



RULE-MAKING ORDER

CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Office of the code reviser

- Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: Amending chapters 1-06 and 1-21 WAC, to correct internal references and make the language more consistent and clearer to understand.

Citation of existing rules affected by this order:

Amended: WAC 1-06-010, 1-06-020, 1-06-030, 1-06-050, 1-06-060, 1-06-070, 1-06-080, 1-06-100, 1-06-130, 1-06-140, 1-06-160, 1-21-010, 1-21-015, 1-21-020, 1-21-030, 1-21-040, 1-21-050, 1-21-060, 1-21-070, 1-21-080, 1-21-090, 1-21-120, 1-21-140, 1-21-150, 1-21-160, 1-21-170, and 1-21-180.

Statutory authority for adoption: RCW 1.08.110 and 34.05.385.

Other authority: RCW 1.08.001 and Executive Order 97-2.

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR _____ 06-10-047 on _____ May 1, 2006. (date).

Describe any changes other than editing from proposed to adopted version: A typographical error was corrected in WAC 1-06-060 adding "the" before the word "charge" so the sentence now reads "The agency's public records shall be in the charge of ..."

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- 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.
 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:

Date adopted: July 24, 2006

NAME (TYPE OR PRINT)

K. Kyle Thiessen

SIGNATURE

TITLE

Code Reviser

CODE REVISER USE ONLY
 CODE REVISER'S OFFICE
 STATE OF WASHINGTON
 FILED

JUL 24 2006

TIME 10:36
 WSR 06-16-019

**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	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>27</u>	Repealed	_____
-----	-------	---------	-----------	----------	-------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>27</u>	Repealed	_____
-----	-------	---------	-----------	----------	-------

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-010 Purpose. The purpose of this chapter shall be to ensure compliance by the statute law committee and the office of the code reviser with the provisions of chapter (~~(42-17)~~) 42.56 RCW (~~((Initiative 276), and in particular RCW 42.17.250 through 42.17.348,))~~) dealing with public records.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-020 Definitions. (1) "Public record" includes 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 this agency regardless of physical form or characteristics, except (a) those records of the bill drafting functions of the code reviser deemed confidential pursuant to RCW 1.08.027 and (b) computer programs, products, and data bases deemed exempt pursuant to chapter 42.56 RCW (~~(42.17.310)~~).

Public record as relates to this agency does not include computer programs, products, and data bases prepared, owned, used, or retained by this agency for the benefit of another state agency. Applications for the disclosure of such records should be addressed to the agency in interest.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(3) "Committee" means the statute law committee created pursuant to chapter 1.08 RCW (chapter 157, Laws of 1951).

(4) "Reviser" means the code reviser employed by the committee pursuant to RCW 1.08.011, and where appropriate the term also refers to the staff and employees of the office of the code reviser(~~(+s office)~~).

(5) "Agency" means the committee, the code reviser, and the staff and employees thereof, unless the context clearly indicates otherwise.

(6) "Records of the bill drafting functions" means any file or writing in the office of the code reviser(~~(+s office)~~) created in

connection with a request for preparation of legislation or research thereon, and the confidentiality of such records may be waived only by the person who requested the services of the office of the code reviser(~~'s office~~).

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-030 Description of central and field organization.

(1) The office of the code reviser is located (~~(on)~~) in the (~~(ground floor of the Legislative)~~) Pritchard Building, Olympia, Washington, 98504.

(2) The committee consists of (~~(twelve attorneys)~~) eleven members. (~~(Five are appointed by the Washington State Bar Association,)~~) The secretary of the senate, the chief clerk of the house of representatives, the staff director of a nonpartisan professional committee, staff of the senate and the house of representatives, two (~~(each by)~~) members of the senate and the house (~~(judiciary committees)~~) of representatives, and one each appointed by the governor, the chief justice of the supreme court, and the (~~(speaker of the house)~~) Washington State Bar Association. The committee employs a code reviser, who serves as its secretary.

