

WSR 17-23-030
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed November 7, 2017, 11:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-07-119.

Title of Rule and Other Identifying Information: The department is proposing to amend the following sections in chapter 388-76 WAC, Adult family home minimum licensing requirements: WAC 388-76-10510 Resident rights—Basic rights, 388-76-10515 Resident rights—Exercise of rights, 388-76-10522 Resident rights—Notice—Policy on accepting medicaid as a payment source, 388-76-10525 Resident rights—Description, 388-76-10530 Resident rights—Notice of services, 388-76-10532 Resident rights—Standardized disclosure of services form, 388-76-10540 Resident rights—Disclosure of fees and charges—Notice requirements—Deposits, 388-76-10545 Resident rights—Admitting and keeping residents, 388-76-10560 Resident rights—Adult family home management of resident financial affairs, 388-76-10561 Resident rights—Resident security deposit account, 388-76-10585 Resident rights—Examination of inspection results, 388-76-10595 Resident rights—Advocacy access and visitation rights, 388-76-10600 Resident rights—Mail and telephone privacy, 388-76-10615 Resident rights—Transfer and discharge, 388-76-10685 Bedrooms, 388-76-10700 Building official—Inspection and approval, 388-76-10720 Electronic monitoring equipment—Audio monitoring and video monitoring, 388-76-10750 Safety and maintenance, 388-76-10765 Storage, 388-76-10770 Telephones, 388-76-10784 Water hazards—Fences, gates, and alarms, 388-76-10795 Windows, 388-76-10800 Adult family home located outside of public fire protection, 388-76-10805 Automatic smoke detectors, 388-76-10810 Fire extinguishers, 388-76-10830 Emergency and disaster plan—Required, 388-76-10840 Emergency food supply, 388-76-10850 Emergency medical supplies, 388-76-10870 Resident evacuation capability levels—Identification required, 388-76-10885 Elements of emergency evacuation floor plan, 388-76-10890 Posting the emergency evacuation floor plan—Required, 388-76-10895 Emergency evacuation drills—Frequency and participation, 388-76-10900 Documentation of emergency evacuation drills—Required, and 388-76-10905 Emergency evacuation—Notification of department required.

The department is also proposing to create new WAC 388-76-10616 Resident rights—Transfer and discharge notice, and to repeal WAC 388-76-10520 Resident rights—General notice, 388-76-10555 Resident rights—Financial affairs, 388-76-10565 Resident rights—Adult family home system for management of resident financial affairs, and 388-76-10835 Elements of an emergency and disaster plan.

Hearing Location(s): On December 26, 2017, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than December 27, 2017.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., on December 26, 2017.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email KildaJA@dshs.wa.gov, by December 12, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adult family home business owners requested a review of chapter 388-76 WAC in order to clarify the rules governing the adult family home industry. The department is amending and repealing existing sections and creating new sections in chapter 388-76 WAC as a result of working collaboratively with adult family home business owners and regulatory staff.

Reasons Supporting Proposal: These changes will ensure that the rules are clarified to protect the rights and safety of residents, and that residents will receive care and services as assessed in a clean, sanitary, and homelike environment.

Statutory Authority for Adoption: Chapter 70.128 RCW.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Sherise Baltazar, P.O. Box 45600, Olympia, WA 98504, 360-725-3204; Implementation: Candace Goehring, P.O. Box 45600, Olympia, WA 98504, 360-725-2401; and Enforcement: Bett Schlemmer, P.O. Box 45600, Olympia, WA 98504, 360-725-2404.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Not a significant rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.030.

Explanation of exemptions: The department has analyzed the proposed rule and concluded that no new costs will be imposed on small businesses affected by them. The preparation of a comprehensive small business economic impact statement is not required under RCW 19.85.030.

November 3, 2017
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10510 Resident rights—Basic rights. The adult family home must ensure that each resident:

(1) Receives appropriate services, as identified in the assessment and negotiated care plan;

- (2) Is treated with courtesy, dignity, and respect;
- (3) Continues to enjoy basic civil and legal rights;
- (4) Has the ~~((enhance))~~ opportunity to exercise reasonable control over life decisions, such as choice, participation, and privacy;
- (5) Is provided the opportunity to engage in religious, political, civic, recreational, and other social activities of their choice;
- (6) Is cared for in a manner ~~((and in an environment))~~ that ~~((promotes maintenance or enhancement of each))~~ enhances or maintains the resident's quality of life ~~((including a))~~;
- (7) Is cared for in an environment that is safe, clean, comfortable, and homelike ~~((environment))~~; and
- ~~((7) Is allowed))~~ (8) Has the freedom to use ~~((his or her))~~ their personal belongings to the extent possible.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10515 Resident rights—Exercise of rights. The adult family home must:

- (1) Protect each resident's right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the home;
- (2) Protect and promote the rights of each resident and assist the resident to exercise ~~((his or her))~~ their rights as a resident of the home ~~((, as a citizen or resident of the United States))~~ and the state of Washington.
- (3) Be free of interference, coercion, discrimination, and ~~((reprisal))~~ retaliation from the home in exercising ~~((his or her))~~ the resident's rights; and
- (4) Ensure the resident's right to choose a representative who may exercise the resident's rights to the extent provided by law.

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10522 Resident rights—Notice—Policy on accepting medicaid as a payment source. The adult family home must fully disclose the home's policy on accepting medicaid payments. The policy must:

- (1) Clearly state the circumstances under which the adult family home provides care for medicaid eligible residents and for residents who become eligible for medicaid after admission;
- (2) Be provided both orally and in writing in a language ~~((that))~~ the resident understands;
- (3) Be provided to all prospective residents, before they are admitted to the home;
- (4) Be provided to any current residents who were admitted before this requirement took effect or who did not receive copies prior to admission;
- (5) Be written on a page that is separate from other documents and ~~((be written))~~ in a type font that is at least four-point; and
- (6) Be signed and dated by the resident and ~~((be))~~ kept in the resident record after signature.

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10525 Resident rights—~~((Description))~~ Postings. The adult family home must ~~((give each resident a written description of resident's rights that includes a))~~ post the following in a common use area where they can be easily viewed by the resident, resident representatives, the department, and visitors:

- (1) ~~((Description of how the home will protect personal funds))~~ The name, address, and telephone number for the home's regional residential care services licensing office;
- (2) ~~((Posting of names, addresses, and telephone numbers of the:

 - (a) State survey and certification agency;
 - (b) State licensing office;
 - (c) State ombuds program; and
 - (d) Protection and advocacy systems.))~~ State hotline poster that includes the telephone number for the state ombuds program; and
- (3) ~~((Statement informing the resident that he or she may file a complaint with the appropriate state licensing agency concerning alleged abandonment, abuse, neglect, or financial exploitation))~~ The disability rights of Washington poster.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10530 Resident rights—Notice of rights and services. (1) The adult family home must provide each resident ~~((notice in writing))~~ written notification of the resident's rights and services provided in the home in a language the resident understands and before ~~((admission, and))~~ the resident is admitted to the home. The notification must be reviewed at least once every twenty-four months after ~~((admission of))~~ the resident's admission and must include the following:

- ~~((+))~~ (a) Information regarding resident rights, including rights under chapter 70.129 RCW;
- (b) A complete description of the services, items, and activities customarily available in the home or arranged for by the home as permitted by the license;
- ~~((2))~~ (c) A complete description of the charges for those services, items, and activities including charges for services, items, and activities not covered by the home's per diem rate or applicable public benefit programs; ~~((and~~
- ~~((3))~~ (d) Rules of the ~~((home's operations))~~ home that must not violate resident rights in chapter 70.129 RCW;
- (e) How the resident can file a complaint concerning alleged abandonment, abuse, neglect, or financial exploitation with the state hotline; and
- (f) If the home will be managing the resident's funds, a description of how the home will protect the resident's funds.
- (2) The home must ensure the resident and a representative of the home sign and date an acknowledgement stating that the resident has received the notice of rights and services as outlined in this section. The home must retain a copy of the notice of rights and services and acknowledgement.

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10532 Resident rights—Department standardized disclosure ~~(of services form)~~ forms. (1) The adult family home is required to complete the department's standardized disclosure of services form.

~~((1))~~ The home must:

- (a) List on the form the scope of care and services available in the home;
- (b) Send the completed form to the department; and
- (c) Provide an updated form to the department thirty days prior to changing services, except in emergencies, when the scope of care and services is changing.

(2) The ~~(form does not:~~

~~(a) Replace the notice of services required when a resident is admitted to the adult family home as directed in chapter 388-76-10530 WAC.~~

~~(b) Replace any other form or policy as required in chapter 388-76 WAC))~~ adult family home must complete the disclosure of charges form as provided by the department and provide a copy to each resident who is admitted to the home and upon resident request.

AMENDATORY SECTION (Amending WSR 16-20-095, filed 10/4/16, effective 11/4/16)

WAC 388-76-10540 Resident rights—Disclosure of fees and charges—Notice requirements—Deposits. (1) ~~((The adult family home must complete the department's disclosure of charges form and provide a copy to each resident admitted to the home.~~

~~((2))~~ If the adult family home requires an admission fee, deposit, prepaid charges, or any other fees or charges, by or on behalf of a person seeking admission, the home must give the resident full disclosure in writing in a language the resident understands prior to its receipt of any funds.

~~((3))~~ (2) The disclosure must include:

(a) A statement of the amount of any admissions fees, security deposits, prepaid charges, minimum stay fees, or any other fees or charges specifying what the funds are paid for and the basis for retaining any portion of the funds if the resident dies, is hospitalized, transferred, or discharged from the home;

(b) The home's advance notice or transfer requirements; and

(c) The amount of the security deposits, admission fees, prepaid charges, minimum stay fees, or any other fees or charges that the home will refund to the resident if the resident leaves the home.

~~((4))~~ (3) The home must ensure that the resident and home sign and date an acknowledgement in writing stating that the resident has received a disclosure required under subsection ~~((2))~~ (1) of this section. The home must retain a copy of the disclosure and acknowledgement.

~~((5))~~ (4) If the home does not provide the disclosures in subsection ~~((3))~~ (2) of this section to the resident, the home must not keep the resident's security deposits, admission fees, prepaid charges, minimum stay fees, or any other fees or charges.

~~((6))~~ (5) If a resident dies, is hospitalized, or is transferred to another facility for more appropriate care and does not return to the home, the adult family home:

(a) Must refund any deposit or charges paid by the resident less the home's per diem rate for the days the resident actually resided, reserved, or retained a bed in the home regardless of any minimum stay policy or discharge notice requirements;

(b) May keep an additional amount to cover its reasonable and actual expenses incurred as a result of a private-pay resident's move, not to exceed five days per diem charges, unless the resident has given advance notice in compliance with the home's admission agreement; and

(c) Must not require the resident to obtain a refund from a placement agency or person.

~~((7))~~ (6) The adult family home must not retain funds for reasonable wear and tear by the resident or for any basis that would violate RCW 70.129.150.

~~((8))~~ (7) The adult family home must provide the resident with any and all refunds due to ~~((him or her))~~ them within thirty days from the resident's date of discharge from the home.

~~((9))~~ (8) Nothing in this section applies to provisions in contracts negotiated between a home and a certified health plan, health or disability insurer, health maintenance organization, managed care organization, or similar entities.

~~((10))~~ (9) The home must ensure that any resident admission agreement is consistent with the requirements of this section, chapters 70.128, 70.129, and 74.34 RCW, and other applicable state and federal laws.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10545 Resident rights—Admitting and keeping residents. The adult family home must:

(1) Only admit or keep individuals whose needs the home can safely serve in the home:

(a) With ~~((appropriate))~~ qualified available staff; and

(b) Through the provision of reasonable accommodations required by state and federal law~~((:));~~

(2) Not admit an individual before obtaining ~~((a thorough))~~ an assessment of the resident's needs and preferences, except in cases of a genuine emergency;

(3) Not admit an individual on a trial basis;

(4) Ensure that the admission of the individual does not negatively affect the ability of the home to meet the needs of or endangers the safety of other residents; and

~~((4))~~ (5) Comply with all applicable federal and state requirements regarding nondiscrimination.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10560 Resident rights—Adult family home management of resident financial affairs. (1) Each resident has the right to manage their own financial affairs. The adult family home must not require any resident to deposit their personal funds with the home.

(2) If the adult family home agrees to manage a resident's personal funds, the home must ~~((do all of the following))~~:

~~((1) Hold, safeguard, manage, and account for the personal funds of the resident deposited with the home);~~

~~((2)) (a) Have a written authorization from the resident;~~

~~(b) Develop and maintain a system that assures a full, complete, and separate accounting of each resident's personal funds given to the home on the resident's behalf;~~

~~(c) Ensure the resident's funds are not mixed with the home's funds or with the funds of any person other than another resident. If funds are pooled accounts, there must be a separate accounting for each resident's share;~~

~~((3)) (d) Deposit a resident's personal funds in excess of one hundred dollars in an interest-bearing (~~account or accounts~~) account(s) separate from any of the home's operating accounts(;) and that credits all interest earned on residents' funds to that account;~~

~~((4) If funds are pooled accounts, there must be a separate accounting for each resident's share; and)) (e) Notify the resident in writing of the name, address, and location of the depository.~~

~~((5)) (f) Keep a resident's personal funds that do not exceed one hundred dollars in a noninterest-bearing account, interest-bearing account, or petty cash fund; and~~

~~(g) Provide an individual financial record when requested by the resident or the resident's legal representative.~~

AMENDATORY SECTION (Amending WSR 12-01-004, filed 12/7/11, effective 1/7/12)

WAC 388-76-10561 Resident rights—Resident security deposit account. ~~((Any))~~ (1) Funds in excess of one hundred dollars that are paid to an adult family home as a security deposit or as prepayment for charges beyond the first month's residency(;

~~(4)) must be deposited by the adult family home in an interest bearing account that is separate from any of the home's operating accounts and credits all interest earned on the resident's funds to that account.~~

(2) The adult family home must:

(a) Ensure that a record of the account is available upon the request of the resident or their representative;

(b) Not commingle resident funds from these accounts with the adult family home's funds or with the funds of any person other than another resident(;) and if resident funds are commingled, the home must provide each resident with a separate accounting for their share;

(c) Ensure that the (~~account or accounts~~) account(s) are held, and remain until a resident refund occurs, in a financial institution as defined in (~~RCW 30.22.041,;~~) RCW 30A.22.040; and

(d) Notify (~~each~~) the resident in writing of the name, address, and location of the depository.

AMENDATORY SECTION (Amending WSR 10-14-058, filed 6/30/10, effective 7/31/10)

WAC 388-76-10585 Resident rights—Examination of inspection results. (1) The adult family home must place a copy of the following documents (~~in a visible location~~) in a common use area where they can be (~~examined~~) easily

viewed by residents, resident representatives, the department, and anyone interested without having to ask for them(;):

(a) ~~((A copy of))~~ The most recent inspection report and related cover letter; and

(b) ~~((A copy of))~~ All complaint investigation reports(;) and any related cover letters received since the most recent inspection or not less than the last twelve months.

(2) The adult family home must post a notice that the following documents are available for review if requested by the residents, resident representatives, the department, and anyone interested(;):

(a) A copy of each inspection report and related cover letter received during the past three years; and

(b) A copy of any complaint investigation reports and related cover letters received during the past three years.

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10595 Resident rights—Advocacy access and visitation rights. The adult family home must not interfere with each resident's right to have access to and from:

(1) Any representative of the state;

(2) The resident's own physician;

(3) The state long-term care ombuds program as established under chapter 43.190 RCW;

(4) The agency responsible for the protection and advocacy system for (~~developmentally disabled individuals~~) one or more of the following:

(a) Individuals with developmental disabilities as established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act;

~~((5) The agency responsible for the protection and advocacy system for mentally ill individuals))~~ (b) Individuals with mental illness as established under the Protection and Advocacy for (mentally ill) Individuals with Mental Illness Act;

~~((6) Immediate family or other relatives of))~~ (c) Individuals with disabilities as established under section 509 of the Rehabilitation Act of 1973, as amended, who are not served under the mandates of existing protection and advocacy systems created under federal law;

(5) Visitors who are visiting the resident (and others who are visiting) with the resident's consent (of the resident, subject to reasonable limits), which:

(a) The resident may withdraw at any time; and

(b) May only be limited when the limitation is to protect the rights or safety of others (and to the resident's right to deny or withdraw consent at any time;

~~((7) The agency responsible for the protection and advocacy system for individuals with disabilities as established under section 509 of the Rehabilitation Act of 1973, as amended, who are not served under the mandates of existing protection and advocacy systems created under federal law))~~ or that of the resident; and

~~((8))~~ (6) The resident's representative or an entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10600 Resident rights—Mail and telephone privacy. The adult family home must ensure each resident's right to privacy in communications, including the right to:

- (1) Send and receive unopened mail without delay;
- (2) Have writing paper, postage, and pens or pencils available that have been paid for by the resident; and
- (3) ~~(Be able to use a telephone where calls can be made without being overheard))~~ Have twenty-four hour per day access to a telephone to make and receive confidential calls.

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10615 Resident rights—Transfer and discharge. (1) The adult family home must allow each resident to stay in the home~~(s)~~ and not transfer or discharge the resident unless:

(a) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the home;

(b) The safety or health of individuals in the home is or would otherwise be endangered;

(c) The resident has failed to make the required payment for ~~(his or her))~~ their stay; or

(d) The home ceases to operate.

(2) Before a home transfers or discharges a resident, the home must~~(:~~

~~(a) First attempt through reasonable accommodations to avoid the transfer or discharge, unless agreed to by the resident;~~

~~(b) Notify the resident and representative and make a reasonable effort to notify, if known, an interested family member of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand;~~

~~(c) Record the reasons in the resident's record; and~~

~~(d) Include in the notice the items described in subsection (5) of this section.~~

~~(3) Except as specified in (4) of this section, the home must give notice of the transfer or discharge at least thirty days before the resident is transferred or discharged.~~

~~(4) The home may make the notice as soon as practicable before transfer or discharge when:~~

~~(a) The safety and health of the individuals in the home would be endangered;~~

~~(b) An immediate transfer or discharge is required by the resident's urgent medical needs; or~~

~~(c) A resident has not resided in the home for thirty days.~~

~~(5) The home must include the following in the written notice specified in subsection (2) of this section:~~

~~(a) The reason for transfer or discharge;~~

~~(b) The effective date of transfer or discharge;~~

~~(c) The location where the resident is transferred or discharged;~~

~~(d) The name, address, and telephone number of the state long-term care ombuds;~~

~~(e) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals; and~~

~~(f) For residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals))~~ first attempt through reasonable accommodations to avoid the transfer or discharge, unless agreed to by the resident.

(3) If the care needs of the resident can no longer be met by the facility and the resident's services are paid for by the department, then the department must identify other care settings or residential care options for the resident consistent with federal and state law.

~~((6))~~ (4) The home must give residents enough preparation and orientation to ensure a safe and orderly transfer or discharge from the home.

~~((7))~~ (5) If the home discharges a resident in violation of this section or WAC 388-76-10616, the home must readmit the resident to the home as soon as a gender-appropriate bed becomes available.

NEW SECTION

WAC 388-76-10616 Resident rights—Transfer and discharge notice. (1) The home must give the resident written thirty day notification informing them of the transfer or discharge. The home must also make a reasonable effort to notify, if known, any interested family member, in addition to the resident representative, of the transfer or discharge. The written notification must be in a language and manner the resident understands and include the following:

(a) The reason for transfer or discharge;

(b) The effective date of transfer or discharge;

(c) The location where the resident is transferred or discharged if known at the time of the thirty-day discharge notice;

(d) The name, address, and telephone number of the state long-term care ombuds;

(e) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of individuals with a developmental disability; and

(f) For residents with mental illness, the mailing address and telephone number of the agency responsible for the protection and advocacy of individuals with mental illness.

(2) The home may make the notice as soon as practicable before transfer or discharge when:

(a) The safety and health of the individuals in the home would be endangered;

(b) An immediate transfer or discharge is required by the resident's urgent medical needs; or

(c) A resident has not resided in the home for thirty days.

(3) A copy of the written notification must be in the resident's records.

AMENDATORY SECTION (Amending WSR 16-06-004, filed 2/17/16, effective 4/1/16)

WAC 388-76-10685 Bedrooms. The adult family home must meet all of the following requirements:

(1) Ensure each resident's bedroom is an outside room(~~(; which)~~) that allows entrance of natural light(~~(;)~~).

(2) Ensure window and door screens:

(a) Do not hinder emergency escape; and

(b) Prevent entrance of flies and other insects.

(3) Ensure each resident, including those using mobility aids such as wheelchairs and walkers has direct, unrestricted, and free access from the bedroom through doors, hallways, and corridors to common use areas and other rooms used for care and services including bathrooms(~~(;)~~).

(4) Make separate bedrooms available for each sex(~~(;)~~).

(5) Make (~~(reasonable)~~) efforts to accommodate residents wanting to share the room(~~(;)~~).

(6) Provide each bedroom with a minimum usable floor space as required in WAC 388-76-10690.

(7) Give each resident the opportunity to have a lock on their door if they (~~(ehose)~~) choose to unless having a locked door would be unsafe for the resident and this is documented in the resident's negotiated careplan.

(8) Ensure each bedroom has a closet or a wardrobe, armoire, or reasonable (~~(faesimile thereof)~~) storage space for clothes. Neither the closet nor wardrobe/armoire floor space will be considered a part of the room's usable square footage. The home must not remove a closet in order to provide additional floor space.

(9) Ensure there are no more than two residents to a bedroom(~~(;)~~).

(10) Unless the resident chooses to provide their own furniture and bedding, the home must provide each resident a bed thirty-six inches or (~~(more wide)~~) wider with:

(a) A clean, comfortable mattress;

(b) A waterproof cover for use when needed or requested by the resident;

(c) Clean sheets and pillow cases;

(d) Adequate clean blankets to meet the needs of each resident; and

(e) Clean pillows.

(11) Do not use the upper bunk of double-deck beds for a resident's bed(~~(;)~~).

(12) Provide each resident a call bell (~~(or intercom system if)~~), or an alternative way of alerting staff in an emergency, that the resident can use, unless the provider, entity representative, resident manager, or caregiver bedroom is (~~(not)~~) within hearing distance of (~~(each resident)~~) the resident's bedroom (~~(and the system is required by the department)~~).

(13) Ensure that members of the household, other than residents, do not share bedrooms with residents(~~(; and)~~).

(14) Ensure a resident does not share a bedroom with a person under eighteen years of age, unless the person is the resident's own child.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10700 Building official—Inspection and approval. The adult family home must have the building inspected and approved for use as an adult family home by the local building official:

(1) Before licensing; and

(2) After any construction changes that(~~(; (a) Affect resident's ability to exit the home; or (b) Change, add or modify a resident's bedroom)~~) require a building permit.

AMENDATORY SECTION (Amending WSR 09-03-029, filed 1/12/09, effective 2/12/09)

WAC 388-76-10720 Electronic monitoring equipment—Audio monitoring and video monitoring. (1) Except as provided in this section or in WAC 388-76-10725, the adult family home must not use the following in the home:

(a) Audio monitoring equipment; or

(b) Video monitoring equipment if it includes an audio component.

(2) The home may video monitor and video record activities in the home, without an audio component, only in the following areas:

(a) Entrances and exits if the cameras are:

(i) Focused only on the entrance or exit doorways; and

(ii) Not focused on areas where residents gather(~~(;)~~);

(b) Outdoor areas not commonly used by residents; and

(c) Designated smoking areas, subject to the following conditions:

(i) Residents are assessed as needing supervision for smoking;

(ii) A staff person watches the video monitor at any time the area is used by such residents;

(iii) The video camera is clearly visible; and

(iv) The video monitor is not viewable by general public(~~(; and)~~).

~~((+))~~ (3) The home (~~(notifies)~~) must notify all residents in writing of the video monitoring equipment.

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10750 Safety and maintenance. The adult family home must:

(1) Keep the home both internally and externally in good repair and condition with a safe, comfortable, sanitary, and homelike environment that is free of hazards;

(2) Ensure that there is existing outdoor space that is safe and usable for residents;

(3) Provide clean, functioning, safe, adequate household items and furnishings to meet the needs of each resident;

(4) Ensure items and furnishings brought into the home by the resident for their use are clean, functioning, and safe;

(5) Provide safe and functioning systems for:

(a) Heating;

(b) Cooling, which may include air circulating fans;

(c) Hot and cold water;

(d) Electricity;

(e) Plumbing;

(f) Garbage disposal;

(g) Sewage;

(h) Cooking;

(i) Laundry;

(j) Artificial and natural light;

(k) Ventilation; and

(l) Any other feature of the home(=);

~~((5))~~ (6) Ensure water temperature is at least one hundred five degrees and does not exceed one hundred twenty degrees Fahrenheit at all fixtures used by or accessible to residents, such as:

- (a) Tubs;
- (b) Showers; and
- (c) Sinks(=);

~~((6) Provide storage for)~~ (7) Ensure all toxic substances(=, poisons=) and ((other)) hazardous materials that ((is only accessible to residents under direct supervision, unless the resident is assessed for and the negotiated care plan indicates it is safe for the resident to use the materials unsupervised=)) include but are not limited to those with any one or more of the following warning labels are kept in locked storage and in their original containers:

- (a) Danger;
- (b) Poison;
- (c) Corrosive;
- (d) May cause burns; or
- (e) Vapors harmful.

~~((7))~~ (8) Provide rapid access for all staff to any bedroom, toilet room, shower room, closet, other room occupied by each resident;

~~((8))~~ (9) Keep all firearms locked and accessible only to authorized persons; and

~~((9))~~ (10) Keep the home free from:

- (a) Rodents;
- (b) Flies;
- (c) Cockroaches(=); and
- (d) Other vermin.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10765 Storage. The adult family home must:

(1) Supply each resident with adequate and reasonable storage space for:

- (a) Clothing;
- (b) Personal possessions; and
- (c) Upon request, a lockable container or storage space for small items, unless ~~((the))~~:

(i) The resident ((has)) bedroom is a ((private)) single occupancy room with a lockable door; and

(ii) Only the resident ((room can be locked by the resident)) and appropriate staff have a key to the door.

~~((2) Provide locked storage for all prescribed and over-the-counter medications as per WAC 388-76-10485=)~~

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10770 Telephones. The adult family home must ~~((provide))~~:

(1) Have at least one working ((nonpay)) telephone in the home that does not cost residents money to use; and

(2) Allow residents reasonable access to the telephone((= and

(3) Privacy for the resident when making or receiving)) to make and receive calls.

AMENDATORY SECTION (Amending WSR 09-03-030, filed 1/12/09, effective 2/12/09)

WAC 388-76-10784 Water hazards—Fences, gates, and alarms. For any adult family home newly licensed after July 1, 2007 or any currently licensed adult family home that adds or modifies a new or existing water hazard after July 1, 2007 must ensure:

(1) ~~((Comply with this section and))~~ Pools, spas, and hot tubs are installed according to the requirements of the:

- (a) International Residential Code (IRC); and
- (b) Washington state amendments to the International Residential Code (IRC).

(2) ~~((Enclose))~~ Water hazards over twenty-four inches deep ((with)) are:

(a) Enclosed by fences and gates at least forty-eight inches high; and

(b) Equipped with audible ((alarms)) alarm that sound when doors, screens, and gates that directly lead to or surround the water hazard((=)) are opened.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10795 Windows. (1) The adult family home must ensure the interior sill height of the bedroom window is not more than forty-four inches above the floor.

(2) For homes licensed after July 1, 2007, the department will not approve alternatives to the sill height requirement such as step(s), raised platform(s), or other devices placed by or under the window openings.

(3) The bedroom window must have the following:

(a) A minimum opening area of 5.7 square feet, except ~~((a))~~ that grade level floor window openings may have a minimum clear opening of 5.0 square feet;

(b) A minimum opening height of twenty-four inches; and

(c) A minimum opening width of twenty inches.

(4) The home must ensure the bedroom window can be opened from inside the room without keys ~~((=))~~, tools, or special knowledge or effort to open.

(5) When resident bedroom windows are fitted with storm windows, the home must equip the storm windows with release mechanisms that:

(a) Easily open from the inside; and

(b) Do not require a key or special knowledge or effort to open.

(6) ~~((The home must ensure that))~~ For each basement and each resident bedroom window((=)) that meets the requirements of subsections (1), (2), and (3) of this section, ((are kept free from obstructions that might block or interfere with access for emergency escape or rescue)) the home must ensure the egress section of the window, both inside and outside of the home, has nothing on or above the window sill to obstruct or hinder emergency egress.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10800 Adult family home located outside of public fire protection. (1) If the adult family home is

located in an area without public fire protection, the home must have written verification of adequate fire protection from the fire authority.

(2) If the local fire authority requires the home to have a fire extinguisher with a rating other than that required under WAC 388-76-10810(1), the home must meet this requirement.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10805 Automatic smoke detectors. (1) The adult family home must ensure approved automatic smoke detectors are installed and maintained according to manufacturer instructions:

~~((1) Installed;)~~ (2) At a minimum, smoke detectors must be located in the following ~~((locations))~~ areas:

(a) Every resident bedroom ~~((used by a resident))~~;

(b) In ~~((proximity to the area where the))~~ the immediate vicinity of resident ~~((or))~~ bedroom(s), and if applicable, the sleeping areas used by the adult family home staff ~~((sleeps))~~; and

(c) On every level of a multilevel home.

~~((2) Installed in a manner so that)~~ (3) The home must ensure the fire warning is heard in all parts of the home upon activation of a single detector ~~((and))~~.

~~((3))~~ (4) Each smoke detector must be kept in working condition at all times.

AMENDATORY SECTION (Amending WSR 08-09-028, filed 4/8/08, effective 5/9/08)

WAC 388-76-10810 Fire extinguishers. (1) The adult family home must have an approved five pound 2A:10B-C rated fire extinguisher on each floor of the home.

(2) The home must ensure ~~((the))~~ fire extinguishers are:

(a) ~~((Installed according to manufacturer recommendations))~~ Mounted or securely fastened in a stationary position;

(b) Inspected and serviced annually;

(c) In proper working order; ~~((and))~~

(d) ~~((Readily available for use))~~ Accessible at all times ~~((3) If required by the local fire authority, the home must provide different fire extinguishers in place of the fire extinguishers required in subsection (1) of this section))~~; and

(e) Not located behind a locked door.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10830 Emergency and disaster plan—Required. The adult family home must have a written emergency and disaster plan ~~((and procedures))~~ to meet the needs of each resident during emergencies and disasters. The plan must include:

(1) Responding to natural and man-made emergencies and disasters that may reasonably occur at the home;

(2) Actions to be taken by staff and residents during and after an emergency or disaster; and

(3) The fire drill plan for evacuation of the home.

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10840 Emergency food supply. (1) The adult family home must have an on-site emergency food supply ~~((that can be stored with other food in the home and))~~ that:

~~((1))~~ (a) Will last for a minimum of seventy-two hours for each resident and each household member;

~~((2))~~ (b) Meets the dietary needs of each resident, including any specific dietary restrictions ~~((any resident))~~ they may have;

(c) Can be stored with other food in the home; and

~~((3))~~ (d) Is sufficient, safe, sanitary, and uncontaminated.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10850 Emergency medical supplies. The adult family home must ~~((have emergency medical supplies that include))~~:

(1) ~~((First aid))~~ Have emergency medical supplies on-hand for the application of basic first aid during an emergency or disaster;

(2) Replenish the emergency medical supplies as they are used; and

~~((2) A first aid))~~ (3) Have a first aid manual.

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10870 Resident evacuation capability levels—Identification required. The adult family home must ensure that each resident's assessment, preliminary service plan, and negotiated care plan identifies ~~((and each resident's preliminary care plan and negotiated care plan))~~ and describes the resident's ability to evacuate the home according to the following descriptions:

(1) Independent: Resident is physically and mentally capable of ~~((safely getting out of))~~ independently evacuating the home without the assistance of another individual or the use of mobility aids. The department will consider a resident independent if capable of getting out of the home after one verbal cue ~~((;))~~.

(2) Assistance required: Resident is not physically or mentally capable of ~~((getting out of))~~ evacuating the ~~((house))~~ home without assistance from another individual or mobility aids.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10885 Elements of emergency evacuation floor plan. The adult family home must ensure ~~((the))~~ there is an emergency evacuation floor plan ~~((has))~~ for each level of the home that:

(1) ~~((An accurate floor plan of the home, including))~~ Is accurate and includes rooms, hallways, and exits (such as doorways and windows) to the outside of the home;

(2) Illustrates the emergency evacuation (~~routes showing the paths to take~~) route(s) to exit the home, with the route to the designated emergency egress door being easily identifiable; and

(3) Identifies the designated safe location for the residents to meet outside the home.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10890 Posting the emergency evacuation floor plan—Required. The adult family home must display an emergency evacuation floor plan on each floor of the home ~~(in)~~ and the plan must:

(1) Be posted in a visible location (~~in the home~~) commonly used by residents, staff, and visitors alike; and

(2) ~~((Common areas normally used by residents, staff and visitors))~~ Illustrate the evacuation route from the rooms on that floor to the designated safe location outside the home.

AMENDATORY SECTION (Amending WSR 16-20-095, filed 10/4/16, effective 11/4/16)

WAC 388-76-10895 Emergency evacuation drills—Frequency and participation. (1) There are two types of emergency evacuation drills:

(a) A full evacuation is evacuation from the home to the designated safe location; and

(b) A partial evacuation is evacuation to the designated emergency egress door.

(2) The adult family home must ensure:

~~((1))~~ (a) Partial emergency evacuation drills occur during random staffing shifts at least every two months, with each resident participating in at least one each calendar year; and

~~((2))~~ (b) All residents take part in a full emergency evacuation drill together and at the same time at least ~~((one emergency evacuation drill))~~ once each calendar year ~~((that includes full evacuation from the home to a safe location))~~.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10900 Documentation of emergency evacuation drills—Required. The adult family home must document ~~((in writing))~~ the following for all emergency evacuation drills ~~((which must include))~~:

(1) Names of each resident and staff involved in the drill;

(2) Name of the person conducting the drill;

(3) Date and time of the drill;

(4) Whether the drill was a full or partial emergency evacuation; and

~~((4))~~ (5) The length of time it took to evacuate ~~((all residents))~~.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10905 Emergency evacuation—Notification of department required. The adult family home must immediately ~~((call))~~ notify the ~~((department's complaint))~~

department by calling its toll free ~~((complaint))~~ hotline telephone number ~~((of))~~ when:

(1) The home is on emergent stand-by for evacuation;

(2) There is any fire; or

~~((2) Emergency evacuation))~~ (3) Residents were evacuated from the home.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-76-10520 Resident rights—General notice.

WAC 388-76-10555 Resident rights—Financial affairs.

WAC 388-76-10565 Resident rights—Adult family home system for management of resident financial affairs.

WAC 388-76-10835 Elements of an emergency and disaster plan.

WSR 17-23-036

PROPOSED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed November 7, 2017, 4:55 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-19-100.

Title of Rule and Other Identifying Information: Amend the following WAC to comply with new Public Records Act requirements (section 3, chapter 304, Laws of 2017: WAC 390-14-025 How do I make a public records request for commission records under the Public Records Act?, 390-14-028 How are public records requests for electronic records processed?, and 390-14-030 What are the charges for inspecting or copying public records?).

Hearing Location(s): On December 27, 2017, at 2:00 p.m., at the Public Disclosure Commission (PDC), 711 Capitol Way, Suite 206, Olympia, WA 98501.

Date of Intended Adoption: January 25, 2018.

Submit Written Comments to: Barbara Sandahl [Sandahl], PDC, 711 Capitol Way, Suite 206, Olympia, WA 98504, email pdc@pdc.wa.gov, fax 360-753-7112, by December 26, 2017.

Assistance for Persons with Disabilities: Contact Jana Greer, phone 360-753-1111, fax 360-753-7112, email pdc@pdc.wa.gov, by December 22, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments to chapter 42.56 RCW require agencies to adopt new rules establishing fees for producing copies of public records. Amended statute allows the agency to use default copy fee schedule provided for in the new law. The statute also allows an agency to waive any charge assessed for a public record pursuant to a rule.

Reasons Supporting Proposal: Necessary to comply with amendments to chapter 42.56 RCW.

Statutory Authority for Adoption: RCW 42.17A.110(1), 42.56.040 (1)(d), 42.56.120 (as amended by section 3, chapter 304, Laws of 2017).

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

Name of Proponent: PDC, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Barbara Sandahl, PDC, 360-753-1111.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Is exempt under RCW 19.85.030 (1)(a)(i).

Explanation of exemptions: Exempt under RCW 19.85.-030 (1)(a)(i) because the rule will not impose more than minor costs on businesses.

November 7, 2017

B. G. Sandahl
Deputy Director

AMENDATORY SECTION (Amending WSR 12-18-015, filed 8/24/12, effective 9/24/12)

WAC 390-14-025 How do I make a public records request for commission records under the Public Records Act? (1) **Making a public records request.** You may make a request to inspect or copy public records in person by completing the public records request form, or by sending the form or a letter, fax or email to the public records officer.

The commission office is located at 711 Capitol Way, Room 206, Evergreen Plaza Building, Olympia, Washington. The mailing address is: Public Disclosure Commission, P.O. Box 40908, Olympia, Washington 98504-0908. Telephone number: 360-753-1111. Toll-free telephone number: 1-877-601-2828. Facsimile number: 360-753-1112. Email: pdc@pdc.wa.gov. Mark your request to the attention of the public records officer. Include contact information such as your name, address, email address and telephone number, or other contact information. Your request must identify the public records requested, the date of your request, and describe whether you want copies or if you want only to inspect the

records. ~~((The public records officer may ask you to confirm that you will pay for the records or ask you for a deposit.))~~

(2) **Form.** A public records request form is available for you at the commission office and online at www.pdc.wa.gov.

(3) **Email requests.**

(a) Send your email request to pdc@pdc.wa.gov. Do not send your request to other commission email addresses. This procedure helps the agency see your request so it can respond timely. Include the information described in subsection (1) of this section. Email requests sent to agency email addresses other than pdc@pdc.wa.gov will not be considered a public records request under chapter 42.56 RCW but will be responded to as an informal routine inquiry or a general request for information.

(b) Public records requests received via email after regular business hours or on nonbusiness days will be considered received the next business day.

(4) **Making oral requests.** To avoid misunderstandings about what records you seek, you are strongly encouraged to make a public records request in writing. If you make an oral request, the public records officer will ask you to confirm it before beginning to process it. Your request will be processed after the agency verifies your request in writing.

(5) **Records posted on the commission web site.** You are strongly encouraged to review the commission's web site at www.pdc.wa.gov prior to making a request to see if the records you seek are already posted.

(6) **Assistance.** Whenever you request assistance in making a public records request, the public records officer will assist you in identifying the appropriate public record.

AMENDATORY SECTION (Amending WSR 12-18-015, filed 8/24/12, effective 9/24/12)

WAC 390-14-028 How are responsive public records ~~((requests for electronic records processed))~~ produced? (1) ~~((Requesting electronic records. The process for you to request an electronic public record is the same as for requesting paper public records. See WAC 390-14-025.~~

~~((2)))~~ **Providing electronic records.** The commission may provide records to you electronically ~~((if you request them to be provided electronically, to the extent feasible and reasonable and within current resources. Given technology and resource changes, the commission may adjust at any time how or in what specific format records may be provided electronically, and those adjustments may not be set out in rule. However,))~~ or may provide paper copies. The following general procedures apply to production of electronic copies:

(a) Records provided on the commission's web site have been provided to you electronically. The commission will not provide those records in another electronic format. The public records officer will identify the link to the web site location of the records you request.

