damage or are damaging commercial fishing gear being utilized in a lawful manner or when said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.



**WSR 07-21-127**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed October 23, 2007, 2:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-14-156.

Title of Rule and Other Identifying Information: Safety and health investment projects.

The department is proposing rule making to promulgate rules in accordance with direction from the 2007 regular legislative session in chapter 522, Laws of 2007 (SHB 1128).

Hearing Location(s): Department of Labor and Industries, Room S118, 7273 Linderson Way S.W., Tumwater, WA 98501-5414, on November 28, 2007, at 10:00 a.m.

Date of Intended Adoption: January 8, 2008.

Submit Written Comments to: Jill Saibel, Project Manager, Department of Labor and Industries, P.O. Box 44620, Olympia, WA 98507-4620, e-mail [saij235@lni.wa.gov](mailto:saij235@lni.wa.gov), fax (360) 902-5619, by December 5, 2007.

Assistance for Persons with Disabilities: Contact Beverly Clark by November 21, 2007, at [Clah235@lni.wa.gov](mailto:Clah235@lni.wa.gov) or (360) 902-5516.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to provide regulation for the department of labor and industries to administer government funds designated by chapter 522, Laws of 2007 (SHB 1128), authorizing appropriations for the department of labor and industries. This section included a condition under subsection (4) as follows:

"\$8,000,000 of medical aid account—state appropriation is provided solely to establish a program of safety and health as authorized by RCW 49.17.210 to be administered under these rules adopted pursuant to chapter 34.05 RCW, provided that projects funded involve workplaces insured by the medical aid fund, and through cooperation between employers and employees or their representatives."

Reasons Supporting Proposal:

**AMENDED SECTIONS:**

**WAC 296-900-100 Scope.**

- Updated scope to include safety and health investment projects.

**NEW SECTIONS:**

**WAC 296-900-175 Safety and health investment projects.**

- Created this section to contain all the sections located in chapter 296-900 WAC, Administrative rules, relating to the safety and health investment projects.

**WAC 296-900-17505 Scope and purpose.**

- Created this section to explain the purpose behind the safety and health investment projects.

**WAC 296-900-17510 Definitions.**

- Created this section to include the definitions for safety and health investment projects, including: Applicant, department, department staff, funding cycle, medical aid fund, milestones, product, and recipient.

**WAC 296-900-17515 Eligibility.**

- Created this section to include eligibility requirements for awards under the safety and health investment projects.

**WAC 296-900-17520 Advisory committee.**

- Created this section to include requirements for safety and health investment project advisory committee.

**WAC 296-900-17525 Application.**

- Created this section to include application requirements for safety and health investment projects.

**WAC 296-900-17530 Approval.**

- Created this section to include requirements for approving safety and health investment projects.

**WAC 296-900-17535 Monitoring.**

- Created this section to include requirements for monitoring safety and health investment projects.

**WAC 296-900-17540 Suspension or revocation of funding.**

- Created this section to include requirements for suspending or revoking funds for safety and health investment projects.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Steve Cant, Tumwater, (360) 902-5495.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department does not anticipate costs to small business as a result of this proposal. These rules will allow the department to provide government funds to project applicants to develop new safety and health improvements.

A cost-benefit analysis is not required under RCW 34.05.328. The department does not anticipate costs as a result of this proposal. These rules will allow the department to provide government funds to project applicants to develop new safety and health improvements.

October 23, 2007

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 06-06-020, filed 2/21/06, effective 6/1/06)

**WAC 296-900-100 Scope.** This chapter applies to the following requirements and information regarding administration of the Washington Industrial Safety and Health Act (WISHA), chapter 49.17 RCW:

- Employer requests for using an alternative to WISHA requirements.
- Workplace inspections conducted by WISHA.
- Citations and penalties for violations of WISHA safety and health requirements.
- How to respond to actions that WISHA may take when requirements have been violated.
- Employer correction of cited violations, and notification to WISHA when the corrections are made.
- Employer obligations to inform employees.
- Reporting alleged safety and health hazards.
- Appeal and hearing processes for employers and employees.
- Safety and health investment projects (SHIP).

NEW SECTION

**WAC 296-900-175 Safety and health investment projects.**

NEW SECTION

**WAC 296-900-17505 Scope and purpose.** (1) The program for safety and health investment projects (SHIP) was established during the 2007 legislative session to provide funding for safety and health projects for workplaces covered by the medical aid fund.

(2) Priority is given to projects involving accident prevention through cooperation between employers and employees or their representatives.

NEW SECTION

**WAC 296-900-17010 Definitions.** (1) **Applicant** means the entity submitting an application and formal proposal for a safety and health investment projects award.

(2) **Department** means the department of labor and industries.

(3) **Department staff** means those individuals within the department of labor and industries who assist with project development and monitor recipient performance.

(4) **Funding cycle** means how frequently safety and health investment project awards are given.

(5) **Medical aid fund** refers to industrial insurance funds established in chapter 51.44 RCW.

(6) **Milestones** means critical points of achievement for the safety and health investment projects, showing progress toward project completion. Milestones are interim accomplishments that define project progress.

(7) **Product** means any of the following that are developed as the result of a safety and health investment project: Written materials; manufactured materials; designs; equipment; programs; services; workplace changes; or other results of any kind, tangible or intangible.

(8) **Recipient** means an agency, firm, organization, individual or other legal entity receiving project award funds from the safety and health investment projects.

**Reviser's note:** The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 296-900-17010 is probably intended to be WAC 296-900-17510.

NEW SECTION

**WAC 296-900-17515 Eligibility.** (1) All projects must address the needs of employers and employees covered by the medical aid fund.

(2) Projects must have clearly identified:

- (a) Objectives and work plan;
- (b) Products; and
- (c) Criteria for evaluating the success of the project.

(3) Awards may be granted to any agency, firm, organization, individual or other legal entity such as, but not limited to, the following:

- (a) Trade associations;
- (b) Business associations;
- (c) Employers (including but not limited to private, public, nonprofit, or self-insured employers if collaborating with medical aid fund employers);
- (d) Employees;
- (e) Labor unions;
- (f) Employee organizations;
- (g) Joint labor and management groups;
- (h) Educational institutions in collaboration with state fund employer and employee representatives;
- (i) Others deemed appropriate by L&I.

(4) SHIP funds may not be used for:

- (a) Lobbying or political activities;
- (b) Supporting, opposing, or developing legislative or regulatory initiatives;
- (c) Any activity not designed to reduce workplace injuries, illnesses, or fatalities; or
- (d) Reimbursing employers for the normal costs of complying with safety and health rules.

NEW SECTION

**WAC 296-900-17520 Advisory committee.** (1) The department will create an advisory committee representing the broadest spectrum of interests, appointed by the assistant director of the division of occupational safety and health (DOSH), and consisting of:

- (a) Three employer representatives;
- (b) Three employee representatives;
- (c) Two members with expertise in safety and health representing other stakeholders; and
- (d) One nonvoting member from DOSH who will serve as committee chair.

(2) Members are appointed to serve three-year renewable terms. At the request of the assistant director of DOSH, employer and employee organizations may make recommendations for advisory committee membership.

(3) The advisory committee will provide the following assistance:

- (a) Make recommendations to DOSH regarding funding priority areas;

(b) Recommend applications that merit funding to the assistant director of DOSH;

(c) Keep records of the committee's decisions;

(d) Make recommendations to DOSH regarding individual project expenditure limitations and appropriate indirect costs;

(e) Develop and maintain communication networks in the community.

(4) Committee members will disclose to the committee any potential conflicts of interest, whether direct or indirect, with specific project applications.

(5) Committee members will not disclose any information about applications to anyone not authorized access to the information by law or regulation. All applications and other material submitted under this program are confidential and are not open to public inspection. See RCW 49.17.210.

#### NEW SECTION

**WAC 296-900-17525 Application.** (1) Interested applicants may download an application packet from the web site, or for a printed application, contact:

Safety and Health Investment Projects

P.O. Box 44640

Olympia, WA 98504-4640

e-mail: [INVEST@lni.wa.gov](mailto:INVEST@lni.wa.gov)

web site: <http://www.lni.wa.gov/Safety/Topics/AtoZ/Grants/default.asp>

(2) Applicants must complete the entire application to be considered for project funding. Incomplete applications will not be considered for funding. Applications are accepted throughout the year, but funding is awarded semiannually. Application deadlines are posted at <http://www.lni.wa.gov/Safety/Topics/AtoZ/Grants/default.asp>. Applications received after posted deadlines will not be considered for the current funding cycle. However, they may be considered for a subsequent funding cycle at the discretion of the assistant director of DOSH, or designee.

(3) Some funding cycles may include limitations on the maximum amount that will be awarded for any proposal. Limitations, if any, will be posted at <http://www.lni.wa.gov/Safety/Topics/AtoZ/Grants/default.asp> or in current application packets.

(4) All products developed as a result of an approved SHIP award belong in the public domain and their dissemination and use shall not be restricted in any way. Such products may not be copyrighted, patented, claimed as trade secrets, or otherwise restricted in any other way. The department retains the right to publish or otherwise disseminate these products as the department in its sole discretion deems appropriate.

(5) The department will not use information contained in submitted application packets as the basis for the initiation of compliance inspections or the issuance of citations and/or penalties to applicants, under WISHA, chapter 49.17 RCW. However, employers are not exempt from compliance inspections initiated for other reasons because they submitted an application packet.

(6) Projects may include, but are not limited to:

(a) The development of technical innovation and engineering controls;

(b) Best practices;

(c) Education and training;

(d) Priorities identified by DOSH in cooperation with the WISHA advisory committee; and

(e) Other projects that foster accident prevention through cooperation between employers and employees or their representatives.

#### NEW SECTION

**WAC 296-900-17530 Approval.** (1) DOSH will review applications to make sure they meet application criteria, and forward those that meet the criteria to the advisory committee.

(2) The advisory committee will:

(a) Review project applications;

(b) Prioritize and select, by a majority vote of at least five of the eight voting members, those projects recommended for funding, with a minority report allowed;

(c) Forward project recommendations to the assistant director of DOSH for final approval.

(3) The assistant director of DOSH will make a final decision on project approval and funding.

(a) Approval will be objectively based on the ability of the project to foster accident prevention through cooperation between employers and employees or their representatives; the likelihood of reducing workplace injuries, illnesses, or fatalities; and the ability of the applicant to achieve project goals.

(b) If the assistant director rejects an application the committee has recommended for funding or approves an application the committee recommended for denial, the assistant director will provide a detailed written explanation to the advisory committee. The advisory committee may request reconsideration of such decision by a majority vote of at least five of the eight voting members, with a minority report allowed. The assistant director will reconsider the decision in consultation with the director.

(4) Applicants will be notified in writing when their application is:

(a) Approved for funding;

(b) Not approved, including the reason it was not funded;

or

(c) Held over for a subsequent funding cycle.

#### NEW SECTION

**WAC 296-900-17535 Monitoring.** Department staff will monitor projects for compliance with award terms and achievement of approved project milestones and/or outcomes.

(1) Milestones are intermediate targets or goals that are defined in the project applications. Ongoing funding will be tied to the achievement of approved milestones (including but not limited to accounting for grant funds).

(2) Outcomes are the final products that will be produced by the project.

NEW SECTION

**WAC 296-900-17540 Suspension or revocation of funding.** (1) The assistant director of DOSH may suspend or revoke funding for a project if advised by the SHIP program or the advisory committee that:

(a) The recipient is not in compliance with project award terms;

(b) There are unapproved funding expenditures; or

(c) There are compelling and substantive reasons.

(2) Any suspension or revocation will:

(a) Be in writing and effective upon delivery with proof of delivery receipt;

(b) Include the reasons for suspension or revocation; and

(c) Be subject to appeal as described in chapter 34.05 RCW, the Administrative Procedure Act.

**WSR 07-21-130**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed October 23, 2007, 4:01 p.m.]

Supplemental Notice to WSR 07-18-075.

Preproposal statement of inquiry was filed as WSR 07-07-110.

Title of Rule and Other Identifying Information: WAC 232-12-073 Master hunter program.

Hearing Location(s): Red Lion Hotel, 221 North Lincoln, Port Angeles, WA 98362, on December 7-8, 2007, at 8 a.m.

Date of Intended Adoption: On or after January 10, 2008.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail preuslmp@dfw.wa.gov, fax (360) 902-2155, by Monday, November 19, 2007.

Assistance for Persons with Disabilities: Contact Susan Yeager by December 5, 2007, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The current rule on this subject does not provide authority for the department to establish a master hunter education program. The proposed amendments provide such authority and allow the department to determine the enrollment fee, prerequisites, curriculum, ethical standards, and other aspects of the program.

Reasons Supporting Proposal: Master hunters are role models and mentors for the hunting community and for the public at large. They also are ambassadors of the department. The department holds them to the highest ethical standards. The proposed amendments will allow the department to suspend hunting privileges of master hunters who violate fish and wildlife laws, trespass laws while hunting, and other related laws, as well as egregious ethical violations.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Mik Mikitik, 1111 Washington Street, Olympia, (360) 902-8113; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposals do not impact small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These proposals do not affect hydraulics.

October 23, 2007

Loreva M. Preuss

Rules Coordinator

AMENDATORY SECTION (Amending Order 02-298, filed 12/13/02, effective 1/13/03)

**WAC 232-12-073 (~~(Advanced hunter education.)~~)**  
**Master hunter program.** (1) In order to (~~provide for additional hunting opportunity, on species,)~~ effectively manage wildlife in areas(~~;~~) or at times when a higher proficiency and demonstrated skill level (~~(is)~~) are needed for resource protection or public safety, the department establishes the (~~(advanced)~~) master hunter (~~(education)~~) program. Persons who successfully pass the master hunter (~~(level of advanced hunter education)~~) program and maintain the requirements set forth in this section are entitled to (~~(exercise the privileges of participation)~~) participate in special hunts (~~(restricted to master hunters)~~). It is unlawful for any person to participate in a hunt restricted to master hunters if such person has not successfully passed the (~~(advanced hunter education)~~) master hunter course (~~(and such person possesses)~~) and maintained the requirements set forth in this section. The person also must possess a valid master hunter identification card while participating in (~~(such a)~~) the hunt(~~(, and)~~). It is unlawful to participate in a hunt restricted to master hunters if the person's master hunter (~~(status has)~~) privileges have been suspended (~~(or revoked)~~). Violation of this subsection shall be enforced under RCW 77.15.400 (1)(c) for wild birds, RCW 77.15.410 (1)(b) for big game, and RCW 77.15.430 (1)(b) for wild animals other than big game.

(2) (~~The advanced hunter education program has three levels, with the following proficiency requirements:~~

(a) ~~Sharpshooter education: This program emphasizes marksmanship, with the goal of humanely killing game animals with the least number of shots. Successful graduates of the sharpshooter course must demonstrate above average shooting skills. The cost of applying for sharpshooter education is five dollars, and on successfully passing sharpshooter education each graduate will receive a certificate of completion and an advanced hunter education patch.~~

(b) ~~Conservationist education: This program emphasizes habitat restoration and land use practices that maximize protection for wildlife. Successful graduates of the conservationist course will have spent a minimum of twelve hours participating in landowner sportsman or wildlife related projects. The cost of applying for conservationist education~~

is five dollars, and on successfully passing conservationist education each graduate will receive a certificate of completion and an advanced hunter education patch.

(e) Master hunter education: In addition to both sharpshooter and conservationist education, the master hunter program emphasizes ethical behavior while hunting, a detailed knowledge of hunting statutes and rules, and specialized knowledge in how to hunt in damage control hunts that successfully remove problem animals while maximizing public safety. Both extensive home study and passing a rigorous test are prerequisites for achieving the master hunter graduate status. The cost of applying for master hunter education is twenty dollars, and on successfully passing master hunter education each graduate will be issued) The department will determine the enrollment fee, prerequisites, and curriculum for the master hunter program. The department may establish an advisory group to assist the agency staff in developing prerequisites and curriculum for the master hunter program.

(a) The master hunter program emphasizes safe, lawful, and ethical hunting practices. Two of the program's goals are to improve the public's perception of hunting and to perpetuate the highest hunting standards. Master hunters actively participate in controlled hunts to eliminate problem animals that damage property and/or threaten public safety.

(b) Master hunter candidates who successfully complete the master hunter program will receive a certificate, ((an advanced)) a master hunter ((education)) patch, and a master hunter identification card. The master hunter identification card is valid for five consecutive years from the date of issuance. The card will be renewed for an additional five years if, during the period of validity, the master hunter ((education graduate)) completes ((twelve hours of conservationist education, consisting of participating in landowner sportsman or wildlife related projects)) forty hours of additional master hunter program requirements as determined by the department.

(3) Master hunters are held to the highest ethical standards ((while hunting, and are expected to respect all recreational and trapping laws. Accordingly, should a master hunter violate the trapping or recreational fishing or hunting laws, that person's master hunter status will be suspended or revoked as provided in this subsection)) because these hunters are role models and mentors for the hunting community and for the public at large. Master hunters also are ambassadors for the department. As such, applicants must submit to a criminal background check. Applicants who have prior fish and wildlife convictions, trespassing violations, felony convictions prohibiting the possession of firearms, or hunting license suspensions in another state, cannot apply for the master hunter program.

(a) Individuals who successfully complete the master hunter program must obey all laws. Master hunters will be required to sign and abide by a hunter code of ethics in addition to all department laws and regulations.

(b) Master hunter violations of fish and wildlife laws, trespass laws while hunting, or reckless endangerment laws involving hunting weapons, will result in suspension of master hunter privileges for life. The grounds for suspension ((and revocation)) are proof by a preponderance of the evidence that the master hunter ((has)) committed a criminal law

violation ((of law)). A criminal conviction is a rebuttable presumption that the violation occurred. Any person who has his or her master hunter ((status revoked or)) privileges suspended under this subsection has the right to an administrative hearing to contest the agency action((-and)). Such hearing will be held pursuant to chapter 34.05 RCW, the Administrative Procedure Act.

((a) A two-year suspension of master hunter status will be imposed for any hunting or hunting-related violation.

(b) A five-year suspension of master hunter status and a requirement to retake the master hunter course will be imposed for:

(i) Any conviction resulting in a suspension of recreational hunting or fishing privileges or in a trapping privilege suspension;

(ii) Any violations that involve two big game animals;

(iii) Any violation that involves twice or more the daily limit of game or fish.

(e) A lifetime revocation of master hunter status will be imposed for:

(i) Any conviction resulting in a second suspension of hunting or fishing privileges or in a second trapping privilege suspension;

(ii) Any violation while recreational hunting or fishing privileges, trapping privileges, or master hunter status is suspended; or

(iii) Any violations that involve three or more big game animals.) (c) Master hunter violations involving fish and wildlife infractions will result in suspension of master hunter privileges for a five-year period.

(d) "Conviction," as used in this section, is defined in RCW 77.15.050.

(4) The department's master hunter coordinator will maintain open communications with landowners and the community to investigate complaints about master hunters or the master hunter program. If a master hunter commits an ethical violation that does not rise to a criminal law violation, a master hunter peer review committee, selected by the department, will evaluate the behavior to decide whether it was egregious. If the committee deems the behavior egregious, the department may determine whether to suspend the violator's master hunter privileges for life.

## WSR 07-21-131

### PROPOSED RULES

### DEPARTMENT OF HEALTH

[Filed October 23, 2007, 4:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-03-048.

Title of Rule and Other Identifying Information: WAC 246-811-020 Sexual misconduct—Chemical dependency professionals, 246-809-049 Licensed marriage and family therapists, licensed mental health counselors, licensed advanced social workers, licensed independent clinical social workers, 246-810-049 Registered counselors, hypnotherapists, and 246-930-490 Sex offender treatment providers.

Hearing Location(s): Department of Health, 310 Israel Road S.E., Room 152/153, Tumwater, WA 98503, on December 18, 2007, at 9:00 a.m.

Date of Intended Adoption: December 18, 2007.

Submit Written Comments to: Betty Moe, Department of Health, P.O. Box 47869, Olympia, WA 98504-7869, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4909, by December 14, 2007.

Assistance for Persons with Disabilities: Contact Betty Moe by December 11, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules set high standards and will help sex offender treatment providers, licensed marriage and family therapists, licensed mental health counselors, licensed advanced social workers, licensed independent clinical social workers, registered counselors, hypnotherapists, and chemical dependency professionals, avoid sexual misconduct and educate the public about what they should expect from their health care provider. The proposed rules eliminate redundant language that is no longer necessary, adopt by reference most of the model sexual misconduct rules in chapter 246-16 WAC, and adopt higher sexual misconduct standards in certain areas uniquely related to counseling.

Reasons Supporting Proposal: The proposed rules will establish clear and consistent definitions of sexual misconduct and the expectations for a sex offender treatment provider, licensed marriage and family therapist, licensed mental health counselor, licensed advanced social worker, licensed independent clinical social worker, registered counselor, hypnotherapist, and chemical dependency professional in the practitioner/patient relationship. The proposal responds to the governor's executive order 06-03 to promote patient safety and awareness.

Statutory Authority for Adoption: RCW 18.55.040, 18.19.050, 18.225.040, 18.205.060, 18.130.50 [18.130.050].

Statute Being Implemented: RCW 18.130.180.

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

Name of Proponent: Department of health (DOH), governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Betty Moe, Department of Health, P.O. Box 47869, Olympia, WA 98504-7869, (360) 236-4912.

No small business economic impact statement has been prepared under chapter 19.85 RCW. DOH has reviewed the proposal and determined that no small business economic impact statement is required because the proposed rules do not impose more than minor costs on businesses within the industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Betty Moe, Department of Health, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 236-4912, fax (360) 236-4909, e-mail [Betty.Moe@doh.wa.gov](mailto:Betty.Moe@doh.wa.gov).

October 23, 2007  
Mary C. Selecky  
Secretary

AMENDATORY SECTION (Amending WSR 06-09-032, filed 4/12/06, effective 5/13/06)

**WAC 246-809-049 Sexual misconduct.** ~~((1) A licensed counselor shall not engage in sexual contact or sexual activity with current clients.~~

~~(2) Licensed counselors shall not accept as patients or clients individuals with whom they have engaged in sexual contact or activity.~~

~~(3) A licensed counselor shall not engage in sexually harassing or demeaning behavior with clients.~~

~~(4) Sexual contact or activity with a client, or an individual who has been a client within the past two years, constitutes unprofessional conduct.~~

~~(5) Licensed counselors shall never engage in sexual contact or activity with former clients, if the contact or activity involves the abuse of the licensed counselor-client relationship.~~

~~(a) The department may consider the following factors in evaluating whether the licensed counselor-client relationship has been abusive:~~

~~(i) The amount of time that has passed since therapy was terminated, where there is no contact of any kind between licensed counselor and client;~~

~~(ii) The nature and duration of the therapy;~~

~~(iii) The circumstances of cessation or termination of therapy;~~

~~(iv) The client's personal history;~~

~~(v) The client's current mental status, emotional dependence, and vulnerability;~~

~~(vi) The likelihood of adverse impact on the client and others; and~~

~~(vii) Any statements or actions made by the licensed counselor during the course of therapy suggesting or inviting the possibility of a post termination sexual or romantic relationship with the client.~~

~~(b) If a licensed counselor engages in sexual contact or activity with a client more than two years after the last therapeutic session, the licensed counselor has had no contact with the client during the two-year period, and the sexual activity is not abusive of the licensed counselor-client relationship the department will not consider the relationship to be unprofessional conduct.)~~ (1) The definitions and prohibitions on sexual misconduct described in chapter 246-16 WAC apply to licensed marriage and family therapists, licensed mental health counselors, and licensed social workers except WAC 246-16-100 (3) and (4).

(2) A licensed marriage and family therapist, licensed mental health counselor, or licensed social worker shall never engage, or attempt to engage, in the activities listed in WAC 246-16-100(1) with a former patient, former client or former key party.

AMENDATORY SECTION (Amending WSR 97-17-113, filed 8/20/97, effective 9/20/97)

**WAC 246-810-049 Sexual misconduct.** ~~((1) A counselor shall not engage in sexual contact or sexual activity with current clients.~~

~~(2) Counselors shall not accept as patients or clients individuals with whom they have engaged in sexual contact or activity.~~

~~(3) A counselor shall not engage in sexually harassing or demeaning behavior with clients.~~

~~(4) Sexual contact or activity with a client, or an individual who has been a client within the past two years, constitutes unprofessional conduct.~~

~~(5) Counselors shall never engage in sexual contact or activity with former clients, if such contact or activity involves the abuse of the counselor-client relationship.~~

~~(a) The department may consider the following factors in evaluating if the counselor-client relationship has been abusive:~~

~~(i) The amount of time that has passed where there is no contact of any kind between counselor and client since therapy terminated;~~

~~(ii) The nature and duration of the therapy;~~

~~(iii) The circumstances of cessation or termination of therapy;~~

~~(iv) The client's personal history;~~

~~(v) The client's current mental status, emotional dependence and vulnerability;~~

~~(vi) The likelihood of adverse impact on the client and others; and~~

~~(vii) Any statements or actions made by the counselor during the course of therapy suggesting or inviting the possibility of a post termination sexual or romantic relationship with the client.~~

~~(b) If a counselor engages in sexual contact or activity with a client more than two years after the last therapeutic session, the counselor has had no contact with the client during the two year period, and the sexual activity is not abusive of the counselor-client relationship the department will not consider the relationship to be unprofessional conduct.) (1) The definitions and prohibitions on sexual misconduct described in chapter 246-16 WAC apply to counselors except WAC 246-16-100 (3) and (4).~~

~~(2) A counselor shall never engage, or attempt to engage, in the activities listed in WAC 246-16-100(1) with a former patient, former client or former key party.~~

#### NEW SECTION

**WAC 246-811-020 Sexual misconduct.** (1) The definitions and prohibitions on sexual misconduct described in chapter 246-16 WAC apply to chemical dependency professionals except WAC 246-16-100 (3) and (4).

(2) A chemical dependency professional shall never engage, or attempt to engage, in the activities listed in WAC 246-16-100(1) with a former patient, former client or former key party.

AMENDATORY SECTION (Amending WSR 05-12-014, filed 5/20/05, effective 6/20/05)

**WAC 246-930-490 Sexual misconduct.** ~~((+) Sex offender treatment providers shall not engage in sexual contact or sexual activity with their clients.~~

~~(2) Sexual contact or sexual activity is prohibited with former clients for ten years after cessation or termination of professional services.~~

~~(3) The sex offender treatment provider shall not engage in sexual contact or sexual activity with any former client if such contact or activity involves the abuse of the sex offender treatment provider and client relationship. Factors to be considered in evaluating if the sex offender treatment provider and client relationship is abusive include, but are not limited to:~~

~~(a) The amount of time that has passed since the last therapeutic contact;~~

~~(b) The nature and duration of the therapy;~~

~~(c) The circumstances of cessation or termination;~~

~~(d) The client's personal history;~~

~~(e) The client's current mental status;~~

~~(f) The likelihood of adverse impact on the client and others; and~~

~~(g) Any statements or actions made by the therapist during the course of therapy suggesting or inviting the possibility of a post termination sexual or romantic relationship with the client.~~

~~(4) The sex offender treatment provider shall not engage in sexual contact or sexual activity with any person participating in the treatment process of a client while the therapy is ongoing.~~

~~(5) The sex offender treatment provider shall not engage in sexual contact or sexual activity with any person formally participating in the treatment process, if such contact or activity involves the abuse of the sex offender treatment provider and client relationship. Factors to be considered in evaluating if the sex offender treatment provider and client relationship is abusive include, but are not limited to:~~

~~(a) The amount of time that has passed since the last therapeutic contact;~~

~~(b) The amount of time that has passed since the last professional contact between the provider and the other person;~~

~~(c) The knowledge the provider has obtained about the person because of the professional contact; and~~

~~(d) The likelihood of adverse impact on the former client.) (1) The definitions and prohibitions on sexual misconduct described in chapter 246-16 WAC apply to affiliate sex offender treatment providers and certified sex offender treatment providers except WAC 246-16-100 (3) and (4).~~

~~(2) An affiliate sex offender treatment provider or certified sex offender treatment provider shall never engage, or attempt to engage, in the activities listed in WAC 246-16-100(1) with a former patient, former client or former key party.~~

~~(2) An affiliate sex offender treatment provider or certified sex offender treatment provider shall never engage, or attempt to engage, in the activities listed in WAC 246-16-100(1) with a former patient, former client or former key party.~~

#### **WSR 07-21-132**

#### **PROPOSED RULES**

#### **DEPARTMENT OF HEALTH**

[Filed October 23, 2007, 4:06 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 246-976-990 Fees and fines, this section establishes fees for hospitals submitting an application to be designated as general trauma care facilities. The fees paid by these facilities support application and on-site review activities that are administered by the department.

Hearing Location(s): Department of Health, Rooms 152 and 153, 310 Israel Road S.E., Tumwater, WA 98501, on December 10, 2007, at 2:00 p.m.

Date of Intended Adoption: December 11, 2007.

Submit Written Comments to: Maura Craig, Department of Health, P.O. Box 47850, Olympia, WA 98504-7850, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4626, by December 10, 2007.

Assistance for Persons with Disabilities: Contact Maura Craig by December 3, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule change allows the department to increase on-site review fees charged to a hospital applying for Level III trauma service designation. The purpose of the fee increase is to help defray the increasing costs to the department for on-site reviews of applying hospitals. The department proposes increasing the Level III general trauma care facility fee from one thousand nine hundred fifty dollars (\$1,950) to a rate not to exceed three thousand dollars (\$3,000) per each hospital application and on-site review to meet the cost of conducting business and defray inflationary costs incurred by the trauma service designation program.

Reasons Supporting Proposal: Trauma designation review fees have not changed since 1993. This is a cost-recovery measure allowed by recent legislation, SHB 1128 (I-601 exemption), to raise fees in excess of the fiscal growth factor. This proposed fee increase will minimize revenue shortfalls the department has incurred with Level III site reviews. The additional resources are necessary to assure the continued viability of Washington's trauma care system by providing nationally accepted, professional hourly rates to trauma experts hired to assess hospital compliance and recommend trauma designation status.

Statutory Authority for Adoption: RCW 70.168.070, 43.135.055.

