

Chapter 260-08 WAC

PRACTICE AND PROCEDURE

WAC

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260-08-140	Service of process—Filing with commission. [Regulation 08.140, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-390
260-08-230	Depositions and interrogatories in contested cases—Right to take. [Regulation 08.230, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-400
260-08-240	Depositions and interrogatories in contested cases—Scope. [Regulation 08.240, effective 4/7/60.] Repealed	260-08-410

by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Depositions and interrogatories in contested cases—Officer before whom taken. [Regulation 08.250, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Depositions and interrogatories in contested cases—Authorization. [Regulation 08.260, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Depositions and interrogatories in contested cases—Protection of parties and deponents. [Regulation 08.270, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Depositions and interrogatories in contested cases—Oral examination and cross-examination. [Regulation 08.280, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Depositions and interrogatories in contested cases—Recordation. [Regulation 08.290, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Depositions and interrogatories in contested cases—Signing attestation and return. [Regulation 08.300, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Depositions and interrogatories in contested cases—Use and effect. [Regulation 08.310, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Depositions and interrogatories in contested cases—Fees of officers and deponents. [Regulation 08.320, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Depositions upon interrogatories—Submission of interrogatories. [Regulation 08.330, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Depositions upon interrogatories—Interrogation. [Regulation 08.340, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Depositions upon interrogatories—Attestation and return. [Regulation 08.350, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Depositions upon interrogatories—Provisions of deposition rule. [Regulation 08.360, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Official notice—Matters of law. [Regulation 08.370, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Official notice—Material facts. [Regulation 08.380, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Presumptions. [Regulation 08.390, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Stipulations and admissions of record. [Regulation 08.400, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

Form and content of decisions in contested cases. [Regulation 08.410, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.

260-08-420	Definition of issues before hearing. [Regulation 08.420, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.		2/18/04, effective 3/20/04. Statutory Authority: RCW 67.16.020.
260-08-430	Prehearing conference rule—Authorized. [Regulation 08.430, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-620	Requests for public records. [Statutory Authority: RCW 67.16.020. 04-05-089, § 260-08-620, filed 2/18/04, effective 3/20/04. Statutory Authority: RCW 67.16.040. 93-24-016, § 260-08-620, filed 11/19/93, effective 12/20/93.] Repealed by 10-05-065, filed 2/12/10, effective 3/15/10. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-440	Prehearing conference rule—Record of conference action. [Regulation 08.440, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-630	Copying fees. [Statutory Authority: RCW 67.16.020. 04-05-089, § 260-08-630, filed 2/18/04, effective 3/20/04. Statutory Authority: RCW 67.16.040. 93-24-016, § 260-08-630, filed 11/19/93, effective 12/20/93.] Repealed by 10-05-065, filed 2/12/10, effective 3/15/10. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-450	Submission of documentary evidence in advance. [Regulation 08.450, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-640	Exemptions. [Statutory Authority: RCW 67.16.040. 93-24-016, § 260-08-640, filed 11/19/93, effective 12/20/93.] Repealed by 04-05-089, filed 2/18/04, effective 3/20/04. Statutory Authority: RCW 67.16.020.
260-08-460	Excerpts from documentary evidence. [Regulation 08.460, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-650	Review of denials of public records. [Statutory Authority: RCW 67.16.020. 04-05-089, § 260-08-650, filed 2/18/04, effective 3/20/04. Statutory Authority: RCW 67.16.040. 93-24-016, § 260-08-650, filed 11/19/93, effective 12/20/93.] Repealed by 10-05-065, filed 2/12/10, effective 3/15/10. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-470	Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses. [Regulation 08.470, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-660	Protection of public records. [Statutory Authority: RCW 67.16.020. 04-05-089, § 260-08-660, filed 2/18/04, effective 3/20/04. Statutory Authority: RCW 67.16.040. 93-24-016, § 260-08-660, filed 11/19/93, effective 12/20/93.] Repealed by 10-05-065, filed 2/12/10, effective 3/15/10. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-480	Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements. [Regulation 08.480, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-670	Proceedings before the commission—Application. [Statutory Authority: RCW 67.16.040. 93-24-016, § 260-08-670, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-490	Expert or opinion testimony and testimony based on economic and statistical data—Supporting data. [Regulation 08.490, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-680	Proceedings—Notice. [Statutory Authority: RCW 67.16.040. 93-24-016, § 260-08-680, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-500	Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 260-08-470 or 260-08-480. [Regulation 08.500, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-690	Proceedings—Notice to limited English speaking parties. [Statutory Authority: RCW 67.16.040. 93-24-017, § 260-08-690, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-510	Continuances. [Regulation 08.510, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-700	Computation of time. [Statutory Authority: RCW 67.16.040. 93-24-017, § 260-08-700, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-520	Rules of evidence—Admissibility criteria. [Regulation 08.520, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-710	Continuances. [Statutory Authority: RCW 67.16.040. 93-24-017, § 260-08-710, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-530	Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. [Regulation 08.530, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-720	Filing and service of papers. [Statutory Authority: RCW 67.16.040. 93-24-017, § 260-08-720, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-540	Petitions for rule making, amendment or repeal—Who may petition. [Regulation 08.540, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-730	Subpoenas. [Statutory Authority: RCW 67.16.040. 93-24-017, § 260-08-730, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-550	Petitions for rule making, amendment or repeal—Requirements. [Regulation 08.550, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-740	Prehearing conference. [Statutory Authority: RCW 67.16.040. 93-24-017, § 260-08-740, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-560	Petitions for rule making, amendment or repeal—Commission must consider. [Regulation 08.560, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-750	Evidence. [Statutory Authority: RCW 67.16.040. 93-24-017, § 260-08-750, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-570	Petitions for rule making, amendment or repeal—Notice of disposition. [Regulation 08.570, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.	260-08-760	Testimony under oath or affirmation. [Statutory Authority: RCW 67.16.040. 93-24-018, § 260-08-760, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
260-08-580	Declaratory rulings. [Regulation 08.580, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.		
260-08-590	Forms. [Regulation 08.590, effective 4/7/60.] Repealed by 93-24-015, filed 11/19/93, effective 12/20/93. Statutory Authority: RCW 67.16.040.		
260-08-600	Disclaimer of public liability. [Statutory Authority: RCW 67.16.040. 93-24-016, § 260-08-600, filed 11/19/93, effective 12/20/93.] Repealed by 04-05-089, filed 2/18/04, effective 3/20/04. Statutory Authority: RCW 67.16.020.		
260-08-610	Public records—Officer. [Statutory Authority: RCW 67.16.040. 93-24-016, § 260-08-610, filed 11/19/93, effective 12/20/93.] Repealed by 04-05-089, filed		

