

**WSR 06-24-052**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**

[Filed December 1, 2006, 2:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-07-111.

Title of Rule and Other Identifying Information: New chapter 230-15 WAC.

Hearing Location(s): Red Lion Hotel, 2300 Evergreen Park Drive, Olympia, WA 98502, (360) 943-4000, on March 9, 2007, at 9:30 a.m.

Date of Intended Adoption: March 9, 2007.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail [Susana@wsgc.wa.gov](mailto:Susana@wsgc.wa.gov), fax (360) 486-3625, by March 1, 2007.

Assistance for Persons with Disabilities: Contact Shirley Corbett by March 1, 2007, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The gambling commission is rewriting its rules manual using plain English techniques. The rules manual has been divided into sections and is being rewritten a section at a time. Attached are rules relating to card games. These rules are written in plain talk and now numbered as chapter 230-15 WAC. Any changes to rules that are more than a rewrite to plain English, substantive changes, are explained below.

Directors have for a number of years delegated those decision-making duties to the deputy director, assistant directors, administrators, supervisors, special agents, and staff. In several of the rules the director or director's designee approves or takes an action. We have reevaluated the rules with these director delegations with director day and made policy decisions about which of them require the director to become involved and which may be delegated to commission staff.

**Current Rule** WAC 230-40-010 Rules of play in all card games. **New Rule** WAC 230-15-030 Authorized non-house-banked card games, 230-15-035 Requirements for authorized card games, 230-15-040 Authorizing new games or changing game rules, and 230-15-045 Withdrawing approved card game.

**Current Rule** WAC 230-40-050 Fees for nonhouse-banked card games—Assessment and collection—Maximum fees. **New Rule** WAC 230-15-075 Card game fees for non-house-banked card games.

**Current Rule** WAC 230-40-070 Licensee to furnish all cards, chips and other services. **New Rule** WAC 230-15-100 Providing cards and chips in card rooms.

**Current Rule** WAC 230-40-400 Hours for card games—Procedures for changing hours. **New Rule** WAC 230-15-025 Hours of play.

**Current Rule** WAC 230-40-505 Rules of play for social card games—Display—Availability for review. **New Rule** WAC 230-15-065 Enforcement of card game rules of play and 230-15-485 Standards for electronic facsimiles of cards.

**Current Rule** WAC 230-40-600 Authorization procedures for player-supported jackpots. **New Rule** WAC 230-15-365 Getting approval for player-supported jackpots.

**Current Rule** WAC 230-40-801 Interruption of card games—Preoperational review and evaluation required—Procedures—House-banking. **New Rule** WAC 230-15-545 Interruption of card games for more than seven days.

**Current Rule** WAC 230-40-805 Progressive jackpot prizes—Procedures—Restrictions—House-banking. **New Rule** WAC 230-15-710 Permanently removing a progressive jackpot or a portion of a progressive jackpot from play.

**Current Rule** WAC 230-40-810 House-banked card games—Odds based wagers—Prizes—Restrictions—Procedures. **New Rule** WAC 230-15-490 Limiting payouts for odds-based wagers.

**Current Rule** WAC 230-40-823 Financial audits and reviews required—House-banking. **New Rule** WAC 230-15-740 Preparing required financial statements.

**Current Rule** WAC 230-40-865 Distributing chips and coins to tables—Requests and fills—House-banking. **New Rule** WAC 230-15-510 Transferring chips and coin to the gambling tables.

**Current Rule** WAC 230-40-870 Removing chips and coins from tables—Requests and credits—House-banking. **New Rule** WAC 230-15-530 Completing the credit process.

**Current Rule** WAC 230-40-895 Key control—House-banking. **New Rule** WAC 230-15-635 Electronic key control systems.

When a business is licensed, the business is given a packet of forms which it uses to administer the card room. Some of these forms must be used; others are model forms which the licensee may convert to their own use. Much of the information in the "laundry lists" in the rules is repeated verbatim on the application and administration forms. Repeating it in the rule is unnecessary.

The new rules remove these "laundry lists" to simplify the process of filling out the records. Card game licensees no longer have to look up the rule to ensure that they are properly completing their records; instead, they can complete the form in their card room packet and know that they have completed the records correctly. Many of the rules in current chapter 230-40 WAC are "laundry lists" that repeat verbatim the information that is required of licensees on agency forms. Staff is recommending removing the detailed lists of required information included in the WAC rules and adding the phrase, "in the format we require."

**Current Rules:** WAC 230-40-010 Rules of play for all card games, 230-40-052 Daily records—Card games, 230-08-160 Semiannual activity reports by operators of social and public card rooms, 230-40-800 Operating rules for house-banked card games, 230-40-830 Cashier's cage—Requirements—House-banking, 230-40-845 Procedures for exchange of checks submitted by gaming patrons at cashier's cage, 230-40-870 Removing chips and coins from tables—Requests and credits—House-banking, and 230-40-875 Closing gaming tables—House-banking.

The current rule defines "guest" by referring to the liquor control board's authorized guest card. We propose changing this rule to align it with our definition of "full and regular membership" in a charitable or nonprofit organization which

is set out in the new licensing rules at WAC 230-03-140. We removed that reference to guest and added our own definition because the liquor control board no longer issues guest cards.

**WAC 230-02-420 Social card room and 230-02-430 Guest. New Rule WAC 230-15-015 "Charitable and nonprofit social card room" and "guest" defined.**

Licensees are already complying with the requirements for cash on hand. This change would make that compliance mandatory and align the rules with the actual practice of agents and licensees. We propose relocating this rule into the "general card room rules" section of the chapter instead of having it only in the house-banked card room rules section. We suggest this change because the minimum cash on hand requirements should be a requirement for all card game licensees, not just house-banked licensees.

