

WSR 11-09-027
PROPOSED RULES
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2010-15—Filed April 14, 2011,
7:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-23-050.

Title of Rule and Other Identifying Information: WAC 284-30-393 Regarding how an insurer handles an insured's deductible in a subrogation recovery.

Hearing Location(s): OIC Tumwater Office, Training Room 120, 5000 Capitol Boulevard, Tumwater, WA, <http://www.insurance.wa.gov/about/directions.shtml>, on May 24, 2011, at 1:00 p.m.

Date of Intended Adoption: June 6, 2011.

Submit Written Comments to: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, e-mail kacys@oic.wa.gov, fax (360) 586-3109, by May 23, 2011.

Assistance for Persons with Disabilities: Contact Lorrie [Lorie] Villaflores by May 23, 2011, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed amendment will add clarity and improve the efficiency of claims handling in Washington for consumers and insurers.

Reasons Supporting Proposal: WAC 284-30-393 has been evaluated for clarity and the commissioner has determined that it is necessary to provide guidance about the requirements associated with subrogation demands.

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: RCW 48.30.010.

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: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0257 [98504-0258], (360) 725-7041; Implementation: John Hamje, P.O. Box 40258, Olympia, WA 98504-0257 [98504-0258], (360) 725-7262; and Enforcement: Carol Sureau, P.O. Box 40258, Olympia, WA 98504-0257 [98504-0258], (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule amendment would only affect regulations that apply to property and casualty insurers. None of the active domestic insurers in this line can be considered small businesses (both having less than fifty employees and being owned/operated independently).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7041, fax (360) 586-3109, e-mail kacys@oic.wa.gov.

April 14, 2011
Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2007-08, filed 5/20/09, effective 8/21/09)

WAC 284-30-393 Insurer must include an insured's deductible in its subrogation demands. The insurer must include the insured's deductible, if any, in its subrogation demands. ((Subrogation)) Any recoveries must be allocated first to the insured for any deductible(s) incurred in the loss, less applicable comparable fault. Deductions for expenses must not be made from the deductible recovery unless an outside attorney is retained to collect the recovery. The deduction may then be made only as a pro rata share of the allocated loss adjustment expense. The insurer must keep its insured regularly informed of its efforts related to the progress of subrogation claims. "Regularly informed" means that the insurer must contact its insured within sixty days after the start of the subrogation process, and no less frequently than every one hundred eighty days until the insured's interest is resolved.

WSR 11-09-045
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
(By the Code Reviser's Office)
[Filed April 15, 2011, 2:23 p.m.]

WAC 220-55-160, 220-55-220, 220-55-230, 220-56-240, and 220-56-270, proposed by the department of fish and wildlife in WSR 10-19-144 appearing in issue 10-19 of the State Register, which was distributed on October 6, 2010, is withdrawn by the code reviser's office under RCW 34.05.335 (3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 11-09-047
PROPOSED RULES
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2011-05—Filed April 18, 2011,
6:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-06-064.

Title of Rule and Other Identifying Information: Reporting statistical data.

Hearing Location(s): Insurance Commissioner's Office, TR 120, 5000 Capitol Boulevard, Tumwater, WA 98504-0255 [98504-0255], on May 26, 2011, at 10:00 a.m.

Date of Intended Adoption: May 27, 2011.

Submit Written Comments to: Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, e-mail jimt@oic.wa.gov, fax (360) 586-3109, by May 25, 2011.

Assistance for Persons with Disabilities: Contact Lorrie [Lorie] Villaflores by May 25, 2011, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule would amend WAC 284-24B-040 to permit the commissioner to waive the requirement that data be reported to a statistical agent in specified lines of insurance.

Reasons Supporting Proposal: RCW 48.19.370 provides that the commissioner shall promulgate rules and statistical plans for the reporting of loss and countrywide expense experience to assist the commissioner in determining whether rating systems filed by insurers comply with rate standards. For some lines of insurance, the information is of limited value in relation to the cost to the insurer of reporting the data to a statistical agent in specified lines of insurance.

Statutory Authority for Adoption: RCW 48.02.060 and 48.19.370.

Statute Being Implemented: RCW 48.19.370.

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 40528 [40258], Olympia, WA 98504-0258, (360) 725-7036; Implementation and Enforcement: Beth Berendt, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7117.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule amendment allows the commissioner to determine that loss and expense data does not need to be collected for particular lines of insurance and to then waive the requirement that insurers within those lines of insurance must report loss and expense experience as a condition of transacting the business of insurance. Making such a determination and waiving the insurer reporting requirements will not result in any extra cost or loss of revenue for a small insurer. As a result no small business economic impact statement is required.

A cost-benefit analysis is not required under RCW 34.05.328. This proposed rule amendment allows the commissioner to determine that loss and expense data does not need to be collected for particular lines of insurance and to then waive the requirement that insurers within those lines of insurance must report loss and expense experience as a condition of transacting the business of insurance. This proposed rule amendment sets forth the agency's interpretation of a statutory provision it administers and does not subject a person to a penalty or sanction as a result of this interpretation; as a result this proposed rule amendment falls within the statutory category of an "interpretive rule." Under RCW 34.05.-328 an interpretive rule is explicitly differentiated from being considered a significant legislative rule; therefore the cost-benefit analysis required for significant legislative rule making is not required for this rule.

April 18, 2011

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2005-02, filed 6/15/06, effective 7/16/06)

WAC 284-24B-040 Insurers must report statistical experience. (1) Under RCW 48.19.370(4), the commissioner may designate certain rating organizations or other entities as statistical agents to gather, compile, and report insurance statistical data.

(2) RCW 48.19.370 says each insurer must report loss and expense experience to the commissioner. As a condition of transacting the business of insurance under RCW 48.05.040, each insurer must:

(a) Report its insurance statistical data to a statistical agent designated by the commissioner in accordance with the statistical plans filed with the commissioner by the statistical agent under WAC 284-24B-060;

(b) Comply with the reporting requirements and data quality procedures in the *NAIC Statistical Handbook*; and

(c) Adopt edit and audit procedures to screen and check data for reasonableness and accuracy.

(3) So the commissioner may assure compliance with this chapter, each insurer filing rates under chapter 48.19 RCW must include the name of its statistical agent for that line of insurance.

(4) If the commissioner determines that loss and expense data do not need to be collected for a particular line of insurance, the commissioner may waive the requirements of subsections (2) and (3) of this section.

WSR 11-09-048

PROPOSED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2011-04—Filed April 18, 2011, 6:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-06-063.

Title of Rule and Other Identifying Information: Board of directors of the joint underwriting association (JUA) for midwifery and birthing centers malpractice insurance.

Hearing Location(s): Insurance Commissioner's Office, TR 120, 5000 Capitol Boulevard, Tumwater, WA 98504-02555 [98504-0255], on May 26, 2011, at 9:00 a.m.

Date of Intended Adoption: May 27, 2011.

Submit Written Comments to: Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, e-mail jimt@oic.wa.gov, fax (360) 586-3109, by May 25, 2011.

Assistance for Persons with Disabilities: Contact Lorrie [Lorie] Villaflores by May 25, 2011, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule will amend WAC 284-87-050 to reduce the number of members of the board of directors of the JUA for midwifery and birthing centers malpractice insurance from seven members to five members.

Reasons Supporting Proposal: The board of directors of the JUA for midwifery and birthing centers malpractice insurance has had two vacancies for which the commissioner has had a difficult time finding anyone willing to accept an appointment to fill the vacancies.

Statutory Authority for Adoption: RCW 48.02.060 and 48.87.100.

Statute Being Implemented: Chapter 48.87 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, Implementation and Enforcement: Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7036.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule amendment would reduce the number of members of the midwifery JUA board from seven to five members and make adjustments in the representational slots on the board in accordance with this proposed reduced number of board members. This proposed change in the constitution of the midwifery JUA board will not result in any extra cost or loss of revenue for any insurer or other small business. As a result no small business economic impact statement is required.

A cost-benefit analysis is not required under RCW 34.05.328. This proposed rule amendment sets forth the agency's interpretation of a statutory provision it administers and does not subject a person to a penalty or sanction as a result of this interpretation; as a result this proposed rule amendment falls within the statutory category of an "interpretive rule." Under RCW 34.05.328 an interpretive rule is explicitly differentiated from being considered a significant legislative rule; therefore the cost-benefit analysis required for significant legislative rule making is not required for this rule.