(b) If you request an electronic record that is not on the web site and not reasonably translatable into the format you request, or the commission cannot provide the record in electronic format you request ~~((given the commission's current technology and resources))~~, then at the commission's option either:

(i) Electronic copies will be provided to you in a format currently used by the commission; or

(ii) Paper copies will be provided to you.

(c) The commission does not have an obligation to convert an electronic record to a digital format that is different than a format maintained by the commission.

(d) The commission does not have an obligation to purchase additional software, equipment, licenses or other items to respond to your requests for records.

~~((3))~~ **(2) Exempt information in electronic records.**

When electronic records you request require redaction to withhold exempt information and redactions cannot be provided electronically, or the records are contained in a database or program that contains exempt or proprietary information, the commission may provide you paper copies with any redactions noted on those copies.

AMENDATORY SECTION (Amending WSR 12-18-015, filed 8/24/12, effective 9/24/12)

WAC 390-14-030 What are the charges for inspecting or copying public records? (1) The commission does not charge a fee for the inspection of public records made available in the commission office or on the commission web site.

(2) The commission does not charge a fee for locating public records and making them available to you for copying.

(3)(a) The commission may charge ((a published fee for copying records, if you order copies. The commission's schedule of charges for copies is published on the commission's web site at www.pdc.wa.gov and is available by contacting the public records officer. The executive director may revise the schedule periodically as needed.)) fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120.

(b) Pursuant to RCW 42.56.120(2), the commission declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated by the legislature for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and to calculate costs; and a study would interfere with and disrupt other essential agency functions.

(4) Before beginning to make copies, the public records officer may require you to deposit up to ten percent of the estimated costs of copying and ((mailing all)) transmitting the records ((selected by you)) responsive to your request. The public records officer may also require you to pay the remainder of the copying costs before providing you all the records, or require you to pay the costs of ((copying)) providing an installment of records before providing you that installment. If you do not retrieve or pay for an installment of records within the time frame set by the public records officer, the balance of the request will not be fulfilled and your request will be closed.

((5) If it is reasonable and feasible to do so, the commission may provide copies of records electronically. See WAC 390-14-028. Charges for electronic records, if any, are provided in the commission's schedule. Electronic disclosure of

records includes providing them on the commission's web site.))

WSR 17-23-071
PROPOSED RULES
DEPARTMENT OF
NATURAL RESOURCES
 [Filed November 13, 2017, 11:23 a.m.]

Supplemental Notice to WSR 17-15-076.

Preproposal statement of inquiry was filed as WSR 17-11-074.

Title of Rule and Other Identifying Information: Topographic map requirements, the proposed rule is an addition to chapter 332-130 WAC creating a new section that provides requirements for the production of topographic maps prepared by licensed professionals. The department of natural resources (DNR) is authorized by RCW 58.24.040(1) to "Set up standards of accuracy and methods of procedure."

Hearing Location(s): On January 2, 2018, at 2:00 p.m., at the Natural Resources Building, Room #342, 1111 Washington Street S.E., Olympia, WA.

Date of Intended Adoption: February 16, 2018.

Submit Written Comments to: Patrick J. Beehler, PLS, email pat.beehler@dnr.wa.gov, fax 360-902-1778, by February 1, 2018.

Assistance for Persons with Disabilities: Contact Patrick J. Beehler, PLS, phone 360-902-1181, fax 360-902-1778, email pat.beehler@dnr.wa.gov, by February 1, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Topographic surveys and the maps produced to document and display the results are a product of professional practice separate from boundary surveys. Our intention in drafting the proposed WAC is to provide a set of requirements for a topographic map that can stand on its own apart from boundary survey map requirements as set in WAC 332-130-150. The proposed requirements are specifically for topographic maps.

Reasons Supporting Proposal: There are currently no requirements for the production of topographic maps by licensed professionals. Critical and pertinent information is often missing from the final map. This proposal will direct the professional to provide information that is needed for the intelligent interpretation of the final topographic map. The proposed rule will be used by the board of registration for engineers and land surveyors to assure compliance. The language shown below is a revision to the previous language as included with the CR-102 issued as WSR 17-15-076. The revisions eliminate certain items that may have been confusing and subject to interpretation.

Statutory Authority for Adoption: RCW 58.24.040(1).

Statute Being Implemented: RCW 58.24.040(1).

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

Name of Proponent: DNR, governmental.

Name of Agency Personnel Responsible for Drafting: Patrick J. Beehler, DNR, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1181; Implementation: Kris-

tina Horton, DNR, 901 88th Street S.E., Tumwater, WA 98501, 360-902-1197; and Enforcement: Board of Registration for PE and LS, 6135 Martin Way East, Lacey, WA 98516, 360-664-1564.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. There is no fiscal impact to the professional surveyor preparing the topographic map.

November 7, 2017
 Angus Brodie
 Deputy Supervisor
 State Uplands

NEW SECTION

WAC 332-130-145 Topographic map requirements.

The following requirements shall apply to topographic mapping surveys performed by individuals licensed under chapters 18.43, 18.96, and 18.210 RCW. Such requirements should be considered minimum only. The professional conducting the work will determine what precision and accuracy are expected to be utilized for topographic mapping services necessitating various levels of accuracy. Negotiation, requests, and contractual requirements with clients, jurisdictions or other professionals will determine the specifics and quality of the information provided.

The following elements shall be included on every topographic map.

- (1) Graphic information:
 - (a) North arrow;
 - (b) Map scale and graphic scale bar;
 - (c) Legend of symbols used;
 - (d) Company and licensee contact information;
 - (e) Seal and signature of licensee.
- (2) Statements of clarification of information shown on topographic mapping.
 - (a) Vertical datum used (such as "assume," "NAVD 88," NSRS, etc.);
 - (b) Purpose or intended use of topographic mapping;
 - (c) Basis of elevations citing benchmark(s) used with elevation(s);
 - (d) Source of contours;
 - (e) Sufficient labeling to determine contour interval(s);
 - (f) Project bench marks established (if any);
 - (g) Statement of elevations and contour accuracy and limitation of use;
 - (h) Source of boundary information.
- (3) Utilities information:
 - (a) Source of surface markings;
 - (b) Statement of positional limitation of utility depiction;
 - (c) A statement of the scope of work between the project owner and the licensee regarding the comprehensiveness, exclusions, and limits of the utility investigations leading to these utility depictions.

WSR 17-23-083
PROPOSED RULES
WASHINGTON STATE
SCHOOL FOR THE BLIND
 [Filed November 14, 2017, 2:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-19-078.

Title of Rule and Other Identifying Information: Repeal and replace WAC 72-276-090 Costs of providing copies of public records.

Hearing Location(s): On January 4, 2018, at 1:00 p.m., at the Washington State School for the Blind, 2214 East 13th Street, Administration Building/Board Room, Vancouver, WA 98661.

Date of Intended Adoption: January 4, 2018.

Submit Written Comments to: Janet Kurz, Executive Assistant, 2214 East 13th Street, Vancouver, WA 98661, email janet.kurz@wssb.wa.gov, fax 360-737-2120, by December 29, 2017.

Assistance for Persons with Disabilities: Contact Janet Kurz, executive assistant, phone 360-947-3302, fax 360-737-2120, email janet.kurz@wssb.wa.gov, by December 29, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to comply with the 2017 legislative amendment to RCW 42.56.120, section 3, chapter 304, Laws of 2017, that requires that effective July 23, 2017, if an agency uses the new law's amended statutory default copy fee schedule (rather than determining actual costs of copies), the agency must have a rule declaring the reason it is not calculating actual costs is because to do so would be unduly burdensome. The School for the Blind is not calculating actual costs for copying records because to do so would be unduly burdensome. The School for the Blind intends to adopt the rule on a permanent basis so it can continue to use the statutory default copy fee schedule. In addition, RCW 42.56.120 as amended by section 3, chapter 304, Laws of 2017, allows an agency to waive any charge assessed for a public record pursuant to agency rule. The School for the Blind intends to enact a permanent rule to address waiver of charges assessed for a public record. The School for the Blind intends to continue to explain the procedures for payment for copies. Finally, the School for the Blind intends to repeal WAC 72-276-090, its copying fees rule originally adopted under former chapter 42.17 RCW because that rule is now outdated. The anticipated effects of the rule change is that it will change the copying fees for public records.

Reasons Supporting Proposal: To comply with the 2017 legislative amendment to RCW 42.56.120, section 3, chapter 304, Laws of 2017, that requires that effective July 23, 2017, if an agency uses the new law's amended statutory default copy fee schedule (rather than determining actual costs of copies), the agency must have a rule declaring the reason it is not calculating actual costs is because to do so would be unduly burdensome. The School for the Blind is not calculating actual costs for copying records because to do so would be unduly burdensome. The School for the Blind intends to adopt the rule on a permanent basis so it can continue to use

the statutory default copy fee schedule. In addition, RCW 42.56.120 as amended by section 3, chapter 304, Laws of 2017, allows an agency to waive any charge assessed for a public record pursuant to agency rule. The School for the Blind intends to enact a permanent rule to address waiver of charges assessed for a public record.

Statutory Authority for Adoption: RCW 42.56.040, 42.56.070, 42.56.100, 42.56.120 (as amended by section 3, chapter 304, Laws of 2017).

Statute Being Implemented: RCW 42.56.120 (as amended by chapter 304, Laws of 2017).

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

Name of Proponent: Washington State School for the Blind, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Janet Kurz, Vancouver, Washington, 360-947-3302; and Enforcement: Scott McCallum, Vancouver, Washington, 360-947-3301.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Pursuant to RCW 34.05.328 (5)(a)(i), this agency is not an agency mandated to comply with RCW 34.05.328. Further, the agency does not voluntarily make that section applicable to the adoption of this rule pursuant to subsection (5)(a)(ii), and to date, the joint administrative rules review committee has not made the section applicable to the adoption of this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Explanation of exemptions: This rule change is done to implement the legislative changes to public records copying fees dictated in the 2017 legislative amendment to RCW 42.56.120, section 3, chapter 304, Laws of 2017.

November 14, 2017
Scott McCallum
Superintendent

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 72-276-090 Costs of providing copies of public records.

WSR 17-23-092

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed November 15, 2017, 10:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-17-014.

Title of Rule and Other Identifying Information: Amending WAC 4-30-010 Definitions, 4-30-024 What public records are available?, 4-30-038 Fees, 4-30-050 What are the requirements concerning records and clients confidential information?, 4-30-051 What are the requirements concerning client records, including response to requests by clients and former clients for records?, and 4-30-140 What are the authority, structure, and processes for investigations and sanctions?

Hearing Location(s): On January 26, 2018, at 9:00 a.m., at the Green River College, Emerald City Room, 12401 S.E. 320th Street, Auburn, WA 98092.

Date of Intended Adoption: January 26, 2018.

Submit Written Comments to: Kirsten Donovan, Board Clerk, P.O. Box 9131, Olympia, WA 98507, email kirstend@cpaboard.wa.gov, fax 360-664-9190, by January 24, 2018.

Assistance for Persons with Disabilities: Contact Kirsten Donovan, phone 360-664-9191, fax 360-664-9190, TTY 711, email kirstend@cpaboard.wa.gov, by January 24, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board of accountancy proposes amending WAC 4-30-010, to add a definition for authorized person to the section, WAC 4-30-024 and 4-30-038, to rename and better conform the sections to: (1) Recent changes in the law concerning public records; (2) model rules recommended by the attorney general's office (chapter 44-14 WAC); and (3) current agency practices; WAC 4-30-050 and 4-30-051, to rename and incorporate aspects of the AICPA code of professional conduct into the sections; WAC 4-30-140, to rename, clarify, and simplify the section by allowing for the establishment of policies to define the responsibilities, process, and procedures for performing investigations and resolving disciplinary matters.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 18.04.055, chapter 304, Laws of 2017.

Statute Being Implemented: RCW 18.04.055, chapter 304, Laws of 2017.

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

Name of Proponent: Board of accountancy, governmental.

Name of Agency Personnel Responsible for Drafting: Charles Satterlund, 711 Capitol Way South, Suite 400, Olympia, WA 98501, 360-586-0785; Implementation and Enforcement: Board of Accountancy, 711 Capitol Way South, Suite 400, Olympia, WA 98501, 360-753-2586.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The board of accountancy is not a listed agency in RCW 34.05.328 (5)(a)(i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules are adopting or incorporating by reference without material change federal statutes or regulations,

Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

November 15, 2017
Charles E. Satterlund
Executive Director

AMENDATORY SECTION (Amending WSR 16-17-036, filed 8/9/16, effective 9/9/16)

WAC 4-30-010 Definitions. For purposes of these rules the following terms have the meanings indicated unless a different meaning is otherwise clearly provided in these rules:

~~((1))~~ **"Act"** means the Public Accountancy Act codified as chapter 18.04 RCW.

~~((2))~~ **"Active individual participant"** means an individual whose primary occupation is at the firm or affiliated entity's business. An individual whose primary source of income from the business entity is provided as a result of passive investment is not an active individual participant.

~~((3))~~ **"Affiliated entity"** means any entity, entities or persons that directly or indirectly through one or more relationships influences or controls, is influenced or controlled by, or is under common influence or control with other entities or persons. This definition includes, but is not limited to, parents, subsidiaries, investors or investees, coinvestors, dual employment or management in joint ventures or brother-sister entities.

~~((4))~~ **"Applicant"** means an individual who has applied:

- (a) To take the national uniform CPA examination;
- (b) For an initial individual license, an initial firm license, or initial registration as a resident nonlicensee owner;
- (c) To renew an individual license, a CPA-Inactive certificate, a CPA firm license, or registration as a resident nonlicensee firm owner;
- (d) To reinstate an individual license, a CPA-Inactive certificate, registration as a resident nonlicensee firm owner, or practice privileges.

~~((5))~~ **"Attest"** means providing the following services:

- (a) Any audit or other engagement to be performed in accordance with the statements on auditing standards;

- (b) Any review of a financial statement to be provided in accordance with the statements on standards for accounting and review services;

- (c) Any engagement to be performed in accordance with the statements on standards for attestation engagements; and

(d) Any engagement to be performed in accordance with the public company accounting oversight board auditing standards.

~~((6))~~ **"Audit," "review," and "compilation"** are terms reserved for use by licensees, as defined in ~~(subsection (30) of)~~ this section.

~~((7))~~ **"Authorized person"** means a person who is designated or has held out as the client's representative, such as a general partner, tax matters partner, majority shareholder, spouse, agent, or apparent agent.

"Board" means the board of accountancy created by RCW 18.04.035.

~~((8))~~ **"Breach of fiduciary responsibilities/duties"** means when a person who has a fiduciary responsibility or duty acts in a manner adverse or contrary to the interests of the person to whom they owe the fiduciary responsibility or duty. Such actions would include profiting from their relationship without the express informed consent of the beneficiary of the fiduciary relationship, or engaging in activities that represent a conflict of interest with the beneficiary of the fiduciary relationship.

~~((9))~~ **"Certificate"** means a certificate as a CPA-Inactive issued in the state of Washington prior to July 1, 2001, as authorized by the act, unless otherwise defined in rule.

~~((10))~~ **"Certificate holder"** means the holder of a valid CPA-Inactive certificate where the individual is not a licensee and is prohibited from practicing public accounting.

~~((11))~~ **"Client"** means the person or entity that retains a licensee, as defined in ~~(subsection (30) of)~~ this section, a CPA-Inactive certificate holder, a nonlicensee firm owner of a licensed firm, or an entity affiliated with a licensed firm to perform professional services through other than an employer/employee relationship.

~~((12))~~ **"Commissions and referral fees"** are compensation arrangements where the primary contractual relationship for the product or service is not between the client and licensee, as defined in ~~(subsection (30) of)~~ this section, CPA-Inactive certificate holder, nonlicensee firm owner of a licensed firm, or a person affiliated with a licensed firm; and

- (a) Such persons are not primarily responsible to the client for the performance or reliability of the product or service; or

- (b) Such persons add no significant value to the product or service; or

- (c) A third party instead of the client pays the persons for the products or services.

~~((13))~~ **"Compilation"** means providing a service to be performed in accordance with statements on standards for accounting and review services that is presenting in the form of financial statements, information that is the representation of management (owners) without undertaking to express any assurance on the statements.

~~((14))~~ **"Contingent fees"** are fees established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service.

~~((15))~~ **"CPA" or "certified public accountant"** means an individual holding a license to practice public accounting under chapter 18.04 RCW or recognized by the

board in the state of Washington, including an individual exercising practice privileges pursuant to RCW 18.04.350(2).

~~((16))~~ **"CPA-Inactive"** means an individual holding a CPA-Inactive certificate recognized in the state of Washington. An individual holding a CPA-Inactive certificate is prohibited from practicing public accounting and may only use the CPA-Inactive title if they are not offering accounting, tax, tax consulting, management advisory, or similar services to the public.

~~((17))~~ **"CPE"** means continuing professional education.

~~((18))~~ **"Fiduciary responsibility/duty"** means a relationship wherein one person agrees to act solely in another person's interests. Persons having such a relationship are fiduciaries and the persons to whom they owe the responsibility are principals. A person acting in a fiduciary capacity is held to a high standard of honesty and disclosure in regard to a principal. Examples of fiduciary relationships include those between broker and client, trustee and beneficiary, executors or administrators and the heirs of a decedent's estate, and an officer or director and the owners of the entity.

~~((19))~~ **"Firm"** means a sole proprietorship, a corporation, or a partnership. "Firm" also means a limited liability company or partnership formed under chapters 25.15 and 18.100 RCW and a professional service corporation formed under chapters 23B.02 and 18.100 RCW.

~~((20))~~ **"Firm mobility"** means an out-of-state firm that is not licensed by the board and meets the requirements of RCW 18.04.195 (1)(a)(iii)(A) through (D) exercising practice privileges in this state.

~~((21))~~ **"Generally accepted accounting principles"** (GAAP) is an accounting term that encompasses the conventions, rules, and procedures necessary to define accepted accounting practice at a particular time. It includes not only broad guidelines of general application, but also detailed practices and procedures. Those conventions, rules, and procedures provide a standard by which to measure financial presentations.

~~((22))~~ **"Generally accepted auditing standards"** (GAAS) are guidelines and procedures, promulgated by the AICPA, for conducting individual audits of historical financial statements.

~~((23))~~ **"Holding out"** means any representation to the public by the use of restricted titles as set forth in RCW 18.04.345 by a person that the person holds a license or practice privileges under the act and that the person offers to perform any professional services to the public. "Holding out" shall not affect or limit a person not required to hold a license under the act from engaging in practices identified in RCW 18.04.350.

~~((24))~~ **"Inactive"** means the individual held a valid certificate on June 30, 2001, has not met the current requirements of licensure and has been granted CPA-Inactive certificate holder status through the renewal process established by the board. A CPA-Inactive may not practice public accounting nor may the individual use the CPA-Inactive title if they are offering accounting, tax, tax consulting, management advisory, or similar services to the public.

~~((25))~~ **"Individual"** means a living, human being.

~~((26))~~ **"Independence"** means an absence of relationships that impair a licensee's impartiality and objectivity in rendering professional services for which a report expressing assurance is prescribed by professional standards.

~~((27))~~ **"Interactive self-study program"** means a CPE program that provides feedback throughout the course.

~~((28))~~ **"IRS"** means Internal Revenue Service.

~~((29))~~ **"License"** means a license to practice public accounting issued to an individual or a firm under the act or the act of another state.

~~((30))~~ **"Licensee"** means an individual or firm holding a valid license to practice public accounting issued under the act, including out-of-state individuals exercising practice privileges in this state under RCW 18.04.350(2) and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195 (1)(a) and (b).

~~((31))~~ **"Manager"** means a manager of a limited liability company licensed as a firm under the act.

~~((32))~~ **"NASBA"** means the National Association of State Boards of Accountancy.

~~((33))~~ **"Nonlicensee firm owner"** means an individual, not licensed in any state to practice public accounting, who holds an ownership interest in a firm permitted to practice public accounting in this state.

~~((34))~~ **"PCAOB"** means Public Company Accounting Oversight Board.

~~((35))~~ **"Peer review"** means a study, appraisal, or review of one or more aspects of the attest or compilation work of a licensee or licensed firm in the practice of public accounting, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed, including a peer review, or any internal review or inspection intended to comply with quality control policies and procedures, but not including the "quality assurance review" under ~~(subsection (38) of)~~ this section.

~~((36))~~ **"Person"** means any individual, nongovernmental organization, or business entity regardless of legal form, including a sole proprietorship, firm, partnership, corporation, limited liability company, association, or not-for-profit organization, and including the sole proprietor, partners, members, and, as applied to corporations, the officers.

~~((37))~~ **"Practice privileges"** are the rights granted by chapter 18.04 RCW to a person who:

(a) Has a principal place of business outside of Washington state;

(b) Is licensed to practice public accounting in another substantially equivalent state;

(c) Meets the statutory criteria for the exercise of privileges as set forth in RCW 18.04.350(2) for individuals or RCW 18.04.195 (1)(b) for firms;

(d) Exercises the right to practice public accounting in this state individually or on behalf of a firm;

(e) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board in this state;

(f) Must comply with the act and all board rules applicable to Washington state licensees to retain the privilege; and

(g) Consents to the appointment of the issuing state board of another state as agent for the service of process in

any action or proceeding by this state's board against the certificate holder or licensee.

~~((38))~~ **"Principal place of business"** means the office location designated by the licensee for purposes of substantial equivalency and reciprocity.

~~((39))~~ **"Public practice"** or the **"practice of public accounting"** means performing or offering to perform by a person or firm holding itself out to the public as a licensee, or as an individual exercising practice privileges, for a client or potential client, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of "reports," or one or more kinds of management advisory, or consulting services, or the preparation of tax returns, or the furnishing of advice on tax matters. The "practice of public accounting" shall not include practices that are permitted under the provisions of RCW 18.04.350(10) by persons or firms not required to be licensed under the act.

~~((40))~~ **"Quality assurance review or QAR"** is the process, established by and conducted at the direction of the board, to study, appraise, or review one or more aspects of the audit, compilation, review, and other professional services for which a report expressing assurance is prescribed by professional standards of a licensee or licensed firm in the practice of public accounting, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed.

~~((41))~~ **"Reciprocity"** means board recognition of licenses, permits, certificates or other public accounting credentials of another jurisdiction that the board will rely upon in full or partial satisfaction of licensing requirements.

~~((42))~~ **"Referral fees"** see definition of "commissions and referral fees" in ~~(subsection (12) of)~~ this section.

~~((43))~~ **"Report,"** when used with reference to any attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of the attested information or compiled financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in the practice of public accounting. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is involved in the practice of public accounting, or from the language of the report itself. "Report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to and/or special competence of the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence. "Report" does not include services referenced in RCW 18.04.350 (10) or (11) provided by persons not holding a license under this chapter as provided in RCW 18.04.350(14).

~~((44))~~ **"Representing oneself"** means having a license, practice privilege, certificate or registration that entitles the holder to use the title "CPA," "CPA-Inactive," or be a nonlicensee firm owner.

~~((45))~~ **"Rules of professional conduct"** means rules adopted by the board to govern the conduct of licensees, as defined in ~~(subsection (30) of)~~ this section, while representing themselves to others as licensees. These rules also govern the conduct of CPA-Inactive certificate holders, nonlicensee firm owners, and persons exercising practice privileges pursuant to RCW 18.04.350(2).

~~((46))~~ **"SEC"** means the Securities and Exchange Commission.

~~((47))~~ **"Sole proprietorship"** means a legal form of organization owned by one person meeting the requirements of RCW 18.04.195.

~~((48))~~ **"State"** includes the states and territories of the United States, including the District of Columbia, Puerto Rico, Guam, and the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands at such time as the board determines that the Commonwealth of the Northern Mariana Islands is issuing licenses under the substantially equivalent standards of RCW 18.04.350 (2)(a).

~~((49))~~ **"Statements on auditing standards (SAS)"** are interpretations of the generally accepted auditing standards and are issued by the Auditing Standards Board of the AICPA. Licensees are required to adhere to these standards in the performance of audits of financial statements.

~~((50))~~ **"Statements on standards for accounting and review services (SSARS)"** are standards, promulgated by the AICPA, to give guidance to licensees who are associated with the financial statements of nonpublic companies and issue compilation or review reports.

~~((51))~~ **"Statements on standards for attestation engagements (SSAE)"** are guidelines, promulgated by the AICPA, for use by licensees in attesting to assertions involving matters other than historical financial statements and for which no other standards exist.

AMENDATORY SECTION (Amending WSR 10-24-009, filed 11/18/10, effective 12/19/10)

WAC 4-30-024 (~~What~~) Public records (~~are available~~). All public records of the agency are available for public inspection and copying pursuant to these rules and applicable state law (chapter 42.56 RCW), as follows:

(1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the office of the Washington State Board of Accountancy at 711 Capitol Way S., Suite 400, Olympia, Washington, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the agency's office when the requestor has been notified of the availability of the requested documents and an appointment is made with the public records officer.

(2) **Records index.** An index of public records, consisting of the retention schedules applicable to those records, is available to members of the public at the agency's office.

(3) **Organization of records.** The agency maintains its records in a reasonably organized manner. The agency will take reasonable actions to protect records from damage and disorganization. A requestor shall not take original records from the agency's office. A variety of records are also available on the agency's web site at www.cpaboard.wa.gov.

Requestors are encouraged to view the documents available on the web site prior to submitting a public records request.

(4) Making a request for public records.

(a) Any person wishing to inspect or obtain copies of public records should make the request in writing by letter, fax, or email addressed to the public records officer. **Written requests must include the following information:**

- Date of the request;
- Name of the requestor;
- Address of the requestor and other contact information, including telephone number and any email address;
- Clear identification of the public records requested to permit the public records officer or designee to identify and locate the records.

(b) The public records officer may also accept requests for public records by telephone or in person. If the public records officer or designee accepts an oral or telephone request, he or she will confirm receipt of the request and the details of the records requested, in writing, to the requestor.

(c) If the requests received in (a) or (b) of this subsection are not sufficiently clear to permit the public records officer to identify the specific records requested, the public records officer will request clarification from the requestor in writing.

(d) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should make that preference clear in the request ~~((and make arrangements to make payment for the copies of the records prior to delivery or provide a deposit of the estimated copy costs provided by the agency upon request prior to the copies being made))~~. Copies will be made by the agency's public records officer or designee. ~~((Costs for copying are fifteen cents per page, except that there is no charge for the first fifty pages of records included in any request by one requestor.))~~

(e) When fulfilling public records requests the agency will perform its public records responsibilities in the most expeditious manner consistent with the agency's need to fulfill its other essential functions.

(f) By law, certain records and/or specific content of any specific record or document may not be subject to public disclosure. Accordingly, a reasonable time period may occur between the date of the request and the ability of the public records officer to identify, locate, retrieve, remove content not subject to disclosure, prepare a redaction log that includes the specific exemption, a brief explanation of how the exemption applies to the records or portion of the records being withheld, and produce the records for inspection and/or copying. The requestor will be kept informed of the expected delivery timetable.

(g) If the request includes a large number of records, the production of the records for the requestor may occur in installments. The requestor will be informed, in writing, of the agency's anticipated installment delivery timetable.

(h) In certain instances the agency may notify affected third parties to whom the record relates. This notice allows the affected third party to seek an injunction within fifteen days from the date of the written notice. The notice further provides that release of the records to the requestor will be honored unless timely injunctive relief is obtained by the affected third party on or before the end of the fifteen-day period.

(i) Requests for lists of credentialed individuals by educational organizations and professional associations:

In order to obtain a list of individuals under the provisions of RCW 42.56.070(9), educational organizations and professional associations must apply for and receive recognition by the board before requests will be honored. The requesting organization must provide sufficient information to satisfy the approving authority that the requested list of individuals is primarily for educational and professionally related uses. ~~((Fees must be paid in advance before approved requests will be honored.))~~

Board forms are available on the board's web site or upon request for your use.

AMENDATORY SECTION (Amending WSR 14-04-086, filed 2/3/14, effective 3/6/14)

WAC 4-30-038 Fees. RCW 18.04.065 provides that the board shall set fees related to licensure at a level adequate to pay the costs of administering chapter 18.04 RCW. The board has established the following fee schedule:

(1)	Initial application for individual license, individual license through reciprocity, CPA firm license (sole proprietorships with no employees are exempt from the fee), or registration as a resident nonlicensee firm owner	\$330
(2)	Renewal of individual license, CPA-Inactive certificate, CPA firm license (sole proprietorships with no employees are exempt from the fee), or registration as a resident nonlicensee firm owner	\$230
(3)	Application for CPA-Inactive certificate holder to convert to a license	\$0
(4)	Application for reinstatement of license, CPA-Inactive certificate, or registration as a resident nonlicensee owner	\$480
(5)	Quality assurance review (QAR) program fee (includes monitoring reviews for up to two years)	
	Firm submits reports for review	\$400
	Firm submits a peer review report for review	\$60
	Firm is exempted from the QAR program because the firm did not issue attest reports	\$0
(6)	Late fee *	\$100
(7)	Amendment to firm license except for a change of firm address (there is no fee for filing a change of address)	\$35
(8)	((Copies of records, per page exceeding fifty pages	\$0.15
(9)	Listing of licensees, CPA-Inactive certificate holders, or registered resident nonlicensee firm owners	\$75

- (10)) Replacement CPA wall document \$50
- ((11)) Dishonored check fee (including, but not limited to, insufficient funds or closed accounts) \$35
- ((12)) CPA examination. Exam fees are comprised of section fees plus administrative fees. **The total fee is contingent upon which section(s) is/are being applied for and the number of sections being applied for at the same time.** The total fee is the section fee(s) for each section(s) applied for added to the administrative fee for the number of section(s) applied for.
- (a) Section fees: Section fees for the computerized uniform CPA examination are set by third-party providers for the development and delivery of the exam. These fees are collected and retained by the third-party provider.
- (b) Administrative fees: Administrative fees for the qualification and application processes are set by a third-party provider. These fees are collected and retained by the third-party provider.

* The board may waive late filing fees for individual hardship including, but not limited to, financial hardship, critical illness, or active military deployment.

AMENDATORY SECTION (Amending WSR 13-04-011, filed 1/25/13, effective 2/25/13)

WAC 4-30-050 (~~What are the requirements concerning~~) Records and clients confidential information(~~2~~), (1) Client: The term "client" as used throughout WAC 4-30-050 and 4-30-051 includes former and current clients. For purposes of this section, a client relationship has been formed when confidential information has been disclosed by a prospective client or another authorized person in an initial interview to obtain or provide professional services.

(2) **Sale or transfer of client records:** No statement, record, schedule, working paper, or memorandum, including electronic records, may be sold, transferred, or bequeathed without the consent of the client or ~~((his or her personal representative or assignee, to anyone other than one or more surviving partners, shareholders, or new partners or new shareholders of the licensee, partnership, limited liability company, or corporation, or any combined or merged partnership, limited liability company, or corporation, or successor in interest))~~ another authorized person.

(3) Disclosure of client confidential records and client relationships:

(a) Confidential client communication or information: Licensees, CPA-Inactive certificate holders, nonlicensee firm owners, and employees of such persons must not without the specific consent of the client or ~~((the heirs, successors, or authorized representatives of the client))~~ another authorized

person disclose any confidential communication or information pertaining to the client obtained in the course of performing professional services.

(b) Licensees, CPA-Inactive certificate holders, nonlicensee firm owners, and employees of such persons who have provided records to a client or another authorized person are not obligated to provide such records to other individuals associated with the client.

(c) When a licensee, CPA-Inactive certificate holder, nonlicensee firm owner, or employee is engaged to prepare a married couple's joint tax return, both spouses are considered to be clients, even if the licensee, CPA-Inactive certificate holder, nonlicensee firm owner, or employee was engaged by one spouse and deals exclusively with that spouse.

Accordingly, if the married couple is undergoing a divorce and one spouse directs the licensee, CPA-Inactive certificate holder, nonlicensee firm owner, or employee to withhold joint tax information from the other spouse, the licensee, CPA-Inactive certificate holder, nonlicensee firm owner, or employee may provide the information to both spouses, in compliance with this rule. The licensee, CPA-Inactive certificate holder, nonlicensee firm owner, or employee should consider reviewing the legal implications of such disclosure with an attorney and any responsibilities under any applicable tax performance standards promulgated by the United States Department of Treasury, Internal Revenue Service.

This rule also applies to confidential communications and information obtained in the course of professional tax compliance services unless state or federal tax laws or regulations require or permit use or disclosure of such information.

Consents may include those requirements of Treasury Circular 230 and IRC Sec. 7216 for purposes of this rule, provided the intended recipients are specifically and fully identified by full name, address, and other unique identifiers.

(4) Disclosing information to third-party service providers: Licensees, CPA-Inactive certificate holders, or nonlicensee firm owners must do one of the following before disclosing confidential client information to third-party service providers:

(a) Enter into a contractual agreement with the third-party service provider to assist in providing the professional services to maintain the confidentiality of the information and provide a reasonable assurance that the third-party service provider has appropriate procedures in place to prevent the unauthorized release of confidential information to others. The nature and extent of procedures necessary to obtain reasonable assurance depends on the facts and circumstances, including the extent of publicly available information on the third-party service provider's controls and procedures to safeguard confidential client information; or

(b) Obtain specific consent from the client before disclosing confidential client information to the third-party service provider.

(5) Disclosure of client records in the course of a firm sale, or transfer upon death of a licensee, CPA-Inactive certificate holder, or nonlicensee firm owner.

A licensee, CPA-Inactive certificate holder, or nonlicensee firm owner, or the successor in interest of a deceased

licensee, CPA-Inactive certificate holder, or nonlicensee firm owner, that sells or transfers all or part of a practice to another person, firm, or entity (successor firm) and will no longer retain ownership in the practice must do all of the following:

(a) Submit a written request to each client subject to the sale or transfer, requesting the client's consent to transfer its files to the successor firm or other entity and notify the client that its consent may be presumed if it does not respond to the licensee, CPA-Inactive certificate holder, or nonlicensee firm owner's request within a period of not less than ninety days, unless prohibited by law. The licensee, CPA-Inactive certificate holder, or nonlicensee firm owner, or successor in interest of a deceased firm owner, should not transfer any client files to the successor firm until either the client's consent is obtained or the ninety days has lapsed, whichever is shorter. The licensee, CPA-Inactive certificate holder, or nonlicensee firm owner must retain evidence of consent, whether obtained from the client or presumed after ninety days.

(b) It is permissible for the successor in interest of a deceased licensee, CPA-Inactive certificate holder, or nonlicensee firm owner to contract with a responsible custodian to securely store client records until such time as consent or transfer has been obtained.

(6) This rule does not:

(a) Affect in any way the obligation of those persons to comply with a lawfully issued subpoena or summons;

(b) Prohibit disclosures in the course of a quality review of a licensee's attest, compilation, or other reporting services governed by professional standards;

(c) Preclude those persons from responding to any inquiry made by the board or any investigative or disciplinary body established by local, state, or federal law or recognized by the board as a professional association; or

(d) Preclude a review of client information in conjunction with a prospective purchase, sale, or merger of all or part of the professional practice of public accounting of any such persons.

AMENDATORY SECTION (Amending WSR 11-06-062, filed 3/2/11, effective 4/2/11)

WAC 4-30-051 (~~What are the requirements concerning~~) Client records(~~, including response to requests by clients and former clients for records?~~), (1) The following terms are defined below solely for use with this section:

(a) **Client provided records** are accounting or other records belonging to the client that were provided to the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner and employees of such persons by or on behalf of the client.

(b) **Client records prepared by the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner** are accounting or other records (for example, tax returns, general ledgers, subsidiary journals, and supporting schedules such as detailed employee payroll records and depreciation schedules) that the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner and employees of such persons was engaged to prepare for the client.

(c) **Supporting records** are information not reflected in the client's books and records that are otherwise not available to the client with the result that the client's financial information is incomplete. For example, supporting records include adjusting, closing, combining or consolidating journal entries (including computations supporting such entries), that are produced by the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner and employees of such persons during an engagement.

(d) **Licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner working papers** include, but are not limited to, audit programs, analytical review schedules, statistical sampling results, analyses, and schedules prepared by the client at the request of the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner and employees of such persons.

(2) When a client or former client (client) makes a request for client-provided records, client records prepared by the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner, or supporting records that are in the custody or control of the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner that have not previously been provided to the client, the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner should respond to the client's request as follows:

(a) Client provided records in the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner custody or control must be returned to the client.

(b) Client records prepared by the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner must be provided to the client, except that client records prepared by the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner may be withheld if the preparation of such records is not complete.

(c) Supporting records relating to a completed and issued work product must be provided to the client.

(d) Persons subject to this subsection developing and maintaining such records, or schedules should make a reasonable effort to provide the required information and data to the client in a format useable by the client to avoid the cost to the client of duplicate reentry of individual transaction or other information into the client's or successor custodian's record-keeping system.

(3) The licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner is not required to convert records that are not in electronic format to electronic format. However, if the client requests records in a specific format and the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner was engaged to prepare the records in that format, the client's request should be honored.

(4) In responding to a records request, it is not permissible for a licensee, CPA-Inactive certificate holder, or nonlicensee firm owner to supplant a client record originally created in an electronic format with one converted to a nonelectronic format, such as a hard copy or a dissimilar electronic format unusable to the client.

(5) Licensees, CPA-Inactive certificate holders, nonlicensee firm owners, and/or employees of such persons must not refuse to return or provide records indicated in subsection

(1)(a), (b), and (c) of this section including electronic documents, pending client payment of outstanding fees.

~~((5))~~ (6) Once the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner and employees of such persons has complied with the requirements in subsection (2) of this section, he or she is under no ethical obligation to comply with any subsequent requests to again provide such records or copies of such records. However, if subsequent to complying with a request, a client experiences a loss of records due to a natural disaster or an act of war, the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner should comply with an additional request to provide such records.

~~((6))~~ (7) Licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner working papers are the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner property and need not be provided to the client under provisions of this section; however, such requirements may be imposed by state and federal statutes and regulations, and contractual agreements.

~~((7))~~ (8) In connection with any request for client-provided records, client records prepared by the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner and employees of such persons, or supporting records, the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner may:

(a) Charge the client a reasonable fee for the time and expense incurred to retrieve and copy such records and require that such fee be paid prior to the time such records are provided to the client;

(b) Provide the requested records in any format usable by the client;

(c) Make and retain copies of any records returned or provided to the client.

~~((8))~~ (9) Where a licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner is required to return or provide records to the client, the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner should comply with the client's request as soon as practicable but, absent extenuating circumstances, no later than forty-five days after the request is made. The fact that the statutes of the state in which the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner practices grants the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner a lien on certain records in his or her custody or control does not relieve the licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner of his or her obligation to comply with this section.

~~((9))~~ (10) A licensee, CPA-Inactive certificate holder, and/or nonlicensee firm owner is under no obligation to retain records for periods that exceed applicable professional standards, state and federal statutes and regulations, and contractual agreements relating to the service(s) performed.

~~((10))~~ (11) Audit and review record retention requirements: For a period of seven years after a licensee concludes an audit or review such persons must retain the following records and documents, including electronic records unless hard copies of such exist:

(a) Records forming the basis of the audit or review;

(b) Records documenting audit or review procedures applied;

(c) Records documenting evidence obtained including financial data, analyses, conclusions, and opinions related to the audit or review engagement; and

(d) Records documenting conclusions reached by the licensee in the audit or review engagement.