**WAC 230-40-833 Cashier's bank and minimum bankroll—House-banking. New Rule WAC 230-15-050 Minimum cash on hand requirements.**

We put in these priorities to explain the precedence when resolving disputes. The original rule states that the applicability of rules of play is determined by these priorities and lists the four priorities. We changed the language of the rule to emphasize that the order of priority is how we will *enforce* rules of play.

**WAC 230-40-505 Rules of play for social card games—Display—Availability for review. WAC 230-15-065 Enforcement of card game rules of play.**

We propose removing this rule entirely. No game rules would allow licensees to change the method of wagering in the middle of a hand or game, so we felt the rule was unnecessary. We also have alternative ways to enforce this concept: We would not approve a game in the future that allowed wagering methods to change in mid-hand or mid-game.

**WAC 230-40-140 Change in method of wagering prohibited.**

When the rule was passed in 2000, we tried to leave the regulation broad so that we could allow for possible changes in method. No one has submitted a request for another method of collection. If one were submitted, it would require a rule change. There are no standards to determine what method of collection the director should allow. Going through the rules change process is a better method to evaluate any new collection methods. We took out a sentence that stated that the director could authorize alternative methods of collection. We have not authorized an alternative method of collection beyond a period of time, per hand, or rake fee.

**WAC 230-40-050 Fees for nonhouse-banked card games—Assessment and collection—Maximum fees. WAC 230-15-080 Authorized fees and authorized methods of collection.**

We propose including Class B and Class C charitable or nonprofit card game licensees in this rule because these classes were inadvertently left out of the original rule. All card game licensees, except for Class D, must provide cards and chips and may not charge players for these.

**WAC 230-40-070 Licensee to furnish all cards, chips and other services. WAC 230-15-100 Providing cards and chips in card rooms.**

We propose removing "that business day" from the text because there's no practical way to enforce the rule unless we search everyone leaving the premises. There was a typographical error in the packet last month and the words we meant to be stricken were left in. I corrected that mistake with this packet's version.

**WAC 230-40-080 Person not to bring their own cards or chips. WAC 230-15-105 Only authorized cards or chips may be used.**

We propose including subsection (6) stating that licensees must "count each transaction for the purchase of chips as a separate transaction; for example, do not allow a player's check to be altered after it is exchanged for chips." We want to emphasize that checks, once received by the cashier, cannot be altered. Players must write a second check if they want to buy more chips later, instead of altering a check already received at the cashier's cage. We are clarifying original rule language about separate transactions for each purchase.

**WAC 230-40-070 Licensee to furnish all cards, chips and other services. WAC 230-15-150 Selling and redeeming chips.**

We propose removing this rule entirely because this rule was combined with rules covering the licensing of card room employees and now appears in WAC 230-03-265 of the licensing chapter.

**WAC 230-02-415 Card room employee defined.**

When the house-banked card game license was introduced in 2000, we stopped enforcing the requirement for employers to post these photos because of safety and privacy concerns of card room employee licensees. It is also impractical to require licensees to post the photos of eighty to ninety employees. We propose removing the requirement that photos of card room employees be posted in the card room. Licensees must, however, have photos of the employees on site and available for inspection.

**WAC 230-40-450 Pictures to be posted with employee licenses. WAC 230-15-170 Photos of card room employees required.**

We are proposing a change to the amount of time within which staff must receive notice of a card room employee terminating employment. The original rule required licensees report to us "not later than 5 p.m. on the seventh day" after the card room employee terminates employment. We have changed that to "within ten days of the employee terminating."

We have attempted in other rules to standardize the timing of reporting by requiring notice within thirty days, or when thirty days is not reasonable, ten days. In this case, thirty days is not a reasonable amount of time because field staff needs to know who is working in a particular location at a given time.

The change is less restrictive than the previous rule and provides a reasonable amount of time for the licensee to

respond. Seven days have been the standard since the rules were passed in 2000.

**WAC 230-04-142 Notification to the commission upon beginning, terminating, or changing employment—Public card room employees. WAC 230-15-175 Reporting card room employees no longer working.**

In the original rule, we required licensees to notify local law enforcement of cheating immediately. In the new rule, we have added that licensees must also report cheating to us within three days. This change matches the current field requirements.

**WAC 230-40-250 Licensee to prevent cheating in card games. WAC 230-15-185 Preventing cheating in card games.**

We propose removing this rule entirely. Licensees may now give away food and nonalcoholic drinks without charge now according to WAC 230-06-035 (formerly WAC 230-12-050) which the commission passed earlier as part of the rules simplification project.

**WAC 230-40-315 No food or drink sales on time basis in card room.**

We are proposing to change the requirement for when monthly records must be printed or backed up in a permanent form from "on a periodic basis" to a less ambiguous length of time: Once per month.

**WAC 230-08-010 Monthly records and 230-40-052 Daily records—Card games. WAC 230-15-190 Preparing card room records.**

Licensees routinely use a sign up log to determine which players will participate in a tournament. Licensees often have more players signed up than they have seats in the tournament. A licensee may use a drawing to determine who will be allowed to play. However, after the tournament has begun, licensees may not use a drawing to fill an extra seat. We are proposing the addition of a rule interpretation language that states, "After the tournament has begun, card game licensees must not conduct a drawing to decide who will fill an extra seat." Addressing rule interpretations was a goal of the rules simplification project. Our goal is to write clearer WACs and eliminate the need for rule interpretations.

**WAC 230-40-050 Fees for nonhouse-banked games and 230-40-055 Card tournaments for fee and prizes—Reporting requirements. WAC 230-15-225 Tournament rules and prizes.**

We are proposing the addition of a rule interpretation that states that owners of card rooms may hold tournaments that restrict entry to certain groups as long as they post all the restrictions on entry in the tournament rules. Addressing rule interpretations was a goal of the rules simplification project. Our goal is to replace all rule interpretations with clearer WACs.

