WSR 06-18-033

EXPEDITED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed August 28, 2006, 2:59 p.m.]

Title of Rule and Other Identifying Information: Title 390 WAC, amending WAC 390-05-400 Changes in dollar amounts, 390-16-230 Surplus campaign funds—Use in future, 390-17-030 Sample ballots and slate cards, 390-17-060 Exempt activities—Definitions, reporting, 390-17-065 Recordkeeping and reporting of exempt contribution accounts, 390-17-300 Contribution designation for primary and general election, 390-17-302 Contributions after the primary election, 390-17-315 Political committees—Qualifications to contribute, 390-17-320 Contributions from corporations, businesses, unions and political committees, and 390-17-405 Volunteer services.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Doug Ellis, Public Disclosure Commission, 711 Capitol Way, Room 206, Olympia, WA 98504, AND RECEIVED BY November 7, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:

- Amend WAC 390-05-400 to correct a statute reference in RCW 42.17.640 changed during the 2006 legislative session.
- Amend WAC 390-16-230 to remove the reference to repealed statute RCW 42.17.630 and replace it with new reference to RCW 42.17.020(9).
- Amend WAC 390-17-030, 390-17-060, 390-17-065, 390-17-300, 390-17-310, 390-17-315, 390-17-320 and 390-17-405 to correct a statute reference in RCW 42.17.640 changed during the 2006 legislative session.
- Amend WAC 390-17-302 to correct a statute reference [in] RCW 42.17.640 changed during the 2006 legislative session, and to remove a reference to repealed WAC 390-16-311.

Reasons Supporting Proposal: To conform to current statutory references in chapter 348, Laws of 2006, and remove references to repealed WAC 390-16-311 and RCW 42.17.630.

Statutory Authority for Adoption: RCW 42.17.370.

Statute Being Implemented: Chapter 42.17 RCW.

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

Name of Proponent: Public disclosure commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

August 28, 2006
Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 06-07-001, filed 3/1/06, effective 4/1/06)

WAC 390-05-400 Changes in dollar amounts. Pursuant to the requirement in RCW 42.17.690 that the commission biennially revise the dollar amounts found in Initiative 134 to reflect changes in economic conditions, the following revisions are made:

Code Section	Subject Matter	Amount Enacted or Last Revised	2006 Revision
.020	Definition of "Independent Expenditure"	$ 675	$ 700
.125	Reimbursement of candidate for loan to own campaign	$ 4,000	$ 4,300
.180(1)	Report—		
	Applicability of provisions to		
	Persons who made contributions	$ 13,500	$ 14,500
	Persons who made independent expenditurest	$ 675	$ 700
.640((~~(1)~~)) (2)	Contribution Limits—		
	Candidates for state leg. office	$ 700	
	Candidates for other state office	$ 1,400	
.640((~~(2)~~)) (3)	Contribution Limits—		
	State official up for recall or pol comm. supporting recall—		
	State Legislative Office	$ 700	
	Other State Office	$ 1,400	

Code Section	Subject Matter	Amount Enacted or Last Revised	2006 Revision
.640((~~(3)~~)) (4)	Contribution Limits—		
	Contributions made by political parties and caucus committees		
	State parties and caucus committees	.70 per voter	
	County and leg. district parties	.35 per voter	
	Limit for all county and leg. district parties to a candidate	.35 per voter	
.640((~~(4)~~)) (5)	Contribution Limits—		
	Contributions made by pol. parties and caucus committees to state official up for recall or committee supporting recall		
	State parties and caucuses	.70 per voter	
	County and leg. district parties	.35 per voter	
	Limit for all county and leg. district parties to state official up for recall or pol. comm. supporting recall	.35 per voter	
.640((~~(6)~~)) (7)	Limits on contributions to political parties and caucus committees		
	To caucus committee	$ 700	
	To political party	$ 3,500	
.740	Contribution must be made by written instrument	$ 65	$ 70

AMENDATORY SECTION (Amending WSR 93-22-002, filed 10/20/93, effective 11/20/93)

WAC 390-16-230 Surplus campaign funds—Use in future. (1) If at any time in the future or after the last day of the election cycle for candidates as defined in RCW ((~~42.17.630(3)~~)) 42.17.020(9) any contribution is received or an expenditure is made from surplus funds for any purpose which would qualify the recipient or person who made the expenditure as a candidate or political committee, it will be presumed the recipient or person who made the expenditure of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at his or her last election. Within fourteen days of the day such contribution is received or expenditure is made, such candidate or political committee shall file (a) a final report for the previous campaign as provided in RCW 42.17.080 and 42.17.090 and (b) a statement of organization and initial report for the new campaign as provided by RCW 42.17.040, 42.17.080 and 42.17.090. The surplus funds may be carried forward to the new campaign, reported as one sum and listed as a contribution identified as "funds from previous campaign." All augmentations to and all expenditures made from the retained surplus funds after the last day of the election cycle shall be reported in detail as to source, recipient, purpose, amount and date of each transaction.

(2) For candidates as defined in RCW ((~~42.17.630(3)~~)) 42.17.020(9), if at any time after the last day of the election cycle, any contribution is received or expenditure is made from such surplus funds for any purpose which would qualify the recipient or person who made the expenditure as a candidate or authorized committee, it will be presumed the recipient or person who made the expenditure of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at his or her last election. Within fourteen days of the day such contribution is received or expenditure is made, such candidate or authorized committee shall file (a) a final report for the previous campaign as provided in RCW 42.17.080 and 42.17.090 and (b) a statement of organization and initial report for the new campaign as provided by RCW 42.17.040, 42.17.080 and 42.17.090. The surplus funds as of the last day of the election cycle may be carried forward to the new campaign, reported as one sum and listed as a contribution identified as "funds from previous campaign." "Funds from previous campaign" carried forward by a candidate to his or her new campaign are not subject to contribution limits set forth in RCW 42.17.640.

(3) A political committee formed to support or oppose a particular ballot proposition or particular candidates which retains surplus funds to use in support or opposition of other candidates or of other ballot propositions has become a continuing political committee and must thereafter register and report in accordance with chapter 42.17 RCW.