Statute Being Implemented: RCW 70.168.070.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: RCW 70.168.070 authorizes the department to charge fees to help defray the costs of inspections and review of applications.

Name of Proponent: Department of health, office of emergency medical services and trauma system, governmental.

Name of Agency Personnel Responsible for Drafting: Maura Craig, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2837; Implementation and Enforcement: Sandi Shaw, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-2871.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt

under RCW 19.85.025(3) and 34.05.310 (4)(f), "rules that set or adjust fees or rates pursuant to legislative standards," and does not require an SBEIS. However, the department prepared a fee analysis that provides documentation on the need for the fee increase. To obtain a copy of the fee analysis, contact Maura Craig at (360) 236-2837.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required. This rule proposal is exempt under RCW 34.05.328 (5)(b)(vi), "rules that set or adjust fees or rates pursuant to legislative standards."

October 23, 2007

Mary C. Selecky  
Secretary

AMENDATORY SECTION (Amending WSR 00-08-102, filed 4/5/00, effective 5/6/00)

**WAC 246-976-990 Fees and fines.** (1) The department shall assess individual health care facilities submitting a proposal to be designated as a level I general trauma care facility a fee, not to exceed seven thousand dollars, to help defray the costs to the department of inspections and review of applications.

(2) The department shall assess individual health care facilities submitting a proposal to be designated as a level II general trauma care facility a fee, not to exceed six thousand dollars, to help defray the costs to the department of inspections and review of applications.

(3) The department shall assess individual health care facilities submitting a proposal to be designated as a level III general trauma care facility a fee, not to exceed ~~((one))~~ three thousand ~~((nine hundred fifty))~~ dollars, to help defray the costs to the department of inspections and review of applications.

(4) The department shall assess individual health care facilities submitting a proposal to be designated as a level I pediatric trauma care facility a fee, not to exceed nine thousand two hundred dollars, to help defray the costs to the department of inspections and review of applications.

(5) The department shall assess individual health care facilities submitting a proposal to be designated as a level II pediatric trauma care facility a fee, not to exceed eight thousand dollars, to help defray the costs to the department of inspections and review of applications.

(6) The department shall assess individual health care facilities submitting a proposal to be designated as a level III pediatric trauma care facility a fee, not to exceed two thousand dollars, to help defray the costs to the department of inspections and review of applications.

(7) The department shall assess health care facilities submitting a joint proposal to be jointly designated as a level I general or pediatric trauma care facility a fee, of at least seven thousand dollars, and based upon a determined hourly rate and per diem expense per inspection team member, not to exceed fourteen thousand five hundred dollars to help defray the costs to the department of inspections and review of applications.

(8) The department shall assess health care facilities submitting a joint proposal to be jointly designated as a level II



general or pediatric trauma care facility a fee, of at least six thousand dollars, and based upon a determined hourly rate and per diem expense per inspection team member, not to exceed twelve thousand five hundred dollars to help defray the costs to the department of inspections and review of applications.

(9) The department shall assess health care facilities submitting a joint proposal to be jointly designated as a level III general or pediatric trauma care facility a fee, of at least one thousand nine hundred fifty dollars, and based upon a determined hourly rate and per diem expense per inspection team member, not to exceed three thousand one hundred dollars to help defray the costs to the department of inspections and review of applications.

(10) The department shall assess health care facilities submitting a proposal to be designated at multiple levels to provide adult and pediatric care a fee, not to exceed nine thousand two hundred dollars to help defray the costs to the department of inspections and review of applications.

(11) The department shall not assess such fees to health care facilities applying to provide level IV and V trauma care services.

(12) If an ambulance or aid service fails to comply with the requirements of chapters 18.71, 18.73, 70.168 RCW, the Uniform Disciplinary Act, or with the requirements of this chapter, the department may notify the appropriate local, state or federal agencies.

### WSR 07-21-138

#### PROPOSED RULES

#### SECRETARY OF STATE

(Elections Division)

[Filed October 24, 2007, 9:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-17-029.

Title of Rule and Other Identifying Information: Cycle 4 Rules of 2007 will include rules related to the presidential primary, voter registration, the provisional and absentee ballot affidavit, and voting systems.

Hearing Location(s): Conference Room, 520 Union Avenue S.E., Olympia, WA 98501, on November 28, 2007, at 1:30 p.m.

Date of Intended Adoption: November 29, 2007.

Submit Written Comments to: Tami Neilson, P.O. Box 40220, Olympia, WA 98504-0220, e-mail [tneilson@sec-state.wa.gov](mailto:tneilson@sec-state.wa.gov), fax (360) 586-5629, by November 28, 2007.

Assistance for Persons with Disabilities: Contact TTY (800) 422-8683.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rules will implement standard procedures statewide. Rules will also address a variety of topics, including the presidential primary, voting systems, voter registration, and the affidavit absentee and provisional voters sign.

Reasons Supporting Proposal: Rules must reflect current law and are necessary for uniformity.

Statutory Authority for Adoption: RCW 29A.04.611.

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

Name of Agency Personnel Responsible for Drafting: Tami Neilson and Katie Blinn, Legislative Building, (360) 902-4182; Implementation and Enforcement: Katie Blinn, Legislative Building, (360) 902-4168.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes do not appear to have an impact on small business.

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

October 24, 2007

Steve Excell

Assistant Secretary of State

### Chapter 434-219 WAC

#### PRESIDENTIAL (~~PREFERENCE~~) PRIMARY

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-050 Procedures to be followed when changing primary date.** If the date of the presidential primary is changed (~~under~~) pursuant to RCW (~~29.19.020 and WAC 434-75-040~~) 29A.56.020 from the fourth Tuesday in May to another date, the secretary of state shall promptly notify the county auditors and the chairperson of the national committee of each major political party, in writing, of that date.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-060 Designation of candidates by secretary of state.** Not less than ninety days prior to the date set for the presidential primary, the secretary of state shall compile a list of persons whose candidacy for the office of President of the United States is generally advocated or whose candidacy is generally recognized in the national news media. He or she shall promptly notify, in writing, the county auditors, the chairperson of each major political party, and each of the candidates whose names will be placed on the ballot at the presidential primary unless the candidate withdraws under WAC (~~434-75-070~~) 434-219-115.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

**WAC 434-219-080 Petition process for ballot access.** Members of a major political party may petition the secretary of state, pursuant to the provisions of RCW (~~29.19.030(2))~~ 29A.56.030, to include on the presidential primary ballot the name of any candidate of that party not designated by the secretary of state under WAC 434-219-060. Petitions may be circulated for signatures not earlier than the first day following the designation of candidates by the secretary of state under WAC 434-219-060. Such petitions must be filed with the secretary of state not later than (~~the thirty-ninth day pre-~~

eeding)) sixty days prior to the primary, shall be accompanied by a signed, notarized statement by the candidate concerned giving his or her consent to the nomination, and must bear the signatures of at least one thousand persons registered to vote in the state of Washington at the time the petition signatures are verified.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

**WAC 434-219-100 Verification of signatures by secretary of state.** Upon receipt of any nominating petition filed pursuant to WAC 434-219-080, the secretary of state shall promptly canvass and verify the signatures in order to determine the validity of the petition. The secretary may reject, without verification of signatures, any petition that clearly bears insufficient signatures, any petition that is not accompanied by a consent to the nomination by the candidate, or any petition that is in a form inconsistent with the provisions of WAC 434-219-090. To the extent that it is not inconsistent with other provisions of these rules, the canvass and verification process may be observed in the same manner as that specified in RCW ((29-79-200)) 29A.72.230 for the observation of the canvass and verification of initiative signatures. The secretary of state shall reject the signature of any person not registered to vote in Washington, and any multiple signatures from the same voter. No signature may be rejected solely on the basis that it is not accompanied by the address or precinct name or number of the signer.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-110 Determination of ((insufficient signatures)) sufficiency.** In the event the secretary of state determines that the petition ((contains)) bears insufficient valid signatures, he or she shall notify the person filing the petition and the candidate on whose behalf the petition was filed. Persons so notified may submit additional signatures in support of the nomination as long as those signatures are submitted prior to the deadline established by RCW ((29-19-030)) 29A.56.030.

In the event the secretary of state determines the petition bears sufficient signatures, he or she shall add that candidate in the official certification of candidates to the county auditors.

#### NEW SECTION

**WAC 434-219-115 Withdrawal.** Each candidate shall appear on the primary ballot unless, not later than fifty-two days prior to the primary, the candidate files with the secretary of state a signed, notarized statement that he or she is not now and will not become a candidate for president. The secretary of state shall promptly notify the county auditors, the chairperson of the national political party of that candidate, and all remaining candidates of any names removed from the list of candidates for the presidential primary.

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00, effective 2/6/00)

**WAC 434-219-120 Certification of candidates.** ((# the event the secretary determines a petition bears sufficient signatures he or she shall include the name of that candidate in the official certification of candidates to the county auditors. This certification shall be completed and transmitted to the county auditors not later than the thirty-fourth day prior to the primary.)) Immediately following the last day for candidates to withdraw, the secretary of state shall certify to the county auditors the final list of candidates who will appear on the presidential primary ballot.

AMENDATORY SECTION (Amending WSR 99-22-073, filed 11/2/99, effective 12/3/99)

**WAC 434-219-140 Party declarations ((by voter)).** (1) ((Each registered voter desiring to participate in the presidential primary shall be given the opportunity to subscribe to any declaration provided under the national or state political party rules of a major political party for participation in the presidential nominating process of that party.

((2)) No later than August 15 in the calendar year preceding the year in which the presidential preference primary is to be held, the state chair of each major party shall submit in writing to the secretary of state the exact wording of ((the)) any party declaration required by rules of the state or national party.

((3)) (2) The secretary of state shall certify the language of each major party's declaration to the county auditors no later than August 30 in the calendar year preceding the year in which the presidential preference primary is to be held.

((4)) A voter may subscribe to a declaration stating that he or she wants his or her vote to be counted in the unaffiliated results, provided that failure to subscribe to this declaration does not prevent any person's vote from being counted in the unaffiliated results. The unaffiliated declaration shall be printed in substantially the following form: "I do not want to sign a party declaration. I understand that party rules may not allow my vote to be used to select delegates to the nominating conventions." (3) Each registered voter desiring to participate in the presidential primary of a major party that requires a declaration shall subscribe to the declaration.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

**WAC 434-219-150 ((Ballot request form used)) Party declaration at the polling place.** (1) At a polling place, the political party declaration ((provided under WAC 434-219-140, when provided to a voter desiring to vote at a polling place,)) may appear on either:

(a) A paper form of uniform size for each voter. The form shall identify the presidential primary, the major political party, and the date, and shall have space for the voter to sign his or her name and address. The voter's precinct shall be clearly indicated on the form. Multiple-part reproducible forms may be used for this purpose. The signed ((ballot request)) forms shall be collected by the precinct election

officers and transmitted to the county auditor at the end of the voting day; or

(b) A format printed in the poll book which would permit the voter to sign his or her name and address and to indicate his or her political party (~~(preference)~~ affiliation, if any (~~(or~~

~~(e) Separate poll books for each major political party distinct from the poll books for voters who do not subscribe to the declaration of any major political party).~~

(2) The county auditor shall provide appropriate instructions for the precinct election officers regarding the handling, maintaining, and transportation of the political party declarations.

#### NEW SECTION

**WAC 434-219-155 Party declaration for absentee ballots.** (1) Each political party declaration shall be printed on the return envelope with the standard absentee ballot oath required by WAC 434-250-050. Each declaration shall be printed with a checkbox for voters to indicate the party declaration to which they subscribe. The county auditor shall provide an instruction for the party declarations substantially similar to the following: "You must mark a party checkbox in order for your presidential primary vote to count. You may only select one party."

(2) The date and signature lines for the absentee ballot oath shall also serve as the date and signature lines for the political party declaration.

(3) In addition to other instructions normally provided to absentee voters, the county auditor shall ensure that voters are given specific instructions on how to mark their ballot so that it will be counted in accordance with the oath they signed on the return envelope.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

**WAC 434-219-185 Logic and accuracy tests** ~~((decks)). ((No later than fifteen days before the date of the presidential primary, the county auditor shall provide for the preparation of a test deck for logic and accuracy testing. No later than thirty days before the date of the presidential primary, the county auditor in consultation with the office of the secretary of state shall schedule a logic and accuracy test so that a representative of the office of the secretary of state can be present during the test. A representative of the secretary of state shall observe and certify that the test was conducted. Excluding the provisions in this chapter the procedures for))~~ The logic and accuracy test shall be conducted pursuant to the provisions of chapter ~~((434-333))~~ 434-335 WAC and RCW ~~((29.33.350))~~ 29A.12.130.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-190 Special election held in conjunction with the presidential primary.** If a special election is scheduled concurrently with the presidential primary under RCW ~~((29.13.010 or 29.13.020))~~ 29A.04.321 or 29A.04.330, all measures or candidates for office for which the voters are eligible to vote at that special election shall be listed on the

ballot in such a manner that each voter can identify and vote on those candidates or measures separately from the presidential primary candidates.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

**WAC 434-219-210 Issuing ~~((absentee and))~~ polling place ballots.** (1) Polling place voters who make a political party declaration shall be issued either that party's separate ballot or a consolidated ballot marked to match the party declaration.

(2) Polling place voters who do not make a political party declaration ((under WAC 434-219-140)) shall be presented either ((an unaffiliated)) a separate nonpartisan ballot, or a consolidated ballot ((coded as an unaffiliated ballot. Polling place voters who make a political party declaration under WAC 434-219-140 shall be presented either that party's ballot or a consolidated ballot coded to match their party oath.

(2) Absentee ballot voters, except as provided in subsection (3) of this section if applicable, shall be issued all unaffiliated and political party ballots, either as separate ballots or as a consolidated ballot.

(3) At the discretion of the county auditor, absentee ballots issued directly to the voter at the auditor's office may be issued in the same manner as polling place ballots provided that the voter marks, or verbally refuses to mark, the appropriate declaration on the return envelope prior to receiving the ballot)) that is marked to indicate no party affiliation.

(3) Precinct election officers shall verbally remind voters how to properly vote the ballot consistent with the party declaration made.

(4) Following the election, a notation of political party must be made in the voter registration files of those polling place voters who made a political party declaration.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

**WAC 434-219-230 ((Segregation)) Processing of absentee ballots.** ~~((Absentee))~~ (1) If the voter checked a political party declaration on the absentee ballot return envelope, a notation of the party checked must be made in the voter's registration file.

(2) If the return envelope is not signed or the signature on the envelope does not match the signature on file, the county auditor must attempt to contact the voter as outlined in WAC 434-261-050. If the voter also failed to check a political party declaration, the county auditor must also provide the voter the opportunity to check a party declaration.

(3) The ballot((s)) must be ((segregated)) sorted according to major party declaration choice before ((they are)) it is removed from the return envelope(s)). ((The number of ballots in each segregated group shall be recorded on a ballot accountability form at each step of the absentee ballot canvassing process.)) Once the ballot is removed from the return envelope and secrecy envelope, it must be inspected and processed consistent with the party declaration on the return envelope.

(4) If the voter's signature is verified, the voter may be credited with having participated in the election, even if the voter failed to check a political party declaration.

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00, effective 2/6/00)

**WAC 434-219-240 ((~~Inspection of absentee ballots.~~))**  
**Canvassing consolidated ballots that include a party checkbox.** ((Each absentee ballot cast by voters who signed a party declaration shall be inspected.

~~If a voter signs a party oath and votes for a candidate certified by the secretary of state for that party, that voter's ballot shall be grouped and tabulated with the ballots of that party. The number of ballots so voted shall be recorded on the ballot accountability form.~~

~~If a voter signs an unaffiliated oath, or does not sign an oath at all, that voter's ballot shall be grouped and tabulated with the unaffiliated ballots. The number of ballots so voted shall be recorded on the ballot accountability form.~~

~~Any voter who signs a party oath and then votes for a candidate certified by the secretary of state for a different party shall not have that vote tabulated.~~) If a county auditor issues consolidated ballots that include a party checkbox on the ballot, the following canvassing protocols must be followed:

(1) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks the party box on the consolidated ballot for the same party declared on the return envelope; and

(c) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.

(2) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks the party box on the consolidated ballot for the same party declared on the return envelope; and

(c) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.

(3) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks the party box on the consolidated ballot for a different party than declared on the return envelope; and

(c) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.

(4) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks a party box on the consolidated ballot for a different party than declared on the return envelope; and

(c) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.

(5) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Fails to check a party box on the consolidated ballot; and

(c) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.

(6) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Fails to check a party box on the consolidated ballot; and

(c) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.

(7) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks more than one party box on the consolidated ballot; and

(c) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.

(8) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks more than one party box on the consolidated ballot; and

(c) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.

(9) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks the party box on the consolidated ballot for the same party declared on the return envelope; and

(c) Votes for candidates of more than one party, the partisan votes shall not be counted.

(10) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks the party box on the consolidated ballot for a different party than declared on the return envelope; and

(c) Votes for candidates of more than one party, the partisan votes shall not be counted.

(11) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Fails to check a party box on the consolidated ballot; and

(c) Votes for candidates of more than one party, the partisan votes shall not be counted.

(12) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks more than one party box on the consolidated ballot; and

(c) Votes for candidates of more than one party, the partisan votes shall not be counted.

(13) If a voter signs a party declaration on the return envelope for more than one party, the partisan votes shall not be counted.

(14) If a voter fails to sign a party declaration on the return envelope, the partisan votes shall not be counted.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

**WAC 434-219-250 ((~~Tabulation of~~)) Canvassing separate party ballots and consolidated ballots that do not include a party checkbox.** ((1) Any voter who selects a party oath and votes for a candidate certified by the secretary of state for that party shall have that vote tabulated as a political party vote, regardless upon which ballot that vote is cast.

(2) Any voter who selects the unaffiliated oath, shall have that vote tabulated as an unaffiliated vote, regardless upon which ballot that vote is cast.

(3) Any voter who selects a party oath and then votes for a candidate certified by the secretary of state for a different party shall not have that vote tabulated.

(4) If the voter does not select an oath, then no vote for president shall be tabulated. If a county auditor issues either separate party ballots or consolidated ballots that do not include a party checkbox on the ballot, the following canvassing protocols must be followed:

(1) If a voter:

(a) Signs a party declaration on the return envelope; and

(b) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.

(2) If a voter:

(a) Signs a party declaration on the return envelope; and

(b) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.

(3) If a voter:

(a) Signs a party declaration on the return envelope; and

(b) Votes for candidates of more than one party, the partisan votes shall not be counted.

(4) If a voter signs a party declaration on the return envelope for more than one party, the partisan votes shall not be counted.

(5) If a voter fails to sign a party declaration on the return envelope, the partisan votes shall not be counted.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

**WAC 434-219-290 (~~Canvassing and~~) Certification of presidential primary by secretary of state.** County canvassing boards shall certify the results of the presidential primary (~~including the total number of write-in votes cast, by congressional and legislative districts, not later than the tenth day~~) fifteen days following the primary. The county auditor shall (~~send one original copy of~~) transmit the returns (~~by mail~~) to the secretary of state (~~on the same day the returns are certified~~) immediately. (~~Wherever applicable, the other procedures established by chapter 29.62 RCW for the canvassing of state primaries shall apply to the canvassing of a presidential primary.~~) Not later than (~~the thirtieth day~~) twenty-one days following the presidential primary, the secretary of state shall certify the results of the presidential primary and notify the candidates and the chairperson of the national and state committees of each major political party of the votes cast for (~~each~~) all candidates listed on the ballot (~~and of the write-in votes cast for any qualified write-in candidates~~).

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00, effective 2/6/00)

**WAC 434-219-310 Statutory recount provisions do not apply.** The provisions of chapter (~~29-64~~) 29A.64 RCW regarding statutory recounts do not apply to a presidential primary.

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00, effective 2/6/00)

**WAC 434-219-320 Transmittal of political party preference data and results (~~Transmittal~~) to the major political parties.** No later than thirty days following (~~the certification of the returns of~~) the presidential primary (~~by the secretary of state, the~~):

(1) Upon request, each county auditor shall provide to the county (~~and state~~) committee of each major political party, at actual reproduction cost (~~:~~

~~(1)~~, the results of the presidential primary by precinct(~~s~~), and

~~((2))~~ the names and addresses of (~~those~~) voters (~~participating in the presidential primary of that major political party~~) registered in the county who signed a party oath for that party in a poll book, or signed a party declaration for that party on a return envelope and the signature was verified. (~~This may be accomplished by either:~~

(a) Integrating the ballot request and party preference data with the county voter registration file and producing a registered voter report containing the consolidated data in either machine readable or printed format, which is provided to each major political party; or

(b) Providing to each major political party copies of the political party declarations that indicate the primary in which the voter participated; or

(c) Providing each major political party with a copy of the poll book pages upon which the voter has indicated the political party primary in which he or she participated and a separate report covering the declarations of absentee voters.)

(2) Upon request, the secretary of state shall provide to the state committees of each major political party, at actual reproduction cost, the names and addresses of all voters registered in the state who signed a party oath for that party in a poll book, or signed a party declaration for that party on a return envelope and the signature was verified.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-330 Retention of election material.** The county auditor shall maintain all presidential primary material, including ballot request forms, absentee ballot envelopes, poll books, and ballots, for a period of twenty-two months following the presidential primary. (~~The auditor may, at any time after~~) Sixty days following (~~the~~) certification of the (~~returns~~) presidential primary by the secretary of state, the county auditor must remove from (~~his or her automated~~) the voter registration files any record of (~~the~~) party designation (~~of any voter casting a ballot at~~) in the presidential primary.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

**WAC 434-219-340 Claims for reimbursement.** Following the presidential primary, each county auditor shall provide to the secretary of state a completed claim for reimbursement of expenses incurred by the county in conducting the primary. This cost shall be prorated with any other juris-

dictions holding special elections in conjunction with the primary under RCW ((29-13-045)) 29A.04.410. The procedures for allocating such costs shall be the same as those prescribed by the office of the state auditor for election cost allocations to the state, cities, towns, and special purpose districts. Claims for reimbursement and supporting documents shall be submitted to the secretary of state not later than sixty days following the certification of the ((returns of the)) presidential primary by the secretary of state.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-219-020	Definitions.
WAC 434-219-070	Removal from list of designees.
WAC 434-219-160	Political party and unaffiliated ballots—Arrangement.
WAC 434-219-165	Incomplete ballot code on consolidated absentee ballot.
WAC 434-219-220	Absentee ballots—Declarations—Instructions.
WAC 434-219-170	Order of political parties.
WAC 434-219-180	Ballots—Arrangement of names—Instructions.
WAC 434-219-260	Canvassing and tabulation of presidential primary absentee ballots.
WAC 434-219-280	Votes not tabulated.

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

**WAC 434-230-060 Primary votes required for appearance on general election ballot.** Following any non-partisan primary, no candidate's name shall be entitled to appear on the general election ballot unless he or she receives the greatest or the next greatest number of votes for the office and additionally receives at least one percent of the total votes cast for the office.

Following any partisan primary, no major political party candidate's name shall be entitled to appear on the general election ballot unless he or she receives a plurality of votes cast for the candidates of his or her party for that office. The requirement in RCW 29A.36.191 that a candidate for partisan office receive at least one percent of the votes cast for that office in order to appear on the general election ballot is unenforceable based on *Libertarian Party v. Sam Reed*, Thurston County Superior Court No. 04-2-01974-2 (2004).

~~((In those charter counties where provision is made in the county charter for the qualification of minor party and independent candidates, the charter provisions shall apply if the candidates has chosen that method for ballot qualification.))~~

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

**WAC 434-230-160 Poll-site voting instructions.** The ballot shall identify the type of primary or election, the county, and the date of the primary or election. Prominently displayed in the voting booth or on the ballot shall appear instructions directing the voter how to correctly cast votes on issues and candidates, including write-in votes. ~~((The instructions shall read substantially as follows: To vote for a candidate or for or against a ballot measure, mark the voting position to the right of the candidate or ballot measure for whom you desire to vote. To vote for a person not on the ballot, write the title of the office, if applicable, the name of the candidate, and party affiliation if for a partisan office, in the space provided on the ballot and mark the write-in position.))~~

AMENDATORY SECTION (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

**WAC 434-250-040 Instructions to voters.** (1) In addition to the instructions required by chapters 29A.36 and 29A.40 RCW, instructions for properly voting and returning an absentee ballot must also include:

(a) How to correct a ballot by crossing out the incorrect vote and voting the correct choice;

(b) Notice that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an over-vote and no votes for that office or ballot measure will be counted;

(c) Notice that, if a voter has signed or otherwise identified himself or herself on a ballot, the ballot will not be counted;

(d) How to complete and sign the affidavit on the return envelope;

(e) How to make a mark, witnessed by two other people, if unable to sign the affidavit;

(f) How to place the ballot in the security envelope and place the security envelope in the return envelope;

(g) How to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

(h) Notice that postage is required, if applicable; and

(i) Notice that, in order for the ballot to be counted, it must be either postmarked or deposited at a designated ~~((place))~~ deposit site no later than election day ~~((, and providing the location, dates, and times for depositing the ballot as an alternative to mailing the ballot))~~; and

(j) How a voter can learn about the locations, hours, and services, of voting centers and ballot deposit sites, including the availability of accessible voting equipment.

County auditors may use existing stock of absentee ballot instructions until ~~((January))~~ December 1, 2008.

(2) Instructions that accompany a special absentee ballot must also include:

(a) A listing of all offices and measures that will appear upon the ballot, together with a listing of all persons who have filed for office or who have indicated their intention to file for office; and

(b) Notice that the voter may request and subsequently vote a regular absentee ballot, and that if the regular absentee ballot is received by the county auditor prior to certification

of the election, it will be tabulated and the special absentee ballot will be voided.

AMENDATORY SECTION (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

**WAC 434-250-050 Ballot materials.** In addition to the instructions and in addition to materials required by chapters 29A.36 and 29A.40 RCW, each absentee ballot must be accompanied by the following:

(1) A security envelope, which may not identify the voter and must have a hole punched in a manner that will reveal whether a ballot is inside;

(2) A return envelope, which must be addressed to the county auditor and have a hole punched in a manner that will reveal whether the security envelope is inside. The return envelope must display the official election materials notice required by the United States Postal Service, the words "POSTAGE REQUIRED" or "POSTAGE PAID" in the upper right-hand corner, and the following oath with a place for the voter to sign, date, and write his or her daytime phone number:

\_\_\_\_\_ I do solemnly swear or affirm under penalty of perjury that:

I am a citizen of the United States;

I am a legal resident of the state of Washington;

~~(I am entitled to vote in this election;)~~

I will be at least 18 years old on or before election day;

I am not presently denied my voting rights as a result of being convicted of a felony;

I have not been judicially declared mentally incompetent;

I have not already voted in this election; and

~~(It is illegal to vote if I am not a United States citizen;~~

~~It is illegal to vote if I have been convicted of a felony and have not had my voting rights restored;)~~

I understand it is illegal to cast a ballot or sign ((an absentee)) a ballot envelope on behalf of another voter((; and)).

Attempting to vote when not ((entitled)) qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

Signature \_\_\_\_\_ Date \_\_\_\_\_

The return envelope must include space for witnesses to sign.

The return envelope must conform to postal department regulations.

County auditors may use existing stock of absentee envelopes until ~~((January))~~ December 1, 2008.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

**WAC 434-253-024 Poll book of registered voters.** (1) Poll books must be printed utilizing information from the official statewide voter registration data base. The poll book of registered voters must contain the name, residence

address, sex, month and day of birth, and county voter registration number of each voter in the precinct, a listing of the districts in which that voter resides, and a designation of the applicable county, legislative district, and precinct, or a ballot code identifying this information. The names must be listed alphabetically by last name. The list must contain a space for each voter to sign his or her name and to verify his or her current address, and a space for the inspector or judge to credit the voter with having participated in a particular election.

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

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

(a) Valid photo identification;

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

(c) A current utility bill;

(d) A current bank statement;

(e) A current government check;

(f) A current paycheck; or

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

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

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

(b) A voter registration card;

(c) A current utility bill;

(d) A current bank statement;

(e) A current paycheck;

(f) A government check; or

(g) Another government document.

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

AMENDATORY SECTION (Amending WSR 06-23-094, filed 11/15/06, effective 12/16/06)

**WAC 434-253-045 Provisional ballots—Required information.** A provisional ballot may only be voted on a direct recording electronic voting device if the voting system has been certified by the secretary of state for provisional voting and the county auditor has submitted approved procedures to the secretary of state. At a minimum, the following information is required to be printed on the outer ~~((provisional))~~ ballot envelope:

(1) Name of voter.

(2) Voter's registered address both present and former if applicable.

(3) Voter's date of birth.

(4) Reason for the provisional ballot.

(5) Polling place and precinct number, if applicable, at which voter voted.

(6) Sufficient space to list disposition of the ballot after review by the county auditor.

(7) The following ~~((oath))~~ affidavit with a place for the voter to sign and date:

\_\_\_\_\_ I do solemnly swear or affirm under penalty of perjury that:

I am a citizen of the United States;

I am a legal resident of the state of Washington;

~~((I am entitled to vote in this election;))~~

I will be at least 18 years old on or before election day;

I am not presently denied my voting rights as a result of being convicted of a felony;

I have not been judicially declared mentally incompetent;

I have not already voted in this election;

~~((It is illegal to vote if I am not a United States citizen;~~

~~It is illegal to vote if I have been convicted of a felony and have not had my voting rights restored;~~

~~It is illegal to cast a ballot or sign an absentee envelope on behalf of another voter, except as otherwise provided by law;)) and~~

I understand it is illegal to cast a ballot or sign a ballot envelope on behalf of another voter.

Attempting to vote when not ~~((entitled))~~ qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

Signature \_\_\_\_\_ Date \_\_\_\_\_

County auditors may use existing stock of absentee envelopes until December 1, 2008.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

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

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

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

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

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

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

(3) If the voter was previously registered and later canceled and the auditor determines that the cancellation was not

in error, the voter must be offered the opportunity to reregister and the provisional ballot is not counted.