**WAC 230-40-055 Card tournaments for fee and prizes—Reporting requirements. Customer appreciation. WAC 230-15-235 Exclusive tournament entry as customer appreciation.**

The original rule was passed in 1974 and, in many cases, rules like this one repeat the language of the statute. We pro-

pose removing portions of this rule entirely because this restriction is in RCW 9.46.0351; therefore, we do not need to repeat it in the WAC.

**WAC 230-40-500 Unlicensed charitable and nonprofit card games—Authority—House rules to be developed and posted.**

We propose removing this rule entirely because posting a fee schedule is handled in the section on house rules and does not need to be repeated here.

**WAC 230-40-050 Fees for nonhouse-banked card games—Assessment and collection—Maximum fees.**

In October 2004, a rule change was erroneously made to WAC 230-40-625. We are using this opportunity to correct the use of multiplex and quad recording devices in required surveillance. We have combined the surveillance requirements for both Class F and house-banked licensees into one section and merged most of the rules. This particular rule change makes consistent the requirements for when and where licensees may use multiplex and quad recording devices. The current WAC 230-40-625 states that multiplexing and quad recording devices may not be used in required surveillance, when in actuality, they may be used on certain required areas.

**WAC 230-40-625 Closed circuit television system—Class F card rooms and 230-40-825 Closed circuit television system—House-banking. WAC 230-15-300 Using multiplex and quad recording devices in required surveillance.**

We have combined the surveillance requirements for both Class F and house-banked licensees into one section and merged most of the rules. This particular rule change requires that licensees keep a surveillance room sign-in log to document anyone entering or leaving the surveillance room. The previous rule required an employee sign-in log. Informally, a visitor's sign-in log was used in the surveillance room as well. We are combining both logs to improve consistency and accuracy of the log.

**WAC 230-40-625 Closed circuit television system—Class F card rooms and 230-40-825 Closed circuit television system—House-banking. WAC 230-15-325 Surveillance room sign-in log.**

We are proposing the removal of subsection (1)(e) of the current rule which includes requirements that security and surveillance be established in the internal controls. We also added subsection (3), "Licensees and all card room employees must follow the internal controls at all times." Class F card game licensees are not required to have a separate security department and surveillance requirements for Class F licensees are covered in other rules. Repeating these requirements here is redundant. The additional requirement for Class F licensees and card room employees to follow internal controls adds to the consistency of enforcement for card game licensees.

**WAC 230-40-615 Nonhouse-banked card games—Administrative and accounting control structure—Organization. WAC 230-15-335 Internal controls.**

We propose removing this section of the rule entirely. The restrictions contained in this section are covered in other rules.

**WAC 230-40-830 Cashier's cage—Requirements—House-banking.**

We are suggesting a change to the final section of this rule. It formerly said, "This assessment shall be separately collected using the rake method." We have changed it to say, "Licensees must use either the chip rack or drop box method to collect these funds." Rake is a type of fee; chip rack or drop box are the collection methods. We are attempting to clarify the terms we use in the card game rules and this change uses those rules in a more consistent manner.

**WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval. WAC 230-15-385 Collecting funds for a player-supported jackpot.**

The restrictions contained in this section are covered in other rules.

**WAC 230-40-610(9) Player-supported jackpots—Restrictions—Manner of conducting—Approval.**

We have changed subsection (1) to state that the bank used for player supported jackpots has to be in Washington state. We also define "Washington state depository" as "Washington state bank, mutual savings bank, or credit union" in all the new rules.

In subsection (6), we addressed a rule interpretation from June 24, 2005, about transferring funds before the end of the month, and in subsection (7), we added a definition of reconcile.

The first change introduces new terminology that will be used from now on in the rules concerning banking institutions. In subsection (6) we are clarifying the rule as the RSP charter calls for. The change to subsection (7) clarifies and codifies the definition of reconcile.

**WAC 230-40-608 Deposit requirements—Player-supported jackpot funds. WAC 230-15-400 Accounting for player-supported jackpot funds.**

This rule was initially passed to make certain that a winning hand was kept on premises for a reasonable amount of time. Licensees could ask for release or could be given a release by commission agents.

In the field, however, we found that the release has not been requested and we have never given one, so we're making the change.

We have changed the old rule language: "The winning hand and remaining deck shall be maintained on the premises as part of daily card room records for a period of seven days, *unless released* by a commission agent" to "Licensees must keep the winning hand and remaining deck on the business premises for seven gambling days." As a practical manner, agents never release licensees from keeping the winning hand and deck.

**WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval. WAC 230-15-405 Paying out prizes on a player-supported jackpot.**

In this rule, we added the phrase "prize fund custodian" to subsections (2) and (3) of the text. Because of the important restrictions on owners and card room employees playing in player-supported jackpots set out in this rule, we're certain that prize fund custodians are also meant to be restricted.

**WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval. WAC 230-15-410 Owners, prize fund custodians, and card room employees participating in player-supported jackpots.**

Previously, we had no instructions about what licensees must do if a taxing authority seized all or part of a player-supported jackpot to cover unpaid gambling or other taxes. Adding this rule interpretation brings the rule in line with current practice about tax seizure. An existing rule interpretation concerning taxing authorities seizing player-supported jackpot funds was written into this rule.