(3) Among the primary responsibilities of the committee and the code reviser is the duty to periodically codify, index, and publish the *Revised Code of Washington* and to revise, correct, and harmonize the statutes by means of administrative or suggested legislative action as may be appropriate. The agency is also the official bill drafting arm of the legislature and its various committees, and prepares for the legislature all bills, memorials, resolutions, amendments, and conference reports, which activities are pursued on a nonpartisan, professional, lawyer-client, confidential basis under RCW 1.08.027, and RCW 1.08.028 prohibits the office of the code reviser(~~'s office~~) from rendering written opinions concerning the constitutionality of any proposal. The agency also produces the legislative digest and history of bills and the daily status report. Immediately following each session of the legislature, the committee indexes and publishes the temporary edition of the session laws and subsequently publishes the permanent edition; it also responds to citizen's requests for copies of recently enacted laws. The committee administers the Administrative Procedure Act, serving as official repository for the rules of the various state agencies and the institutions of higher (~~(learning)~~) education, and creating and publishing the *Washington Administrative Code*.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-050 Public records available. All public records of the agency, as defined in WAC 1-06-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by chapter 42.56 RCW (~~((42.17.310))~~) and WAC 1-06-100.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-060 Public records officer. The agency's public records shall be in the charge of the public records officer designated by the code reviser. The public records officer shall be responsible for the following: The implementation of the agency's rules and regulations regarding release of public records, coordinating the staff of the agency in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter (~~((42.17))~~) 42.56 RCW.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the agency. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to noon and from 1:00 p.m. to ~~((5))~~ 4:30 p.m., Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-080 Requests for public records. In accordance with requirements of chapter (~~((42.17))~~) 42.56 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the agency which shall be available at its office. The form shall be presented to the public records officer; or to any member of the agency's staff, if the public records officer is not available, at the office of the agency during customary office hours. The request shall include the following information:

(a) The name, address, and organization represented, if any, of the person requesting the record;

(b) The time of day and calendar date on which the request was made;

(c) The nature of the request;

(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the agency's current index, an appropriate description of the record requested;

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-100 Exemptions. (1) The agency reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 1-06-080 is exempt under the provisions of RCW 1.08.027 or (~~(42.17.310)~~) chapter 42.56 RCW.

(2) In addition, pursuant to RCW (~~(42.17.260)~~) 42.56.070(1), the agency reserves the right to delete identifying details when it makes available or publishes any public record, in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter (~~(42.17)~~) 42.56 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-130 Records index. (1) A chronological index is maintained providing identifying information as to all governmental records issued, adopted, or promulgated after June 30, 1972, that are deemed by the agency to fall within the purview of RCW ((42.17.260)) 42.56.070 and that are not exempted under chapter 42.56 RCW, RCW 1.08.027, 40.14.180, ((42.17.310,)) or WAC 1-06-020.

(2) The current index promulgated by the agency must be available to all persons under the same rules and on the same rules and on the same conditions as are applied to public records available for inspection.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-140 Communications with the agency. All communications with the agency including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter ((42.17)) 42.56 RCW and these rules; requests for copies of the agency's rules and other matters, shall be addressed as follows: Office of the Code Reviser, c/o Public Records Officer, P.O. Box 40551, Olympia, WA 98504-0551.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-160 Request for public record--Form. A copy of the request for public records form may be obtained from the office of the code reviser((+s office)).

AMENDATORY SECTION (Amending WSR 01-20-090, filed 10/3/01, effective 11/3/01)

WAC 1-21-010 Preproposal statement of inquiry. To solicit comments from the public as required by RCW 34.05.310 on a subject of possible rule making, but before a formal notice is filed under RCW 34.05.320, an agency shall complete and file with the office of the code reviser(~~(+s-office)~~) a CR-101 form (preproposal statement of inquiry). This requirement does **not** apply to all rule making. The exceptions are set forth in RCW 34.05.310(4).

The text of the new rule is neither required nor recommended at this stage, but if text is submitted for filing, it must meet the form and style requirements of WAC 1-21-110 through 1-21-130. The filing will appear in the Washington State Register in accordance with the schedule provided in WAC 1-21-040. Note that the CR-101 must be published at least thirty days before the CR-102 form (proposed rule making) may be filed.

AMENDATORY SECTION (Amending WSR 01-20-090, filed 10/3/01, effective 11/3/01)

WAC 1-21-015 Expedited rule making. (1) Expedited rule making filed under RCW 34.05.353 includes both the expedited adoption of rules and the expedited repeal of rules.

(2) An agency shall file notice for the expedited rule making with the office of the code reviser(~~(+s-office)~~) on a CR-105 form (expedited rule making). The agency must file the full text of a proposed new or amendatory rule, along with the CR-105 form. The text must meet the form and style requirements of WAC 1-21-110 through 1-21-130. The filing will appear in the Washington State Register in accordance with the schedule provided in WAC 1-21-040. The expedited rule making must be published in the Washington State Register at least forty-five days before the agency may file a CR-103 form (rule-making order).

(3) WAC sections proposed for expedited repeal should be listed by citation and caption only, either individually or by entire chapter.