AMENDATORY SECTION (Amending WSR 14-22-034, filed 10/28/14, effective 11/28/14)

WAC 4-30-140 (~~What are the authority, structure, and processes for investigations and sanctions?~~) **Disciplinary authority and process.**

~~((Authority:))~~

(1) Investigations are responsive to formal complaints received or indications of a potential violation of the Public Accountancy Act, chapter 18.04 RCW and in all proceedings under RCW 18.04.295 or Administrative Procedure Act, chapter 34.05 RCW.

(2) The board (~~chair may delegate investigative~~) has delegated authority and responsibility for processing complaints, initiating and directing investigations, resolving certain cases and issuing charging documents to ~~((a designee including))~~ the executive director of the board (~~((RCW 18.04.045(7)(3)))~~).

~~((Structure:))~~

~~Investigations must be directed and conducted by individuals sufficiently qualified and knowledgeable of the subject matter of an investigation.~~

~~The general responsibilities when directing an investigation are:~~

~~(1) Determine whether the complaint or other source of information is within the authority of the board;~~

~~(2) Determine the most likely sanction the board might impose if the alleged violation is proven;~~

~~(3) Determine the scope and type of evidence needed to reach a conclusion whether a violation occurred;~~

~~(4) Monitor communications to the person(s) affected by the investigative process;~~

~~(5) Monitor the progress of the evidentiary gathering process to ensure that the scope of inquiry and request for records is limited to that necessary to reach a conclusion whether the violation occurred;~~

~~(6) Upon completion of the investigation, evaluate the sufficiency of the evidence to support a conclusion as to whether a violation occurred;~~

~~(7) Develop a recommendation for dismissal or sanction for consideration by a consulting board member based upon the accumulated evidence and the board's "fair and equitable" standard for sanctioning.~~

Processes:

~~By board delegation, the executive director directs the complaint processes, investigative activities, and case resolution negotiations. The gathering of appropriate evidence should be assigned to staff or contract investigators who have~~

no current or former close relationship to (or with) the complainant or the respondent.

Upon receiving a complaint or otherwise becoming aware of a situation or condition that might constitute a violation of the Public Accountancy Act (act) or board rules, the executive director will make a preliminary assessment.

If the executive director determines:

- The situation or condition is not within the board's authority, the executive director may dismiss the matter, but a record of the event will be documented and maintained in the board office in accordance with the agency's approved retention schedule. A summary of dismissals will be reported regularly to the board.

- The situation or condition requires further evaluation, the executive director assigns the case to a staff or contract investigator.

Details of the additional evidence gathered and the resulting conclusion by the executive director will be documented. If the executive director determines that:

- Sufficient evidence does not exist to merit board action, the executive director may dismiss the case, but a record of the event will be documented and maintained in the board office in accordance with the agency's approved record retention schedule. A summary of dismissals will be reported regularly to the board.

- Sufficient evidence exists to merit board action and it is the first time an individual or firm is notified of a violation of the Public Accountancy Act or board rule, the executive director may impose administrative sanctions approved by the board for a first-time offense.

- Sufficient evidence exists to merit board consideration but the situation or condition, if proven, is not eligible for administrative sanctions, the executive director will discuss a resolution strategy and settlement parameters with a consulting board member. Once the executive director and consulting board member agree on those matters, the executive director and assigned staff or contract investigator will initiate a discussion for resolution with the respondent consistent with that agreed upon strategy and those settlement parameters.

The executive director may request guidance from a consulting board member and/or the assistance of the assigned prosecuting assistant attorney general at any time during the investigative and/or negotiation processes.

If the respondent is amenable to the suggested resolution and terminology of a negotiated proposal, the executive director will forward the proposal to the respondent for written acceptance. If accepted by the respondent, the proposal will be forwarded to the board for approval.

Upon receiving and considering the formal settlement proposal, the respondent may offer a counterproposal. The executive director and assigned staff or contract investigator will discuss the counterproposal with a consulting board member. The executive director and consulting board member may agree to the counterproposal, offer a counter to the counterproposal, or reject the counterproposal.

If the executive director and consulting board member reject the counterproposal or are unable to negotiate what they consider to be an acceptable alternative proposal with the respondent, the executive director will execute a state-

ment of charges and refer the case to the assigned prosecuting assistant attorney general with the request that an administrative hearing be scheduled and the case prosecuted.

At the same time that the assigned prosecuting assistant attorney general is preparing the case for prosecution, the assigned prosecuting assistant attorney general, working with the executive director and consulting board member, will continue to seek a negotiated settlement (consent agreement) in lieu of a board hearing. If the case goes to hearing before the board, the assigned prosecuting assistant attorney general, with the concurrence of the executive director and consulting board member, will present the team's recommended sanction to the board.

Through this process, the consulting board member, the executive director and, when appropriate, the assigned prosecuting assistant attorney general must individually and jointly act objectively and cooperatively to:

- Draw conclusions as to the allegations based solely on the evidence;

- Develop and present to the respondent a suggested settlement proposal that they believe the board will accept because the proposal is fair and equitable and provides public protection; and

- If the case goes to a hearing before the board, recommend an appropriate sanction or sanctions to the board.

No proposed negotiated settlement is forwarded to the board unless the respondent, the executive director, consulting board member and, when appropriate, the assigned prosecuting assistant attorney general concur that the proposal is an acceptable resolution to the matter.

If the participants in the negotiation concur with the negotiated resolution and terminology of the agreement, a proposed consent agreement is to be signed by the respondent, and signed by the assigned prosecuting assistant attorney general if the settlement was negotiated by the assigned prosecuting assistant attorney general, and forwarded to the board members, along with the executive director's, consulting board member's and, when appropriate, assigned prosecuting assistant attorney general's recommendation to accept the proposal for consideration.

The board is not bound by this recommendation.

All proposed consent agreements must be approved by a majority vote of the board. Five "no" votes mean the proposed settlement has been rejected by the board. In such circumstances, the case will return to the executive director, consulting board member, and assigned prosecuting assistant attorney general who will determine whether the situation merits additional attempts to negotiate a settlement or to immediately schedule the matter for an administrative hearing before the board.

All fully executed consent agreements and board orders become effective the date the document is signed by the board's presiding officer unless otherwise specified in the fully executed consent agreement or board order.)) (3) The board has established policies and administrative rules to define the responsibilities, process, and procedures for performing the disciplinary process.

(4) The board's investigative team reviews all complaints received to determine if the allegations are within the board's

authority. If the complaint is not within the board's jurisdiction, then the executive director may close the complaint without action.

(5) If an investigation produces sufficient evidence for the executive director to conclude that a respondent has violated chapter 18.04 RCW, the executive director will work with a consulting board member (CBM) to review the case and recommend a resolution strategy.

(6) If at any time, the executive director and CBM determines there is not sufficient evidence of a violation, then the executive director may close the complaint without action.

(7) In most cases, the first step in the resolution strategy is to enter into a settlement negotiation. Settlement may be reached at any time.

(8) At any time, the executive director may issue a statement of charges which begins the formal disciplinary process. The executive director may also issue a temporary cease and desist order when deemed necessary to protect public safety and welfare.

(9) The respondent has the opportunity to answer the statement of charges and request administrative review. The board may hold a formal administrative hearing, in accordance with chapter 34.05 RCW. The board may impose a final order as a result of an administrative review.

(10) Any final order issued by the board may be appealed as described in chapter 34.05 RCW.

(11) The disciplinary process shall proceed in a timely manner in keeping with the circumstances of the individual case. There is no specific or absolute timeline for the disciplinary process of a case.

(12) The board has the power and authority to recover investigative and legal costs whether through consent order or final administrative order.

requires the department to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax. The values in the proposed rule will apply beginning January 1, 2018, through June 30, 2018.

Further, RCW 84.33.140 requires that forest land values be adjusted annually by a statutory formula contained in RCW 84.33.140(3). The department anticipates amending the forest land values rule (WAC 458-40-540) to adjust the table of forest land values in Washington as required by statute. County assessors will use these published land values for property tax purposes in 2018.

Reasons Supporting Proposal: Required by statutes and values need to calculate timber excise and property taxes.

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

Statute Being Implemented: RCW 84.33.091.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Danitza M. Casselman, P.O. Box 47453, Olympia, WA 98504-7453, 360-534-1583; Implementation and Enforcement: Randy Simmons, P.O. Box 47453, Olympia, WA 98504-7453, 360-534-1605.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Danitza M. Casselman, Interpretations and Technical Advice Division, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1583. The proposed rule is a significant legislative rule as defined by RCW 34.05.328.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. A small business economic statement has not been prepared as the proposed rules do not impose more than a minor cost on small businesses. Only large businesses are statutorily required to utilize the values contained in the rules, while small businesses have other statutory authority for their tax reporting obligations.

November 15, 2017

Erin Lopez

Rules Coordinator

WSR 17-23-101
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed November 15, 2017, 2:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-18-093.

Title of Rule and Other Identifying Information: WAC 458-40-540 Timber excise tax—Forest land values and 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Hearing Location(s): On December 27, 2017, at 10:00 a.m., at Conference Room 114A, 6400 Linderson Way S.W., Tumwater, WA 98501.

Date of Intended Adoption: December 28, 2017.

Submit Written Comments to: Danitza M. Casselman, Department of Revenue, Interpretations and Technical Advice Division, P.O. Box 47453, Olympia, WA 98504-7453, email danitza@dor.wa.gov, by December 27, 2017.

Assistance for Persons with Disabilities: Contact Julie King or Renee Cosare, phone 360-704-5717 or 360-725-7514, Washington relay operator at 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 84.33.091

AMENDATORY SECTION (Amending WSR 17-02-003, filed 12/22/16, effective 1/1/17)

WAC 458-40-540 Forest land values—~~((2017))~~ 2018. The forest land values, per acre, for each grade of forest land for the ~~((2017))~~ 2018 assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	((2017)) 2018 VALUES PER ACRE
1	1	\$(209)) 208
	2	((207)) 206
	3	((193)) 192
	4	141
2	1	177
	2	171
	3	164
	4	116
3	1	137
	2	133
	3	132
	4	102
4	1	106
	2	103
	3	102
	4	77
5	1	77
	2	68
	3	67
	4	47
6	1	39
	2	37
	3	37
	4	35
7	1	17
	2	17
	3	16
	4	16
8	1	1

Washington State Department of Revenue
STUMPAGE VALUE TABLE
 ((July)) January 1 through ((December 31, 2017)) June 30, 2018
 Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾
 Starting July 1, 2012, there are no separate Quality Codes per Species Code.

Species Name	Species Code	SVA (Stumpage Value Area)	Haul Zone				
			1	2	3	4	5
((Douglas-fir ⁽²⁾)	DF	1	\$357	\$350	\$343	\$336	\$329
		2	460	453	446	439	432
		3	454	447	440	433	426
		4	497	490	483	476	469
		5	458	451	444	437	430
		6	277	270	263	256	249
Western-Hemlock and Other-Conifer ⁽³⁾	WH	1	241	234	227	220	213
		2	330	323	316	309	302
		3	264	257	250	243	236
		4	318	311	304	297	290
		5	301	294	287	280	273
		6	249	242	235	228	221
Western-Red-cedar ⁽⁴⁾	RC	1-5	1082	1075	1068	1061	1054
		6	1110	1103	1096	1089	1082
Ponderosa-Pine ⁽⁵⁾	PP	1-6	191	184	177	170	163
Red-Alder	RA	1-5	483	476	469	462	455
Black-Cottonwood	BC	1-5	100	93	86	79	72
Other-Hardwood	OH	1-5	284	277	270	263	256
		6	23	16	9	2	1
Douglas-fir-Poles & Piles	DFL	1-5	706	699	692	685	678
Western-Red-cedar-Poles	RCL	1-5	1514	1507	1500	1493	1486
		6	1377	1370	1363	1356	1349
Chipwood ⁽⁶⁾	CHW	1-5	11	10	9	8	7
		6	1	1	1	1	1
Small-Logs ⁽⁶⁾	SML	6	29	28	27	26	25
RC-Shake & Shingle-Blocks ⁽⁷⁾	RCS	1-6	289	282	275	268	261
Posts ⁽⁸⁾	LPP	1-6	0.35	0.35	0.35	0.35	0.35
DF-Christmas-Trees ⁽⁹⁾	DFX	1-6	0.25	0.25	0.25	0.25	0.25
Other-Christmas-Trees ⁽⁹⁾	TFX	1-6	0.50	0.50	0.50	0.50	0.50
Douglas-fir ⁽²⁾	DF	1	\$448	\$441	\$434	\$427	\$420
		2	481	474	467	460	453
		3	478	471	464	457	450
		4	533	526	519	512	505
		5	473	466	459	452	445
		6	283	276	269	262	255

AMENDATORY SECTION (Amending WSR 17-14-020, filed 6/23/17, effective 7/1/17)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((July 1 through December 31, 2017)) January 1, 2018 through June 30, 2018:

Species Name	Species Code	SVA (Stumpage Value Area)	Haul Zone				
			1	2	3	4	5
Western	WH	1	296	289	282	275	268
Hemlock and		2	374	367	360	353	346
Other Conifer ⁽³⁾		3	362	355	348	341	334
		4	358	351	344	337	330
		5	331	324	317	310	303
		6	256	249	242	235	228
Western Redcedar ⁽⁴⁾	RC	1-5	1161	1154	1147	1140	1133
		6	1229	1222	1215	1208	1201
Ponderosa Pine ⁽⁵⁾	PP	1-6	196	189	182	175	168
Red Alder	RA	1-5	547	540	533	526	519
Black Cottonwood	BC	1-5	117	110	103	96	89
Other Hardwood	OH	1-5	326	319	312	305	298
		6	23	16	9	2	1
Douglas-fir Poles & Piles	DFL	1-5	741	734	727	720	713
Western Redcedar Poles	RCL	1-5	1499	1492	1485	1478	1471
		6	1449	1442	1435	1428	1421
Chipwood ⁽⁶⁾	CHW	1-5	9	8	7	6	5
		6	1	1	1	1	1
Small Logs ⁽⁶⁾	SML	6	29	28	27	26	25
RC Shake & Shingle Blocks ⁽⁷⁾	RCS	1-6	299	292	285	278	271
Posts ⁽⁸⁾	LPP	1-6	0.35	0.35	0.35	0.35	0.35
DF Christmas Trees ⁽⁹⁾	DFX	1-6	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	TFX	1-6	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes all Hemlock, Spruce and true Fir species, Lodgepole Pine in SVA 6, or any other conifer not listed on this page.
- (4) Includes Alaska-Cedar.
- (5) Includes Western White Pine in SVA 6, and all Pines in SVA 1-5.
- (6) Stumpage value per ton.
- (7) Stumpage value per cord.
- (8) Includes Lodgepole posts and other posts, Stumpage Value per 8 lineal feet or portion thereof.
- (9) Stumpage Value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

- (a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.
- (b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.
- (c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment

class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber** - Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber** - Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ~~((July))~~ January 1 through ((December 31, 2017)) June 30, 2018:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, and 5
 ((July)) January 1 through ((December 31, 2017)) June 30, 2018

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-\$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	-\$85.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

**TABLE 10—Harvest Adjustment Table
Stumpage Value Area 6**
(~~July~~) January 1 through (December 31, 2017) June 30, 2018

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	-\$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$75.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
	SVAs 1 through 5 only:	\$0.00
Note:	This adjustment only applies to published MBF sawlog values.	

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass,** has a \$0/ton stumpage value.

**WSR 17-23-117
PROPOSED RULES
OFFICE OF STATE AUDITOR**

[Filed November 17, 2017, 9:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-20-040.

Title of Rule and Other Identifying Information: Chapter 48-13 WAC, Access to public records, including WAC 48-13-010 Authority and purpose, 48-13-020 Agency description—Contact information—Public records officer, 48-13-030 Availability of public records, 48-13-040 Processing of public records requests—General, 48-13-060 Exemptions, and 48-13-070 Costs of providing copies of public records.

Hearing Location(s): On December 27, 2017, at 1:30 p.m., at 3200 Sunset Way S.E., Olympia, WA 98501. Request to participate by telephone by contacting the rules coordinator at Cindy.Evans@sao.wa.gov or 360-725-5585, on or before December 26, 2017.

Date of Intended Adoption: December 29, 2017.

Submit Written Comments to: Cindy Evans, 3200 Sunset Way S.E., Olympia, WA 98501, email Cindy.Evans@sao.wa.gov, fax 360-586-3105, by December 28, 2017.

Assistance for Persons with Disabilities: Contact Cindy Evans, phone 360-725-5585, fax 360-586-3105, TTY 711, email Cindy.Evans@sao.wa.gov, by December 26, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The 2017 legislature amended RCW 42.56.120 (chapter 304, Laws of 2017) requiring a rule to be adopted if the agency is not calculating actual costs to provide records. Under the proposal, the state auditor's office will use the statutory default fee schedule found in RCW 42.56.120 (2)(b) and (c) as set out in WAC 48-13-070. Proposed WAC 48-13-040 amends WAC by adding a section, titled Clarifications, to be in conformance [with] the 2017 amendments to RCW 42.56.120(4). In addition, WAC 48-13-010 Authority and purpose, 48-13-020 Agency description—Contact information—Public records officer, 48-13-030 Availability of public records, and 48-13-060 Exemptions, had minor housekeeping updates.

Reasons Supporting Proposal: The proposed amendments to WAC 48-13-070 and 48-13-040 will bring the current WAC into compliance with RCW 42.56.070 and 42.56.120, as amended by chapter 304, Laws of 2017. The housekeeping updates will improve readability and clarity by using consistent terms in the update[d] WAC.

Statutory Authority for Adoption: RCW 42.56.100 and 42.56.070, as amended by section [1], chapter 304, Laws of 2017.

Statute Being Implemented: RCW 42.56.070 and 42.56.120.

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

Name of Proponent: State auditor's office, governmental.

Name of Agency Personnel Responsible for Drafting: Cindy Evans, 3200 Sunset Way S.E., Olympia, WA 98501, 360-725-5585; Implementation: Mary Leider, 3200 Sunset Way S.E., Olympia, WA 98501, 360-725-5617; and Enforcement: Al Rose, 302 Sid Snyder Avenue S.W., Olympia, WA 98504, 360-902-0372.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed WAC amendments impact how the state auditor's office will process and charge for public record responses. No additional costs on the public are anticipated.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute; rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative stan-

dards, including fees set or adjusted under the authority of RCW 19.80.045.

November 17, 2017

Al Rose

Director of Legal Affairs

AMENDATORY SECTION (Amending WSR 10-22-022, filed 10/22/10, effective 11/22/10)

WAC 48-13-010 Authority and purpose. (1) ~~((RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.))~~ The state auditor's office has the constitutional responsibility for auditing state government and all municipal corporations in Washington state. The administrative office of the state auditor's office and its staff are located at 302 Sid Snyder Ave. S.E., Room 200, Olympia, WA.

(2) The purpose of these rules is to establish the procedures the state auditor's office will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the state auditor's office and establish processes for both requestors and state auditor's office staff that are designed to best assist members of the public in obtaining such access.

~~((3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the state auditor's office will be guided by the provisions of the act describing its purposes and interpretation.))~~

AMENDATORY SECTION (Amending WSR 10-22-022, filed 10/22/10, effective 11/22/10)

WAC 48-13-020 ((Agency description—))Contact information—Public records officer. ~~((1) The state auditor's office has the constitutional responsibility for auditing state government and all municipal corporations in Washington state. The administrative office of the state auditor's office and its staff are located at: 302 Sid Snyder Ave. S.E., Room 200, Olympia, WA.~~

~~((2))~~ The public records officer for the state auditor's office shall be responsible for responses to requests for public records. Any person wishing to request access to public records of the state auditor's office, or seeking assistance in making such a request should contact the public records officer of the state auditor's office:

Public Records Officer
State Auditor's Office

P.O. Box 40031
 Olympia, WA 98504
 fax: 360-586-3105
 email: publicrecords@sao.wa.gov

Information and public records are also available at the state auditor's office web site at <http://www.sao.wa.gov>. Requestors are encouraged to view the information and ~~((documents))~~ records available on the web site prior to contacting the records officer.

~~((3)) The public records officer will oversee compliance with the act but another state auditor's office staff member may process the request. The public records officer or designee will provide fullest assistance to requestors, pursuant to this chapter, and prevent fulfilling public records requests from causing excessive interference with essential functions of the state auditor's office.))~~

AMENDATORY SECTION (Amending WSR 10-22-022, filed 10/22/10, effective 11/22/10)

WAC 48-13-030 Availability of public records. (1) Hours for inspection of records. Public records are available for inspection and copying by appointment during normal business hours of the state auditor's office, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding legal holidays. Original records must be inspected at the offices of the state auditor's office. A requestor shall not take state auditor's office records from state auditor's offices without the permission of the public records officer or designee.

(2) **Records index and records available online.** An index of public records is available for use by members of the public. The index may be accessed online at <http://www.sao.wa.gov>. A variety of records is also available on the state auditor's office web site. ~~((Requestors are encouraged to view the documents available on the web site prior to submitting a records request.))~~

(3) **Making a request for public records.**

(a) Any person wishing to inspect or obtain copies of public records of the state auditor's office should make the request in writing by letter, fax, or email addressed to the public records officer or using the office's web site form located at: <http://www.sao.wa.gov>. Records requests should include the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and email address;
- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date and time of day of the request.

(b) If the requestor wishes to retain photocopies or electronic versions of nonelectronic records instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records. A deposit may be required prior to the office's collection of the records requested. Pursuant to WAC 48-13-070, ~~((photocopies and scanned copies will be provided at ten cents per page.))~~

~~((e)) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or des-~~

~~ignee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.))~~

AMENDATORY SECTION (Amending WSR 10-22-022, filed 10/22/10, effective 11/22/10)

WAC 48-13-040 Processing of public records requests—General. (1) Order of response. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying; or

(b) If copies or scanned ~~((documents))~~ records are requested and terms of payment are met, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available; or

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) **Clarifications.**

(a) If a requestor fails to respond to a request to clarify the request and the entire request is unclear, the request may be closed without further action.

(b) If portions of the request are clear, those portions of the request will be processed.

(4) **Failure to respond.** If the state auditor's office does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

~~((4))~~ (5) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

~~((5))~~ (6) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the state auditor's office believes that a record is exempt from disclosure and should be withheld in whole or in part, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld or redacted. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

~~((6))~~ (7) **Inspection of records.**

(a) Consistent with other demands, the state auditor's office shall promptly provide space to inspect public records. No member of the public may remove a ~~((document))~~ record from the viewing area or disassemble or alter any ~~((document))~~ record. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim or review the assembled records within thirty days of the state auditor's office notification to him or her that the records are available for inspection. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the state auditor's office may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

~~((7))~~ (8) Providing copies of records. After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

~~((8))~~ (9) Providing records in installments. When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

~~((9))~~ (10) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the state auditor's office has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

~~((10))~~ (11) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the state auditor's office has closed the request.

~~((11))~~ (12) Later discovered ~~((documents))~~ records. If, after the state auditor's office has informed the requestor that it has provided all available records, the state auditor's office becomes aware of additional responsive ~~((documents))~~ records existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

~~((12))~~ (13) Detailed policy can be found on office web site at <http://www.sao.wa.gov>.

AMENDATORY SECTION (Amending WSR 10-22-022, filed 10/22/10, effective 11/22/10)

WAC 48-13-060 Exemptions. (1) The Public Records Act provides that a number of types of ~~((documents))~~ records

are exempt from public inspection and copying. In addition, ~~((documents))~~ records are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some ~~((documents))~~ records held by state auditor's office for inspection and copying:

RCW 42.40.030, state employee whistleblower protection.

RCW 42.41.030, local government whistleblower protection.

RCW 43.09.186, toll-free efficiency hotline.

(2) The state auditor's office is prohibited by statute from disclosing lists of individuals for commercial purposes.

AMENDATORY SECTION (Amending WSR 10-22-022, filed 10/22/10, effective 11/22/10)

WAC 48-13-070 Costs of providing copies of public records. ~~((1) Costs for paper copies.~~ There is no fee for inspecting public records. A requestor may obtain standard black and white photocopies for ten cents per page when the page count exceeds one hundred pages. Copies in color or larger-sized documents cost will be based on the actual cost to reproduce them at the time of the request.

~~Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The state auditor's office will not charge sales tax when it makes copies of public records.~~

~~(2) Costs for electronic records.~~ The cost of electronic copies of records shall be free for information on a CD-ROM when the information already exists in electronic format and it only has to be copied to a CD. The cost of scanning existing office paper or other nonelectronic records is ten cents per page when the page count exceeds one hundred pages. There will be no charge for emailing electronic records to a requestor, unless another cost applies such as a scanning fee.

~~(3) Costs of mailing.~~ The state auditor's office may also charge actual costs of mailing, including the cost of the shipping container for requests exceeding one hundred pages.

~~(4) Payment.~~ Payment may be made by cash, check, or money order to the state auditor's office. (1) Copying fees - Payments. The following copy fees and payment procedures apply to requests to the office under chapter 42.56 RCW and received on or after July 23, 2017.

(2) Pursuant to RCW 42.56.120 (2)(b), the office is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) The office does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of autho-

alized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(3) The office will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The office will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the office may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The office may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4). The charges for copying methods used by the office are summarized in the fee schedule available on the office's web site at www.sao.wa.gov.

(4) Requestors are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions.

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and are one hundred or fewer pages; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

(5) The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

(6) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. The office will notify the requestor of when payment is due.

(7) Payment should be made by check or money order to the state auditor's office. The office prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

(8) The office will close a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

WSR 17-23-121

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed November 17, 2017, 11:04 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 246-834-990 Midwifery fees and renewal cycle, proposing fee increase to bring licensing fee revenues into closer alignment with the actual costs of regulating the profession; more closely attain an appropriate annual fund balance; and update terms, and duplicate license and license verification amounts consistent with other fee rules.

Hearing Location(s): On December 28, 2017, at 11:00 a.m., at the Department of Health, Town Center, Building 2, Room #145, 111 Israel Road S.E., Tumwater, WA 98501.

Date of Intended Adoption: January 12, 2018.

Submit Written Comments to: Nancy Elliott, P.O. Box 47850, Olympia, WA 98504-7850, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-4626, by December 28, 2017.

Assistance for Persons with Disabilities: Contact Nancy Elliott, phone 360-236-4878, TTY 360-833-6388 or 711, email nancy.elliott@doh.wa.gov, by December 14, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The goal of the proposed fee increase is to bring licensing fee revenues into closer alignment with the actual costs of regulating this profession, while bringing year-end fund balances to a closer level needed to cover unanticipated expenses over a ten-year period. Current licensing revenues are lower than the annual cost of regulating the profession plus an amount needed for an appropriate annual fund balance. Increasing fees to proposed levels will allow reserves, which are used to cover unanticipated events such as increased disciplinary costs, to rise to a more desirable level, while bringing in additional revenue to assist in covering the expense of administering the program.

Reasons Supporting Proposal: RCW 43.70.250 requires the cost of each licensing program to be fully borne by the profession's members and licensing fees to be based on the licensing program's costs. In addition, the 2018 - 2019 biennial state operating budget, SSB 5883 (chapter 1, Laws of 2017), appropriates \$40,000 per year solely for the midwifery licensure and regulatory program to supplement revenue from fees. Based on six-year projections of fee revenue and expenses for this profession, using best available data, revenue from the current midwifery profession fees, combined with the \$40,000 annual subsidy, is still less than the anticipated expenditures. Without the proposed fee increases, the year-end balance will continue to be substantially less than the desired level.

Statutory Authority for Adoption: RCW 43.70.250 and 43.70.280.

Statute Being Implemented: RCW 43.70.250 and 43.70.280.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Nancy Elliott, 111 Israel Road, Tumwater, WA 98501, 360-236-4878.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Explanation of exemptions: SSB 5883 (section 219(12), chapter 1, Laws of 2017 3rd sp. sess. (PV)), authorizes the department to charge a midwife license fee of not more than \$525.

November 16, 2017
John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 17-15-024, filed 7/7/17, effective 8/7/17)

WAC 246-834-990 Midwifery fees and renewal cycle.

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following fees are nonrefundable:

Title of Fee	Fee
Initial application	\$ ((500.00)) <u>525.00</u>
State examination (initial/retake)	155.00
Renewal	((500.00)) <u>525.00</u>
Late renewal penalty	((250.00)) <u>265.00</u>
Duplicate license	((25.00)) <u>10.00</u>
((Certification)) <u>Verification</u> of license	25.00
Expired license reissuance	300.00
UW online access fee (HEAL-WA)	16.00
Student midwife permit	175.00
Inactive credential	250.00

WSR 17-23-128
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed November 17, 2017, 2:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-20-013.

Title of Rule and Other Identifying Information: WAC 458-20-218 (Rule 218) Advertising agencies, explains how Washington's business and occupation tax, retail sales tax, and use tax is applied to advertising agencies and the services these agencies provide.

Hearing Location(s): On January 3, 2018, at 1:00 p.m., at Conference Room 114C, 6400 Linderson Way S.W., Tumwater, WA 98501.

Date of Intended Adoption: January 10, 2018.

Submit Written Comments to: Leslie Mullin, P.O. Box 47453, Olympia, WA 98504-7453, email LeslieMu@dor.wa.gov, fax 360-534-1606, by January 3, 2018.

Assistance for Persons with Disabilities: Contact Julie King or Renee Cosare, phone 360-704-5717 or 360-725-7514, TTY 800-833-6384, by January 3, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes to update Rule 218 to:

- Provide definitions for the terms "advertising agency" and "advertising services";
- Include examples that clarify the tax reporting classifications for various advertising activities; and
- Clarify when advertising agencies may exclude amounts received when acting as an agent for a client.

Reasons Supporting Proposal: Updating Rule 218 will provide additional guidance for advertising agencies in determining whether it can exclude from its gross income, amounts it receives as advances and/or reimbursements from its client when acting as an agent for its client.

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

Statute Being Implemented: RCW 82.04.080 and 82.04.290.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1589; Implementation and Enforcement: Randy Simmons, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule language for WAC 458-20-218 provides information to advertising agencies on when the agency can exclude from its gross income, amounts it receives as advances and/or reimbursements from its client when acting as an agent for its client. The requirements to exclude amounts received as advances and/or reimbursements are described in WAC 458-20-111, so the department used these requirements to explain them in the context of how they would apply to advertising agencies. The proposed rule does not impose more than minor costs on businesses, as it does not propose any new requirements not already provided for in rule and statute.

November 17, 2017
Erin T. Lopez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-06-070, filed 2/25/10, effective 3/28/10)

~~WAC 458-20-218 Advertising agencies. ((Advertising agencies are primarily engaged in the business of rendering professional services, but may also make sales of tangible personal property to their clients or others or make purchases of such articles as agents in behalf of their clients. Articles acquired or produced by advertising agencies may be for their own use in connection with the rendition of an advertising service or may be for resale as tangible personal property to their clients.~~

Business and Occupation (B&O) Tax

~~The gross income received for advertising services, including commissions or discounts received upon articles purchased as agents in behalf of clients, is taxable under the service and other business activities B&O tax classification. (See WAC 458-20-144 for discounts or commissions allowed by printers.) Included in this classification are amounts attributable to sales of tangible personal property, unless charges for such articles are separately stated in billings rendered to clients.~~

~~The retailing or wholesaling classification B&O tax applies to articles of tangible personal property sold to persons for whom no advertising service is rendered and also to charges to clients for such articles if separately stated from charges for advertising services in billings rendered.~~

~~The manufacturing classification applies to articles manufactured for sale or commercial or industrial use (see WAC 458-20-134), and also to interstate sales of manufactured articles separately stated from advertising services. (General principles covering sales or services to persons in other states are contained in WAC 458-20-193.)~~

Retail Sales Tax

~~The retail sales tax applies upon all sales of plates, engravings, electrotypes, etchings, mats, and other articles to advertising agencies for use by them in rendering an advertising service and not resold to clients.~~

~~The retail sales tax must be paid by advertising agencies to vendors upon retail purchases made by them as agent in behalf of clients.~~

~~Advertising agencies are required to collect the retail sales tax upon charges taxable under the retailing B&O tax classification. Advertising agencies must provide a resale certificate for purchases made before January 1, 2010, or a reseller permit for purchases made on or after January 1, 2010, to the vendor to document the wholesale nature of any sale as provided in WAC 458-20-102A (Resale certificates) and WAC 458-20-102 (Reseller permits). Even though resale certificates are no longer used after December 31, 2009, they must be kept on file by the vendor for five years from the date of last use or December 31, 2014.~~

Use Tax

~~The use tax applies upon the use of articles purchased or manufactured for use in rendering an advertising service. Articles acquired without payment of retail sales tax which are resold to clients, but not separately stated from charges~~

~~for advertising service, are also subject to use tax-)) (1) **Introduction.** This rule explains how Washington's business and occupation (B&O) tax, retail sales tax, and use tax is applied to advertising agencies under various scenarios.~~

~~(a) **References to related rules.** The department of revenue (department) has adopted other rules to which readers may want to refer:~~

~~(i) WAC 458-20-102 Reseller permits;~~

~~(ii) WAC 458-20-111 Advances and reimbursements;~~

~~(iii) WAC 458-20-134 Commercial or industrial use;~~

~~(iv) WAC 458-20-136 Manufacturing, processing for hire, fabricating;~~

~~(v) WAC 458-20-141 Duplicating activities and mailing bureaus;~~

~~(vi) WAC 458-20-144 Printing industry;~~

~~(vii) WAC 458-20-193 Interstate sales of tangible personal property;~~

~~(viii) WAC 458-20-15503 Digital products; and~~

~~(ix) WAC 458-20-19301 Multiple activities tax credits.~~

~~(b) **Examples.** This rule includes a number of examples that identify a set of facts and then state a conclusion. These examples are only a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.~~

~~(2) **Definitions.** The following definitions apply throughout this rule:~~

~~(a) "Advertising agency" means a business primarily engaged in providing advertising services and may be involved in other related activities such as the buying, selling, or producing of tangible personal property for or on behalf of clients, or for the agency to use in connection with providing advertising services.~~

~~(b) "Advertising services" means all services directly related to the creation, preparation, production, or the dissemination of advertisements. Advertising services include layout, art direction, graphic design, mechanical preparation, production supervision, placement, and rendering advice to a client concerning the best methods of advertising that client's products or services. Advertising services also include providing online referrals, search engine marketing and lead generation optimization, web campaign planning, the acquisition of advertising space in various media outlets such as the internet, television, radio, newspaper, and magazines, and the monitoring and evaluation of the effectiveness of an advertising campaign.~~

~~(3) **Business and occupation tax.** Generally, advertising agencies are subject to business and occupation (B&O) tax on all gross income and commissions, including amounts received to pay media outlets, unless the amounts are valid advances and reimbursements under WAC 458-20-111.~~

~~(a) **Service and other activities.** Gross income received by advertising agencies is subject to service and other activities B&O tax on the following nonexclusive list of advertising services:~~

~~(i) Procuring advertising space or time in a media outlet for a client. A media outlet includes, but is not limited to, television and radio stations, newspapers, magazines, and web sites.~~

~~(ii) Consultation, creating advertising campaigns, and graphic design services.~~

(iii) Copy writing, editing, layout, and coordinating of advertising material.

(iv) Receiving commissions for purchasing articles as agents on behalf of clients.

(v) Sales of advertising products that are incidental to the advertising services rendered, unless the charges are separately itemized when invoiced to the client. Refer to (b) of this subsection for the taxability of such charges that are separately itemized.

(b) Retailing and wholesaling activities. Advertising agencies that sell tangible personal property or provide retail services to the end user are subject to retailing B&O tax on their gross proceeds of sale. In addition, sales of advertising products that are incidental to the advertising services rendered, but that are separately itemized when invoiced to the client, are also subject to retailing B&O tax. With regard to advertising agencies engaged in wholesaling activities, sales for resale are subject to wholesaling B&O tax if the advertising agency obtains a reseller permit from the buyer as provided by WAC 458-20-102.

Example 1. Advertising Agency provides various advertising services to its client, Sports Co., including the design of advertising campaigns and sales of brochures it purchases from a third-party printing company. It charges \$100,000 for its design of advertising campaigns plus \$10,000 for its sales of brochures to Sports Co. The price of the brochures is separately stated from the other services provided on Sports Co.'s invoice. Because the price of the brochures is separately stated, the \$10,000 that Advertising Agency receives from its sale of brochures to Sports Co. is not subject to the service and other activities B&O tax classification. Instead, these sales are subject to retailing B&O and retail sales tax. The \$100,000 Advertising Agency receives for its design of advertising campaigns is subject to service and other activities B&O tax. Had Advertising Agency not separately stated the \$10,000 from its sale of brochures on the invoice to Sports Co., then the total amount received for the design of advertising campaigns and the sale of brochures would be subject to service and other activities B&O tax if the sale of the brochures are incidental to the advertising services provided.

(c) Manufacturing activities. Advertising agencies that manufacture articles of tangible personal property that are sold or used for commercial or industrial use are subject to the manufacturing B&O tax classification on the value of these articles. For additional information on manufacturing, see WAC 458-20-134 and 458-20-136.

(d) Multiple activities tax credit (MATC). An advertising agency that sells the product it manufactures must report under each of the appropriate "production" (manufacturing) and "selling" (retailing or wholesaling) classifications of the B&O tax. The advertising agency may then claim a MATC for the lesser of either the manufacturing B&O tax, or the wholesaling and/or retailing B&O tax liability. For additional information on the MATC, see WAC 458-20-19301.

Example 2. Advertising Agency provides various advertising services to its Washington-based client, News Station. It provides News Station with new marketing strategies and sells billboards it manufactures. On the invoice, Advertising Agency separately itemizes its sales of billboards to News

Station and the marketing strategy services. Advertising Agency is subject to service and other activities B&O tax on amounts it receives from marketing strategy services, manufacturing B&O tax on its manufacturing of billboards, and retailing B&O tax on its sale of billboards. Advertising Agency must also collect and remit retail sales tax on the sale of billboards. Advertising Agency may claim the MATC for the lesser of either its retailing B&O tax or manufacturing B&O tax liability.

(e) Requirements for excluding amounts received when acting as an agent for a client. Under WAC 458-20-111, there is an exclusion from B&O tax for advances or reimbursements an advertising agency receives when the funds are used to pay costs or fees for a client if certain conditions are met. An advertising agency must meet all three of the following requirements to exclude advances and reimbursements from its gross income:

(i) The amounts are reimbursements or advances made to pay obligations of a client;

(ii) The advertising agency is not performing these services, either directly or indirectly, through independent contractors; and

(iii) The advertising agency has no liability to pay the client's obligations, except as the agent of its clients.

Example 3. Advertising Agency arranges advertising for its client, Sports Co., through radio and television broadcasting companies. For a total contract amount of \$8,000, it provides marketing and branding strategies, sales promotions, and is obligated to purchase airtime from media outlets on behalf of Sports Co. for television and radio commercials. Advertising Agency pays the media outlets \$3,000 to air the commercials and is responsible for the quality of the commercials to Sports Co., which includes the commercials' video and audio quality. In addition, Advertising Agency is liable to the media outlet for payment.

Advertising Agency may not deduct the \$3,000 payment to the media outlets as an advance or reimbursement under WAC 458-20-111 for the following reasons:

- It is discharging its own obligations to secure airtime to fulfill its advertising services;

- It is liable to Sports Co. for the quality of the services; and

- It is liable to the media outlets for payment.

Advertising Agency failed to meet each of the three requirements under WAC 458-20-111 as described in (e) of this subsection. Thus, the entire amount of \$8,000 is subject to service and other activities B&O tax.