**WAC 230-40-610(10) Player-supported jackpots—Restrictions—Manner of conducting—Approval. WAC 230-15-415 Removing a player-supported jackpot from play.**

Most times, disputes over player-supported jackpots are resolved without the need for the director to be involved. We wish to give the director the discretion to decide when he or she needs to become involved. A director has only been involved in one resolution in nearly seven years. The new rule reads, "Staff will investigate complaints involving PSJ disputes and the director may issue a written decision which is final." We have changed this portion of the rule to allow the director to decide whether or not to become involved in resolving disputes in player supported jackpots, whereas before the director was obligated to issue a written decision in any dispute in a player-supported jackpot.

**WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval. WAC 230-15-420 Resolving disputes over player-supported jackpots.**

Several of our rules require that licensees make internal controls and other records available to us or to other law enforcement agencies at any time they are requested, but we never had a requirement that the licensee have a copy of the internal controls on site. The addition of this requirement for internal controls will prevent many misunderstandings about internal controls, both between agents and licensees and between licensees and their employees. We require card room employees to know the internal controls concerning their specific functions. If the licensee has to have a copy of the internal controls on site, employees can easily see what their role in maintaining the internal controls is. We are proposing adding a requirement that licensees have a copy of their internal controls on-site at their business premises at all times. The requirement was implied before, but not stated outright. We also added that licensees must follow all the restrictions contained in the Gambling Act. Again, the requirement was implied before, but not stated outright. One goal of the rules simplification project was to repeal rules which repeated the statute and place the emphasis on the statute as our enforcement guideline. These changes reinforce

the connection we hope to make with the statute and the WAC rules.

**WAC 230-15-425 Internal controls.**

We are proposing rewriting this rule to include an existing rule interpretation. We are attempting to clarify and strengthen the rule by adding in the requirement that surveillance personnel must report any suspicious or illegal acts they see while operating camera and monitors. The security department will now be responsible for "destroying damaged chips."

The accounting department will now be responsible for "control[ing] processes in the count room and cashier's cage." Previously, the requirement to detect and report cheating or other illegal activity was on the surveillance department manager. We have moved that responsibility to the person performing the surveillance.

Both destroying chips and controlling the count room processes have been part of the implied duties of those two departments. We are clarifying what has been the case in the field.

**WAC 230-40-815 Administrative and accounting control structure—Organization—House-banking. WAC 230-15-430 Internal control requirements.**

Commission rules require that card game licensees submit a changed version of the licensee's complete internal controls if the licensee wished to change a game being offered in their card room. Special agents would review the entire internal controls and go out to the card room to do a review before allowing the change to occur. We are proposing rewriting this rule to include an existing rule interpretation. The rule interpretation allows licensees to submit a changed version of their internal controls and receive a verbal approval for the change from their agent while continuing to operate.

With the addition of the rule interpretation to the rule, licensees may now change out games simply by submitting the change to the card game internal controls in writing and getting a verbal approval from the special agent. Special agents then will complete a review of the new game on their next visit to the card room.

**WAC 230-40-815 Administrative and accounting control structure—Organization—House-banking. WAC 230-15-440 Modifying internal controls and changing card games offered.**

We propose removing the definition of chief executive officer or chief operating officer entirely. Licensees recommended that we remove this definition because the term has largely fallen out of use among licensees. Most card game licensees now employ "general managers" to handle the daily gambling and other operations of the card room.

**WAC 230-40-554 Chief executive officer or chief operations officer defined.**

We propose removing this rule entirely because the requirements for posting house rules are covered in a number of other rules.

**WAC 230-40-800 Operating rules for house-banked card games.**

We added the word "coin" into subsections (2) and (3) of this rule. The word was inadvertently left out of the original rule.

**WAC 230-40-865 Distributing chips and coins to tables—Requests and fills—House-banking. WAC 230-15-510 Transferring chips and coin to the gambling tables.**

Licensees asked us to review the restrictions on when accounting had to perform the comparisons and reviews of the count. The accounting department at most businesses works a regular 8:00-5:00 day, but the licensees were required to have one accounting person come in over the weekend to check the hard copies of credit and fill slips. We felt that as long as the review was done as soon as accounting returned to work the next business week, we could allow them to postpone it. We removed the words "each day" from subsection (1)(e) of this rule to make it consistent with the change to WAC 230-15-625 which will allow accounting to postpone reviewing the counts that occur when the accounting department is not at work.

**WAC 230-40-865 Distributing chips and coins to tables—Requests and fills—House-banking. WAC 230-15-520 Requirements for fill/credit slips.**

We propose removing this rule entirely because the requirements are covered in a number of other rules.

**WAC 230-40-860(2) Table inventories and procedures for opening tables for house-banked card games.**

The current rule requires us to perform a PORE every time a licensee is closed for more than seven days. Current enforcement practice, however, allows agents some discretion about whether a PORE is necessary. For instance, if a licensee decides to close for a week or two during a slow period in order to perform some remodeling, agents do not need to perform a PORE before that licensee reopens. We propose changing this rule to remove the imperative for staff to perform a preoperational review and evaluation (PORE) any time licensees are closed for seven days or more. This change will align the rule with current enforcement practice.

**WAC 230-40-801 Interruption of card games—Preoperational review and evaluation required—Procedures—House-banking. WAC 230-15-545 Interruption of card games for more than seven days.**

Licensees asked us to review the restrictions on who would review the imprest bank because the accounting supervisor is not always present to perform the review. Accounting department personnel, however, are the usual designees to perform the review. We propose changing the rule to match current practice in the card rooms.

**WAC 230-40-833 Cashier's bank and minimum bankroll—House-banking. WAC 230-15-570 Cashier's cage bank requirements.**

We changed the word "taped" to "recorded" in this rule because many licensees now use digital recording devices which use a hard-drive or other media for surveillance video storage, not tapes. "Taped" implies that the licensee must be

using analog recording devices. "Recorded" allows for both analog and digital recording.