April 18, 2011

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2010-02, filed 7/8/10, effective 8/8/10)

WAC 284-87-050 Administration. (1) The association must be administered by a governing board, subject to the supervision of the commissioner, and operated by a service company or companies appointed by the board.

(2) The board must consist of ~~((seven))~~ five members. ~~((Five))~~ Three board members must be member insurers appointed by the commissioner. The other two board members must be licensees who are appointed by the commissioner to so serve, neither of whom shall have an interest, directly or indirectly, in any insurer except as a policyholder. ~~((Three))~~ Two of the original board members must be appointed to serve an initial term of three years, two must be appointed to serve an initial term of two years, and the remaining must be appointed to serve a one-year initial term. All other terms must be for three years or until a successor has been appointed. Not more than one member insurer in a group under the same management or ownership shall serve

on the board at the same time. At least one of the ~~((five))~~ three insurers on the board must be a domestic insurer. Members of the board may be removed by the commissioner for cause.

(3) The association must indemnify each person serving on the board or any subcommittee thereof, each member insurer of the association, and each officer and employee of the association all costs and expenses actually and necessarily incurred by him, her, or it in connection with the defense of any action, suit, or proceeding in which he, she, or it is made a party by reason of his, her, or its being or having been a member of the board, or a member or officer or employee of the association, except in relation to matters as to which he, she, or it has been judged in such action, suit, or proceeding to be liable by reason of willful misconduct in the performance of his, her, or its duties as a member of such board, or member, officer, or employee of the association. This indemnification shall not be exclusive of other rights as to which such member, or officer, or employee may be entitled as a matter of law.

(4) The association at the discretion of the board may agree to indemnify its appointed service company or companies and its staff from all costs and expenses actually and necessarily incurred by them in defense of any action, suit, or proceeding in which they are made a party by reason of their being or having been a service company of the association, except in relation to matters as to which they have been judged by a court of competent jurisdiction, to have engaged in willful misconduct in the performance of their duties as a service company on its behalf by staff.

WSR 11-09-052

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed April 18, 2011, 2:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-02-069.

Title of Rule and Other Identifying Information: The community services division (CSD) is proposing to amend WAC 388-492-0070 How are my WASHCAP food benefits calculated?

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on May 24, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 25, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on May 24, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by May 10, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend its rules to comply with federal requirements for combined application project cost neutrality and is proposing to increase Washington state combined application project (WASHCAP) shelter standards. It is anticipated that many WASHCAP recipients not receiving the maximum benefit will see an increase in their monthly benefit.

Reasons Supporting Proposal: As required by the WASHCAP demonstration project waiver with the United States Department of Agriculture Food and Nutrition Service, the department conducted its periodic caseload review to evaluate the cost neutrality between WASHCAP and the supplemental nutrition assistance program (SNAP) administered as the Washington Basic Food program or Basic Food. Based on the findings of this review, the department must amend its rules to ensure that WASHCAP benefits are cost neutral to SNAP.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Statute Being Implemented: RCW 74.04.005, 74.04.-050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Rule is necessary because of federal law, 7 C.F.R. § 273.23.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Thibodeau, 712 Pear Street S.E., Olympia, WA 98504, (360) 725-4634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendment only affects certain DSHS clients who receive food assistance under WASHCAP by increasing the allowed shelter cost standard used in the benefit budgeting process.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to . . . rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

April 13, 2011

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-23-115, filed 11/17/10, effective 12/18/10)

WAC 388-492-0070 How are my WASHCAP food benefits calculated? We calculate your food benefits as follows:

- (1) We begin with your gross income.
- (2) We subtract the current standard deduction for one person under WAC 388-450-0185 from your gross income to get your countable income.

(3) We figure your shelter cost based on information we receive from the Social Security Administration (SSA), unless you report a change as described under WAC 388-492-0080. If you pay:

(a) Three hundred dollars or more a month for shelter, we use three hundred (~~(seventy-nine)~~) eighty dollars as your shelter cost; or

(b) Less than three hundred dollars for shelter, we use one hundred (~~(eighty-two)~~) ninety-five dollars as your shelter cost; and

(c) We add the current standard utility allowance under WAC 388-450-0195 to determine your total shelter cost.

(4) We figure your shelter deduction by subtracting one half of your countable income from your shelter cost.

(5) We figure your net income by subtracting your shelter deduction from your countable income and rounding the resulting figure up from fifty cents and down from forty-nine cents to the nearest whole dollar.

(6) We figure your WASHCAP food benefits (allotment) by:

(a) Multiplying your net income by thirty percent and rounding up to the next whole dollar; and

(b) Subtracting the result from the maximum allotment under WAC 388-478-0060.

(c) If you are eligible for WASHCAP, you will get at least the minimum monthly benefit for Basic Food under WAC 388-412-0015.

WSR 11-09-053

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medicaid Purchasing Administration)

[Filed April 18, 2011, 2:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-03-076.

Title of Rule and Other Identifying Information: WAC 388-502-0025 Electronic health records (EHR) incentive program.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on May 24, 2011, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 25, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on May 24, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by April 26, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department has opted-in to the new EHR incentive program. Rules are needed to administer this new federal program.

Reasons Supporting Proposal: These rules will:

- Directly benefit medicaid providers by:
 - Establishing an orderly procedure for addressing disagreements over issues of eligibility and meaningful use.
 - Facilitating the orderly issuance of millions of dollars in incentive money to those in the provider community who are eligible and demonstrate meaningful use.
- Provide the department with an effective tool for encouraging discussion, engaging with providers, and managing risk.
- Reduce the number of disputes and appeals that go to superior court.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: American Recovery and Reinvestment Act (ARRA) of 2009 (§ 495.370 and § 447.253(e)).

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

Name of Proponent: Department of social and health services, medicaid purchasing administration, governmental.

Name of Agency Personnel Responsible for Drafting: Jason R. P. Crabbe, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1346; Implementation and Enforcement: Martin Thies, PhD., C.I.A., P.O. Box 45528, Olympia, WA 98504-5528, (360) 725-1150.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule amendments and concludes that they will impose no new costs on small businesses. The preparation of a comprehensive small business economic impact statement therefore is not required.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Martin Thies, PhD., C.I.A., Health IT Program Integrity Manager, Department of Social and Health Services, EHR Incentive Program, P.O. Box 45528, e-mail ThiesMJ@dshs.wa.gov.

March 31, 2011
Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-502-0025 Electronic health records (EHR) incentive program. The purpose of this section is to establish the medicaid electronic health records (EHR) incentive program in accordance with the American Recovery and Reinvestment Act of 2009 (ARRA). The medicaid EHR incentive program promotes the adoption and meaningful use of certified EHR technology by offering financial incentives to eligible professionals and hospitals. This program is administered by the department.

(1) The department provides incentive payments to eligible providers and hospitals that adopt and meaningfully use

certified EHR technology in accordance with the provisions of 42 CFR Parts 412, 413, 422, and any other federal regulations that apply.

(2) Providers and hospitals eligible to participate in EHR incentive program are identified in 42 CFR Part 495.304 and other applicable rules.

(3) As authorized by 42 CFR Parts 412, 413, 422, chapters 43.20B and 74.09 RCW, and any other federal or state rules that apply, the department monitors and reviews all providers and hospitals participating in the EHR incentive program. By the same authority, the department reviews all practices, documentation, and/or data related to EHR technology to determine whether professionals and hospitals participating in the EHR incentive program are eligible and complying with state and federal rules and regulations.

(4) The department may determine that a participating professional or hospital has not met the eligibility or performance requirements to receive an EHR incentive payment, or should receive an incentive payment in an amount less than the amount anticipated by the provider or hospital. Areas of possible dispute in the EHR incentive program include, at a minimum, any of the following:

(a) Patient volume thresholds and calculations, as outlined in 42 CFR Part 495.304 and 495.306.

(b) Eligibility criteria and payment limitations, as outlined in 42 CFR Part 495.10, 495.304, 495.306, and 495.310.