(4) The agency shall file the original and six copies of the expedited rule-making package (form and text). The office of the code reviser(~~(+s-office)~~) will keep the original and two copies and return four stamped copies to the agency. The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative

review. The agency should keep the remaining copy for its files.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-21-020 Notice--Form, contents, numbers. (1) An agency shall file a regular notice of proposed rule making under RCW 34.05.320 with the office of the code reviser(~~(+s office)~~) on a CR-102 form (proposed rule making). The agency must file the full text of the proposed rule along with the notice form (RCW 34.08.020). This filing must be at least thirty days after the CR-101 form, if required, was published (RCW 34.05.310).

(2) The agency shall file the original and six copies of the notice package (form and text). The office of the code reviser(~~(+s office)~~) will keep the original and two copies and return four stamped copies to the agency. The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative review. The agency should keep the remaining copy for its files.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-030 Notice period--Washington State Register distribution date. (1) Under RCW 34.05.320, notice of proposed rule making must be published in the Washington State Register at least (~~(20)~~) twenty days before the agency may hold a hearing on the proposal. The Washington State Register is distributed on the first and third Wednesdays of each month. If a distribution date falls on a state holiday as determined by RCW 1.16.050, the distribution date of that Washington State Register will be delayed until Thursday.

(2) In counting the twenty-day notice period, consider the distribution date of the pertinent Washington State Register as day (~~(20)~~) twenty; count down to day zero to find the first day on which a hearing may be held; cf. RCW 1.12.040 and *State ex rel. Earley v. Batchelor*, 15 Wn.2d 149 (1942).

(3) The schedule of closing dates on page 2 of each Washington State Register applies this section and WAC 1-21-040 to the current year. In case of a discrepancy between the WAC rules and the schedule, the rules have priority.

AMENDATORY SECTION (Amending WSR 95-17-070, filed 8/17/95, effective 9/17/95)

WAC 1-21-040 Washington State Register material--Time for filing. To permit sufficient lead time for the editorial, data capture, and printing process, material to be published in a particular issue of the Washington State Register must be in the physical possession of and filed in the office of the code reviser(~~'s office~~) according to the following schedule:

(1) If the material has been prepared and completed by the office of the code reviser's order typing service (OTS), by 12:00 noon on the fourteenth day before the distribution date of that issue of the Washington State Register; or

(2) If the material has been prepared by any means other than OTS and it contains:

(a) No more than ((10)) ten pages, by 12:00 noon on the fourteenth day before the distribution date of that Washington State Register; or

(b) More than ((10)) ten but less than ((30)) thirty pages, by 12:00 noon on the twenty-eighth day before the distribution date of that Washington State Register; or

(c) ((30)) Thirty or more pages, by 12:00 noon on the forty-second day before the distribution date of that Washington State Register.

The office of the code reviser's filing forms are not included in this page count, but all other material submitted for filing is counted for purposes of this section, excluding federal rules that are not published in the Washington State Register.

AMENDATORY SECTION (Amending WSR 95-17-070, filed 8/17/95, effective 9/17/95)

WAC 1-21-050 Continuance. (1) Under RCW 34.05.325(5), an agency may continue a proceeding that has already started by establishing the later time and place on the record. No publication is required in the Washington State Register, but before filing the administrative order adopting the rule, the agency shall give notice of the continuance to the office of the code reviser(~~'s office~~) on a CR-102 form. If no substantial change is made in the proposal, the continuance is not subject to the ((20)) twenty-day publication requirement of RCW 34.05.320. Note that RCW 34.05.335(4) prohibits an agency from adopting a rule before the time established in the published notice.

(2) An agency may change the date or the location, or both, of a rule-making proceeding before the proceeding has begun if the agency gives adequate notice to the public through the same methods that were used for the original notice. Adequate notice for purposes of the Washington State Register consists of filing the

continuance notice on a CR-102 form with the office of the code reviser in time for it to appear in a Washington State Register that will be distributed at least five days before the originally scheduled proceeding.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-060 Withdrawal of proposal. Under RCW 34.05.335 a proposed rule may be withdrawn any time before adoption. The agency shall provide notice of withdrawal to the office of the code reviser(~~(+s office)~~) by a letter or memorandum signed by the person who signed the original notice, or by that person's designee. The agency shall send a copy of the withdrawal notice to the joint administrative rules review committee.

AMENDATORY SECTION (Amending WSR 04-02-071, filed 1/7/04, effective 2/7/04)

WAC 1-21-070 Administrative order. (1) The administrative order by which an agency adopts a rule shall be done on a CR-103 form (rule-making order) provided by the office of the code reviser(~~(+s office)~~) or, if required by agency practice, on an agency form that provides the information required by RCW 34.05.360.