AMENDATORY SECTION (Amending WSR 06-11-132, filed 5/23/06, effective 6/23/06)

WAC 390-17-030 Sample ballots and slate cards. (1) **Intent.** The commission finds that, under certain conditions,

expenditures for slate cards and other candidate listings fall within the scope of RCW 42.17.640 (((~~(14)(a)~~))) (15) and are, therefore, exempt from contribution limits and eligible for payment with a bona fide political party's exempt funds. Slate cards and other candidate listings remain reportable under chapter 42.17 RCW and subject to the political advertising provisions of the law.

The purpose of this exemption from the contribution limits is to allow political parties and other sponsors to tell the general public which candidates they support. The exemption is not intended as a device to circumvent the contribution limits and full reporting requirements by undertaking any degree of significant campaigning on behalf of candidates.

(2) For purposes of RCW 42.17.020(21) and 42.17.640 (((~~(14)(a)~~))) (15), **"sample ballots"** means slate cards, or other candidate listings, whether written or oral, that satisfy the qualifying criteria specified in subsection (10) of this section.

(3) Sample ballots constitute political advertising for a slate or list of candidates and must be properly identified and otherwise in compliance with the provisions of RCW 42.17.510 through 42.17.550.

(4)(a) **A bona fide political party** may use contributions it receives pursuant to RCW 42.17.640(((~~(14)~~))) (15) to produce and distribute sample ballots.

(b) Expenditures for sample ballots do not count against a bona fide political party's contribution limit to the candidates listed on the sample ballot. Further, when reporting sample ballot expenditures, a bona fide political party is not required to attribute a portion of the expenditure to each of the candidates listed on the sample ballot, but the names of the candidates must be reported along with the other information required by chapter 42.17 RCW and chapter 390-17 WAC.

(5) **Any person,** as defined by RCW 42.17.020, who makes an expenditure for sample ballots has made an expenditure that does not count against that person's contribution limit to the candidates listed.

(6) **An in-state political committee,** when disclosing expenditures for sample ballots as part of its C-4 report, is not required to attribute a portion of the expenditure to the candidates listed on the sample ballot, but the names of the candidates and their respective party affiliations must be reported along with other information required by chapter 42.17 RCW and chapter 390-17 WAC.

(7) **An out-of-state committee,** when disclosing expenditures for sample ballots on a C-5 report, is not required to allocate a portion of the expenditure to the candidates listed on the sample ballot, but must report that an expenditure for sample ballots was made, the name and address of the person to whom the expenditure was made, the full amount of the expenditure, and the name, office sought and party affiliation of each candidate listed on the sample ballot. The report is due no later than the ((~~20th~~)) 10th day of the month following the month in which the expenditure was made.

(8) If a **lobbyist or lobbyist employer** makes expenditures for sample ballots, those expenditures are required to be reported in detail on the lobbyist's monthly L-2 report. Itemization of these expenditures must include the names and respective party affiliations of the candidates listed on the sample ballot, but no portion of the expenditure need be allocated to individual candidates listed on the sample ballot.

(9) **The candidates listed on a sample ballot** are not required to report any portion of the expenditure as an in-kind contribution to their campaigns.

(10) **Qualifying criteria for sample ballots, slate cards and other candidate listings.** In order not to count against a person's contribution limit to the candidates listed on a sample ballot and, in the case of a bona fide political party, in order to be eligible for payment with contributions received pursuant to RCW 42.17.640(((~~(14)~~))) (15), a sample ballot must satisfy **all** of the criteria in (a) through (d) of this subsection.

(a) The sample ballot must list the names of at least three candidates for election to public office in Washington state and be distributed in a geographical area where voters are eligible to vote for at least three candidates listed. The candidate listing may include any combination of three or more candidates, whether the candidates are seeking federal, state or local office in Washington.

(b) The sample ballot must not be distributed through public political advertising; for example, through broadcast media, newspapers, magazines, billboards or the like. The sample ballot may be distributed through direct mail, telephone, electronic mail, Web sites, electronic bulletin boards, electronic billboards or personal delivery by volunteers.

(c) The content of a sample ballot is limited to:

- The identification of each candidate (pictures may be used);
- The office or position currently held;
- The office sought;
- Party affiliation; and
- Information about voting hours and locations.

Therefore, the sample ballot must exclude any additional biographical data on candidates and their positions on issues as well as statements about the sponsor's philosophy, goals or accomplishments. The list must also exclude any statements, check marks or other indications showing support of or opposition to ballot propositions.

(d) The sample ballot is a stand-alone political advertisement. It must not be a portion of a more comprehensive message or combined in the same mailing or packet with any other information, including get-out-the-vote material, candidate brochures, or statements about the sponsor's philosophy, goals or accomplishments. On Web sites, electronic bulletin boards or electronic billboards, the sample ballot must be a separate document.

AMENDATORY SECTION (Amending WSR 06-11-132, filed 5/23/06, effective 6/23/06)

WAC 390-17-060 Exempt activities—Definitions, reporting. (1)(a) "Exempt contributions" are contributions made to a political committee which are earmarked for exempt activities as described in RCW 42.17.640 (((~~(14)(a) and (b)~~))). Such contributions are required to be reported under RCW 42.17.090, are subject to the restrictions in RCW 42.17.105(8), but are not subject to the contribution limits in RCW 42.17.640. Any written solicitation for exempt contri-

butions must be so designated. Suggested designations are "not for individual candidates" or "for exempt activities."

(b) Contributions made to a caucus political committee, to a candidate or candidate's authorized committee which are earmarked for voter registration, absentee ballot information, get-out-the-vote campaigns, sample ballots are presumed to be for the purpose of promoting individual candidates and are subject to the contribution limits in RCW 42.17.640.

(c) Contributions made to a caucus political committee, to a candidate or candidate's authorized committee which are earmarked for internal organization expenditures or fund-raising are presumed to be with direct association with individual candidates and are subject to the contribution limits in RCW 42.17.640.