(c) Attestations and compliance demonstrations including, at a minimum:

(i) Attestations that certified EHR technology has been adopted, implemented, or upgraded; and

(ii) Demonstrations of meaningful use, as outlined in 42 CFR Part 495.6, 495.8, 495.306, 495.310, and in any future published federal regulations and requirements, as applicable.

(d) The payment process and incentive payment amounts, as outlined in 42 CFR Part 495.310, 495.312, and 495.314.

(e) Additional issues regarding EHR incentive program eligibility, participation, documentation, and compliance as outlined in 42 CFR Parts 412, 413, 422 et. al. and in any future published federal regulations and requirements, as applicable.

(5) When the subject of a dispute is an identified overpayment, a provider may appeal:

(a) As authorized by RCW 43.20B.675; and

(b) According to the process outlined in WAC 388-502-0230(3).

(6) When the subject of a dispute does not involve an overpayment, a provider may dispute the decision according to the process outlined in WAC 388-502-0050.

WSR 11-09-054
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed April 18, 2011, 2:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-24-116.

Title of Rule and Other Identifying Information: The community services division (CSD) is proposing to amend WAC 388-464-0001 Requirement to cooperate with quality assurance.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on May 24, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 25, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on May 24, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by May 10, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend its rules to comply with federal requirements and be consistent with federal rules for disqualification periods concerning noncooperation with quality assurance (QA) reviews. Disqualification periods will increase from ninety-five days to one hundred twenty-five days after the end of the annual QA review period.

Reasons Supporting Proposal: On June 11, 2010, the USDA Food and Nutrition Service published the final regulation, "Supplemental Nutrition Assistance Program (SNAP): Quality Control (QC) Provisions of Title IV of Public Law 107-171.["] The changes must be implemented no later than October 1, 2011.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Statute Being Implemented: RCW 74.04.005, 74.04.-050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Rule is necessary because of federal law, 7 C.F.R. § 273.2 (d)(2).

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Thibodeau, 712 Pear Street S.E., Olympia, WA 98504, (360) 725-4634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendments only affect certain DSHS clients by increasing the disqualification period for refusing to cooper-

ate with federally required QA reviews in the SNAP administered as Basic Food in Washington.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

April 13, 2011

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-464-0001 (~~(Requirement)~~) Am I required to cooperate with quality assurance(-) (1) To be eligible for temporary assistance for needy families (TANF), state family assistance (SFA), or (~~(federal food stamp benefits)~~) food assistance through Basic Food, transitional food assistance (TFA), or the Washington combined application project (WASHCAP), the following (~~(clients are required to)~~) persons must cooperate in the quality assurance (QA) review process:

(a) All adult recipients or payees in a TANF or SFA assistance unit (AU); or

(b) All household members in a (~~(food assistance unit)~~) Basic Food, TFA or WASHCAP AU.

(2) (~~(Assistance units become ineligible for benefits upon a determination of noncooperation by quality assurance and remain ineligible until the client meets quality assurance)~~) If someone who must cooperate under subsection (1) refuses to cooperate, your AU is ineligible for benefits from the date QA has determined that you are refusing to cooperate until the person meets QA requirements or:

(a) For TANF/SFA clients, one hundred twenty days from the end of the annual (~~(quality assurance)~~) QA review period; or

(b) For (~~(food assistance household)~~) Basic Food, TFA, or WASHCAP members, (~~(ninety-five)~~) the penalty period is one hundred twenty-five days from the end of the annual (~~(quality assurance)~~) QA review period.

(3) If a person leaves a Basic Food AU that is currently disqualified for refusing to cooperate in the QA review process, the penalty for refusal to cooperate follows that person and continues for the AU that includes the person(s) who refused to cooperate. If we cannot determine which person refused to cooperate, the penalty continues for the AU that includes the head of household at the time QA found your AU refused to cooperate.

(4) The (~~(quality assurance)~~) QA review period covers the federal fiscal year which runs from October 1st of one calendar year through September 30th of the following calendar year.

(~~(4) Individuals reapplying~~) (5) People applying for TANF, SFA, or (~~(federal food stamps)~~) Basic Food after the (~~(sanction)~~) penalty period in subsection (2) has ended must provide verification of all eligibility requirements. However, (~~(individuals meeting)~~) if your AU is eligible for expedited service (~~(criteria)~~) under WAC 388-406-0015, you only need

to provide expedited service required verifications ((requirements)).

WSR 11-09-055
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medicaid Purchasing Administration)
 [Filed April 18, 2011, 2:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-03-079 and 11-05-083.

Title of Rule and Other Identifying Information: WAC 388-478-0065 Income and resource standards for family medical programs and 388-505-0220 Family medical eligibility.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on May 24, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 25, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on May 24, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by May 10, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This is not a policy change. Prior to February 1, 2011, the rule cross referenced to WAC 388-478-0020 because the income standards for both family medical programs and the temporary assistance for needy families (TANF) grant program were the same. Beginning February 1, 2011, the TANF income standard was reduced so the family medical programs income standard had to be listed out in WAC 388-478-0065, which in turn requires WAC 388-505-0220 to be amended.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.-057, and 74.08.090.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Chris Stehr, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-1304.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change does not impact small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Client eligibility rules for medical assistance are exempt from the cost-benefit analysis requirement per RCW 34.05.328 (5)(b)(vii).

April 14, 2011
 Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-15-080, filed 7/14/05, effective 8/14/05)

WAC 388-478-0065 Income and resource standards for family medical programs. (1) The categorically needy income level (CNIL) standards for family medical ((~~is the same as the grant payment standards for the TANF cash program as stated in WAC 388-478-0020.~~)) are:

(a) For assistance units with obligations to pay shelter costs:

<u>Assistance Unit Size</u>	<u>Payment Standard</u>
<u>1</u>	<u>\$359</u>
<u>2</u>	<u>453</u>
<u>3</u>	<u>562</u>
<u>4</u>	<u>661</u>
<u>5</u>	<u>762</u>
<u>6</u>	<u>866</u>
<u>7</u>	<u>1,000</u>
<u>8</u>	<u>1,107</u>
<u>9</u>	<u>1,215</u>
<u>10 or more</u>	<u>1,321</u>

(b) For assistance units with shelter provided at no cost:

<u>Assistance Unit Size</u>	<u>Payment Standard</u>
<u>1</u>	<u>\$218</u>
<u>2</u>	<u>276</u>
<u>3</u>	<u>341</u>
<u>4</u>	<u>402</u>
<u>5</u>	<u>464</u>
<u>6</u>	<u>526</u>
<u>7</u>	<u>608</u>
<u>8</u>	<u>673</u>
<u>9</u>	<u>739</u>
<u>10 or more</u>	<u>803</u>

(2) The countable resource standards for family medical are the same as those of the TANF/SFA cash program as stated in WAC 388-470-0005.

(3) Each unborn child is counted as a household member when determining household size for:

- (a) Family medical;
- (b) Pregnancy medical; and
- (c) Children's medical.

AMENDATORY SECTION (Amending WSR 08-19-099 and 08-20-014, filed 9/17/08 and 9/18/08, effective 10/18/08 and 10/19/08)

WAC 388-505-0220 Family medical eligibility. (1) A person is eligible for categorically needy (CN) medical assistance when they are:

- (a) Receiving temporary assistance for needy families (TANF) cash benefits;
- (b) Receiving Tribal TANF;
- (c) Receiving cash diversion assistance, except SFA relatable families, described in WAC 388-400-0010(2);
- (d) Eligible for TANF cash benefits but choose not to receive; ~~((e))~~
- (e) Over the TANF cash payment standard but under the family medical payment standard as described in WAC 388-478-0065; or
 - (f) Not eligible for or receiving TANF cash assistance, but meet the eligibility criteria for aid to families with dependent children (AFDC) in effect on July 16, 1996 except that:
 - (i) Earned income is treated as described in WAC 388-450-0210; and
 - (ii) Resources are treated as described in WAC 388-470-0005 for applicants and 388-470-0026 for recipients.
- (2) An adult cannot receive a family medicaid program unless the household includes a child who is eligible for:
 - (a) Family medicaid;
 - (b) SSI; or
 - (c) Children's medicaid.
- (3) A person is eligible for CN family medical coverage when the person is not eligible for or receiving cash benefits solely because the person:
 - (a) Received sixty months of TANF cash benefits or is a member of an assistance unit which has received sixty months of TANF cash benefits;
 - (b) Failed to meet the school attendance requirement in chapter 388-400 WAC;
 - (c) Is an unmarried minor parent who is not in a department-approved living situation;
 - (d) Is a parent or caretaker relative who fails to notify the department within five days of the date the child leaves the home and the child's absence will exceed one hundred eighty days;
 - (e) Is a fleeing felon or fleeing to avoid prosecution for a felony charge, or is a probation and parole violator;
 - (f) Was convicted of a drug related felony;
 - (g) Was convicted of receiving benefits unlawfully;
 - (h) Was convicted of misrepresenting residence to obtain assistance in two or more states;
 - (i) Has gross earnings exceeding the TANF gross income level; or
 - (j) Is not cooperating with WorkFirst requirements.
- (4) An adult must cooperate with the division of child support in the identification, use, and collection of medical support from responsible third parties, unless the person meets the medical exemption criteria described in WAC 388-505-0540 or the medical good cause criteria described in chapter 388-422 WAC.
- (5) Except for a client described in WAC 388-505-0210(6), a person who is an inmate of a public institution, as

defined in WAC 388-500-0005, is not eligible for CN or MN medical coverage.

