

# Chapter 446-70 WAC

## AFFIRMATIVE ACTION

### WAC

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**WAC 446-70-010 Purpose.** These rules are proposed by the Washington state patrol as a result of the passage of Engrossed Substitute Senate Bill 3446, revising RCW 43.43.340, which mandates that the Washington state patrol develop rules pertaining to affirmative action. The purpose of these rules is to specify the development and implementation of affirmative action plan goals and timetables in promoting protected group members to the ranks of RCW sergeant and lieutenant.

[Statutory Authority: RCW 43.43.340. WSR 87-09-049 (Order 87-RD-001), § 446-70-010, filed 4/16/87.]

**WAC 446-70-020 Authority.** The rules contained in this section are promulgated as a result of the authority granted the Washington state patrol by RCW 43.43.340 as amended by chapter 365, Laws of 1985. These laws provide that the Washington state patrol shall adopt rules consistent with the provisions of the chapter regarding the procedures to be followed in complying with affirmative action measures in promotion of Washington state patrol officers to the ranks of RCW sergeant and lieutenant. It further requires the development and implementation of state patrol affirmative action goals and timetables in this regard and that the patrol monitor and report the progress made in attaining the goals and timetables as outlined.

[Statutory Authority: RCW 43.43.340. WSR 87-09-049 (Order 87-RD-001), § 446-70-020, filed 4/16/87.]

**WAC 446-70-030 Goals and timetables regarding officer promotion to the ranks of RCW sergeant and lieutenant.** The state patrol will develop and implement goals and timetables for promoting members of protected groups to the ranks of RCW sergeant and lieutenant where it has been determined that underutilization exists. Goals shall be established from the state patrol's qualified available work force for RCW sergeants and lieutenants. Timetables for achieving these goals will be calculated by measuring turnover rate, new positions, and other relevant factors.

[Statutory Authority: RCW 43.43.340. WSR 87-09-049 (Order 87-RD-001), § 446-70-030, filed 4/16/87.]

**WAC 446-70-040 Definitions.** Unless the context clearly indicates otherwise, the words used in these rules shall have the meaning set forth in the definitions below.

**Affirmative action:** Procedures by which racial/ethnic minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system.

**Goal:** A target expressed as both a number and a percentage, for placing protected group members in a job category/group for which underutilization exists. It should normally be the maximum rate that can be achieved by making every good-faith effort.

**Protected groups:** Means Blacks, Asian/Pacific Islanders, Hispanics, Native Americans, women, persons in the protected age class, qualified persons with physical or mental handicaps meeting the established standards for law enforcement, Vietnam-era veterans, and disabled veterans.

**Supplemental (plus 3) referral:** A statutorily authorized process by which three qualified, eligible members of underutilized protected groups may be referred to the chief for consideration for promotion to RCW sergeant or lieutenant in addition to the top five names appearing on the eligibility list as required by statute.

**Timetables:** Established time period by which specific areas of underutilization should be corrected.

[Statutory Authority: RCW 43.43.340. WSR 87-09-049 (Order 87-RD-001), § 446-70-040, filed 4/16/87.]

**WAC 446-70-050 Affirmative action plan and requirements.** The Washington state patrol will develop and implement both an equal opportunity/affirmative action policy statement and an affirmative action plan. These shall include provisions for the promotion of protected group members to the ranks of RCW sergeant and lieutenant to comply with RCW 43.43.340 and other applicable state and federal laws, regulations, rules, and guidelines. It shall be updated annually.

[Statutory Authority: RCW 43.43.340. WSR 87-09-049 (Order 87-RD-001), § 446-70-050, filed 4/16/87.]

**WAC 446-70-060 Affirmative action plan progress reporting.** The chief's designee shall monitor the state patrol's progress with respect to its affirmative action plan and submit a report to the chief of the Washington state patrol, at least annually, defining such progress and containing such other information as the chief may require. An annual report will be sent to the Washington state human rights commission regarding affirmative action progress within the Washington state patrol with respect to promotion of protected group members to the ranks of RCW sergeant and lieutenant.

[Statutory Authority: RCW 43.43.340. WSR 87-09-049 (Order 87-RD-001), § 446-70-060, filed 4/16/87.]

**WAC 446-70-070 Affirmative action plan use.** The Washington state patrol may apply affirmative action plans and programs to increase the number of protected group members in the Washington state patrol and particularly in the ranks of RCW sergeant and lieutenant, when it has been determined that a particular protected group or groups are underutilized.

[Statutory Authority: RCW 43.43.340. WSR 87-09-049 (Order 87-RD-001), § 446-70-070, filed 4/16/87.]

**WAC 446-70-080 RCW 43.43.340 supplemental (plus 3) referrals.** For each sergeant or lieutenant vacancy to be filled by promotion, the affirmative action plan will be reviewed. When it is determined under the approved formula established in the patrol's affirmative action plan that a protected group is underutilized, names of qualified protected group members will be referred to the chief for promotional consideration in accord with the plus 3 provision of RCW 43.43.340. Referrals shall be by:

(1) The top five names on the eligibility list will be referred regardless of their membership in a protected group.

(2) Only those protected group members who have qualified and have been placed on the eligibility promotional register for either RCW sergeant or lieutenant shall be considered for inclusion in the plus 3 referral.

(3) As promotional opportunities occur, the protected group which is most underutilized in the particular rank shall be determined and members of this group shall be first to be considered for inclusion in the plus 3 referral.

(4) If there is no sufficient number of members of the most underutilized protected group on the eligibility list to refer three members thereof for promotional consideration in accord with the plus 3 referral, members of the next most underutilized group may be referred, and so on until three names have been obtained to fulfill the requirements of the plus 3 referrals.

(5) All persons of each group included in the plus 3 referral shall be chosen from the eligibility list in the rank order in which they appear on the register.

(6) In accordance with the plus 3 process, under no circumstances will more than three protected group members along with the top five names on the register be referred for any one promotional vacancy.

(7) The same person or persons may be referred under plus 3 for more than one vacancy.

(8) All officers selected for promotion must pass a medical examination and be certified as to physical fitness to perform the duties of the advanced position.

[Statutory Authority: RCW 43.43.340. WSR 87-09-049 (Order 87-RD-001), § 446-70-080, filed 4/16/87.]