(2) "Exempt contributions account" is the separate bank account into which only exempt contributions are deposited and out of which only expenditures for exempt activities shall be made.

(3) "Exempt activities" are those activities referenced in RCW 42.17.640(((~~14~~))) as further clarified by subsections (4), (5), (6), and (7) of this section. Only exempt activities are eligible for payment with exempt contributions.

(4)(a) Except as permitted by WAC 390-17-030, Sample ballots and slate cards, activities referenced in RCW 42.17.640 (((~~14)(a)~~))) that promote or constitute political advertising for one or more clearly identified candidates do not qualify as exempt activities.

(b) A candidate is deemed to be clearly identified if the name of the candidate is used, a photograph or likeness of the candidate appears, or the identity of the candidate is apparent by unambiguous reference.

(5) Activities referenced in RCW 42.17.640 (((~~14)(a)~~))) that do not promote, or constitute political advertising for, one or more clearly identified candidates qualify as exempt activities. For example, get-out-the-vote telephone bank activity that only encourages persons called to "vote republican" or "vote democratic" in the upcoming election may be paid for with exempt contributions regardless of the number of candidates who are benefited by this message.

(6)(a) "Internal organization expenditures" referenced in RCW 42.17.640 (((~~14)(b)~~))) are expenditures for organization purposes, including legal and accounting services, rental and purchase of equipment and office space, utilities and telephones, postage and printing of newsletters for the organization's members or contributors or staff when engaged in organizational activities such as those previously listed, all without direct association with individual candidates.

(b) "Fund-raising expenditures" referenced in RCW 42.17.640 (((~~14)(b)~~))) are expenditures for fund-raising purposes, including facilities for fund-raisers, consumables furnished at the event and the cost of holding social events and party conventions, all without direct association with individual candidates.

(c) If expenditures made pursuant to subsections (a) and (b) above are made in direct association with individual candidates, they shall not be paid with exempt contributions.

(7) For purposes of RCW 42.17.640 (((~~14)(a)~~))) and this section, activities that oppose one or more clearly identified candidates are presumed to promote the opponent(s) of the candidate(s) opposed.

AMENDATORY SECTION (Amending WSR 96-05-001, filed 2/7/96, effective 3/9/96)

WAC 390-17-065 Recordkeeping and reporting of exempt contributions accounts. (1) Any political committee that receives exempt contributions as defined by RCW 42.17.640 (((~~14)(a) or (b)~~))) and WAC 390-17-060 shall keep the contributions in a separate bank account. Exempt contributions commingled with contributions subject to contribution limits are presumed to be subject to the limits. Expenditures to promote candidates or which are made for purposes other than those specified in RCW 42.17.640 (((~~14)(a) or (b)~~))) shall not be made with funds from the exempt contributions account.

(2)(a) Separate campaign disclosure reports shall be completed and filed for an exempt contributions account.

(b) Political committees maintaining an exempt contributions account shall make known the existence of the account by filing a statement of organization for the account pursuant to RCW 42.17.040.

(c) Political committees maintaining an exempt contributions account shall be subject to the provisions of chapter 42.17 RCW and file the disclosure reports required by this chapter for the account pursuant to RCW 42.17.080.

(3) Contributors shall not use a single written instrument to make simultaneous contributions to an exempt contributions account and any other committee account; separate written instruments must be used to make contributions to an exempt contributions account.

AMENDATORY SECTION (Amending WSR 94-07-141, filed 3/23/94, effective 4/23/94)

WAC 390-17-300 Contribution designation for primary and general election. (1) Pursuant to RCW 42.17.640 (((~~(1)~~))), if a contribution is designated in writing by the contributor for a specific election, the contribution will be attributed to the contributor's limit for that designated election.

(2) An undesignated contribution made prior to the date of a primary election shall be attributed to the contributor's limit for the primary election. Undesignated contributions made after the date of the primary shall be attributed to the contributor's limit for the general election.

(3) Any portion of an undesignated contribution made prior to the date of the primary which exceeds the contributor's primary election contribution limit shall be attributed to the contributor's limit for the general election.

(4) Contributions for the primary election shall be accounted for separately from those for the general election, such that campaign records reflect one aggregate contribution total for each contributor giving in the primary election as well as one aggregate contribution total for each contributor giving in the general election.

(5) General election contributions shall not be spent for the primary election if to do so would cause the contributor of the general election contribution to exceed that contributor's contribution limit for the primary election.

(6) If a candidate loses in the primary election, or otherwise is not a candidate in the general election, all contributions attributed to the primary election remaining after repayment of outstanding campaign obligations shall be consid-

ered surplus funds, disposal of which is governed by RCW 42.17.095. If a candidate loses in the primary election, or otherwise is not a candidate in the general election, all contributions attributed to the general election shall be returned to the contributors of the funds in an amount equal to the contributor's general election aggregate total. If a portion of a contributor's general election contribution was spent on the primary election consistent with subsection (5) of this section, the amount returned to the contributor may be reduced by the amount of the contribution spent on the primary election.

AMENDATORY SECTION (Amending WSR 01-22-050, filed 10/31/01, effective 1/1/02)

WAC 390-17-302 Contributions after the primary election. (1) Pursuant to RCW 42.17.640((~~(1)~~)), the date of the primary is the last day for making primary-related contributions unless a state office candidate loses in the primary, that candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary, and the contributions are used to satisfy this outstanding debt.

(2) For purposes of the contribution limit in RCW 42.17.640, any contribution made up to thirty days after the primary election pursuant to RCW 42.17.640((~~(1)~~)) is aggregated with contributions made on or before the date of the primary from the same contributor and any person with whom that contributor shares a limit under RCW 42.17.660 and WAC 390-16-309 ((~~and 390-16-311~~)).

(3) The day following the primary election is considered the first day of the thirty-day period during which contributions may be made to state office candidates who lose in the primary election and who have outstanding primary debts.