WSR 11-09-058
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medicaid Purchasing Administration)

[Filed April 18, 2011, 2:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-22-120.

Title of Rule and Other Identifying Information: WAC 388-406-0010 How do I apply for benefits?

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on May 24, 2011, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 25, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on May 25, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by May 10, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending the rule to require only one signature on applications for medical assistance.

Reasons Supporting Proposal: Will make it easier for two-parent families to apply for medical assistance for their child(ren).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.057, and 74.08.090.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Kevin Sullivan, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1344; Implementation and Enforcement: Dody McAlpine, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-9964.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not impact small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Per RCW 34.05.328 (5)(b)(vii), client eligibility

rules for medical assistance are exempt from the cost-benefit analysis requirement.

April 13, 2011
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-15-059, filed 7/14/08, effective 8/14/08)

WAC 388-406-0010 How do I apply for benefits? (1)

You can apply for cash assistance, medical assistance, or Basic Food by giving us an application form in person, by mail, by fax, or by completing an online application.

(2) If your entire assistance unit (AU) gets or is applying for Supplemental Security Income (SSI), your AU can file an application for Basic Food at the local Social Security administration district office (SSADO).

(3) If you are incapacitated, a dependent child, or cannot apply for benefits on your own for some other reason, a legal guardian, caretaker, or authorized representative can apply for you.

(4) You can apply for cash assistance, medical assistance, or Basic Food with just one application form.

(5) If you apply for benefits at a local office, we accept your application on the same day you come in. If you apply at an office that does not serve the area where you live, we send your application to the appropriate office by the next business day so that office receives your application on the same day we send it.

(6) We accept your application for benefits if it has at least:

(a) For cash and medical assistance combined, the name, address, and signatures of the responsible adult AU members or person applying for you. A minor child may sign if there is no adult in the AU. Signatures must be handwritten, electronic or digital as defined by the department, or a mark if witnessed by another person.

(b) For medical assistance only, the name, address, and signature of the applicant (~~and applicant's spouse or other responsible adult person in the household, if any. In the case of an application for children's medical with caretaker adults in the household, the signature of a caretaker adult member of the household~~). If the application is for a child, it may be signed by an adult caretaker in the absence of a parent; or by the child in the absence of a parent or adult caretaker.

(c) For Basic Food, the name, address, and signature of a responsible member of your AU or person applying for you as an authorized representative under WAC 388-460-0005.

(7) As a part of the application process, we may require you to:

(a) Complete an interview if one is required under WAC 388-452-0005;

(b) Meet WorkFirst participation requirements for four weeks in a row if required under WAC 388-310-1600(12);

(c) Give us the information we need to decide if you are eligible as required under WAC 388-406-0030; and

(d) Give us proof of information as required under WAC 388-490-0005 so we can determine if you are eligible.

(8) If you are eligible for necessary supplemental accommodation (NSA) services under chapter 388-472 WAC, we help you meet the requirements of this section.

WSR 11-09-063
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
(By the Code Reviser's Office)
[Filed April 19, 2011, 9:32 a.m.]

WAC 296-104-010 and 296-104-200, proposed by the department of labor and industries in WSR 10-20-135 appearing in issue 10-20 of the State Register, which was distributed on October 20, 2010, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 11-09-069
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY
[Filed April 19, 2011, 10:50 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: Amend Regulation III, Section 4.03 Asbestos Notification Requirements.

Hearing Location(s): Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, on May 26, 2011, at 8:45 a.m.

Date of Intended Adoption: May 26, 2011.

Submit Written Comments to: Lynn Sykes, Puget Sound Clean Air Agency, 1904 3rd Avenue, #105, Seattle, WA 98101, e-mail lynns@pscleanair.org, fax (206) 343-7522, by May 25, 2011.

Assistance for Persons with Disabilities: Contact agency receptionist, (206) 689-4010, by May 19, 2011, TTY (800) 833-6388 or (800) 833-6385 (Braille).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To adjust the asbestos notification fees to reflect the costs of implementing the asbestos program.

Reasons Supporting Proposal: Because of an increase in notifications over the past year, and as a result of efficiencies implemented years ago, the agency is proposing to reduce the fees by approximately fifteen percent.

Statutory Authority for Adoption: Chapter 70.94 RCW.
Statute Being Implemented: RCW 70.94.141.

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

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting: Rick Hess, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4029; Implementation and Enforcement: Laurie Halvorson, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4030.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70.94.141.

April 19, 2011
 Craig Kenworthy
 Executive Director

AMENDATORY SECTION

REGULATION III SECTION 4.03 ASBESTOS NOTIFICATION REQUIREMENTS

(a) General Requirements

It shall be unlawful for any person to cause or allow any work on an asbestos project or demolition unless a complete notification, including the appropriate nonrefundable fee and any additional information requested by the Control Officer, has been submitted to the Agency in accordance with the waiting period and fee requirements in Section 4.03(d) of this regulation. Except for the annual notification requirements in Section 4.03 (a)(7) of this regulation, the notification must be submitted on approved forms through the Agency website.

(1) The duration of an asbestos project shall be commensurate with the amount of work involved.

(2) Notification is not required for asbestos projects involving less than 10 linear feet of friable, asbestos-containing material on pipes and/or 48 square feet of friable, asbestos-containing material on other components (per structure, building, or vessel, per calendar year).

(3) Notification is not required for removal and disposal of nonfriable, asbestos-containing material.

(4) Notification is required for all demolitions involving structures with a projected roof area greater than 120 square feet, even if no asbestos-containing material is present.

(5) All demolitions require a 10-day waiting period unless waived under Section 4.03 (c)(1) of this regulation.

(6) A printout of the notification, all amendments to the notification, and the asbestos survey shall be available for inspection at all times at the asbestos project or demolition site.

(7) Annual Notification

A property owner may file one annual notification for asbestos projects to be conducted on one or more structures, vessels, or buildings during each calendar year if all of the following conditions are met:

(A) The annual notification shall be filed with the Agency before commencing work on any asbestos project included in an annual notification;

(B) The total amount of asbestos-containing material for all asbestos projects from each structure, vessel, or building

in a calendar year under this section is less than 260 linear feet on pipes and/or less than 160 square feet on other components; and

(C) The property owner submits quarterly written reports to the Control Officer on Agency-approved forms within 15 days after the end of each calendar quarter.

(b) Amendments

(1) An amendment shall be submitted to the Control Officer in a notification through the Agency website for the following changes and shall be accompanied by the appropriate nonrefundable fee as set forth in Section 4.03(d) of this regulation:

(A) Changes between asbestos and demolition project types;

(B) Increases in the job size category that increase the fee;

(C) Changes in the start date; or

(D) Changes in the completion date.

(2) Amendments may not be used to add or change project site addresses listed on a previously submitted notification.

(c) Emergencies

(1) The waiting period may be waived if an asbestos project or demolition must be conducted immediately because of any of the following:

(A) There was a sudden, unexpected event that resulted in a public health or safety hazard;

(B) The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage;

(C) Asbestos-containing materials were encountered that were not identified during the asbestos survey; or

(D) The project must proceed to avoid imposing an unreasonable burden.