Example 4. Same facts as Example 3, except now Advertising Agency is only acting as an agent on behalf of Sports Co. to secure airtime for a total contract amount of \$4,000. Sports Co. is directing and controlling Advertising Agency's activities as well as the selection of the media. In addition, Advertising Agency is not obligated to pay the media outlet and is not responsible for the quality of the services. Because Advertising Agency has satisfied the required three elements as described in (e) of this subsection, it may deduct the \$3,000 payment it makes to the media outlet as an advance and reimbursement under WAC 458-20-111. Thus, only the \$1,000 is subject to service and other activities B&O tax.

(4) Retail sales tax. Retail sales tax applies to all retail sales including, but not limited to, the following:

(a) Sales made to an advertising agency. An advertising agency is subject to retail sales tax on all purchases of items used or consumed in providing advertising services and not resold to clients. Items purchased for resale to the client are not subject to retail sales tax if the advertising agency provides the seller with a reseller permit as provided by WAC 458-20-102.

(b) Sales made to clients. Advertising agencies are required to collect retail sales tax from its clients on retail sales made and retail services provided under subsection (3)(b) of this rule.

(c) Purchases as an agent. Retail sales tax must be paid by advertising agencies to vendors on retail purchases made by them acting as an agent on behalf of clients.

(5) Use tax. Use tax applies on the use of items purchased or manufactured to be used by an advertising agency in rendering an advertising service if retail sales tax has not been paid. Items acquired without payment of retail sales tax and that are resold to clients, but not separately stated from charges for advertising service, are also subject to use tax.

WSR 17-23-150
PROPOSED RULES
HORSE RACING COMMISSION

[Filed November 21, 2017, 10:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-19-028.

Title of Rule and Other Identifying Information: New WAC 260-28-035 Partnership disputes.

Hearing Location(s): On January 12, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: January 12, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by January 5, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, TTY 360-459-6462, email patty.brown@whrc.state.wa.us, by January 9, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adds a new section to address the stewards authority and responsibilities in addressing partnership disputes when an agreement is not recorded.

Reasons Supporting Proposal: New language gives guidance to the stewards and to the licensees as to the authority of the commission to mediate and address partnership disputes. If an agreement is not on file, or a notarized copy provided, the stewards may mediate to resolve the conflict. If no agreement is reached, the horses involved will be placed on the stewards list until the parties resolve the issue in another manner.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

November 21, 2017

Douglas L. Moore

Executive Secretary

NEW SECTION

WAC 260-28-035 Partnership disputes. Partnerships which result in a dispute over financial obligations, ownership, or other issues may be addressed by the board of stewards under the following conditions:

(1) An agreement, signed and notarized by each partner, is on file with the commission indicating ownership percentage, purse distribution, and any financial obligations prior to the dispute.

(2) A copy of a notarized agreement, signed by each partner, is presented to the commission with the requirements in subsection (1) of this section and is dated prior to the dispute.

(3) The board of stewards may mediate any dispute if all parties are in agreement with the attempt to mediate. Failure to settle the dispute at an initial mediation will result in all horses involved being placed on the stewards list until such time as the matter is settled.

WSR 17-23-152
PROPOSED RULES
HORSE RACING COMMISSION

[Filed November 21, 2017, 10:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-17-065.

Title of Rule and Other Identifying Information: WAC 260-70-580 Official veterinarian's list.

Hearing Location(s): On January 12, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: January 12, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by January 5, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, TTY 360-

459-6462, email patty.brown@whrc.state.wa.us, by January 9, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Incorporates a [an] adopted policy into rule.

Reasons Supporting Proposal: In 2017 the Washington horse racing commission (WHRC) adopted a policy statement to ensure that reciprocity was honored for horses on veterinarian lists in other jurisdictions. This amendment places the existing policy into rule.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: WHRC, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

November 21, 2017
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 15-17-068, filed 8/15/15, effective 9/15/15)

WAC 260-70-580 Official veterinarian's list. (1) An official veterinarian will maintain a list of all horses determined by an official veterinarian to be unfit to compete in a race due to illness, physical distress, unsoundness, infirmity or other medical condition.

(2) A horse may be removed from the veterinarian's list when an official veterinarian determines the horse is capable of competing in a race.

(a) Horses placed on the veterinarian's list that are required to work prior to being removed from the list will remain on the list for a minimum of seven days. (For purposes of counting days, the first day is the day the horse is placed on the veterinarian's list.)

(b) Horses that must work to be removed from the veterinarian list due to soreness, lameness, or certain injuries will be allowed to work no sooner than the eighth day after being placed on the list.

(i) Works should be scheduled with an official veterinarian twenty-four hours in advance.

(ii) The official veterinarian may require a physical exam prior to approving ~~((the))~~ a work and following the work to assess soundness for racing.

(iii) Horses must work a minimum distance to be determined by an official veterinarian in a time comparable for the track condition that day.

(iv) A blood test will be taken by an official veterinarian following the workout and medications levels may not exceed permitted post-race levels. The horse may be allowed

to enter "conditionally" prior to the report from the testing laboratory. If the sample is reported to exceed a post-race allowable threshold for an approved medication, the horse will be scratched.

(c) Horses placed on the veterinarian's list that are not required to work may not race for a minimum of thirteen days from the date placed on the list. (For purposes of counting days, the first day is the day the horse is placed on the veterinarian's list.)

(d) Any horse that appears on the veterinarian's list from a recognized jurisdiction will be reported to the board of stewards and/or the official veterinarian. Horses listed are ineligible to race in Washington until approved by an official veterinarian.

(i) An attempt will be made to contact the jurisdiction in which the horse appears on the list to facilitate the process to have the horse removed from the list.

(ii) A horse that appears on any veterinarian's list for any soundness issues will be required to comply with this chapter's requirements for removal from the list, unless the jurisdiction where the horse was placed on the official veterinarian's list has more stringent requirements than this chapter, then the horse must meet those requirements before removal.

(iii) A horse that appears on a veterinarian's list for other reasons may be removed after approval of an official veterinarian.

WSR 17-23-153

PROPOSED RULES

HORSE RACING COMMISSION

[Filed November 21, 2017, 10:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-17-064.

Title of Rule and Other Identifying Information: WAC 260-40-140 Horses must be eligible to start at time of entry.

Hearing Location(s): On January 12, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: January 12, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by January 5, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, TTY 360-459-6462, email patty.brown@whrc.state.wa.us, by January 9, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Ensure consistency when determining a horse's eligibility during the appeal process.

Reasons Supporting Proposal: Amendment places into WAC consistency when determining the eligibility of horses involved in an appeal that resulted from the outcome of a race. Language added states the original order of finish, prior to the disqualification of a horse, will be deemed official in

determining all horses involved eligibility until such time as the appeal process is exhausted.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

November 21, 2017
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 07-07-010, filed 3/8/07, effective 4/8/07)

WAC 260-40-140 Horse must be eligible to start at time of entry. (1) All horses must be eligible to start at time of entry, as determined by conditions established by the racing secretary's published condition book or conditions for late extra races offered.

(2) During an appeal process which involves a disqualification, the horse which has been deemed disqualified will retain its original placing for eligibility purposes, until such time as the appeal is exhausted. All other horses which competed in the race, for eligibility standards, will retain their original placings until such time as the appeal is exhausted. If at the time of any subsequent race, any horse involved competes, their eligibility at the time of the race will be official and there will be no changes to the order of finish in those races.

WSR 17-23-154
PROPOSED RULES
HORSE RACING COMMISSION

[Filed November 21, 2017, 10:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-06-021.

Title of Rule and Other Identifying Information: WAC 260-48-920 Pick (n) pools.

Hearing Location(s): On January 12, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: January 12, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.

moore@whrc.state.wa.us, fax 360-459-6461, by January 5, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, TTY 360-459-6462, email patty.brown@whrc.state.wa.us, by January 9, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adds a new calculation for payout of pick (n) pools.

Reasons Supporting Proposal: Amendment allows the racing association to create a "unique" ticket jackpot pool. A portion of each pool will be carried over until such time a [as] there is only one winning ticket, or the end of the race meet, whichever comes first.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

November 21, 2017
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 17-03-094, filed 1/13/17, effective 2/13/17)

WAC 260-48-920 Pick (n) pools. (1) The pick (n) requires selection of the first-place finisher in each of a designated number of races. The association must obtain written approval from the executive secretary concerning the scheduling of pick (n) races, the designation of one of the methods prescribed in part (2), and the amount of any cap to be set on the carryover. The number of races so designated must be more than three (3), but no greater than ten (10). Any changes to the approved pick (n) format require prior approval from the executive secretary.

(2) The pick (n) pool will be apportioned under one of the following methods:

(a) Method 1, pick (n) with carryover: The net pick (n) pool and carryover, if any, will be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the remainder will be added to the carryover.

(b) Method 2, pick (n) with minor pool and carryover: The major share of the net pick (n) pool and the carryover, if any, will be distributed to those who selected the first-place

finisher in each of the pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the minor share of the net pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the major share will be added to the carryover.

(c) Method 3, pick (n) with no minor pool and no carryover: The net pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(d) Method 4, pick (n) with minor pool and no carryover: The major share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the greatest number of pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the net pick (n) pool will be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

(e) Method 5, pick (n) with minor pool and no carryover: The major share of net pick (n) pool will be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all pick (n) races, the entire net pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the net pick (n) pool will be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the pick (n) races. If there are no winning wagers, the pool is refunded.

(f) Method 6, pick (n) with minor pool, jackpot pool, major carryover and jackpot carryover: Predetermined percentages of the net pick (n) pool will be set aside as a major pool, minor pool and jackpot pool. The major share of the net pick (n) pool and the major carryover, if any, will be distributed to those who selected the first-place finisher of each of the pick (n) races, based upon the official order of finish. If there are no tickets selecting the first-place finisher in each of the pick (n) races, the major net pool will be added to the major carryover. If there is only one single ticket selecting the first-place finisher of each of the pick (n) races, based upon the official order of finish, the jackpot share of

the net pick (n) pool and the jackpot carryover, if any, will be distributed to the holder of that single ticket, along with the major net pool and the major carryover, if any. If more than one ticket selects the first-place finisher of each of the pick (n) races the jackpot net pool will be added to the jackpot carryover. The minor share of the net pick (n) pool will be distributed to those who selected the first-place finisher of the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the minor net pool of the pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher of the greatest number of pick (n) races.

(g) Method 7, with carryover and "Unique Winning Ticket" provision: The net pick (n) pool and carryover, if any, shall be distributed to the holder of a single, unique winning ticket that selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. If there is more than one ticket selecting the first-place finisher in each of the pick (n) races, the major share of the net pick (n) pool will be distributed as a single price pool to those ticket holders, and the minor share will be added to the carryover. If there are no tickets selecting the first-place finisher in each of the pick (n) races, the major share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the greatest number of pick (n) races, and the minor share will be added to the carryover. If there are no tickets that selected at least one first-place finisher in any of the pick (n) races, the day's net pool is refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

(h) Method 8, pick (n) with the pool split into three shares, one share having a carryover: The share percentages are determined by the pool host and approved by the executive secretary. The first share of the net pick (n) pool and the carryover, if any, will be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. The second share of the net pick (n) pool will be distributed to those who selected (n-1) of the pick (n) races, based upon the official order of finish and a third share of the pick (n) pool will be distributed to those who selected (n-2) of the pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the first share will be added to the carryover. If there are no wagers selecting (n-1) of the pick (n) races, the second share will be added to the carryover. If there are no wagers selecting (n-2) of the pick (n) races, the third share will be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the pick (n) races, based upon the official order of finish, the day's net pool will be refunded and the previous carryover pool amount, if any, will be carried over to the next scheduled corresponding pool.

(i) Method 9, pick (n) with pool split into three shares, with carryovers, and a "Unique Winning Ticket" provision: The share percentages are determined by the pool host and approved by the executive secretary. The first share of the net pick (n) pool and the first share carryover, if any, will be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish.

The second share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the second share of the net pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races, and the first share will be added to the first share carryover. The third share and the third share carryover, if any, will be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. If there is no unique winning ticket selecting the first-place finisher in each of the pick (n) races, the third share shall be added to the third share carryover. For greater certainty, the holder of a unique winning ticket shall receive both the first share, and first share carryover, if any, as well as the third share, and the third share carryover, if any. Where there is no correct selection of the first-place finisher in at least one of the pick (n) races, based upon the official order of finish, the day's net pool will be refunded and the previous carryover pool(s) amount(s), if any, will be carried over to the next scheduled corresponding pool. In obtaining authorization for operating the pick (n) pool under this subsection, associations must clearly identify which definition under subsection (15) of this section will be relied upon for determining the existence of a unique winning ticket.

(3) If there is a dead heat for first in any of the pick (n) races involving:

(a) Horses representing the same betting interest, the pick (n) pool will be distributed as if no dead heat occurred.

(b) Horses representing two or more betting interests, the pick (n) pool will be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(4) Should a betting interest in any of the pick (n) races be scratched:

(a) The racing association may allow patrons the option of selecting an alternate betting interest prior to the running of the first leg of the pick (n). The selected alternate betting interest will be substituted for the scratched betting interest, for all purposes, including pool calculations.

(b) If no alternate betting interest is selected or the selected alternate betting interest is also scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the close of wagering on that race, will be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection will be the betting interest with the lowest program number. The parimutuel system will produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(5) The pick (n) pool will be canceled and all pick (n) wagers for the individual race day will be refunded if:

(a) At least three races included as part of a pick 4, pick 5 or pick 6 are canceled or declared "no contest."

(b) At least four races included as part of a pick 7, pick 8 or pick 9 are canceled or declared "no contest."

(c) At least five races included as part of a pick 10 are canceled or declared "no contest."

(6) If at least one race included as part of a pick (n) is canceled or declared "no contest," but not more than the number specified in subsection 5 of this rule, the net pool will be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) races for that race day. Such distribution will include the portion ordinarily retained for the pick (n) carryover but not the carryover from previous race days.

(7) The pick (n) carryover may be capped at a designated level approved by the commission so that if, at the close of any race day, the amount in the pick (n) carryover equals or exceeds the designated cap, the pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the pick (n) carryover, will be distributed to those whose selection finished first in the greatest number of pick (n) races for that race day.

(8) A written request for permission to distribute the pick (n) carryover on a specific race day may be submitted to the executive secretary. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and race day for the distribution.

(9) Should the pick (n) carryover be designated for distribution on a specified date and race day in which there are no wagers selecting the first-place finisher in each of the pick (n) races, the entire pool will be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) races. The pick (n) carryover will be designated for distribution on a specified date and race day only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection (8) of this ~~(rule)~~ section.

(b) Upon written approval from the executive secretary when there is a change in the carryover cap, a change from one type of pick (n) wagering to another, or when the pick (n) is discontinued.

(c) On the closing race day of the meet or split meet.

(10) If, for any reason, the pick (n) carryover must be held over to the corresponding pick (n) pool of a subsequent meet, the carryover will be deposited in an interest-bearing account approved by the commission. The pick (n) carryover plus accrued interest will then be added to the net pick (n) pool of the following meet on a date and race day so designated by the commission.

(11) With the written approval of the executive secretary, the association may contribute to the pick (n) carryover a sum of money up to the amount of any designated cap.

(12) Providing information to any person that is not made available to the public regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is prohibited.

(13) The total amount of the net pool and information of probable payouts for each of the runners when the last race of the pick (n) wager is the only race remaining to be run may be displayed to the public.

This will not prohibit necessary communication between parimutuel system and parimutuel department employees for processing of pool data.

(14) The association may suspend (~~previously approved~~) previously approved pick (n) wagering with the prior approval of the executive secretary. Any carryover will be held until the suspended pick (n) wagering is reinstated. An association may request approval of a pick (n) wager or separate wagering pool for specific race day.

(15) As it relates to any distribution method in subsection (2) of this section which contains a unique winning ticket provision:

(a) A written request for permission to distribute the pick (n) unique winning carryover on a specific performance may be submitted to the executive secretary. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. Should the pick (n) unique winning ticket net pool and any applicable carryover be designated for distribution on a specified date and performance in which there is no unique winning ticket, the entire pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races.

(b) Associations must use the following criteria for determining the existence of a unique winning ticket:

(i) There is one and only one winning ticket that correctly selected the first-place finisher in each of the pick (n) races, based upon the official order of finish, to be verified by the unique serial number assigned by the tote company that issued the winning ticket; and

(ii) The total amount wagered on the one and only one winning combination selecting the first-place finisher in each of the pick (n) races, based upon the official order of finish, is equal to the minimum allowable wager.

WSR 17-23-159

PROPOSED RULES

HORSE RACING COMMISSION

[Filed November 21, 2017, 10:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-14-051.

Title of Rule and Other Identifying Information: WAC 260-70-675 Bicarbonate testing.

Hearing Location(s): On January 12, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: January 12, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by January 5, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, TTY 360-459-6462, email patty.brown@whrc.state.wa.us, by January 9, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adds language to remain consistent with ARCI model rules.

Reasons Supporting Proposal: Adds language in the current rule to ensure that the plus/minus variation at the official testing laboratory is considered when determining whether a bicarbonate sample is called a positive finding.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

November 21, 2017

Douglas L. Moore

Executive Secretary

AMENDATORY SECTION (Amending WSR 07-07-036, filed 3/12/07, effective 4/12/07)

WAC 260-70-675 Bicarbonate testing. No bicarbonate-containing substance or alkalizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or total carbon dioxide in a horse may be administered to a horse within twenty-four hours of post time of the race in which the horse is entered.

An official veterinarian, the board of stewards or the executive secretary acting on behalf of the commission may at their discretion and at any time order the collection of test samples from any horses either in the horse's stall or within the receiving or test barn to determine the serum or plasma pH or concentration of bicarbonate, total carbon dioxide, or electrolytes.

Test samples must not exceed 37.0 millimoles of total carbon dioxide concentration per liter of serum or plasma plus the measurement of uncertainty of the laboratory analyzing the sample. A serum or plasma total carbon dioxide level exceeding this value is a violation of this rule. Penalties will be assessed as a (~~Class 4~~) category B violation as provided in WAC 260-84-110(~~(6)~~).

Split samples will be taken from all horses entered to run in a race when bicarbonate testing is to be done. When split samples are taken, they will be shipped as soon as practical to the commission-approved laboratories for total carbon dioxide split sample testing. The commission is responsible for the cost of shipping and testing of split samples taken under this section.

WSR 17-23-168
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed November 21, 2017, 11:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-17-075.

Title of Rule and Other Identifying Information: Amendments to the electrical rules to the scope of work for (02) residential and (04) signs specialties in WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work.

Hearing Location(s): On January 3, 2018, at 9:00 a.m., at the Department of Labor and Industries (L&I), 7273 Linderon Way S.W., Tumwater, WA 98501. For directions to the L&I office <http://www.lni.wa.gov/Main/ContactInfo/OfficeLocations>.

Date of Intended Adoption: January 23, 2018.

Submit Written Comments to: Alicia Curry, P.O. Box 44400, Olympia, WA 98504-4400, email Alicia.Curry@lni.wa.gov, fax 360-902-5292, by 5:00 p.m., on January 5, 2018.

Assistance for Persons with Disabilities: Contact Alicia Curry, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@lni.wa.gov, by December 15, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: L&I is proposing rule amendments to WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work. The department has accepted two petitions for rule making to modify the scope of work for (02) residential and (04) signs electrician specialties. The proposed rule:

- Allows (02) residential specialty electricians to work in multifamily occupancies of buildings of types III, IV or V construction when there are not more than six stories of multifamily dwellings of types III, IV or V construction above grade or above types I or II construction. Under the current rule, (02) residential specialty electricians are limited to installation of non-metallic sheathed cable in multifamily dwellings to three stories above grade. The proposed rule aligns the scope of work for (02) residential specialty electricians with the building code requirements for the installation of nonmetallic sheathed cable. Building codes restrict the building construction types where nonmetallic sheathed cable can be used to a maximum of six stories. The building code allows a maximum of those six stories to be built above grade (types III, IV or V construction above grade) or above types of construction where nonmetallic sheathed cable is not allowed, commonly referred to as pedestal construction (types III, IV or V construction above types I or II construction).
- The proposed rule also allows (04) signs specialty electricians to retrofit existing luminaires that are mounted on a pole or other structure with energy efficient technology, such as LEDs. Under the existing rule, (04) signs specialty electrician can service, maintain, or repair these luminaires with like-in-kind components but the

rule prohibits alterations such as LED retrofits. This type of alteration work under the existing rule must be performed by electrical contractors and electricians licensed as (01) general, (07) nonresidential specialty, or (07A) nonresidential lighting maintenance and lighting retrofit specialty.

Reasons Supporting Proposal: This rule making will modify both electrician specialty scopes of work in response to the petitions and stakeholder requests. The department recognizes the (02) residential specialty is already qualified to perform work in taller buildings than the three story buildings they are limited to now and the proposed rule will update the scope of work to reflect the most current National Electric Code (NEC). The department also recognizes the (04) signs specialty is qualified to retrofit existing luminaires that are mounted on a pole or other structure with energy efficient technology because they are already performing the same work when upgrading luminaires in signs. These changes do not impose any safety risks to life or property.

Statutory Authority for Adoption: Chapter 19.28 RCW, Electricians and electrical installations, including RCW 19.28.010 and 19.28.031.

Statute Being Implemented: Chapter 19.28 RCW, Electricians and electrical installations, including RCW 19.28.010 and 19.28.031.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Steve Thornton, Program Manager, Tumwater, Washington, 360-902-6234; Implementation and Enforcement: Jose Rodriguez, Assistant Director, Tumwater, Washington, 360-902-6348.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Alicia Curry, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@lni.wa.gov [Alicia.Curry@lni.wa.gov].

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not impose any additional direct costs nor does it increase safety hazards. Specifically, the analyses for each of the two areas of the rule changes are presented below:

- The first change would allow (04) specialty electricians to retrofit existing luminaires that are mounted on a pole or other structure with energy efficient technology. Under the existing rule, an (04) specialty electrician can service, maintain, or repair these luminaires with like-in-kind components (direct replacement parts) but the rule prohibits alterations such as LED retrofits (adding new technology or features to an existing system). This type of alteration work must be performed by an (01) certified journeyman electrician, (07) nonresidential maintenance, or (07A) nonresidential lighting maintenance and lighting retrofit specialty electrician.

The proposed amendment to the scope of work is based on the fact that the installation of LED retrofits is similar to the replacement of lamps and ballasts in existing signs that (04) specialty electricians already perform, and properly licensed sign companies have the equipment and staff to work on elevated signs.

The updated scope of work under this proposal will not impose any direct additional costs or increase any safety hazards, and it will not require additional training.

- The second change would allow (02) residential electricians to install nonmetallic sheathed cable in multifamily residential buildings as allowed by the current NEC and align the rule with current building code requirements. Nonmetallic sheathed cable is the type of cable used to wire houses and apartments. The current scope of work for residential (02) electricians is based on an outdated building height restriction in the 1999 NEC limiting use of nonmetallic sheathed cable to buildings no more than three stories above grade. This height restriction was removed from the code in 2002 and replaced with references to building construction types.

The updated scope of work under this proposal will not impose any additional costs or increase any safety hazards for the parties involved, it will not require additional training, and it will align the rule with the current NEC requirements.

A copy of the detailed cost calculations may be obtained by contacting Alicia Curry, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.wa.gov [Alicia.Curry@Lni.wa.gov].

November 21, 2017
Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 13-22-070, filed 11/5/13, effective 12/15/13)

WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work. (1) **General electrical (01):** A general electrical license and/or certificate encompasses all phases and all types of electrical and telecommunications installations and minor plumbing under RCW 18.106.150. For the purposes of RCW 18.106.150, the like-in-kind replacement includes the appliance or any component part of the appliance (e.g., such as, but not limited to, the thermostat in a water heater).

Specialties.

(2) All specialties listed in this subsection may perform the electrical work described within their specific specialty as allowed by the occupancy and location described within the specialty's scope of work. Except for residential (02), the scope of work for these specialties does not include plumbing work regulated under chapter 18.106 RCW. See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty. For the purposes of RCW 18.106.150, the like-in-kind replacement includes the appliance or any component part of the appliance (e.g., such as, but not limited to, the thermostat in a water heater). **Specialty** (limited) electrical licenses and/or certificates are as follows:

(a) **Residential (02):** Limited to the telecommunications, low voltage, and line voltage wiring of one- and two-family dwellings, or multifamily dwellings (~~(not exceeding three stories above grade)~~) of types III, IV or V construction when there are not more than six stories of multifamily dwellings of types III, IV or V construction above grade or above types I or II construction. All wiring is limited to nonmetallic sheathed cable, except for services and/or feeders, exposed installations where physical protection is required, and for wiring buried below grade.

(i) This specialty also includes the wiring for ancillary structures such as, but not limited to: Appliances, equipment, swimming pools, septic pumping systems, domestic water systems, limited energy systems (e.g., doorbells, intercoms, fire alarm, burglar alarm, energy control, HVAC/refrigeration, etc.), multifamily complex offices/garages, site lighting when supplied from the residence or ancillary structure, and other structures directly associated with the functionality of the residential units.

(ii) This specialty does not include wiring of:

(A) Any portion of any occupancy of types I or II construction; or

(B) Occupancies defined in WAC 296-46B-900(1), or commercial occupancies such as: Motels, hotels, offices, assisted living facilities, or stores((-

(iii)); or

(C) Services, generators, HVAC/refrigeration equipment, fire pumps or other equipment that serve other than one- and two-family dwellings, or multifamily dwellings of types III, IV, or V construction or ancillary structures; or

(D) Interconnected electric power production sources not connected to equipment that supplies one- and two-family dwellings, or multifamily dwellings of types III, IV or V construction, or ancillary structures; or

(E) Any portion of wiring for conveyances regulated under chapter 70.87 RCW serving more than one residential dwelling unit.

(iii) For the purposes of this section, classification of types of construction are as determined by the local building official.

(iv) See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty.

(b) **Pump and irrigation (03):** Limited to the electrical connection of circuits, feeders, controls, low voltage, related telecommunications, and services to supply: Domestic water systems and public water systems include but are not limited to pumps, pressurization, filtration, treatment, or other equipment and controls, and irrigation water pumps, circular irrigating system's pumps and pump houses.

This specialty may also perform the work defined in (c) of this subsection.

Also see RCW 18.106.010 (10)(c).

(c) **Domestic pump (03A):** Limited to the extension of a branch circuit, which is supplied and installed by others, to signaling circuits, motor control circuits, motor control devices, and pumps which do not exceed 7 1/2 horsepower at 250 volts AC single phase input power, regardless of motor controller output or motor voltage/phase, used in residential potable water or residential sewage disposal systems. Domestic water systems and public water systems include

but are not limited to pumps, pressurization, filtration, treatment, or other equipment and controls.

Also see RCW 18.106.010 (10)(c).

(d) **Signs (04):** Limited to placement and connection of signs and outline lighting, the electrical supply, related telecommunications, controls and associated circuit extensions thereto; and the installation of a maximum 60 ampere, 120/240 volt single phase service to supply power to a remote sign only. This specialty may service, maintain, ((✕)) repair, or install retrofit kits within housings of existing exterior luminaires that are mounted on a pole or other structure with like-in-kind or retrofit kit components.

(i) Electrical licensing/certification is not required to:

(A) Clean the nonelectrical parts of an electric sign;

(B) Form or pour a concrete pole base used to support a sign;

(C) Operate machinery used to assist an electrician in mounting an electric sign or sign supporting pole; or

(D) Assemble the structural parts of a billboard.

(ii) Electrical licensing/certification is required to: Install, modify, or maintain a sign, sign supporting pole, sign face, sign ballast, lamp socket, lamp holder, disconnect switch, or any other part of a listed electric sign.

(e) **Limited energy system (06):** Limited to the installation of signaling and power limited circuits and related equipment. This specialty is restricted to low-voltage circuits. This specialty includes the installation of telecommunications, HVAC/refrigeration low-voltage wiring, fire protection signaling systems, intrusion alarms, energy management and control systems, industrial and automation control systems, lighting control systems, commercial and residential amplified sound, public address systems, and such similar low-energy circuits and equipment in all occupancies and locations.

(i) For the purposes of this section, when a line voltage connection is removed and reconnected to a replacement component located inside the control cabinet, the replacement must be like-in-kind or replaced using the equipment manufacturer's authorized replacement component. The line voltage circuit is limited to 120 volts 20 amps maximum and must have a means of disconnect.

(ii) The limited energy systems (06) specialty may repair or replace line voltage connections terminated inside the cabinet to power supplies internal to the low voltage equipment provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the circuit.

(iii) The limited energy systems (06) specialty may not replace or modify the line voltage circuit or cabling or alter the means of connection of the line voltage circuit to the power supply or to the control cabinet.

Limited energy electrical contractors may perform all telecommunications work under their specialty (06) electrical license and administrator's certificate.

(f) **HVAC/refrigeration systems:**

(i) See WAC 296-46B-100 for specific HVAC/refrigeration definitions.

(ii) For the purposes of this section when a component is replaced, the replacement must be like-in-kind or made using the equipment manufacturer's authorized replacement component.

(iii) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may:

(A) Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all residential occupancies;

(B) Install, repair, replace, and maintain line voltage components within HVAC/refrigeration equipment. Such line voltage components include product illumination luminaires installed within and powered from the HVAC/refrigeration system (e.g., reach-in beverage coolers, frozen food cases, produce cases, etc.) and new or replaced factory authorized accessories such as internally mounted outlets;

(C) Repair, replace, or maintain the internal components of the HVAC/refrigeration equipment disconnecting means or controller so long as the disconnecting means or controller is not located within a motor control center or panelboard;

(D) Install, repair, replace, and maintain short sections of raceway to provide physical protection for low-voltage cables. For the purposes of this section a short section cannot mechanically interconnect two devices, junction boxes, or other equipment or components; and

(E) Repair, replace, or maintain line voltage flexible supply whips not over six feet in length, provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the whip. There is no limitation on the whip raceway method (e.g., metallic replaced by nonmetallic).

(iv) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may not:

(A) Install line voltage controllers or disconnect switches external to HVAC/refrigeration equipment;

(B) Install, repair, replace, or maintain:

- Integrated building control systems, other than HVAC/refrigeration systems;

- Single stand-alone line voltage equipment or components (e.g., heat cable, wall heaters, radiant panel heaters, baseboard heaters, contactors, motor starters, and similar equipment) unless the equipment or component:

Is exclusively controlled by the HVAC/refrigeration system and requires the additional external connection to a mechanical system(s) (e.g., connection to water piping, gas piping, refrigerant system, ducting for the HVAC/refrigeration system, gas fireplace flume, ventilating systems, etc. (i.e., as in the ducting connection to a bathroom fan)). The external connection of the equipment/component to the mechanical system must be required as an integral component allowing the operation of the HVAC/refrigeration system; or

Contains a HVAC/refrigeration mechanical system(s) (e.g., water piping, gas piping, refrigerant system, etc.) within the equipment (e.g., "through-the-wall" air conditioning units, self-contained refrigeration equipment, etc.);

- Luminaires that serve as a building or structure lighting source, even if mechanically connected to a HVAC/refrigeration system (e.g., troffer luminaire used as a return air device, lighting within a walk-in cooler/freezer used for personnel illumination);

- Raceway/conduit systems;

- Line voltage: Service, feeder, or branch circuit conductors. However, if a structure's feeder/branch circuit supplies

HVAC/refrigeration equipment containing a supplementary overcurrent protection device(s), this specialty may install the conductors from the supplementary overcurrent device(s) to the supplemental HVAC/refrigeration equipment if the supplementary overcurrent device and the HVAC/refrigeration equipment being supplied are located within sight of each other; or

- Panelboards, switchboards, or motor control centers external to HVAC/refrigeration system.

(v) HVAC/refrigeration **(06A)**:

(A) This specialty is not limited by voltage, phase, or amperage.

(B) No unsupervised electrical trainee can install, repair, replace, or maintain any part of a HVAC/refrigeration system that contains any circuit rated over 600 volts whether the circuit is energized or deenergized.

(C) This specialty may:

- Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies:

That have no more than three stories on/above grade; or

Regardless of the number of stories above grade if the installation:

- Does not pass between stories;
- Is made in a previously occupied and wired space; and
- Is restricted to the HVAC/refrigeration system;
- Repair, replace, and maintain HVAC/refrigeration:

Telecommunications, Class 2 low-voltage control circuit wiring/components in all occupancies regardless of the number of stories on/above grade.

- Install a bonding conductor for metal gas piping to an existing accessible grounding electrode conductor or grounding electrode only when terminations can be made external to electrical panelboards, switchboards, or other distribution equipment.

(D) This specialty may not install, repair, replace, or maintain: Any electrical wiring governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations) located outside the HVAC/refrigeration equipment.

(vi) HVAC/refrigeration - Restricted **(06B)**:

(A) This specialty may not perform any electrical work where the primary electrical power connection to the HVAC/refrigeration system exceeds: 250 volts, single phase, or 120 amps.

(B) This specialty may install, repair, replace, or maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies that have no more than three stories on/above grade.

(C) This specialty may not install, repair, replace, or maintain:

- The allowed telecommunications/low-voltage HVAC/refrigeration wiring in a conduit/raceway system; or

- Any electrical work governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(g) **Nonresidential maintenance (07)**: Limited to maintenance, repair and replacement of like-in-kind existing electrical equipment and conductors. This specialty does not

include maintenance activities in residential dwellings defined in (a) of this subsection for the purposes of accumulating training experience toward qualification for the residential **(02)** specialty electrician examination.

(i) This specialty includes the installation and connections of temporary conductors and equipment for the purpose of load testing, not to exceed 600 volts.

(ii) This specialty may perform the work defined in (h), (i), (j), (k), and (l) of this subsection.

(h) **Nonresidential lighting maintenance and lighting retrofit (07A)**: Limited to working within the housing of existing nonresidential luminaires for work related to repair, service, maintenance of luminaires and installation of energy efficiency lighting retrofit upgrades. This specialty includes replacement of lamps, ballasts, sockets and the installation of listed lighting retrofit reflectors and kits. All work is limited to the luminaire body, except remote located ballasts may be replaced or retrofitted with approved products. This specialty does not include installing new luminaires or branch circuits; moving or relocating existing luminaires; or altering existing branch circuits.

(i) **Residential maintenance (07B)**: This specialty is limited to residential dwellings as defined in WAC 296-46B-920 (2)(a), multistory dwelling structures with no commercial facilities, and the interior of dwelling units in multistory structures with commercial facilities. This specialty may maintain, repair, or replace (like-in-kind) existing electrical utilization equipment, and all permit exempted work as defined in WAC 296-46B-901.

This specialty is limited to equipment and circuits to a maximum of 250 volts, 60 amperes, and single phase maximum.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit or whip.

For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(j) **Restricted nonresidential maintenance (07C)**: This specialty may maintain, repair, or replace (like-in-kind) existing electrical utilization equipment, and all permit exempted work as defined in WAC 296-46B-901 except for the replacement or repair of circuit breakers.

This specialty is limited to equipment and circuits to a maximum of 277 volts and 20 amperes for lighting branch circuits only and/or maximum 250 volts and 60 amperes for other circuits.

The replacement of luminaires is limited to in-place replacement required by failure of the luminaire to operate. Luminaires installed in suspended lay-in tile ceilings may be relocated providing: The original field installed luminaire supply whip is not extended or relocated to a new supply point; or if a manufactured wiring assembly supplies luminaire power, a luminaire may be relocated no more than eight feet providing the manufactured wiring assembly circuiting is not changed.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit. For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip.

This specialty may perform the work defined in (h) and (i) of this subsection.

This specialty cannot perform any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(k) **Appliance repair (07D):** Servicing, maintaining, repairing, or replacing household appliances, small commercial/industrial appliances, and other small electrical utilization equipment.

(i) For the purposes of this subsection:

(A) The appliance or electrical utilization equipment must be self-contained and built to standardized sizes or types. The appliance/equipment must be connected as a single unit to a single source of electrical power limited to a maximum of 250 volts, 60 amperes, single phase.

(B) Appliances and electrical utilization equipment include, but are not limited to: Ovens, office equipment, vehicle repair equipment, commercial kitchen equipment, self-contained hot tubs and spas, grinders, and scales.

(C) Appliances and utilization equipment do not include systems and equipment such as: Alarm/energy management/similar systems, luminaires, furnaces/heaters/air conditioners/heat pumps, sewage disposal equipment, door/gate/similar equipment, or individual components installed so as to create a system (e.g., pumps, switches, controllers, etc.).

(ii) This specialty includes:

(A) The in-place like-in-kind replacement of the appliance or equipment if the same unmodified electrical circuit is used to supply the equipment being replaced. This specialty also includes the like-in-kind replacement of electrical components within the appliance or equipment;

(B) The disconnection and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit; and

(C) The installation of an outlet box and outlet at an existing appliance or equipment location when converting the appliance from a permanent electrical connection to a plug and cord connection. Other than the installation of the outlet box and outlet, there can be no modification to the existing branch circuit supplying the appliance or equipment.

(iii) This specialty does not include:

(A) The installation, repair, or modification of branch circuits conductors, services, feeders, panelboards, disconnect switches, or raceway/conductor systems interconnecting multiple appliances, equipment, or other electrical components.

(B) Any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(C) Any plumbing work regulated under chapter 18.106 RCW.

(l) **Equipment repair (07E):** Servicing, maintaining, repairing, or replacing utilization equipment.

See RCW 19.28.095 for the equipment repair scope of work and definitions. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(m) **Telecommunications (09):** Limited to the installation, maintenance, and testing of telecommunications systems, equipment, and associated hardware, pathway systems, and cable management systems.

(i) This specialty includes:

(A) Installation of open wiring systems of telecommunications cables.

(B) Surface nonmetallic raceways designated and used exclusively for telecommunications.

(C) Optical fiber innerduct raceway.

(D) Underground raceways designated and used exclusively for telecommunications and installed for additions or extensions to existing telecommunications systems not to exceed fifty feet inside the building.

(E) Incidental short sections of circular or surface metal raceway, not to exceed ten feet, for access or protection of telecommunications cabling and installation of cable trays and ladder racks in telecommunications service entrance rooms, spaces, or closets.

(F) Audio or paging systems where the amplification is integrated into the telephone system equipment.

(G) Audio or paging systems where the amplification is provided by equipment listed as an accessory to the telephone system equipment and requires the telephone system for the audio or paging system to function.

(H) Closed circuit video monitoring systems if there is no integration of line or low-voltage controls for cameras and equipment. Remote controlled cameras and equipment are considered (intrusion) security systems and must be installed by appropriately licensed electrical contractors and certified electricians.

(I) Customer satellite and conventional antenna systems receiving a telecommunications service provider's signal. All receiving equipment is on the customer side of the telecommunications network demarcation point.

(ii) This specialty does not include horizontal cabling used for fire protection signaling systems, intrusion alarms, access control systems, patient monitoring systems, energy management control systems, industrial and automation control systems, HVAC/refrigeration control systems, lighting control systems, and stand-alone amplified sound or public address systems. Telecommunications systems may interface with other building signal systems including security, alarms, and energy management at cross-connection junctions within telecommunications closets or at extended points of demarcation. Telecommunications systems do not include the installation or termination of premises line voltage service, feeder, or branch circuit conductors or equipment. Horizontal cabling for a telecommunications outlet, necessary to interface with any of these systems outside of a telecommunications closet, is the work of the telecommunications contractor.

(n) **Door, gate, and similar systems (10):** This specialty may install, service, maintain, repair, or replace door/gate/similar systems electrical operator wiring and equipment.