(4) For purposes of RCW 42.17.640((~~(1)~~)), "outstanding primary debts," "outstanding debts" and "debts outstanding" all mean:

(a) Unpaid primary-election related debts incurred on or before the date of the primary by the authorized committee of a candidate who lost the primary election for a state office; and

(b) Reasonable costs associated with activities of the losing candidate's authorized committee necessary to retire the primary-related debts it incurred on or before the date of the primary. Examples of such reasonable costs include:

(i) Necessary administrative expenses (office space rental, staff wages, taxes, supplies, telephone and computer costs, postage, and the like) for activities actually and directly related to retiring the committee's debt; and

(ii) Necessary expenses actually and directly related to the fund-raising activities undertaken to retire the debt, as long as all persons solicited for contributions are notified that the contributions are subject to that contributor's primary election limit for that losing candidate.

(5) Nothing in this section is to be construed as authorizing contributors to make, or state office candidates who lose the primary to receive, contributions that are used for a purpose not specifically authorized by RCW 42.17.640((~~(1)~~)), including use for some future election or as surplus funds.

(6) All contributions received in excess of the sum needed to satisfy outstanding primary debts shall be returned to the original contributors in an amount not to exceed the amount contributed in accordance with the first in, first out accounting principle wherein the most recent contribution received is the first to be returned until all excess funds are returned to contributors.

AMENDATORY SECTION (Amending WSR 02-03-018, filed 1/4/02, effective 2/4/02)

WAC 390-17-315 Political committees—Qualifications to contribute. In order to make contributions as permitted by RCW 42.17.640((~~(11)~~)), a political committee shall, within 180 days prior to making the contribution, have received contributions of $10 or more from at least ten individuals registered to vote in Washington state at the time they contributed to the political committee. Upon written request of the commission or other person seeking this information, the political committee shall provide within 14 days a list of these ten individuals, identified by name, address, amount of contribution and date contribution was received.

AMENDATORY SECTION (Amending WSR 96-05-001, filed 2/7/96, effective 3/9/96)

WAC 390-17-320 Contributions from corporations, businesses, unions and political committees. Pursuant to RCW 42.17.640((~~(11)~~)), entities prohibited from contributing to a candidate for state office, a state official against whom recall charges have been filed or a political committee having the expectation of making expenditures in support of the recall of the official shall not earmark or otherwise direct a contribution to one of these recipients through a political committee.

AMENDATORY SECTION (Amending WSR 98-12-037, filed 5/28/98, effective 6/28/98)

WAC 390-17-405 Volunteer services. (1) In accordance with RCW 42.17.020 ((~~(14)~~)) (15)(b)(vi), an individual may perform services or labor for a candidate or political committee without incurring a contribution, so long as the individual is not compensated by any person for the services or labor rendered and the services are of the kind commonly performed by volunteer campaign workers. These commonly performed services include:

(a) Office staffing;

(b) Doorbelling or leaflet drops;

(c) Mail handling (folding, stuffing, sorting and postal preparation);

(d) Political or fund raising event staffing;

(e) Telephone bank activity (conducting voter identification, surveys or polling, and get-out-the-vote campaigns);

(f) Construction and placement of yard signs, hand-held signs or in-door signs;

(g) Acting as a driver for candidate or candidate or committee staff;

(h) Scheduling of campaign appointments and events;

(i) Transporting voters to polling places on election day;

(j) Except as provided in subsection (2), preparing campaign disclosure reports required by chapter 42.17 RCW and otherwise helping to ensure compliance with state election or public disclosure laws;

(k) Campaign consulting and management services, polling and survey design, public relations and advertising, or fund-raising performed by any individual, so long as the individual does not ordinarily charge a fee or receive compensation for providing the service; and

(l) All similar activities as determined by the commission.

(2) An attorney or accountant may donate his or her professional services to a candidate, a candidate's authorized committee, a political party or a caucus political committee, without making a contribution in accordance with RCW 42.17.020 (((~~(14)~~))) (15)(b)(viii), if the attorney or accountant is:

(a) Employed and his or her employer is paying for the services rendered;

(b) Self-employed; or

(c) Performing services for which no compensation is paid by any person. However, neither RCW 42.17.020 (((~~(14)~~))) (15)(b)(viii) nor this section authorizes the services of an attorney or an accountant to be provided to a political committee without a contribution ensuing, unless the political committee is a candidate's authorized committee, political party or caucus political committee and the conditions of RCW 42.17.020 (((~~(14)~~))) (15)(b)(viii) and (a), (b) or (c) of this subsection are satisfied, or unless the political committee pays the fair market value of the services rendered.

AMENDATORY SECTION (Amending WSR 05-04-039, filed 1/27/05, effective 2/27/05)

WAC 390-17-310 Doing business in Washington. A corporation or business entity is "doing business in Washington state" for purposes of RCW 42.17.640(((~~(11)~~))) if it conducts continuous or substantial activities in Washington state of such character as to give rise to a legal obligation.

In determining whether a corporation or business entity is doing business in Washington state, the commission will take into consideration the following nonexclusive list of indicators:

• Purposefully availing itself of the privilege of conducting business in the state by invoking both benefits and protections of state law.

• Appointing an agent for service of process in Washington state.

• Registering as a corporation in Washington.

• Operating business locations in Washington.

• Hiring employees to work in Washington.

• Purchasing or selling goods or services in Washington.

• Operating an interactive internet web site for the purpose of conducting business.

WSR 06-18-048
WITHDRAWAL OF EXPEDITED RULE MAKING
DEPARTMENT OF SERVICES FOR THE BLIND

[Filed August 30, 2006, 11:27 a.m.]

The CR-105 - Expedited rule making, which was filed by the department of services for the blind on June 9, 2006 (WSR 06-13-014) had an error.

The following repealer should not have been submitted: WAC 67-25-325 Services available from other agencies.

The corrected version will be filed with the CR-103. If you have any questions, or need additional information, please do not hesitate to contact me.

Ellen Drumheller
Executive Assistant/PHR

WSR 06-18-091
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed September 5, 2006, 3:57 p.m.]