- 260-08-770 Reporting-recording. [Statutory Authority: RCW 67.16.040. 93-24-018, § 260-08-770, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
- 260-08-780 Teleconference hearings. [Statutory Authority: RCW 67.16.040. 93-24-018, § 260-08-780, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
- 260-08-790 Cameras—Recording devices. [Statutory Authority: RCW 67.16.040. 93-24-018, § 260-08-790, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
- 260-08-800 Presiding officer. [Statutory Authority: RCW 67.16.040. 93-24-018, § 260-08-800, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
- 260-08-810 Initial or final order. [Statutory Authority: RCW 67.16.040. 93-24-018, § 260-08-810, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
- 260-08-820 Petition for rule making—Form, content and filing. [Statutory Authority: RCW 67.16.040. 93-24-018, § 260-08-820, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.
- 260-08-830 Consideration and disposition. [Statutory Authority: RCW 67.16.040. 93-24-018, § 260-08-830, filed 11/19/93, effective 12/20/93.] Repealed by 05-05-049, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.020 and 67.16.040.

WAC 260-08-005 Horse racing commission—Composition—Duties. The horse racing commission, composed of five members appointed by the governor, is responsible for licensing, regulating and supervising all horse racing meets in the state where the parimutuel system is used. The commission also approves and regulates satellite locations and simulcasting, and licenses and regulates advance deposit wagering. The commission functions through periodic public meetings and where required, conducts hearings in accordance with this chapter. Various commission employees, where required, assist the commission with the statutory duties and the enforcement of chapters 260-12 through 260-84 WAC.

[Statutory Authority: RCW 67.16.020 and 67.16.040. 05-05-049, § 260-08-005, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 67.16.040. 93-24-019, § 260-08-005, filed 11/19/93, effective 12/20/93. § 260-08-005, filed 10/6/67.]

WAC 260-08-595 Role of the executive secretary. The horse racing commission will appoint an executive secretary who will act as the chief operating officer for the agency. As chief operating officer, the executive secretary will supervise and administer the activities of the commission staff. In addition, the executive secretary will:

- (1) Implement the policies and procedures, and enforce the rules of the commission.
- (2) Oversee the administrative details and day-to-day operation of the agency, including the achievement of performance goals and objectives established by the commission and administer the agency's budget.
- (3) Act as the appointing authority for agency staff, including the authority to hire, promote, assign work, determine duty stations, evaluate, take corrective action, and, where appropriate terminate staff.
- (4) Make an initial agency determination of a violation of the rules in this title except during the live race meet where

the rule provides that the board of stewards makes the initial agency determination. In the absence of the board of stewards, the executive secretary has the authority to make an initial agency determination.

(a) If an applicant or licensee disagrees with the decision of the executive secretary, he or she may challenge the decision by requesting a hearing before the commission as provided in WAC 260-08-675.