(i) For the purposes of this subsection, door/gate/similar systems electrical operator systems include electric gates, doors, windows, awnings, movable partitions, curtains and similar systems. These systems include, but are not limited to: Electric gate/door/similar systems operators, control push buttons, key switches, key pads, pull cords, air and electric treadle, air and electric sensing edges, coil cords, take-up reels, clocks, photo electric cells, loop detectors, motion detectors, remote radio and receivers, antenna, timers, lock-out switches, stand-alone release device with smoke detection, strobe light, annunciator, control panels, wiring and termination of conductors.

(ii) This specialty includes:

(A) Low-voltage, NEC Class 2, door/gate/similar systems electrical operator systems where the door/gate/similar systems electrical operator system is not connected to other systems.

(B) Branch circuits originating in a listed door/gate/similar systems electric operator control panel that supplies only door/gate/similar systems system components providing: The branch circuit does not exceed 600 volts, 20 amperes and the component is within sight of the listed door/gate/similar systems electric operator control panel.

(C) Reconnection of line voltage power to a listed door/gate/similar systems electric operator control panel is permitted provided:

- There are no modifications to the characteristics of the branch circuit/feeder;
- The circuit/feeder does not exceed 600 volts, 20 amperes; and
- The conductor or conduit extending from the branch circuit/feeder disconnecting means or junction box does not exceed six feet in length.

(iii) This specialty does not include any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty may not install, repair, or replace branch circuit (line voltage) conductors, services, feeders, panelboards, or disconnect switches supplying the door/gate/similar systems electric operator control panel.

(3) A specialty electrical contractor, other than the (06) limited energy specialty electrical contractor, may only perform telecommunications work within the equipment or occupancy limitations of their specialty electrical contractor's license. Any other telecommunications work requires a telecommunications contractor's license.

Preproposal statement of inquiry was filed as WSR 17-19-093.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-32-0030 What FRS services does the department provide?

Hearing Location(s): On December 26, 2017, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than December 27, 2017.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., on December 26, 2017.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by December 12, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-32-0030 in order to better align this rule with current practice.

Reasons Supporting Proposal: The existing WAC is outdated and does not reflect current practice in the children's administration (CA).

Statutory Authority for Adoption: RCW 13.32A.040, 74.13.031, 74.080.090 [74.08.090].

Statute Being Implemented: RCW 74.13.031.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sherrie Flores, P.O. Box 45710, Olympia, WA 98504, 360-902-7903.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required under RCW 34.05.328 (5)(b)(iii). Rules adopted by reference, without material change, to ensure the WAC are consistent with federal requirements. The rule content is dictated by statute.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

November 16, 2017

Katherine I. Vasquez

Rules Coordinator

WSR 17-23-172
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed November 21, 2017, 11:55 a.m.]

Original Notice.

AMENDATORY SECTION (Amending WSR 06-11-080, filed 5/16/06, effective 6/16/06)

WAC 388-32-0030 What FRS ((services)) does the department provide? The assigned social worker provides family reconciliation services (FRS) to develop skills and supports within families to resolve family conflicts, achieve a

reconciliation between parent and child, and to avoid out-of-home placement. The services may include, but are not limited to, referral to services for suicide prevention, psychiatric or other medical care, or psychological, financial, legal, educational, or other social services, as appropriate to the needs of the child and family. Typically FRS is ~~((limited to a ninety-day))~~ completed within a thirty-day period. Children's administration (CA) provides ~~((intake/assessment))~~ intake and assessment services (IAS).

(1) Youth ~~((and/or))~~ and their families who call or self-present at a children's administration central intake or ~~((a))~~ local office requesting FRS ~~((services))~~ must be provided assistance in contacting the appropriate children's administration's intake services to make a formal request for FRS ~~((services))~~.

~~((a))~~ (2) The FRS social worker must contact the family within twenty-four hours of their assignment to the case~~((;))~~ to schedule an appointment to begin the ~~((phase I))~~ family interview ~~((process))~~ and assessment. ~~((These))~~

(3) FRS ~~((phase I sessions are))~~ is intended to defuse the immediate potential for violence, assess problems, and explore options leading to problem resolution.

~~((b) CA or its contractors may provide FRS phase II crisis counseling services.~~

~~((2))~~ (4) Families ~~((eligible for FRS phase II crisis counseling are those who, in the opinion of the family and the CA social worker, require more intensive services than those provided through phase I services.~~

~~((a) Families must make a commitment to participate in the FRS phase II crisis counseling service and must not concurrently be receiving similar counseling services through other agencies or practitioners. At a minimum, there must be a parent and a child willing to participate. FRS phase II crisis counseling assists the family to develop skills and supports in order to resolve conflicts.~~

~~((b) FRS phase II crisis counseling services may not exceed twelve hours within forty-five days unless it is provided using a CA approved model that is based on research demonstrating effectiveness.~~

~~((c) The assigned counselor helps the family develop skills and supports to resolve conflicts. The counselor may refer to resources including medical, legal, ongoing counseling and CPS for problem resolution.~~

~~((d) FRS phase II crisis counseling services are available a maximum of twice in a lifetime for any one family. The family must include a parent/guardian who has legal custody of the youth))~~ who require more intensive interventions than those provided by the FRS social worker may be referred to a contracted provider for services. The family must make a commitment to participate in the contracted services.

Title of Rule and Other Identifying Information: The following sections of chapter 180-105 WAC, Performance improvement goals, WAC 180-105-020 Reading and mathematics and 180-105-060 High school graduation.

Hearing Location(s): On January 10, 2018, at 11:45 a.m., at 6500 Tyee Drive S.W., Tumwater, WA 98501.

Date of Intended Adoption: January 11, 2018.

Submit Written Comments to: Andrew J. Parr, 600 Washington Street S.E., Olympia, WA 98504, email andrew.parr@k12.wa.us, fax 360-586-2357, by January 5, 2018.

Assistance for Persons with Disabilities: Contact Tami Jensen, phone 360-725-4475, fax 360-586-2357, email tami.jensen@k12.wa.us, by January 3, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to make various amendments to two sections of chapter 180-105 WAC, Performance improvement goals, to align district and school improvement goals to long-term goals described in the Washington Every Student Succeeds Act (ESSA) state accountability plan. The proposed amendments also make certain technical corrections to this chapter.

Reasons Supporting Proposal: The need to ensure that chapter 180-105 WAC, Performance improvement goals, is consistent in language and provisions with chapter 28A.305 RCW.

Statutory Authority for Adoption: Chapter 28A.305 RCW.

Statute Being Implemented: Chapter 28A.305 RCW.

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

Name of Proponent: State board of education, governmental.

Name of Agency Personnel Responsible for Drafting: Andrew J. Parr, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6063; Implementation and Enforcement: Executive Director - TBD, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6024.

A school district fiscal impact statement has been prepared RCW 28A.305.135.

SCHOOL DISTRICT FISCAL IMPACT STATEMENT

WSR:	Title of Rule: Performance improvement goals.	Agency: SDF - School District Fiscal Impact - SPI.
-------------	--	---

Part I: Estimates: The office of the superintendent of public instruction (OSPI) estimates total statewide cost[s] of \$2,691,500. OSPI assumes that eighty percent or \$2,153,200 of these expenditures would be incurred in fiscal year 2018 and twenty percent or \$538,300 in fiscal year 2019.

Estimated Cash Receipts to: No estimated cash receipts.

**WSR 17-23-177
PROPOSED RULES
STATE BOARD OF EDUCATION**

[Filed November 21, 2017, 1:59 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR [16-20-019 on] September 26, 2016.

Estimated Expenditures From:

ACCOUNT	FY 2018	FY 2019	2017-19	2019-21	2021-23
School District Local Funds	\$2,153,200	\$538,300	\$0	\$2,691,500	\$0
Total \$	\$2,153,200	\$538,300	\$0	\$2,691,500	\$0

Estimated Capital Impact: No estimated capital impact.

Check applicable boxes and follow corresponding instructions: If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note from Parts I-IV.

Part II: Narrative Explanation:

II. A - Brief Description Of What the Measure Does That Has Fiscal Impact: *Briefly describe by section, the significant provisions of the rule, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

In order to reset graduation goals, districts would need to hold meetings with their high school building leadership teams, school boards, and offer community engagement and education.

II. B - Cash Receipts Impact: *Briefly describe and quantify the cash receipts impact of the rule on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

None.

II. C - Expenditures: *Briefly describe the agency expenditures necessary to implement this rule (or savings resulting from this rule), identifying by section number the provisions of the rule that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

It is estimated that on average, districts would spend twenty hours with each of their high school leadership teams, twenty hours on providing materials and feedback to their school boards on the change, and sixty hours on community engagement and answering questions from parents on the scope of the changes. School year 2016-17 data shows six hundred thirty high schools in the state times twenty hours each equals twelve thousand six hundred aggregate hours at the school level. Since not all districts operate high schools, the estimate is based on the assumption that two hundred eighty districts would spend a combined twenty hours on materials for their school boards, plus an additional sixty hours on community service for an aggregate total of twenty-two thousand four hundred hours (280 * (20+60)). These costs would be at the statewide average for certificated administrative staff, and would be one-time costs split between the 2018 and 2019 state fiscal years since the deadline for school board adoption is December 2018. The statewide average school district rate for a CAS staff member for the 2017-18 school year is estimated at \$149,000 in salary and mandated benefits, or approximately \$76.90 per hour.

The aggregate amount of time spent in the description above is thirty-five thousand hours (12,600 + 22,400) for a total statewide cost of \$2,691,500 equal to 35,000*\$76.90. OSPI assumes that eighty percent or \$2,153,200 of these expenditures would be incurred in fiscal year 2018 and twenty percent or \$538,300 in fiscal year 2019.

Part III: Expenditure Detail:

III. A - Expenditures by Object or Purpose:

All school district expenditures would be for additional salary and fringe benefits.

Part IV: Capital Budget Impact: None.

A copy of the statement may be obtained by contacting Thomas J. Kelly, Room 433, 600 Washington Street S.E., Olympia, WA 98504, phone 360-725-6301.

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

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 34.05.310 (4)(e).

Explanation of exemptions: Chapter 28A.305 RCW, Performance improvement goals, requires the alignment of district and school improvement goals to long-term goals described in ESSA state accountability plan.

November 21, 2017

Debra Merle

Interim Executive Director

AMENDATORY SECTION (Amending WSR 07-07-052, filed 3/14/07, effective 4/14/07)

WAC 180-105-020 Reading and mathematics. (1) Each school district board of directors shall by December 15, ~~((2003))~~ 2018:

(a) Adopt district-wide performance improvement goals using the federal requirements to determine the increase in the percentage of students who meet or exceed the standard on the ~~((Washington assessment of student learning))~~ current statewide assessment for reading or English language arts and mathematics in grades ~~((four, seven,))~~ three through eight and ten; and

(b) Direct each school in the district that administers the ~~((Washington assessment of student learning))~~ current statewide assessment for grades ~~((four, seven,))~~ three through eight or ten to adopt performance improvement goals using the federal requirements to determine the increase in the percentage of students meeting the standard for its ~~((fourth, seventh, or))~~ third through eighth and tenth grade students in reading or English language arts and mathematics.

(2) School districts and schools shall establish separate district-wide and school reading or English language arts and

mathematics improvement goals using the federal requirements to determine the increase in requirements under subsection (1) of this section for each of the following groups of students:

- (a) All students;
- (b) Students of each major racial and ethnic group;
- (c) Economically disadvantaged students;
- (d) Students with disabilities; and
- (e) Students with limited English proficiency.

(3) School districts and schools are not required to publish numerical improvement goals in a grade level for reading or English language arts and mathematics for ~~((2004)) 2018~~ or in any year thereafter for any student group identified in subsection (2) of this section in which there were fewer than ten students eligible to be assessed on the ~~((Washington assessment of student learning))~~ current statewide assessment in the prior year. However, this subsection shall not be construed to affect WAC 180-16-220 (2)(b) or any other requirements for school and school district improvement plans.

(4) Annual performance improvement goals for both school districts and schools shall be determined:

(a) By using the starting point and annual goals established using the federal requirements for determining starting points in the ~~((2003))~~ Washington State ~~((No Child Left Behind (NCLB)))~~ Every Student Succeeds Act (ESSA) Accountability Plan approved by the U.S. Department of Education.

(b) ~~((If the performance improvement goals established by using the federal requirements to determine the increase for assessments administered in the spring of 2003 and each year thereafter through and including assessments administered in the spring of 2013 are not met, but the other indicator is met [the other indicator for high schools is the graduation goal (WAC 180-105-040(4)) and the other indicator for elementary and middle schools is the unexcused absences goal (Washington State Accountability System under NCLB 2001)] then a substitute calculation may be made. That substitute calculation representing satisfactory progress shall not be less than the sum of:~~

~~((i) The percentage of students meeting standard on the assessments administered in the spring of the preceding year for the relevant student group, grade level and subject; and~~

~~((ii) The percentage of students who did not meet standard on the assessments administered in the spring of the preceding year for the relevant student group, grade level and subject, multiplied by ten percent.~~

~~((e))~~ The performance improvement goals for assessments administered in the spring of ~~((2014))~~ 2027 shall be that ninety percent of all students eligible to be assessed meet standard on the ~~((Washington assessment of student learning))~~ current statewide assessment.

(5) School districts and schools shall be deemed to have met the performance improvement goals established pursuant to this chapter if the school district or school achieves the ~~((minimum))~~ improvement goal required under subsection (4) of this section ~~((, even if the school district or school does not achieve the performance improvement goals established by using the federal requirements to determine the increase))~~.

(6) No performance improvement goal for a group in a subject and grade established pursuant to this section shall be used for state or federal accountability purposes if fewer than ~~((thirty))~~ twenty students in the group for a subject and grade are eligible to be assessed on the ~~((Washington assessment of student learning))~~ current statewide assessment.

AMENDATORY SECTION (Amending WSR 07-07-052, filed 3/14/07, effective 4/14/07)

WAC 180-105-060 High school graduation. (1) Each school district board of directors shall by December 15, ~~((2005))~~ 2018, revise district-wide graduation rate goals for ~~((2006))~~ 2018 and each year thereafter and shall direct each high school in the district to revise graduation rate goals for ~~((2006))~~ 2018 and each year thereafter, subject to approval by the board.

(2) ~~((The minimum graduation rate goals through 2013 shall be as follows for each of the nine groups of students listed in WAC 180-105-040(4):~~

~~((a) Sixty six percent in 2005, one percentage point above the previous year's goal from 2006 through 2009, and three percentage points above the previous year's goal in 2010 through 2013; or~~

~~((b) For any student group whose graduation rate falls below sixty six percent in 2005, the minimum goal for 2005 is two percentage points above that group's graduation rate in 2004, an additional two percentage points per year above the previous year's goal in 2006 through 2009, and an additional four percentage points per year above the previous year's goal in 2010 through 2013, until the rate for that group meets or exceeds the goal described in (a) of this subsection.))~~ Annual performance improvement goals for both school districts and schools shall be determined for each of the groups of students listed in WAC 180-105-040(4), by using the starting point and annual goals for the four-year graduation rate established using the federal requirements for determining starting points in the Washington State Every Student Succeeds Act (ESSA) Accountability Plan approved by the U.S. Department of Education.

(3) Graduation rate goals in ~~((2014))~~ 2027 and each year thereafter for each group of students listed in WAC 180-105-040(4) shall be not less than ~~((eighty five))~~ ninety percent.

(4) School district boards of directors are authorized to adopt district-wide graduation rate goals and to approve high school graduation rate goals that exceed the minimum level required under this section. However, district-wide and high school graduation rate goals that exceed the minimum level required under this section shall not be used for federal or state accountability purposes.

WSR 17-23-181

PROPOSED RULES

ARTS COMMISSION

[Filed November 21, 2017, 4:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-17-125.

Title of Rule and Other Identifying Information: Amendments to existing rules, WAC 30-01-040 Commission's purpose, 30-02-010 Definitions, 30-04-060 Copying, 30-08-030 Board meetings, 30-12-015 Grants, 30-12-016 Rosters, 30-12-017 Applications, 30-40-050 Funding, 30-40-060 Collections management, 30-40-100 Art acquisition committees, 30-40-110 Acquisition of works of art, and 30-44-030 Eligibility.

Hearing Location(s): On January 2, 2018, at 10:30 a.m., at the Evergreen Plaza Building, 711 Capitol Way South, Suite 600, Olympia, WA 98504.

Date of Intended Adoption: January 2, 2018.

Submit Written Comments to: Terry J. West, Deputy Director, 711 Capitol Way South, Suite 600, Olympia, WA 98504, email terry.west@arts.wa.gov, fax 360-586-5351, by December 31, 2017.

Assistance for Persons with Disabilities: Contact Terry J. West, phone 360-586-5350, fax 360-586-5351, TTY 800-883-6384 or 866-377-8895, email terry.west@arts.wa.gov, by December 31, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments to twelve existing rules including updates on definitions, clarifying language and recent changes. The amendments will ensure the rules are easy to understand.

Statutory Authority for Adoption: RCW 43.46.040.

Statute Being Implemented: RCW 43.46.040.

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: Minor amendments imposing no additional cost to businesses and clarifying language making these rules easier to understand.

Name of Proponent: Washington state arts commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Terry J. West, 711 Capitol Way South, Suite 600, Olympia, 360-586-5350.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state arts commission is not listed under this statute as required to prepare a cost-benefit analysis. The rules being amended are not considered significant rule changes.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.030.

Explanation of exemptions: A small business economic impact statement is not required under RCW 19.85.030 because there are not more than minor costs to businesses in order to comply with these minor amendments.

November 22, 2017
Karen Hanan
Executive Director

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-01-040 Commission's purpose. The Washington state arts commission is charged with the conservation and development of the state's artistic resources as described in RCW 43.46.005. It is authorized by RCW 43.46.050 to study, plan, and advise the governor, state departments, and the legislature regarding cultural development. Through the authority granted by RCW 43.46.055, the commission may administer any activity, and assist any person or agency in programs or projects related to the growth and development of the arts (~~and~~), humanities, and the creative economy. The conservation and development of the state's artistic resources is essential to the social, educational, and economic growth of the state of Washington.

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-02-010 Definitions. The following definitions shall apply throughout Title 30 WAC:

"Accession" means to formally acquire a work of art for the state art collection, including the action of assigning an accession or control number to the work of art.

"Appeal procedure" means the procedure as established in WAC 30-12-036 (Request for review of denied applications) whereby an applicant may request a review of a denied application.

"Application form" means the printed (~~or~~), electronic, or web-based forms created and published by staff to be used in commission program applications.

"Application guidelines" means the published document that provides the public with information on how to apply for commission programs, including eligibility requirements, review criteria, deadlines, timelines, and appeal procedure. Application guidelines may be published in a printed format and/or in electronic format accessible through the commission's web site.

"Art advisory committee" means a committee formed by staff and a partner agency to develop plans and overall project specifications, and to make funding allocation decisions related to the state art collection.

"Art in public places program" means the visual art program of the commission established by the legislature in RCW 43.46.090 to acquire works of art and to develop, administer, and (~~operate~~) manage the state art collection.

"Art selection committee" means a committee formed by a partner agency, and approved by staff, to review and select artists to create works of art for the state art collection, or to review and select works of art for or from the state art collection, through a process facilitated by staff.

"Artistic disciplines" means dance, design, folk and traditional arts, media arts, music, literature, theater, visual arts, and interdisciplinary arts.

"Artistic excellence" means evidence of some or all of the following: Mastery of skills and techniques, communication of unique vision or perspective, professional approaches to process and presentation (~~(, and/or communication of unique vision or perspective)~~). Additionally, for groups and organizations, includes the contribution the artistic work(s)

make to the development of the artists involved, the art form and the arts generally; or for services delivered, the contribution the services make to the development of a vibrant arts and cultural community in the state.

~~("Artistic merit" means evidence of some or all of the following: Potential impact on the artistic and/or cultural development of a community or individuals; and/or potential to broaden access to, expand and diversify the audiences for, and/or strengthen communities through the arts.)~~

"Arts professional" means an individual who has professional work experience in the arts or an arts-related field.

"Board" means the board of commissioners, consisting of nineteen members appointed by the governor and four members of the legislature appointed to the Washington state arts commission pursuant to RCW 43.46.015.

"Chair" means the chair of the board, elected pursuant to WAC 30-08-050 and fulfilling duties as established in Title 30 WAC.

"Collections management" means the ongoing care, preservation, and maintenance of the state art collection, including activities such as the management of conservation, restoration, deaccession, documentation, inventory, labeling, loans, and ~~((re-siting))~~ resiting of works of art.

"Commission" means the collective entity of the Washington state arts commission, including the board, executive director, and staff.

"Commissioner" means an individual appointed to the board of the Washington state arts commission.

"Conservation" means treatment of malfunctioning or damaged works of art for the purpose of bringing them to a stable condition so that future routine and special maintenance can be effective. Conservation-related activities may also include examination and documentation.

"Curator" means a qualified visual arts professional with past curatorial experience selected to recommend works of art for acquisition to the state art collection.

"Deaccession" means board action to remove an accessioned work of art from the state art collection.

"Disability" is defined in RCW 49.60.040(7).

"Eligibility requirements" means published standards by which applications are reviewed to determine if they meet the minimum required qualifications to apply for a commission program.

"Executive director" means that person employed pursuant to RCW 43.46.045 to carry out the functions of that chapter and Title 30 WAC.

"Grant" means a contract for arts or cultural services between the commission and an organization or individual, awarded through a competitive application process and approved or ratified by the board.

"Inventory" means a periodic survey of the physical state and current location of works of art in the state art collection.

"Nonprofit" means incorporation under the nonprofit laws of the state of Washington or another state, and determination by the Internal Revenue Service (IRS) that the incorporated entity is exempt from taxation under Section 501(c)(3) of the IRS code.

"Panel" means a group of individuals convened by staff to review applications, nominations, or staff recommenda-

tions based on published review criteria, in order to make recommendations to the board or executive director.

"Partner agency" means a state agency, K-12 public school, university, college, community college, or other public entity working with the art in public places program.

"Professional artist" means an individual who has a history of paid work as an artist.

"Public artist roster" means the board approved list of professional artists eligible to create visual works of art for the state art collection.

"Public benefit" means evidence of some or all of the following: Potential impact on the artistic, cultural, professional, or economic development of a community or individuals; and/or potential to broaden access to, expand and diversify the audiences for, and/or strengthen communities through the arts.

"Resiting" means the relocation of a work of art in the state art collection within the jurisdiction of a partner agency or between partner agencies.

"Restoration" means treatment that returns a malfunctioning or damaged work of art to a known or assumed state, often through the addition of nonoriginal material.

"Review criteria" means the standards used by panels to evaluate applications, nominations, or staff recommendations.

"Roster" means a list of approved arts professionals who have the skills and experience to address the needs of a specific commission program.

"Routine maintenance" means a regular procedure to preserve a work of art in the state art collection in proper condition: Clean, presentable, and in working order.

"Site responsive" means created, planned, or intended for a particular site. A site responsive work of art addresses both the physical characteristics of its location ~~((size, environment, lighting, public use, etc., of the site)))~~ and the context of the community in which it is situated ((neighborhood, users of site, historical population, etc.)).

"Special maintenance" means anticipated but infrequent activities required to maintain aesthetic and/or structural aspects of the works of art in the state art collection, including integrity of the overall surface and/or individual elements.

"Staff" means employees of the Washington state arts commission, under the direction of the executive director, pursuant to RCW 43.46.045, employed to carry out the functions of that chapter, and Title 30 WAC.

"State art collection" means all works of art and select design models commissioned or purchased under RCW 43.17.200, 28A.58.055, 28A.335.210, 43.46.090, and 43.19.455.

"Teaching artist" means a professional artist who is dedicated to arts education as an integral part of his/her professional practice, and who has cultivated skills as an educator in concert with skills as an artist.

"Underserved" means populations whose opportunities to experience the arts are limited by geography, historical exclusion and marginalization due to race, ethnicity, sexual orientation, gender identity, economics, ((✚)) disability, or other social or institutionally imposed barriers.

"Under-resourced" means a lack of access to specialized, professional, financial, or institutional expertise and commu-

nal knowledge, and/or working with neglected or dated infrastructures and limited or absent assets and resources resulting in lack of recognition, competitiveness, and cyclical absent or diminished funding.

"Washington state arts commission" means the collective entity of the Washington state arts commission, including the board and staff.

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-04-060 Copying. (1) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, the Washington state arts commission declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(2) The Washington state arts commission may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

(3) No fee shall be charged for the inspection of public records. ~~((The commission shall charge ten cents per black and white copy. Specialized records, including color copy, will be duplicated at the amount necessary to reimburse the commission for its actual cost. If the public records officer deems it more efficient to have copying and/or duplicating done outside the commission, the charges will be based on the actual cost of such outside copying and/or duplicating service.))~~

For all copying and/or duplicating service charges incurred, an invoice will be sent to the requestor. Reimbursement is payable within fifteen days of receipt of invoice payable to the Washington state arts commission. The commission may require that all charges be paid in advance of release of the copies of the records.

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-08-030 Board meetings. (1) General schedule. The board meets at least four times each fiscal year and at such other times as determined to be necessary. All meetings of the board are "regular" or "special" meetings as those designations are applied in chapter 42.30 RCW. Meetings may be called, subject to the notice requirements of chapter 42.30 RCW, at any time and place by the chair or by a majority of the commissioners.

(2) Notice. Twenty calendar days' notice of all meetings shall be given by posting on the commission's web site notification of the date, time and location of the meeting, and by mailing or emailing the same to each commissioner and to any person who has made a written request to the commission to receive meeting notices.

(3) Special meetings. The twenty-day notice may be waived for special meetings upon consent of the chair. In

such cases, the provisions of RCW 42.30.080 govern due notification of the time, place, and business to be transacted.

(4) Executive session. An executive session may be called by the chair or a majority of the board. Executive sessions shall deal only with matters authorized by chapter 42.30 RCW.

(5) Meeting formats. Meetings may be convened in-person and/or by conference call, online, or other alternative format as determined by the chair and the executive director, subject to the requirements of the Open Public Meetings Act, chapter 42.30 RCW.

(6) Rules of order. The board generally follows *Roberts Rules of Order*, newly revised, in conducting its business meetings.

(7) Quorum. A simple majority of the regularly appointed board members constitute a quorum. If all twenty-three positions are filled, the quorum is twelve.

(8) Voting rights. All officers of the board have the right to vote on all matters before the board, just as any other commissioner.

(9) Meeting materials. Staff makes meeting materials available to the public at the time of the meeting, and following the meeting upon request.

(10) Minutes of the proceedings of all board meetings are kept and published on the commission web site.

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-12-015 Grants. (1) The commission provides grants through a competitive process to organizations or individuals for the purpose of developing, sponsoring, and promoting the growth and development of the arts and arts education in the state of Washington.

(2) Application cycles, forms, guidelines, eligibility requirements, and review criteria are established and published by staff.

(3) The application process is managed pursuant to WAC 30-12-017 (Applications) and applications are reviewed by a panel pursuant to WAC 30-12-030 (Panels).

(4) The board reviews panel recommendations and approves grants, except as noted below.

(a) The executive director may approve grants which do not exceed three thousand dollars. Such actions are reviewed and ratified at the next meeting of the board.

(b) The board may delegate to the executive director approval of grants which exceed three thousand dollars. Such actions are reviewed and ratified at the next meeting of the board.

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-12-016 Rosters. (1) Staff may establish and manage a roster to address program needs.

(2) Application cycles, forms, guidelines, eligibility requirements, and review criteria are established and published by staff.

(3) The application process is managed pursuant to WAC 30-12-017 (Applications) and applications are reviewed by a panel pursuant to WAC 30-12-030 (Panels).

(4) Staff may eliminate a roster due to changes in priorities, program needs, or resources, subject to the review and approval of the board.

(5) Removal from a roster.

(a) Staff have the authority to remove individuals from a roster for the following reasons:

(i) Individual on the roster fails to inform staff of new contact information;

(ii) Individual on the roster requests to be removed;

(iii) Individual on the roster is deceased;

(iv) Expiration of roster term limit, as published in application guidelines;

(v) Violation of the terms of a commission-related contract;

(vi) If artists are accepted onto a roster as a team and subsequently dissolve the team, all individuals on the team are removed from the roster;

(vii) Any other reason specified in published application guidelines.

(b) Removed individuals may apply ~~((to))~~ for inclusion in the next roster ((competition)) application cycle, except if removed for violation of the terms of a commission-related contract or for other reasons as specified in application guidelines.

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-12-017 Applications. (1) Application cycles, forms, guidelines, eligibility requirements, and review criteria are established and published by staff.

(2) Application forms and guidelines are published on the commission web site no fewer than twenty calendar days prior to the deadline for submitting applications, pursuant to RCW 34.05.413.

(3) Applications ~~((that arrive or are postmarked))~~ submitted by the published deadline as specified in application guidelines are reviewed by staff to determine if the application meets published eligibility requirements.

(4) Staff convene a panel to review eligible applications pursuant to WAC 30-12-030 (Panels).

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-40-050 Funding. (1) Calculation of funds.

(a) Pursuant to RCW 43.46.090 through 43.46.095, one-half of one percent of the state's capital appropriation for the original construction of specific public buildings is set aside for the administration, acquisition, and conservation of works of art for the state art collection.

(b) The formula is applied to escalated maximum allowable construction cost, and may be applied to architecture and engineering fees and equipment cost.

(c) Funding is generated by construction of any new building and/or additions to an existing building or structure except for highway construction sheds, warehouses, or other temporary buildings. In addition, funding is generated by any renovation and remodel work exceeding two hundred thousand dollars at universities, colleges, and community colleges. Renovation and remodel work does not include repair,

maintenance, or replacement of building systems, such as HVAC, plumbing, wiring, fire sprinklers, roofs, insulation, lighting, or other system that keeps the building functional and safe.

(2) Partner agency eligibility and site requirements of funds.

(a) All state agencies including all state departments, boards, councils, commissions, and quasi-public corporations; all universities, colleges, community colleges, and technical colleges; and the office of the superintendent of public instruction who appropriates state funding to school districts for the original construction of school plant facilities, shall apply the formula.

(b) Works of art must be placed in public buildings or on public lands. In siting works of art, priority is given to state properties and K-12 public schools.

(c) Works of art may be sited in a location other than the construction site generating the funding.

(3) Use of funds.

(a) Staff is responsible for negotiating contracts and expending funds.

(b) Funds may be used for works of art in the state art collection that are:

(i) Integral to or attached to a public building or structure;

(ii) Detached inside or outside a public building or structure;

(iii) On or part of the landscape;

(iv) Permanent or temporary;

(v) Part of a portable exhibition or collection.

(c) Funds may be used for expenses incurred in the design, fabrication, and installation of works of art, artists' fees and expenses, staff administrative expenses, and conservation.

(d) Funds shall not be used for the partner agency's administrative expenses, architectural or professional design services, site preparation, public event expenses, insurance, fees for art selection committee participation, or maintenance of the work of art.

(e) Funds shall not be used for clock towers, electrically powered water features, memorials, logos, signage, or the depiction of school mascots.

(4) Determination of funds. Staff shall determine the funds that are available for projects and sites, in consultation with the partner agency; director of general administration; directors of state agencies; the superintendent of public instruction and school district boards of directors; or the boards of regents or trustees of universities, colleges, and community colleges. (RCW 43.17.210, 43.19.455, 28A.335.-210, and 28B.10.025.)

(5) Supplemental funds. The one-half of one percent formula is a required minimum for works of art. Partner agencies may designate additional funds from other sources. Works of art acquired using supplemental funding become part of the state art collection.

(6) Transfer of funds. After project funds for works of art are determined, staff may request transfer of the funds from the partner agency.

(7) Pooling of funds.

(a) Staff may determine that funds from multiple construction projects may be combined as part of a pooling program or to fund larger works of art within a partner agency.

(b) Only K-12 school districts with applicable state assisted construction project funds may apply for K-12 pooled funds.

(c) Eligible K-12 school districts may apply for pooled funds pursuant to WAC 30-12-017 (Applications), WAC 30-12-030 (Panels), and in accordance with published application guidelines.

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-40-060 Collections management. (1) Staff manage the state art collection as funded, including conservation, restoration, deaccession, inventory, loans, ~~((and))~~ resiting, recordkeeping and documentation.

(2)(a) The commission enters into interagency agreements with partner agencies hosting sites for works of art in the state art collection. The interagency agreement is in effect throughout the partner agency's possession of the work(s) of art.

(b) Partner agencies are responsible for all routine and special maintenance for works of art in the state art collection, which they hold as stated in the interagency agreement.

(i) Routine maintenance includes activities such as surface dusting, replacement of lights, cleaning of glass or Plexiglas, removal of debris, or oiling of moving parts.

(ii) Special maintenance typically involves nonart specific skills including, but not limited to, the application of paint and/or sealant to certain works of art, mortar replacement, or landscape maintenance.

(3) Collections management policy includes:

(a) Conservation/restoration. The commission is responsible for the conservation and restoration of the state art collection. Staff determine conservation and restoration priorities and actions.

(b) Deaccession. The board has authority to formally remove works of art from the state art collection when those works of art meet the review criteria in the collections management policy. Removal of works of art follows the procedures outlined in the collections management policy.

(c) Gifts and transfers. The commission does not accept gifts and transfers of works of art to the state art collection.

(d) Insurance. The state art collection is self-insured.

(e) Inventory. Staff inventory the state art collection in accordance with the state administrative and accounting manual.

(f) Loans of works of art. Works of art may be loaned for temporary exhibition in accordance with the collections management policy. The executive director approves, and staff coordinate outgoing loans.

(g) Resiting. Staff manage the resiting of works of art from the state art collection. Resiting is intended to provide a long-term, secure, and visible home for a work of art. Priority for resiting is given to the original partner agency when possible.

(i) If resiting within the original partner agency jurisdiction is not feasible, then the work of art becomes available for

resiting to other partner agencies, in accordance with the collections management policy. Priority may be given to partner agencies that have generated funding pursuant to WAC 30-40-050 (Funding) but have not received a public art project.

(ii) Resiting may not be feasible for physically integrated or site-responsive works of art.

(h) Collections management policies are approved by the board and published on the commission's web site.

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-40-100 Art acquisition committees. (1) Art advisory committees. Staff may recommend that a partner agency form an art advisory committee. Staff may appoint members of the committee. The committee may include, but is not limited to, members of an established art selection committee. The art advisory committee does not select artists or make decisions regarding artist proposals.

(2) Art selection committees. At staff request, an art selection committee shall be formed by the partner agency receiving the project. The committee is convened and facilitated by staff according to published program guidelines.

(a) Committee members may include partner agency administration, visual artists or visual art professionals, community members, board members and trustees, and building/location users. ~~((A balanced representation, reflecting the partner agency and the site's constituencies, should be appointed to the committee.))~~ The makeup of the committee should be gender-balanced and culturally diverse. Staff may recommend appointees to the committee.

(b) A preferred committee size is from three to seven members, depending on the method of acquisition of works of art.

(i) For commissioning works of art, the minimum committee size is five members. The committee shall select the artist and approve the artist's concept.

(ii) For direct purchase of curated existing works of art, the minimum committee size is five members. The committee will approve the curator, selection of artists, and work(s) of art.

(iii) For resiting works from the state art collection, the minimum committee size is three members. The committee shall select the work(s) of art to be permanently resited.

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-40-110 Acquisition of works of art. (1) The commission enters into an interagency agreement with any partner agency generating one-half of one percent funds and/or hosting a site for a work of art in the state art collection.

(2) Methods of selecting artists and works of art.

(a) Commissioning new works of art. The primary method of acquisition is by commissioning new works of art through an art selection committee. The public artist roster (WAC 30-40-120) is the tool for selecting artists for commissioning except as specified in (d) of this subsection.

(b) Curated purchase. Staff facilitates a process whereby a curator recommends work(s) of art for art selection commit-

tee approval. The curator roster (WAC 30-40-130) is the tool for selecting curators for recommendations except as specified in (d) of this subsection.

(c) Resiting. Works of art may be resited with any partner agency pursuant to WAC 30-40-060 (3)(g) and in accordance with the collection care policy.

(d) ~~((Open competition.))~~ An open call. In consultation with the director of a partner agency, staff may elect to manage an open ~~((competition))~~ call for artists to be considered for the commissioning of a new work(s) of art or for curators to recommend existing works of art through a curated purchase. The open ~~((competition))~~ call process is managed pursuant to WAC 30-12-017 (Applications) and WAC 30-12-030 (Panels) unless otherwise noted in this subsection.

(i) A partner agency art selection committee may act as the panel for the application review process.

(ii) In addition to artists who apply to the open ~~((competition))~~ call, the art selection committee ~~((will))~~ may review and consider all eligible artists from the public artist roster.

(iii) Artwork selection committee decisions regarding acquisitions are final and do not need board approval.

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-44-030 Eligibility. (1) In order for the commission to consider an individual or organization for a governor's arts or heritage award, the nominee must:

(a) Be a current resident of the state of Washington, or have been a resident of the state of Washington during the time the contributions were made and/or achievements accomplished;

(b) Not have been a previous individual recipient with the exception of the young arts leader award;

(c) Not have been a previous organizational recipient within the last twenty years.

(2) The commission may establish additional eligibility requirements to be published in nomination guidelines.

WSR 17-23-187

PROPOSED RULES

FOREST PRACTICES BOARD

[Filed November 22, 2017, 10:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-19-015.

Title of Rule and Other Identifying Information: Public records fee schedule, amending chapter 222-08 WAC.

Hearing Location(s): On January 4, 2018, at 4:30 p.m., at the Natural Resources Building, 1111 Washington Street S.E., Room 172, Olympia.

Date of Intended Adoption: February 14, 2018.

Submit Written Comments to: Patricia Anderson, P.O. Box 47012, email forest.practicesboard@dnr.wa.gov, fax 360-902-1428, by January 5, 2018.

Assistance for Persons with Disabilities: Contact forest practices division, phone 360-902-1400, by December 18, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The forest practices board (board) is amending its public disclosure rules to implement HB [EHB] 1595 (2017 legislature) by adopting the fee schedule outlined in RCW 42.56.120, because it would be unduly burdensome for the board to determine the actual costs of providing public records. The rule making will amend the board's rule on the costs associated with public records, and make other minor amendments consistent with other statutory changes.

Reasons Supporting Proposal: The board is implementing the legislative intent of HB [EHB] 1595 which became effective July 23, 2017. Adopting an actual cost approach to public records fees would be unduly burdensome to the board, which does not currently have accurate data regarding the many specific cost elements associated with public records production, nor does it have the resources or appropriated funds to conduct an actual cost study. The board cannot divert resources away from other critical agency programs in order to perform such a cost study. Additionally, such a study would be time consuming. Therefore, the board will use the statutory fee schedule in RCW 42.56.120(2). Other minor changes are also made to make the board's rules consistent with statutory provisions.

Statutory Authority for Adoption: RCW 76.09.040, chapters 34.05 and 42.56 RCW.

Statute Being Implemented: Chapter 42.56 RCW.

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: Donelle Mahan, 1111 Washington Street S.E., Olympia, 360-902-1405; and Enforcement: Joe Shramek, 1111 Washington Street S.E., Olympia, 360-902-1398.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Rule making is exempt per RCW 34.05.328 (5)(b) (ii) and (iii).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a

rule without changing its effect; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

November 20, 2017
Stephen Bernath
Chair

AMENDATORY SECTION (Amending WSR 08-24-011, filed 11/21/08, effective 12/22/08)

WAC 222-08-025 Definitions. (1) "Board" means forest practices board.

(2) "Board staff" means employees of the forest practices division of the department who work in support of the board.

(3) "Department" means department of natural resources.