**WAC 230-40-840 Drop boxes—House-banking—Drop box collection method. WAC 230-15-600 Storing drop boxes on closed gambling tables.**

We have rewritten this rule to include an existing rule interpretation. We are attempting to clarify and strengthen the rule by adding in the requirements about who can serve on a count team.

**WAC 230-40-885(5) Count procedures—House-banking. WAC 230-15-610 Preparing to conduct a count.**

The original rule stated that the count team must have the count verified by a cashier. We propose changing the rule to match current practice in the card rooms by changing the word "cashier" to "verifier." Many times, the count is verified by someone from the accounting department whose primary duties are not those of a cashier.

**WAC 230-40-885(6) Count procedures—House-banking. WAC 230-15-620 Concluding the count.**

Licensees asked us to review the restrictions on when accounting had to perform the comparisons and reviews of the count. The accounting department at most businesses works a regular 8:00-5:00 day, but the licensees were required to have one accounting person come in over the weekend to check the hard copies of credit and fill slips in the whiz machine. We felt that as long as the review was done as soon as accounting returned to work the next working day, we could allow them to postpone it. We added an exception into subsection (2) which allows accounting departments to postpone reviewing the counts that occur when the accounting department is not at work.

**WAC 230-40-885(7) Count procedures—House-banking. WAC 230-15-625 Accounting department review of the count.**

The original rule has become outdated because of changes in technology. We have rewritten this rule to include combinations to combination lock boxes. We are attempting to address the several different types of lockboxes licensees have available to them.

**WAC 230-40-895(2&4) [(2) and (4)] Key control—House-banking. WAC 230-15-640 Keeping individual key control boxes for departments.**

At licensees' suggestion, we have rewritten this rule to include the word "canceled" in describing decks of cards store[d] by the security department. "Canceled" is the word that licensees use when discussing decks of cards that are taken out of play for various reasons and will be marked, drilled, or otherwise defaced so that they cannot be reintroduced into play. Not all card decks are destroyed. Some are canceled and sold or given away. We wanted to align the WAC vocabulary with the usual terms used. There are no regulatory concerns about the process of storing cards waiting to be canceled or destroyed.

**WAC 230-40-895(2) Key control—House-banking. WAC 230-15-655 Keys for the security department.**

At licensees' suggestion, we have rewritten this rule to include the words "cards, or other items of evidentiary value"

in the description of what items are held in the storage lockers or cabinets of the surveillance department. This change makes clear that items of evidentiary value remain with the surveillance department until agents are able to recover them. This change will improve the "chain of evidence" when we receive tapes from licensees.

**WAC 230-40-895(2) Key control—House-banking. WAC 230-15-665 Keys for the surveillance department.**

We have rewritten this rule adding the phrases "general manager" and "other authorized person(s)" to the requirements regarding access to the master key control box. This change allows persons other than the direct owner access to the keys during the everyday operation of the card room. This change is made to increase consistency in our use of terms.

We have also changed subsection (2) to state, "Keys in this key control box must include:" This change of "may" to "must" in second section resolves a conflict between subsections (2)(e) and (4)(c) in the current rule.

**WAC 230-40-895(2&4) [(2) and (4)] Key control—House-banking. WAC 230-15-670 Keeping a master key control box.**

In working with this rule we made three changes:

We combined the concepts of removal and discontinuance in the original rule, using the term "removal" throughout the rule. The original rule used both "discontinuance" and "removal" which was confusing.

We included a rule interpretation of the WAC which states that the disbursement of a progressive jackpot by tournament is not intended to be a money-making proposition for the licensee; therefore, the tournament must be free of charge.

The rule interpretation also stated that the prize may be offered on a different house-banked game with a progressive jackpot, but licensees have requested that we not restrict the game to one that has a progressive jackpot. We saw no regulatory concerns with making this change, so the new rule states that the prize may be offered on any other house-banked card game.

**WAC 230-40-805 Progressive jackpot prizes—Procedures—Restrictions—House-banking. WAC 230-15-710 Permanently removing a progressive jackpot or a portion of a progressive jackpot from play.**

Previously, we had no instructions about what licensees must do if a taxing authority seized all or part of a progressive jackpot to cover unpaid gambling or other taxes. Adding this rule interpretation brings the rule in line with current practice about tax seizure. An existing rule interpretation concerning taxing authorities seizing all or a portion of progressive jackpot funds was written into this rule. Tax authorities may seize moneys if back taxes are owed. We then require the licensee to stop operating the jackpot until the licensee has returned the prize money to the progressive jackpot account.

**WAC 230-40-805 Progressive jackpot prizes—Procedures—Restrictions—House-banking. WAC 230-15-715 Tax authorities seizing all, or a portion, of a progressive jackpot.**

In subsection (3), we added a definition of reconcile.

**WAC 230-40-808 Deposit requirements for prizes—House-banking. WAC 230-15-720 Deposit and reconciliation requirements for progressive jackpot prizes.**

We corrected some terminology used in this rule, adding generally accepted accounting standards (GAAS) instead of generally accepted accounting principles (GAAP) in one section and standards for accounting and review services (SSARS) in another. The current version of this rule was passed at the August commission meeting and will be effective January 1, 2007. The rules simplification project version, if passed, will not be effective until January 1, 2008.

**WAC 230-40-823 Financial audits and reviews required—House-banking. WAC 230-15-740 Preparing required financial statements.**

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Sharon Reese, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule change clarifies language of rules without changing the effect.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

November 29, 2006

Susan Arland

Rules Coordinator

**Chapter 230-15 WAC**

**CARD GAME RULES**

**OPERATING A CARD ROOM**

NEW SECTION

**WAC 230-15-001 "Public card room" defined.** "Public card room" means that area of the commercial stimulant business set aside for the playing of card games.