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

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

**WAC 434-261-005 Definitions.** (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot. Inspection is performed on an absentee ballot as part of the initial processing, and on a poll ballot after breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election;

(2) "Duplicating ballots" is the process of making a true copy of valid votes from ballots that may not be properly counted by the vote tallying system. Ballots may be duplicated on blank ballots or by making changes on an electronic image of the ballot. The original ballot may not be altered in any way;

(3) "Readable ballot" is any ballot that the certified vote tallying system can accept and read as the voter intended without alteration, and that meets the standards of the county canvassing board subject to the provisions contained in this title;

(4) "Unreadable ballot" is any ballot that cannot be read by the vote tallying system as the voter intended without



alteration. Unreadable ballots may include, but not be limited to, ballots with damage, write-in votes, incorrect or incomplete marks, and questions of vote intent. Unreadable ballots may subsequently be counted as provided by these administrative rules;

(5) "Valid signature" on a ballot envelope for a registered voter eligible to vote in the election is:

(a) A signature verified against the signature in the voter registration file; or

(b) On an absentee ballot envelope, a mark with two witnesses.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

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

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

**WAC 434-324-005 Definitions.** As used in this chapter:

(1) "Active status" means a designation assigned to voters with complete voter registration records signifying that the voter is eligible to vote.

(2) "Applicant" means a person who has applied, or is applying, to become a registered voter in the state of Washington.

(3) "Auditor" means "county auditor" and means the county auditor in a noncharter county or the officer in a charter county, irrespective of title, having the overall responsibility to maintain voter registration to conduct state and local elections.

(4) "County election management system" means software used by county auditors to manage computer files pertaining to elections and includes, but is not limited to, voter registration records.

(5) "County registration number" means an identifier assigned to each registered voter by the county auditor.

(6) "Motor voter data" means computer information concerning an applicant that is common to both driver's license and voter registration records. This includes name, address, date of birth, sex, the date of the application, the location of the office where the application was submitted, the applicant's driver's license number, the applicant's Social Security number (if provided), and the applicant's previous driver's license number if the applicant has changed names.

(7) "Electronic registration" means the electronic submission of voter registration applications.

(8) "Extraction," as used in this chapter, means the creation of an electronic list of specific information from the entire official statewide voter registration data base.

~~((8))~~ (9) "Late registration absentee ballot" means an absentee ballot cast by a voter who registered pursuant to RCW 29A.08.145 after the close of the regular registration period.

~~((9))~~ (10) "Licensing agent" or "agent" means the employees serving the public at driver's licensing offices operated by the department of licensing.

~~((10))~~ (11) "New county" means a county in Washington state that a registered voter is moving to from another county within Washington state.

~~((11))~~ (12) "Previous county" means a county in Washington state that a registered voter lived in prior to moving to a new county.

~~((12))~~ (13) "Pending status" means a voter registration record is not yet complete, and the applicant is not yet a registered voter.

~~((13))~~ (14) "Pending cancellation" means the registered voter's registration record must be canceled within a specified amount of time and he or she is not eligible to vote.

~~((14))~~ (15) "Registered voter" means any elector who has completed the statutory registration procedures established by Title 29A RCW.

~~((15))~~ (16) "Secretary" means secretary of state or any other person authorized by the secretary of state to act on his or her behalf.

~~((16))~~ (17) "State registration number" means a unique identifier assigned to each registered voter by the state, pursuant to RCW 29A.08.651.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

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

- (a) Name;
- (b) Complete residential address;
- (c) Complete mailing address;
- (d) County registration number;
- (e) State registration number;
- (f) Gender;
- (g) Date of birth;
- (h) Date of registration;
- (i) Applicable district and precinct codes;
- (j) Dates upon which the individual has voted, if available;

(k) Washington state driver license number, Washington state identification card number, and/or the last four digits of the applicant's Social Security number; and

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

(2) In the case of an applicant who applies for voter registration by mail and sends a copy of one of the alternative forms of identification listed in RCW 29A.08.113 for registration purposes, the auditor must either maintain a scanned image of the identifying document or make a notation in the registration record indicating which alternative form of identification was provided to the auditor. Pursuant to RCW

29A.08.710, a scanned image of the identification is not available for public inspection or copying.

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

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

#### NEW SECTION

##### **WAC 434-324-031 Electronic voter registration.** (1)

The secretary of state's electronic voter registration web page must have the capability to:

(a) Reject applicants without a Washington state driver's license or state identification card;

(b) Require the applicant to affirmatively assent to the use of his or her driver's license or state identification card signature for voter registration purposes;

(c) Require the applicant to attest to the truth of the information provided on the application;

(d) Retrieve a digital copy of each applicant's driver's license or state identification card signature from the department of licensing and include it with the other information required for each applicant's voter registration; and

(e) Electronically transfer all information required for each applicant's voter registration to his or her county auditor for entry into the statewide voter registration data base through the county election management system.

(2) Once election registration information is entered into county election management systems, the same timelines and processes used for registration by mail apply to electronic registration.

#### AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

**WAC 434-324-040 Data transfer to secretary and registration status.** (1) Following entry into the county election management system, all information in the application for voter registration must be transferred electronically to the secretary for identity verification. The secretary must assign the application a state identification number.

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

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

(4) If the applicant provided a Washington driver's license number or state identification number and the identity is not verified in the computerized verification process, the information on the application may be considered a "match"

if the number on the application exactly matches a number issued by the department of licensing, and it is clear to the county auditor that the information on the application describes the person on the department of licensing record. Reasons that the county auditor may conclude that the information on the application describes the person on the department of licensing record include, but are not limited to, the following:

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

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

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

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

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

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

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

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

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

(5) If the applicant's identity is not verified in the computerized verification process, ~~either because the information did not match or because the applicant claimed he or she did not have a driver's license or Social Security number, the applicant must be ((placed on the official list of registered voters in active status, but)) provisionally registered.~~ The registration record must be flagged as still requiring verification of the applicant's identity before the applicant's ballot may be counted.

#### AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

**WAC 434-324-045 Verification of applicant's identity.** (1) If the applicant ~~((s identity is not verified in the computerized verification process outlined in))~~ is provisionally registered pursuant to WAC 434-324-040(5), the county auditor must verify the applicant's identity before counting the applicant's ballot. The county auditor may use other government resources and public records to confirm the applicant's driver's license or state identification card number or the last four digits of the applicant's Social Security number. The county auditor may also attempt to ~~((verify the appli-~~

cant's identity by contacting)) contact the applicant by phone, e-mail or other means to obtain identification information.

(2) If the county auditor (~~has not successfully verified~~) is still unable to verify the applicant's identity, the county auditor must send the applicant an identity verification notice

that includes a postage prepaid, preaddressed form by which the applicant may verify or send information. The identity verification notice must be in substantially the following form:

Dear Voter:

[date]

Thank you for submitting a voter registration application. Because we were unable to verify your identity based on the information you provided, you are now provisionally registered to vote.

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

Please provide one of the following:

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

_____	_____	_____	_____
First	M.I.	Last	date of birth

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

_____	_____	_____	_____
First	M.I.	Last	date of birth

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

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

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

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

(4) If the applicant fails to respond with adequate documentation to verify his or her identity, the applicant's voter registration record must remain flagged. If the applicant votes absentee, he or she must be notified that the ballot will not be counted unless he or she provides adequate verification of identity.

(5) A provisional registration must remain on the official list of registered voters for at least two general elections for federal office. If, after two general elections for federal office, the voter still has not verified his or her identity, the provisional registration may be canceled.

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

AMENDATORY SECTION (Amending WSR 07-20-074, filed 10/1/07, effective 11/1/07)

**WAC 434-335-030 Initial application for certification.** Any person or corporation (applicant) owning or representing a voting system or a vote tabulating system, part of a system, equipment, materials or procedure may apply in writing to the secretary of state for certification December 1st and ending June 30th the following year. Certification examinations and hearings are only conducted between ~~((January))~~ December 1st and September 15th of each year.

(1) The application must include, but is not limited to, the following information:

(a) Description of the applicant, business address, customer references, and list of election products.

(b) Description of the equipment under review, version numbers, release numbers, operating and maintenance manuals, training materials, and technical and operational specifications.

(c) Documentation of all other states that have tested, certified and used the equipment in a binding election, and the length of time used in that state. The information for each state must include the version numbers of the operating system, software, and firmware, the dates and jurisdictions, and any reports compiled by state or local governments concerning the performance of the system.

(d) A monetary deposit as described in WAC 434-335-080.

(e) A copy of a letter from the applicant to each independent testing authority (ITA) which:

(i) Directs the ITA to send a copy of the completed ITA qualification report to the secretary of state;

(ii) Authorizes the ITA to discuss testing procedures and findings with the secretary of state; and

(iii) Authorizes the ITA to allow the secretary of state to review all records of any qualification testing conducted on the equipment.

(f) A technical data package (TDP) conforming to the 2002 FEC Federal Voting Systems Standards (FVSS), Vol. II, Sec. 2 standards that includes:

(i) Identification of all COTS hardware and software products and communications services used in the operation of the voting system (ref. FVSS, 2.2.1.e);

(ii) A system functionality description (ref. FVSS, 2.3);

(iii) A system security specification (ref. FVSS, 2.6);

(iv) System operations procedures (ref. FVSS, 2.8);

(v) System maintenance procedures (ref. FVSS, 2.9);

(vi) Personnel deployment and training requirements (ref. FVSS, 2.10);

(vii) Configuration management plan (ref. FVSS, 2.11);

(viii) System change notes (if applicable, ref. FVSS, 2.13);

(ix) A system change list, if any, of modifications currently in development; ~~(and)~~

(x) A system usability testing report; and

(xi) A set of procedures for county personnel on how the operating system, equipment, and application software should be optimally configured and used in a secure environment.

(2) The vendor must either file the system executables for the certified system with the National Software Reference Library (NSRL) or place the source code of an electronic voting system in escrow, which must be accessible by the secretary of state under prescribed conditions.

(3) All documents, or portions of documents, containing proprietary information are not subject to public disclosure. The secretary of state must agree to use proprietary information solely for the purpose of analyzing and testing the system, and to the extent permitted by law, may not use the proprietary information or disclose it to any other person or agency without the prior written consent of the applicant.

AMENDATORY SECTION (Amending WSR 05-18-022, filed 8/29/05, effective 9/29/05)

**WAC 434-335-060 Examination of equipment.** Secretary of state staff will initiate an examination of the applicant's equipment after receiving a completed application and a working model of the equipment, documentation, and software to be reviewed. The examination consists of a series of functional application tests designed to insure that the system or equipment meets all applicable federal guidelines, and state law and rules. The examination may include an additional independent testing authority test at the discretion of the secretary of state. The examination shall include the set-up and conduct of two mock elections. The applicant shall provide ballot materials (~~and~~) after the secretary of state has set up the programming to create these elections. The independent testing authority will provide the voting system software they tested directly to the secretary of state.

(1) The first election must replicate an even year general election.

(2) The second election must replicate an odd year primary, and include the use of split precincts and precinct election officer contests.

Both elections must feature at least ten precincts, with at least ten ballots in each precinct. The tests must include ballots of various ballot codes, including multiple candidates, cumulative reports, precinct reports, and canvass reports, as detailed in the test plan provided by the secretary of state.

## WSR 07-21-139

### PROPOSED RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed October 24, 2007, 9:21 a.m.]

Supplemental Notice to WSR 07-14-082.

Preproposal statement of inquiry was filed as WSR 07-15-026.

Title of Rule and Other Identifying Information: The department is amending chapter 388-76 WAC, Adult family homes minimum licensing requirements, to add new sections regarding resident protection program/due process rights of individuals alleged to have abandoned, abused, neglected, exploited or financially exploited a resident.

Hearing Location(s): Blake Office Park East, First Floor, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on December 11, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 12, 2007.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRULES COORDINATOR@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on December 11, 2007.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS Rules Consultant, by December 4, 2007, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule making adds sections to chapter 388-76 WAC regarding due process rights for persons alleged to have abandoned, abused, neglected, exploited or financially exploited adult family home residents. The changes add information about investigations, notification, hearings and appeals.

Reasons Supporting Proposal: Persons alleged to have abandoned, abused, neglected, exploited or financially exploited adult family home residents are entitled to due process. Provide individuals, adult family home providers, the department and others with clear guidance regarding due process rights of individuals alleged to have abandoned, abused, neglected, exploited or financially exploited residents.

Statutory Authority for Adoption: RCW 70.128.040.

Statute Being Implemented: Chapters 70.128 and 74.34 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Roger Woodside, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, (360) 725-3204; Implementation and Enforcement: Pat Jennings, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, (360) 725-2404.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department determined there were no more than "minor costs" as defined in changes made in RCW 19.85.030 in 2007. A copy of the statement may be obtained by contacting Todd Henry, P.O. Box 45600, Mailstop 45600, Olympia, WA 98513, phone (360) 725-2580, fax (360) 438-7903, e-mail henryte@dshs.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Todd Henry, P.O. Box 45600, Mailstop 45600, Olympia, WA 98513, phone (360) 725-2580, fax (360) 438-7903, e-mail henryte@dshs.wa.gov.

October 19, 2007

Stephanie E. Schiller  
Rules Coordinator

#### NEW SECTION

**WAC 388-76-10673 Abuse and neglect reporting—Mandated reporting to department—Required.** (1) In accordance with chapter 74.34 RCW, all adult family home providers, entity representatives, resident managers, owners, caregivers, staff, and students that provide care and services to residents, are mandated reporters and must report to the department when there is:

(a) A reasonable cause to believe that a vulnerable adult has been abandoned, abused, neglected, exploited or financially exploited; or

(b) Suspected abandonment, abuse, neglect, exploitation, or financial exploitation of a vulnerable adult.

(2) Reports must be made to:

(a) The centralized toll free telephone number provided by the department; and

(b) Law enforcement agencies, as required under chapter 74.34 RCW.

#### NEW SECTION

**WAC 388-76-11000 Resident protection program—Investigation of reports.** (1) The department may investigate allegations of abandonment, abuse, neglect, exploitation, and financial exploitation of a resident.

(2) A department investigation may include an investigation of allegations about one or more of the following:

(a) A provider;

(b) Employee of the adult family home;

(c) Entity representative;

(d) Anyone affiliated with a provider; and

(e) Caregiver.

#### NEW SECTION

**WAC 388-76-11005 Resident protection program—Notice of preliminary finding.** (1) The department will notify the individual alleged to have abandoned, abused, neglected, exploited, or financially exploited a resident in writing within ten working days of making a preliminary finding of abandonment, abuse, neglect, exploitation, or financial exploitation of a resident. The written notice:

(a) Will not include the identities of the alleged victim, reporter and witnesses; and

(b) Will include the necessary information for the individual to ask for an administrative hearing to challenge the preliminary finding.

(2) The department must make a reasonable, good faith effort to find the last known address of the individual alleged to have abandoned, abused, neglected, exploited, or financially exploited a resident.

(3) The department may extend the time frame for notification beyond ten working days for good cause.

(4) The department will serve notice of the preliminary finding as provided in chapter 388-02 WAC.

#### NEW SECTION

**WAC 388-76-11010 Resident protection program—Reporting preliminary finding.** (1) In a manner consistent with confidentiality requirements concerning the resident, witnesses, and reporter, the department may provide notification of a preliminary finding to:

(a) The federal or state department or agency list of individuals found to have abandoned, abused, neglected, exploited, or financially exploited a vulnerable adult;

(b) Other divisions within the department;

(c) The agency or program identified under RCW 74.34.068 with which the individual alleged to have abandoned, abused, neglected, exploited, or financially exploited a resident is associated as an employee;

(d) The employer or program that is currently associated with the individual alleged to have abandoned, abused, neglected, exploited, or financially exploited a resident, if known;

(e) Law enforcement; and

(f) Other investigative authorities consistent with chapter 74.34 RCW.

(2) The notification will identify the finding as a preliminary finding.

#### NEW SECTION

**WAC 388-76-11015 Resident protection program—Disputing a preliminary finding.** (1) The individual alleged to have abandoned, abused, neglected, exploited, or financially exploited a resident may request an administrative hearing to challenge a preliminary finding made by the department.

(2) The request must be made in writing to the office of administrative hearings.

(3) The office of administrative hearings must receive the individual's written request for an administrative hearing within thirty calendar days of the date written on the notice of the preliminary finding.

(4) The written request for a hearing must include:

(a) The individual's full legal name, current mailing address and telephone number;

(b) A brief explanation of why the individual alleged to have abandoned, abused, neglected, exploited, or financially exploited a resident disagrees with the preliminary finding;

(c) A description of any assistance needed in the administrative appeal process by the individual, including a foreign or sign language interpreter or any reasonable accommodation for a disability; and

(d) The individual's signature.

#### NEW SECTION

**WAC 388-76-11020 Resident protection program—Hearing procedures to dispute preliminary finding.** (1) Chapters 34.05 and 74.34 RCW, chapter 388-02 WAC, and the provisions of this chapter govern any appeal regarding a preliminary finding.

(2) If a conflict exists between the provisions of this chapter and chapter 388-02 WAC, the provisions of this chapter prevail.

(3) If an administrative law judge within the office of administrative hearings determines that a preponderance of the evidence supports the preliminary finding that the individual alleged to have abandoned, abused, neglected, exploited, or financially exploited a resident, then the administrative law judge will issue an initial order.

#### NEW SECTION

**WAC 388-76-11025 Resident protection program—Finalizing a preliminary finding.** (1) A preliminary finding becomes a final finding when:

(a) The department notifies the individual alleged to have abandoned, abused, neglected, exploited, or financially

exploited a resident there is a preliminary finding pursuant to WAC 388-76-11005; and

(b) The individual alleged to have abandoned, abused, neglected, exploited, or financially exploited a resident does not ask for an administrative hearing; or

(c) The administrative law judge:

(i) Dismisses the hearing following withdrawal of the appeal or default; or

(ii) Issues an initial order upholding the finding and the individual alleged to have abandoned, abused, neglected, exploited, or financially exploited a resident fails to appeal the initial order to the department's board of appeals; or

(d) The board of appeals issues a final order upholding the finding.

(2) A final finding is permanent.

(3) A final finding will only be removed from the department or agency list of individuals found to have abandoned, abused, neglected, exploited, or financially exploited a vulnerable adult if:

(a) It is rescinded following judicial review; or

(b) The department decides to remove a single finding of neglect from its records based upon a written petition by the individual found to have abandoned, abused, neglected, exploited, or financially exploited a resident provided that at least one calendar year must have passed between the date a request was made to remove the finding of neglect and the date the final finding was finalized and recorded.

#### NEW SECTION

**WAC 388-76-11030 Resident protection program—Appeal of administrative law judge's initial order or finding.** (1) If the individual alleged to have abandoned, abused, neglected, exploited, or financially exploited a resident or the department disagrees with the administrative law judge's decision, either party may challenge this decision by filing a petition for review with the department's board of appeals under chapter 34.05 RCW, Administrative Procedures Act, and chapter 388-02 WAC.

(2) If the department appeals the administrative law judge's decision, the department will not change the finding in the department's records until a final hearing decision is issued.

#### NEW SECTION

**WAC 388-76-11035 Resident protection program—Reporting final findings.** The department will report a final finding of abandonment, abuse, neglect, exploitation, and financial exploitation within ten working days to the following:

(1) The individual found to have abandoned, abused, neglected, exploited, or financially exploited a resident and for whom there is a final finding;

(2) The provider or entity representative that was associated with the individual alleged to have abandoned, abused, neglected, exploited, or financially exploited a resident during the time of the incident;

(3) The adult family home or program that is currently associated with the individual, if known;

(4) The appropriate licensing, certification or registration authority;

(5) The federal or state department or agency list of individuals found to have abandoned, abused, neglected, exploited, or financially exploited a vulnerable adult; and

(6) The findings may be disclosed to the public upon request subject to applicable public disclosure laws.

#### NEW SECTION

**WAC 388-76-11040 Resident protection program—Disclosure of investigative and finding information.** (1) Confidential information about residents and mandated reporters received from the department may only be used by the individual alleged to have abandoned, abused, neglected, exploited, or financially exploited a resident to challenge findings through the appeals process.

(2) Confidential information such as the name and other personal identifying information of the reporter, witnesses, or the resident will be redacted from documents unless release of that information is consistent with chapter 74.34 RCW and other applicable state and federal laws.

#### **WSR 07-21-140**

#### **PROPOSED RULES**

#### **DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed October 24, 2007, 9:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-15-025.

Title of Rule and Other Identifying Information: The department is amending chapter 388-78A WAC, Boarding homes, to add new sections regarding the resident protection program and amend several existing sections in the chapter to be consistent with the new sections on the resident protection program.

Hearing Location(s): Blake Office Park East, First Floor, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on December 11, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 12, 2007.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRULES.COORDINATOR@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on December 11, 2007.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS Rules Consultant, by December 4, 2007, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [johnsj14@dshs.wa.gov](mailto:johnsj14@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule making adds sections to chapter 388-78A WAC regarding

due process rights for persons alleged to have abandoned, abused, neglected, exploited or financially exploited boarding home residents/resident protection program. The proposal adds information about investigations, notification, hearings and appeals. Relevant definitions are clarified and additional relevant terms will be defined in WAC 388-78A-2020 Definitions. The department is amending WAC 388-78A-2600 Policies and procedures, to clarify that boarding homes need to train their staff about abandonment and financial exploitation of residents, and amending WAC 388-78A-2470 Criminal history background checks, to make language consistent with new resident protection program sections.

Reasons Supporting Proposal: Persons alleged to have abandoned, abused, neglected, exploited or financially exploited boarding home residents are entitled to due process. The proposed changes provide individuals, boarding home providers, the department and others with clear guidance regarding due process rights of individuals alleged to have abandoned, abused, neglected, exploited or financially exploited residents.

Statutory Authority for Adoption: RCW 18.20.090.

Statute Being Implemented: Chapters 18.20 and 74.34 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Todd Henry, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, (360) 725-2580; Implementation and Enforcement: Pat Jennings, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, (360) 725-2404.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department determined there were no more than "minor costs" as defined in changes made in RCW 19.85.030 in 2007. A copy of the statement may be obtained by contacting Todd Henry, P.O. Box 45600, Mailstop 45600, Olympia, WA 98513, phone (360) 725-2580, fax (360) 438-7903, e-mail [henryte@dshs.wa.gov](mailto:henryte@dshs.wa.gov).

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Todd Henry, P.O. Box 45600, Mailstop 45600, Olympia, WA 98513, phone (360) 725-2580, fax (360) 438-7903, e-mail [henryte@dshs.wa.gov](mailto:henryte@dshs.wa.gov).

October 19, 2007

Stephanie E. Schiller

Rules Coordinator

**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 07-22 issue of the Register.

**WSR 07-21-144**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Aging and Disability Services Administration)  
[Filed October 24, 2007, 9:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-15-016.

Title of Rule and Other Identifying Information: The department is creating new WAC 388-827-0121 Will I need an assessment to remain eligible for state supplemental income payment (SSP), and amending the following in chapter 388-827 WAC:

- WAC 388-827-0110 What are the financial eligibility requirements to receive DDD/SSP?
- WAC 388-827-0115 What are the programmatic eligibility requirements for DDD/SSP?
- WAC 388-827-0125 How will I know if I am eligible to receive a DDD/SSP payment?
- WAC 388-827-0150 How often will I receive my DDD/SSP warrant/check?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on November 27, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 28, 2007.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 27, 2007.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS Rules Consultant, by November 20, 2007, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 388-827-0110, 388-827-0115, 388-827-0125, and 388-827-0150 contain clarifying information. WAC 388-827-0121 adds a requirement that an assessment must be done at least every twelve months as this requirement is contained in chapter 388-828 WAC.

Reasons Supporting Proposal: The division of developmental disabilities (DDD) implemented the rules concerning the DDD assessment on June 1, 2007. These rules are necessary to conform with the requirements contained in chapter 388-828 WAC.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: Title 71A RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Steve Brink, 640 Woodland Square Loop S.E., Lacey, WA

98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail [brinksc@dshs.wa.gov](mailto:brinksc@dshs.wa.gov), (360) 725-3416, fax (360) 404-0955; Implementation: Meredith Kelly, 640 Woodland Square Loop S.E., Lacey, WA 98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail [kellymj@dshs.wa.gov](mailto:kellymj@dshs.wa.gov), (360) 725-3524, fax (360) 404-0955; and Enforcement: Doug Washburn, 640 Woodland Square Loop S.E., Lacey, WA 98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail [washbdc@dshs.wa.gov](mailto:washbdc@dshs.wa.gov), (360) 725-3452, fax (360) 404-0955.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impact small businesses or small nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are not significant as defined in RCW 34.05.328 (5)(c)(iii).

October 16, 2007  
Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-15-094, filed 7/16/04, effective 8/16/04)

**WAC 388-827-0110 What are the financial eligibility requirements to receive DDD/SSP? Following are the financial eligibility requirements to receive DDD/SSP:**

(1) You must be eligible for or receive supplemental security income (SSI) cash assistance in the month in which the DDD/SSP is issued; or

(2) You receive Social Security Title II benefits as a disabled adult child and you would be eligible for SSI if you did not receive these benefits.

AMENDATORY SECTION (Amending WSR 06-24-074, filed 12/4/06, effective 1/4/07)

**WAC 388-827-0115 What are the programmatic eligibility requirements for DDD/SSP? Following are the programmatic eligibility requirements to receive DDD/SSP:**

(1) You received one or more of the following services from DDD with state-only funding between March 1, 2001 and June 30, 2003 and continue to demonstrate a need for and meet the DDD program eligibility requirements for these services. Additionally, you must have been eligible for or received SSI prior to July 1, 2006; or you received Social Security Title II benefits as a disabled adult child prior to July 1, 2006 and would have been eligible for SSI if you did not receive these benefits.

(a) Certain voluntary placement program services, which include:

- (i) Foster care basic maintenance,
- (ii) Foster care specialized support,
- (iii) Agency specialized support,
- (iv) Staffed residential home,
- (v) Out-of-home respite care,
- (vi) Agency in-home specialized support,
- (vii) Group care basic maintenance,
- (viii) Group care specialized support,
- (ix) Transportation,
- (x) Agency attendant care,



- (xi) Child care,
- (xii) Professional services,
- (xiii) Nursing services,
- (xiv) Interpreter services,
- (b) Family support;
- (c) One or more of the following residential services:
  - (i) Adult family home,
  - (ii) Adult residential care facility,
  - (iii) Alternative living,
  - (iv) Group home,
  - (v) Supported living,
  - (vi) Agency attendant care,
  - (vii) Supported living or other residential service allowance,
  - (viii) Intensive individual supported living support (companion homes).
- (2) For individuals with community protection issues as defined in WAC 388-820-020, the department will determine eligibility for SSP on a case-by-case basis.
- (3) For new authorizations of family support opportunity:
  - (a) You were on the family support opportunity waiting list prior to January 1, 2003; and
  - (b) You are on the home and community based services (HCBS) waiver administered by DDD; and
  - (c) You continue to meet the eligibility requirements for the family support opportunity program contained in WAC 388-825-200 through 388-825-242; and
  - (d) You must have been eligible for or received SSI prior to July 1, 2003; or you received Social Security Title II benefits as a disabled adult child prior to July 1, 2003 and would have been eligible for SSI if you did not receive these benefits.
- (4) For individuals on one of the HCBS waivers administered by DDD (Basic, Basic Plus, Core or community protection):
  - (a) You must have been eligible for or received SSI prior to April 1, 2004; and
  - (b) You were determined eligible for SSP prior to April 1, 2004.
- (5) You received Medicaid personal care (MPC) between September 2003 and August 2004; and
  - (a) You are under age eighteen at the time of your initial comprehensive assessment and reporting evaluation (CARE) assessment;
  - (b) You received or were eligible to receive SSI at the time of your initial CARE assessment;
  - (c) You are not on a home and community based services waiver administered by DDD; and
  - (d) You live with your family, as defined in WAC 388-825-020.
- (6) If you meet all of the requirements listed in (5) above, your SSP will continue.
- (7) You received one or more of the following state-only funded residential services between July 1, 2003 and June 30, 2006 and continue to demonstrate a need for and meet the DDD program eligibility requirements for these services:
  - (a) Adult residential care facility;
  - (b) Alternative living;
  - (c) Group home;

- (d) Supported living;
- (e) Agency attendant care;
- (f) Supported living or other residential allowance.

#### NEW SECTION

**WAC 388-827-0121 Will I need an assessment to remain eligible for SSP?** DDD must administer a DDD assessment to you at least every twelve months to determine your eligibility to continue to receive SSP. The rules regarding the DDD assessment are contained in chapter 388-828 WAC.

AMENDATORY SECTION (Amending WSR 04-02-015, filed 12/29/03, effective 1/29/04)

**WAC 388-827-0125 How will I know if I am eligible to receive a DDD/SSP payment?** You will receive a written notification from DDD if you have been identified as eligible for ~~((this program))~~ a DDD/SSP payment.

AMENDATORY SECTION (Amending WSR 04-02-015, filed 12/29/03, effective 1/29/04)

**WAC 388-827-0150 How often will I receive my DDD/SSP warrant/check?** You will receive a monthly DDD/SSP warrant/check from the state.

### **WSR 07-21-148**

#### **PROPOSED RULES**

#### **UTILITIES AND TRANSPORTATION COMMISSION**

[Docket TV-070466—Filed October 24, 2007, 10:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-09-104.

Title of Rule and Other Identifying Information: Chapter 480-15 WAC, Household goods carriers.

Hearing Location(s): Commission Hearing Room 206, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on December 12, 2007, at 1:30 p.m.

Date of Intended Adoption: December 12, 2007.

Submit Written Comments to: Washington Utilities and Transportation Commission (UTC), 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, e-mail records@utc.wa.gov, fax (360) 586-1150, by November 19, 2007. Please include "Docket TV-070466" in your comments.

Assistance for Persons with Disabilities: Contact Mary De Young by December 10, 2007, TTY (360) 586-8203 or (360) 664-1133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The current rules in chapter 480-15 WAC went into effect in January 1999, after the federal government made extensive changes to the trucking industry. Changes in the industry over the past seven years, as well as our experience with the current rules,

tells us we are now in a position to streamline the rules, providing greater flexibility for companies and less regulatory oversight by the UTC while still maintaining important consumer protections. The proposed rules streamline and clarify chapter 480-15 WAC.