Title of Rule and Other Identifying Information: WAC 458-20-22802 Electronic funds transfer, RCW 82.32.080 requires that certain taxpayers remit payment of their combined excise tax return liability via "electronic funds transfer" (EFT). RCW 82.32.085 requires that the transfer be completed so that the state receives collectible funds on or before the next banking day following the tax return due date. This rule explains the EFT process.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Pat Moses, Tax Policy Specialist, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, fax (360) 586-5543, e-mail PatM@dor.wa.gov, AND RECEIVED BY November 6, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule currently explains that an EFT is due on or before 5:00 p.m., Pacific time, on the banking day following the tax return due date. Chapter 256, Laws of 2006, (HB 2671), provides that if a taxpayer uses the automated clearinghouse (ACH) debit procedure for an EFT, the payment will be deemed to have been received timely if the taxpayer initiates the transfer on or before 11:59 p.m. Pacific time on the return due date with a payment effective date on or before the next banking day after the due date. The ACH credit procedure was not changed.

The department is proposing this rule amendment to recognize this change. Minor formatting and editing changes are also proposed to provide the information in a more useful manner.

Reasons Supporting Proposal: To update the information in the rule to recognize 2006 legislation.

Statutory Authority for Adoption: RCW 82.32.085, 82.32.300, and 82.01.060(2).

Statute Being Implemented: RCW 82.32.080 and 82.32.085.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Pat Moses, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6116; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

September 5, 2006
Alan R. Lynn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-07-017, filed 3/13/01, effective 4/13/01)

WAC 458-20-22802 Electronic funds transfer. (1) **Introduction.** Certain taxpayers are required to pay the taxes reported on the combined excise tax return with an electronic funds transfer (EFT). RCW 82.32.080. Taxpayers who are not required to pay by EFT may still use this method of payment if they notify the department of their desire to pay by EFT in advance of making their first EFT payment. ((~~EFT merely changes the method of payment and no other tax return procedures or requirements are changed.~~)) Taxpayers who are either required or voluntarily choose to pay their excise tax returns by EFT must furnish the department with the necessary information, as described in subsection (9) of this ((~~rule~~)) section.

(2) **Definitions.** For the purposes of this section, the following terms will apply:

(a) "Electronic funds transfer" or "EFT" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

(b) "ACH" or "automated clearing house" means a central distribution and settlement system for the electronic clearing of debits and credits between financial institutions.

(c) "ACH debit" means the electronic transfer of funds cleared through the ACH system that is generated by the taxpayer instructing the department's bank to charge the taxpayer's account and deposit the funds to the department's account.

(d) "ACH credit" means the electronic transfer of funds cleared through the ACH system that is generated by the taxpayer instructing the taxpayer's bank to charge the taxpayer's account and deposit the funds to the department's account.

(e) "Department's bank" means the bank with which the department of revenue has a contract to assist in the receipt of taxes and includes any agents of the bank.

(f) "Collectible funds" actually means collected funds that have completed the electronic funds transfer process and are available for immediate use by the state.

(g) "ACH CCD + addenda" and "ACH CCD + record" mean the information in a required ACH format that needs to be transmitted to properly identify the payment.

(h) "Service access key" means a unique code that allows an ACH debit transaction to occur.

(3) **Taxpayers required to pay by EFT.** Taxpayers who have taxes due of $240,000 or more in a calendar year are required to pay by EFT. Total taxes due from the last complete calendar year will be used to determine whether a taxpayer is required to pay by EFT. When a calendar year total indicates a taxpayer is required to pay by EFT, the department will notify that taxpayer. The notification will be made at least three months prior to the date that the first EFT payment is required.

The requirement to pay by EFT will be waived if the taxpayer reasonably shows to the department that it will not meet or exceed the EFT threshold for taxes due in the calendar year.

(4) **Taxes covered.** The taxes covered by the EFT payment are taxes reported on the combined excise tax return. The included taxes are those administered by the department under chapter 82.32 RCW except city and town taxes on financial institutions (chapter 82.14A RCW), county tax on telephone access lines (chapter 82.14B RCW), cigarette tax (chapter 82.24 RCW), enhanced food fish tax (chapter 82.27 RCW), leasehold excise tax (chapter 82.29A RCW), and forest tax (chapter 84.33 RCW).

(5) **Refunds by EFT.** Overpayments of tax will be either credited to future tax liabilities or, at the taxpayer's request, will be refunded. If the taxpayer is required to pay the taxes on the combined excise tax return by EFT, the taxpayer is entitled to a refund of those taxes by EFT. However, if the taxpayer wishes to have the refund made by EFT, the taxpayer must provide the department with the information necessary to make an appropriate EFT or the refund will be issued as a warrant (check).

(6) **EFT methods.** Taxpayers required to pay by EFT must do so through the use of the ACH debit or ACH credit methods. All other taxpayers paying via EFT must do so through the use of ACH debit, ACH credit or other electronic payment methods approved by the department. In an emergency, the taxpayer should contact the department for alternative methods of payment. Contact information will be included in the notification materials sent to all EFT remitters.

(7) **Due date of EFT payment.** The EFT payment is due on or before the banking day following the tax return due date. An EFT payment made using the ACH credit method is timely when the state receives collectible U.S. funds on or before 5:00 p.m., Pacific Time, on the EFT payment due date. An EFT payment made using the ACH debit method is timely if the payment is initiated on or before 11:59 p.m. Pacific Time on the EFT return due date, and the effective date for that payment is on or before the next banking day following

the tax return due date. The ACH system, either ACH debit or ACH credit, requires that the necessary information be in the originating bank's possession on the banking day preceding the date for completion of the transaction. Each bank generally has its own transaction deadlines and it is the responsibility of the taxpayer to insure timely payment.

(a) The tax return due date is the next business day after the statutory due date if the statutory due date falls on a Saturday, Sunday, or legal holiday. Legal holidays are determined under state of Washington law and banking holidays are those recognized by the Federal Reserve System in the state of Washington.

(b) Example. The tax return due date is December 25th, a legal and banking holiday, which, for the example, falls on a Friday. The next business day is Monday, December 28th, and this is the new tax return due date. EFT must be completed by 5:00 p.m., Pacific Time, Tuesday, December 29th, which is the next banking day after the new due date. For an ACH debit user, the department's bank must have the appropriate information by 5:00 p.m., Pacific Time, on Monday, December 28th.