(2) The waiting period and fees may be waived for disposal of abandoned, (without the knowledge or consent of the property owner) friable, asbestos-containing material by written approval of the Control Officer.

(d) Waiting Period and Fees

Project	Waiting Period	Asbestos Fee	Demolition Fee
Single-Family Residence:			
•Asbestos Project	prior written notification	(\$30) \$25	
• Demolition (with or without asbestos project)	10 days	\$0	(\$75) \$65
Other than Single-Family Residence:			
• less than 10 linear ft and/or • less than 48 square ft	10 days for demolition	\$0	(\$75) \$65

Project	Waiting Period	Asbestos Fee	Demolition Fee
• 10 - 259 linear ft and/or 48 - 159 square ft	prior written notification for asbestos	((\\$75)) <u>\$65</u>	
	10 days for demolition		((\\$75)) <u>\$65</u>
• 260 - 999 linear ft and/or 160 - 4,999 square ft	10 days	((\\$250)) <u>\$210</u>	((\\$75)) <u>\$65</u>
• 1,000+ linear ft and/or 5,000+ square ft	10 days	((\\$750)) <u>\$640</u>	((\\$100)) <u>\$85</u>
Emergency - 4.03(c)*	prior written notification	applicable fees+ ((\\$50)) <u>\$40</u>	
Amendment - 4.03(b)	prior written notification	applicable fees+ ((\\$25)) <u>\$20</u>	
Annual Notice of Intent - 4.03(a)(7)	prior written notification	\$1,000	

*Single-family residences are exempt from the emergency fee.

WSR 11-09-070
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY

[Filed April 19, 2011, 10:51 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: Amend Regulation I, Section 5.07 Annual Registration Fees.

Hearing Location(s): Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, on May 26, 2011, at 8:45 a.m.

Date of Intended Adoption: May 26, 2011.

Submit Written Comments to: Lynn Sykes, Puget Sound Clean Air Agency, 1904 3rd Avenue, #105, Seattle, WA 98101, e-mail lynns@pscleanair.org, fax (206) 343-7522, by May 25, 2011.

Assistance for Persons with Disabilities: Contact agency receptionist, (206) 689-4010, by May 19, 2011, TTY (800) 833-6388 or (800) 833-6385 (Braille).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To increase the additional registration fee for large composting facilities.

Reasons Supporting Proposal: To be consistent with registration principles and the board of directors' policy that the program be self-sufficient using fees. The increase reflects the amount of program-related work anticipated for this type of facility for the coming year.

Statutory Authority for Adoption: Chapter 70.94 RCW. Statute Being Implemented: RCW 70.94.141.

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

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting: Steve Van Slyke, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4052; Implementation and Enforcement: Laurie Halvorson, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4030.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70.94.141.

April 19, 2011
Craig Kenworthy
Executive Director

AMENDATORY SECTION

REGULATION I SECTION 5.07 ANNUAL REGISTRATION FEES

(a) The Agency shall assess annual fees as set forth in Section 5.07(c) of this regulation for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the program, which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program. Payment of these fees by the owner or operator of a source shall maintain its active registration status (even if it is not actively operating).

(b) Upon assessment by the Agency, registration fees are due and payable within 45 days of the date of the invoice. They shall be deemed delinquent if not fully paid within 45 days of the date of the invoice and shall be subject to an additional delinquent fee equal to 25% of the original fee, not to exceed \$1,000. Persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than 90

days late with such payments may be subject to a penalty equal to 3 times the amount of the original fee owed (in addition to other penalties provided by chapter 70.94 RCW).

(c) Except as specified in Section 5.07 (d) and (e) of this regulation, registered sources shall be assessed a fee of \$1,000, plus the following fees:

(1) Sources subject to a federal emission standard as specified in Section 5.03 (a)(1) of this regulation shall be assessed \$1,750 per subpart of 40 CFR Parts 60-63;

(2) Sources subject to a federally enforceable emission limitation as specified in Section 5.03 (a)(2) or meeting the emission thresholds specified in Section 5.03 (a)(3) of this regulation shall be assessed \$2,000;

(3) Sources subject to the emission reporting requirements under Section 5.05(b) of this regulation shall be assessed \$25 for each ton of CO and \$50 for each ton of NOx, PM10, SOx, HAP, and VOC, based on the emissions reported during the previous calendar year;

(4) Sources with more than one coffee roaster installed on-site that are approved under a Notice of Construction Order of Approval shall be assessed \$2,000;

(5) Sources of commercial composting with raw materials from off-site and with an installed processing capacity of <100,000 tons per year shall be assessed \$5,000; and

(6) Sources of commercial composting with raw materials from off-site and with an installed processing capacity of ≥100,000 tons per year shall be assessed (~~(\$10,000)~~) \$20,000.

(d) Gasoline dispensing facilities shall be assessed the following fees based on their gasoline throughput during the previous calendar year (as certified at the time of payment):

- (1) More than 6,000,000 gallons \$3,550;
- (2) 3,600,001 to 6,000,000 gallons \$1,765;
- (3) 1,200,001 to 3,600,000 gallons \$1,175;
- (4) 840,001 to 1,200,000 gallons \$590;
- (5) 200,001 to 840,000 gallons \$295.

(e) The following registered sources shall be assessed an annual registration fee of \$120, provided that they meet no other criteria listed in Section 5.03(a) of this regulation:

- (1) Sources with spray-coating operations subject to Section 9.16 of this regulation that use no more than 4,000 gallons per year of total coatings and solvents;
- (2) Gasoline dispensing facilities subject to Section 2.07 of Regulation II with gasoline annual throughput during the previous calendar year (as certified at the time of payment) of no more than 200,000 gallons;
- (3) Motor vehicle and mobile equipment coating operations subject to Section 3.04 of Regulation II;
- (4) Unvented dry cleaners using perchloroethylene; and
- (5) Batch coffee roasters subject to notification under Section 6.03 (b)(11) of this regulation.

**WSR 11-09-071
PROPOSED RULES
NORTHWEST CLEAN
AIR AGENCY**

[Filed April 19, 2011, 11:59 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: REGULATION OF THE NORTHWEST CLEAN AIR AGENCY.

Hearing Location(s): Northwest Clean Air Agency, 1600 South Second Street, Mount Vernon, WA 98273, on June 7, 2011, at 9:00 a.m.

Date of Intended Adoption: June 9, 2011.

Submit Written Comments to: Mark Buford, Northwest Clean Air Agency, 1600 South Second Street, Mount Vernon, WA 98273, e-mail mark@nwcleanair.org, fax (360) 428-1620, by June 7, 2011, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Margarita Smith by June 1, 2011, (360) 428-1617 ext. 215.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update agency adoptions of external regulations by reference; readopt specific rule sections to refer to most recent version of chapter 173-401 WAC.

NWCAA Regulation Revision Summary

Amendatory Sections:

SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

- Editorial changes.
- Update to accommodate new or revised rules.
- Replace "as it now exists or may be hereafter amended" with "that are in effect as of May 18, 2011" from 104.1 to make clear which versions of the Washington Administrative Code (WAC) and Revised Code of Washington (RCW) are being adopted by reference. This change will make it consistent with the verbiage in NWCAA 104.2.
- Update effective date in NWCAA 104.2.
- Remove reference to NWCAA 155 to avoid duplicating the adoptions by reference.
- Adopt by reference subparts under 40 C.F.R. 63 that trigger issuance of Title V permits.
- Delete subparts under 40 C.F.R. 60 that are emission guidelines that cannot be adopted by reference or delegated by EPA.
- Readopt to ensure that the reference to chapter 173-401 WAC is to the most recent version.

SECTION 300 - NEW SOURCE REVIEW

- Update NWCAA 300.14 to be consistent with NWCAA 104.
- Readopt to ensure that the reference to chapter 173-401 WAC is to the most recent version.

SECTION 305 - PUBLIC INVOLVEMENT

SECTION 321 - EXEMPTIONS FROM REGISTRATION

SECTION 322 - AIR OPERATING PERMIT PROGRAM (AOP)

- No changes except to readopt to ensure that the reference to chapter 173-401 WAC is to the most recent version.

SECTION 320 - REGISTRATION PROGRAM

- No changes except to readopt to ensure that the reference to WAC 173-401-531 is to the most recent version.