(4) "Office" means the administrative office of the board in the forest practices division of the department.

(5) "Public record" as defined in RCW 42.56.010(~~((2))~~) ~~(3)~~, means any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(6) "Writing" as defined in RCW 42.56.010(~~((3))~~) ~~(4)~~, means handwriting, typewriting, printing, photographing, including, but not limited to, letters, words, pictures, sounds, and all papers, maps, magnetic or paper tapes, photographic films and prints, video recordings, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

AMENDATORY SECTION (Amending WSR 13-01-007, filed 12/6/12, effective 1/6/13)

WAC 222-08-032 Function, organization, and office.

(1) The forest practices board was created by chapter 76.09 RCW to adopt forest practices rules as described in WAC 222-12-010.

(2) The board's membership as described in RCW 76.09.030(~~((4))~~) ~~(5)~~, consists of thirteen members to include:

(a) The commissioner of public lands or the commissioner's designee;

(b) The director of the department of commerce or the director's designee;

(c) The director of the department of agriculture or the director's designee;

(d) The director of the department of ecology or the director's designee;

(e) The director of the department of fish and wildlife or the director's designee;

(f) An elected member of a county legislative authority appointed by the governor so long as that member serves as an elected official;

(g) A member representing a timber products union, appointed by the governor from a list of three names submitted by a timber labor coalition affiliated with a statewide

labor organization that represents a majority of the timber product unions in the state; and

(h) Six members of the general public appointed by the governor, one of whom shall be a small forest landowner who actively manages his or her land, and one of whom shall be an independent logging contractor.

(3) The governor-appointed members are appointed to four-year terms.

(4) The commissioner of public lands or designee shall chair the board.

(5) General public members of the board, except public employees and elected officials, shall be compensated in accordance with RCW 43.03.250. Each member shall be entitled to reimbursement for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060.

(6) Staff support is provided to the board as provided in RCW 76.09.030(6). Staff shall perform the following duties under the general authority and supervision of the board:

(a) Act as administrative arm of the board;

(b) Act as records officer to the board;

(c) Coordinate the policies and activities of the board; and

(d) Act as liaison between the board and other public agencies and stakeholders.

(7) The administrative office of the board is located at 1111 Washington Street S.E., Olympia, Washington. The board may sit or hold hearings anywhere in the state. The office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday, except legal holidays and during board meetings. The board may be contacted at:

Forest Practices Board
c/o Department of Natural Resources
Forest Practices Division
P.O. Box 47012
Olympia, WA 98504-7012
Phone: 360-902-1400
Fax: 360-902-1428
Email: forest.practicesboard@dnr.wa.gov

(8) Any person may contact the board as indicated in subsection (7) of this section to obtain information on board activities.

AMENDATORY SECTION (Amending WSR 08-24-011, filed 11/21/08, effective 12/22/08)

WAC 222-08-040 Operations and procedures. (1)

The board holds quarterly scheduled meetings on the second Wednesday of February, May, August, and November, at such times and places as deemed necessary to conduct board business. At regularly scheduled board meetings, agenda time is allotted for public comment on rule proposals and board activities, unless the board has already set public hearings on the rule proposals. Special and emergency meetings may be called anytime by the chair of the board or by a majority of the board members. Notice of special and emergency meetings will be provided in accordance with RCW 42.30.070 and 42.30.080. All meetings are conducted in accordance with chapter 42.30 RCW, and RCW 76.09.030

~~((4))~~ (3). A schedule of meetings shall be published in the *Washington State Register* in January of each year. Minutes shall be taken at all meetings.

(2) Each member of the board is allowed one vote on any action before the board; pursuant to RCW 42.30.060(2), secret voting is not allowed. All actions shall be decided by majority vote. A majority of the board shall constitute a quorum for making decisions and promulgating rules necessary for the conduct of its powers and duties. When there is a quorum and a vote is taken, a majority vote is based upon the number of members participating. The chair, designee, or majority of the board may hold hearings and receive public comment on specific issues such as rule making that the board will consider in its actions.

(3) Rules marked with an asterisk (*) pertain to water quality and are adopted or amended with agreement from the department of ecology. See WAC 222-12-010.

(4) The chair or majority of board members shall set the meeting agenda. Public requests for topics to be included in the board's quarterly public meeting agenda must include the name of the ~~((requester))~~ requestor, and be received at the office at least fourteen days before the scheduled meeting. Topics requested may be added to the meeting agenda at the chair's discretion or by a majority vote of the board members. Pursuant to RCW 42.30.077 agendas of each regular meeting will be available online no later than twenty-four hours in advance of the published start time of the meeting.

(5) Written materials for the board which are not provided in advance of the meeting date will not be distributed during the meeting unless fifteen copies are provided to staff.

AMENDATORY SECTION (Amending WSR 08-24-011, filed 11/21/08, effective 12/22/08)

WAC 222-08-050 Public records—Availability. The board's public records are available for inspection and copying except as otherwise exempted under RCW 42.56.210 through ~~((42.56.480))~~ 42.56.470, any other law, and this chapter.

AMENDATORY SECTION (Amending WSR 08-24-011, filed 11/21/08, effective 12/22/08)

WAC 222-08-090 Disclosure of public records. Public records may be inspected or copies of such records obtained, upon compliance with the following procedure:

(1) A request shall be made in writing, by fax or electronic mail, to the public records officer or designee. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The calendar date of the request; and
- (c) A description of the record(s) requested.

(2) Within five business days of receiving a public records request, as required by RCW 42.56.520, the office shall respond by:

- (a) Providing the record; or
- (b) Acknowledging that the office has received the request and providing a reasonable estimate of time required to respond; or
- (c) Denying the request.

(3) The office may request additional time to provide the records based upon the need to:

- (a) Clarify the intent of the request;
- (b) Locate and assemble the information requested;
- (c) Notify third persons or agencies who may be affected by the request; or
- (d) Determine whether any of the information requested is exempt and that a denial should be made for all or part of the request.

(4) The public records officer may, if it deems the request is unclear, ask the ~~((requester))~~ requestor to clarify the information the ~~((requester))~~ requestor is seeking. If the ~~((requester))~~ requestor fails to clarify the request, the office need not respond to it.

(5) Public records shall be available for inspection in the office from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays and during board meetings.

(6) No fee shall be charged for the inspection of public records. ~~((For printed, typed and written public records of a maximum size of 8 1/2" by 14", the board shall charge twenty-five cents per page to reimburse the board for the actual costs of providing the copies and the use of copying equipment. Copies of maps, photos, films, recordings, and other nonstandard public records shall be furnished at the board's actual costs. The board shall charge the current rate for tax and shipping on all disclosure copying requests.))~~ The board's charges for producing public records shall follow the fee schedule established in RCW 42.56.120, because calculating the actual costs associated with records production would be unduly burdensome. The public records officer may waive the fees ~~((when the expense of processing the payment exceeds the cost of providing the copies))~~ for de minimus requests. Before releasing the copies, the public records officer may require a deposit not to exceed ten percent of the estimated cost.

(7) The public records officer may determine that all or a portion of a public record is exempt under the provisions of chapter 42.56 RCW. Pursuant to RCW 42.56.070(1) and 42.56.210(1), the public records officer may ~~((delete))~~ redact portions of public records. The public records officer will explain the reasons for such ~~((deletion))~~ redaction in writing, including the exemption that applies.

(8) Any denial of a request for public records shall be in writing, specifying the reason for the denial, including the specific exemption authorizing the nondisclosure of the record, and a brief explanation of how the exemption applies to the records withheld.

(9) Any person who objects to a denial of a request for a public record may request review of such decision by submitting a written request to the public records officer. The written request shall specifically refer to the written statement by the public records officer or designee which constituted or accompanied the denial.

(10) Immediately after receiving a written request for review of a decision denying disclosure of a public record, the public records officer or designee denying the request shall refer it to the chair of the board. The chair shall consider the matter and either affirm or reverse such denial.

(11) Administrative remedies shall not be considered exhausted until the chair of the board or designee has returned the request for review with a decision or until the close of the second business day following receipt of the written request for review of the denial of the public record, whichever occurs first.

WSR 17-23-191
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2016-23—Filed November 22,
2017, 10:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-18-065.

Title of Rule and Other Identifying Information: Service contract providers and protection product guarantee providers.

Hearing Location(s): On January 4, 2018, at 10:30 a.m., at the Office of Insurance Commissioner (OIC) Conference Room, 302 Sid Snyder Avenue S.W., Olympia, WA 98504.

Date of Intended Adoption: January 5, 2018.

Submit Written Comments to: Jim Tompkins, P.O. Box 40260, Olympia, WA 98504, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by January 3, 2018.

Assistance for Persons with Disabilities: Contact Lorie Villaflores, phone 360-725-7000, fax 360-582-3109, TTY 360-586-0241 or 360-725-7087, email loriev@oic.wa.gov, by January 3, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will consider clarifying solvency and financial requirements of service contract providers and protection product guarantee providers, forms of a parental guarantee, the filings these entities submit to the commissioner, and the correction of outdated statutory citations.

Reasons Supporting Proposal: Since the original enactment of chapter 48.110 RCW there have been several amendments to that chapter, including some in the 2016 legislative session. In addition, over the years there have been issues that have arisen regarding the requirements for solvency and filings required to be made by service contract providers and protection product guarantee providers to OIC.

Statutory Authority for Adoption: RCW 48.02.060 and 48.110.150.

Statute Being Implemented: Chapter 48.110 RCW.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jim Tompkins, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7036; Implementation: Ron Pastuch, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7211; and Enforcement: Doug Hartz, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7214.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jim Tompkins, P.O. Box 40260, Olympia, WA 98504-0260, phone 360-725-7036, fax 360-586-3109, TTY 360-586-0241 or 360-725-7087, email rulescoordinator@oic.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Explanation of exemptions: Much of this proposed rule simply cites requirements already existent in the RCW.

The new inclusions:

(A) Required minimum net worth;

(B) Definitions of how liabilities and assets should be considered for reaching the minimum net worth;

(C) The requirement to use GAAP principles and include in the application filing the normal financial documents OIC would get along with an audited financial statement; and

(D) The requirement to use an OIC generated guarantee form for parent company guarantees all apply to the process of filing for license application or permits to issue products. As such, these are exempted from the small business economic impact statement requirements under RCW 19.85.025 (3), which exempts such rules as defined in RCW 34.05.310 (4).

November 22, 2017

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending WSR 13-12-038, filed 5/30/13, effective 7/1/13)

WAC 284-20C-005 Definitions that apply to this chapter. The definitions in this section apply throughout this chapter:

(1) "Complete filing" means a package of information containing motor vehicle service contracts, supporting information, documents and exhibits.

(2) "Contract" means a service contract covering motor vehicles, as described in chapter 48.110 RCW. Under this definition:

(a) "Motor vehicle" means the same as in RCW 48.110-020(7), and only includes vehicles that are self-propelled by a motor; and

(b) "Service contract" means the same as in RCW 48.110.020(~~((17))~~) (18).

(3) "Date filed" means the date a complete motor vehicle service contract filing has been received and accepted by the commissioner.

(4) "Filer" means a person, organization or other entity that files motor vehicle service contracts with the commissioner.

(5) "Objection letter" means correspondence sent by the commissioner to the filer that:

(a) Requests clarification, documentation or other information;

(b) Explains errors or omissions in the filing; or

(c) Disapproves a motor vehicle service contract under RCW 48.110.073.

(6) "SERFF" means the System for Electronic Rate and Form Filing. SERFF is a proprietary National Association of Insurance Commissioners (NAIC) computer-based application that allows filers to create and submit rate, rule and form filings electronically to the commissioner.

(7) "Service contract provider" or "provider" means the same as in RCW 48.110.020(19).

(8) "Type of insurance" means a specific type of insurance listed in the *Uniform Property and Casualty Product Coding Matrix* published by the NAIC and available at www.naic.org.

Chapter 284-110 WAC

SERVICE CONTRACTS AND PROTECTION PRODUCT GUARANTEES

NEW SECTION

WAC 284-110-010 Solvency defined. (1) RCW 48.110.030 (service contract providers) and RCW 48.110.055 (protection product guarantee providers) require that a service contract provider and protection product guarantee provider be solvent on a stand-alone basis in order to be registered and continue to issue contracts in this state.

(2) For the purposes of chapter 48.110 RCW and this chapter "solvent" means:

(a) Having a minimum net worth of two hundred thousand dollars, with assets exceeding liabilities by this amount. In determining its net worth, the service contract provider or protection product guarantee provider:

(i) May only include those unencumbered assets which it owns directly in its own name;

(ii) Must include as a liability:

(A) An amount equal in the aggregate to provide for all unearned service contract or protection product guarantee fees;

(B) An amount for payment of all expected claims and claims which have been incurred, whether reported or unreported, which are unpaid and for which the service contract provider or protection product guarantee provider is or may be liable; and

(b) The service contract provider or protection product guarantee provider is able to pay its debts as the debts become due.

NEW SECTION

WAC 284-110-020 Certified financial statement. RCW 48.110.030 and 48.110.055 permit service contract providers and protection product guarantee providers to submit financial statements certified as accurate by two or more officers of the service contract provider or product guarantee provider in lieu of audited financial statements in certain cir-

cumstances. These certified financial statements must be prepared in accordance with generally accepted accounting principles (GAAP) and include all the financial statements, information and documents that audited financial statements would include with the only difference being that rather than being prepared and signed by an independent auditor, the statements are signed by the two officers.

NEW SECTION

WAC 284-110-030 Parental guarantee. Service contract providers must utilize the prescribed parental guarantee forms that are available on the commissioner's web site.

NEW SECTION

WAC 284-110-040 Reporting of material change. RCW 48.110.030(6) requires that a service contract provider registered by the commissioner must keep its information submitted to the commissioner current by reporting all material changes to the information within thirty days after the end of the month in which the change occurs. RCW 48.110.055 (7) requires that a protection product guarantee provider registered by the commissioner must keep its information submitted to the commissioner current by reporting all material changes to the information within thirty days after the end of the month in which the change occurs. In addition to material changes to its financial statement, the following are deemed material changes that must be reported:

(1) The service contract provider or protection product guarantee provider does not meet the solvency requirement required by chapter 48.110 RCW and this chapter; or

(2) If service contract provider is using parental guarantee to meet its financial obligations and the parent net's worth goes under one hundred million dollars.

WSR 17-23-193

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed November 22, 2017, 10:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-19-105.

Title of Rule and Other Identifying Information: Vocational indirect cost limit, chapter 392-121 WAC.

Hearing Location(s): On January 9, 2018, at 1:00 p.m., at the Office of Superintendent of Public Instruction (OSPI), 600 South Washington Street, Olympia, WA 98501.

Date of Intended Adoption: January 12, 2018.

Submit Written Comments to: T. J. Kelly, P.O. Box 47200, Olympia, WA 98504-7200, email thomas.kelly@k12.wa.us, fax 360-664-3683, by January 9, 2018.

Assistance for Persons with Disabilities: Contact Kristin Murphy, phone 360-725-6133, fax 360-753-4201, TTY 360-664-3631, email Kristin.murphy@k12.wa.us, by January 2, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of these proposed changes to chapter 392-121 WAC is to limit indirect cost charges to school district state-funded vocational secondary programs as required under the Biennial Operating Appropriations Act. The change in rules would reduce the vocational indirect rate to five percent, ensure that no district has minimum expenditures greater than its total program allocation, and ensure that districts and vocational education programs have access to the correct proportionate share of their allocation as directed in the Appropriations Act.

Reasons Supporting Proposal: This proposal will align OSPI's vocational indirect cost limit rules with state statutes.

Statutory Authority for Adoption: RCW 28A.150.290 and 28A.710.220.

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

Name of Agency Personnel Responsible for Drafting and Implementation: T. J. Kelly, Olympia, Washington, 360-725-6301; and Enforcement: Lisa Dawn-Fisher, Olympia, Washington, 360-725-6292.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.030.

Explanation of exemptions: No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

November 22, 2017
Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-570 Vocational indirect cost limit—Applicable code provisions—Purpose—Effective date. (1) WAC 392-121-570 through 392-121-578 define the ~~((fifteen))~~ five percent limit on indirect cost charges to school district state-funded vocational-secondary programs as required by the Biennial Operating Appropriations Act. These rules do not apply to federal vocational funding which is governed by federal policies.

(2) The purpose of these sections is to assure that state allocations for vocational education are expended by school districts and charter schools to support state vocational programs. The minimum levels defined here are not to be construed as recommended expenditure levels.

(3) These sections are effective for the ~~((2002-03))~~ 2017-18 school year and thereafter.

(4) WAC 392-121-570 through 392-121-578 also apply to program 34, with program 34 substituted wherever program 31 appears. Running start does not apply to program 34.

AMENDATORY SECTION (Amending WSR 17-01-020, filed 12/12/16, effective 12/24/16)

WAC 392-121-571 Vocational indirect cost limit—Definitions. As used in WAC 392-121-570 through 392-121-578:

(1) "Program 31" means the high school vocational-basic-state program as defined in the *Accounting Manual for Public School Districts in the State of Washington*.

(2) "Program 34" means the middle school vocational-basic-state program as defined in the *Accounting Manual for Public School Districts in the State of Washington*.

(3) "Basic allocation for vocational students" means the amount of money generated by a school district's or charter school's vocational full-time equivalent enrollment in the general apportionment formula using the state funding formula factors including the grade 4-12 staffing ratios without enhancement, and using the district's or charter school's average certificated instructional district-wide staff mix factor ~~((for program 31 staff))~~ from the district's S-275 personnel report.

(4) "Enhancement allocation for vocational students" means the additional money above the basic allocation for vocational students generated by a school district's or charter school's vocational full-time equivalent enrollment as a result of the enhanced state vocational staffing ratio and enhanced nonemployee related cost allocation for vocational students. This enhancement shall be calculated using the ~~((district's))~~ district-wide or charter school's average certificated instructional staff mix factor ~~((for program 31))~~.

(5) "Vocational running start allocation" means the amount generated in the general apportionment formula by a school district's or charter school's running start students enrolled in vocational courses in a community or technical college pursuant to chapter 392-169 WAC.

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-573 Vocational indirect cost limit—Calculation of minimum program 31 expenditures. Each school district's or charter school's minimum program 31 expenditures equal the sum of the following amounts:

(1) ~~((Eighty-five))~~ Ninety-five percent of the total basic and vocational enhancement allocations for vocational students;

(2) Ninety-three percent of the vocational running start allocation; plus

(3) Any carryover from the prior school year allowed under WAC 392-121-578.

WSR 17-23-195

PROPOSED RULES

GAMBLING COMMISSION

[Filed November 22, 2017, 10:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-16-172.

Title of Rule and Other Identifying Information: Chapter 230-05 WAC, Fees and chapter 230-03 WAC, Permitting and licensing rules.

Hearing Location(s): On January 11, 2018, at 1:00 p.m., at Hampton Inn & Suites, 4301 Martin Way East, Olympia, WA 98516. Hearing will take place at the January commission meeting. The meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov about seven days before the meeting, select "January commission meeting" to confirm the hearing date, location, and start time.

Date of Intended Adoption: January 11, 2018.

Submit Written Comments to: Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, email rules.coordinator@wsgc.wa.gov, fax 360-486-3624, by January 2, 2018.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email julie.anderson@wsgc.wa.gov, by January 2, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to simplify our current fee structure that was created over forty years ago. It began with twenty-five fees. Today the gambling commission has approximately one hundred ninety-four different fees for commercial and nonprofit organizations and individuals. Some of the key rules in chapter 230-05 WAC, Fees, in this first package are:

- New proposed fee schedule (WAC 230-05-160, 230-05-165, and 230-05-170);
- Calculating quarterly license fees (WAC 230-05-122);
- Penalties for late filing of quarterly license reports or late payment of quarterly license fees (WAC 230-05-132);
- New definitions needed for this new way of calculating fees; for example:
 - Defining "base license fee" (WAC 230-05-104);
 - Defining "maximum annual license fee" (WAC 230-05-106);
 - Defining "quarterly license fees" (WAC 230-05-108);
 - Defining "gross gambling receipts rate" (WAC 230-05-110).

Some rules are simply being moved from chapter 230-06 WAC, Rules for all licensees, to chapter 230-05 WAC, Fees.

Most of the key rules in chapter 230-03 WAC, Permitting and licensing rules, in this first package are being made because the current fee schedule includes descriptions of what a license authorizes, rather than simply stating the fee for the license. Minor changes were made to the following rules: WAC 230-05-101, 230-05-112, 230-05-116, and 230-03-235.

Reasons Supporting Proposal: The gambling commission has approximately one hundred ninety-four different fees for commercial and nonprofit organizations and individuals. This fee schedule is typically based on a "class" system, which can be cumbersome for licensees and agency staff. The gambling commission is looking to simplify this current system to allow it to be easier to navigate and have a licensing fee schedule that is more predictable for both the agency and its licensees.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting and Enforcement: Tina Griffin, Assistant Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546; and Implementation: David Trujillo, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3512.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

November 22, 2017

Michelle Rancour
Acting Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-07-157, filed 3/22/06, effective 1/1/08)

WAC 230-03-015 Permits to conduct bingo at agricultural fairs. (1) You must apply to us if you wish to operate bingo games at agricultural fairs licensed to conduct bingo. You may apply for either:

(a) An annual permit to conduct bingo games at different agricultural fairs; or

(b) A special property bingo permit to conduct bingo games at a single agricultural fair.

(2) Each agricultural fair is fully responsible for the operation of bingo conducted under its license.

(3) A commercial or charitable or nonprofit organization may apply for a special property bingo permit.

AMENDATORY SECTION (Amending WSR 06-07-157, filed 3/22/06, effective 1/1/08)

WAC 230-03-035 Applying for a license. (1) You must fully complete the license application form we provide in order to be considered for a license. You must return it, along with the appropriate fees, to our headquarters office.

(2) If your application is incomplete, you must provide us with the required items within thirty days of notification or we may administratively close the application.

(3) Applicants for a new organization license or permit will submit the base license fee for each authorized activity they are applying for with their application.

(4) Applicants for a new individual license will submit the annual license fee they are applying for with their application.

AMENDATORY SECTION (Amending WSR 13-19-056, filed 9/16/13, effective 10/17/13)

WAC 230-03-060 Fingerprinting. (1) The following persons must submit fingerprints and undergo a national criminal history background check:

(a) Substantial interest holders of commercial businesses and charitable or nonprofit organizations who live or have lived out of the state in the last ten years; and

(b) Card room employees, commercial and nonprofit gambling managers, and manufacturer, distributor, service supplier, call centers for enhanced raffles, and linked bingo prize provider representatives; and

(c) Any other substantial interest holder when we have information they may not be qualified for licensure or to participate in a gambling activity(~~(; and)~~).

(2) (~~Applicants or licensees for the following activities~~) Recreational gaming activity and agricultural fair permit holders do not need to submit fingerprints(~~(; Recreational gaming activities, agricultural fair permits, and Class A commercial amusement games)~~).

AMENDATORY SECTION (Amending WSR 16-19-015, filed 9/8/16, effective 10/9/16)

WAC 230-03-185 Applying for a manufacturer license. (1) You must apply for a manufacturer license if you:

(a) Make or assemble a completed piece or pieces of gambling equipment for use in authorized gambling activities; or

(b) Convert, modify, combine, add to, or remove parts or components of any gambling equipment for use in authorized gambling activities; or

(c) Manufacture group 12 amusement games approved or modified after May 1, 2016. Manufacturers of group 12 amusement games that were approved before the effective date of this rule must apply by May 1, 2016, and be licensed by December 31, 2016. Manufacturers of group 12 amusement games can sell or lease group 12 amusement games to a licensed distributor or (~~(a Class B or above)~~) an amusement game licensee.

(2) You must demonstrate your ability to comply with all manufacturing, quality control, and operations restrictions imposed on authorized gambling equipment that you want to manufacture or market for use in Washington state.

(3) The licensing process may include an on-site review of your manufacturing equipment and process for each separate type of authorized gambling equipment to ensure compliance capability.

AMENDATORY SECTION (Amending WSR 16-19-015, filed 9/8/16, effective 10/9/16)

WAC 230-03-190 Applying for a distributor license. You must apply for a distributor license if you:

(1) Buy or otherwise obtain a finished piece of gambling equipment for use in authorized gambling activities from

another person and sell or provide that gambling equipment to a third person for resale, display, or use; or

(2) Are a manufacturer who sells or provides gambling equipment you do not make to any other person for resale, display, or use; or

(3) Service and repair authorized gambling equipment. However, distributors must not add, modify, or alter the gambling equipment; or

(4) Modify gambling equipment using materials provided by manufacturers to upgrade equipment to current technology.

(5) Buy or lease a group 12 amusement game from another licensee and sell or lease the group 12 amusement game to (~~(a Class B and above)~~) an amusement game licensee.

AMENDATORY SECTION (Amending WSR 06-07-157, filed 3/22/06, effective 1/1/08)

WAC 230-03-235 Applying for charitable or nonprofit gambling manager license. You must apply for a charitable or nonprofit gambling manager license if you are an employee or member of a charitable or nonprofit organization who:

(1) Will have control to a material degree over a (~~(Class D and above)~~) bingo (~~(license)~~) or punchboard and pull-tab licensee with gross gambling receipts over one hundred fifty thousand dollars in their previous licensing year; or

(2) (~~Will have control to a material degree over a Class C and above punch boards and pull-tabs license;~~ or

(~~3~~)) Will be the supervisor of gambling managers who manage (~~(a Class D and above bingo license or Class C and above)~~): A bingo or punch board(~~(s)~~) and pull-tab(~~(s license)~~) licensee with gross gambling receipts over one hundred fifty thousand dollars in their previous license year; or

(~~(4)~~) (3) Will be assigned the highest level of authority by the officers or governing board of directors to manage the day-to-day affairs of the organization and is responsible for safeguarding assets purchased with gambling funds and/or managing the disbursement of gambling funds when the organization:

(a) Is licensed to receive more than three hundred thousand dollars in gross gambling receipts; or

(b) Has established a trust and/or endowment fund to which gambling receipts in excess of one hundred thousand dollars have been contributed; or

(~~(5)~~) (4) Will be the supervisor of the operation of progressive jackpot pull-tab games.

AMENDATORY SECTION (Amending WSR 06-07-157, filed 3/22/06, effective 1/1/08)

WAC 230-03-265 Applying for a card room employee license. You must apply for a card room employee license:

(1) If you will be involved in the operation of a(~~(;~~

(1) ~~Class E card room;~~ or

(2) ~~Class F card room;~~ or

(3) ~~House-banked card room;~~ and

(4)) nonhouse-banked card room, Class F endorsed non-house-banked card room, or house-banked card room; and

(2) You perform any of the following functions:

- (a) Collecting fees; or
 - (b) Dealing; or
 - (c) Supervising any card game or other card room employee, such as acting as a pit boss, floor person, or section supervisor; or
 - (d) Selling or redeeming chips; or
 - (e) Performing cashier or cage duties such as counting and handling chips or cash, completing credit slips, fill slips, or inventory slips, or accounting for other card room receipts in the cage; or
 - (f) Observing dealers and card games to detect cheating or control functions; or
 - (g) Controlling card room funds including keys to secure locations; or
 - (h) Taking part in the operation of a card game.
- (3) A Class B card room employee license is required to work at a house-banked card room and Class F endorsed non-house-banked card room.
- (4) A Class A card room employee license is required to work at a nonhouse-banked card room.

AMENDATORY SECTION (Amending WSR 06-07-157, filed 3/22/06, effective 1/1/08)

WAC 230-03-285 Class III gaming employee working as card room employee. A certified Class III gaming employee must submit an (~~add/transfer~~) application and pay a fee before beginning work for a public card room.

AMENDATORY SECTION (Amending WSR 09-24-012, filed 11/20/09, effective 12/21/09)

WAC 230-03-330 Representing one or more licensed businesses. (1) If you are a licensed distributor representative, gambling service supplier representative, or a linked bingo prize provider representative or applying for one of these representative licenses, you must represent only one licensed distributor, gambling service supplier, or linked bingo prize provider at a time.

(2) If you are a licensed manufacturer representative, you may represent more than one licensed manufacturer.

(3) If the owner you represent owns more than one licensed business, you may represent the owner in all those licensed businesses, including licensed manufacturers(~~and without applying for another representative license~~).

(4) You must submit an application and pay a fee before beginning work at a new or additional employer.

NEW SECTION

WAC 230-03-161 Applying for a combination license. (1) Charitable or nonprofit organizations may apply for a combination license to operate one or more of the following gambling activities:

- (a) Authorized nonhouse-banked card games without collection of a fee to play; and
- (b) Raffles with gross gambling receipts up to two thousand dollars during the license year; and
- (c) Bingo with gross gambling receipts up to twenty-five thousand dollars during the license year; and

(d) Amusement games, owned and operated by the organization, with gross gambling receipts up to seven thousand five hundred dollars during the license year.

(2) You must apply for a separate license if any of the gambling activities in subsection (1)(b) through (d) of this section you operate will exceed the gross gambling receipt limits specified during your license year.

NEW SECTION

WAC 230-03-162 Applying for a fund-raising event license. (1) Charitable or nonprofit organizations may offer fund-raising events as authorized by RCW 9.46.0233.

(2) Your organization must apply for a fund-raising event license to operate gambling activities for:

- (a) One event not to exceed twenty-four consecutive hours; or
- (b) One event not to exceed seventy-two consecutive hours; or
- (c) Participation in joint fund-raising events; or
- (d) One limited fund-raising event not to exceed six consecutive hours.

NEW SECTION

WAC 230-03-163 Applying for a charitable or nonprofit amusement game license. You must apply for a charitable or nonprofit amusement game license if your organization owns, leases or rents approved amusement games and:

- (1) Operates the approved amusement games in your licensed location; or
- (2) Rents or leases approved amusement games for operation in approved locations.

NEW SECTION

WAC 230-03-164 Applying for a commercial amusement game license. (1) You must apply for a commercial amusement game license if your business:

- (a) Owns and operates approved amusement games in your licensed location; or
 - (b) Rents or leases approved amusement games for operation in approved locations.
- (2) Your business can operate approved amusement games in multiple approved locations under the same license as long as the locations are owned by the same business.

NEW SECTION

WAC 230-03-177 Applying to operate nonhouse-banked card games—Charitable or nonprofit organizations. (1) You must apply for a nonhouse-banked card game license if you are a charitable or nonprofit organization that wants to:

- (a) Offer for play authorized nonhouse-banked card games, whether a fee to play is charged or not; and/or
 - (b) Conduct approved tournaments.
- (2) You may not operate more than fifteen card tables.

NEW SECTION

WAC 230-03-178 Applying to operate nonhouse-banked card games and/or a Class F endorsement—Commercial organizations. (1) You must apply for a nonhouse-banked card game license if you are a commercial stimulant business that wants to:

- (a) Offer for play authorized nonhouse-banked card games, whether a fee to play is charged or not; and/or
- (b) Conduct approved tournaments.
- (2) You must apply for a Class F endorsement to use:
 - (a) Authorized alternative fee collections; and/or
 - (b) Player-supported jackpots.
- (3) You may not operate more than fifteen card tables.

NEW SECTION

WAC 230-03-179 Applying to operate house-banked card games. (1) You must apply for a house-banked card game license if you want to offer for play authorized house-banked card games.

- (2) With this license, you may also:
 - (a) Offer for play nonhouse-banked card games; and/or
 - (b) Conduct approved tournaments; and/or
 - (c) Offer player-supported jackpots; and/or
 - (d) Use alternative fee collection.
- (3) You may not operate more than fifteen card tables.

NEW SECTION

WAC 230-03-192 Applying for a fund-raising equipment distributor license. (1) You must apply for a fund-raising equipment distributor license if you are a commercial or charitable or nonprofit organization and want to:

- (a) Rent or lease gambling equipment to:
 - (i) Fund-raising event license holder; or
 - (ii) A qualified organization, business or association for recreational gaming activities; or
- (b) Organize and conduct recreational gaming activities.
- (2) Fund-raising equipment distributors cannot make their own gambling equipment.

NEW SECTION

WAC 230-05-016 Exceeding license class. (1) Licensees must not exceed the gross gambling receipts limits for their license class during any annual license period.

(2) Licensees must apply a projection of year-to-date receipts to the remaining period of their license and, if it indicates that it is reasonably likely that they may exceed their license, they must immediately:

- (a) Apply for a license that authorizes the anticipated level of gross gambling receipts; and
- (b) Submit the fee required for the new license, minus the amount originally submitted for the previous license, plus a change of classification fee.

(3) If we issue a license upgrade, it is valid only for the remainder of the original term of the license.

(4) Licensees may exceed license class limits once, by the amount shown in the fees table, without having to

upgrade or pay the penalties as long as they upgrade to the higher license class the next time they renew their license.

NEW SECTION

WAC 230-05-017 Failing to apply for license class upgrade. (1) If licensees fail to apply for a license class upgrade and exceed the license class limit within a present or previous license year, we assess an additional fee. We charge an additional fee of up to fifty percent of the difference between the fee for the present license class and the new license class, or one thousand dollars, whichever is less.

(2) Licensees must pay any required license class upgrade fee, plus any additional fee required by subsection (1) of this section, within thirty days of our notification.

(3) Failure to pay the fees may result in an immediate summary suspension of all licenses.

NEW SECTION

WAC 230-05-018 Partial refund of license fees if gambling receipts limit not met. (1) Licensees may apply for a partial refund of their license fee when their annual gross gambling receipts are less than the minimum for the class of license we issued to them.

(2) Licensees may receive a refund for the difference between the fees actually paid and the fees that would normally apply to the level of gross gambling receipts actually received during the period less our processing costs.

(3) Licensees may make their request for refund after the end of any annual license period and before the end of the next annual license period.

NEW SECTION

WAC 230-05-101 Implementation of new permit and license fees. WAC 230-05-102 through 230-05-175 apply to all:

- (1) Permits or license years ending on or after June 30, 2018; and
- (2) Permits or licenses issued on or after July 1, 2018.
- (3) Other fees assessed in this chapter on or after July 1, 2018.

NEW SECTION

WAC 230-05-104 Defining "base license fee." (1) "Base license fee" is the fee you pay us when you:

- (a) Apply for an organization license or permit; or
- (b) Renew your organization's license or annual permit.
- (2) "Base license fee" is the minimum annual license fee a licensed organization or permit holder will pay for operating an authorized activity.

NEW SECTION

WAC 230-05-106 Defining "maximum annual license fee." "Maximum annual license fee" is the most you will pay to operate an authorized activity for the license year, which includes the:

- (1) Base license fee; and

(2) Quarterly license fees.

NEW SECTION

WAC 230-05-108 Defining "quarterly license fees."

"Quarterly license fees" means the licensee's gross gambling receipts from the previous quarter multiplied by the gross gambling receipts rate.

NEW SECTION

WAC 230-05-110 Defining "gross gambling receipts rate." "Gross gambling receipts rate" is the rate listed in this chapter that licensees use to calculate their quarterly license fees.

NEW SECTION

WAC 230-05-112 Defining "gross gambling receipts." (1) "Gross gambling receipts" means the amount due to any operator of an authorized activity as described in subsection (5) of this section.

(2) The amounts must be stated in U.S. currency.

(3) The value must be before any deductions for prizes or other expenses, such as over/short.

(4) "Gross gambling receipts" does not include fees from players to enter player-supported jackpots. However, any portion of wagers deducted for any purpose other than increasing current prizes or repayment of amounts used to seed prizes are "gross gambling receipts."

(5) Gross gambling receipts for authorized activities:

Activity:	Gross gambling receipts include amounts due to any operator for:
(a) Punch board and pull-tab	Purchasing chances to play.
(b) Raffles and enhanced raffles	Purchasing chances to enter.
(c) Bingo	Fees or purchase of cards to participate.
(d) Amusement games	Amounts paid to play amusement games.
(e) Card games	<ul style="list-style-type: none"> • "Net win" from house-banked card games; • Tournament entry fees; • Administrative fees from player-supported jackpots; • Fees to participate in nonhouse-banked card games.
(f) Manufacturers and distributors	(a) Fees from sales, rentals, leases, royalties, and service fees collected for the following gambling equipment in Washington to include, but not limited to: <ul style="list-style-type: none"> • Punch boards and pull-tabs; • Devices for dispensing pull-tabs;

Activity:	Gross gambling receipts include amounts due to any operator for:
	<ul style="list-style-type: none"> • Electronic devices for conducting, facilitating or accounting for the results of gambling activities; • Cards; • Dice; • Gambling chips; • Cash exchange terminals; • Progressive meters; • Gambling software; • License agreements; • Card shuffling devices; • Graphical game layouts for table games; • Ace finders or no-peek devices; • Roulette wheels; • Keno equipment; • Tables manufactured exclusively for gambling purposes; • Bet totalizers; • Electronic devices for reading or displaying outcomes of gambling activities; • Tribal lottery systems and components thereof. (b) Fees from the service, repair and modification of gambling equipment in Washington to include, but not limited to: <ul style="list-style-type: none"> • Charges for labor and parts for repairing gambling equipment; • Service fees related to gambling operations; • Training or set-up fees; • Maintenance contract fees related to gambling equipment and operations.
(g) Gambling service suppliers	Fees from gambling-related services provided in or to be used in Washington to include, but not limited to: <ul style="list-style-type: none"> • Consulting, advisory or management services related to gambling; • Interest from financing the purchase or lease of gambling equipment, infrastructure or facilities or equipment that supports gambling operations; • Acting as a lending agent, loan services or placement agent;

Activity:	Gross gambling receipts include amounts due to any operator for:
	<ul style="list-style-type: none"> • Assembly of components for gambling equipment to be used under a contract with a licensed manufacturer; • Ongoing financial arrangements for gambling related software with a licensed manufacturer; • Installing, integrating, maintaining, or servicing digital surveillance systems that allow direct access to the operating system; • Training individuals to conduct authorized gambling activities; • Performing testing and certification of tribal lottery systems in meeting requirements specified in the tribal-state compacts; • Providing nonmanagement related recordkeeping or storage services for punch board and pull-tab operators; • Ownership of proprietary games or equipment.
(h) Punch board/pull-tab service businesses	Providing nonmanagement related recordkeeping or storage services for punch board and pull-tab operators.
(i) Fund-raising event distributors	Fees from contracts to organize and conduct recreational gaming activities.
(j) Fund-raising events and agricultural fairs	Fees received from the operation of bingo, amusement games, raffles, lotteries, contests of chance, and/or net win from table games operated at a fund-raising event.

NEW SECTION

WAC 230-05-114 Defining "net win." "Net win" means gross wagers received from gambling activities or fund-raising events minus the:

- (1) Amount paid to players for winning wagers; and
- (2) Accrual of prizes for progressive jackpot contests; and
- (3) Repayment of amounts used to seed guaranteed progressive jackpot prizes.

NEW SECTION

WAC 230-05-116 Defining "quarterly license report." "Quarterly license report" means the report:

- (1) Filed by each licensed organization, annual permit holder and fund-raising event licensee thirty days after the end of each quarter; and

- (2) Which includes the licensee's gross gambling receipts from the previous quarter multiplied by the gross gambling receipts rate to calculate the quarterly license fee due to the commission.

NEW SECTION

WAC 230-05-120 Paying annual license fee. (1) All licensed organizations will pay annual license fees in up to five payments. The annual license fee includes:

- (a) A base license fee paid with your:
 - (i) Initial application for a new license or permit; or
 - (ii) License renewal or annual permit application; and
- (b) Quarterly license fees based on the gross gambling receipts reported on your quarterly license report.

(2) Licensed organizations starting a new activity will begin paying quarterly license fees on that activity upon completion of the first quarter, whether a partial or full quarter, after your license or annual permit was issued.