(8) **Coordinating return and payment.** The filed return and the EFT payment will be coordinated by the department. A return will be considered timely filed only if it is received by the department on or before the due date. If the return is sent by United States mail, it will be considered received on the date shown by the post office cancellation mark stamped on the envelope. RCW 82.32.080. In addition, the EFT payment must be received by the next banking day after the tax return due date. If both events occur, there is timely filing and payment and no penalties apply.

(9) **Form and contents of EFT.** The form and content of EFT will be as follows:

(a) If the taxpayer wishes to use the ACH debit system of EFT, the taxpayer will furnish the department with the information needed to complete the transaction. The department's bank will provide a service access key only to the taxpayer and all transactions must be initiated by the taxpayer.

(b) If the taxpayer wishes to use the ACH credit system of the EFT, the taxpayer is responsible to see that its bank has the information necessary for timely completion. The taxpayer must provide the information necessary for its bank to complete the ACH CCD + addenda for transmittal to the department's bank.

(c) If the taxpayer is not a taxpayer that is required to pay by EFT, and wishes to use any other electronic payment method approved by the department, the taxpayer must provide the information necessary for the payment processing institution to timely process the payment.

(10) **Crediting and proof of payment.** The department will credit the taxpayer with the amount paid as of the date the payment is received by the department's bank. The proof of payment by the taxpayer will depend on the means of transmission.

(a) An ACH debit transaction may be proved by use of the verification number received from the department's bank that the transaction was initiated and bank statements or other evidence from the bank that the transaction was settled.

(b) An ACH credit transaction is initiated by the taxpayer through the taxpayer's bank. The taxpayer is responsible for completion of the transaction. The taxpayer generally will be given a verification number by the taxpayer's bank. This verification number with proof of the ACH CCD + record showing the department's bank and account number, plus confirmation that the transaction has been settled will constitute proof of payment.

(c) Taxpayers using any other electronic payment method are responsible for completion of the transaction. Proof of payment will include transaction initiation date and any other evidence from a financial institution that the transaction was settled.

(11) **Correcting errors.** Errors in the EFT process will result in either an underpayment or an overpayment of the tax. In either case, the taxpayer needs to contact the department to arrange for appropriate action. Overpayments may be used as a credit or the taxpayer may apply for a refund. The department will expedite a refund where it is caused by an error in transmission. Underpayments should be corrected by the taxpayer immediately to avoid any penalties.

(12) **Penalties.** There are no special provisions for penalties when payment is made by EFT. The general provisions for all taxpayers apply. To avoid the imposition of penalties, it is necessary for the payment to be timely. WAC 458-20-228 discusses the various penalties that may apply and the limited circumstances under which they may be waived.

(a) In an ACH debit transaction, the department's bank is the originating bank and is responsible for the accuracy of transmission. If the taxpayer has timely initiated the ACH debit, received a verification number, and shows adequate funds were available in the account, no penalties will apply with respect to those funds authorized.

(b) In an ACH credit transaction, the taxpayer's bank is the originating bank and the taxpayer is primarily responsible for its accuracy. The taxpayer must have timely initiated the transaction, provided the correct information for the ACH CCD + record, and shown that there were sufficient funds in the account, in order to prove timely compliance. If the taxpayer can make this showing, then no penalties will apply as to those funds authorized if the transaction is not completed.

(c) With the use of other electronic payment methods, the taxpayer's financial institution is the originator of the payment transaction and the taxpayer is primarily responsible for the accuracy of this transaction. The taxpayer must have timely initiated the transaction and shown that there were sufficient funds in the account in order to prove timely compliance. If the taxpayer can make this showing, then no penalties will apply as to those funds authorized if the transaction is not completed.

WSR 06-18-092
EXPEDITED RULES
DEPARTMENT OF REVENUE
[Filed September 5, 2006, 3:58 p.m.]

Title of Rule and Other Identifying Information: WAC 458-20-255 Syrup tax, this rule explains the carbonated beverage syrup tax imposed by chapter 82.64 RCW. The syrup tax is an excise tax on the syrup, sold in this state, for use in making carbonated beverages.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Gayle Carlson, Department of Revenue, P.O. Box 47454, Olympia, WA 98504-7454, fax (360) 586-5543, e-mail GayleC@dor.wa.gov, AND RECEIVED BY November 6, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-20-255 is being adopted to reflect chapter 245, Laws of 2006 (SSB 6533), which provides a business and occupation (B&O) tax credit, effective July 1, 2006, to buyers using the syrup to make carbonated beverages.

Reasons Supporting Proposal: To recognize 2006 legislation providing a B&O tax credit to certain buyers of carbonated beverage syrup.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: Chapter 82.64 RCW.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Gayle Carlson, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6126; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

September 5, 2006
Alan R. Lynn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-02-009, filed 12/27/04, effective 1/27/05)

WAC 458-20-255 Carbonated beverage syrup tax. (1) **Introduction.** This ((~~rule~~)) section explains the carbonated beverage syrup tax (syrup tax) as imposed by chapter 82.64 RCW. The syrup tax is an excise tax on the number of gallons of carbonated beverage syrup sold in this state, for use in producing carbonated beverages that are sold at wholesale or retail in this state. The syrup tax is in addition to all other taxes.

Except as otherwise provided in this rule, the provisions of chapters 82.04, 82.08, 82.12 and 82.32 RCW regarding definitions, due dates, reporting periods, tax return requirements, interest and penalties, tax audits and limitations, disputes and appeals, and all general administrative provisions apply to the syrup tax.