NEW SECTION

**WAC 230-15-005 Requirements for public card games.** At any time public card game licensees are conducting card games, they must:

(1) Have the food and/or drink business being commercially stimulated open to the public; and

(2) For Class E, Class F, or house-banked card rooms, have a licensed card room employee on duty and in the card room area.

NEW SECTION

**WAC 230-15-010 "Social card games" defined.** For the purposes of this chapter, "social card games" means those card games authorized by RCW 9.46.0282. "Card games" and "social card games" mean the same thing in this chapter.

NEW SECTION

**WAC 230-15-015 "Charitable and nonprofit social card room" and "guest" defined.** "Charitable or nonprofit social card room" means the area of a charitable or nonprofit organization's premises set aside for the playing of social card games by full and regular members and their guests.

"Guests" means persons who are not members of a bona fide charitable or nonprofit organization, but who are allowed to use the facilities of the organization to play card games when accompanied by a regular member of the organization sponsoring the guest. Charitable and nonprofit organizations must not charge guests a fee to play that exceeds the maximum fee set by the commission.

NEW SECTION

**WAC 230-15-020 Approving area of premises for card games.** Card game licensees must only operate card games in the specific area of the premises we approve.

NEW SECTION

**WAC 230-15-025 Hours of play.** (1) Licensees must not allow the use of their premises for card playing between the hours of 2:00 a.m. and 6:00 a.m. unless we approve different hours.

(2) Licensees may request, in writing, different hours of operation. Once the request is received, we will consult with the local law enforcement agency having jurisdiction over the licensee's business and with other state agencies involved in regulation of the business. We may allow licensees to adjust closing hours, but licensees must:

(a) Open the food and/or drink business being stimulated to the public for business any time licensees are conducting card games; and

(b) Have a licensed card room employee on duty and in the licensed card room area at all times during the hours of operation of a Class E, Class F, or house-banked card room; and

(c) Observe a four-hour period of closure at the end of each business day before beginning the next period of operation; and

(d) Comply with any other terms and conditions we require.

(3) We may deny the request for extended hours or revoke hours already approved if the local law enforcement agency or a state agency objects or if we determine that the licensee has violated any provisions of chapter 9.46 RCW, any other commission rule, or any of the terms set forth in subsection (1) of this section. Licensees or others must submit, in writing, all objections to changing a licensee's operating hours or requests to revoke an approved operating schedule.

(4) We allow the licensee an opportunity for a brief adjudicative proceeding (BAP) before denying or revoking the licensee's authorization for extended card room hours. An administrative law judge hears the BAP, under the provisions of Title 230 WAC and chapter 34.05 RCW.

#### NEW SECTION

**WAC 230-15-030 Authorized nonhouse-banked card games.** (1) Only the following nonhouse-banked card games are authorized:

- (a) Poker;
- (b) Hearts;
- (c) Pinochle;
- (d) Cribbage;
- (e) Rummy;
- (f) Panguingue (Pan);
- (g) Pitch; and
- (h) Bid Whist.

(2) Card game licensees must operate these games in the manner explained in the most current version of *The New Complete Hoyle, Revised* or *Hoyle's Modern Encyclopedia of Card Games*, or similar authoritative book on card games we have approved. Card game licensees may make immaterial modifications to the games.

#### NEW SECTION

**WAC 230-15-035 Requirements for authorized card games.** (1) In order for a game to be authorized, the game must:

(a) Be played with standard playing cards or with electronic card facsimiles approved by the director or the director's designee; and

(b) Offer no more than two separate games with a single hand of cards. We consider bonus features and progressive jackpots separate games. If a player does not have to place a separate wager to participate, we do not consider it a separate game. An example of this is an "envy" or "share the wealth" pay out when another player achieves a specific hand; and

(c) Not allow side bets between players.

(2) Card game licensees may use more than one deck of cards for a specific game. They also may remove cards to comply with rules of a specific game, such as Pinochle or Spanish 21.

(3) Players must:

(a) Compete against all other players on an equal basis for nonhouse-banked games or against the house for house-banked games. All players must compete solely as a player in the card game; and

(b) Receive their own hand of cards and be responsible for decisions regarding such hand, such as whether to fold, discard, draw additional cards, or raise the wager; and

(c) Not place wagers on any other player's or the house's hand or make side wagers with other players, except for:

(i) An insurance wager placed in the game of Blackjack; or

(ii) An "envy" or "share the wealth" wager which allows a player to receive a prize if another player wins a jackpot or odds-based wager; or

(iii) A tip wager made on behalf of a dealer.

(4) A player's win or loss must be determined during the course of play of a single card game.

#### NEW SECTION

**WAC 230-15-040 Authorizing new games or changing game rules.** Card game licensees must operate only the card games the director or the director's designee has specifically authorized. The director or the director's designee authorizes each new card game or changes to existing card games on an individual basis. A list of all authorized games and the rules of play are available at all commission offices and on the commission web site.

(1) Card game licensees must submit:

(a) Requests for authorizing new card games in the format we require; and

(b) Changes to an existing card game in writing.

(2) The director or the director's designee will notify the licensee in writing if the request is denied. The notification will include reasons for the denial and provide the licensee all information necessary to file a petition to the commission for rule making.

#### NEW SECTION

**WAC 230-15-045 Withdrawing approved card games.** If the director or the director's designee withdraws approval of a card game:

(1) The director or the director's designee will give licensees written notice and an opportunity to object to the decision. If a licensee files an objection in writing, an administrative law judge will review the decision.

(2) The director or the director's designee will provide written notice to impacted licensees after a final decision is made.