(3) Individual licensees will pay an annual license fee with their initial application or license renewal application.

NEW SECTION

WAC 230-05-122 Calculating quarterly license fees.

(1) The quarterly license fee is calculated based on the gross gambling receipts from the previous quarter as reported on your quarterly license report.

(2) Each license year, the quarterly license fees will be offset by the base license fee. (For example, if your base license fee is sixty-five dollars and your quarterly license fee is forty-five dollars for the first quarter, no additional amount is due for the first quarter. You would offset any future quarterly license fees by the remaining twenty dollars of your base license fee.)

NEW SECTION

WAC 230-05-124 Quarterly license fees and license reports. All licensed organizations must submit quarterly license fees and license reports to us for each licensed gambling activity beginning with the first quarter of their license year. The quarterly license fee is due with the quarterly license report.

The quarterly license reports must be in the format we require and must:

- (1)

Cover the period:	Be received by us no later than:
January 1 through March 31	April 30
April 1 through June 30	July 30
July 1 through September 30	October 30
October 1 through December 31	January 30

(2) Be received online at our administrative office or postmarked no later than the dates indicated in the table in subsection (1) of this section; and

(3) Be submitted even if there is no quarterly license fee payable to us; and

- (4) Be accurate; and
- (5) Be completed by the highest ranking executive officer or a designee. If someone other than the licensee or an employee prepares the report, the preparer must include his or her name and business telephone number on the report; and
- (6) Be submitted for any period of time the license was valid, even if there was no gambling activity or the gambling license was not renewed.

NEW SECTION

WAC 230-05-126 Online filing and payments required with waivers available upon request for good cause. (1) All licensees must submit the following online:

- (a) Renewal application and base license fees; and
 - (b) Quarterly license fees; and
 - (c) Quarterly license reports.
- (2) We may waive these requirements if a licensed organization can show good cause. The reasons for good cause include:
- (a) You do not have access to the internet using your own computer or similar equipment; or
 - (b) You do not have a bank account; or
 - (c) Your bank is unable to send electronic fund transactions; or
 - (d) Some other circumstance or condition exists that, in our judgment, prevents you from submitting online.
- (3) We may waive these requirements if a licensed individual can show good cause. The reasons for good cause include:
- (a) You do not have access to the internet using your own computer or similar equipment; or
 - (b) You do not have a bank account or credit card; or
 - (c) Your bank is unable to send electronic fund transactions; or
 - (d) Some other circumstance or condition exists that, in our judgment, prevents you from submitting online.
- (4) You must request a waiver when applying for a new license or permit.
- (5) A waiver will cover all fees and reports required under subsection (1) of this section.

NEW SECTION

WAC 230-05-128 Renew your license in a timely manner. (1) You must renew online, unless you have received a waiver as outlined in this chapter and allow enough time to:

- (a) Print the license prior to midnight before the license expires; or
 - (b) Have us print the license and mail it to you so you receive it before your license expires.
- (2) If you have a waiver and are not renewing your license online, you must ensure a properly completed renewal application and all applicable base license fees are received at our administrative office in Lacey at least fifteen days before the expiration date on the license.
- (3) If you do not submit a properly completed renewal application and all fees and your license expires, you must

immediately stop the gambling activity covered by your license.

- (4) If your license expires, you must submit an application and you must not operate any gambling activity until a new license is issued.

NEW SECTION

WAC 230-05-132 Late filing of quarterly license reports or late payment of quarterly license fees—Penalties. (1) Licensees who do not file their quarterly license reports and/or pay quarterly license fees within thirty days from the end of each quarter are in violation of this chapter.

(2) Licensees will be afforded one thirty-day late filing and payment period after their quarterly license reports and quarterly license fees are due. However, a twenty-five dollar fee will be charged for each day a licensee fails to file a quarterly license report or pay quarterly license fees during the thirty-day late filing and payment period.

(3) A licensee's failure to file quarterly license reports or pay quarterly license fees during the thirty-day late filing and payment period could result in administrative action against your licenses.

(4) Licensees will be responsible for paying any outstanding license fees including, but not limited to, late fees and any additional costs associated with the collection of these fees before a license suspension is lifted or a new licensing application is approved.

NEW SECTION

WAC 230-05-134 Amending quarterly license reports and changes to quarterly license fees paid. (1) You must amend any previously submitted quarterly license reports immediately upon discovering a discrepancy in reporting your gross gambling receipts or quarterly license fees paid.

(2) Any additional quarterly license fees due as a result of an amended quarterly license report will be due immediately upon filing your amended quarterly license report. You may face administrative action against your license for failing to accurately report. If you overpaid your quarterly license fees, you may receive a refund after we deduct our processing costs.

(3) You must submit amended quarterly license reports and any related payments to us online unless you have a waiver.

NEW SECTION

WAC 230-05-136 Prorating or refunding fees. (1) We may prorate organization license fees when we adjust expiration dates to schedule our workload.

(2) We may adjust expiration dates to end on the same day for organizations licensed for more than one activity. Whenever we adjust license expiration dates under this provision, we may prorate the required fees.

(3) We will not prorate or refund fees when:

- (a) You discontinue your gambling activities; or
- (b) You voluntarily surrender your license or permit; or
- (c) We suspend or revoke your license.

(4) We keep a portion of your application or license fees for processing costs when:

- (a) We deny or administratively close your application;
- or
- (b) You withdraw your application; or
- (c) You overpaid us; or
- (d) We received duplicate license fees.

NEW SECTION

WAC 230-05-138 Returned payments. (1) If your bank returns your payment to us for any reason, you must:

- (a) Pay us in full, by certified check, money order, or cash, within five days of notification; and
 - (b) Reimburse our processing costs which would include, but not be limited to, time spent notifying you and seeking payment.
- (2) If you fail to pay within five days of notification:
- (a) We will administratively close your application; or
 - (b) Your license expires and all gambling activity must stop.
- (3) If we administratively close your application or your license expires, you must give us a new application with fees paid by certified check, money order, or cash in order to be considered for a license.

NEW SECTION

WAC 230-05-160 Charitable or nonprofit organization fees. Bona fide charitable and nonprofit organizations must pay the following fees:

- (1) Annual licenses:

License Type	Base License Fee	Gross Gambling Receipts Rate	Maximum Annual License Fee
Amusement games	\$65 plus \$65 per approved location	0.730%	\$1,000
Bingo	\$65	0.460%	\$11,000
Card games - House-banked	\$10,000	1.462%	\$40,000
Card games - Nonhouse-banked	\$65	0.430%	\$1,000
Combination	\$125	-	-
Fund-raising equipment distributor	\$270	1.430%	\$700
Punch board/pull-tabs	\$650	1.430%	\$10,000
Raffles	\$65	3.380%	\$2,000
Enhanced raffles	\$5,000	0.430%	\$32,000

- (2) Event licenses or permits:

License Type	Base License Fee	Gross Gambling Receipts Rate	Maximum Annual License Fee
Fund-raising event	\$180	3.130%	\$1,000
Recreational gaming activity	\$65	-	-

NEW SECTION

WAC 230-05-140 Outstanding fees. (1) You must pay all outstanding fees assessed and owed if you:

- (a) Stop operating the gambling activity; or
- (b) Close your business; or
- (c) Surrender your license; or
- (d) Do not renew your license; or
- (e) Your license is revoked.

(2) If you do not pay, we may take action against other licenses you hold or refer the debt to collections, or both.

(3) Licensees will be responsible for paying any outstanding license fees, including late fees, and any additional licensing or processing costs associated with the collection of these fees before a licensing suspension is lifted or any new licensing application is approved.

NEW SECTION

WAC 230-05-142 Fees for review of gambling equipment, supplies, services, or games. (1) You must submit gambling equipment, supplies, services, or games for our review.

(2) You must pay the application deposit before we perform the review.

(3) You must also reimburse us for any additional costs of the review.

License Type	Base License Fee	Gross Gambling Receipts Rate	Maximum Annual License Fee
Special property bingo/change of bingo premises	\$30	-	-

(3) Change fees:

Change of:	Fee
Name	\$100
Location	\$100
Fund-raising event location, date, or time	\$50

Transaction	Fee
Add a new amusement game location	\$65
Duplicate license	\$50
Review, inspection, and/or evaluation of gambling equipment, supplies, services, games, or schemes	Deposit and cost reimbursement

(4) Other fees:

NEW SECTION

WAC 230-05-165 Commercial stimulant organization fees. All commercial stimulant organizations must pay the following fees:

(1) Annual licenses:

License Type	Base License Fee	Gross Gambling Receipts Rate	Maximum Annual License Fee
Card games - Nonhouse-banked	\$65	1.462%	\$20,000
Card games - House-banked	\$10,000	1.462%	\$40,000
Punch boards/pull-tabs	\$700	1.430%	\$13,000

(2) Change fees:

Change of:	Fee
Name	\$100
Location	\$100
Business classification (same owners)	\$100
Corporate stock/limited liability company shares/units	\$100

Change of:	Fee
License transfers	\$100

(3) Other fees:

Transaction	Fee
Duplicate License	\$50

NEW SECTION

WAC 230-05-170 Fees for other businesses. All other business organizations must pay the following fees:

(1) Annual licenses or permits:

License Type	Base License Fee	Gross Gambling Receipts Rate	Maximum Annual License Fee
Agricultural fair bingo (annual permit)	\$200	-	-
Call centers for enhanced raffles	\$4,800	-	-
Commercial amusement games	\$500 plus \$65 per approved location	1.130%	\$11,000
Distributor	\$700	1.430%	\$7,000

License Type	Base License Fee	Gross Gambling Receipts Rate	Maximum Annual License Fee
Fund-raising event distributor	\$280	1.430%	\$1,000
Manufacturer	\$1,500	1.430%	\$25,000
Manufacturer's special sales permit	\$250	-	-
Punch board/pull-tab service business permit	\$250	-	-
Gambling service supplier	\$300	1.430%	\$7,000

(2) Events or permits:

License or Permit Type	Base License Fee	Gross Gambling Receipts Rate	Maximum Annual License Fee
Recreational gaming activity	\$65	-	-
Special property bingo	\$30	-	-

(3) Change fees:

Change of:	Fee
Name	\$100
Location	\$100
Business classification (same owners)	\$100
Corporate stock/limited liability company shares/units	\$100
License transfers	\$100

(4) Other fees:

Transaction	Fee
Add a new amusement game location	\$65
Defective punch board/pull-tab cost recovery fees	Up to \$100
Duplicate license	\$50
Pre- and post-licensing investigations	Cost reimbursement
Review, inspection, and/or evaluation of gambling equipment, supplies, services, games, schemes, or group 12 amusement games	Deposit and cost reimbursement

Title of Rule and Other Identifying Information: Various rules in chapter 230-06 WAC, Rules for all licensees; chapter 230-07 WAC, Charitable and nonprofit rules; chapter 230-09 WAC, Fund-raising event rules; chapter 230-10 WAC, Bingo rules; chapter 230-11 WAC, Raffles; chapter 230-13 WAC, Amusement game rules; chapter 230-14 WAC, Punchboard and pull tab; chapter 230-15 WAC, Card game rules; chapter 230-16 WAC, Manufacturer, distributor, and gambling service supplier rules; chapter 230-17 WAC, Brief adjudicative proceedings; WAC 230-03-085 Denying, suspending, or revoking an application, license or permit; and 230-05-102 All licensed organizations report activity quarterly beginning with the July 1, 2018, through September 30, 2018, quarter.

Hearing Location(s): On January 11, 2018, at 1:00 p.m., at the Hampton Inn & Suites, 4301 Martin Way East, Olympia, WA 98516. Hearing will take place at the January commission meeting. The meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov about seven days before the meeting, select "January commission meeting" to confirm the hearing date, location, and start time.

Date of Intended Adoption: January 11, 2018.

Submit Written Comments to: Rule[s] Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, email rules.coordinator@wsgc.wa.gov, fax 360-486-3624, by January 2, 2018.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email Julie.anderson@wsgc.wa.gov, by January 2, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The key rules in this second package:

- Delete references to the term "classes." While the current fee structure is based on a "classes" system, the new proposed system is based primarily on gross gambling receipts. Therefore, approximately twenty rules need to be changed to delete references to "classes."
- Establish new due dates for activity reports. All licensees will begin reporting their activity quarterly beginning with the July 1-September 30 quarter. These rules establish those new dates:

WSR 17-23-198
PROPOSED RULES
GAMBLING COMMISSION
 [Filed November 22, 2017, 11:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-20-085.

- o New language for (WAC 230-07-155) Reporting annual activities for raffles, enhanced raffles, amusement games, Class A, B or C bingo, or combination licenses;
- o New language for (WAC 230-07-160) Reporting annual activity for agricultural fairs;
- o New language for (WAC 230-09-056) Activity reports for fund-raising events;
- o New language for (WAC 230-10-330 and 230-10-331) Activity reports for bingo, agricultural fairs, and other organizations. Activity reports for Class D and above bingo licensees;
- o New language for (WAC 230-13-169) Annual activity reports for commercial amusement game licensees;
- o New language for (WAC 230-14-284) Activity reports for punchboard and pull-tab licensees;
- o New language for (WAC 230-15-200) Reporting card game activity;
- o Defining "activity reports by manufacturers and distributors." (WAC 230-16-220)
- Adds the process (brief adjudicative proceeding) we will use if licensees don't submit their quarterly license reports and/or quarterly license fees.

Reasons Supporting Proposal: The current fee structure was created over forty years ago. It began with twenty-five fees. Today the gambling commission has approximately one hundred ninety-four different fees for commercial and non-profit organizations and individuals. This fee schedule is typically based on a "class" system, which can be cumbersome for licensees and agency staff. The gambling commission is looking to simplify this current system to allow it to be easier to navigate and have a licensing fee schedule that is more predictable for both the agency and its licensees.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting and Enforcement: Tina Griffin, Assistant Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546; and Implementation: David Trujillo, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3512.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards,

including fees set or adjusted under the authority of RCW 19.80.045; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

November 22, 2017

Michelle Rancour
Acting Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit. We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075; or

(2) Has been convicted of, or forfeited bond on a charge of, or pleaded guilty to a misdemeanor or felony crime involving physical harm to individuals. "Physical harm to individuals" includes any form of criminal assault, any crime involving a threat of physical harm against another person, or any crime involving an intention to inflict physical harm on another person; or

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level; or

(4) Has failed to pay gambling taxes to local taxing authorities and the local taxing authority has petitioned us to take action; or

(5) Has failed to pay a quarterly license fee or submit a quarterly license report; or

(6) Is serving a period of probation or community supervision imposed as a sentence for any juvenile, misdemeanor, or felony criminal offense, whether or not the offense is covered under RCW 9.46.075(4); or

~~((6))~~ (7) Is the subject of an outstanding gross misdemeanor or felony arrest warrant; or

~~((7))~~ (8) Fails to provide us with any information required under commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us; or

~~((8))~~ (9) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by:

(a) Prior activities; or

(b) Criminal record; or

(c) Reputation; or

(d) Habits; or

(e) Associations; or

~~((9))~~ (10) Knowingly provides or provided goods or services to an entity that illegally operates gambling activities.

NEW SECTION

WAC 230-05-102 All licensed organizations report activity quarterly beginning with the July 1, 2018, through September 30, 2018, quarter. (1) Beginning July 1, 2018, all licensed organizations must submit activity reports quarterly, regardless of whether they previously submitted reports annually, quarterly, or semi-annually and regardless of when their permit or license year ends.

(2) This includes gambling service suppliers and any other licensed organizations that did not previously submit activity reports.

(3) Licensed organizations that report annually on or before June 30, 2018, must submit an activity report from the beginning of their license year through June 30, 2018. Beginning July 1, 2018, licensed organizations that report annually will report quarterly as set forth in this section.

(4) The activity reports must be in the format we require and must:

Cover the period:	Be received by us no later than:
July 1 through September 30	October 30
October 1 through December 31	January 30
January 1 through March 31	April 30
April 1 through June 30	July 30

(5) All licensed organizations must submit quarterly license fees to us for each licensed gambling activity after the first quarter of their license year that begins on or after July 1, 2018, as set forth in WAC 230-05-124.

AMENDATORY SECTION (Amending WSR 10-07-102, filed 3/19/10, effective 7/1/10)

WAC 230-06-046 Additional requirements for licensed business premises of nonhouse-banked, Class ((E-)) F, and house-banked card rooms. (1) The licensed business premises of nonhouse-banked, Class ((E-)) F, and house-banked card rooms may not be adjacent to each other if each licensed business premises:

- (a) Shares inside public access between the two licensed business premises; or
- (b) Has employee access between the two licensed business premises visible to the public; or
- (c) Shares windows or similar structures that allow customers to see into the other licensed business premises.

(2) Subsection (1) of this section does not apply to nonhouse-banked, Class ((E-)) F, and house-banked card room physical locations that have any of the features listed in subsection (1) of this section and were licensed on the effective date of this rule.

(3) Adjacent card rooms must post signs at each entrance that is accessible by the public to clearly notify customers of the licensed business premises' identity.

NEW SECTION

WAC 230-06-081 Submitting gambling service supplier contracts for review. Prior to executing financing, consulting, or management contracts, gambling service suppliers must submit these agreements to us for review for compliance with Title 230 WAC and chapter 9.46 RCW.

NEW SECTION

WAC 230-06-082 Manufacturers, distributors, gambling service suppliers, linked bingo prize providers, and call centers for enhanced raffles reporting changes in licensed employees. Manufacturers, distributors, gambling service suppliers, linked bingo prize providers and call centers for enhanced raffles licensees must:

- (1) Submit an application and the required fees before allowing licensed employees to begin working.
- (2) Notify us in the format we require when a licensed employee no longer works for them. We must receive the notice at our Lacey office within ten days of the licensed employee's last day.

AMENDATORY SECTION (Amending WSR 08-21-087, filed 10/14/08, effective 1/1/09)

WAC 230-06-083 Card game licensees reporting changes in licensed employees. Card game licensees(~~(C except Class B or Class D))~~) must:

- (1) Submit an ~~((add/transfer))~~ application and the required fees before allowing a licensed card room employee to begin working.
- (2) Notify us in ~~((writing))~~ the format we require when a licensed card room employee no longer works for them. We must receive the notice at our Lacey office within ten days of the card room ~~((employee terminating employment))~~ employee's last day.

AMENDATORY SECTION (Amending WSR 06-17-132, filed 8/22/06, effective 1/1/08)

WAC 230-06-100 Changing business locations. ~~((+))~~ Licensees must apply to us and pay a fee to change the location of their licensed business premises. Licensees must receive our approval before changing the business location.

~~((2-Commercial amusement game licensees may add or delete from the list of locations for which we issued their license without paying a fee.))~~

AMENDATORY SECTION (Amending WSR 16-19-015, filed 9/8/16, effective 10/9/16)

WAC 230-06-110 Buying, selling, or transferring gambling equipment. (1) All licensees and persons authorized to possess gambling equipment must closely control the gambling equipment in their possession.

- (2) Before selling gambling equipment, licensees must ensure that the buyer possesses a valid gambling license or can legally possess the equipment without a license.
- (3) Before purchasing gambling equipment, licensees must ensure that the seller possesses a valid gambling license.

(4) Applicants for Class F or house-banked card room licenses may purchase and possess gambling equipment during the preclicensing process, but only after receiving written approval from us.

(5) Charitable and nonprofit organizations conducting unlicensed bingo games, as allowed by RCW 9.46.0321, may possess bingo equipment without a license.

(6) Group 12 amusement games can only be sold or leased to ~~((Class B and above))~~ amusement game licensees by a licensed manufacturer or distributor. ~~((Class B and above))~~ Amusement game licensees can lease or rent group 12 amusement games ~~((to Class A))~~ for operation at approved amusement game ~~((licensees. Lease agreements entered into prior to the effective date of this rule may continue until the manufacturer is licensed or December 31, 2016, whichever occurs first))~~ locations.

(7) Licensees may transfer gambling equipment as a part of a sale of a business as long as a condition of the sale is that the buyer receives a gambling license before the sale is complete. Licensees must make a complete record of all gambling equipment transferred in this manner, including I.D. stamps. Licensees must report these transfers, including a copy of the inventory record, to us.

AMENDATORY SECTION (Amending WSR 16-19-015, filed 9/8/16, effective 10/9/16)

WAC 230-06-112 Buying, selling, renting and leasing amusement games. (1) ~~((Class A))~~ Amusement game licensees can rent or lease amusement games from ~~((Class B and above))~~ other amusement game licensees.

(2) ~~((Class B and above))~~ Amusement game licensees can:

(a) Own and operate group 1 through 12 amusement games at their licensed premises;

(b) Buy or lease group 12 amusement games from a licensed manufacturer or distributor and lease or rent them ~~((to Class A))~~ for operation at other approved amusement game ~~((licensees))~~ locations; and

(c) Rent or lease group 1 through 11 amusement games to ~~((Class A))~~ approved amusement game ~~((licensees))~~ locations.

AMENDATORY SECTION (Amending WSR 15-08-017, filed 3/24/15, effective 7/1/15)

WAC 230-06-124 Online filing ~~((and payments))~~ required with waivers available upon request for good cause. (1) All licensees must submit ~~((the following))~~ activity reports online~~(:~~

~~(a) Renewal application and fees, as referenced in Title 230 WAC; and~~

~~(b) Activity reports, as referenced in Title 230 WAC).~~

(2) We may waive these requirements if a licensed organization can show good cause. The reasons for good cause include:

(a) You do not have access to the internet using your own computer or similar equipment; or

(b) You do not have a bank account; or

(c) Your bank is unable to send electronic fund transactions; or

(d) Some other circumstance or condition exists that, in our judgment, prevents you from submitting online.

~~(3) ((We may waive these requirements if a licensed individual can show good cause. The reasons for good cause include:~~

~~(a) You do not have access to the internet using your own computer or similar equipment; or~~

~~(b) You do not have a bank account or credit card; or~~

~~(c) Your bank is unable to send electronic fund transactions; or~~

~~(d) Some other circumstance or condition exists that, in our judgment, prevents you from submitting online.~~

~~(4)) You must request a waiver, in writing, no later than sixty days before your activity report due date or license expiration date. ((A waiver will cover subsection (1)(a) and (b) of this section.))~~

(4) This section will be in effect until October 31, 2019.

AMENDATORY SECTION (Amending WSR 08-20-007, filed 9/18/08, effective 1/1/09)

WAC 230-06-150 Defining "gross gambling receipts." (1) "Gross gambling receipts" for activity reports means the amount due to any operator of a gambling activity for:

(a) Purchasing chances to play a punch board or pull-tab series; and

(b) Purchasing chances to enter a raffle; and

(c) Fees or purchase of cards to participate in bingo games; and

(d) Fees to participate in an amusement game, including rent or lease payments paid to licensees or franchisers for allowing operation of an amusement game on their premises; and

(e) "Net win" from a house-banked card game; and

(f) Tournament entry fees; and

(g) Administrative fees from player-supported jackpots; and

(h) Fees to participate in a nonhouse-banked card game (for example, time, rake, or per hand fee).

(2) The amount must be stated in U.S. currency.

(3) The value must be before any deductions for prizes or other expenses.

(4) "Gross gambling receipts" does not include fees from players to enter player-supported jackpots. However, any portion of wagers deducted for any purpose other than increasing current prizes or repayment of amounts used to seed prizes are "gross gambling receipts."

AMENDATORY SECTION (Amending WSR 08-20-007, filed 9/18/08, effective 1/1/09)

WAC 230-06-170 Defining "net win." "Net win" for activity reports means gross wagers received from gambling activities or fund-raising events minus the:

(1) Amount paid to players for winning wagers; and

(2) Accrual of prizes for progressive jackpot contests; and

(3) Repayment of amounts used to seed guaranteed progressive jackpot prizes.

**SURRENDERING SUSPENDED OR REVOKED
LICENSES**

NEW SECTION

WAC 230-06-176 Surrendering suspended or revoked licenses. If we suspend or revoke your license, you must, on demand, surrender the license and return it to us.

AMENDATORY SECTION (Amending WSR 07-10-032, filed 4/24/07, effective 1/1/08)

WAC 230-07-090 Keeping and depositing all gambling funds separate from other funds. Charitable or non-profit licensees must protect all funds generated from gambling activities and keep these funds separate from their general funds.

(1) Licensees must:

(a) Keep a separate gambling receipts account(s) in a recognized Washington state bank, mutual savings bank, or credit union; and

(b) Deposit only gambling receipts into that account. Licensees may deposit receipts from nongambling activities operated in conjunction with bingo games into the gambling receipts account if the licensee keeps detailed receipting records of the nongambling receipts; and

(c) Deposit all gambling receipts first into the account before spending or transferring them into other accounts, except for prize pay outs; and

(d) Deposit funds received from commercial amusement game operators operating amusement games on their premises in the licensee's gambling receipts account no later than the second banking day after they receive the receipts; and

(e) Make all deposits of net gambling receipts from each activity separately from all other deposits, and keep the validated deposit receipt as a part of their records. Deposit receipts are a part of the applicable daily or monthly records and licensees must make them available for our inspection; and

(f) Deposit all net gambling receipts which they are holding, pending pay out:

(i) From bingo, no later than the second banking day after they receive them. Licensees may withhold bingo receipts from deposits for "jar," "pig," or other special game prizes if the total of all such prize funds does not exceed two hundred dollars, enter the amount withheld each session in the bingo daily record, and record the reconciliation of the special game fund on the bingo daily record. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliation as part of their records; and

(ii) From raffles (~~((Class E and above))~~) and amusement games (~~((Class D and above))~~) with gross gambling receipts over fifty thousand dollars in their previous license year, at least once each week; and

(iii) From punch board and pull-tabs, including cost recovery for merchandise prizes awarded, no later than two banking days after they remove the board or series from play; and

(g) Record the Washington state identification number assigned to the punch board or pull-tab series and the amount of net gambling receipts on the deposit slip/receipt. Licensees may record the number and the receipts on a separate record if they record the bank validation number and maintain the record with the deposit slip/receipt; and

(2) These requirements do not apply to organizations who:

(a) Conduct only one or more of the following activities:

(i) Raffles under the provisions of RCW 9.46.0315;

(ii) Bingo, raffles, or amusement games under the provisions of RCW 9.46.0321;

(iii) (~~Class A, B, or C bingo game;~~

~~(iv) Class A, B, C, or D raffle; or~~

~~(v) Class A, B, or C amusement game))~~ Bingo, raffle, and amusement game licensees with gross gambling receipts of fifty thousand dollars or less in their previous license year; and

(b) Do not have any other license(s) from us.

AMENDATORY SECTION (Amending WSR 16-22-049, filed 10/28/16, effective 11/28/16)

WAC 230-07-125 Recordkeeping requirements for lower volume charitable or nonprofit organizations. (1)

Organizations operating without a license under RCW 9.46.0315 or 9.46.0321 and lower volume charitable or nonprofit licensees must keep a set of permanent monthly records of the gambling activities. Lower volume licensees include:

(a) Fund-raising events;

(b) Bingo (~~((Classes A, B, and C))~~) with gross gambling receipts of one hundred fifty thousand dollars or less in their previous license year;

(c) Raffles (~~((Classes A, B, C, and D))~~) with gross gambling receipts of fifty thousand dollars or less in their previous license year;

(d) Amusement games (~~((Classes A, B, C, and D))~~) with gross gambling receipts of fifty thousand dollars or less in their previous license year; and

(e) Nonhouse-banked card games (~~((Classes A, B, and C))~~).

(2) The monthly records must include, at least:

(a) The gross gambling receipts from each activity;

(b) The gross gambling receipts from group 12 amusement games;

(c) The total amount of cash prizes actually paid out;

(d) The total of the cost to the licensee of all merchandise prizes actually paid out for each activity;

(e) A summary of all expenses related to each of the activities; and

(f) The net income received from the activity, the purpose(s) for which the net income was raised, and the amount paid to each recipient.

(3) Licensees must keep these records for three years from the end of the license year for which the record was created.

(4) Organizations operating under RCW 9.46.0315 or 9.46.0321 must maintain their records for one year.

AMENDATORY SECTION (Amending WSR 08-03-062, filed 1/14/08, effective 2/14/08)

WAC 230-07-140 Minimum accounting records for ((Class D and above)) bingo licensees with gross gambling receipts over one hundred fifty thousand dollars in their previous license year and licensees with combined activities over five hundred thousand dollars in their previous license year. ((Class D and above)) Bingo licensees with gross gambling receipts over one hundred fifty thousand dollars in their previous license year and licensees ((who are authorized for more than)) with over five hundred thousand dollars in gross gambling receipts from combined gambling activities ((during any fiscal)) in their previous license year must keep accounting records necessary to document all receipts, costs, and disbursements, including, at least, those related to gambling activities.

Requirements for accounting records

For these accounting records, licensees must:

- (1) Conform to generally accepted accounting principles (GAAP) except as modified by other commission rules; and
- (2) Include, at least:
 - (a) A cash disbursements journal and/or check register;
 - (b) A cash receipts and/or sales journal;
 - (c) A list of all assets the licensee paid for;
 - (d) A listing of all liabilities;
 - (e) A complete general ledger system; and
 - (f) A list of all donated items valued at more than two hundred fifty dollars; and
 - (g) Bank statements, related deposit slips, and canceled checks or facsimiles of canceled checks; and

Donated items

- (3) Document donated items. Licensees must:
 - (a) Use the fair market value at the time of donation;
 - (b) Add items to the list no later than thirty days after receiving them;
 - (c) Remove items when they no longer have legal ownership; and
 - (d) Not remove an item from the list, even if it has become obsolete or completely depreciated, until management has completed and documented appropriate review. A depreciation schedule for all capitalized items is sufficient; and
 - (e) Add items to the list when they convert items from gambling merchandise prize inventory to licensee use. This list must include, at least:
 - (i) A description of the item;
 - (ii) The date purchased, acquired by donation, or converted from the gambling prize pool;
 - (iii) The cost at the time of purchase or, if donated, the fair market value at the time received; and
 - (iv) The date and method of disposition of the item; and

Method of accounting

- (4) Use the accrual method of accounting; and
- (5) The cash, modified cash, or tax basis accounting methods may be used only if that method accurately represents the licensee's financial position, the results of opera-

tions, and the licensee does not have substantial liabilities or expenses, such as depreciation or amortization expenses, which require a current outlay of cash; and

Expenditures for nongambling activities

(6) Sufficiently document all expenditures relating to nongambling activities in order to provide a satisfactory audit trail and to allow us to verify that the funds were used for the licensee's stated purpose(s); and

Expenditures for gambling activities

(7) Sufficiently document all of the licensee's expenditures relating to gambling activities. Canceled checks or facsimiles of canceled checks, and bank statements are not sufficient documentation for expenditures without additional support. Licensees must provide additional support for expenditures, including:

- (a) Invoices or other supporting documents from commercial vendors or service agencies with at least:
 - (i) The name of the person or entity selling the goods or providing the services;
 - (ii) A complete description of goods or services purchased;
 - (iii) The amount of each product sold or services provided;
 - (iv) The price of each unit;
 - (v) The total dollar amount billed; and
 - (vi) The date of the transaction.
- (b) Documentation, in the form of checks and other written records of disbursements in excess of twenty-five dollars made directly to individuals who do not furnish normal, business type, invoices or statements. The written records must indicate at least:

- (i) The name of the person receiving the payment;
- (ii) The amount;
- (iii) The date; and
- (iv) The purpose; and
- (8) Document allocated expenditures that relate to more than one function to the various functions. Licensees must document their methods of allocation and make them available for our review; and

Capitalizing assets

(9) Include a capitalization policy based on materiality and expected life of operating assets. To determine a minimum level for capitalizing assets, licensees must:

- (a) Capitalize and depreciate, or amortize over the useful life of the asset, any assets of more than two thousand dollars that have a useful life of more than one year; and
- (b) Capitalize and depreciate, or amortize over sixty months, beginning with the first month that bingo games are conducted, preoperating start up costs related to bingo games of more than six thousand dollars; and
- (c) Amortize, over a period not longer than the life of the lease, any leasehold improvements related to gambling activities that are more than six thousand dollars. Licensees may extend the amortization period to include any lease option periods if the licensee's management states a reasonable expectation that they will use the lease option; and

(d) Charge all unamortized leasehold improvements as an expense of the gambling activities in the year that the lease expires.

AMENDATORY SECTION (Amending WSR 13-19-056, filed 9/16/13, effective 10/17/13)

WAC 230-07-155 Reporting annual activity for raffles, enhanced raffles, amusement games, Class A, B, or C bingo, or combination licenses. (1) Raffle, enhanced raffle, amusement game, Class A, B, or C bingo, or combination licenses must submit an annual report of all their activities in the format we require.

(2) We must receive the completed report in our office postmarked no later than thirty days following the expiration of their license(s). Licensed organizations that report annually on or before June 30, 2018, must submit an activity report from the beginning of their license year through June 30, 2018, by July 30, 2018. Beginning July 1, 2018, reports required by this section must be submitted quarterly, as set forth in WAC 230-05-102.

(3) The highest ranking officer or his/her designee must sign the report.

(4) If the licensee has someone else prepare the report, then the preparer must include his/her name and phone number on the report.

(5) Licensees that operate retail sales activities in conjunction with bingo games must report the net income from those retail sales activities.

AMENDATORY SECTION (Amending WSR 07-10-032, filed 4/24/07, effective 1/1/08)

WAC 230-07-160 Reporting annual activity for agricultural fairs. (1) Charitable or nonprofit licensees who operate bingo, raffles, and/or amusement games only at agricultural fairs and other special properties and permittees as defined in WAC 230-03-015 who operate bingo under another's license at agricultural fairs and other special properties must submit an annual report of all their activities in the format we require.

(2) We must receive the completed report in our office postmarked no later than thirty days following the expiration of the license year. Licensed organizations that report annually on or before June 30, 2018, must submit an activity report from the beginning of their license year through June 30, 2018, by July 30, 2018. Beginning July 1, 2018, reports required by this section must be submitted quarterly, as set forth in WAC 230-05-102.

(3) Permittees operating under another's license must provide the licensee with all information about the permitted operation that is needed by the licensee to complete the annual activity report not less than ten days before the time that we require the licensee to file his or her report.

(4) The highest ranking officer or his or her designee must sign the report. If the licensee has someone else prepare the report, then the preparer must include his or her name and phone number on the report.

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

WAC 230-09-056 Activity reports for fund-raising events. Fund-raising event licensees must submit an activity report to the commission concerning the operation of the licensed activities of each event. Licensees must complete the report in the format we require and the report must be:

(1) Received at our administrative office or postmarked no later than thirty days after the end of the authorized operating day or days(~~;~~ ~~and~~). Beginning July 1, 2018, reports required by this section must be submitted quarterly, as set forth in WAC 230-05-102.

(2) Signed by the licensee's highest ranking executive officer or designee. If someone other than the licensee or an employee prepares the report, the preparer must print his or her name and phone number on the report.

AMENDATORY SECTION (Amending WSR 06-22-051, filed 10/27/06, effective 1/1/08)

WAC 230-09-115 Bingo authorized. Licensees must operate bingo solely under their FRE license, not under a separate bingo license. If licensees operate bingo, they must:

(1) Count income from bingo against the maximum net receipts authorized for FREs; and

(2) Comply with all of our rules for ~~((Class A, B, and C))~~ bingo licensees with gross gambling receipts of one hundred fifty thousand dollars or less in their previous license year.

AMENDATORY SECTION (Amending WSR 06-22-051, filed 10/27/06, effective 1/1/08)

WAC 230-09-125 Raffles authorized. (1) Licensees may operate raffles at FREs in one of two ways:

(a) **Solely under their fund-raising event license.** Licensees must conduct all aspects of the raffle during the FRE. Income from this raffle counts toward the FRE limits; or

(b) **Under a separate raffle license.** Licensees must sell all tickets for the raffle and deposit all tickets in the drawing receptacle before the FRE and hold the raffle drawing at the FRE. ~~((Income from this raffle counts toward the limits of the licensee's raffle class.))~~

(2) For raffles conducted under an FRE license, licensees must:

(a) Not sell single FRE raffle tickets for more than twenty-five dollars per ticket; and

(b) Not require a person to buy more than one ticket; and

(c) Use consecutively numbered tickets; and

(d) Ensure that each ticket has a separate and equal chance to win; and

(e) Randomly draw the winning ticket; and

(f) Operate and account for raffles as independent gambling stations at the FRE; and

(g) Maintain records to verify gross sales of tickets; and

(h) Report all FRE raffle income, prizes awarded, and other expenses and these amounts count toward the maximum net receipts authorized for FREs.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-045 Disposable bingo card inventory control. Bingo licensees must control and account for all disposable bingo cards they purchase or otherwise obtain.

(1) All licensees must keep:

(a) All purchase invoices, or photocopies of the invoices, for received disposable bingo cards on the bingo premises; and

(b) All manufacturer packing records as part of the inventory control record.

(2) ~~((Class D and above))~~ Bingo licensees with gross gambling receipts over one hundred fifty thousand dollars in their previous license year must prepare an inventory control record in the format we require immediately after purchase of disposable bingo cards or before the next bingo session. We may approve alternative formats, such as electronically generated forms, if the licensee requests it in writing.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-055 Bingo cards required for ~~((Class F and above bingo games))~~ licensees with gross gambling receipts over six hundred fifty thousand dollars in their previous license year. ~~((Class F and above))~~ Bingo licensees with gross gambling receipts over six hundred fifty thousand dollars in their previous license year must use disposable bingo cards, electronically generated bingo cards, player selection bingo cards, or three number speed bingo cards.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-065 Bingo ball mixer required ~~((for Class D and above bingo games)).~~ ~~((Class D and above))~~ Bingo licensees with gross gambling receipts over one hundred fifty thousand dollars in their previous license year must use a machine that mixes balls and selects balls using air flow (a blower). The blower must:

(1) Allow players full view of the mixing action of the balls; and

(2) Not allow changes to the random placement of the balls in the exit tube of the blower except when it is shut off.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-070 Bingo flashboard ~~((requirements for Class D and above bingo games))~~ required. (1) ~~((Class D and above))~~ Bingo licensees with gross gambling receipts over one hundred fifty thousand dollars in their previous license year must use flashboards to display numbers. The flashboards must be visible to all players and clearly indicate all numbers that have been called; and

(2) If a flashboard malfunctions, licensees must repair it before using it in any other bingo occasion.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-075 Licensed bingo manager required.

A licensed bingo manager must be on the premises and supervising bingo operation during all hours bingo games are conducted, except bingo games conducted:

(1) Under RCW 9.46.0321; or

(2) At a qualified agricultural fair; or

(3) ~~((Under a Class A, B, or C bingo license))~~ By licensees with gross gambling receipts of one hundred fifty thousand dollars or less in their previous license year; or

(4) At a special bingo property we authorize.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-085 Members or employees only to work bingo. (1) Bingo licensees must not allow anyone except full and regular members or employees of the organization to take part in managing or operating bingo games.

(2) Licensees may allow:

(a) Persons other than the primary bingo manager to participate in bingo games for another bingo licensee. We do not consider a licensed assistant gambling manager to be a manager for this section; or

(b) Primary managers to manage or operate bingo for more than one ~~((Class A, B, or C))~~ licensee with gross gambling receipts of one hundred fifty thousand dollars or less in their previous license year as long as the managers do not receive payment for services from more than one licensee; or

(c) A person to manage or take part in operating a shared bingo operation according to WAC 230-10-470.

(3) Qualified agricultural fairs licensed to operate bingo are not required to meet these management or operation restrictions.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-090 Workers not playing in ~~((Class D and above))~~ bingo games. (1) ~~((Class D and above))~~ Bingo licensees with gross gambling receipts over one hundred fifty thousand dollars in their previous license year must not allow persons who participate in operating or managing their bingo games to play in any of their bingo games.