This rule provides examples that identify a number of facts and then state a conclusion regarding the applicability of the syrup tax. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(2) **What is carbonated beverage syrup?** Carbonated beverage syrup (syrup) is a concentrated liquid that is added to carbonated water to produce a carbonated beverage. "Syrup" includes concentrated liquid marketed by manufacturers to which purchasers add water, carbon dioxide, or carbonated water to produce a carbonated beverage. "Carbonated beverage" includes any nonalcoholic liquid intended for human consumption that contains any amount of carbon dioxide((~~, such as~~)). Examples include soft drinks, mineral ((~~or carbonated~~)) waters, seltzers, and fruit juices, ((~~or~~)) if carbonated, and frozen carbonated beverages known as FCBs. "Carbonated beverage" does not include products such as bromides or carbonated liquids commonly sold as pharmaceuticals.

(3) **When is syrup tax imposed and how is it determined?** Syrup tax is imposed on the wholesale or retail sales of syrup within this state. The syrup tax is determined by the number of gallons of syrup sold. Fractional amounts are taxed proportionally.

(a) **When should syrup tax be reported and paid?** The frequency of reporting and paying the syrup tax coincides with the reporting periods of taxpayers for their business and occupation (B&O) tax. For example, a wholesaler who reports B&O tax monthly would also report any syrup tax liability on the monthly excise tax return.

(b) **What if I sell both previously taxed and nontaxed syrups?** Persons selling syrups in this state, some of which have been previously taxed in this or other states and some of which have not, may contact the department of revenue (department) for authorization to use formulary tax reporting. Prior to reporting in this manner, the person must receive a special ruling from the department that allows formulary reporting. A ruling may be obtained by writing the department at:

Taxpayer Information and Education
Department of Revenue
P.O. Box 47478
Olympia, WA 98504-7478

Persons selling previously taxed syrups should refer to subsections (5)(a) and (6) of this ((~~rule~~)) section for information about an exemption or credit that may be applicable to such sales.

(4) **Who is responsible for paying the syrup tax?** This subsection explains who is responsible for payment of the syrup tax for both wholesale and retail sales of syrup in this state.

(a) **Wholesale sales.** A wholesaler making a wholesale sale of syrup in this state must collect the tax from the buyer and report and pay the tax to the department. If, however, the wholesaler is prohibited from collecting the tax under the Constitution of this state or the Constitution or laws of the United States, the wholesaler is liable for the tax. A wholesaler who fails or refuses to collect the syrup tax with intent to violate the provisions of chapter 82.64 RCW, or to gain some advantage directly or indirectly is guilty of a misdemeanor. The buyer is responsible for paying the syrup tax to the wholesaler. The syrup tax required to be collected by the

wholesaler is a debt from the buyer to the wholesaler, until the tax is paid by the buyer to the wholesaler. Except as provided in subsection (5)(b)(ii) of this ((~~rule~~)) section, the buyer is not obligated to pay or report the syrup tax to the department.

(b) **Retail sales.** A retailer making a retail sale in this state of syrup purchased from a wholesaler who has not collected the tax must report and pay the tax to the department. Except as provided in subsection (5)(b)(ii) of this ((~~rule~~)) section, the buyer is not obligated to pay or report the syrup tax to the department.

(5) **Exemptions:** This subsection provides information on exemptions from the syrup tax.

(a) **Previously taxed syrup.** Any successive sale of previously taxed syrup is exempt. "Previously taxed syrup" is syrup on which tax has been paid under chapter 82.64 RCW.

(i) All persons selling or otherwise transferring possession of taxed syrup, except retailers, must separately itemize the amount of the syrup tax on the invoice, bill of lading, or other instrument of sale. Beer and wine wholesalers selling syrup on which the syrup tax has been paid and who are prohibited under RCW 66.28.010 from having a direct or indirect financial interest in any retail business may, instead of a separate itemization of the amount of the syrup tax, provide a statement on the instrument of sale that the syrup tax has been paid. For purposes of the payment and the itemization of the syrup tax, the tax computed on standard units of a product (e.g., cases, liters, gallons) may be stated in an amount rounded to the nearest cent. In competitive bid documents, unless the syrup tax is separately itemized in the bid documents, the syrup tax will not be considered as included in the bid price. In either case, the syrup tax must be separately itemized on the instrument of sale except when the separate itemization is prohibited by law.

(ii) Any person prohibited by federal or state law, ruling, or requirement from itemizing the syrup tax on an invoice, bill of lading, or other document of delivery must retain the documentation necessary for verification of the payment of the syrup tax.

(iii) A subsequent sale of syrup sold or delivered upon an invoice, bill of lading, or other document of sale that contains a separate itemization of the syrup tax is exempt from the tax. However, a subsequent sale of syrup sold or delivered to the subsequent seller upon an invoice, bill of lading, or other document of sale that does not contain a separate itemization of the syrup tax is conclusively presumed to be previously untaxed syrup, and the seller must report and pay the syrup tax unless the sale is otherwise exempt.

(iv) The exemption for syrup tax previously paid is available for any person selling previously taxed syrup even though the previous payment may have been satisfied by the use of credits or offsets available to the prior seller.

(v) Example. Company A sells to Company B a syrup on which Company A paid a similar syrup tax in another state. Company A takes a credit against its Washington tax liability in the amount of the other state's tax paid (see subsection (6) of this ((~~rule~~)) section). It provides Company B with an invoice containing a separate itemization of the syrup tax. Company B's subsequent sale is tax exempt even though Company A has not directly paid Washington's tax but has used a credit against its Washington liability.

(b) **Syrup transferred out-of-state.** Any syrup that is transferred to a point outside the state for use outside the state is exempt. The exemption for the sale of exported syrup may be taken by any seller within the chain of distribution.

(i) **Required documentation.** The prior approval of the department is not required to claim an exemption from the syrup tax for exported syrup. The seller, at the time of sale, must retain in its records an exemption certificate completed by the buyer to document the exempt nature of the sale. This requirement may be satisfied by using the department's "Certificate of Tax Exempt Export Carbonated Beverage Syrup," or another certificate with substantially the same information. A blank exemption certificate can be obtained through the following means:

(A) From the department's internet web site at http://dor.wa.gov;

(B) By facsimile by calling Fast Fax at ((~~(~~))360((~~)~~))-705-6705 or ((~~(~~))800((~~)~~))-647-7706 (using menu options); or

(C) By writing to: Taxpayer Services, Washington State Department of Revenue, P.O.Box 47478, Olympia, Washington 98504-7478.