(2) The agency shall file with the office of the code reviser(~~(+s office)~~) the original and six copies of the permanent or emergency package (form and text). The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative review. The agency should keep the remaining copy for its files.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

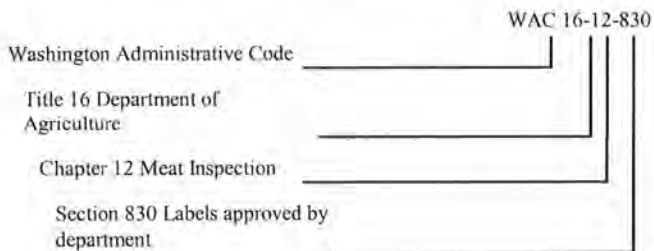
WAC 1-21-080 Numbering system--Captions. (1) The primary division of the Washington Administrative Code (WAC) is the **Title**. The office of the code reviser assigns each agency a title number, which usually is in alphabetical order. A newly created agency shall apply to the office of the code reviser(~~(+s office)~~) for assignment of a title number. If an agency's name is changed, the title number stays the same. The list of titles is published in

volume 1 of the WAC.

(2) Each title is divided into **chapters**, which are the major subject matter divisions of the agency's title.

(3) Each chapter is divided into **sections**, which are the individual rules and are the smallest unit that can be amended. The agency shall place a short caption on each section to describe its contents. Sections should be as short as reasonably possible to facilitate finding an individual rule and amending it in the future.

(4) The WAC citation number is a composite of these three divisions:



AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-090 Redesignation of WAC numbers. (1) WAC numbers are permanent and may not be changed by the use of addition and deletion marks used for text amendments. If an agency wishes to recodify its permanent rules, it should consult with the office of the code reviser (~~the office~~) for the method to be used.

(2) WAC numbers previously assigned to repealed sections or chapters may not be reused to designate other sections or chapters. The numbers of the repealed rules are shown in a disposition table prepared by the office of the code reviser and published with the appropriate chapter or title.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-120 Underlining restricted. Since RCW 34.05.395 requires the use of the legislature's bill-drafting style to show amendments in previously adopted rules, underlined text may be used only to show new material added to an existing section. Underlining may not be used for emphasis, as it would not permit codification of the section in the usual manner. *Italics* or **boldface** may be used for emphasis. Consult with the office of the

code reviser(~~the~~ office) if in doubt as to the proper method for indicating these styles.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-21-140 Review of previously adopted rules. When an agency is required under RCW 34.05.630 to review permanent or emergency rules previously adopted, the agency shall file notice of the review with the code reviser on a CR-104 form (review of previously adopted rules). The agency shall file the original and six copies of the notice. Four copies will be returned to the agency, three of which shall be delivered to the joint administrative rules review committee. The notice is subject to the twenty-day requirement of RCW 34.05.320. The text of the rule under review is not needed with this notice.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-150 Exemptions from publication. Agency rules that are likely to be omitted from WAC publication by the office of the code reviser under the authority of RCW 34.05.210, may, upon application by the agency to the office of the code reviser for an exemption, be exempted by the office of the code reviser from the form and style requirements of this chapter, other than requirements that are imposed by statute. An application for exemption must be made and approved before filing the rules.

AMENDATORY SECTION (Amending WSR 01-20-090, filed 10/3/01, effective 11/3/01)

WAC 1-21-160 Filing after office hours. The office of the code reviser(~~the~~ office) is open for the filing of agency rule-making notices and orders from 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. The office of the code reviser delegates to the Washington state patrol the authority to accept at other times the filing of orders adopting, amending, or repealing rules when the nature of the order requires their immediate filing and/or effectiveness. To use this service, the agency may telephone the capitol security unit of the state patrol

at (360) 753-2191 to arrange for receipt of the riling by the state patrol. The agency shall notify the office of the code reviser(~~(+s office)~~) of the filing by 9:00 a.m. on the next business day after the filing.

AMENDATORY SECTION (Amending WSR 01-20-090, filed 10/3/01, effective 11/3/01)

WAC 1-21-170 Official forms. Agencies may obtain the following official forms from the office of the code reviser(~~(+s office)~~) upon request:

- (1) Form CR-101 Preproposal statement of inquiry
- (2) Form CR-102 Proposed rule making
- (3) Form CR-103 Rule-making orders
- (4) Form CR-104 Review of previously adopted rules
- (5) Form CR-105 Expedited rule making.

AMENDATORY SECTION (Amending WSR 97-15-035, filed 7/10/97, effective 7/27/97)

WAC 1-21-180 Rule-making activity report. To implement RCW 1.08.112, agencies shall supply the information required by RCW 1.08.112 (1)(a) through (f) and (i) by completing the appropriate parts of the CR-103 form. Agencies shall report information required by RCW 1.08.112 (1)(g) and (h) by a memorandum on agency letterhead to the office of the code reviser.