Reasons Supporting Proposal: The proposed rules:

- Simplify rules where possible.
- Update rules to accommodate current technology (i.e., computer-based estimates).
- Align rules more closely with the federal interstate household goods carrier rules where reasonable.
- Eliminate prescriptive language to allow more flexibility.
- Maintain consumer protection.

Statutory Authority for Adoption: RCW 80.01.040, 81.04.160, 81.04.250, 81.28.040, 81.80.120, 81.80.130, and 81.80.290.

Statute Being Implemented: Not applicable.

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

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

Name of Agency Personnel Responsible for Drafting: Vicki Elliott, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1119; Implementation and Enforcement: Carole J. Washburn, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1174.

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

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

October 24, 2007

Carole J. Washburn  
Executive Secretary

AMENDATORY SECTION (Amending General Order No. R-471, Docket No. TV-991559, filed 6/27/00, effective 7/28/00)

**WAC 480-15-010 Purpose and application.** (1) ~~(The legislature has declared that operating as a motor carrier of freight, including household goods, for compensation over the highways of this state is a business affected with a public interest and should be regulated. The purpose of)~~ These rules ~~(is to carry out)~~ implement the policies ~~(set forth)~~ in RCW 81.80.020 as they apply to household goods carriers ~~(by establishing)~~. The rules establish standards for public safety, fair competitive practices, just and reasonable charges, nondiscriminatory application of rates, adequate and dependable service and consumer protection, and as well as compliance with statutes, rules and commission orders.

(2) This chapter applies to all intrastate household goods carriers.

(3) Nothing in this chapter relieves any household goods carrier from its duties and obligations under the laws of the state of Washington including, but not limited to, public utility, labor, employment, and other taxes, and business and vehicle licensing requirements.

AMENDATORY SECTION (Amending General Order No. R-471, Docket No. TV-991559, filed 6/27/00, effective 7/28/00)

**WAC 480-15-020 Definitions.** For the purpose of this chapter, the words, terms, and phrases in this section have the following meaning:

~~((“))~~**Accessorial services**~~((“ means))~~: Any service ~~((s))~~ provided by a household goods carrier that supplements, or ~~((are secondary))~~ is incidental to, the transportation of household goods ~~((, including, but not limited to,))~~. Examples include packing ~~((and))~~, unpacking, wrapping or protecting a portion of the shipment ~~((, and providing special handling of household goods))~~ or providing special equipment or services such as hoisting.

~~((“))~~**Agent**~~((“ means))~~: A permitted carrier, who, under the provisions of a formal written agreement, performs services on behalf of another permitted carrier.

~~((“))~~**Application docket**~~((“ means))~~: A commission publication listing applications requesting operating authority ~~((, and commission action taken on applications for temporary authority)).~~

~~((“))~~**Authority**~~((“ means))~~: The rights granted to a common carrier to transport household goods.

~~((“))~~**Cancellation**~~((“ means))~~: An act by the commission to terminate a household goods carrier's authority.

**Carrier**: A company performing household goods moves.

~~((“))~~**Commission**~~((“ means))~~: The Washington utilities and transportation commission.

~~((“Common carrier” means any person who undertakes to transport property, including household goods, for the general public by motor vehicle, for compensation over the public highways. This term also includes transportation under special and individual contracts or agreements.~~

~~“Constructive weight” means a weight based on a formula of seven pounds per cubic foot of properly loaded van space occupied by the customer's goods.~~

~~“Consumer” means a person or entity that hires a household goods carrier.~~

~~“Customer”~~ ~~((“ means a person or entity that))~~: Anyone who hires a household goods carrier.

~~((“Exempt carrier” means any person operating a motor vehicle exempt from certain provisions of Title 81 RCW pursuant to RCW 81.80.040.))~~ **Estimate**:

(a) Nonbinding estimate: The written estimate the carrier gives to the customer in advance of the move. A nonbinding estimate is not binding on the mover. The final charges will be based upon the actual cost of the move and the services provided, although a carrier may not charge more than twenty-five percent over the nonbinding estimate.

(b) Binding estimate: The written estimate the carrier gives to the customer in advance of the move and by which both the carrier and customer are bound. The carrier may not charge any amount other than the binding estimate and the customer may pay the amount of the binding estimate.

(c) Supplemental estimate: An amendment to the original nonbinding estimate, necessary when the circumstances of a move change in a way from the original written estimate that increases the cost of the move.

~~((=))~~Filing~~((= means))~~: Any application, petition, tariff proposal, annual report, comment, complaint, pleading(=) or other document submitted to the commission.

~~((=))~~Household goods carrier~~((= means a common carrier transporting household goods within the state of Washington.~~

~~((=))~~Household goods~~((= when the term is used in connection with transportation, means personal effects and property used or to be used in a residence when it is a part of the equipment or supply of such residence, and is transported between residences or between a residence and a storage facility, with the intent to later transport to a residence. This term excludes transportation of customer packed and sealed self-storage containers that are delivered to and from a self-storage facility, when that transportation is provided in conjunction with a self-storage agreement executed in good faith, and when no accessorial services are provided by a motor carrier in connection with the storage or the transportation of the container))~~: The personal effects and property used, or to be used, in a residence when transported between residences or between a residence and a storage facility with the intent to later transport to a residence. Transportation of the goods must be arranged and paid for by the customer or by another individual, company or organization on behalf of the customer.

~~((=))~~I~~((= means a household goods carrier or customer, depending upon the context of the rule.~~

~~((=))~~Loaded weight~~((= means the weight of a motor vehicle obtained when:~~

- The customer's goods are loaded into the vehicle;
- The vehicle's fuel tank is full;
- All pads, chains, dollies, hand trucks, and other equipment needed in the transportation of the shipment are on board the vehicle;
- The vehicle's crew is not on board the vehicle.

~~((=))~~Local move~~((= means a))~~: A move(s) taking place within the limits of a city or town or moves ((specifically defined as local in the commission tariff)) where the shipment is transported fifty-five miles or less.

~~((=))~~Long distance move~~((= means any))~~: A move ((not meeting the definition of a local move)) where the shipment is transported fifty-six miles or more.

~~((=))~~May~~((= means an option. You may do something but it is not a requirement.~~

~~((=))~~May not~~((= means to prohibit from doing something.~~

~~((=))~~Motor carrier~~((= means "common carrier," "exempt carrier," and "private carrier," as defined in this chapter.~~

~~((=))~~Motor vehicle~~((= means any))~~ or vehicle~~((= machine, tractor, trailer, or semi-trailer, propelled or drawn by mechanical power, or any combination of such vehicles, used upon the highways in the transportation of property, including household goods. A motor vehicle is not a self-storage con-~~

~~tainer))~~: Any motor truck, tractor or other self-propelled vehicle, any trailer, semi-trailer or any combination of such vehicles moving as a single unit.

~~((=))~~Must~~((= means a legal obligation. You are required to do something.~~

~~((=))~~Net weight~~((= means the weight of the goods shipped by the consumer. It is determined by subtracting the tare weight of a motor vehicle from the loaded weight.~~

~~((=))~~Permit~~((= means))~~: A document issued by the commission describing the authority granted to a household goods carrier ((under the provisions of chapter 81.80 RCW, as amended. A permit may be temporary or permanent in duration, and may allow a household goods carrier to transport household goods throughout the state of Washington or limit the household goods carrier to transportation of household goods in designated areas of the state)).

~~((=))~~Person~~((= includes))~~: Any individual, firm, corporation, company, or partnership.

~~((=))~~Private carrier~~((= means persons who transport their own household goods, household goods being bought or sold by them in good faith, or transport household goods purely as an incidental adjunct to some established business owned or operated in good faith.~~

~~((=))~~Registered carriers~~((= means motor carriers operating in interstate or foreign commerce under authority issued by the Interstate Commerce Commission, the U.S. Department of Transportation, or a successor agency.~~

~~((=))~~Registered exempt carriers~~((= means motor carriers operating in interstate or foreign commerce under the exemptions of the Federal Motor Carrier Act without interstate authority issued by the Interstate Commerce Commission, the U.S. Department of Transportation, or a successor agency.~~

~~((=))~~Shipper~~((= means a person or entity that hires a household goods carrier.~~

~~((=))~~Small business~~((= means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees.))~~ Shipment: A load of household goods moved by a carrier from a single residence or as a single transaction.

~~((=))~~State~~((= means))~~: The state of Washington.

~~((=))~~Suspension~~((= means))~~ also includes suspend, suspended, suspending: An act by the commission to temporarily withhold a household goods carrier's authority.

~~((=))~~Tare weight~~((= means the weight of an empty motor vehicle obtained when:~~

- The vehicle's fuel tank is full;
- All pads, chains, dollies, hand trucks, and other equipment needed in the transportation of the shipment are on board the vehicle; and
- The crew is not on board the vehicle.

~~((=))~~Tariff~~((= means))~~: A publication containing ((the)) rates and charges ((that)) carriers must ((be assessed)) assess on shipments of household goods and the rules that govern how rates and charges are assessed.

~~((=))~~Transportation of household goods~~((= means the for hire movement of household goods by motor vehicle over the public highways of the state. This includes providing esti-~~

mates, arranging for receipt, delivery, storage in transit, handling, and providing any accessorial services in connection with that movement.

**"Us"** means the Washington utilities and transportation commission.

**"We"** means the Washington utilities and transportation commission.

**"You"** means a household goods carrier, customer, insurance company, or other person or entity, depending on the context of the rule.)

#### NEW SECTION

**WAC 480-15-025 Commission proceedings.** The commission's rules governing administrative practices and procedures are in chapter 480-07 WAC. When a rule in this chapter is different than a rule in chapter 480-07 WAC, the rule in this chapter applies to household goods carriers.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

**WAC 480-15-035 Exemptions from rules.** (1) The commission may grant an exemption of any rule in this chapter when doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

(2) To request a rule exemption, a company must file with the commission a written request identifying the rule for which an exemption is sought and giving a full explanation of the reason the exemption is requested.

(3) The commission will assign the request a docket number, if needed, and schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the company requesting the exemption, and other interested persons, of the date the commission will consider the request.

(4) The commission will issue an order granting ~~((or)),~~ denying, or modifying the request or setting it for hearing, pursuant to chapter 480-07 WAC.

#### NEW SECTION

**WAC 480-15-055 Payment to the commission.** Carriers or other persons may pay required fees, penalties or other assessments by money order, check, certified check, credit or debit card or by electronic payment payable to the utilities and transportation commission. The commission will accept cash if a payment is made in person. The commission accepts only United States funds.

#### NEW SECTION

**WAC 480-15-065 Address or telephone change.** If a carrier changes its physical or mailing business address, e-mail address or telephone number, it must immediately notify the commission in writing at the address listed in WAC 480-15-060.

#### NEW SECTION

**WAC 480-15-145 Enforcement.** The commission has a number of options available to enforce its statutes, rules, orders and tariff requirements, as follows:

(1) RCW 81.04.110 allows the commission to file a complaint and hold a hearing.

(2) RCW 81.04.260 allows the commission to file in court for an immediate injunction for violations of law, commission rule, order, direction or requirement of the commission.

(3) RCW 81.04.380 allows penalties against public service companies of up to one thousand dollars for each violation for each day the violation occurs or continues to occur.

(4) RCW 81.04.387 allows penalties against corporations, other than public service companies, of up to one thousand dollars for each offense.

(5) RCW 81.04.390 provides that violations may be treated as misdemeanors.

(6) RCW 81.04.405 allows penalties of one hundred dollars for each violation for each day the violation occurs or continues to occur. These penalties are issued through a penalty assessment with a fifteen-day response period.

(7) RCW 81.04.510 and 81.80.070 allows the commission to issue cease and desist orders against a carrier operating without a permit.

(8) RCW 81.80.280 allows the commission to cancel, suspend, alter, or amend a permit for violations of federal or state law, or commission rule.

(9) RCW 81.80.070 also allows a penalty of one thousand five hundred dollars to any carrier operating without a permit.

(10) RCW 81.80.355 provides that advertising without a permit may be treated as a misdemeanor.

(11) RCW 81.80.357 allows a penalty of five hundred dollars for each violation when a carrier does not include its permit number in its advertisements.

(12) WAC 480-120-172 allows a telecommunications company to disconnect a customer's service if that service is used for illegal purposes, such as operating without a permit issued by the commission.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-180 ~~((When must I have))~~ Carrier operations that require a household goods permit~~((?)).~~  
~~(((1) Unless you are operating in the territory described in WAC 480-15-200, you must receive a permit from us before you transport household goods:~~**

- ~~(a) By motor vehicle;~~
- ~~(b) Over the public highways;~~
- ~~(c) Between points in Washington state; and~~
- ~~(d) For compensation.~~

~~(2) If you transport household goods without first obtaining a permit you will be subject to the enforcement actions described in WAC 480-15-160(3).))~~ A carrier must receive a permit from the commission before transporting household goods, for compensation, by motor vehicle (including a rental truck) over public roads between two points within the state

unless the carrier is operating in the territory described in subsection (1) or (2) of this section:

(1) Under RCW 81.80.040(1), a carrier does not need a permit to operate exclusively between points within the limits of a city or town with a population of less than ten thousand, unless it borders a city or town with a population of greater than ten thousand.

(2) Under RCW 81.80.040(2), a carrier does not need a permit to operate exclusively between points within a city with a population between ten thousand and thirty thousand if the commission has issued an order exempting transportation within that city from regulation. As of June 2007, these cities included:

(a) Cities of Mountlake Terrace and Mercer Island, exempted by commission General Orders 178, effective March 3, 1965, and R-66, effective May 8, 1974.

(b) City of Ellensburg, exempted by commission General Order 199, effective April 17, 1968.

NEW SECTION

**WAC 480-15-181 Operations that do not require a household goods permit.** A company's operations do not require a permit from the commission when the company:

(1) Moves commercial or office goods, except when part of a household goods moves.

(2) Transports goods that are packed and loaded on the vehicle and unloaded by the customer.

(3) Transports goods which are loaded in customer packed and sealed self-storage type containers in conjunction with storage when no accessorial services are provided by the company.

(4) Uses a truck the customer owns or rents, even if the company does the packing and loading.

(5) Packs and loads the goods but does not transport the belongings.

(6) Moves goods interstate.

NEW SECTION

**WAC 480-15-185 Types of household goods permits.**

The commission may issue any of the following types of permits:

(1) **Emergency temporary authority** for a period of thirty days or less when there is an urgent need for service and time or circumstances do not reasonably allow filing and processing an application for temporary authority.

(2) **Temporary authority** for up to one hundred eighty days to meet a short-term public need or until the commission makes a decision on the pending application for permanent authority. The applicant must be fit, willing and able and the proposed service must be in the public interest.

(3) **Permanent authority** has no expiration date or renewal requirement when the applicant is fit, willing and able to provide service and meets the current or future public convenience and necessity standards.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-190** ~~((Where may I operate with a household goods permit?))~~ **Service territory.** ~~((+))~~ Household goods permits authorize statewide operations unless:

~~((a))~~ (1) You elect to limit your service territory to specific counties; or

~~((b))~~ (2) The commission, by order, limits your service territory.

~~((2) If you choose to limit your service territory to specific counties, you must notify us in writing at the address shown in WAC 480-15-060. Your written request must include your household goods permit number and name:))~~

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-230** ~~((What is the))~~ **Application fees** ~~((?))~~. ~~((The maximum application fee, under RCW 81.80.090, is five hundred fifty dollars. After reviewing the actual costs of processing applications, we may set fees at less than the legal maximum. Each application form will clearly state the fee you must submit when filing an application:))~~

~~The following table lists the application fees in place on the effective date of these rules:))~~ Application fees are:

Type of Permit Application:	Fee:
Emergency temporary authority	\$50.00
Temporary authority	\$250.00
Permanent authority	\$550.00
<del>((Permanent authority (under the exceptions named in WAC 480-15-260)))</del> <u>Transfer or acquisition of authority under WAC 480-15-335</u>	\$250.00
Permit reinstatement (under provisions of WAC 480-15-460)	\$250.00
Name change only	\$35.00

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-270** ~~((When will the commission grant))~~ **Emergency temporary authority** ~~((?))~~. ~~((We will))~~ The commission may grant an application for emergency temporary authority to operate up to thirty days to meet an urgent public need when time or circumstances do not reasonably allow ((for the)) filing and processing ((of)) a temporary permit application. ((We may grant emergency temporary authority for up to thirty days when a qualified)) The applicant must do all of the following:

(1) Provide ~~((s))~~ a certified statement of support identifying the need ~~((:))~~.

(2) Complete the application.

(3) Pay ~~((s))~~ the application fee ~~((:))~~.

~~((3))~~ (4) Furnish(es) a list of vehicles (to be used) the applicant will use under emergency temporary authority(, and).

~~((4))~~ (5) Furnish(es) proof of public liability and property damage insurance.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-280** ~~((When must I apply for))~~ **Temporary authority(?)**. (1) ~~((You))~~ An applicant must apply for temporary authority (if you are a new entrant, or) to provide service to meet a short-term need. (If you are a new entrant, and) The commission grants (your) the application, the temporary authority will allow (you) the applicant to provide service as a household goods carrier on a provisional basis for at least six months. During this time, the commission will evaluate whether (you have) the applicant has met the criteria in WAC 480-15-330 to obtain permanent authority.

(2) ~~((We))~~ The commission will grant or deny an application for temporary authority after (we have conducted) conducting a complete review of (your) the application, (any) supporting statements, reports or other information necessary to determine (your) fitness(,) and (determine) determining whether granting the application is in the public interest.

(3) When determining if an applicant is fit, willing(,) and able to provide the proposed service ((we) the commission will consider any information provided by the applicant and other members of the public including, but not limited to, information regarding the applicant's:

(a) ~~((The applicant's))~~ Experience in the industry(, knowledge of safety regulations, financial resources and equipment, compliance with tax, labor, employment, business, and vehicle licensing laws and rules; and).

(b) ~~((Whether the applicant has been cited for violation of state law or commission rules, has been convicted of a Class A or Class B Felony, or has previously been denied authority on the basis of fitness; or has had permit authority canceled))~~ Knowledge of safety regulations.

(c) Financial resources.

(d) Equipment resources.

(e) Compliance with tax, labor, employment, business and vehicle licensing laws and rules.

(f) Compliance with Title 81 RCW and commission rules.

(g) Conviction of any crime.

(h) Previous denial of authority on the basis of fitness.

(i) Previous cancellation of permit authority.

(4) When determining if the proposed service is in the public interest ((we)), the commission will consider any information provided by the applicant, (shippers) customers and other members of the public ((supporting)) concerning the proposed service(, and). The commission will also consider whether granting the temporary authority will:

(a) Enhance choices available to consumers(,).

(b) Promote a viable yet competitive household goods industry(, or).

(c) Fill an unmet need for service(, and).

~~((b))~~ (d) Allow ((us) the commission to more efficiently regulate the household goods industry(, and).

(e) Provide increased consumer protection through regulation.

(5) Applicants, customers and other members of the public must submit statements and reports ((from the applicant, shippers, and other members of the public, must)) that:

(a) Include their full name, address, phone number(, and).

(b) State that the information submitted is true and accurate. ((They must be))

(c) Are signed and show the place and date ((where/when)) they were signed.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-285** ~~((Are there times when the commission will reject my))~~ **Rejecting or denying an application for temporary authority(?)**. ~~((We will))~~ The commission may reject (your) or deny an application for temporary authority if (you file):

(1) The application is incomplete.

(2) The application indicates evidence of fraud.

(3) The applicant filed within six months of a denial of a previous application ((submitted by you. We will reject your application if filed) or within one year of cancellation of a permit(, held by you,) under WAC 480-15-320 or 480-15-450 ((3), (4), (5), or (6)) (1)(c) through (g).

(4) The applicant does not have:

(a) Sufficient experience in the industry.

(b) Sufficient knowledge of safety regulations.

(c) Sufficient financial resources or equipment.

(d) Compliance with tax, labor, employment, business and vehicle licensing laws and rules.

(5) The applicant has:

(a) Previously been denied authority by the commission on the basis of fitness.

(b) Been convicted of a crime.

(c) Previously had permit authority canceled by the commission.

(d) Been subject to other enforcement actions for violations of state law or commission rules.

(6) Other circumstances exist that cause the commission to believe issuing the permit is not in the public interest.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-290** ~~((How will I know what the commission has decided?))~~ **Granting temporary authority.** After reviewing ((your) the application, ((and all)) information concerning the application and supporting statements and reports, the commission will issue an order ((to you)) granting or denying ((your) the application for temporary authority. An order granting temporary authority may include specific terms and conditions ((that you) the applicant must satisfy before ((you begin)) beginning or while operating under authority, such as specific training, safety audits or reporting. ((We publish an application docket listing temporary authority we have granted or denied.))

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

**WAC 480-15-310** ~~((May I comment on a decision to grant or deny))~~ **Commenting on actions regarding temporary authority**~~((?))~~. (1) ~~((We))~~ The commission publishes an application docket listing temporary authority ~~((we have))~~ it has granted or denied. ~~((We))~~ The commission mails the docket to each applicant and, upon written request, to any other person interested in application proceedings.

(2) ~~Anyone ~~((having an interest in an application appearing on the docket))~~ wishing to comment on an action on the commission's application docket that grants or denies temporary authority~~ may file written comments within ten days following publication. ~~((Comments may be in the form of statements supporting or protesting the grant of authority or application.))~~ Comments must include ~~((your))~~ the commenter's full name, address, telephone number, e-mail address, fax number~~((s))~~ and permit number, if applicable. Comments must ~~((state the nature of your))~~ indicate support for, or protest ~~((and address))~~ of, the temporary authority for any one or more of the following ~~((issues))~~ reasons:

- (a) Fitness~~((s))~~.
- (b) Public interest~~((s))~~.
- (c) Levels of service~~((s))~~.
- (d) Business practices~~((s))~~.
- (e) Safety~~((s and/or))~~.
- (f) Operation of equipment.

(3) ~~((We))~~ The commission may ~~((grant or deny a protest without a hearing. We may, at our own))~~ at its discretion, hold a brief adjudicative proceeding on ~~((a))~~ an action for temporary authority because it received comments that protest the action. See chapter 480-07 WAC for rules governing ~~((applications and procedures for))~~ brief adjudicative proceedings ~~((are in chapter 480-07 WAC)).~~

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-320** ~~((May the commission cancel))~~ **Canceling a temporary permit**~~((?))~~. ~~((Yes, we))~~ The commission may cancel a temporary permit at any time if ~~((we))~~ it determines ~~((that))~~ any of the following conditions exist:

- (1) The permit was not issued in the public interest~~((s))~~.
- (2) The ~~((grant))~~ approval of the temporary authority was based on fraud, misrepresentation, or erroneous information from the applicant~~((s or))~~.

(3) ~~((We find cause to cancel the permit under the circumstances described in WAC 480-15-450.))~~ The applicant filed within six months of a denial of a previous application or within one year of cancellation of a permit under WAC 480-15-320 or 480-15-450 (1)(c) through (g).

(4) The carrier does not have:

- (a) Sufficient experience in the industry.
- (b) Sufficient knowledge of safety regulations.
- (c) Sufficient financial resources or equipment.
- (d) Compliance with tax, labor, employment, business and vehicle licensing laws and rules.

(5) The carrier has:

- (a) Been convicted of any crime.

(b) Previously been denied authority by the commission on the basis of fitness.

(c) Failed or refused to comply with applicable laws and rules pertaining to operations of household goods carriers.

(d) Failed to file an annual report or pay required regulatory fees.

(e) Allowed others to transport goods under the carrier's permit authority.

(6) Other circumstances exist that cause the commission to believe canceling the permit is in the public interest.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-330** ~~((When must I apply for))~~ **Permanent authority**~~((?))~~. (1) ~~((You))~~ An applicant must apply for permanent authority if ~~((you are))~~ he or she is requesting any of the following:

- (a) New original authority~~((s))~~.
- (b) Transfer of existing authority~~((s))~~, except as described in WAC 480-15-335.
- (c) Acquisition of control of existing authority~~((s))~~.
- (d) Additional authority for an existing household goods permit~~((s or))~~.
- ~~((e) Household goods authority for an existing general commodities permit granted under the provisions of chapter 480-14 WAC)).~~

(2) ~~((We))~~ The commission will grant or deny an application for permanent authority after ~~((we have conducted))~~ it conducts a complete review of ~~((your))~~ the application, supporting statements, reports~~((s))~~ or other information necessary to determine fitness, public interest~~((s))~~ and current or future public convenience and necessity.

(3) Some transfers of existing permanent authority are not subject to the requirements in this rule. WAC 480-15-260 lists the exceptions ~~((are listed in WAC 480-15-260)).~~

(4) When determining if an applicant is fit, willing and able to provide the proposed service, ~~((we))~~ the commission will consider statements and reports including any information provided by the applicant and other members of the public ~~((regarding))~~. The commission may reject or deny an application for permanent authority if:

(a) ~~((The applicant's experience in the industry; knowledge of safety regulations; financial resources and equipment; compliance with tax, labor, employment, business, and vehicle licensing laws;~~

~~((b) Whether the applicant has been cited for violation of state law or commission rules, has been convicted of a Class A or Class B Felony, or previously has been denied authority on the basis of fitness; and~~

~~((e) The results of any compliance reviews, audits, inspection reports, and consumer complaints filed against the applicant.))~~ The application is incomplete.

(b) The application indicates evidence of fraud.

(c) The applicant filed within six months of a denial of a previous application or within one year of cancellation of a permit under WAC 480-15-320 or 480-15-450 (1)(c) through (f).

(d) The applicant does not have:

- (i) Sufficient experience in the industry.

(ii) Sufficient knowledge of safety regulations.  
(iii) Sufficient financial resources or equipment.  
(iv) Compliance with tax, labor, employment, business and vehicle licensing laws and rules.

(e) The applicant has:

(i) Previously been denied authority canceled by the commission.

(ii) Been convicted of any crime.

(iii) Previously had permit authority canceled by the commission.

(iv) Paid or incurred penalties or received citations for violation of state law or commission rules.

(v) Been subject to other enforcement actions for violation of state law or commission rules.

(f) The results of any compliance reviews, audits, inspection reports and consumer complaints filed against the applicant cause the commission to believe issuing the permit is not in the public interest.

(g) Other circumstances exist that cause the commission to believe issuing the permit is not in the public interest.

(5) When determining if the proposed service is in the public interest ~~((we))~~ the commission will consider statements and reports, including any information provided by the applicant ~~(:)~~ and other members of the public ~~((supporting))~~ concerning the proposed service, and whether granting the permanent authority will:

(a) Enhance choices available to consumers ~~(:)~~.

(b) Promote a viable yet competitive household goods industry ~~(:or)~~.

(c) Fill an unmet need for service ~~(:and (b))~~.

(d) Allow ~~((us))~~ the commission to more efficiently regulate the household goods industry ~~(:and)~~.

(e) Provide increased consumer protection through regulation.

(6) When determining if the proposed service is needed to satisfy the current or future public convenience and necessity, ~~((we))~~ the commission will consider any information provided by the applicant, ~~((shippers,))~~ customers and other members of the public ~~((supporting))~~ concerning the proposed service ~~(:)~~ and any reports relating to the operations ~~((you))~~ conducted under temporary authority ~~(:)~~ including, but not limited to, the following:

(a) The number of customers ~~((you))~~ served ~~(:)~~.

(b) The nature of the service ~~((you))~~ provided ~~(:)~~.

(c) ~~((You))~~ Customer ~~((s'))~~ satisfaction ~~(:and)~~.

(d) Statements regarding future need for ~~((you))~~ services.

## NEW SECTION

**WAC 480-15-335 Exceptions to permanent authority application process.** (1) The commission will grant an application to transfer or acquire control of existing permanent authority without requiring temporary operations, public notice or comment if the applicant is fit, willing and able to provide service and the applicant has filed to transfer or acquire control of permanent authority for any one of the following reasons:

(a) A partnership has dissolved due to the death, bankruptcy or withdrawal of a partner and that partner's interest is being transferred to a spouse or to one or more remaining partners.

(b) A shareholder in a corporation has died and that shareholder's interest is being transferred to a surviving spouse or one or more surviving shareholders.

(c) A sole proprietor has died and the interest is being transferred as property of the estate.

(d) An individual has incorporated and the same individual remains the majority shareholder.

(e) An individual has added a partner but the same individual remains the majority partner.

(f) A corporation has dissolved and the interest is being transferred to the majority shareholder.

(g) A partnership has dissolved and the interest is being transferred to the majority partner.

(h) A partnership has incorporated, and the partners are the majority shareholders.

(i) Ownership is being transferred from one corporation to another corporation when both are wholly owned by the same shareholders.

(2) The commission will grant an application for permanent authority without requiring temporary operations after the application has been published on the application docket subject to comment for thirty days if the applicant is fit, willing and able to provide service, the applicant has filed to transfer or acquire control of permanent authority and all of the following conditions exist:

(a) Ownership or control of a permit is being transferred to any shareholder, partner, family member, employee or other person familiar with the company's operations and the household goods moving services provided.

(b) The permit has been actively used by the current owner to provide household goods moving services during the twelve-month period prior to the application.

(c) The application includes a certified statement from the applicant and the current owner explaining why the transfer of ownership or control is necessary to ensure the company's economic viability.

(d) The application includes a certified statement from the applicant and the current owner describing the steps taken by the parties to ensure that safe operations and continuity of service to customers is maintained.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-340 ~~((May I comment))~~ Commenting on an application for permanent authority** ~~((?))~~ (1) ~~((We))~~ The commission publishes applications for permanent authority ~~((on))~~ in the application docket ~~((which we))~~ that it mails to each applicant and, upon written request, to any other person interested in application proceedings.

(2) Anyone having an interest in an application appearing on the docket may file written comments within thirty days following publication, unless the application is published in conjunction with a grant of temporary authority. If the permanent authority application is published in conjunction with a grant of temporary authority, then comments will



be accepted for one hundred eighty days or the full term of the temporary permit((s)).