(ii) The exemption certificate may be used so long as some portion of the syrup is exported. Sellers are under no obligation to verify the amount of syrup to be exported by their buyers providing such certificates. Buyers providing exemption certificates for exported syrup agree to become liable for tax and any associated penalties and interest on syrup that is not exported.

(iii) Example. Company A sells a previously untaxed syrup to Company C. Company C provides the seller with a completed exemption certificate as explained in subsection (5)(b)(i) of this ((~~rule~~)) section. Company C sells the syrup to Company D, who provides Company C with an exemption certificate. Company D decides to not export a portion of the purchased syrup. Companies A and C can both accept exemption certificates. Company D is responsible for paying syrup tax on the syrup not exported.

(iv) Persons who make sales of syrup to persons outside this state must keep the proofs required by WAC 458-20-193 (Inbound and outbound interstate sales of tangible personal property) to substantiate the out-of-state sales.

(c) **Taxation prohibited under the United States Constitution.** Persons or activities that the state is prohibited from taxing under the United States Constitution are exempt.

(d) **Wholesale sales of trademarked syrup to bottlers.** Any wholesale sale of a trademarked syrup by any person to a person commonly known as a bottler who is appointed by the owner of the trademark to manufacture, distribute, and sell the trademarked carbonated beverage within a specific geographic territory is exempt.

(6) **((~~Credit for syrup tax paid to another state.~~)) Syrup tax credits.**

(a) **B&O tax credit for syrup tax paid.** Chapter 245, Laws of 2006 (SSB 6533) provided a B&O tax credit effective July 1, 2006. The credit is available to any buyer of syrup using the syrup in making carbonated beverages that are then sold, provided that the syrup tax, imposed by RCW

82.64.020, has been paid. The tax credit is a percentage of the syrup tax paid.

(i) **How much is the credit?** For syrup purchased July 1, 2006, through June 30, 2007, the B&O tax credit for the buyer is equivalent to twenty-five percent of the syrup tax paid. From July 1, 2007, through June 30, 2008, the allowable credit is fifty percent. From July 1, 2008, through June 30, 2009, the credit is seventy-five percent. As of July 1, 2009, the buyer is entitled to a B&O tax credit of one hundred percent of the syrup tax paid.

(ii) **When can the credit be taken?** The B&O tax credit can be claimed against taxes due for the tax reporting period in which the taxpayer purchased the syrup. The credit cannot exceed the amount of B&O tax due, nor can credit be refunded. Unused credit may be carried over and used for future reporting periods for a maximum of one year. The year starts at the end of the reporting period in which the syrup was purchased and credit was earned.

(b) **Credit for syrup tax paid to another state.** Credit is allowed against the taxes imposed by chapter 82.64 RCW for any syrup tax paid to another state with respect to the same syrup. The amount of the credit cannot exceed the tax liability arising under chapter 82.64 RCW. The amount of credit is limited to the amount of tax paid in this state upon the wholesale sale of the same syrup in this state. In addition, the credit may not be applied against any tax paid or owed in this state other than the syrup tax imposed by chapter 82.64 RCW.

(((~~(a)~~))) (i) **What is a state?** For purposes of the syrup tax credit, "state" is any state of the United States other than Washington, or any political subdivision of another state; the District of Columbia; and any foreign country or political subdivision of a foreign country.

(((~~(b)~~))) (ii) **What is a syrup tax?** For purposes of the syrup tax credit, "syrup tax" means a tax that is:

(((~~(i)~~))) (A) Imposed on the sale at wholesale of syrup and is not generally imposed on other activities or privileges; and

(((~~(ii)~~))) (B) Measured by the volume of the syrup.

(((~~(c)~~))) (iii) **How and when to claim the credit.** Any tax credit available to the taxpayer should be claimed and offset against tax liability reported on the same excise tax return when possible. The excise tax return provides a line for reporting syrup tax, and the credit must be taken in the credit section under the credit classification "other credits." A statement showing the computation of the credit must be provided. It is not required that any other documents or other evidence of entitlement to credits be submitted with the return. Such proofs must be retained in permanent records for the purpose of verification of credits taken.

WSR 06-18-098
EXPEDITED RULES
OFFICE OF THE INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2006-07—Filed September 6, 2006, 9:32 a.m.]

Title of Rule and Other Identifying Information: WAC 284-17-220 Effective date.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kacy Scott, Insurance Commissioner's Office, P.O. Box 40255, Olympia, WA 98504-0255, e-mail Kacys@oic.wa.gov, fax (360) 586-3109, AND RECEIVED BY November 7, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend the date that individual agents and solicitors licensed to sell vehicle insurance must meet the continuing education requirement from "beginning with January 1, 2007, renewals" to "beginning with January 1, 2008, renewals."

Reasons Supporting Proposal: The office of the insurance commissioner's (OIC) computer system is not yet capable of accepting the continuing education certificate hours for these types of licensees. The expected "go live" date for the new OIC system is approximately December 2006; however, necessary enhancements to the new system will not be in place by January 1, 2007, to accept the CE certificates for these licensees. Delaying the implementation of this rule for a year will allow the OIC time to have the new computer system programmed. It also allows the licensees additional time to become more familiar with the new continuing education requirement and to obtain the necessary credit hours prior to their license renewal date.

Statutory Authority for Adoption: RCW 48.02.060, 48.17.150.

Statute Being Implemented: RCW 47.17.150, 48.17.-210.

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: Dora Duval, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7156; Implementation and Enforcement: John Hamje, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7262.

September 6, 2006
Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2004-04, filed 3/17/05, effective 4/17/05)

WAC 284-17-220 Who is required to meet continuing education (CE) requirements? All individual resident agents, brokers and solicitors licensed to sell life, disability, property and casualty lines of insurance must meet the continuing education requirement.

Individual agents and solicitors licensed to sell vehicle insurance must meet the continuing education requirement beginning with January 1, ((~~2007~~)) 2008, renewals.