(b) The executive secretary may refer any matter directly to the commission for hearing on violations of chapters 67.16 and 67.17 RCW or of rules in this title or to enforce compliance with a penalty.

(5) Enter into contracts and agreements on behalf of the commission; and

(6) Exercise such other management oversight, decision-making and administrative action necessary to achieve agency mission and goals.

[Statutory Authority: RCW 67.16.020 and 67.16.040. 08-07-039, § 260-08-595, filed 3/13/08, effective 4/13/08. Statutory Authority: RCW 67.16.020. 03-03-041, § 260-08-595, filed 1/10/03, effective 2/10/03.]

WAC 260-08-597 Funding to assist the equine industry. (1) If the commission determines that there are additional funds in its operating account beyond what is needed to fund the continued operations of the commission, the commission may designate up to three hundred thousand dollars of those funds to be used to assist the equine industry. Funds used to assist the equine industry may only be used to help develop the equine industry, maintain or upgrade racing facilities, or assist equine health research. In deciding how to allocate the funds available, the commission will give first consideration to uses that assist the Class C race meets and equine health research. The commission will establish a process for individuals or organizations to request funds.

(2) Available funds may be allocated to fund requests from individuals or organizations, or programs the commission determines support the purposes specified in subsection (1) of this section.

(3) The commission has discretion to determine the amount of funding available, identify the programs for which funding will be provided, the amount of funding for each program, and the procedures for distributing funds.

[Statutory Authority: RCW 67.16.020 and 67.16.040. 06-15-090, § 260-08-597, filed 7/14/06, effective 8/14/06.]

WAC 260-08-671 Adoption of rules of procedure—Model rules. The commission adopts the model rules of procedure as set forth in chapter 10-08 WAC. If there is a conflict between the model rules and this chapter, the rules in this chapter shall govern. Whenever the term "agency" appears in the model rules it means the Washington horse racing commission.

[Statutory Authority: RCW 67.16.020 and 67.16.040. 05-05-049, § 260-08-671, filed 2/14/05, effective 3/17/05.]

WAC 260-08-673 Presiding officer—Who may preside. Pursuant to RCW 34.05.425, the presiding officer in a commission hearing shall be the chair of the commission, or other commission member designated by the chair. In proceedings in which the chair or other designee is the presiding

officer, the commission shall make the final decision and enter the final order.

In the alternative, the commission may designate that the presiding officer shall be one or more administrative law judges assigned by the office of administrative hearings in accordance with chapter 34.12 RCW.

The administrative law judge shall conduct the proceeding and enter an initial order. The initial order shall be subject to review by the commission as provided in RCW 34.05.464.

[Statutory Authority: RCW 67.16.020 and 67.16.040. 05-05-049, § 260-08-673, filed 2/14/05, effective 3/17/05.]

WAC 260-08-675 Hearing before the commission.

Any person against whom a ruling is made by the stewards or the executive secretary may request a hearing before the commission to challenge the ruling. However, a decision by the stewards concerning the disqualification or nondisqualification of a horse due to a foul or riding infraction during the running of a race is final and will not be reviewed by the commission.

(1) Requests for a hearing before the commission must be filed with an office of the commission within seven days of service of the stewards' or executive secretary's ruling, with the exception of riding violations.

(2) The request must include: The name, address, telephone number and the signature of the person making the request and a statement of the basis for the challenge to the ruling.

(3) The commission will conduct an adjudicative proceeding according to the provisions of chapter 34.05 RCW, Administrative Procedure Act, and chapter 260-08 WAC, Practice and procedure.

(4) Any person requesting a hearing before the commission will be heard in person or by counsel. A person appearing before the commission may submit his or her case entirely in writing, provided this is specified at the time of the filing of the request for hearing with the commission and this procedure is given written approval by the commission.

(5) All communications to the commission with respect to a stewards' or executive secretary's ruling must be in writing, and all papers filed with the commission shall be the property of the commission.

[Statutory Authority: RCW 67.16.020. 10-09-013, § 260-08-675, filed 4/9/10, effective 5/10/10. Statutory Authority: RCW 67.16.020 and 67.16.040. 08-07-039, § 260-08-675, filed 3/13/08, effective 4/13/08; 05-05-049, § 260-08-675, filed 2/14/05, effective 3/17/05.]

WAC 260-08-677 Exhaustion of administrative remedies. A person may file a petition for judicial review only after exhausting all administrative remedies available within the commission, pursuant to RCW 34.05.534. Administrative remedies at the WHRC consist of commission hearings.

The court may relieve a petitioner of the requirements to exhaust any or all administrative remedies upon a showing that:

- (1) The remedies would be patently inadequate;
- (2) The exhaustion would be futile; or
- (3) The grave irreparable harm that would result from having to exhaust administrative remedies would clearly outweigh the public policy requiring exhaustion of administrative remedies.