Reasons Supporting Proposal: The NWCAA regulation references many rules written by other agencies (e.g., EPA, Washington department of ecology). When the external rules are referenced, the version that is incorporated is that as of the date of adoption. If an external rule is modified, by EPA, for instance, the version of the federal rule referenced in the NWCAA regulation remains that as of the date of adoption. This causes confusion because both the previous version as referenced in the NWCAA regulation and the new version both apply. As such, the NWCAA is updating the references in these portions of the regulation to the most recent versions of the external rules.

Statutory Authority for Adoption: Chapter 70.94 RCW.
Statute Being Implemented: Chapter 70.94 RCW.

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

Name of Proponent: Northwest Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark Asmundson, 1600 South Second Street, Mount Vernon, WA, (360) 428-1617.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable under RCW 70.94.141.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable under RCW 70.94.141.

April 19, 2011

Mark Buford
Assistant Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 11-10 issue of the Register.

WSR 11-09-078
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Securities Division)

[Filed April 19, 2011, 5:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-06-061.

Title of Rule and Other Identifying Information: Amendments to WAC 460-16A-205 to update previously adopted NASAA guidelines and statements of policy.

Hearing Location(s): Department of Financial Institutions, 150 Israel Road S.W., Tumwater, WA 98501, on June 1, 2011, at 10:00 a.m.

Date of Intended Adoption: June 1, 2011.

Submit Written Comments to: Jill Valley, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, e-mail jill.valley@dfi.wa.gov, fax (360) 704-7035, by May 31, 2011.

Assistance for Persons with Disabilities: Contact Jill Valley, by May 31, 2011, TTY (360) 664-8126 or (360) 902-8760.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington securities division uses guidelines and policies adopted by the North American Securities Administrators Association (NASAA) as the basis for regulating certain offerings and licensees. NASAA periodically amends these guidelines and policies. The proposed rule amendment would update Washington's regulations to reflect the latest versions of all previously adopted guidelines and policies.

WAC 460-16A-205 (1)(g), (h), (m), (n), (o), (p), (r), (s), (t), (u), and (v) would be amended to adopt the most recent versions of the NASAA guidelines and policies codified in those subsections.

Reasons Supporting Proposal: This rule amendment will create greater uniformity with the many other states that rely on the NASAA guidelines and policies as the basis for regulating certain securities offerings. Adopting the same versions of these policies as other states, rather than continuing to enforce outdated policies in Washington, will reduce confusion among the businesses regulated by the securities division. Securities issuers must comply with registration provisions in all states in which they offer securities. Uniformity will make compliance less burdensome for these issuers, and will facilitate commerce.

Statutory Authority for Adoption: RCW 21.20.450.

Statute Being Implemented: Chapter 21.20 RCW.

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

Name of Proponent: Department of financial institutions, securities division, governmental.

Name of Agency Personnel Responsible for Drafting: Jill Valley, 150 Israel Road S.W., Tumwater, WA 98501, (360) 902-8760; Implementation: Scott Jarvis, Director, Department of Financial Institutions, 150 Israel Road S.W., Tumwater, WA 98501, (360) 902-8760; and Enforcement: William M. Beatty, Director, Securities, 150 Israel Road S.W., Tumwater, WA 98501, (360) 902-8760.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposal does not impose additional costs on business.

A cost-benefit analysis is not required under RCW 34.05.328. The department of financial institutions is not one of [the] agencies listed in RCW 34.05.328.

April 19, 2011

Scott Jarvis
Director

AMENDATORY SECTION (Amending WSR 08-05-003, filed 2/6/08, effective 3/8/08)

WAC 460-16A-205 Adoption of NASAA statements of policy. (1) In order to promote uniform regulation, the administrator adopts the following North American Securi-

ties Administrators Association (NASAA) statements of policy for offerings registering pursuant to RCW 21.20.180 or 21.20.210:

- (a) Registration of publicly offered cattle feeding programs, as adopted September 17, 1980;
- (b) Registration of commodity pool programs, as adopted with amendments through May 7, 2007;
- (c) Equipment programs, as adopted with amendments through May 7, 2007;
- (d) Registration of oil and gas programs, as adopted with amendments through May 7, 2007;
- (e) Real estate investment trusts, as adopted with amendments through May 7, 2007;
- (f) Real estate programs, as adopted with amendments through May 7, 2007;
- (g) Loans and other material affiliated transactions, as adopted with amendments through ~~((November 18, 1997))~~ March 31, 2008;
- (h) Options and warrants, as adopted with amendments through ~~((September 28, 1999))~~ March 31, 2008;
- (i) Registration of direct participation programs - omnibus guidelines, as adopted with amendments through May 7, 2007;
- (j) Mortgage program guidelines, as adopted with amendments through May 7, 2007;
- (k) Church bonds, as adopted April 14, 2002;
- (l) Health care facility offerings, pertaining to the offering of nonprofit health care facility bonds, as adopted April 5, 1985;
- (m) Corporate securities definitions, as adopted ~~((September 28, 1999))~~ with amendments through March 31, 2008;
- (n) Impoundment of proceeds, as adopted with amendments through ~~((September 28, 1999))~~ March 31, 2008;
- (o) Preferred stock, as adopted with amendments through ~~((April 27, 1997))~~ March 31, 2008;
- (p) Promotional shares, as adopted ~~((September 28, 1999))~~ with amendments through March 31, 2008, except that the term promotional shares shall be limited to those equity securities which were issued within the last three years and that all promotional shares in excess of twenty-five percent of the shares to be outstanding upon completion of the offering may be required to be deposited in escrow absent adequate justification that escrow of such shares is not in the public interest and not necessary for the protection of investors;
- (q) Registration of asset-backed securities, as adopted with amendments through May 7, 2007, except for offerings registering or required to register pursuant to chapter 460-33A WAC or RCW 21.20.705 through 21.20.855;
- (r) Promoters' equity investment, as adopted with amendments through ~~((April 27, 1997))~~ March 31, 2008;
- (s) Specificity in use of proceeds, as adopted ~~((September 28, 1999))~~ with amendments through March 31, 2008;
- (t) Underwriting expenses, underwriter's warrants, selling expenses, and selling security holders, as adopted with amendments through ~~((September 28, 1999))~~ March 31, 2008;
- (u) Unsound financial condition, as adopted ~~((September 28, 1999))~~ with amendments through March 31, 2008;

(v) Unequal voting rights, as adopted ~~((October 24, 1994))~~ with amendments through March 31, 2008;

(w) Guidelines for general obligation financing by religious denominations, as adopted April 17, 1994;

(x) Risk disclosure guidelines, as adopted September 9, 2001;

(y) Church extension fund securities, as adopted with amendments through April 18, 2004; and

(z) Guidelines for cover legends, as adopted October 2, 2004.

(2) An offering registering pursuant to RCW 21.20.180 or 21.20.210 that falls within one or more of the statements of policy listed in subsection (1) of this section must comply with the requirements of said statement of policy or policies.

(3) The statements of policy referred to in subsection (1) of this section are found in *CCH NASAA Reports* published by Commerce Clearing House. Copies are also available at the office of the securities administrator.

WSR 11-09-081

PROPOSED RULES DEPARTMENT OF EARLY LEARNING

[Filed April 20, 2011, 8:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-24-051.

Title of Rule and Other Identifying Information: Proposing new chapter 170-296A WAC, Licensed family home child care standards, and repealing all sections of current chapter 170-296 WAC.

Hearing Location(s): The public may join the following hearings at anytime during the posted times:

1. Saturday, June 11, 2011, at 11:00 a.m. to 1:30 p.m. by video conference at Renton, Educational Service District 121, Puyallup Room, 800 Oakesdale [Oakesdale] Avenue S.W., Renton, WA 98057, and University Center at Everett Community College, Gray Wolf Hall, Room 160, 2000 Tower Street, Everett, WA 98201-1390, free parking is in lots B and C west of Gray Wolf Hall.

2. Wednesday, June 15, 2011, at 6:30 p.m. to 9:00 p.m. by video conference at Vancouver, Educational Service District 112, Clark/Pacific Rooms, 2500 N.E. 65th Avenue, Vancouver, WA 98661-6812, and Olympia/Tumwater, Educational Service District 113, 6005 Tyee Drive S.W., Olympia, WA 98512 (new location - between Costco and Home Depot, 1/2 mile south of I-5 exit 102).