#### NEW SECTION

**WAC 230-15-050 Minimum cash on hand requirements.** (1) Card game licensees must have sufficient cash on hand to redeem all chips issued for play and pay out all prizes.

(2) Except for the restrictions on player-supported jackpot pay outs in WAC 230-15-405 and progressive jackpot pay outs in WAC 230-15-690, licensees may pay prizes by check if sufficient funds are available on deposit.

(3) Failure to keep funds to cash in chips, pay prizes, or redeem gambling related checks is prima facie evidence of fraud.

#### NEW SECTION

**WAC 230-15-055 Limit on number of players at each table.** Card game licensees must only allow:

(1) Up to seven players or areas for wagering at any table in house-banked card games.

(2) Up to ten players at any table in nonhouse-banked card games.



NEW SECTION

**WAC 230-15-060 Posting rules for play.** Card game licensees must:

- (1) Prominently post:
  - (a) Wagering limits for each type of game, including the ante; and
  - (b) Prize pay outs and any prize-related restrictions; and
  - (c) All fees to play; and
  - (d) Policies on employees being allowed to play; and
  - (e) Procedures for resolving player disputes; and
- (2) Prominently post any general rules, or a sign stating that these rules are available immediately on request. These rules must include, at least:
  - (a) Rules of play; and
  - (b) Methods of making wagers; and
  - (c) Procedures for misdeals; and
  - (d) Procedures for betting irregularities; and
  - (e) Procedures for splitting pots; and
  - (f) Any rules that may restrict a player's right to win a hand, pot, or jackpot prize; and
- (3) Post at the gambling table any aggregate limits, procedures, or restrictions that differ from the general rules of play that have been posted.

NEW SECTION

**WAC 230-15-065 Enforcement of card game rules of play.** Card game licensees must conduct card games according to the approved rules of play. We enforce rules of play in the following order:

- (1) **First priority:** Rules explained in Title 230 WAC; and
- (2) **Second priority:** Rules explained by a licensed manufacturer of a patented game that we have approved; and
- (3) **Third priority:** Rules explained in the most current version of *The New Complete Hoyle, Revised* or *Hoyle's Modern Encyclopedia of Card Games*, or a similar authoritative book on card games which we have approved; and
- (4) **Fourth priority:** House rules card game licensees have developed and we have approved.

NEW SECTION

**WAC 230-15-070 Fee restrictions for nonhouse-banked card games.** (1) The licensee must collect the same fee from all players at a table. If the licensee allows free play, then all players at a table must be allowed to play for free. If card game licensees base their fees on a period of time, they may allow card room employees and owners to play without a fee;

(2) Card game licensees must not require players to pay for or purchase any other goods or services as a condition of playing cards; and

(3) Card game licensees may collect an admission fee when providing entertainment, as long as they charge all patrons the fee.

NEW SECTION

**WAC 230-15-075 Card game fees for nonhouse-banked card games.** Nonhouse-banked card game licensees must:

(1) Not charge, directly or indirectly, fees more than those fees in WAC 230-15-080. Nonprofit or charitable card game licensees may charge their usual membership fee to belong to the organization;

(2) Keep all fees collected separate from all other chips and cash until they are recorded in the daily card room records and then deposit the fees in the cashier's cage (if applicable). All chips and cash in the cashier's cage must be kept separate from all other moneys located on the licensed premises while card games are conducted; and

(3) Keep and record card game fees separately from all other fees and have the records available for audit by commission staff, local law enforcement, and taxing authorities.

NEW SECTION

**WAC 230-15-080 Authorized fees and authorized methods of collection.** Card game licensees must collect only one type of card game fee at a table at any given time. The following are authorized types of fees, the card game licensees who may use those fee types, and the methods of collection:

Authorized types of fees	Licensees authorized to use the fee types	Authorized methods of collection	Maximum amount to collect
(1) <b>Period of time -</b>  (a) Licensees must collect the fee at least once per hour at times the licensee chooses, for example, at thirty minute increments; and	Class A, B, C, E, F	Direct collection; or Chip rack - only allowed if licensed for three or fewer tables; or Drop box.	Not more than ten dollars per hour, per player.

Authorized types of fees	Licensees authorized to use the fee types	Authorized methods of collection	Maximum amount to collect
(b) Licensees must record all fees immediately after collection; or			
<p>(2) <b>Per hand played -</b></p> <p>(a) Players must place fees charged on a per-hand basis in a designated area of the table and dealers must collect them before dealing the first round of cards; and</p> <p>(b) After collecting the fees, dealers must deposit all chips or coins in either the drop box or chip rack ; or</p>	Class F and house-banked	Drop box; or Chip rack - only allowed if licensed for three or fewer tables.	Not more than one dollar per hand, per player.
<p>(3) <b>Rake -</b></p> <p>(a) Dealers must collect fees charged on the amounts wagered during the play of the hand and place the fees in a designated area of the table; and</p> <p>(b) Once dealers accumulate the maximum fee for a hand, they must spread the chips or coins to allow players and the surveillance system to view the amount collected. After spreading the chips or coins, the dealer deposits them in either the drop box or chip rack.</p>	Class F and house-banked	Drop box; or Chip rack - only allowed if licensed for three or fewer tables.	Not more than five dollars per hand or ten percent of the total wagers for a hand, whichever is less.

NEW SECTION

**WAC 230-15-085 Requirements for authorized methods of collecting fees.** (1) **Direct collection** - Card game licensees using the direct collection method must have a licensed card room employee other than the dealer collect fees directly from each player and deposit the fees in the bank area serving the card room.

(2) **Drop box** - Licensees must locate the drop box opening in a place that is isolated from the pot area and in plain

view of all players and the surveillance system. Licensees must have:

- (a) A licensed dealer; and
- (b) A table with a designated area for each type of fee removed from the pot; and
- (c) A separate drop box for each type of fee.

