



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Board of Accountancy	<input checked="" type="checkbox"/> Permanent Rule
(1) Date of adoption: 10/31/03	<input type="checkbox"/> Emergency Rule
	<input type="checkbox"/> Expedited Rule Making

(2) Purpose: To promote the dependability of information used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises and protect the public interest by requiring that persons who hold themselves out as licensed CPAs or certificateholders conduct themselves in a competent, ethical, and professional manner

(3) Citation of existing rules affected by this order:
 Repealed:
 Amended: WAC 4-25-622 When must a CPA or CPA firm be independent?
 Suspended:

(4) Statutory authority for adoption: RCW 18.04.055(2)
 Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)
 Adopted under notice filed as WSR 03-17-060 on 08/18/2003 (date).
 Describe any changes other than editing from proposed to adopted version: None

EMERGENCY RULE ONLY
 Under RCW 34.05.350 the agency for good cause finds:
 (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

 Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:
 Yes No If Yes, explain:

(6) Effective date of rule:
Permanent Rules
 31 days after filing
 Other (specify) 12/31/03*
*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Emergency Rules
 Immediately
 Later (specify) _____

Name (Type or Print)
 Dana M. McInturff, CPA

Signature

Title
 Executive Director

Date
 November 17, 2003

CODE REVISER USE ONLY

FILED _____ JUSTICE CLERK

NOV 30

TIME _____ 205 _____ AM/PM

WSR 03-24-034

Washington State Board of Accountancy

Attachment to CR-103 - Board Response to Stakeholder Comments

October 31, 2003

WAC 4-25-622 Independence

Name	Comment	Board Response
James E. Coates, CPA, Chairman WSCPA Government Affairs Committee	<p>The use of the word "could" creates a speculative standard that may easily be interpreted to include virtually anything one might imagine. A simple change of the word "could" to "would" will cure this dangerous ambiguity. This simple change brings the rule from the speculative standard of "could" to the standard of what a reasonable person "would" logically conclude.</p> <p>We are still concerned about the use of the conflicting legal terms, "expected to rely on", "foreseen", and "foreseeable" in the body of the rule. However, with the change of "could" to "would" we believe the impact of those concerns is minimized, and we would support adoption of the new rule at this time.</p>	<p>The Board acknowledges the stakeholder's concern in the following language: <i>"To decline attest engagements where the CPA or CPA firm has a relationship that could lead a reasonable and foreseeable user to conclude that the CPA or CPA firm is not independent."</i></p> <p>However, the Board underscores that in the rule proposal the word in question ("could") is modified by the phrase "a reasonable and foreseeable user." As phrased in the rule proposal, the Board interprets the word "could" within the content of what a reasonable person "could" determine.</p>

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>1</u>	Repealed	_____

AMENDATORY SECTION (Amending WSR 98-12-049, filed 5/29/98, effective 6/29/98)

WAC 4-25-622 ((Independence.)) When must a CPA or CPA firm be independent? ((1) A CPA in public practice must be independent in the performance of the following:

- ~~(a) An audit or review of a financial statement, or~~
- ~~(b) A compilation of historical or prospective financial statement when the CPA's report does not disclose a lack of independence, or~~
- ~~(c) Other attest engagements when required by board rules or other professional standards such as the statements of standards for attestation engagements.~~

~~(2) The following specific acts are examples of impairment of independence. The board does not intend this listing to be all inclusive.~~

~~(a) During the period of a professional engagement, or at the time of expressing an opinion, a CPA or a CPA's firm:~~

~~(i) Had or was committed to acquire any direct or material indirect financial interest in the enterprise.~~

~~(ii) Was a trustee of any trust or executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise.~~

~~(iii) Had any joint closely-held business investment with the enterprise or with any officer, director, or principal stockholder thereof which was material in relation to the CPA's net worth or the net worth of the CPA's firm.~~

~~(iv) Had any loan to or from the enterprise or any officer, director, or principal stockholder of the enterprise except under certain circumstances for home mortgages, other secured loans, loans not material to the CPA's net worth, and various personal loans.~~

~~(b) During the period covered by the financial statements, during the period of the professional engagement or at the time of expressing an opinion, the CPA or a CPA's firm:~~

~~(i) Was connected with the enterprise as a promoter, underwriter, or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee, or~~

~~(ii) Was a trustee for any pension or profit-sharing trust of the enterprise.))~~ When performing attest services, CPAs and CPA firms are responsible for maintaining independence so that attest opinions, reports, conclusions, and judgments will be impartial and viewed as impartial by parties expected to rely on the attest report. CPAs and CPA firms are required:

- To comply with all applicable independence rules,

regulations, and the AICPA code of conduct as referenced in and required by WAC 4-25-631; and

• To decline attest engagements where the CPA or CPA firm has a relationship that could lead a reasonable and foreseeable user to conclude that the CPA or CPA firm is not independent.

Independence is not required when performing a compilation engagement provided the CPA's report discloses a lack of independence.