3. Saturday, June 18, 2011, at 11:00 a.m. to 1:30 p.m., Yakima, Children's Village, 3801 Kern Road, Yakima, WA 98902.

4. Saturday, June 25, 2011, at 11:00 a.m. to 1:30 p.m. by video conference at Spokane, Northeast Washington Educational Service District 101, 4202 South Regal, Spokane, WA 98223-7738, and Pasco, Educational Service District 123, Blue Mountain Room, 3918 West Court Street, Pasco, WA 99301.

The deadline for sending written comments on the proposed rules is midnight on Sunday, June 26, 2011. See the "submit written comments to" section of this notice about how to submit written input on this proposed rule.

Everyone who comments on the proposed rules either in writing or at a public hearing will receive the department's combined written response, called a *concise explanatory statement*. This statement is also available to anyone who requests it, by contacting the department of early learning (DEL) rules coordinator, or by e-mailing Rules@del.wa.gov.

DEL encourages the public to use the department Facebook and DEL blog pages on the internet to post input about DEL programs and initiatives. However, for a written comment to be considered part of the official record for this proposal, and for the sender to receive the department's concise explanatory statement, the comment must be received at the on-line, e-mail, fax or postal mail locations as described in this notice under "submit written comments to."

Date of Intended Adoption: After July 1, 2011.

Submit Written Comments to: DEL Rules Coordinator, P.O. Box 40970, Olympia, WA 98504-0970, DEL Online Comment Web Site <https://apps.del.wa.gov/PolicyProposalComment/Detail.aspx>, e-mail Rules@del.wa.gov, fax (360) 725-4939, by 11:59 p.m., June 26, 2011.

Assistance for Persons with Disabilities: Contact DEL rules coordinator by 5:00 p.m., June 2, 2011, (360) 725-4397.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes to adopt a new WAC chapter setting requirements for obtaining and maintaining a DEL family home child care license. The rules set the health, safe and early learning standards for persons who provide care in the family living quarters of their own home for not more than twelve children under RCW 43.215.010 (1)(c).

Reasons Supporting Proposal: The current chapter 170-296 WAC was adopted in 2004 when child care licensing was under the department of social and health services (DSHS). In 2006, DEL was created as a separate state agency, and the legislature transferred child care licensing authority from DSHS to DEL (see chapter 265, Laws of 2006). Child care licensing rules were transferred from DSHS to DEL in July 2006, including the rules that became DEL chapter 170-296 WAC, Child care business regulations for family home child care (see WSR 06-15-075).

RCW 43.215.200 establishes the DEL director's authority to establish requirements for licensing child care facilities regulated under chapter 43.215 RCW, including family home child care (FHCC).

The 2004 DSHS FHCC rules resulted in one hundred thirty-eight rule-making petitions filed under RCW 34.05.330 requesting that various sections of chapter 388-296 WAC be revised or repealed. DSHS accepted some of those petitions and planned to open the FHCC for revision. But by mid-2006, DSHS had not begun rule making related to these petitions when DEL was created and chapter 388-296 WAC was transferred from DSHS to DEL.

In the same year DEL was created, the legislature passed a law (now RCW 43.215.350) requiring then DSHS and now DEL to engage in "negotiated rule making" with FHCC providers, their exclusive bargaining representative (Service

Employees International Union Local 925 (SEIU)) and other affected interests before adopting requirements that affect FHCC licensees. Negotiated rule making is a process briefly described in RCW 34.05.310 (the Washington Administrative Procedure Act) where the individuals or businesses regulated by a set of rules participate directly in developing or revising the rules.

In autumn 2006, DEL staff began discussions with SEIU on revising the FHCC rules to respond to the 2004 rule-making petitions, and on using a negotiated rule-making process.

DEL and SEIU held joint public forums in January 2007 on how the rule development process should proceed. A joint decision was made to review the entire FHCC WAC chapter, rather than review only the sections subject to the rule-making petitions. A thirty member negotiated rule-making team (NRMT) was formed comprised of FHCC licensees, SEIU staff, parent advocates, provider advocates, child care resource and referral (CCR&R) network representatives and DEL staff. The NRMT's charge was to review the current FHCC rules, research child development and child health and safety resources plus other state regulations, and make comprehensive recommendations for revising chapter 170-296 WAC.

There were no examples found of negotiated rule making used to develop other state agency regulations. DEL and SEIU used the state office of financial management *Guide to Negotiated Rule Making* as a resource. However, the process for reviewing, researching and making recommendations about the DEL FHCC rules was developed by the NRMT and an independent contractor hired to facilitate the process. This included adopting NRMT: *Protocols* for orderly decision making; a set of *Guiding Principles* that recommendations would be based upon (including that the rules must support a child's right to have safe and health[y] child care); and other organizing procedures.

Rule Development Process. From March 2007 through December 2009, the full NRMT met in-person twenty-nine times to discuss the rules. In addition, three regional subteams of the NRMT met approximately one hundred times (mostly by conference call) during this period to conduct the detailed research and to make preliminary recommendations to the full NRMT. The subteams organized their work on matrixes (for thirteen major topic areas and about two hundred subtopics) that included the: Current WAC content; child development research and/or other state regulations; possible alternatives to the current rules; potential concerns or areas of controversy; and finally the subteam's recommended rule changes to the full NRMT. The full NRMT reviewed each subteam's work, discussed issues and concerns, and then voted on in-depth "concept" recommendations to DEL for changing most of the current rules. In some instances the NRMT recommended that certain existing FHCC requirements remain, but with revised structure or wording (an early team recommendation was to rewrite the FHCC rules without the current question-and-answer format and to restructure the WAC chapter).

Using the NRMT's in-concept notes, a drafting team comprised of one FHCC licensee and one DEL staff person wrote an initial working draft of the new WAC chapter. A rule review group of three FHCC licensees, two DEL staff

and a CCR&R representative reviewed the draft WAC for consistency with the NRMT recommendations and current law.

As portions of the NRMT working draft rules were completed in 2009, nearly forty small forums statewide were held to gather preliminary input, mostly sponsored by the FHCC local and statewide associations or by SEIU, with participation at several forums by DEL staff and other NRMT members. The process culminated in a NRMT working draft of the new FHCC WAC that was circulated for public input in March and April 2010. See this link <http://www.del.wa.gov/laws/development/negotiated.aspx> for more information on the NRM[T] process.

DEL director Bette Hyde met with the NRMT on March 27, 2010, to personally present nearly thirty pages of her comments and observations of the NRMT's working draft rules. Dr. Hyde noted that about ninety-five percent of the NRMT's concept recommendations DEL could enact with little or no substantive change. But Dr. Hyde said the remainder of NRMT recommendations DEL would need to revise further into more robust standards to protect the safety and health of children in care. Dr. Hyde directed DEL staff to gather more public and staff input on the NRMT working draft before the department prepared the next draft of the FHCC WAC.

Public Input on NRMT Working Draft Rules. DEL held eight forums statewide in April 2010 to take input on the draft, in Tumwater, Vancouver, Everett, Seattle, Kent, Spokane, Pasco and Wenatchee. Comments were also received on the DEL web site, by e-mail, fax and postal mail. In all, DEL received more than three hundred pages of comments, which are summarized at this link <http://www.del.wa.gov/publications/laws/docs/NRMTPublicComments.pdf>.

DEL Develops Proposed Rules. DEL reviewed the NRMT working draft and comments, and decided to:

- Reorganize and revise the NRMT's working draft;
- Repeal of the entire current chapter 170-296 WAC and replace it with new chapter 170-296A WAC; and
- Postpone proposing some changes recommended by the NRMT that would have required resources that are unavailable to DEL in the state's current budget climate, including but not limited to: Developing preservice training prior to an applicant receiving a new FHCC license; establishing new specialty licenses (and required training) for infant-toddler-only child care, age two to five-only care, and school-age-only care; and creating a comprehensive guidebook to accompany the new rules. DEL plans to continue work on these elements, and the department may propose additional rules as appropriate at a later date.