(3) Comments may ~~((be in the form of statements supporting or protesting))~~ either support or protest the application. Comments must include the commenter's full name, address, telephone number, ~~((and should also include a))~~ e-mail address, fax number and permit number, if available. Comments ~~((should))~~ must be signed and indicate the place and date when they were signed. Comments must ~~((state the nature of your support or protest and address the following issues))~~ indicate support for, or protest of, the permanent authority for any one or more of the following reasons:

- (a) Fitness((:)).
- (b) Public interest((:)).
- (c) Levels of service((:)).
- (d) Business practices((:)).
- (e) Safety((:)).
- (f) Operation of equipment((,-and)).
- (g) Current or future public need for service.

(4) A comment protesting an application ~~((may))~~ will not, on its own, cause the ((application to be set)) commission to set the matter for a hearing.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

**WAC 480-15-350 ~~((Will my))~~ Setting an application ((be set)) for ((a)) hearing((?)).** ~~((We))~~ The commission may hold a hearing or brief adjudicative proceeding on any application for permanent authority if it is necessary to resolve outstanding issues or concerns related to fitness, public interest, public convenience and necessity((:)) or any other issue resulting from a compliance review, audit, inspection report, complaint((:)) or public comment. See chapter 480-07 WAC for rules governing hearings and brief adjudicative proceedings ~~((are contained in chapter 480-07 WAC)).~~

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-360 ~~((Where must I keep my))~~ Retain-**  
**ing copies of the permit((?)).** ~~((You))~~ Carriers must keep ~~((your))~~ the original permit in ~~((your))~~ their main office((:)) and ~~((also))~~ carry a copy ~~((of your permit))~~ in each vehicle used to transport household goods. ~~((You))~~ Carriers must show a copy of ~~((your))~~ the permit to any law enforcement or compliance officer who asks to see it.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-370 ~~((What should I do if my permit is))~~ Lost or destroyed((?) permit.** ~~((You))~~ Carriers may write to ~~((us))~~ the commission and request replacement of a lost or destroyed permit. ~~((We))~~ The commission will issue a replacement permit at no charge.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-380 ~~((May I allow))~~ Allowing others to use ((my)) permit authority((?)).** ~~((You must))~~ Intrastate carriers may not allow others to transport household goods under ~~((your))~~ their permit authority. ~~((All))~~ Only the lawful permit holder may conduct operations under a household goods permit ~~((must be conducted by the lawful permit holder. While you may))~~. Carriers may not lease ~~((your))~~ permit authority, ~~((you))~~ but may lease vehicles from others for use in ~~((your))~~ their own operations pursuant to the leasing rules in WAC 480-15-590 and 480-15-600.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-390 ~~((What name may I use?))~~ Permit names or trade names.** (1) ~~((You))~~ A carrier must conduct operations under the exact name shown on ~~((your))~~ its household goods permit. If ~~((you do))~~ a carrier does business under a trade or assumed name, that name must also appear on ~~((your))~~ the permit.

(2) ~~((You))~~ A carrier may not operate under a name that is similar to ~~((that of))~~ another carrier unless one of the following conditions applies:

(a) The carrier whose name is similar has given ~~((you))~~ written permission to use the name~~((,-or))~~.

(b) The commission authorizes use of the similar name. Before authorizing use of a similar name, the commission must first determine that the use of the similar name will not~~((-~~

~~((-))~~ mislead the shipping public((:)) or

~~((-))~~ result in unfair or destructive competitive practices.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-400 ~~((How do I change my))~~ Changing a permit name((?)).** (1) ~~((You))~~ Carriers must file a name change application ~~((if you want))~~ to change ~~((your))~~ the permit name, corporate name((:)) or trade name((:)) or to add a trade name to ~~((your))~~ the permit.

(2) ~~((Your name change application))~~ Carriers must include the application fee (as shown in WAC 480-15-230), copies of any corporate minutes authorizing the name change((:)) and proof that ~~((you have))~~ the carrier has properly registered ~~((your))~~ the new name with the department of licensing, office of the secretary of state((:)) or other agencies((:)) as may be required.

(3) ~~((You))~~ Carriers must file an application to transfer or acquire control of permanent authority if ~~((your))~~ the name change is the result of a change in ownership or controlling interest.

(4) ~~((You))~~ Carriers may not advertise or operate under the ~~((changed))~~ proposed name change until the commission approves ~~((your request))~~ the application.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-410** (~~What should I do if I cannot use my permit?~~) **Voluntary suspension of a permit.** (1) If ~~(you are)~~ a carrier is unable to use ~~(your)~~ its permit due to medical reasons or because ~~(you have been called into)~~ of active military service, ~~(you)~~ it may request ~~(that you)~~ the authority be voluntarily suspended.

(2) ~~(You)~~ The carrier must send ~~(your)~~ its request to ~~(us)~~ the commission in writing and include the following information:

- (a) ~~(Your)~~ Name, address, and permit number~~(s)~~.
  - (b) The reason for the request (e.g., medical statement, military orders)~~(s)~~.
  - (c) The date ~~(you would like the)~~ voluntary suspension ~~(to)~~ is requested to begin~~(s)~~.
  - (d) The length of time ~~(you)~~ the carrier will be unable to use ~~(your)~~ the permit~~(s and)~~.
  - (e) A statement that no household goods transportation will occur under ~~(your)~~ the permit while it is suspended.
- (3) ~~(We)~~ The commission will issue an order suspending ~~(your)~~ the permit. The order will set the length of time and the terms of ~~(your permit)~~ suspension.

(4) To activate ~~(your)~~ a suspended permit ~~(you)~~, a carrier must send ~~(us)~~ the commission a letter advising that ~~(you are)~~ it is ready to resume household goods service and agree to conduct operations in compliance with all laws and rules. ~~(You)~~ The carrier must satisfy any outstanding filing requirements before ~~(we)~~ the commission will issue an order lifting the suspension.

(5) If ~~(you do)~~ the carrier does not activate ~~(your)~~ the permit before the suspension period expires, ~~(your)~~ the commission may cancel the permit ~~(may be canceled)~~.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-420** (~~What should I do if I no longer want to use my permit?~~) **Voluntary cancellation of a permit.** If ~~(you)~~ a carrier no longer wants to use ~~(your)~~ its permit, ~~(you)~~ the carrier may send the original permit to ~~(us)~~ the commission with a written request that it be canceled. ~~(Your)~~ The cancellation request must include ~~(your)~~ the carrier's name, address~~(s)~~ and permit number. ~~(We)~~ The commission will issue an order canceling ~~(your)~~ the permit~~(s Cancellation will be)~~, effective on the date of ~~(that)~~ the order.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-430** (~~Why would the commission suspend my permit?~~) **Involuntary suspension.** (1) The commission may suspend ~~(your)~~ a permit ~~(under the provisions of WAC 480-15-410 or)~~ without the carrier's authorization for good cause. Good cause includes, but is not limited to, the carrier:

- (a) ~~(Failure)~~ Failing to maintain evidence of required cargo ~~(and/or liability)~~ insurance coverage for all areas of ~~(your)~~ its operations~~(s)~~.

(b) ~~(Failure)~~ Failing to maintain evidence of required liability insurance coverage for all areas of its operations.

(c) Failing to ~~(maintain your tariff and/or)~~ comply with the rates and rules contained in the commission-published tariff~~(s)~~.

(e) Failure or refusal to comply with operating standards that protect the public health and/or safety~~(s)~~.

(d) Failing or refusing to comply with applicable laws and commission rules pertaining to operations of household goods carriers, including safety requirements set in law or rule.

(e) Allowing others to transport goods under ~~(your)~~ the carrier's permit authority. ~~(See WAC 480-15-380.~~

(e) Operating in a manner which harms the rights of the shipping public or which constitutes unfair or deceptive business practices. For example: Investigation by the commission's staff representatives upholds numerous consumer complaints related to loss and damage, packing, loading and/or unloading, estimating or billing~~(s)~~.

(f) Committing fraud.

(2) The commission may suspend a permit without an opportunity for hearing if there is imminent danger to the public health, safety or welfare~~(s or)~~ and there is insufficient time to conduct a hearing.

(3) The commission will send notice to any carrier of its action to suspend the carrier's permit. The suspension begins on the effective date listed in the notice.

(4) A carrier may contest the suspension of its permit by requesting a hearing or brief adjudicative proceeding. Chapter 480-07 WAC describes the procedures for such hearings.

(5) The commission will lift the suspension of the permit after the carrier corrects all conditions leading to the suspension.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-450** (~~Why would the commission cancel my permit?~~) **Involuntary cancellation of a permit.** (1) The commission may cancel ~~(your)~~ a permit ~~(under the provisions of WAC 480-15-410, 480-15-420 or)~~ without the carrier's authorization for good cause. Good cause includes, but is not limited to, the carrier:

~~((1) Failure)~~ (a) Failing to file an annual report or pay required regulatory fees~~(s)~~.

~~((2) Failure)~~ (b) Failing to correct, within the time frame specified in the suspension order, all conditions that led to the suspension of ~~(your)~~ a permit~~(s)~~.

~~((3) Continued violations of applicable laws and rules affecting the public health, safety or welfare when the commission has reason to believe you would not comply with those laws and rules following a specified period of suspension;~~

~~(4) Repeated failure or refusal)~~ (c) Failing or refusing to comply with applicable laws and commission rules pertaining to operations of household goods carriers~~(s)~~, including safety requirements set in law or rule.

~~((5) Failure)~~ (d) Failing to supply information necessary to the commission for the performance of its regulatory

functions when ~~((requested by))~~ the commission requests the carrier to ~~((provide such information;))~~ do so.

~~((6-Submission of))~~ (e) Submitting false, misleading or inaccurate information. ~~((The commission will hold a hearing prior to canceling your permit unless your permit is subject to cancellation because you failed, within the time frame specified by a suspension order, to correct the causes of the suspension;))~~

~~(7))~~ (f) Allowing others to transport goods under ~~((your))~~ the carrier's permit authority ~~((in violation of WAC 480-15-380)).~~

(g) Operating in a manner that constitutes unfair or deceptive business practices.

(h) Committing fraud.

(2) The commission will hold a hearing prior to canceling a permit unless the permit is subject to cancellation because the carrier failed, within the time frame specified by a suspension order, to correct the causes of the suspension. In that case:

(a) The commission will send notice to any carrier of the date the commission will cancel a permit. The commission will enter an order canceling the permit thirty days after the service date of the notice.

(b) A carrier may contest the cancellation of its permit by requesting a hearing or brief adjudicative proceeding. Chapter 480-07 WAC describes the procedures for such hearings.

(3) If any permit is canceled the carrier corrects all conditions that led to the cancellation of the permit, the carrier may apply for reinstatement.

(a) To reinstate the permit within thirty days of cancellation, the carrier must file an application for reinstatement and pay the applicable reinstatement fees as stated in WAC 480-15-230.

(b) If the carrier files an application for reinstatement after thirty days of cancellation, the application will be considered in all aspects to be an application for new authority and will be subject to all terms and conditions specified in WAC 480-15-240 for new entrants.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-480 Annual reports and regulatory fees.** (1) ~~((What is an annual report?))~~ An annual report is a year end statement that discloses ~~((to the commission financial, equipment, operating, and management))~~ information to the commission about ~~((you and the operations you conducted under your household goods permit. Your signed report includes a statement certifying that the information in your report is true and accurate))~~ regulated companies.

(a) ~~((You))~~ Carriers must report ~~((your))~~ financial information ~~((according to the uniform system of accounts established by the commission for household goods carriers))~~ as required in the annual report forms.

(b) The commission will mail annual report forms and instructions to each household goods permit holder at ~~((their))~~ its address of record. If ~~((you do))~~ a carrier does not receive an annual report form, it is ~~((your))~~ the carrier's responsibility to contact the commission and request the form.

(2) ~~((What is a regulatory fee?))~~ A regulatory fee is an annual assessment paid by each household goods carrier to cover the costs of regulating the household goods industry. ~~((The maximum regulatory fee is set by law at one-fourth of one percent of the gross operating revenue generated from your intrastate transportation of household goods. We may reduce the fee by general order. Each year we review the costs of regulating the household goods industry and set the next year's fee accordingly.))~~ The commission reviews the costs of regulating the industry and sets fees proportionate to costs, although not above the maximum amount allowed by law.

(3) ~~((How do I calculate my regulatory fee? Your))~~ Regulatory fees ~~((is))~~ are calculated as a percentage of ~~((your))~~ intrastate gross operating revenues generated from the transportation of household goods during the prior calendar year. For example:

<del>((For exam-</del>	Gross Operating Revenue	\$100,000.00	<del>x-</del>
	Regulatory Fee Percentage	.0025	=
	Regulatory Fee Due	\$ 250.00)	
	Gross operating revenue	\$100,000	
	Times the regulatory fee percentage	.0025	
	Equals the regulatory fee due	\$ 250	

(4) ~~((When are my annual report and regulatory fees due? You))~~ Carriers must file ~~((your))~~ annual reports and pay ~~((your))~~ regulatory fees by May 1st of ~~((the))~~ each year ~~((following the calendar year for which you are reporting))~~ based on the prior year's operations. The commission must receive both the annual report and the regulatory fee payment no later than May 1.

(a) ~~((If you pay your regulatory fee late, we))~~ The commission will assess an automatic late fee of two percent of the amount due, plus one percent interest for each month after that, for any regulatory fees not received by May 1.

(b) ~~((If you do not file your annual report and/or do not pay your regulatory fee, we))~~ The commission may issue penalty assessments or cancel ~~((your))~~ a carrier's permit ~~((under the provisions of WAC 480-15-450))~~ for failure to pay regulatory fees or file annual reports.

AMENDATORY SECTION (Amending General Order No. R-471, Docket No. TV-991559, filed 6/27/00, effective 7/28/00)

**WAC 480-15-490 Tariff and rates, general.** (1) ~~((What is a tariff?))~~ A tariff is a publication containing the rates and charges that household goods carriers must assess on shipments of household goods, including rules that govern how rates and charges are assessed.

(2) ~~((How are tariff rates and charges established?))~~ (a) Pursuant to RCW 81.80.130 and 81.80.150,) The commission publishes tariffs ~~((to be used by))~~ that all household goods carriers ~~((, or))~~ must use and allows household goods carriers to file individual tariffs if the commission finds it is impractical to ~~((publish))~~ include in its tariff(s) for certain commodities or services. ~~((The commission deter-~~

mines the rates and charges contained in the tariffs by commission order following notice and hearing. Under RCW 81.80.130, the commission must set fair, just, reasonable, and sufficient rates and charges. The commission will do this by setting minimum and maximum rates.

(b) Upon the effective date of these rules, and continuing until such time as the commission, after notice and hearing, determines a different rate level, household goods carriers must assess rates and charges within a band.

(i) The maximum rates and charges must be no more than twenty percent above the rates and charges as published by the commission in Tariff 15A in effect on February 1, 2000.

(ii) The maximum rates and charges established in (b)(i) of this subsection will be adjusted each June 1, through 2005, by an index calculated using the first quarter implicit price deflator (IPD) of the gross domestic product as follows:

Index for Current Year = IPD for Previous Year First Quarter / IPD for Current Year First Quarter

Example: Using the following data:

Table with 2 columns: Description, Value. IPD for Previous Year First Quarter: 102.35; IPD for Current Year First Quarter: 103.83

Index for Current Year is calculated as follows:

Table with 2 columns: Description, Value. IPD for Current Year First Quarter: 103.83; Divided by IPD for Previous Year First Quarter: 102.35; Equals Index for Current Year: = 1.0145

Maximum Rate or Charge is calculated as follows:

Table with 2 columns: Description, Value. Maximum Rate for Previous Year: \$ 100.00; Multiplied by Index for Current Year: x 1.0145; Equals the Maximum Rate for Current Year: = \$ 101.45

Round the maximum rate to the next \$.01, with \$.005 and greater rounded up and less than \$.005 rounded down. Mileage rates are rounded to the next \$.0001.

(iii) The minimum rate or charge is fixed at no less than forty percent below the maximum rate or charge established in (b)(i) of this subsection.)

(3) ((Who must have tariffs? Each person holding)) All household goods carriers are required to follow the terms, conditions, rates and all other requirements imposed by the commission-published tariff.

(4) The commission will set minimum and maximum rates carriers may charge within the tariff.

(5) Every household goods permit ((authority)) holder must ((purchase and display)) obtain at least one copy of the current tariff, and may pay applicable tariff maintenance fees. Any interested person may purchase a copy by paying the applicable fees in advance.

((4) Where must a household goods carrier display its tariffs? A household goods carrier must display a current copy of the tariff in its main office and in each billing office.

(5) Who must charge rates contained in the tariff? All household goods carriers must charge the rates and charges,

and comply with the rules contained, in the tariff unless the commission has approved, in writing, deviations from the tariff.

(6) Is the tariff the only publication a household goods carrier needs to use to determine rates? The commission may adopt other publications that will be used to assess rates. If we do, we will notify tariff subscribers of the change.

(7) Where may the public view tariffs? Tariffs are public documents and you must make them available for the public by posting copies at your main office and any billing office. Tariffs are also available for review at our headquarters office.

(8) How much does a tariff cost? The cost of tariffs may change periodically depending on our costs for compiling, printing, distributing, and maintaining them. To find out the current cost, you may contact the commission as described in WAC 480-15-060.

(9) Are copies of current or expired tariff pages available? The commission will supply you with current or expired single tariff pages upon request. Copies of entire expired tariffs, or entire tariffs applicable on a specific date in the past, generally are not available.))

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-500 Tariff maintenance and fees. (1) ((What is a tariff maintenance fee? A)) The commission may charge tariff maintenance fees ((compensates us for compiling, printing, and distributing amended tariff pages)) on an annual basis.

(2) ((Do I always have to pay full maintenance fees? The annual maintenance fee is payable in advance on a pro-rated basis depending upon the month in which you purchase a tariff. See the table below:)) The commission may bill any applicable tariff maintenance fees by December 1 of each year. When billed, companies and other tariff subscribers must pay the bill by December 31.

(a) If a tariff subscriber does not have a permit and fails to pay the billed maintenance fee by December 31, the commission may cancel the tariff subscription. To reinstate a subscription, the tariff subscriber must obtain a new original copy of the tariff and pay all applicable maintenance fees.

(b) If a tariff subscriber has a permit and fails to pay billed tariff fees by December 31, the commission may take administrative action against the household goods carrier to suspend or cancel the permit, or to assess penalties.

Table with 2 columns: (Month in which maintenance service is purchased), Percentage of total maintenance fee payable. Rows: January, February, March (100%); April, May, June (75%); July, August, September (50%); October, November, December (25%))

(3) ((How am I billed for my annual tariff maintenance fees?)) The commission may bill any applicable tariff maintenance fees by December 1 of each year((we send a

bill to each tariff subscriber for the next year's annual tariff maintenance service. Tariff subscribers must pay maintenance fees). When billed, companies and other tariff subscribers must pay the bill by December 31.

~~((4) What happens if a tariff subscriber fails to pay the annual maintenance fees by December 31?)~~

(a) If a tariff subscriber does not have a permit(;) and fails to pay the billed maintenance fee by December 31, ~~((we will))~~ the commission may cancel the tariff subscription. To reinstate a subscription, the tariff subscriber must ~~((purchase))~~ obtain a new original copy of the tariff and pay all applicable maintenance fees.

(b) If a tariff subscriber has a permit and fails to pay billed tariff fees by December 31, ~~((we))~~ the commission may take administrative action against the household goods carrier to suspend or cancel the permit, or to assess penalties.

~~((5) Am I entitled to a refund if I cancel my tariff subscription? If you cancel your tariff subscription and send us a written request we will refund your prepaid tariff maintenance fees. We base refunds on a prorated formula of one-twelfth the amount of the fee prepaid, times the number of whole months remaining in the calendar year.))~~

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

**WAC 480-15-510 Changing commission-published tariffs.** (1) ~~((Who may propose changes to the tariff?))~~ Companies holding temporary or permanent household goods authority may propose changes to the tariff. ~~((We))~~ In addition, the commission may, on ~~((our))~~ its own motion, propose tariff changes.

(2) ~~((How do I propose changes to the tariff?))~~ Companies must send all proposed changes ((must be sent)) to the commission's mailing address ((and)). Proposed changes must meet all of the following:

(a) Be in writing(;);

(b) Identify the ~~((rates, rules, or classifications))~~ tariff item to be changed(;);

(c) Fully describe the proposed change(;);

(d) State clearly the reason(s) for the proposed change(;);

(e) Include any information or documents that justify the proposed change (the person proposing the change must prove the change is just and reasonable)((; and)).

(f) Identify the name, address, title, telephone number, e-mail address, permit number and fax number (if any) of the person we should contact regarding the proposal.

(3) ~~((How does the commission consider proposals for tariff changes?))~~ When ~~((we))~~ the commission receives a proposed tariff change ~~((we)),~~ it will:

(a) Assign a docket number(;);

(b) Schedule each docketed proposal for tariff change for consideration at ~~((one of our))~~ a regularly scheduled open public meeting(s). ~~((The commission may approve the proposed changes, or suspend them and set them for hearing.))~~

(c) Notify ~~((you and))~~ other interested persons of the date when ~~((we))~~ it will consider the tariff change(; and).

(d) If the application for tariff change is suspended, the commission will process ((each)) the application ((for tariff

change)) under the procedures set forth in chapter 480-07 WAC.

(4) ~~((When do approved changes become effective? Changes we approve))~~ Approved changes are not effective until ~~((we))~~ the commission publishes and distributes a revised tariff page with a stated effective date. ~~((We will identify the effective date of the change on the revised page.))~~

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

**WAC 480-15-520 ((Procedure for filing)) Individual carrier tariffs.** (1) ~~((What must be filed? You))~~ To file an individual tariff or to amend an approved individual tariff already on file with the commission, a carrier must submit ((to us)) all of the following:

(a) A cover letter requesting permission ~~((from us))~~ to publish and file an individual tariff. The letter must describe the reasons ~~((you))~~ the carrier believes permission should be granted. ~~((Your))~~ The letter should state the reasons ~~((you believe))~~ it is impractical for ~~((us))~~ the commission to publish a tariff for the commodities or services contained in ~~((your))~~ the proposed tariff.

(b) Two copies of ~~((your))~~ the proposed tariff. ~~((Your))~~ The proposed tariff must comply with the tariff drafting standards in chapter 480-149 WAC ((Tariff Circular No. 6). You may request a copy of chapter 480-149 WAC from our records management section)). The proposed tariff must contain all rates, charges, and rules ~~((you))~~ the company will ~~((be using))~~ use if ~~((we grant you permission))~~ granted approval to publish and file an individual tariff.

(c) Data showing that the rates and charges contained in the proposed tariff are fair, just, reasonable(;) and sufficient.

(2) ~~((How are individual carrier filed tariffs processed?))~~

(a) We review individual carrier filed tariffs:

(i) For compliance with laws and rules relating to content and format;

(ii) To ensure rates are fair, just, reasonable, and sufficient; and

(iii) For reasonableness and accuracy.

(b) If tariffs are incomplete or do not comply with laws and rules, staff will discuss the issues with the carrier and require that corrected tariffs be filed.

(c) ~~When an individual carrier filed tariff is approved, the commission will issue an order stating the date on which the rates become effective. One copy of the tariff marked "approved" will be returned with the order.~~

(3) ~~How does the commission consider proposals to amend individual carrier filed tariffs? When we receive your proposed tariff amendment we will:~~

(a) Assign a docket number;

(b) Schedule each proposed tariff amendment for consideration at one of our regularly scheduled open public meetings. The commission may approve the proposed amendment, or suspend them and set them for hearing;

(c) Notify you and other interested persons of the date when we will consider the tariff proposed amendment;

(d) Process your proposed tariff amendment under the procedures established in chapter 480-07 WAC; and

(e) Notify you of the disposition of your proposed tariff amendment. If the filing is approved, we will notify you of the date upon which the tariff amendment becomes effective.

~~(4) **What happens if I don't charge the rates and charges in my tariff?** You are subject to administrative action (see WAC 480-15-130(3)) if you charge rates or charges different from those contained in your tariff.)~~ When an individual carrier filed tariff is approved, the commission will issue an order stating the date on which the rates become effective. The commission will return one copy of the tariff marked "approved" to the company.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-530 Public liability and property damage insurance.** (1) ~~((**What insurance am I required to obtain?**)~~) Before operating under a household goods permit, ~~((you))~~ carriers must have public liability and property damage insurance covering ~~((each))~~ every motor vehicle ~~((that you use, or that you will use, to transport household goods in the state of Washington))~~ used in its operations. The commission will not issue a permit for authority to operate without acceptable proof of required insurance coverage. Carriers must maintain the required public liability and property damage insurance at all times for every motor vehicle used in Washington intrastate operations.

(a) ~~((You))~~ The policy must be written by an insurance company authorized to write insurance in Washington state.

(b) ~~((You))~~ The policy must include the Uniform Motor Carrier Bodily Injury and Property Damage Liability Endorsement, Form F.

~~((If you operate motor vehicles without the required insurance coverage you will be subject to immediate compliance action as described in WAC 480-15-430.))~~ The commission will suspend for thirty days and then eventually cancel any carrier operating without proof of required insurance coverage.

(2) ~~((**What are the minimum insurance limits?**)~~) The minimum limits of required public liability and property damage insurance for motor vehicles operated by household goods carriers are as follows:

(a) At least three hundred thousand dollars in combined single limit coverage for motor vehicles with a gross vehicle weight rating of less than ten thousand pounds ~~((must have at least three hundred thousand dollars in combined single limit coverage))~~.

(b) At least seven hundred fifty thousand dollars in combined single limit coverage for motor vehicles with a gross vehicle weight rating of ten thousand pounds or more ~~((must have at least seven hundred fifty thousand dollars in combined single limit coverage))~~.

(3) ~~((**Am I required to file proof of insurance?** Yes, you))~~ Carriers must file a Uniform Motor Carrier Property Damage and Public Liability Certificate of Insurance (Form E) as a condition of maintaining ~~((your))~~ a household goods permit.

(a) ~~((The Form E is a standard motor carrier insurance form recognized by the insurance industry. In most cases your insurance agent must request that the insurance company file the Form E with us.~~

~~((b) You))~~ The Form E filing must be issued in exactly the same name as ~~((your))~~ the carrier's permit.

~~((c) You))~~ (b) The Form E filing must be continuous, until canceled by a Notice of Cancellation (Form K) filed with ~~((us))~~ the commission no less than thirty days before the cancellation effective date.

~~((d) You))~~ (c) Carriers may file a Uniform Motor Carrier Property Damage and Public Liability Surety Bond (Form G) instead of the Form E.

(4) ~~((**May I file an insurance binder?** We))~~ The commission will accept an insurance certificate or binder for up to sixty days. A certificate or binder may be canceled by filing written notice with ~~((us))~~ the commission at least ten days before the cancellation effective date. A certificate or binder must be replaced by a Form E within sixty days of filing, or before the expiration date, whichever occurs first.

(a) Certificates or binders must ~~((show))~~ include all of the following:

(i) The commission as the named certificate holder~~((;))~~ .

(ii) ~~((You))~~ The carrier's name, exactly as it appears on ~~((your))~~ the permit or application, as the insured~~((;))~~ .

(iii) The insurance company name~~((;))~~ .

(iv) The insurance policy number~~((;))~~ .

(v) The effective and expiration dates~~((; and))~~ .

(vi) The insurance limits of coverage.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-550 Cargo insurance.** (1) ~~((**What are the cargo insurance requirements?** You))~~ Carriers must have cargo insurance coverage ~~((sufficient))~~ at the levels prescribed in subsection (2) of this section to protect all household goods ~~((that you transport))~~ transported under ~~((your))~~ the permit. ~~((If you transport household goods under your permit without the required cargo insurance coverage you will be subject to immediate compliance action as described in WAC 480-15-430.))~~ The commission will not issue a permit for authority to operate without acceptable proof of required cargo insurance coverage.

(2) ~~((**What are the minimum cargo insurance limits?**)~~) The minimum limits of required cargo insurance are:

(a) Ten thousand dollars for household goods transported in motor vehicles with a gross vehicle weight rating of less than ten thousand pounds.

(b) Twenty thousand dollars for household goods transported in motor vehicles with a gross vehicle weight rating of ten thousand pounds or more.

(3) ~~((**Am I required to file proof of cargo insurance?** No, you are not required to file))~~ Carriers must provide proof of ~~((your))~~ required cargo insurance ~~((with us))~~ when they apply for a permit. ~~((You))~~ In addition, carriers must have proof of cargo insurance at ~~((your))~~ their main office available for inspection by commission representatives.

(4) The commission may suspend and eventually cancel the permit of any carrier operating without required cargo insurance coverage.

AMENDATORY SECTION (Amending Docket No. A-010827, General Order No. R-491, filed 9/28/01, effective 10/29/01)

**WAC 480-15-560 Equipment safety requirements.**

~~(1) ((What are the commission's equipment safety requirements?))~~ All ~~((motor vehicles operated under the provisions of this chapter))~~ carriers must ~~((be at all times))~~ comply with all of the following requirements:

(a) ~~((Maintained))~~ Maintain all vehicles in a safe and sanitary condition~~((; and))~~.

(b) Maintain vehicles free of defects likely to result in an accident or breakdown~~((; and))~~.

(c) ~~((Made))~~ Maintain vehicles consistent with the North American Uniform Out Of Service Criteria as adopted in WAC 480-15-999.

(d) Make vehicles available for inspection by commission representatives.

~~((All motor vehicles having safety defects likely to result in an accident or breakdown will be placed out of service and taken off the road until such time as all out-of-service defects have been repaired and the motor vehicle is safe to operate.~~

~~(2) How does the commission enforce these requirements?~~ Commission representatives conduct inspections of motor vehicles and safety operations. These representatives may place out of service any motor vehicle having a defect defined in the North American Uniform Out Of Service Criteria as adopted in WAC 480-15-999. No motor vehicle which has been placed out of service may be operated until all out of service defects are repaired and the motor vehicle is safe to operate.

~~(3) How must a household goods carrier identify its motor vehicles?)~~ (2) A household goods carrier must display its permit name and number, as registered with the commission, on both the driver and passenger doors of all power units.

(a) All markings on the power unit must be:

(i) Clearly legible~~((; and))~~.