(2) Persons who work without compensation for ~~((Class D and above))~~ bingo licensees with gross gambling receipts over one hundred fifty thousand dollars in their previous license year may play bingo, but they must not play during bingo sessions they are operating or managing.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-120 Duplicate bingo cards not sold for ~~((Class D or above))~~ bingo games. (1) ~~((Class D or above))~~ Bingo licensees with gross gambling receipts over one hundred fifty thousand dollars in their previous license year must not sell duplicate cards in bingo games. Licensees using cards from multiple manufacturers may result in duplicate cards

because the majority of cards in the "1 to 9000 series" are duplicate, regardless of the manufacturer.

(2) Licensees must:

- (a) Inform players of limits on prizes if duplicate cards win because Braille cards are in play; and
- (b) Not be held responsible for duplicate cards caused by Braille cards in play.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-125 Duplicate bingo cards pay out and documentation for ((Class D or above)) bingo games. (1) If ((Class D or above)) bingo licensees with gross receipts over one hundred fifty thousand dollars in their previous license year inadvertently sell duplicate bingo cards, they must:

- (a) Pay all winners with duplicate cards the entire prize amount that would be due if there were no duplicate cards; or
- (b) Compute and pay all winners with duplicate cards using the following guidelines:
 - (i) **If the game provides a bonus for a single winner and all winners have duplicate cards**, then the licensee must pay all winners the bonus; or
 - (ii) **If the game results in multiple winners and some of the players have duplicate cards**, then the licensee must calculate the split of the prize pool by counting all duplicate card winners as one. All winners will be paid according to the calculated prize split; or
 - (iii) **If the prize pool contains noncash or merchandise prizes**, then the licensee may use the cost or retail value of the merchandise, whichever is posted in the game schedule, to calculate the amount added to the prize pool to make the split. Manufacturers are not responsible for reimbursement to this noncash or merchandise prize pool; or
 - (iv) **If the prize is more than one thousand dollars**, then the licensee must increase the total prize pool by no more than fifty percent or five thousand dollars, whichever is less. We authorize this limitation only once within a twelve-month period; and

(2) Licensees may deduct increases to prize pools caused by card manufacturers from prize pay outs when calculating cash flow.

(3) Licensees must document details of circumstances that resulted in duplicate cards being sold and maintain that documentation as a part of the daily bingo record for the session.

(4) Licensees must notify us within forty-eight hours after discovery of a duplicate card sale if:

- (a) Manufacturer printing, packaging, or collation errors caused the duplication. Licensees must request reimbursement from the manufacturer responsible for duplicate card errors; or
- (b) The licensee did not pay any winning player with a duplicate card the entire prize amount.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-275 Exceptions to other bingo rules for three number speed bingo. The following rules do not apply to three number speed bingo:

- (1) Prize disclosure before players pay to play. Licensees must still disclose the per card cost to play and the amount required to wager on a single card; and
- (2) Number of balls used to conduct the game; and
- (3) Number of spaces required on each bingo card; and
- (4) Requirements that ~~((Class F and above))~~ licensees with gross gambling receipts over six hundred fifty thousand dollars in their previous license year use disposable bingo cards; and
- (5) Requirements to account for all income at the time it is received; and
- (6) Requirements of WAC 230-10-145 about drawing and physically displaying bingo numbers. However, licensees offering three number speed bingo must display the number on a flashboard and use the audio system to announce the number; and
- (7) Recordkeeping for prizes awarded.

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

WAC 230-10-330 ((Activity reports for Class A, B, and C)) Recordkeeping requirements for bingo licensees with gross gambling receipts less than one hundred fifty thousand dollars in their previous license year, agricultural fairs, and other organizations. Licensees must immediately account for all income from bingo games. ~~((Class A, B, and C))~~ Bingo licensees with gross gambling receipts less than one hundred fifty thousand dollars in their previous license year, organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair must follow the recordkeeping requirements in WAC 230-07-125 or any of the receipting methods for bingo income required for Class D or above licensees.

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

WAC 230-10-331 Activity reports for Class D and above bingo licensees. Class D and above bingo game licensees must submit activity reports to the commission. The activity reports must be in the format we require and must:

- (1) Cover the periods:
 - (a) January 1 through March 31; and
 - (b) April 1 through June 30; and
 - (c) July 1 through September 30; and
 - (d) October 1 through December 31 of each year; and
- (2) Be received at our administrative office or post-marked no later than thirty days following the end of the reporting period. Beginning July 1, 2018, reports required by this section must be submitted quarterly, as set forth in WAC 230-05-102; and
- (3) Be signed by the licensee's highest ranking executive officer or a designee. If someone other than the licensee or an

employee prepares the report, the preparer must print his or her name and business telephone number on the report; and

(4) Submit a report for any period of time their license was valid, even if they had no activity or did not renew.

AMENDATORY SECTION (Amending WSR 08-03-062, filed 1/14/08, effective 2/14/08)

WAC 230-10-350 Recording bingo winners. Organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair, and (~~Class A and B~~) bingo licensees with gross receipts of seventy-five thousand dollars or less in their license year do not have to follow this rule if they meet the requirements for lower volume charitable or nonprofit organizations in WAC 230-07-125. All other bingo licensees must report all prize payments for bingo games and drawings for prizes, good neighbor prizes, and second element of chance prizes at bingo games and record payment on a prize receipt.

(1) Licensees must use prize receipts printed by a commercial printer. The receipts must:

(a) Be two-part, self-duplicating paper that provides for an original and a duplicate copy; and

(b) If the licensee (~~is Class F or above~~) has gross gambling receipts of over six hundred fifty thousand dollars in their previous license year, be imprinted with the name of the licensee and a consecutive ascending number that does not repeat in at least 100,000 occurrences; and

(c) If the licensee (~~is Class E or below~~) has gross gambling receipts of six hundred fifty thousand dollars or less in their previous license year, the receipt is not required to be imprinted with the licensee's name and the consecutive ascending number may repeat in 1,000 occurrences; and

(d) Provide space for the licensee to record the information we require.

Prize receipt

(2) Operators must complete the prize receipt including, at least:

(a) Date; and

(b) Game number; and

(c) Complete name of the winner; and

(d) Complete address of the winner, if the prize is over twenty dollars; and

(e) Dollar amount of the prize or the operator's cost, if noncash prize; and

(f) Full description of all noncash prizes; and

(g) Check number, if any portion of the prize is paid by check; and

(h) Initials of the bingo worker making the payout; and

(i) Initials of the cashier making the payment.

Prize log

(3) Licensees may receipt prizes of twenty dollars or less on a single prize log. Licensees must:

(a) Maintain a separate prize log for each session; and

(b) Record the same information required on prize receipts; and

(c) Retain the prize log as a part of the bingo daily records.

Linked bingo prizes

(4) Except for linked bingo prizes, licensees may omit an address for the winner if:

(a) The licensee pays all prizes greater than \$300 by check or a combination of cash and check; and

(b) Checks are drawn on the licensee's gambling bank account; and

(c) Checks used are of a type that provides a duplicate copy. The copies must be kept as a part of the daily bingo records; and

(d) Checks are made payable only to the winner. Licensees may make checks for prizes won by players under age eighteen payable to the guardian or immediate family member accompanying the player; and

(e) Licensees note the game number and prize receipt number on the check; and

(f) The bank returns all original checks to the licensee. Licensees must have the original checks available for our inspection on demand; and

(g) The licensee does not cash or otherwise redeem prize checks.

(5) Licensees must record the complete name and address of the winner of linked bingo prizes.

(6) Licensees must:

(a) Issue prize receipts consecutively in an ascending order; and

(b) Void and retain with the daily records any prize receipts bearing a lower number than the highest number issued during a session; and

(c) Give the original of each prize receipt to the winner; and

(d) Keep a duplicate copy as a part of their records for not less than three years; and

(e) Account for and document all prize receipts purchased or otherwise obtained on a vendor's invoice; and

(f) Keep the vendor's invoice, or a photocopy of it, on the premises and have it available for our inspection. The purchase invoice must document, at least:

(i) Name of the vendor;

(ii) Name of the purchasing organization;

(iii) Date of purchase;

(iv) Number of receipts purchased; and

(v) The beginning and ending receipt number.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-385 Receipting of bingo income required. Bingo licensees must account for all income from bingo games at the time they receive the income. Licensees must issue each player a receipt for the amount paid to play in each game or set of games at the time of payment. Players must keep this receipt to prove that they have properly purchased the number of cards they are playing.

(1) (~~Class A, B, and C~~) Licensees with gross gambling receipts of one hundred fifty thousand dollars or less in their previous license year, organizations conducting bingo under

the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair may use the receipting method for bingo income in WAC 230-07-125 or any of the methods for receipting bingo income required for ~~((Class D or above))~~ licensees with gross gambling receipts over one hundred fifty thousand dollars in their previous license year; and

(2) ~~((Class D and above))~~ Licensees with gross gambling receipts over one hundred fifty thousand dollars in their previous license year must use the receipting method for bingo income required for the bingo games they are offering:

- (a) The disposable bingo card receipting method; or
- (b) The cash register receipting method; or
- (c) The electronically generated receipting method; or
- (d) The ticket receipting method; or
- (e) The combination receipting method.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-395 Cash register method of receipting for bingo income. Bingo licensees may use a cash register to record bingo income if the cash registers:

- (1) Have separate keys to record each type of sale; and
- (2) Store and compute a total for each type of sale recorded and is capable of providing the total on request; and
- (3) Retain in the memory unit all transactions recorded during a session, regardless of whether or not the cash register power source is interrupted; and
- (4) Record all transactions, customer receipt numbers, and control totals on the internal tape retained in the cash register. The licensee must keep the internal tape, showing these transactions, as part of the daily bingo records; and
- (5) Assign and imprint on the customer receipt and internal tape a minimum four-digit consecutive number for every sales transaction processed. Only cash register service personnel may reset this numbering system and the numbering system must not return to zero at the conclusion of any period of use or power interruption. If licensees receive written approval from us before use, they may use cash registers that do not meet these requirements but have adequate alternative control features; and

(6) ~~((For Class D and above))~~ Licensees ~~((;))~~ with gross gambling receipts over one hundred fifty thousand dollars in their previous license year, must imprint a minimum three-digit consecutive number on the customer receipt and internal tape to note each time transactions are totaled or when a set of transactions are totaled and closed. If licensees receive written approval from us before use, they may use cash registers that do not meet these requirements but have adequate alternative control features.

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

WAC 230-10-420 Ticket method of receipting bingo income. Bingo licensees may use tickets to document receipts of bingo income. Tickets must be:

(1) Manufactured by a commercial printer and imprinted with:

(a) At least four digit numbers in a consecutive series. ~~((Class F and above))~~ Licensees with gross gambling receipts over six hundred fifty thousand dollars in their previous license year must use tickets with numbers that do not repeat in at least 99,999 occurrences; and

(b) Each ticket on a roll must represent the same dollar value or amount of money; and

(c) ~~((Include))~~ The name of the licensee operating ~~((Class F and above))~~ bingo ~~((game))~~ with gross gambling receipts over six hundred fifty thousand dollars in their previous license year; and

(2) If used by ~~((Class F or above))~~ licensees with gross gambling receipts over six hundred fifty thousand dollars in their previous license year, purchased from a licensed distributor or manufacturer; and

(3) Issued consecutively from each roll, starting with the lowest numbered ticket; and

(4) Accounted for by the licensee. If purchased from a commercial business or licensed distributor, documentation must be on the sales invoice. This invoice, or a photocopy, shall be maintained on the premises and available for inspection. Document the following information on the sales invoice for each roll of tickets purchased:

- (a) Name of distributor; and
- (b) Name of purchasing licensee; and
- (c) Date of purchase; and
- (d) Number of rolls of tickets purchased; and
- (e) The color, dollar value, total number of tickets, and beginning ticket number for each roll; and
- (5) Recorded in the daily records in the format we require; and

(6) Retained by the licensee as a part of the bingo daily records for those not issued as receipts and that bears a number falling below the highest numbered ticket issued during that session and not be used to receipt for any type of income; and

(7) Not be the same color and imprinted with the same ticket number as any other ticket on the premises.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-425 Ticket method of bingo receipting for bingo income restrictions. (1) All bingo licensees may use the ticket method of receipting bingo income for drawings and good neighbor prizes offered at their bingo games.

(2) ~~((Class E and below))~~ Licensees with gross gambling receipts of six hundred fifty thousand dollars or less in their previous license year may use the ticket method for games operated with hard cards and for bonus games.

(3) ~~((Class F and above))~~ Licensees with gross gambling receipts over six hundred fifty thousand dollars in their previous license year may use the ticket method for bonus games as a part of the combination receipting method.

AMENDATORY SECTION (Amending WSR 07-10-033, filed 4/24/07, effective 1/1/08)

WAC 230-10-435 Combination receipting method of receipting bingo income. (1) Bingo licensees may use a

receiving method that combines cash register receiving with another approved method of receiving bingo income.

(2) ~~((Class F and above))~~ Licensees with gross gambling receipts over six hundred fifty thousand dollars in their previous license year must use combination receiving for income from sales of:

- (a) Disposable bingo card packets; and
- (b) Disposable bingo card sheets from a set of bingo cards divided into subgroups; and
- (c) Electronically generated bingo cards, if sales transactions and issuing of cards are not completed and documented at the same time; and
- (d) Bonus games.

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

WAC 230-10-451 Recordkeeping for linked bingo prize games. (1) ~~((Class A, B, or C))~~ All linked bingo licensees ~~((participating in linked bingo games))~~ must maintain all records required for ~~((Class D))~~ bingo licensees with gross gambling receipts over one hundred fifty thousand dollars in their previous license year for all their bingo operations; and

(2) For funds contributed to accrued linked bingo prizes, licensees must modify each bingo game daily record to include, at least:

- (a) The amount of the contribution; and
- (b) The amount of any consolation prize the licensee paid for a linked bingo prize game; and
- (c) The name of the linked bingo prize provider to whom the contribution is made.

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

WAC 230-10-457 Activity reports for linked bingo prize providers. Linked bingo prize providers must submit activity reports to us twice a year for their sales and services. The activity reports must be in the format we require and must:

- (1) Cover the periods:
 - (a) January 1 through June 30; and
 - (b) July 1 through December 31; and
- (2) Be received at our administrative office or post-marked no later than thirty days following the end of the reporting period. Licensed organizations that report annually on or before June 30, 2018, must submit an activity report from the beginning of their license year through June 30, 2018, by July 30, 2018. Beginning July 1, 2018, reports required by this section must be submitted quarterly, as set forth in WAC 230-05-102; and
- (3) Be signed by the licensee's highest ranking executive officer or a designee. If someone other than the licensee or an employee prepares the report, the preparer must print his or her name and business telephone number on the report; and
- (4) Submit a report for any period of time their license was valid, even if they had no activity or did not renew.

AMENDATORY SECTION (Amending WSR 06-20-040, filed 9/26/06, effective 1/1/08)

WAC 230-11-095 Recordkeeping requirements for ~~((Class A through D))~~ licensees with gross gambling receipts of fifty thousand dollars or less in their previous license year and unlicensed raffles. ~~((Class A through D licensed raffles and))~~ Licensees with gross gambling receipts of fifty thousand dollars or less in their previous license year and organizations conducting unlicensed raffles under the authority of RCW 9.46.0315 or 9.46.0321 must keep a record by month of the following:

- (1) Gross receipts; and
- (2) Prizes paid; and
- (3) Net income; and
- (4) Documentation of expenses; and
- (5) Documentation of how the proceeds were used.

AMENDATORY SECTION (Amending WSR 06-20-040, filed 9/26/06, effective 1/1/08)

WAC 230-11-100 Recordkeeping requirements for ~~((Class E and F))~~ licensees with gross gambling receipts over fifty thousand dollars in their previous license year and raffles using alternative drawing formats. Licensees conducting ~~((Class E or Class F))~~ raffles with gross gambling receipts over fifty thousand dollars in their previous license year or conducting raffles using alternative drawing formats must prepare a detailed record for each raffle they conduct. Licensees must:

- (1) Record all data required in the standard format we provide; and
- (2) Maintain the following:
 - (a) Validated deposit receipts for each deposit of raffle proceeds; and
 - (b) All winning tickets; and
 - (c) Name, address, and telephone number of all winners of a prize with a fair market value of more than fifty dollars; and
 - (d) All ticket stubs for raffles that participants are not required to be present at the drawing; and
 - (e) All unsold tickets for individual raffles for which gross gambling receipts exceed five thousand dollars; and
 - (f) Invoices and other documentation recording the purchase or receipt of prizes; and
 - (g) Invoices and other documentation recording the purchase of tickets and other expenses of the raffle; and
- (3) Complete all records no later than thirty days following the drawing.

AMENDATORY SECTION (Amending WSR 16-22-049, filed 10/28/16, effective 11/28/16)

WAC 230-13-075 ~~((Assigning and))~~ Reporting ~~((group numbers of))~~ authorized amusement games. ~~((+))~~ Amusement game licensees must determine the authorized group number of each game and prepare a list of all games they plan to operate during each license year. They must submit this list to us with their activity report. The list must contain, at least, the name and group number of each game.

(2)) Amusement game licensees must notify us within thirty days of putting into play and removing from play a group 12 amusement game. Reporting must be in the format we require.

NEW SECTION

WAC 230-13-152 Applying for an approved location to operate amusement games. (1) Operators must apply, pay a fee, and receive a license for each location they will operate approved amusement games.

(2) Operators must notify us in the format we require within thirty days of removing all amusement games from an approved location.

AMENDATORY SECTION (Amending WSR 07-15-064, filed 7/16/07, effective 1/1/08)

WAC 230-13-155 Contracts for commercial amusement games. (1) Operators must ensure that all contracts are written and specific in terms, setting out the term of the contract, amount of rent or consideration, rent due dates, and all expenses each party must pay.

(2) All contracts become part of the operator's license file. If commercial amusement game operators violate any terms of a contract, it may be grounds for suspension or revocation of their license.

(3) (~~Class B or above licensees~~) Operators may enter into contracts with business owners of any of the following approved locations to operate amusement games on their premises:

- (a) Amusement parks; or
- (b) Regional shopping centers; or
- (c) Any location that possesses a valid license from the Washington state liquor control board and prohibits minors on their premises; or
- (d) Movie theaters; or
- (e) Bowling alleys; or
- (f) Miniature golf course facilities; or
- (g) Skating facilities; or
- (h) Amusement centers; or
- (i) Department or grocery stores having more than ten thousand square feet of retail and support space, not including the parking areas; or
- (j) Charitable or nonprofit organizations (~~with a premises licensed for Class A amusement games~~); or
- (k) Any commercial business that provides food service for on premises consumption as its primary activity.

(4) Operators must (~~not~~) only place amusement games at a location (~~which does not have a valid license~~) after a license has been issued under WAC 230-13-152.

AMENDATORY SECTION (Amending WSR 16-08-033, filed 3/30/16, effective 4/30/16)

WAC 230-13-160 Basing rent on a percentage of gross receipts. (~~Class B or above~~) Amusement game operators:

(1) May base the rent or consideration (~~paid to a Class A commercial amusement game location or charitable or nonprofit amusement game location for group 12 amusement~~

~~games~~) on a percentage of revenue the activity generates if the method of distribution is specific. This applies to the following locations:

- (a) All commercial businesses; and
- (b) Charitable and nonprofit organizations renting group 12 amusement games.

(2) May not base the rent or consideration paid to a charitable or nonprofit organization on a percentage of revenue the activity generates unless the amount returned to the organization is equal to or exceeds twenty-two percent of the gross gambling receipts.

(3) Operators must pay the organization at least once a month.

(4) If located at regional shopping centers, may use a percentage of receipts to pay rental leases. They are also exempt from the profits restrictions of RCW 9.46.120(2).

AMENDATORY SECTION (Amending WSR 08-20-007, filed 9/18/08, effective 1/1/09)

WAC 230-13-169 Annual activity reports for commercial amusement game licensees. Commercial amusement game licensees must submit an annual activity report to us in the format we require and must:

(1) Cover the license year of one calendar year or less; and

(2) Be received at our administrative office or post-marked no later than thirty days following the end of the reporting period. Licensed organizations that report annually on or before June 30, 2018, must submit an activity report from the beginning of their license year through June 30, 2018, by July 30, 2018. Beginning July 1, 2018, reports required by this section must be submitted quarterly, as set forth in WAC 230-05-102; and

(3) Be signed by the licensee's highest ranking executive officer or a designee. If someone other than the commercial amusement game licensee or its employee prepares the report, then it must provide the preparer's name and business telephone number; and

(4) Submit a report for any period of time their license was valid, even if they had no activity or did not renew their license; and

(5) Complete the report according to the instructions furnished with the report.

AMENDATORY SECTION (Amending WSR 07-17-058, filed 8/10/07, effective 1/1/08)

WAC 230-14-250 Recording carry-over jackpots on a cash basis. (1) Operators must record carry-over jackpots on a cash basis. "Cash basis" means operators do not record carry-over jackpot contributions until the prize is awarded.

(2) However, punch board and pull-tab licensees who also hold a (~~Class F or above~~) bingo license with gross gambling receipts over six hundred fifty thousand dollars in their previous license year may record carry-over jackpot contributions on their monthly records if they:

(a) Record contribution amounts, up to the jackpot maximum, as prizes paid on the monthly records; and

(b) When the jackpot is awarded, record only amounts not previously accrued as prizes paid; and

(c) Play no more than five carry-over jackpot series at once; and

(d) Maintain a proper audit trail and adequate security over the funds if the licensee does not deposit the contributions with the net receipts.

AMENDATORY SECTION (Amending WSR 07-17-058, filed 8/10/07, effective 1/1/08)

WAC 230-14-280 (~~Records review of~~) **Unrecorded or inaccurate gross gambling receipts.** ~~((To meet the gross gambling receipts and license class requirements, punch boards and pull tab licensees must adjust gross gambling receipts from the operation to comply with commission records review findings.~~

~~Licensees must perform the following calculations:)) For licensees that have not recorded all of their punch board/pull-tabs gross gambling receipts or reported inaccurately, we will use the following calculations to determine their gross gambling receipts:~~

(1) For unrecorded punch boards and pull-tab series

$$\begin{array}{r}
 - \\
 \text{Unadjusted gross gambling receipts} \\
 + \\
 \text{Unrecorded punch boards or pull-tab series} \\
 \text{(((total number of chances multiplied by price)))} \\
 \hline
 \text{Adjusted gross gambling receipts}^{(*)}
 \end{array}$$

To account for any unrecorded punch boards and pull-tab series, licensees add the unrecorded punch board or pull-tab series to the unadjusted gross gambling receipts. To get the total of unrecorded punch boards or pull-tab series, licensees multiply the total number of chances available by the price of a single chance to determine the maximum amount that could be generated from the punch board or pull-tab series.

~~((Licensees must apply this figure to the records for the month in which they purchased the punch board or pull-tab series.))~~

(a) The unadjusted gross gambling receipts is the amount reported for the period.

(b) The unrecorded punch board or pull-tab series is the total number of chances or games played multiplied by the price per game.

(c) Adjusted gross gambling receipts is the amount the licensee must record for the month in which they purchased the punch board or pull-tab series.

(2) For recording errors -

$$\begin{array}{r}
 \text{Unadjusted gross gambling receipts} \\
 +/- \\
 \text{Adjustment factor} \\
 \text{(((amount of sample group divided by recorded} \\
 \text{amount for the licensee)))} \\
 \hline
 \text{Adjusted gross gambling receipts for the quarter and} \\
 \text{the three quarters preceding}^{(**)}
 \end{array}$$

To adjust gross gambling receipts for the results of our records review, licensees divide the amount we determined for a randomly selected sample of punch boards or pull-tab series by the recorded amount for them.

~~((** Licensees apply this figure to the total recorded gross gambling receipts for the calendar quarter from which we took the sample and to the three quarters immediately before.))~~

(a) The unadjusted gross gambling receipts is the amount reported for the period.

(b) The adjustment factor is the amount of a randomly selected sample of punch board or pull-tab series divided by the amount the licensee recorded.

(c) We will apply the adjusted gross gambling receipts to the total recorded gross gambling receipts for the calendar quarter from which we took the sample and to the three quarters immediately before.

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

WAC 230-14-284 Activity reports for punch board and pull-tab licensees. Punch boards and pull-tab licensees must submit an activity report to the commission. Licensees must complete the report in the format we require and must:

(1) Prior to July 1, 2018, cover the periods:

(a) January 1 through June 30; and

(b) July 1 through December 31; and

(2) Beginning July 1, 2018, reports required by this section must be submitted quarterly, as set forth in WAC 230-05-102; and

(3) Be received at our administrative office or post-marked no later than thirty days following the end of the reporting period; and

~~((3))~~ (4) Be signed by the licensee's highest ranking executive officer or a designee. If someone other than the punch board and pull-tab licensee or its employee prepares the report, then it must provide the preparer's name and business telephone number; and

~~((4))~~ (5) Be filed even if they do not renew their license. They must file a report for the period between the previous report filed and the expiration date of the license; and

~~((5))~~ (6) Unless they are also licensed for Class D or above bingo, charitable and nonprofit licensees must submit a semiannual activity report for punch boards and pull-tabs; and

~~((6))~~ (7) Class D or above bingo licensees with a punch board and pull-tab license must report punch board and pull-tab activity, on the combined quarterly report provided by the commission as explained in WAC 230-10-331.

AMENDATORY SECTION (Amending WSR 07-09-033, filed 4/10/07, effective 1/1/08)

WAC 230-15-005 Requirements for public card games. At any time public card game licensees are conducting card games, they must have:

(1) ~~((Have))~~ The food and/or drink business being commercially stimulated open to the public; and

- (2) ~~((For Class E,))~~ A licensed card room employee on duty and in the public card room area if operating the following card games:
- (a) Class F(,); or
 - (b) House-banked ~~((card games, have a licensed card room employee on duty and in the public card room area));~~ or
 - (c) Commercial nonhouse-banked card games of poker or other nonhouse-banked card games specifically approved by the director or the director's designee and a fee is collected to play.

AMENDATORY SECTION (Amending WSR 16-23-153, filed 11/22/16, effective 12/23/16)

WAC 230-15-080 Authorized fees and authorized methods of collection. Card game licensees must collect only one type of card game fee at a table at any given time. The following are authorized types of fees, the card game licensees who may use those fee types, and the methods of collection:

Authorized types of fees	Licensees authorized to use the fee types	Authorized methods of collection	Maximum amount to collect
<p>(1) Period of time -</p> <p>(a) Licensees must collect the fee at least once per hour at times the licensee chooses, for example, at thirty minute increments; and</p> <p>(b) Licensees must record all fees immediately after collection; or</p>	<p>((Class A, B, C, E, F)) <u>Nonhouse-banked card games Class F, and house-banked</u></p>	<p>Direct collection; or Chip rack - Only allowed if licensed for three or fewer tables; or Drop box.</p>	<p>Not more than ten dollars per hour, per player.</p>
<p>(2) Per hand played -</p> <p>(a) Players must place fees charged on a per-hand basis in a designated area of the table and dealers must collect them before dealing the first round of cards; and</p> <p>(b) After collecting the fees, dealers must deposit all chips or coins in either the drop box or chip rack; or</p>	<p>Class F and house-banked</p>	<p>Drop box; or Chip rack - Only allowed if licensed for three or fewer tables.</p>	<p>Not more than one dollar per hand, per player.</p>

Authorized types of fees	Licensees authorized to use the fee types	Authorized methods of collection	Maximum amount to collect
<p>(3) Rake -</p> <p>(a) Dealers must collect fees charged on the amounts wagered during the play of the hand and place the fees in a designated area of the table; and</p> <p>(b) Once dealers accumulate the maximum fee for a hand, they must spread the chips or coins to allow players and the surveillance system to view the amount collected. After spreading the chips or coins, the dealer deposits them in either the drop box or chip rack.</p>	<p>Class F and house-banked</p>	<p>Drop box; or Chip rack - Only allowed if licensed for three or fewer tables.</p>	<p>Not more than ten percent of the total wagers for a hand.</p>

AMENDATORY SECTION (Amending WSR 07-09-033, filed 4/10/07, effective 1/1/08)

WAC 230-15-100 Providing cards and chips in card games. (1) Card game licensees, except for ~~((Class D))~~ non-house-banked card game licensees that do not charge a fee to play, must supply all chips and cards and not allow any other chips or cards to be used on their premises.

(2) Card game licensees must not charge additional fees to players for chips and cards except as allowed under WAC 230-15-110.

AMENDATORY SECTION (Amending WSR 07-09-033, filed 4/10/07, effective 1/1/08)

WAC 230-15-110 Standards for chips. (1) Chips must be of conventional size and design that maximize the integrity of the card games. Chips must be identifiable as belonging to the licensee and must:

- (a) Include the house name or logo; and
- (b) Denote the chip value; and
- (c) Be made by a licensed manufacturer; and
- (d) Be purchased from a licensed manufacturer or distributor.

(2) ~~((Class D))~~ Nonhouse-banked card game licensees that do not charge a fee to play are exempt from subsection (1) of this section.

- (3) Card game licensees must:
- (a) Safeguard all chips in their possession; and
 - (b) Not allow any other person to buy or sell chips for use in card games on their premises.

(4) ~~((Class A, B, C, and E))~~ Nonhouse-banked card game licensees ~~((with))~~ that charge a fee to play and have five or fewer tables may use chips without a house name or logo if the chips are identifiable as belonging to the licensee and they prominently post values of the chips in the card room.

AMENDATORY SECTION (Amending WSR 09-11-087, filed 5/18/09, effective 7/1/09)

WAC 230-15-115 Standards for cards. (1) Card game licensees must:

- (a) Supply cards of conventional size and design to maximize the integrity of the card games; and
- (b) Safeguard all cards; and
- (c) Not allow cards that have been modified or marked in any manner.

(2) For ~~((Class E,))~~ Class F, ~~((and))~~ house-banked ((games)), and nonhouse-banked card game licensees that play poker or other games approved by the director or the director's designee and collect a fee to play, the cards must:

- (a) Be made by a licensed manufacturer; and
 - (b) Be purchased from a licensed manufacturer or distributor.
- (3) Cards with the house name or logo must be used for house-banked card games.

AMENDATORY SECTION (Amending WSR 07-09-033, filed 4/10/07, effective 1/1/08)

WAC 230-15-120 Fees for decks of cards. (1) Card game licensees may charge a fee to a player asking for a new deck of cards.

(2) In addition, ~~((Class D))~~ nonhouse-banked card game licensees who do not charge a fee to play may charge a fee for every deck supplied to a table.

(3) The fee must not be greater than the licensee's actual cost for the deck.

(4) At the time licensees introduce new decks, they must collect the fee in cash directly from the player requesting the deck or the players of the game.

AMENDATORY SECTION (Amending WSR 16-23-153, filed 11/22/16, effective 12/23/16)

WAC 230-15-135 Wagering limits for nonhouse-banked card games. Card room licensees must not exceed these wagering limits:

(1) **Poker** -

(a) There must be no more than five betting rounds in any one game; and

(b) There must be no more than four wagers in any betting round, for example, the initial wager plus three raises; and

(c) The maximum amount of a single wager must not exceed forty dollars; however, Class F and house-banked card game licensees may offer a single wager not to exceed three hundred dollars;

(2) **Games based on achieving a specific number of points** - Each point must not exceed five cents in value;

(3) **Ante** - No more than the maximum wager allowed for the first betting round for any game, except for Panguingue (Pan). The ante may, by house rule:

(a) Be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round; and

(b) Be used as part of a player's wager;

(4) **Panguingue (Pan)** - The maximum value of a chip must not exceed ten dollars. An ante must not exceed one chip. We prohibit doubling of conditions. Players going out may collect no more than two additional chips for going out from each participating player.

AMENDATORY SECTION (Amending WSR 07-09-033, filed 4/10/07, effective 1/1/08)

WAC 230-15-200 Reporting card game activity (~~semiannually~~). Card game licensees, except for Class D, must submit an activity report for their card games to us.

(1) Licensees must complete the report in the format we require; and

(2) We must receive the completed report, or the report must be postmarked, no later than thirty days after the end of the reporting period; and

(3) The highest ranking executive officer or designee must sign the report. If someone other than the licensee or an employee prepares the report, the preparer must print his or her name and phone number on the report; and

(4) Prior to July 1, 2018, licensees must report activities for:

(a) January 1 through June 30; and

(b) July 1 through December 31; and

(5) Beginning July 1, 2018, reports required by this section must be submitted quarterly, as set forth in WAC 230-05-102; and

(6) Licensees must submit a report for any period of time their license was valid. If licensees do not renew, they must submit a report for the period between the previous (~~semiannual~~) report they filed and the date their license expired.

AMENDATORY SECTION (Amending WSR 08-21-087, filed 10/14/08, effective 1/1/09)

WAC 230-15-205 Card tournament licenses. ~~((A, B, E, F, or))~~ F, house-banked, and nonhouse-banked card game licensees may conduct a card tournament where a fee or buy-in is charged without getting a card tournament license, but they must only operate those card games approved for their license (~~(class))~~ type.

~~((2) Class D licensees must obtain a card tournament license to charge a fee for a card tournament.))~~

AMENDATORY SECTION (Amending WSR 07-19-069, filed 9/17/07, effective 1/1/08)

WAC 230-16-130 Disposable bingo card sales. (1) Manufacturers of disposable bingo cards must sell each set or collation as a single unit.

(2) We allow distributors to open containers for (~~Class E and below~~) licensed operators and operators of authorized unlicensed activities:

(a) At an operator's request to change the "on," "up," and "cut." When a modification is made, the distributor must reseal the carton and note all changes on the packing label; or

(b) To provide cards to individuals for recreational activities; or

(c) To provide cards for "promotional contests of chance."

(3) Subsets must have at least one container, except distributors may open the container and sell cards in smaller quantities described in subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 07-19-069, filed 9/17/07, effective 1/1/08)

WAC 230-16-220 Activity reports by manufacturers and distributors. Manufacturers and distributors must submit activity reports to us twice a year for sales and services related to gambling activities. The activity reports must be in the format we require and must:

(1) Prior to July 1, 2018, cover the periods:

(a) January 1 through June 30; and

(b) July 1 through December 31; and

(2) Beginning July 1, 2018, reports required by this section must be submitted quarterly, as set forth in WAC 230-05-102; and

(3) Be received at our administrative office or postmarked no later than thirty days following the end of the reporting period; and

~~((3))~~ (4) Be signed by the licensee's highest ranking executive officer or a designee. If someone other than the manufacturer or distributor or its employee prepares the report, then it must provide the preparer's name and business telephone number; and

~~((4))~~ (5) Be submitted for any period of time their license was valid, even if they had no activity or did not renew.

AMENDATORY SECTION (Amending WSR 07-21-156, filed 10/24/07, effective 1/1/08)

WAC 230-17-150 ~~((Use of))~~ **Brief adjudicative proceedings** ~~((BAPs))~~. ~~((1) Presiding officers must use)~~ The commission adopts the procedure for brief adjudicative proceedings ((BAPs) for) provided in RCW 34.05.482 through 34.05.494. The commission finds brief adjudicative proceedings will be conducted where the matter involves one of the following:

- ~~((a))~~ (1) Stays of summary suspension; and
- ~~((b))~~ (2) Denying or revoking extended operating hours for:
 - ~~((i))~~ (a) Card games; and
 - ~~((ii))~~ (b) Bingo; and
 - ~~((c))~~ (3) Charitable or nonprofit licensee appealing a denial of a request for waiver of significant progress requirements; and
 - ~~((d))~~ (4) Failure to pay required gambling taxes, where that is the only alleged violation in the administrative charges; and
 - ~~((e))~~ (5) Failure to pay a quarterly license fee or submit a quarterly license report; and
 - (6) When the penalty we are requesting is a suspension of seven days or less; and
 - ~~((f))~~ (7) When the parties stipulate to using a ~~((BAP- (2) If we conduct a BAP, we may conduct them telephonically and, therefore, the notice of hearing will not set a place of the hearing.~~
 - ~~((g))~~ (3) Any party to the BAP may request to appear in person and, in those cases, a place will be set and all parties notified) brief adjudicative proceeding.

AMENDATORY SECTION (Amending WSR 07-21-156, filed 10/24/07, effective 1/1/08)

WAC 230-17-155 **Brief adjudicative proceedings—Discovery limitations** ~~((in brief adjudicative proceedings))~~. (1) In all brief adjudicative proceedings, discovery must be limited to requests for written reports and supporting documents relevant to the charges.

- (2) Interrogatories and depositions are not allowed.

NEW SECTION

WAC 230-17-151 **Brief adjudicative proceedings—Procedure.** (1) The following procedures apply to the commission's brief adjudicative proceedings for matters identified in WAC 230-17-150, unless the matter is converted to a formal adjudicative proceeding as provided in subsection (2) of this section.

- (a) We will set the date and time of the hearing.
- (b) Written notice shall be served upon the licensee at least seven days before the date of the hearing. Service is to be made pursuant to WAC 230-17-035.
- (c) A brief adjudicative proceeding may be conducted telephonically with the concurrence of the presiding officer and all persons involved in the proceeding.
- (d) WAC 230-17-045 controls who can appear in a brief adjudicative proceeding.

(e) The presiding officer must be the director, deputy director, or administrative law judge.

(f) Parties or their representatives may present written documentation or oral testimony at a brief adjudicative proceeding. However, no nonparty witnesses may appear to testify.

(g) The presiding officer may, in her or his discretion, allow oral argument from parties or their representatives during a brief adjudicative proceeding.

(h) The presiding officer will enter an initial order within ten business days of the end of a brief adjudicative proceeding. The initial order shall briefly state the basis and legal authority for the decision.

(i) An initial order will become the final order if no review of the initial order is received by us within twenty-one days of service of the initial order.

(2) Any party, including the agency, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that it be converted to a formal adjudicative proceeding.

(a) The objection must be received by the presiding officer at least three days before the scheduled brief adjudicative proceeding.

(b) Upon receiving a timely written objection, the presiding officer shall determine whether the matter should be converted.

(c) A presiding officer may convert any brief adjudicative proceeding to a formal adjudicative proceeding whenever it appears that a brief adjudicative proceeding is insufficient to determine the issues pending before the commission.

(d) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

(i) Whether witness testimony will aid the presiding or reviewing officer in resolving contested issues of fact;

(ii) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;

(iii) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;

(iv) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the commission;

(v) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and

(vi) Any other factors that the presiding or reviewing officer deems relevant in reaching a determination.

NEW SECTION

WAC 230-17-152 **Brief adjudicative proceedings—Appeal rights.** (1) Any party to a brief adjudicative proceeding may request review of the initial order by filing a written petition for review to us.

(2) We must receive your petition for review within twenty-one days after service of the initial order.

(3) Your petition for review must contain any evidence or written material relevant to the matter that the party wishes the reviewing officer to consider.

(4) Parties must serve copies of the petition to all other parties or their representatives at the time the petition for review is filed.

(5) The chair of the commission or the commissioners shall be the reviewing officer(s).

(6) The reviewing officer(s) consider your appeal and either uphold, modify or overturn the brief adjudicative proceeding order. The decision of the reviewing officer(s), also called an order, is the final agency decision. The order will be provided to you at the last address you furnished to the commission.

(7) The order on review must be in writing, must include a brief statement of the reasons for the decision, and must be entered within ten business days after the petition for review is considered. The order shall include a description of any further available administrative review or, if none is available, a notice that judicial review may be available.