SEIU/Licensees Seek More Discussion. DEL planned to file the proposed FHCC rules in October 2010 for public review and formal comment. However, SEIU and members of the Washington State FHCC Association requested more time to discuss changes DEL made since the NRMT working draft. From October 2010 through mid-January 2011, DEL met with SEIU and FHCC providers. DEL agreed to make

some of the SEIU/licensee's requested changes, did not agree to make others, and offered to gather more research before completing the proposed rules.

As a result, DEL developed the rules in this proposal. Please see the DEL family home child care rules web site at <http://www.del.wa.gov/laws/development/negotiated.aspx> for comparisons of the proposed rules to the NRMT's first draft, and compared to the current chapter 170-296 WAC.

Statutory Authority for Adoption: RCW 43.215.060, 43.215.070, 43.43.832(6), and chapter 43.215 RCW.

Statute Being Implemented: Chapter 43.215 RCW, RCW 43.215.350 and 34.05.330.

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

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Judy Jaramillo and Andy Fernando, DEL, 649 Woodland Square Loop S.E., Lacey, WA, (360) 725-4665; Implementation: DEL child care licensing offices, statewide; and Enforcement: DEL director or designees, DEL, 649 Woodland Square Loop S.E., Lacey, WA, (360) 725-4665.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

See Reviser's note below.

A copy of the statement may be obtained by contacting DEL Rules Coordinator, DEL, P.O. Box 40972, Olympia, WA 98504-0972, phone (360) 725-4397, fax (360) 725-4939, e-mail Rules@del.wa.gov.

The department invites public input on the preliminary small business economic impact statement (SBEIS) is [as] provided above (see Reviser's note below). DEL will respond to comments on the SBEIS in the concise explanatory statement required under RCW 34.05.325. A final SBEIS, with revisions as appropriate, will be available to the public when the permanent rules are filed.

A cost-benefit analysis is not required under RCW 34.05.328. DEL is not listed among the state agencies required to comply with RCW 34.05.328.

April 20, 2011

Elizabeth M. Hyde

Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 11-10 issue of the Register.

**WSR 11-09-082
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed April 20, 2011, 9:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-06-058.

Title of Rule and Other Identifying Information: WAC 232-16-700 Swinomish Spit Game Reserve.

Hearing Location(s): Natural Resources Building, Conference Room 172, 1111 Washington Street S.E., Olympia, WA 98501, on June 3-4, 2011, at 8:30 a.m.

Date of Intended Adoption: August 5-6, 2011.

Submit Written Comments to: Wildlife Program commission meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2162, by Wednesday, May 11, 2011.

Assistance for Persons with Disabilities: Contact Susan Galloway by May 27, 2011, (360) 902-2267 or TTY (800) 833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This amendment is intended to clarify the boundary description in the existing rule.

Reasons Supporting Proposal: The amendment will allow more effective enforcement of the rule by clarifying and updating the boundary description for this game reserve.

Statutory Authority for Adoption: RCW 77.12.047, 77.15.440.

Statute Being Implemented: RCW 77.12.047, 77.15.-440.

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

Name of Proponent: Washington fish and wildlife commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Nate Pamplin, Natural Resources Building, Olympia, (360) 902-2693; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not directly regulate small business.

A cost-benefit analysis is not required under RCW 34.05.328. These are not hydraulics rules.

April 19, 2011

Lori Preuss
Rules Coordinator

AMENDATORY SECTION (Amending Order 00-50, filed 5/23/00, effective 6/23/00)

WAC 232-16-700 Swinomish Spit Game Reserve. It shall be unlawful to hunt wild animals and wild birds within the following described boundary November 15 through March 31, and it shall be unlawful to hunt brant at any time within the following described boundary: Beginning at the Burlington Northern railroad tracks on the west shoreline of the Swinomish Channel; thence in a northwesterly direction along the west side of the Swinomish Channel to the ~~(red channel mark buoy N "20" (as indicated on Navigation Map #18427, 13th Ed., July 16, 1983))~~ reserve boundary sign on the northernmost sand island (48.474801N, 122.530770W (all coordinates NAD83/WGS84)); thence ~~((6,000))~~ 10,500 feet ENE (east-northeast) to the reserve boundary sign (48.480630N, 122.488388W); thence ~~((3,300))~~ 1,800 feet ((SSE)) SW (((south-southeast)) southwest) to the reserve boundary sign (48.476983N, 122.493716W); thence ~~((4,200))~~ 7,000 feet SSW (south-southwest) to the reserve

boundary sign on the dike at the south end of Padilla Bay (48.459498N, 122.504967W); thence continue westerly along said dike to the intersection of the Burlington Northern railroad tracks and the east shoreline of the Swinomish Channel; thence continue along said railroad tracks (across swing bridge) to the west shoreline of the Swinomish Channel and the point of beginning.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 232-16-130	Ellensburg Game Farm Reserve.
WAC 232-16-360	South Tacoma Game Farm Reserve.

WSR 11-09-085

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed April 20, 2011, 10:22 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 246-853-990 Osteopathic fees and renewal cycle, the proposed rules will reduce fees for osteopathic physicians and osteopathic physician assistants.

Hearing Location(s): Department of Health, 310 Israel Road S.E., Room 152, Tumwater, WA 98501, on May 24, 2011, at 1:00 p.m.

Date of Intended Adoption: May 24, 2011.

Submit Written Comments to: Dianna Staley, P.O. Box 47860, Olympia, WA 98504-7860, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4626, by May 24, 2011.

Assistance for Persons with Disabilities: Contact Dianna Staley by May 17, 2011, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules reduce fees for osteopathic physicians and osteopathic physician assistants. The osteopathic profession has demonstrated a reduction in the costs to administer the profession. The costs to administer the profession have been consistently below the existing fee revenues.

Reasons Supporting Proposal: RCW 43.70.250 requires that each profession is self-supporting and directs the department to collect fees to pay the costs to regulate the profession. Reductions in administrative and regulatory costs and activities that include credentialing, complaint intake, and disciplinary activities make it possible for the department to propose reducing the fees for osteopathic physicians and osteopathic physician assistants.

Statutory Authority for Adoption: RCW 43.70.250, 43.70.110.

Statute Being Implemented: RCW 43.70.110.

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: Dianna Staley, 310 Israel Road S.E., Tumwater, WA, (360) 236-4997; Implementation and Enforcement: Joy King, 310 Israel Road S.E., Tumwater, WA, (360) 236-4936.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(f), a small business economic impact statement is not required for proposed rules that set or adjust fees or rates pursuant to legislative standards.

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.

April 20, 2011
Gregg L. Grunenfelder
Deputy Secretary
for Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 08-15-014, filed 7/7/08, effective 7/7/08)

WAC 246-853-990 Osteopathic 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, except postgraduate training limited licenses. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) Postgraduate training limited licenses must be renewed every year to correspond to program dates. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(3) The following nonrefundable fees will be charged for osteopathic physicians:

Title of Fee	Fee
Endorsement application	\$ ((800.00)) <u>600.00</u>
Active license renewal	((750.00)) <u>600.00</u>

Title of Fee	Fee
Active late renewal penalty	((300.00)) <u>250.00</u>
Active expired license reissuance	((300.00)) <u>250.00</u>
Inactive license renewal	((500.00)) <u>350.00</u>
Expired inactive license reissuance	225.00
Inactive late renewal penalty	((250.00)) <u>175.00</u>
Endorsement/state exam application	((900.00)) <u>500.00</u>
Reexam	100.00
Certification of license	50.00
Limited license application	((350.00)) <u>325.00</u>
Limited license renewal	((325.00)) <u>300.00</u>
Temporary permit application	70.00
Duplicate certificate	20.00
Substance abuse monitoring surcharge	25.00
UW ((library)) on-line access fee <u>(HEAL-WA)</u>	25.00

~~((5))~~ (4) The following nonrefundable fees will be charged for osteopathic physician assistants:

Title of Fee	Fee
Application	((300.00)) <u>\$250.00</u>
Renewal	((325.00)) <u>250.00</u>
Late renewal penalty	((162.50)) <u>150.00</u>
Expired license reissuance	100.00
Certification of license	30.00
Practice plan	70.00
Interim permit	200.00
License after exam	100.00
Duplicate certificate	20.00
Substance abuse monitoring surcharge	25.00
UW ((library)) on-line access fee <u>(HEAL-WA)</u>	25.00