(ii) No less than three inches high~~((; and))~~.

(iii) In a color that contrasts with the background color~~((; and))~~.

(iv) Permanent. *Exception:* ~~((You))~~ Carriers may use temporary markings on vehicles ~~((you are operating))~~ operated under a lease.

(b) ~~((If you have))~~ Carriers with both intrastate and interstate authority~~((; you))~~ must display either ~~((your))~~ the commission permit number, federal permit number~~((; or both))~~ on the power unit.

~~((4) What vehicle safety laws and rules must a household goods carrier follow?~~

~~((a) You))~~ (3) Carriers must comply with all of the following requirements:

~~((+))~~ (a) All state and local motor vehicle safety laws and rules including, but not limited to, those contained in this chapter~~((; and))~~.

~~((+))~~ (b) The following parts of Title 49 of the Code of Federal Regulations (49 CFR), as adopted by reference in this chapter on the date specified in WAC 480-15-999:

~~((A))~~ (i) 49 CFR Part 390: Safety Regulations, General; except the following definitions will apply:

~~((F))~~ The terms "exempt motor carrier," "motor carrier," "motor vehicle," and "private carrier" have the meanings assigned to them in this chapter;

(ii) The term "commercial motor vehicle" means any motor vehicle used by a household goods carrier to transport household goods, if either the vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand one pounds or more; or if the gross vehicle weight or gross combination weight is ten thousand one pounds or more;

(iii) Whenever the term "director" is used, it shall mean the commission.

~~((B))~~ (A) Exempt motor carrier: Any person operating a motor vehicle exempt from certain provisions of RCW Title 81 as defined in RCW 81.80.040.

(B) Motor carrier: Any common carrier, exempt carrier and private carrier as defined in WAC 480-15-020.

(C) Motor vehicle: Any vehicle, machine, tractor, trailer or semi-trailer propelled or drawn by mechanical power, or any combination of such vehicles, used on the public roads to transport household goods.

(D) Private carrier: Persons who transport their own household goods, transport household goods bought or sold by them or transport household goods purely as an incidental adjunct to an established business.

(E) Commercial motor vehicle: Any motor vehicle used by a household goods carrier to transport household goods, if either the vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand one pounds or more or if the gross vehicle weight or gross combination weight is ten thousand one pounds or more.

(F) Director: The commission.

(ii) 49 CFR Part 392: Driving of Commercial Motor Vehicles~~((; and))~~.

~~((C))~~ (A) 49 CFR Part 393: Parts and Accessories Necessary for Safe Operation~~((; and))~~.

~~((D))~~ (B) 49 CFR Part 396: Inspection, Repair, and Maintenance.

~~((b) If you fail to comply with these laws and rules, the commission may issue a citation to you, place your vehicle out of service, and/or initiate an administrative proceeding against you. See WAC 480-15-130(3).~~

~~(5) Are household goods carriers required to equip their motor vehicles with antispray devices (mud flaps)?~~

~~((a) Yes,))~~ (C) All motor vehicles must be equipped with mud flaps which effectively reduce the spray or splash of water from the road.

~~((b))~~ (D) Mud flaps must be as wide as the tires on which they are mounted, and must extend from the top of the tires down to at least the center of the axle.

AMENDATORY SECTION (Amending Docket No. A-010827, General Order No. R-491, filed 9/28/01, effective 10/29/01)

**WAC 480-15-570 Driver safety requirements.** (1) ~~((What are the commission's driver safety requirements?))~~ No household goods carrier shall employ or allow any driver to operate a motor vehicle who fails to meet minimum criteria related to all of the following requirements:

- (a) ~~(Driver's licensing;~~
- (b) ~~Background and character;~~
- (c) ~~Physical qualifications;~~
- (d) ~~Hours of service; and~~
- (e) ~~Controlled substances and alcohol use testing.~~

(2) ~~How does the commission enforce those requirements?~~ Commission representatives inspect driver and company safety records and documents to determine compliance with these rules. ~~Additionally, the representatives may contact drivers during the course of investigations, inspections, or other routine commission business. The representatives may order out of service any driver meeting the conditions defined in the North American Uniform Out Of Service Criteria as adopted in WAC 480-15-999. No driver who has been placed out of service may operate a commercial motor vehicle until all conditions which caused the driver to be placed out of service are corrected.~~

~~(3) Driver qualification requirements:~~

(a) You must comply with:

- (i) All state and local laws and rules governing driver safety, including, but not limited to, the rules in this chapter(;
- (ii).

(b) The North American Uniform Out Of Service Criteria as adopted in WAC 480-15-999.

(c) The following parts of Title 49 of the Code of Federal Regulations (49 CFR), as adopted by reference in this chapter on the date specified in WAC 480-15-999:

~~((A)) (i) 49 CFR Part 390: Safety Regulations, General; except the following definitions will apply:~~

~~((H) The terms "exempt motor carrier," "motor carrier," "motor vehicle," and "private carrier" have the meanings assigned to them in this chapter;~~

~~(H) The term " ) (A) Exempt motor carrier: Any person operating a motor vehicle exempt from certain provisions of RCW Title 81 as defined in RCW 81.80.040.~~

~~(B) Motor carrier: Any common carrier, exempt carrier and private carrier as defined in WAC 480-15-020.~~

~~(C) Motor vehicle: Any vehicle, machine, tractor, trailer or semi-trailer propelled or drawn by mechanical power, or any combination of such vehicles, used on the public roads to transport household goods.~~

~~(D) Private carrier: Persons who transport their own household goods, transport household goods bought or sold by them or transport household goods purely as an incidental adjunct to an established business.~~

(E) Commercial motor vehicle(" means): Any motor vehicle used by a household goods carrier to transport household goods, if either the vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand one pounds or more(;) or if the gross vehicle weight or gross combination weight is ten thousand one pounds or more(;

~~(H) Whenever the term " )~~

(F) Director(" is used, it shall mean): The commission.

~~((B)) (ii) 49 CFR Part 382: Controlled Substance and Alcohol Use and Testing(;) )~~

~~((C)) (iii) 49 CFR Part 383: Commercial Driver's License Standards; Requirements and Penalties(;) )~~

~~((D)) (iv) 49 CFR Part 391: Qualification of Drivers(; and) )~~

~~((E)) (v) 49 CFR Part 395: Hours of Service of Drivers.~~

~~((b) If you, or your driver, fail to comply with any driver safety law or rule, we may issue a citation to you or your driver, place your driver out of service, and/or initiate an administrative proceeding against you. See WAC 480-15-130(3).~~

(4) **Exceptions to the requirements in this rule.** The following exceptions apply:

(a) ~~If your) (2) Operations that are exclusively ((H)) intrastate commerce(, you) are not subject to the following provisions:~~

~~((i)) (a) 49 CFR Part 391.11 (b)(1): Minimum age requirements. The minimum age for drivers of motor carriers operating solely intrastate is eighteen years of age rather than the twenty-one years of age required to operate in interstate commerce.~~

~~((ii)) (b) 49 CFR Part 391.49: Waiver of certain physical defects. This part does not apply if the driver has obtained from the Washington department of licensing a driver's license with endorsements and/or restrictions allowing operation of the motor vehicle they are driving.~~

~~((b) If you are a single vehicle owner-operator and your operations are solely intrastate, you are not subject to the following provisions:~~

~~(i) 49 CFR Part 391.21: Application for Employment;~~

~~(ii) 49 CFR Part 391.23: Investigation and Inquiries;~~

~~(iii) 49 CFR Part 391.25: Annual Review of Driving Record;~~

~~(iv) 49 CFR Part 391.27: Record of Violations;~~

~~(v) 49 CFR Part 391.31: Road Test; and~~

~~(vi) 49 CFR Part 391.33: Equivalent of Road Test.)~~

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-590 ((What is the procedure for)) Leasing vehicles(?), (1) ~~((You))~~ A carrier must file an equipment lease agreement and receive commission approval before ~~((you may operate))~~ operating a leased motor vehicle. ~~((To request approval you must submit a completed lease agreement on a form supplied by the commission, or an alternate form as long as it contains substantially the same information as that on the commission form. The form must be))~~ The carrier must meet all of the following requirements:**

(a) File a completed ((in its entirety (we will reject and return incomplete forms;)) form provided by the commission or use an alternate form containing the same information.

(b) ~~((Signed by both parties;))~~ Sign the form and ensure the lessor signs the form.



(c) ~~((Submitted in duplicate (we will return one approved copy to you);))~~ Submit two copies to the commission.

(d) Clearly ~~((marked))~~ mark "master lease" if ((you)) the carrier intends ((it to be used as such in lieu)) to use a master lease instead of submitting individual leases((; and

(e) ~~Submitted through any means identified in WAC 480-15-060).~~

(2) ~~((We may institute administrative action as described in WAC 480-15-130(3) against any household goods carrier who operates leased motor vehicles without first having obtained commission approval.~~

~~(3) You are))~~ A carrier is not required to file a lease for approval on an emergency substitution of a disabled vehicle.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-600 ((What are my responsibilities when entering into a lease?)) Lease responsibilities.** ~~((When entering into a lease agreement, it is your responsibility to ensure that))~~ The carrier must ensure that all of the following conditions are met:

(1) A copy of the approved lease is carried in all leased motor vehicles((;)).

(2) Copies of all approved leases are kept in ((your)) the carrier's permanent files for at least one year after the lease expires((;)).

(3) ~~((You))~~ The carrier gives a copy of the approved lease to the owner of the leased motor vehicle((;)).

(4) ~~((You have complete))~~ The carrier takes possession, control and use of the motor vehicle during the period of the lease agreement((;)).

(5) ~~((You provide))~~ The carrier maintains insurance on the leased motor vehicle as specified in WAC 480-15-530 and((/or)) 480-15-550((;)).

(6) ~~((You))~~ The carrier properly ((identify)) identifies the motor vehicle as specified in ((WAC 480-15-560(3);)) RCW 81.80.305.

(7) The carrier charges appropriate tariff rates and charges ~~((are billed and collected;)).~~

(8) The driver of the leased motor vehicle is on ((your)) the carrier's payroll during the leased period((;)).

(9) ~~((You comply))~~ The carrier complies with all safety rules((;)).

(10) ~~((You))~~ The carrier and the owner of the leased motor vehicle specify on the lease form who is responsible for all expenses relating to the leased motor vehicles((; and)).

(11) ~~((You comply))~~ The carrier complies with the terms of the approved lease.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-610 ((What are my responsibilities regarding)) Advertising((?)).** (1) ~~((You))~~ Carriers must include ((your)) the commission-issued permit number, name or trade name as recorded at the commission, business address and business telephone number in any advertising ((of your)) for household goods moving services. Advertising includes, but is not limited to((; reference to your services on your vehicles, equipment, and in telephone books, inter-

net, contracts, correspondence, cards, signs, posters, newspapers, and documents which show your name and address)).

(a) Advertisements in telephone books, newspapers, correspondence, cards, or any other written document.

(b) Signs, posters or similar displays.

(c) Web sites or other on-line advertising.

(2) ~~((You may only advertise services authorized by your permit.))~~ Advertisements may not be misleading, false or deceptive.

(3) ~~((You))~~ Carriers may advertise services ((you provide)) provided as an agent of, or connecting carrier to, another household goods carrier if ((you)) they include the name and permit number of the other household goods carrier in ((your)) their advertising.

(4) ~~((You must))~~ Carriers may not advertise services or rates and charges that conflict with those in the tariff.

~~((5) If you violate these advertising rules we may assess a penalty of up to five hundred dollars for each violation, or initiate other administrative action. See WAC 480-15-130(3).))~~

AMENDATORY SECTION (Amending General Order No. R-471, Docket No. TV-991559, filed 6/27/00, effective 7/28/00)

**WAC 480-15-620 Information household goods carriers must provide to customers.** (1) ~~((You))~~ Carriers must give each customer a copy of the ((commission brochure)) publication, "Your ((Rights and Responsibilities as a)) Guide to Moving ((Company Customer;)) in Washington state" at the time the carrier gives the customer a written estimate.

~~((a) At the time you issue a written nonbinding estimate;~~

~~(b) At the time you issue a written binding estimate;~~

~~(c) If you issue neither a written estimate or a written nonbinding estimate, prior to loading the shipment; or~~

~~(d) Upon request, by the customer.~~

(2) ~~The brochure is available from the commission and contains consumer information about selecting a moving company, estimates, rates and tariff charges, payment terms, change orders, supplemental estimates, preparing articles for shipment, valuation protection for loss and damage of goods, expedited service, small shipments, temporary storage, bill of lading contracts, loss and damage claims, informal complaints, and formal complaints. The commission may also present information in different formats for various media (printed materials, on-line materials, fact sheets, brochures, etc.-;))~~ (2) The language contained in the publication is prescribed by the commission and may not be changed by the carrier.

(3) The commission will provide carriers the prescribed language but will not provide copies of the publication. Carriers are responsible for making sufficient copies for their needs.

(4) Carriers may access the prescribed language through the commission's web site at [www.utc.wa.gov](http://www.utc.wa.gov) or by contacting the commission at 360-664-1222.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-630 Estimates.** ~~((An estimate is a written approximation of the probable cost of a move prepared in compliance with the provisions of the household goods tariff. Estimates are based on factors such as the van space required, the weight of the household goods, the amount of time needed to complete the move, and the type of special services provided. You may provide your customer with either of two basic types of estimates:~~

~~(1) A **nonbinding estimate** which is based on an inventory of the customer's goods and provides the customer with a pricing guideline. There is no contractual commitment to this estimate, and the final charges the customer must pay could be higher or lower than the estimated cost, depending on the actual weight of the shipment, the total time consumed, or physical location at the origin and destination, or other conditions of the move; or~~

~~(2) A **binding estimate** which allows the customer to know in advance what the move will cost, regardless of differences in the actual weight or time to complete the move.~~

~~(a) The basis (such as inventory sheets, tally sheets, special instructions, etc.) used to provide a binding estimate must be attached to the bill of lading.~~

~~(b) Any change to the move, by the customer, that results in an increase in cost must be documented on a supplemental estimate form which also must be attached to the bill of lading.~~

~~(c) A binding estimate cannot exceed the highest authorized tariff rate. If a binding estimate exceeds the highest tariff rate, the carrier may not collect more than the highest authorized tariff rate.)) Every carrier is required to provide a written estimate to every customer prior to moving a shipment of household goods and must issue a written supplemental estimate when required by commission rule or tariff. The carrier must provide estimates by following the requirements set in the commission-published tariff covering household goods movers. The initial estimate may be a binding or nonbinding estimate.~~

~~(1) A binding estimate is the promise of a guaranteed cost of a move from the carrier to the customer. The carrier is bound to charge only the amount of the estimate and no more.~~

~~(2) A nonbinding estimate is an estimate of the amount the carrier will charge to move a customer's household goods. The customer may pay charges in excess of the estimate.~~

~~(3) A supplemental estimate is in addition to any other estimate. A supplemental estimate is required if the circumstances surrounding the move change in a way that causes rates or charges to increase. The customer must accept and sign the supplemental estimate prior to additional work being performed.~~

~~(4) A carrier may provide the hourly rate it charges and the amount of time it believes it will take to make the move. A carrier may provide the rate per unit of weight it charges and the total weight it believes a shipment weighs. However, the carrier must provide a written binding or nonbinding estimate before making the move.~~

~~(5) A carrier may not conduct a move until it has visually inspected the goods to be shipped, unless the customer com-~~

~~pletes a web site calculation or hard-copy calculation sheet as described in subsection (6) of this section, and the carrier has provided a written binding or nonbinding estimate to the customer.~~

~~(6) A carrier may provide an estimate based on a customer-completed web site calculation or customer completed hard-copy calculation sheet if:~~

~~(a) The estimate contains all of the elements required by the tariff.~~

~~(b) The customer electronically "signs" the information provided on the web site by entering the customer's name and the date the information was filled out on the screen. The date must be present and must be entered by the customer.~~

~~(c) The carrier provides the customer with a current copy of the brochure "Your Guide to Moving in Washington State."~~

~~(d) The estimate discloses at the web site or on the hard-copy calculation sheet that:~~

~~(i) The estimate is not binding.~~

~~(ii) The cost of the move may exceed the estimate.~~

~~(iii) The customer will be required to pay up to one hundred ten percent of the estimate upon delivery. Carriers must allow customers at least thirty days from the date of delivery to pay amounts in excess of the one hundred ten percent.~~

~~(iv) The customer is not required to pay more than one hundred twenty-five percent of the estimate regardless of the total cost unless the carrier issues and the customer accepts a supplemental estimate.~~

~~(7) The carrier must complete the estimates as required by tariff.~~

~~(8) All written estimates must be signed and dated by both the carrier and customer prior to the move.~~

AMENDATORY SECTION (Amending General Order No. R-471, Docket No. TV-991559, filed 6/27/00, effective 7/28/00)

**WAC 480-15-660 Supplemental estimates.** (1) ~~((**When must a household goods carrier prepare a written supplemental estimate?** You))~~ Carriers must provide a written supplemental estimate if ~~((you have given the customer a written estimate and))~~ the circumstances surrounding the move change in any way to cause the rates ~~((for service or the estimated))~~ or charges to increase.

~~(2) ((**What rates must a household goods carrier use to prepare a supplemental estimate?**))~~ When providing a supplemental estimate ~~((you must))~~, a carrier may not apply a higher rate to the articles and services identified in the original estimate. ~~((You))~~ A carrier may choose to use a higher rate for new services or additional articles not included in the original estimate.

~~(3) ((**Must the customer sign the supplemental estimate?** Yes,))~~ The carrier must complete the supplemental estimate as required by tariff.

~~(4) The carrier and the customer must sign the supplemental estimate ((or)) prior to the additional work ((cannot be)) being performed.~~

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-710 ((What is a) Bill of lading(2)). (1)**

A bill of lading is a shipping document issued by the household goods carrier, signed by both the ((shipper)) customer and the household goods carrier(,) that establishes ((the)) a legal contract with terms and conditions for a shipment of household goods.

(2) The carrier must issue a bill of lading for each shipment of household goods it transports and must give the customer a completed copy of the bill of lading used for the customer's shipment.

(3) The carrier must include the information in a bill of lading as described in the commission's tariff.

(4) The carrier must keep the bill of lading and all associated documents for three years from the date the move was completed.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-750 ((How do I verify the weight of distance rated shipments of household goods?)) Weight.**

((1) You must obtain all tare and loaded weights by having your motor vehicles weighed by a certified weighmaster or on a certified scale;

(2) You must obtain a certified tare weight prior to loading the shipper's goods;

(3) You must obtain a certified loaded weight at the point of origin, or:

(a) If no certified scale is available at the point of origin, you may obtain the loaded weight at the first certified scale located along the route of travel to the destination point; or

(b) If no certified scale is available at the point of origin, at a point along the route to the destination, or at the destination point, you may use the constructive weight of the shipment;

(4) You must obtain a weight or scale ticket from the weighmaster or scale for the tare and loaded weights, and you must maintain a copy of those tickets with the bill of lading for the shipment. The weight ticket must include substantially the same information shown below:

Household Goods Uniform Weight Ticket

Date: \_\_\_\_\_  
Name of carrier: \_\_\_\_\_  
Vehicle identification: \_\_\_\_\_  
Name of shipper: \_\_\_\_\_  
Origin of shipment: \_\_\_\_\_  
Destination of shipment: \_\_\_\_\_  
LOADED WEIGHT of vehicle without the crew \_\_\_\_\_ #

TARE WEIGHT of vehicle (without the crew on board, including full fuel tank and all necessary pads, chains, hand trucks, and other equipment) \_\_\_\_\_ #  
NET WEIGHT of shipment \_\_\_\_\_ #

**The above loaded weight was obtained at**

Name of scales: \_\_\_\_\_  
Location of scales: \_\_\_\_\_

**The above tare weight was obtained at**

Name of scales: \_\_\_\_\_  
Location of scales: \_\_\_\_\_

As shown by attached weight ticket(s) prepared by weighmaster(s). List of shipments, if any, on vehicle at time above weights were obtained:

Shipper: \_\_\_\_\_ Net weight \_\_\_\_\_  
Shipper: \_\_\_\_\_ Net weight \_\_\_\_\_  
Shipper: \_\_\_\_\_ Net weight \_\_\_\_\_

I certify the above entries are true and correct:

\_\_\_\_\_  
(Driver's signature))

Carriers must follow the requirement of the tariff as it applies to weight of the shipment.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-800 ((What must I do if a shipper is not satisfied with my service?)) Customer complaints and claims.**

If a ((shipper)) customer is not satisfied with ((your)) the carrier's service(, you must allow the shipper to speak with you, or a representative of your company, and you):

(1) The carrier must provide the ((shipper)) customer with all information and forms necessary to file a complaint or claim.

(2) The ((shipper has)) customer must file any and all claims for loss or damage within nine months from the actual delivery date ((or the date the household goods should have been delivered, to file a claim for loss and damage)). In the case of failure to make delivery, the claim must be filed within nine months after the originally scheduled delivery date.

(3) Claims must contain sufficient information to identify the property involved. A copy of the bill of lading must accompany the claim.

(4) The ~~((shipper))~~ customer must pay all proper charges for the move prior to filing a claim for loss or damage.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-810** ~~((What must I do when I receive a complaint or claim?))~~ **Resolving customer complaints or claims.** ~~((If your shipper files a complaint or claim concerning loss or damage, or your general service operations, or rates and charges, you))~~ When the carrier receives a complaint or claim, it must:

(1) Notify the customer, in writing, within ten working days that ~~((you have))~~ it has received the claim or complaint ~~((;))~~ and advise the customer of the availability of the commission for further review by providing the commission's toll-free number and mailing address: 1-800-562-6150; P.O. Box 47250, Olympia, Washington 98504-7250.

(2) Investigate the ~~((claim or))~~ complaint ~~((quickly;))~~ or claim.

(3) Advise the ~~((shipper))~~ customer of ~~((your))~~ the resolution ~~((; and))~~ of the complaint or claim in writing.

(4) If it is a loss or damage claim, pay the claim, refuse the claim, or make a compromise offer within ~~((one hundred twenty))~~ ninety days.

(a) If the carrier cannot resolve a loss or damage claim within ninety days, it must, for each thirty-day period thereafter until the claim is settled, inform the customer, in writing, of the reason it failed to resolve the claim or clearly state its final offer or denial and close the claim and advise the customer of the availability of the commission for further review by providing the commission's toll-free number and mailing address: 1-800-562-6150; P.O. Box 47250, Olympia, Washington 98504-7250.

(b) Maintain a copy of the written correspondence required in (a) of this subsection in the complaint or claim file for three years, as directed by WAC 480-15-830.

(5) The carrier may satisfy any claim by reimbursing the customer or repairing or replacing the property lost or damaged with materials of like kind, quality, and condition.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-830** ~~((How long must I keep complaint and claim records?))~~ **Complaint and claim records retention.** ~~(((+)-You))~~ Carriers must keep all records and papers relating to complaints or claims ~~((records for loss or damage, concealed or otherwise;))~~ for ~~((six))~~ three years after the date the complaint or claim is resolved. Carriers must include, at a minimum, the following information in a claim or complaint file:

~~((2)-You must keep all records of complaints in your office for not less than three years after the date of the shipment, or date of resolution, whichever is later.)~~ (1) The date the claim or complaint was received.

(2) The name, address and telephone number of the customer.

(3) Detailed information about the dispute.

(4) Details of any action the carrier has taken in response to the claim or complaint.

(5) The date the claim or complaint was resolved and a description of the final resolution.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-890** ~~((What must I do if the commission refers a complaint to me?))~~ **Commission-referred complaints.** ~~((You))~~ When commission staff refers a customer complaint to a carrier, the carrier must:

(1) ~~((Respond with complete investigation results))~~ Provide its initial response to commission staff within five business days from the date commission staff referred the complaint to the carrier. The carrier's response must include the results of its investigation into the informal complaint and any document related to the move requested by staff. ~~((However, small businesses, as defined in WAC 480-15-020, must respond within ten business days. In addition, any person))~~ The carrier may request and commission staff may ~~((grant))~~ allow, if warranted, an extension ~~((of time for a specific number of days;))~~ to the initial response due date.

(2) Respond to commission staff inquiries ~~((regarding))~~ requesting additional information or documentation relevant to the informal complaint ~~((; and))~~ within five business days.

(3) Keep ~~((the))~~ commission staff currently informed of any progress made in resolving ~~((the complaint))~~ a claim for loss or damages not resolved within the first ninety-day period of the claim by informing staff in writing, for each thirty-day period thereafter, of the reason for failure to resolve the claim.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

**WAC 480-15-900** ~~((General))~~ **Requirements for interstate operations.** ~~((+))~~ **General requirements:** No household goods carrier may operate any motor vehicle or combination of motor vehicles over the public ~~((highways))~~ roads of this state in interstate commerce unless the ~~((household goods))~~ carrier has met all of the following requirements:

~~((+))~~ (1) Obtained the appropriate operating authority from the U.S. Department of Transportation (USDOT) or its successor agency, if operating as a registered carrier ~~((;))~~.

~~((b))~~ (2) Obtained valid insurance as required by USDOT ~~((;))~~.

~~((e))~~(i) Registered with a base state as required by 49 CFR Part 1023, if operating as a registered carrier; or

(ii) Registered with the commission if operating as a registered exempt carrier; and

(d) Paid the annual Washington state registration fee for the vehicle.

(2) **Applicable laws and rules:**

(a) When conducting interstate operations, registered and registered exempt carriers and the motor vehicles they operate must comply with the laws and rules that apply to interstate operations.

(b) When conducting Washington intrastate operations, registered and registered exempt carriers and the motor vehicles they operate must comply with the laws and rules that apply to intrastate operations.) (3) Participated in any pro-

gram administered by the commission for registering, paying fees or otherwise regulating interstate motor freight carriers as provided by USDOT or its successor agency.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-15-060	How may I contact the commission?	WAC 480-15-260	Exceptions to the application process.
WAC 480-15-070	Where is the commission located?	WAC 480-15-300	What conditions may be attached to my temporary authority?
WAC 480-15-080	How do I file documents with the commission?	WAC 480-15-440	What happens if my permit is suspended for cause?
WAC 480-15-090	May I submit information to the commission confidentially?	WAC 480-15-460	What happens if my permit is canceled for cause?
WAC 480-15-100	What form of payment does the commission accept?	WAC 480-15-470	Rule books.
WAC 480-15-110	If I change my business address or telephone number, must I notify the commission?	WAC 480-15-540	What happens if my insurance filing is canceled?
WAC 480-15-120	What rules apply to commission proceedings?	WAC 480-15-580	Accident reporting.
WAC 480-15-130	What is the commission's compliance policy?	WAC 480-15-640	Verbal estimates.
WAC 480-15-140	How will the commission enforce this chapter?	WAC 480-15-650	Form of estimates.
WAC 480-15-150	Why would the commission take administrative action?	WAC 480-15-670	Exceptions for nonbinding estimates.
WAC 480-15-160	What sanctions apply to carriers operating without valid permits?	WAC 480-15-680	Am I required to provide an accurate estimate?
WAC 480-15-170	What is a household goods permit?	WAC 480-15-690	What will happen if I underestimate a household goods move?
WAC 480-15-195	When will my existing household goods permit be reissued?	WAC 480-15-700	What are the commission's guidelines in deciding to assess monetary penalties for underestimating?
WAC 480-15-200	Are there areas I may operate without a permit?	WAC 480-15-720	Who must issue bills of lading?
WAC 480-15-210	Are there different kinds of household goods permits?	WAC 480-15-730	What is the format for bills of lading?
WAC 480-15-220	How do I apply for a permit?	WAC 480-15-740	Information required on a bill of lading.
WAC 480-15-240	How may a new entrant obtain authority?	WAC 480-15-760	What are my responsibilities to notify the shipper of the actual weight and charges for the shipment?
WAC 480-15-250	What is the process to expand the authority in an existing permit?	WAC 480-15-770	Must I reweigh the shipment at the point of delivery if the shipper requests it?
		WAC 480-15-780	When may I refuse to provide service to a shipper?
		WAC 480-15-790	When must I not refuse service?
		WAC 480-15-795	Payment options.
		WAC 480-15-820	What must I do if I cannot resolve a claim within one hundred twenty days?
		WAC 480-15-840	Are complaint or claim records subject to commis-

	sion review and in what order must I keep the records?
WAC 480-15-850	What additional requirements exist if a claim involves more than one carrier?
WAC 480-15-860	What information must be included in the claim or complaint record?
WAC 480-15-870	What must I do if, after review, the shipper is still dissatisfied with the resolution of the complaint or claim?
WAC 480-15-880	Must I respond to all written correspondence, complaints and claims?
WAC 480-15-910	How do I register as a registered carrier?
WAC 480-15-920	How do I register as a registered exempt carrier?
WAC 480-15-930	Registration fee and receipts.
WAC 480-15-940	Insurance requirements for interstate operations.

**WSR 07-21-152****PROPOSED RULES****DEPARTMENT OF AGRICULTURE**

[Filed October 24, 2007, 11:42 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 07-01-105.

Title of Rule and Other Identifying Information: Chapter 16-30 WAC, Restricted feedlots.

Hearing Location(s): Natural Resources Building, Second Floor, Conference Room #259, 1111 Washington Street S.E., Olympia, WA 98504, on November 30, 2007, at 9:00 a.m.

Date of Intended Adoption: December 14, 2007.

Submit Written Comments to: Teresa Norman, Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, e-mail WSDARulesComments@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m., December 3, 2007.

Assistance for Persons with Disabilities: Contact WSDA receptionist by November 21, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In order to control brucellosis, tuberculosis, and other communicable livestock diseases, the department is proposing to establish restricted holding facilities for dairy cattle entering Washington and to eliminate the Category II restricted feedlot.

Reasons Supporting Proposal: Eliminating the Category II restricted feedlot and establishing a restricted holding facility for dairy cattle entering Washington is necessary to control communicable livestock diseases and protect the health of Washington state cattle. These proposed changes are a part of the department's ongoing commitment to regulatory improvement under Executive Orders 06-02, 05-03, and 97-02.

Statutory Authority for Adoption: RCW 16.36.040, 16.36.050, and chapter 34.05 RCW.

Statute Being Implemented: RCW 16.36.040 and 16.36.050.

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

Name of Proponent: Department of agriculture (WSDA), governmental.

Name of Agency Personnel Responsible for Drafting: Paul Kohrs, DVM, Olympia, (360) 902-1835; Implementation and Enforcement: Leonard Eldridge, DVM, Olympia, (360) 902-1881.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030(1) requires that WSDA prepare a small business economic impact statement (SBEIS) if proposed rules will impose more than minor costs on affected businesses or industry. The department has analyzed the economic effects of the proposed revisions and has concluded that they do not impose more than minor costs on small businesses in the regulated industry and, therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

October 17, 2007

Leonard E. Eldridge, DVM  
State Veterinarian

**Chapter 16-30 WAC****RESTRICTED FEEDLOTS  
AND RESTRICTED HOLDING FACILITIES**

AMENDATORY SECTION (Amending WSR 99-14-032, filed 6/29/99, effective 7/30/99)

**WAC 16-30-010 Definitions.** In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

"Department" means the Washington state department of agriculture (WSDA).

"Director" means the director of WSDA or the director's authorized representative.

"Restricted feedlot" means a dry feed yard (~~where~~) with no provision for grazing where specific categories of cattle (~~(not known to be exposed to brucellosis and not vaccinated against brucellosis are restricted to prevent their use for breeding purposes)~~) are confined for feeding for slaughter only and kept separate and apart from all other nonrestricted cattle.

"Restricted holding facility" means a dry feed yard with no provision for grazing where cattle are held to meet import test requirements.

AMENDATORY SECTION (Amending Order 1995, filed 2/23/89)

**WAC 16-30-025 Restricted feedlots (~~(categories)~~).**  
(~~There shall be Category I and Category II restricted feedlots.~~

~~(1) Category I restricted feedlots may, upon approval of the state veterinarian, buy and import cattle from feedlots in states classified "Class A" for brucellosis that may be under state quarantine if the feedlot does not contain reactors or has not had reactors for a minimum period of one hundred eighty days. Such cattle may move interstate if they are not test eligible without further restriction. Test eligible cattle which are not brucellosis exposed and from herds not known to be affected (state quarantined feedlots) may be moved interstate to Category I restricted feedlots if they are tested negative within thirty days prior to movement and are accompanied by a health certificate. Category I restricted feedlots may not import cattle from a state-federal quarantined feedlot.~~

~~(2) Category II restricted feedlots may not import cattle from any feedlot which is classified as a quarantined feedlot by another state. Category II restricted feedlots may sell cattle to Category I restricted feedlots but may not receive cattle from Category I feedlots.)~~ (1) A restricted feedlot is a designated area that is isolated from all other nonrestricted areas within a feedlot. Restricted feedlots must meet the following standards:

(a) Cattle in the lot must not share water or feeding facilities accessible to other areas.

(b) Restricted lots must be clearly identified as such by signs permanently affixed at all corners stating "restricted feeding area" in letters a minimum of six inches in height.

(c) There must be a minimum of twelve feet between restricted feedlots and other lots and facilities.

(d) No common fences and gates may be used.

(2) The purpose of a restricted feedlot is to accept for feeding purposes with no provision for grazing:

(a) Female cattle from a Class Free state that are not officially brucellosis vaccinated and not knowingly exposed to brucellosis;

(b) Cattle that enter Washington state on a brand certificate that includes the permit number and without a certificate of veterinary inspection; and

(c) Cattle imported from Canada. These cattle must be confined to the initial restricted feedlot until moved to slaughter.

(3)(a) Restricted feedlots may buy and import cattle from a Class A state if the cattle do not originate from a herd known to be exposed to brucellosis. Female cattle entering a restricted feedlot from a Class A state must be:

(i) Officially brucellosis vaccinated; or

(ii) Brucellosis tested negative within thirty days prior to movement.

(b) Cattle may not be imported from restricted feedlots that accept cattle known to be exposed to brucellosis.

(4) The classification of states and areas as Class Free and Class A is designated by United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) in Title 9 CFR Part 78.41 (January 1, 2006) and in Brucellosis Eradication: Uniform Methods and Rules, effective October 1, 2003.

AMENDATORY SECTION (Amending Order 1995, filed 2/23/89)

**WAC 16-30-030 Conditions of permit to operate a restricted feedlot.** (~~(1)~~) The operator of a (~~Category I~~) restricted feedlot must abide by the following conditions:

~~((a) That)~~ (1) There (~~shall~~) may be no contact (~~with other~~) between animals not also similarly (~~and commonly~~) restricted.

~~((b) That)~~ (2) No (~~animal, except steers and spayed heifers for temporary grazing purposes only, shall~~) cattle, except for brucellosis vaccinated females, may be (moved) removed from the (~~feed yard~~) restricted feedlot except to a federally inspected slaughter plant (~~or to a licensed public livestock market for immediate slaughter~~) or a restricted feedlot of like status or to a licensed public livestock market where they will be marketed for immediate slaughter. Cattle that move from a restricted feedlot to a public livestock market must be identified with an "F" brand and remain in the slaughter channels. Female cattle that are calfhooed vaccinated may be removed from the yard for breeding purposes only after negative brucellosis and tuberculosis testing and by permit from the director.

~~((c) That)~~ (3) The yard will be maintained in a sanitary condition.

~~((d) That)~~ (4) The department (~~of agriculture~~) will be notified immediately of any outbreak of any infectious or contagious disease.

~~((e) That)~~ (5) The (~~disposition~~) disposal of dead (~~animals~~) livestock will be in accordance with the laws relating to the disposal of dead (~~animals~~) livestock and in accordance with chapter 16-25 WAC.

~~((f) That)~~ (6) Accurate records will be kept accounting for all (~~animals~~) cattle entering and leaving the restricted feedlot.

~~((2) The operator of a Category II restricted feedlot must abide by the following conditions:~~

~~(a) That there shall be no intermingling with other animals not also similarly and commonly restricted.~~

~~(b) That no animal shall be moved from the feed yard except to a federally inspected slaughter plant, to a licensed public livestock market for immediate slaughter, or to a feedlot of like status, except:~~

~~(i) Steers and spayed heifers which are unrestricted in movement.~~

~~(ii) Calves born in the feedlot which are unrestricted in movement.~~

~~(iii) Restricted cattle moved for temporary grazing purposes.~~

~~(c) Nonbrucellosis vaccinated females must be "F" branded when moved other than directly to slaughter or to another feedlot of like status.~~

~~(d) That the yard will be maintained in a sanitary condition.~~

~~(e) That the department of agriculture will be notified immediately of any outbreak of any reportable infectious or contagious disease.~~

~~(f) That the disposition of dead animals will be in accordance with the laws relating to the disposal of dead animals.~~

~~(g) That accurate records will be kept accounting for all animals entering and leaving the feedlot and open for review by authorized department of agriculture personnel during any normal business hours.~~

~~(h) That any bulls or brucellosis vaccinated females removed from the yard for any other than the above purposes must move by permit from the state veterinarian and on an official certificate of veterinary inspection prepared by an accredited veterinarian.)~~ (7) Proper facilities shall be provided for inspection of brands, branding, and identification of cattle.

#### NEW SECTION

**WAC 16-30-035 Restricted holding facilities.** (1) Restricted holding facilities are areas approved by the director. Such facilities are specifically for cattle that have been imported into the state but have not met the department's brucellosis and tuberculosis entry requirements.

(2) The restricted holding facility area shall house restricted cattle separate and apart from nonrestricted cattle.

(3) Upon negative brucellosis and tuberculosis test results, restricted cattle will be released from the holding facility.

(4) Milk from restricted cattle may not be used for human consumption.

(5) Restricted holding facilities must be clearly identified as such by signs permanently affixed at all corners stating "restricted holding facility" in letters a minimum of six inches in height.

#### NEW SECTION

**WAC 16-30-038 Conditions of permit to operate a restricted holding facility.** The operator of a restricted holding facility must abide by the following conditions:

(1) All cattle entering restricted holding facilities must have individual identification listed on the certificate of veterinary inspection.

(2) There may be no contact between cattle not also similarly restricted and no commingling between separate shipments of cattle.

(3) No cattle may be removed from the restricted holding facility until they meet state and federal import regulations.

(4) Cattle may be removed from the restricted holding facility without meeting state and federal import regulations if they are sent to a federally inspected slaughter plant.

(5) The yard will be maintained in a sanitary condition.

(6) The department of agriculture will be notified immediately of any outbreak of any infectious or contagious disease.

(7) The disposition of dead cattle will be in accordance with the laws relating to the disposal of dead livestock and in accordance with chapter 16-25 WAC.

(8) Accurate records will be kept to account for all cattle entering and leaving the feedlot. Records must be open for review by authorized department of agriculture personnel during normal business hours.

#### NEW SECTION

**WAC 16-30-039 Permit applications for a restricted feedlot or restricted holding facility.** (1) Application forms to establish a restricted feedlot or restricted holding facility may be obtained from:

Washington State Department of Agriculture  
Animal Services Division  
1111 Washington St. S.E.  
P.O. Box 42577  
Olympia, Washington 98504-2577  
Phone: 360-902-1878.

(2) Applicants for restricted feedlots and restricted holding facilities must provide the following information on the application form:

(a) Name and address of applicant;

(b) Location of the restricted feedlot or restricted holding facility; and

(c) Drawing of the layout of the restricted feedlot or restricted holding facility.

AMENDATORY SECTION (Amending Order 1964, filed 2/5/88)

**WAC 16-30-040 Expiration and revocation of restricted feedlot and restricted holding facility permits.**

(1) All permits for restricted feedlots ((~~shall~~) and holding facilities expire on the 30th day of June ((~~next subsequent to~~) of the year following the date of issue ((~~and may be sooner revoked or suspended by the director of agriculture upon reasonable notice to the permittee for violations of the disease control or brand inspection laws of this state or any lawful regulations issued and promulgated by the director of agriculture under said laws. Any permittee shall have the right to request a hearing before a revocation is made permanent)).~~ Restricted feedlots and holding facilities must be inspected annually upon renewal and at any other time as determined by the director.

(2) Any violation of chapter 16.36 RCW or any of the rules adopted under that chapter is sufficient cause for the suspension or revocation of any permit to operate a restricted feedlot or restricted holding facility. In all proceedings for suspension or revocation of a restricted feedlot or restricted holding facility permit, the owner or manager has the right to request a hearing before revocation is made permanent. Any action shall be taken under the provisions of chapter 34.05 RCW, the Administrative Procedure Act.

AMENDATORY SECTION (Amending Order 1995, filed 2/23/89)

**WAC 16-30-050 Brands.** Before a permit is issued for a restricted feedlot the operator or owner must have an "F" brand and number recorded with the state department of agriculture (~~(an "F" brand number to be used exclusively by said~~



~~operator~~). Such a brand (~~shall~~) consists of the letter "F" followed by ~~((a))~~ an assigned number (~~(assigned by said department)~~) and is to be used only by the restricted feedlot to which it is recorded.

AMENDATORY SECTION (Amending Order 1995, filed 2/23/89)

**WAC 16-30-060 Brand time.** For the purpose of proper identification, all cattle (~~(except steers and spayed heifers, arriving at a Category I))~~ moving from a restricted feedlot to a public livestock market must be "F" branded (~~((with the aforementioned "F" brand within forty-eight hours after arrival. Use of such brands on steers and properly identified spayed heifers shall be optional)).~~

AMENDATORY SECTION (Amending Order 1995, filed 2/23/89)

**WAC 16-30-070 Place of brand.** (1) The aforementioned "F" brand shall be placed immediately behind the shoulder and high on the back. In the event a brand is already situated there, the feedlot brand may be placed directly in front of or below the existing brand, but must not deface the existing brand (~~((Provided, The restricted feedlot operators or owners who now place their duly recorded "F" brands in the area between the point of the shoulder and the jaw shall continue to so brand, or they may apply to the registrar of brands, department of agriculture, to change the position to which their brand is affixed to the new position without charge)).~~

(2) Restricted feedlots may apply for an "F" series brand from the department at the following address:

Brand Registrar  
Washington State Department of Agriculture  
P.O. Box 42577  
Olympia, WA 98504-2577  
Phone: 360-725-5505.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-30-020	Permit applications.
WAC 16-30-080	Lot size.
WAC 16-30-090	Feedlot requirements.

#### **WSR 07-21-153**

#### **PROPOSED RULES**

#### **DEPARTMENT OF AGRICULTURE**

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

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-18-039.

Title of Rule and Other Identifying Information: Chapter 16-59 WAC, Importation and movement of poultry and hatching eggs.

Hearing Location(s): Natural Resources Building, Second Floor, Conference Room 259, 1111 Washington Street S.E., Olympia, WA 98504, on December 20, 2007, at 9:00 a.m.

Date of Intended Adoption: January 3, 2008.

Submit Written Comments to: Teresa Norman, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARuleComments@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m., December 21, 2007.

Assistance for Persons with Disabilities: Contact WSDA receptionist by December 13, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: An emergency rule was filed on July 17, 2007, relating to pullorum-typhoid testing for poultry shown at exhibition. The department proposes to adopt this rule as a permanent rule, and to amend this chapter of the Washington Administrative Code to make it specific to avian diseases in Washington state, to remove redundant language regarding importation that is also in chapter 16-54 WAC, Animal importation, and to increase the rules' readability and clarity.

Reasons Supporting Proposal: These rule amendments are necessary to prevent the spread of infectious and communicable disease in Washington poultry. In addition, the proposed changes are part of the department's ongoing commitment to regulatory improvement under Executive Orders 06-02, 05-03, and 97-02.

Statutory Authority for Adoption: RCW 16.36.040 and chapter 34.05 RCW.

Statute Being Implemented: RCW 16.36.040.

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

Name of Proponent: Washington state department of agriculture (WSDA), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Kohrs, DVM, Olympia, (360) 902-1881; and Enforcement: Leonard E. Eldridge, DVM, Olympia, (360) 902-1881.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030(1) requires that WSDA prepare a small business economic impact statement (SBEIS) if proposed rules will impose more than minor costs on affected businesses or industry. The department has analyzed the economic effects of the proposed revisions and has concluded that they do not impose more than minor costs on small businesses in the regulated industry and, therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

October 17, 2007

Leonard E. Eldridge, DVM  
State Veterinarian

## Chapter 16-59 WAC

~~((IMPORTATION AND MOVEMENT OF POULTRY AND HATCHING EGGS))~~ AVIAN DISEASES IN WASHINGTON STATE

AMENDATORY SECTION (Amending WSR 99-09-024, filed 4/15/99, effective 5/16/99)

**WAC 16-59-005 Definitions.** ~~((1))~~ "Baby poultry" means newly hatched poultry that have not been fed or watered.

~~((2))~~ "Department" means the Washington state department of agriculture ~~((of the state of Washington))~~.

~~((3))~~ "Director" means the director of the Washington state department of agriculture ~~((of the state of Washington or his or her))~~ or the director's authorized representative.

~~((4))~~ "Game birds" means ~~((domesticated))~~ fowl such as pheasants, partridge, chukars, quail, and grouse ~~((and guineas, but not doves and pigeons))~~ that are raised in confinement.

~~((5))~~ "Hatching eggs" means fertile eggs that have the potential to hatch ~~((baby))~~ poultry.

~~((6))~~ "Infectious coryza" means a respiratory disease of poultry caused by haemophilus paragallinarum (gallinarum).

~~((7))~~ "Infectious laryngotracheitis" means a highly contagious respiratory disease of poultry caused by a herpesvirus.

~~((8))~~ "NPIP" means USDA National Poultry Improvement Plan, a cooperative industry-state-federal program to eliminate egg-transmitted and hatchery-disseminated diseases. Title 9, Code of Federal Regulations, Parts 145 and 146, are the plan standards and contain the requirements for this voluntary program.

~~((9))~~ "Official health certificate" means a legible certificate of veterinary inspection on an official form of the state of origin or of the USDA Animal and Plant Health Inspection Service (APHIS) executed by a licensed and accredited veterinarian or a veterinarian approved by the proper official of USDA APHIS.

~~((10))~~ "Ornithosis" means a disease of poultry caused by Chlamydia psittaci, transmissible to other animals and humans and synonymous with the term psittacosis.

~~((11))~~ "Person" means a person, persons, firm or corporation.

~~((12))~~ "Poultry" means chickens, turkeys, ratites, waterfowl, game birds, pigeons, doves and other domestic fowl designated by statute. "Poultry" does not mean free ranging birds defined as wildlife in Title 77 RCW.

~~((13))~~ "Pullorum" means a disease of poultry caused by Salmonella pullorum.

~~((14))~~ "Typhoid" means a disease of poultry caused by Salmonella gallinarum.)

AMENDATORY SECTION (Amending WSR 99-09-024, filed 4/15/99, effective 5/16/99)

**WAC 16-59-020 ((Wrongful sale.)) In-state movement of poultry.** It is unlawful for any person to exchange, sell, or otherwise distribute poultry or hatching eggs affected with or originating from flocks affected with pullorum-

typhoid or other contagious, infectious, or communicable disease ~~((mentioned in this chapter)).~~ The ~~((state veterinarian may make an exception and))~~ director has the authority to issue a permit for ~~((importation or))~~ movement of such poultry when satisfied ~~((such))~~ that the movement will not affect the health of flocks in the state.

AMENDATORY SECTION (Amending WSR 99-09-024, filed 4/15/99, effective 5/16/99)

**WAC 16-59-030 Testing of breeding stock.** ~~((+))~~ **Pullorum-typhoid:** ~~((All poultry and hatching eggs in interstate movement must originate from parent or grandparent stock which are registered as participating flocks under NPIP or equivalent state program. The poultry and hatching eggs must be classified as pullorum-typhoid free or must be tested negative for pullorum-typhoid within thirty days of movement. Acceptable tests are standard tube agglutination, microagglutination, enzyme-linked immuno-sorbent assay (ELISA) or rapid serum test. The stained antigen, rapid whole blood test can be used for all poultry except turkeys. The state veterinarian may allow cloacal swab or environmental testing in lieu of blood testing for certain species of ratites. Any person who sells poultry or hatching eggs as pullorum-typhoid free must qualify under the provisions of this rule. Exempt from pullorum-typhoid requirements are:~~

- ~~((a))~~ Eggs for table consumption;
- ~~((b))~~ Poultry for immediate slaughter; and
- ~~((c))~~ Shipments consigned to a diagnostic laboratory or research institute approved by the department.

~~((2))~~ **Infectious laryngotracheitis; infectious coryza:** Poultry cannot be imported if naturally infected or exposed to natural infection with infectious laryngotracheitis or infectious coryza. Such poultry can be imported under permit from the state veterinarian. The shipment can only be moved into the state when accompanied by an official federal form VS1-27 completed and signed by a federal or state veterinarian. The shipment will be quarantined once it reaches its Washington destination. A permit will be granted when available information indicates that the poultry to be transported will not present a disease hazard to state of Washington flocks. Exempted from the infectious laryngotracheitis and infectious coryza requirements are:

- ~~((a))~~ Poultry for immediate slaughter;
- ~~((b))~~ Poultry consigned to a diagnostic laboratory or research institute approved by the department; and

~~((c))~~ Eggs for table consumption from flocks naturally infected or vaccinated with virulent vaccines. To meet this exemption, eggs for table consumption must be washed and sanitized by methods required by the state veterinarian after consultation with Washington state poultry pathologists. Crates, equipment, and packaging material used for transportation must be cleaned and disinfected to the department's satisfaction or must be burned before leaving the slaughter, diagnostic, or egg processing premises. If crates, equipment and packaging material cannot be burned, they must be disposed of by a method in compliance with local air quality standards that still provide for destruction of pathogens.

~~((3))~~ **Ornithosis:** Poultry and eggs are not to be imported into or moved intrastate in Washington if ornithosis is sus-

~~pected or has been diagnosed. The state veterinarian may make an exception and issue a permit for importation or movement after proper treatment with a recommended antibiotic and observation of the appropriate withdrawal time.)~~ (1) All poultry that are going to public exhibition, including exhibition, exotic, and game birds, but excluding waterfowl, must:

(a) Come from U.S. Pullorum-Typhoid Clean or equivalent flocks, as defined in the National Poultry Improvement Plan and Auxiliary Provisions, Title 9 CFR, Section 145.53; or

(b) Have had a negative pullorum-typhoid test within ninety days before going to public exhibition.

(2) The department maintains a copy of the National Poultry Improvement Plan and Auxiliary Provisions for public inspection. You may also find the information on the internet at: <http://www.aphis.usda.gov/vs/npip/>.

AMENDATORY SECTION (Amending WSR 99-09-024, filed 4/15/99, effective 5/16/99)

**WAC 16-59-060 ((Shipping equipment)) Transportation standards.** (1) In order to prevent the spread of disease, all poultry must be moved only in ((clean)) containers((- All crates or other containers used to transport live poultry into or within the state of Washington must be either new or thoroughly cleaned and disinfected and then washed with steam or hot water under pressure)) that are maintained in a sanitary condition and cleaned and disinfected when required by the director.

(2) All common carriers and any other conveyances used in ~~((the transportation of))~~ transporting live poultry to or from the receiving station or destination must be free from poultry droppings, feathers, and other debris.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-59-010 Health certificates.

**WSR 07-21-154**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**

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

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-16-092.

Title of Rule and Other Identifying Information: Chapter 16-86 WAC, Brucellosis and tuberculosis in cattle and goats.

Hearing Location(s): Natural Resources Building, Second Floor, Conference Room 259, 1111 Washington Street S.E., Olympia, WA 98504, on November 30, 2007, at 11:00 a.m.

Date of Intended Adoption: December 14, 2007.

Submit Written Comments to: Teresa Norman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail [WSDARulesComments@agr.wa.gov](mailto:WSDARulesComments@agr.wa.gov), fax (360) 902-2092, by 5:00 p.m., December 3, 2007.

Assistance for Persons with Disabilities: Contact WSDA receptionist by November 21, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend chapter 16-86 WAC to update requirements related to disease and change of ownership, and to make the chapter specific to diseases of cattle and bison. Current rules in chapter 16-86 WAC that relate to goats will be moved to chapter 16-89 WAC.

Reasons Supporting Proposal: These changes are necessary to prevent the spread of disease in the state, to protect the public's health and welfare, and are a part of the department's ongoing commitment to regulatory improvement under Executive Orders 06-02, 05-03, and 97-02.

Statutory Authority for Adoption: Chapters 16.36 and 34.05 RCW.

Statute Being Implemented: Chapter 16.36 RCW.

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

Name of Proponent: Department of agriculture (WSDA), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Kohrs, DVM, Olympia, (360) 902-1878; and Enforcement: Leonard Eldridge, DVM, Olympia, (360) 902-1878.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030(1) requires that WSDA prepare a small business economic impact statement (SBEIS) if proposed rules will impose more than minor costs on affected businesses or industry. The department has analyzed the economic effects of the proposed revisions and has concluded that they do not impose more than minor costs on small businesses in the regulated industry and, therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

October 15, 2007  
Leonard E. Eldridge, DVM  
State Veterinarian

#### **Chapter 16-86 WAC**

#### **((BRUCELLOSIS AND TUBERCULOSIS IN CATTLE AND GOATS)) CATTLE AND BISON DISEASES IN WASHINGTON STATE**

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

**WAC 16-86-005 Definitions.** ~~((For purposes of))~~ In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

~~((4))~~ "Accredited veterinarian" means a veterinarian licensed to practice veterinary medicine, surgery, and dentistry in the state of Washington and approved by the United States Department of Agriculture (USDA) Veterinary Services to participate in state-federal cooperative programs.

~~((2))~~ "Adult vaccination" means the whole herd vaccination of a herd infected with or exposed to the *Brucella abortus* organism when conducted under a herd plan agreed to by the owner and the director. A USDA approved adult dosage brucella vaccine will be used to vaccinate all female cattle in the herd above twelve months of age.

~~(3)~~ "Approved brucella" "Breed registry tattoo" means individual registry tattoos issued by breed associations.

"Brucellosis vaccine" means only those ~~((biological))~~ *Brucella abortus* products that are approved by and produced under license of the USDA for injection into cattle ~~((for the purpose of enhancing))~~ to enhance their resistance to brucellosis.

~~((4))~~ "Department" means the Washington state department of agriculture.

~~(5)~~ "Director" means the director of agriculture of the state of Washington or his or her duly authorized representative.

~~(6)~~ "Immediate slaughter" means delivery within seven days to an inspected slaughter facility or restricted feedlot as defined in chapter 16.30 WAC and operating under the permission of the director.

~~(7))~~ "Official calfhood vaccinate" means ~~((a))~~ female ~~((bovine animal))~~ cattle between four and twelve months of age that are vaccinated with ~~((an approved brucella abortus))~~ brucellosis vaccine ~~((such as strain 19 vaccine or RB-51 vaccine))~~ at a calfhood dose ~~((between the ages of four and twelve months of age (one hundred twenty days to three hundred sixty five days))~~ (2cc subcutaneously).

~~((8))~~ "Official Washington mature vaccinate" means ~~((a))~~ female ~~((bovine))~~ cattle over the age of twelve months that are native to Washington state, or originate from other class free states or countries to be determined on a case-by-case investigation by the director, and vaccinated with ~~((an approved adult dosage brucella))~~ a reduced dose of brucellosis vaccine (0.25cc subcutaneously) under directions issued by the ~~((state veterinarian))~~ director. ~~((Mature vaccinates must be blood tested for brucellosis at the time of vaccination and a copy of the test chart submitted to the state veterinarian with the vaccination record.~~

~~(9)~~ "Registry tattoo" means a tattoo identifying the individual as a registered animal within the breed association.

~~(10))~~ "USDA" means the United States Department of Agriculture.

"Vaccination tattoo" means a tattoo in the right ear bearing the United States registered shield and V preceded by a number indicating the quarter of the year and followed by a number corresponding to the last digit of the year in which the animal was vaccinated with strain 19 ~~((brucella))~~ *Brucella* vaccine. For strain RB-51 calfhood vaccination, an R precedes the shield and V. In the case of strain RB-51 mature vaccination, an M precedes the shield and V. ~~((In the case of strain RB-51 adult vaccination an A precedes the shield.))~~ For strain RB-51 vaccinates, the last number of the tattoo cor-

responds to the last digit of the year in which vaccine was administered.

#### NEW SECTION

**WAC 16-86-008 Forms used in this chapter.** Forms used in this chapter may be obtained from the department at:

Animal Services Division  
Washington State Department of Agriculture  
1111 Washington St. S.E.  
Olympia, WA 98504-2560  
Phone: 360-902-1878.

### **BRUCELLOSIS**

#### NEW SECTION

**WAC 16-86-014 Adoption of United States Department of Agriculture Brucellosis Eradication Uniform Methods and Rules.** In addition to the rules adopted in this chapter, the Washington state department of agriculture adopts the procedures and methods of the *USDA Brucellosis Eradication Uniform Methods and Rules*, effective October 1, 2003. The department maintains a copy of this document for public inspection. You may also find the information on the internet at: [www.aphis.usda.gov/animal\\_health/animal\\_diseases/brucellosis/downloads/umr\\_bovine\\_bruc.pdf](http://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/downloads/umr_bovine_bruc.pdf).

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

~~WAC 16-86-015 ((Washington cattle sale requirements))~~ **Change of ownership requirements for cattle and bison in Washington.** (1) ~~((Effective January 1, 1984, within thirty days prior to any change of ownership and in a manner prescribed by the state veterinarian, all dairy breed cattle shall be tested negative for brucellosis. The following classes of cattle are exempt from this test requirement:~~

- ~~(a) Calves under four months of age.~~
- ~~(b) Cattle sold or consigned to a restricted feedlot.~~
- ~~(c) Cattle sold or consigned to a federally inspected slaughter plant.~~
- ~~(d) Steers and spayed heifers.~~
- ~~(e) Official calfhood vaccinates under twenty months of age and not parturient or post parturient.~~
- ~~(f) Official Washington or Canadian calfhood vaccinates under thirty months of age as evidenced by less than full development of the lower permanent second incisors. This exemption applies only to Washington resident cattle which bear an eartag showing a Washington vaccination (91-V series) or a Canadian vaccination certificate. Subdivision (e) of this subsection applies to all other female dairy breed cattle unless exempted by (a), (b), (c) or (d) of this subsection. Cattle exempted under this subsection may be tested if requested by a prospective buyer or to meet import requirements of another state or foreign country.~~

~~(2))~~ **Cattle.** All female cattle ~~((shall))~~ must be ~~((an))~~ official calfhood or official Washington mature vaccinates and bear ~~((a))~~ legible vaccination tattoos ~~((prior to))~~ before

being sold or introduced into any breeding herd in the state of Washington. This rule does not apply to the following:

~~(a) ((Calves under four months of age. Female calves under four months acquired by any herd and natural female additions must become official calfhood vaccinates or official Washington mature vaccinates, as provided for in this chapter, to be sold for any purpose other than those set forth in (b), (c), (d), (e), or (f) of this subsection.~~

~~((b)) Cattle sold or consigned to a restricted feedlot((-);~~

~~((c)) (b) Cattle sold or consigned to a federally inspected slaughter plant((-);~~

~~((d)) (c) Cattle sold or consigned to a public livestock market for immediate slaughter ((only-)) within three days of sale;~~

~~((e)) (d) Spayed heifers((-);~~

~~((f)) (e) Cattle sold to buyers in states or countries without brucellosis vaccination import requirements; and~~

~~(f) Calves under four months of age.~~

~~((3) All Washington cattle shall be individually identified and permanently recorded as to herd of origin prior to being sold or consigned for slaughter. Such identity shall be transferred to the blood sample taken for market cattle identification (MCI) test purposes. These records shall be made available to the department upon request. The following classes of cattle shall be exempt from these requirements:~~

~~(a) Cattle under twenty four months of age and not parturient or post parturient.~~

~~(b) Steers and spayed heifers-)) (2) **Bison.** All bison, except calves under eight months of age at the side of their negative-tested mothers, are required to test negative for brucellosis upon change of ownership.~~

~~(3)(a) Under RCW 20.01.380, as cattle and bison move throughout the marketing system, livestock dealers are required to retain cattle and bison identification to the herd of origin. Official identification devices provide permanent identification of livestock and ensure the ability to find the source of animal disease outbreaks.~~

~~(b) Removing an official animal health tag, or official animal identification tag, permanent mark, or other device is prohibited except at the time of slaughter.~~

~~(c) If an official identification device is lost and it is necessary to retag an animal, the new official number shall correlate, whenever possible, with the previous official number of the animal and shall be reported to the office of the state veterinarian.~~

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

**WAC 16-86-017 Grazing permits.** (1) Washington herd owners desiring to move cattle interstate for grazing purposes and return to Washington shall request a permit for such movement from the animal health program of the department. The state to which the animals are to be moved for grazing must approve the movement. A separate permit must be obtained from the animal health program for the return of such cattle.

(2) Grazing permits will be issued only for movements to states ~~((which))~~ that are class free or A for brucellosis and

~~((which))~~ that share common borders with the state of Washington.

(3) Cattle moving interstate on grazing permits are generally exempt from interstate health certificate and testing requirements unless required by the state veterinarian in either state due to changing disease conditions.

(4) Cattle moving interstate on grazing permits must meet the brand or animal identification requirements of each state before interstate movement.

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

**WAC 16-86-020 Quarantine.** ~~((All cattle or goats))~~ Cattle or bison that are infected or suspected of being infected with ~~((brucellosis or tuberculosis))~~ an infectious or communicable disease after an official test ~~((shall))~~ will be quarantined as provided ~~((by law))~~ under RCW 16.36.010. If owners refuse to allow the department to test for ~~((the above))~~ dis- eases provided for in this chapter, all cattle or ~~((goats))~~ bison will be regarded as a menace to the health of livestock, and the premises on which they are kept ~~((shall))~~ will be immediately quarantined and no animals or products of ~~((such))~~ these animals ~~((shall))~~ may be removed from the premises ~~((as outlined in RCW 16.36.010)).~~

#### NEW SECTION

**WAC 16-86-026 Brucellosis testing requirements for raw milk dairies.** (1) All cattle whose raw milk or raw milk products are intended for consumption must be from a herd that has tested negative to a serological test for brucellosis within the previous twelve months.

(2) Any additions to the herd must be serologically tested negative for brucellosis within thirty days before introduction into the herd.

(3) Herds must be serologically tested negative annually to maintain the dairy's raw milk license.

(4) The state veterinarian shall direct all testing procedures in accordance with state and federal standards for animal disease eradication.

(5) All raw milk and raw milk products from animals that test positive for brucellosis are prohibited from sale and must be destroyed.

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

**WAC 16-86-040 Brucellosis quarantine and release.** (1) ~~((Brucellosis-~~

~~((a)))~~ Any herd of cattle or ~~((goats))~~ bison in which brucellosis reactors are found will be quarantined. Positive or reactor classification shall be based on standards listed in ~~((U.S. Department of Agriculture Uniform Methods and Rules for Brucellosis Eradication. Animals positive to the brucellosis test must not be sold or offered for sale except for immediate slaughter. Quarantined animals may only be moved when accompanied by an official form number VSI-27))~~ USDA Brucellosis Eradication Uniform Methods and Rules, effective October 1, 2003.

(2) The quarantine will be released when the entire quarantined herd has passed two consecutive negative blood tests without reactors.

(a) The first test must be not less than thirty days following removal of all reactors from the herd ~~((and))~~. The second test must not be less than ninety days nor more than one year following the date of the previous test.

(b) Steers, spayed heifers ~~((and))~~, officially vaccinated dairy ~~((animals))~~ cattle under twenty months of age, and officially vaccinated beef animals under twenty-four months of age need not be tested.

~~((b))~~ (c) Adult vaccination for cattle may be used as a whole herd vaccination under the terms of a herd plan and based on the standards listed in ~~((U.S. Department of Agriculture Uniform Methods and Rules for Brucellosis Eradication dated May 6, 1992, and revised February 2, 1993, and June 16, 1994))~~ USDA Brucellosis Eradication Uniform Methods and Rules, effective October 1, 2003.

~~((2))~~ Tuberculosis:

(a) ~~Any herd of cattle or goats in which tuberculosis reactors are found will be quarantined and except for immediate slaughter the sale or removal of any animal out of such herds is prohibited. Herds in which only no gross lesions (NGL) reactor(s) occur and in which no evidence of Mycobacterium bovis infection has been disclosed may be released from quarantine after a sixty day negative caudal fold retest of the entire herd.~~

(b) ~~Herds containing one or more suspects to the caudal fold tuberculosis test shall be quarantined until the suspect animals are:~~

(i) ~~Retested by the comparative cervical tuberculosis test within ten days of the caudal fold injection and the tuberculosis status of the suspect(s) has/have been determined; or~~

(ii) ~~Retested by the comparative cervical tuberculosis test after sixty days and the tuberculosis status of the suspect(s) has/have been determined; or~~

(iii) ~~Shipped under permit directly to slaughter in accordance with state or federal laws and regulations and the tuberculosis status of the suspect(s) has/have been determined.~~

(c) ~~Herds in which Mycobacterium bovis infection has been confirmed and the herd has not been depopulated will remain under quarantine and must pass two tuberculin tests at intervals of at least sixty days and one additional test after six months from the previous negative test. These herds will also be subject to five annual tests on the entire herd following the release from quarantine.)~~ (3) Cattle or bison that test positive to the brucellosis test must not be sold or offered for sale except for immediate slaughter.

(4) Quarantined cattle and bison may only be moved when accompanied by an official USDA form number VS1-27.

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

**WAC 16-86-092 Indemnity for brucellosis affected or exposed cattle.** (1) As provided under RCW ~~((16.36.096))~~ 16.36.090, the director may order the slaughter or destruction of any cattle affected with or exposed to brucellosis.

(2) Under RCW 16.36.096, subject to the availability of ((sufficient funds, the director may pay an indemnity for any cattle)) amounts appropriated for this specific purpose, owners, individuals, partnerships, corporations or other legal entities whose animals have been slaughtered or destroyed by order of the director may be eligible for indemnification in an amount not to exceed seventy-five percent of the appraised or salvage value of the animal ordered slaughtered or destroyed. ((When indemnity is approved, the amount that will be paid is fifty dollars for any grade beef breed female, one hundred dollars for any purebred registered beef breed bull or female, two hundred dollars for any grade dairy breed female or two hundred fifty dollars for any purebred registered dairy breed bull or female.))

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

**WAC 16-86-095 Official brucellosis vaccination.** (1)

An official vaccination report of all brucellosis vaccinations must be made to the department within thirty days of vaccination by the accredited veterinarian who performed the vaccination. The vaccination report must be made on an approved report form (USDA form number VS 4-26) issued by the department for the purpose of individually identifying the cattle and recording ~~((by))~~ official brucellosis vaccinations ~~((ear tag or registry tattoo cattle officially brucellosis vaccinated))~~.

~~((2))~~ (a) All vaccinations must be ~~((done))~~ performed by a licensed accredited veterinarian or federal or state employed veterinarian and are not official until they are reported to the department. ~~((Vaccinated animals must be permanently identified as vaccinates by a vaccination tattoo in the right ear. An official vaccination ear tag or registry tattoo shall be used for individual animal identification.))~~

(b) Veterinarians must record all vaccinations in a ledger that records the owner of the animal, tag numbers, and the date of vaccination. These records must be maintained for seven years.

(2) Official calfhood vaccinates must be:

(a) Permanently identified by official vaccination eartag (orange tag); and

(b) Vaccinated with 2cc subcutaneous RB-51 Brucella vaccine and permanently identified as vaccinates by a vaccination tattoo in the right ear. For strain RB-51 calfhood vaccination, the tattoo consists of an R, the United States registered V-shield, and the last digit of the year of vaccination.

(3) ~~((Brucellosis vaccinations are not official until they are reported to the department on official, completed and signed forms.))~~ Official mature vaccinates (over twelve months of age) must have prevaccination blood samples for brucellosis submitted on USDA form number VS4-33 to the office of the state veterinarian. An official mature vaccinate must be:

(a) Vaccinated with 0.25cc subcutaneous RB-51 Brucella vaccine;

(b) Permanently identified by an official USDA identification (silver tag) and a USDA brucellosis vaccination tag (orange tag); and

(c) Permanently identified as a vaccinate by a vaccination tattoo in the right ear. For strain RB-51 mature vaccination, the tattoo consists of an M, the United States registered V-shield, and the last digit of the year of vaccination.

## Q FEVER

### NEW SECTION

**WAC 16-86-110 Q fever testing requirements for raw milk dairies.** (1) All cattle whose raw milk or raw milk products are intended for consumption must be from a herd that has tested negative serologically for Q fever within the previous twelve months. Q fever is caused by the coccobacillus *Coxiella burnetii* and is highly infectious to humans.

(2) Any additions to the herd must be tested negative for Q fever within thirty days before introduction into the herd.

(3) Herds must be tested negative annually to maintain the dairy's raw milk license.

(4) The state veterinarian shall direct all testing procedures in accordance with state and federal standards for animal disease eradication.

(5) All raw milk and raw milk products from animals that test positive for Q fever are prohibited from sale and must be destroyed or pasteurized according to industry standards.

## TUBERCULOSIS

### NEW SECTION

**WAC 16-86-120 Adoption of United States Department of Agriculture Bovine Tuberculosis Eradication Uniform Methods and Rules.** The Washington state department of agriculture adopts the *Procedures and Methods of the USDA Bovine Tuberculosis Eradication Uniform Methods and Rules*, effective January 1, 2005. The department maintains a copy of the *Bovine Tuberculosis Eradication Uniform Methods and Rules* for public inspection. You may also find the information on the internet at: [www.aphis.usda.gov/animal\\_health/animal\\_diseases/tuberculosis/downloads/tb-umr.pdf](http://www.aphis.usda.gov/animal_health/animal_diseases/tuberculosis/downloads/tb-umr.pdf).

### NEW SECTION

**WAC 16-86-130 Cattle used in rodeo or timed events.** All cattle used for rodeo or timed events must be accompanied by proof recorded on a tuberculosis test chart (USDA form number VS6-22) of a negative bovine tuberculosis test within twelve months of the event. Calves under six months old that were born and have continuously resided in the state of Washington are excluded from this requirement.

### NEW SECTION

**WAC 16-86-140 Tuberculosis testing requirements for raw milk dairies.** (1) All cattle whose raw milk or raw milk products are intended for consumption must be from a herd that has tested negative for tuberculosis within the previous twelve months.

(2) Any additions to the herd must be tested negative for tuberculosis within thirty days before introduction into the herd.

(3) Herds must be tested negative annually to maintain the dairy's raw milk license.

(4) The state veterinarian shall direct all testing procedures in accordance with state and federal standards for animal disease eradication.

(5) All raw milk and raw milk products from animals that test positive for tuberculosis are prohibited from sale and must be destroyed.

### NEW SECTION

**WAC 16-86-150 Tuberculosis quarantine and release.** (1) Any herd of cattle or bison in which tuberculosis reactors are found will be quarantined. The sale or removal of any animal out of a quarantined herd is prohibited except for removal for immediate slaughter.

(2) Herds in which no gross lesions reactors occur and in which no evidence of *Mycobacterium bovis* infection has been disclosed may be released from quarantine after a sixty-day negative caudal fold tuberculosis retest of the entire herd.

Herds containing one or more suspects to the caudal fold tuberculosis test will be quarantined until the suspect animals are:

(a) Retested by the comparative-cervical tuberculosis test within ten days of the caudal fold injection; or

(b) Retested by the gamma interferon tuberculosis test and the tuberculosis status of the suspect has been determined; or

(c) Retested by the comparative-cervical tuberculosis test after sixty days and the tuberculosis status of the suspect has been determined; or

(d) Shipped under permit directly to slaughter in accordance with state or federal laws and regulations and the tuberculosis status of the suspect has been determined.

(3) Herds in which *Mycobacterium bovis* infection has been confirmed and the herd has not been depopulated will remain under quarantine and must pass two tuberculin tests at intervals of at least sixty days and one additional test after six months from the previous negative test. Following the release from quarantine, these herds will also be subject to five annual tests on the entire herd.

### NEW SECTION

**WAC 16-86-160 Indemnity for tuberculosis affected or exposed cattle and bison.** (1) As provided under RCW 16.36.090, the director may order the slaughter or destruction of any cattle and bison affected with or exposed to tuberculosis.

(2) As provided under RCW 16.36.096, subject to the availability of amounts appropriated for this specific purpose, owners, individuals, partnerships, corporations or other legal entities whose animals have been slaughtered or destroyed by order of the director may be eligible for indemnification in an amount not to exceed seventy-five percent of the appraised or salvage value of the animal ordered slaughtered or destroyed.

NEW SECTION

The following sections of the Washington Administrative Code are decodified as follows:

Old WAC Number	New WAC Number
16-86-020	16-86-013
16-86-095	16-86-025

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-86-030	Sale of quarantined animals.
WAC 16-86-050	Disinfecting premises.
WAC 16-86-055	Disinfecting vehicles.
WAC 16-86-060	Sale of brucellosis reactors.
WAC 16-86-070	Sale of tuberculosis reactors.
WAC 16-86-080	Branding and tagging of tuberculosis reactors.
WAC 16-86-090	Branding and tagging of brucellosis reactors.

**WSR 07-21-155****PROPOSED RULES****DEPARTMENT OF AGRICULTURE**

[Filed October 24, 2007, 11:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-16-091.

Title of Rule and Other Identifying Information: Chapter 16-89 WAC, Sheep and goat scrapie disease control.

Hearing Location(s): Natural Resources Building, Second Floor, Conference Room 259, 1111 Washington Street S.E., Olympia, WA 98504, on December 20, 2007, at 11:00 a.m.

Date of Intended Adoption: January 3, 2008.

Submit Written Comments to: Teresa Norman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARulesComments@agr.wa.gov, fax (360) 902-2092, by 5:00, December 21, 2007.

Assistance for Persons with Disabilities: Contact WSDA receptionist by December 13, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend chapter 16-89 WAC to make the chapter specific to sheep and goat diseases in Washington state, to update testing requirements, and to correct references to federal documents.

Reasons Supporting Proposal: These changes are necessary to prevent the spread of disease in the state and to help safeguard the health of Washington citizens and livestock.

This rule review is also a part of the department's ongoing commitment to regulatory improvement under Executive Orders 06-02, 05-03, and 97-02.

Statutory Authority for Adoption: Chapters 16.36 and 34.05 RCW.

Statute Being Implemented: Chapter 16.36 RCW.

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

Name of Proponent: Department of agriculture (WSDA), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Kohrs, DVM, Olympia, (360) 902-1878; and Enforcement: Leonard E. Eldridge, DVM, Olympia, (360) 902-1878.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030(1) requires that WSDA prepare a small business economic impact statement (SBEIS) if proposed rules will impose more than minor costs on affected businesses or industry. The department has analyzed the economic effects of the proposed revisions and has concluded that they do not impose more than minor costs on small businesses in the regulated industry, and, therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

October 17, 2007

Leonard E. Eldridge, DVM  
State Veterinarian

**Chapter 16-89 WAC****SHEEP AND GOAT ((SCRAPIE)) DISEASES ((CONTROL)) IN WASHINGTON STATE**

AMENDATORY SECTION (Amending WSR 02-24-042, filed 12/3/02, effective 1/3/03)

**WAC 16-89-010 Definitions.** ~~((For the purposes of))~~ In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

~~((1)) "Director" means the director of agriculture of the state of Washington or his or her duly authorized representative.~~

~~((2)) "Department" means the Washington state department of agriculture.~~

~~((3)) "APHIS" means the United States Department of Agriculture, Animal and Plant Health Inspection Service.~~

~~"Blackface sheep" means any purebred Suffolk, Hampshire, Shropshire ((purebred sheep of unknown ancestry with a black face, except for hair sheep)), or cross thereof; any nonpurebred sheep known to have Suffolk, Hampshire, or Shropshire ancestors; and any nonpurebred sheep of unknown ancestry with a black face, except for hair sheep. Note that hair sheep known to have Suffolk, Hampshire, or Shropshire ancestors are considered blackface sheep.~~

~~"Department" means the Washington state department of agriculture.~~

~~"Director" means the director of agriculture or the director's authorized representative.~~



~~((4))~~ "Flock" means a number of animals of sheep or goat species ~~(which)~~ that are kept, fed and herded together ~~(having)~~, and have single or multiple ownership. The term "flock" ~~(shall be)~~ is interchangeable with the term "herd" and ~~(shall apply)~~ applies to purebred and commercial sheep and goats.

~~((5))~~ "Washington flock identification number" means a unique flock identification number assigned to the owner or owners of each flock of blackface breeding sheep in the state of Washington.

~~((6))~~ "Official ~~(individual)~~ identification" means ~~(the unique identification of individual animals with an alphanumeric number applied as a tamper proof tag, tattoo, electronic device, or other tag approved by USDA or the director. The Washington flock identification number can serve as the official individual identification number if it contains a unique individual animal number in addition to the flock number)~~ an identification mark or device approved by APHIS for use in the scrapie eradication program. Examples include, but are not limited to, electronic devices, official ear tags, and legible official registry tattoos.

"Parturient" means visibly prepared to give birth or within two weeks before giving birth.

"Parturition" means the act of giving birth.

~~((7))~~ "Scrapie" means a transmissible spongiform encephalopathy that is a fatal, nonfebrile, transmissible, insidious, degenerative disease affecting the central nervous system of sheep and goats.

~~((8))~~ "Scrapie exposed animal" means any animal ~~(which)~~ that has been in the same flock at the same time within the previous sixty months as a scrapie positive animal, excluding limited contacts. ~~(Limited contacts are contacts between animals that occur off the premises of the flock and do not occur during or up to sixty days after parturition for any of the animals involved. Limited contacts do not include commingling or transportation to other flocks for the purposes of breeding. Examples of limited contacts include incidental contact in the show/sales ring. (See Appendix III of USDA's Voluntary Scrapie Flock Certification Program.)~~

(9) "Scrapie high risk animal" means an animal determined by epidemiologic investigation to be a high risk for developing clinical scrapie because the animal was the progeny of a scrapie positive dam, was born in the same contemporary lambing group as a scrapie positive animal or was born in the same contemporary lambing group as progeny of a scrapie positive dam. Based upon evidence from the latest research information available and upon recommendation of the state scrapie certification board, animals that fit the criteria for high risk animals may be exempted by the director as high risk animals if they are determined by genetic testing to be QR or RR at the 171 codon or are determined by other recognized testing procedures to pose no risk.

(10) "Scrapie infected flock" means any flock in which a scrapie positive animal has been identified by a state or federal animal health official.

(11) "Scrapie positive animal" means an animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories, USDA, laboratories accredited by the American Association of Veterinary Laboratory Diagnosticians (AAVLD) or another laboratory autho-

ized by state or federal officials to conduct scrapie tests through histological examinations of central nervous system or by other diagnostic procedures approved for scrapie diagnosis by USDA. Animals diagnosed by experimental tests for abnormal prion will not be considered infected animals for the purposes of this rule.

~~(12)~~ "Scrapie source flock" means a flock in which an animal was born and subsequently diagnosed as scrapie positive at less than fifty four months of age.

~~(13))~~ "Scrapie Flock Certification Program" means a national voluntary program for classification of flocks relative to scrapie.

## SCRAPIE

AMENDATORY SECTION (Amending WSR 02-24-042, filed 12/3/02, effective 1/3/03)

**WAC 16-89-015 Scrapie program standards.** ~~((Scrapie Eradication, State Federal Industry, Uniform Methods and Rules dated October, 2001,))~~ (1) The Voluntary Scrapie Flock Certification Program Standards, effective June 30, 2007, and Control of Scrapie ((in Sheep and Goats)), Title 9, Code of Federal Regulations, Part((s)) 54 and Scrapie in Sheep and Goats, Part 79 as revised ((August 21, 2001)) January 1, 2007, are adopted by reference as the basic standards for the scrapie control and eradication program in Washington state. Copies of these documents are on file at the Washington Department of Agriculture, Animal Services Division ((of Food Safety/Animal Health)), 1111 Washington Street, Olympia, Washington 98504 and are available ((on request)) for public inspection.

(2) The Voluntary Scrapie Flock Certification Program Standards may be found on the internet at: [http://www.aphis.usda.gov/animal\\_health/animal\\_diseases/scrapie/downloads/sfcp.pdf](http://www.aphis.usda.gov/animal_health/animal_diseases/scrapie/downloads/sfcp.pdf).

(3) Title 9 CFR, Parts 54 and 79 may be found on the internet at: [http://www.access.gpo.gov/nara/cfr/waisidx\\_06/9cfrv1\\_06.html](http://www.access.gpo.gov/nara/cfr/waisidx_06/9cfrv1_06.html).

AMENDATORY SECTION (Amending WSR 02-24-042, filed 12/3/02, effective 1/3/03)

**WAC 16-89-022 Scrapie identification of sheep and goats.** (1) ~~((Effective January 1, 2003, all sheep and goats of any age not in slaughter channels upon any change of ownership or intrastate movement must be officially identified as defined in 9 CFR Parts 54 and 79 and any sheep or goat over eighteen months of age as evidenced by eruption of the second incisor identified such that the animal may be traced to its flock of birth except:~~

~~(a) Commercial goats in intrastate commerce that have not been in contact with sheep as there has been no ease of scrapie in a commercial goat in the past ten years that originated in the state of Washington or attributed to exposure to infected sheep and there are no exposed commercial goat herds in the state of Washington.~~

~~(b) Commercial whitefaced sheep or commercial hair sheep under eighteen months of age in intrastate commerce as there has been no ease of scrapie in this exempted class that originated in the state of Washington in the last ten years~~

~~and there are no exposed commercial whitefaced or hair sheep flocks in the state that have been exposed by a female animal.~~

~~(2) The exemptions granted in subsection (1)(a) and (b) of this section will be void after ninety days if the conditions in subsection (1)(a) and (b) of this section no longer exist.))~~  
All sheep that are placed into commerce must have official scrapie program identification.

(2) All goats that are commingled with or exposed to sheep must have official scrapie program identification.

#### **Exemptions**

(3) Official scrapie program identification is not required for:

(a) Sheep or goats less than eighteen months of age that are moving directly to a slaughter facility or to an approved terminal feedlot;

(b) Goats that don't commingle with sheep;

(c) Sheep or goats that do not enter commerce and never leave their premises of origin;

(d) Sheep or goats moved for grazing or other management purposes.

AMENDATORY SECTION (Amending WSR 02-24-042, filed 12/3/02, effective 1/3/03)

~~**WAC 16-89-030 Quarantine.** ((Infected and source flocks or flocks that have received high risk animals must be placed and held under quarantine until the infected or high risk animals have been depopulated or the flock has qualified for and has been enrolled in the Scrapie Flock Certification Program (9 CFR Part 54, Subpart B). Flocks not participating in the certification program will remain under quarantine until the entire flock has been slaughtered or depopulated. Infected or high risk animals must be destroyed by means other than by slaughter under the direction of the state veterinarian.))~~  
Sheep or goats that are infected or suspected of being infected with an infectious or communicable disease after an official test will be quarantined as provided under RCW 16.36.010. If owners refuse to allow the department to test for diseases provided for in this chapter, all sheep and goats on the premises will be regarded as a menace to the health of livestock, and the premises on which they are kept will be immediately quarantined and no animals or products of these animals may be removed from the premises.

AMENDATORY SECTION (Amending WSR 99-09-026, filed 4/15/99, effective 5/16/99)

~~**WAC 16-89-090 ((Condemnation and)) Destruction and disposal of scrapie infected animals or flocks.** ((Animals))~~  
(1) As provided for under RCW 16.36.090, the director may order the slaughter or destruction of animals or flocks determined by the director or representatives of USDA to be infected with scrapie ((may be condemned and destroyed by order of the director)).

(2) The disposal of condemned scrapie infected animals and flocks will be under the direction of the director and the means of disposal will be other than by offering for human or animal consumption.

AMENDATORY SECTION (Amending WSR 02-24-042, filed 12/3/02, effective 1/3/03)

**WAC 16-89-100 Indemnification.** (1) As provided for under RCW 16.36.096, subject to the availability of amounts appropriated for this specific purpose, owners, individuals, partnerships, corporations or other legal entities whose animals ((or flocks)) have been slaughtered or destroyed ((or otherwise disposed of)) by order of the director may be eligible for indemnification in ((the form of cash payment for part of the value of the animals destroyed or otherwise disposed of and for reasonable actual costs for burial or disposal of animal carcasses)) an amount not to exceed seventy-five percent of the appraised or salvage value of the animal ordered slaughtered or destroyed.

(2) Indemnity payments will be paid only to an owner of sheep or goats that were born in the state of Washington or were imported into the state in compliance with existing Washington state statutes and rules. Payment of indemnity does not apply to animals belonging to the federal government or any of its agencies, this state or any of its agencies, or any municipal corporation. Indemnity may not be paid on animals eligible for federal indemnity payments.

~~((3) The amount of indemnity to be paid for each animal will be determined by the state veterinarian and will not exceed seventy-five percent of the appraised value of the animal up to the following maximum amounts:~~

~~(a) Ewes or does one year of age or older — three hundred dollars per head.~~

~~(b) Rams or bucks one year of age or older — six hundred dollars per head.~~

~~(c) Lambs or kids under one year of age — one hundred twenty-five dollars per head.~~

~~(4) In addition to the indemnity payments authorized in subsection (3) of this section, owners who voluntarily destroy rams found to be genetically prone to scrapie will be paid up to twenty-five dollars of the laboratory diagnostic fee.))~~

## **BRUCELLOSIS**

### NEW SECTION

**WAC 16-89-150 Brucellosis testing for sheep and goat dairies.** (1) All sheep and goats whose raw milk or raw milk products are intended for consumption must be from a flock or herd that is negative to a serological test for brucellosis within the previous twelve months. Any additions to the flock or herd must be tested negative for brucellosis within thirty days before introduction into the flock or herd.

(2) All raw milk and raw milk products from animals that test positive for brucellosis are prohibited from sale and must be destroyed.

(3) All sheep and goats whose raw milk or raw milk products are intended for consumption must have official identification.

### NEW SECTION

**WAC 16-89-160 Brucellosis quarantine and release.** (1) Any herd of goats in which brucellosis reactors are found will be quarantined. Positive or reactor classification shall be

based on standards listed in USDA Brucellosis Eradication Uniform Methods and Rules, effective October 1, 2003. The department maintains a copy of this document for public inspection. You may also find the information on the internet at: [www.aphis.usda.gov/animal\\_health/animal\\_diseases/brucellosis/downloads/umr\\_bovine\\_bruc.pdf](http://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/downloads/umr_bovine_bruc.pdf).

(2) The quarantine will be released when the entire quarantined herd has passed two consecutive negative blood tests without reactors. The first test must be not less than thirty days following removal of all reactors from the herd. The second test must not be less than ninety days nor more than one year following the date of the previous test.

(3) Goats that test positive to the brucellosis test must not be sold or offered for sale except for immediate slaughter.

(4) Quarantined goats may only be moved when accompanied by an official USDA form number VS1-27.

### Q FEVER

#### NEW SECTION

**WAC 16-89-170 Q fever testing requirements for sheep and goat dairies.** (1) All sheep and goats whose raw milk or raw milk products are intended for consumption must be from a herd that has tested negative for Q fever within the previous twelve months. Q fever is caused by the coccobacillus *Coxiella burnetii* and is highly infectious to humans.

(a) Any additions to the herd must be tested negative for Q fever within thirty days before introduction into the herd.

(b) Herds must be tested negative annually to maintain the dairy's raw milk license.

(c) The state veterinarian shall direct all testing procedures in accordance with state and federal standards for animal disease eradication.

(d) All raw milk and raw milk products from animals that test positive for Q fever are prohibited from sale and must be destroyed or pasteurized.

(2) All sheep and goats whose raw milk or raw milk products are intended for consumption must have official identification.

### TUBERCULOSIS

#### NEW SECTION

**WAC 16-89-180 Tuberculosis testing for sheep and goat dairies.** (1) All sheep and goats whose raw milk or raw milk products are intended for consumption must be from a herd that has tested negative for tuberculosis within the previous twelve months. Any additions to the herd must be tested negative for tuberculosis within sixty days before introduction into the herd.

(2) All raw milk and raw milk products from animals that test positive for tuberculosis are prohibited from sale and must be destroyed.

(3) All sheep and goats whose raw milk or raw milk products are intended for consumption must have official identification.

#### NEW SECTION

**WAC 16-89-190 Tuberculosis quarantine and release.** (1) Any herd of goats in which tuberculosis reactors are found will be quarantined. The sale or removal of any animal out of a quarantined herd is prohibited except for removal for immediate slaughter.

(2) Herds in which no gross lesions reactors occur and in which no evidence of *Mycobacterium bovis* infection has been disclosed may be released from quarantine after a sixty-day negative caudal fold tuberculosis retest of the entire herd. Herds containing one or more suspects to the caudal fold tuberculosis test will be quarantined until the suspect animals are:

(a) Retested by the comparative-cervical tuberculosis test within ten days of the caudal fold injection; or

(b) Retested by the comparative-cervical tuberculosis test after sixty days and the tuberculosis status of the suspect has been determined; or

(c) Shipped under permit directly to slaughter in accordance with state or federal laws and regulations and the tuberculosis status of the suspect has been determined.

(3) Herds in which *Mycobacterium bovis* infection has been confirmed and the herd has not been depopulated will remain under quarantine and must pass two tuberculin tests at intervals of at least sixty days and one additional test after six months from the previous negative test. Following the release from quarantine, these herds will also be subject to five annual tests on the entire herd.

#### NEW SECTION

The following sections of the Washington Administrative Code are decodified as follows:

Old WAC number	New WAC number
WAC 16-89-030	WAC 16-89-012
WAC 16-89-100	WAC 16-89-013

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-89-005	Purpose.
WAC 16-89-025	Recordkeeping.
WAC 16-89-040	Restriction of exposed animals.
WAC 16-89-050	Scrapie source flocks.
WAC 16-89-060	Movement and disposition of restricted animals.
WAC 16-89-070	Importation of exposed, suspect and high risk animals.
WAC 16-89-080	Reporting scrapie.
WAC 16-89-110	Cleaning and disinfection.