(3) **Chip rack** - Licensees using the chip rack method must:

- (a) Have a licensed dealer; and
- (b) Use a game lay-out with a designated area for player fees; and

(c) Use a chip rack separated into sections for each type of fee collected (example: Time fee collected and fee to enter player-supported jackpot); and

(d) Ensure that dealers temporarily store and control fees in the chip rack until the floor supervisor collects the fees; and

(e) Ensure that the licensed card room employee responsible for that area of the card room removes all chips collected as fees from the dealers' chip racks at least every four hours; and

(f) Have licensed card room employees count chips and coins in the presence of players and immediately record the totals on the record in a format we require; and

(g) Have the dealer and floor supervisor who remove the chips and coin each initial the commission record verifying its accuracy.

#### NEW SECTION

**WAC 230-15-090 Requirements for drop boxes.** Drop box means a metal container attached to each gambling table into which the dealer must deposit all chips and cash collected during play and, if required, insert card room inventory control slips. Each drop box must have:

(1) **A box lock** - A lock that secures the contents; and

(2) **A table lock** - A separate lock securing the drop box to the gambling table. Card game licensees must key this lock differently from the lock securing the contents of the drop box; and

(3) **An opening** - An opening through which currency, coin, chips, forms, records, and documents can be inserted into the drop box; and

(4) **A label** - A permanent number clearly visible which corresponds to a permanent number on the gambling table to which the box is attached. The shift during which the box was used must also be included if drop boxes are removed from tables more than once during an operating day. Card game licensees may keep emergency drop boxes if the box has the word "emergency" permanently on it, and, when it is put into use, licensees temporarily mark it with the number of the gambling table.

#### NEW SECTION

**WAC 230-15-100 Providing cards and chips in card rooms.** (1) Card game licensees, except for Class D licensees, must supply all chips and cards and not allow any other chips or cards to be used on their premises.

(2) Card game licensees must not charge additional fees to players for chips and cards except as allowed under WAC 230-15-110.

#### NEW SECTION

**WAC 230-15-105 Only authorized cards or chips may be used.** (1) No one may bring a playing card or cards into a licensed card room to introduce or use in authorized card games.

(2) Other than chips purchased from the licensed card room, no one may bring any wagering chip or chips into a

licensed card room to introduce or use in authorized card games.

#### NEW SECTION

**WAC 230-15-110 Standards for chips.** (1) Chips must be of conventional size and design that maximize the integrity of the card games. Chips must be identifiable as belonging to the licensee and must:

(a) Include the house name or logo; and

(b) Denote the chip value; and

(c) Be made by a licensed manufacturer; and

(d) Be purchased from a licensed manufacturer or distributor.

(2) Class D licensees are exempt from subsection (1) of this section.

(3) Card game licensees must:

(a) Safeguard all chips in their possession; and

(b) Not allow any other person to buy or sell chips for use in card games on their premises.

(4) Class A, B, C, and E licensees with five or fewer tables may use chips without a house name or logo if the chips are identifiable as belonging to the licensee and they prominently post values of the chips in the card room.

#### NEW SECTION

**WAC 230-15-115 Standards for cards.** (1) Card game licensees must:

(a) Supply cards of conventional size and design to maximize the integrity of the card games; and

(b) Safeguard all cards; and

(c) Not allow cards that have been modified or marked in any manner.

(2) For Class E, Class F, and house-banked games, the cards must:

(a) Be made by a licensed manufacturer; and

(b) Be purchased from a licensed manufacturer or distributor.

(3) House-banked licensees must use cards with the house name or logo.

#### NEW SECTION

**WAC 230-15-120 Fees for decks of cards.** (1) Card game licensees may charge a fee to a player asking for a new deck of cards.

(2) In addition, Class D licensees may charge a fee for every deck supplied to a table.

(3) The fee must not be greater than the licensee's actual cost for the deck.

(4) At the time licensees introduce new decks, they must collect the fee in cash directly from the player requesting the deck or the players of the game.

#### NEW SECTION

**WAC 230-15-125 Cutting cards in player-dealt games.** In player-dealt games:

(1) After the shuffle, the dealer must offer the cards to a player for a cut. After this initial offer of a cut, the dealer may

require any player who asks for a cut to pay a maximum of one dollar; and

(2) Dealers must:

(a) Not cut the cards more than twice during each hand or game; and

(b) Place all the fees for cutting the cards into the pot for that hand or game.

#### NEW SECTION

**WAC 230-15-130 Rotating the deal in player-dealt games.** If card game licenses offer player-dealt games:

(1) The deal must pass from player to player; and

(2) A player may not deal another game until all of the players at the table have had their turn to deal. Players may voluntarily waive their right to deal any particular hand.

#### NEW SECTION

**WAC 230-15-135 Wagering limits for nonhouse-banked card games.** Card room licensees must not exceed these wagering limits:

(1) **Poker** -

(a) There must be no more than five betting rounds in any one game; and

(b) There must be no more than four wagers in any betting round, for example, the initial wager plus three raises; and

(c) The maximum amount of a single wager must not exceed twenty-five dollars;

(2) **Games based on achieving a specific number of points** - Each point must not exceed five cents in value;

(3) **Ante** - No more than the maximum wager allowed for the first betting round for any game, except for Panguingue (Pan). The ante may, by house rule:

(a) Be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round; and

(b) Be used as part of a player's wager; and

(4) **Panguingue (Pan)** - The maximum value of a chip must not exceed ten dollars. An ante must not exceed one chip. We prohibit doubling of conditions. Players going out may collect no more than two chips from each participating player.

#### NEW SECTION

**WAC 230-15-140 Wagering limits for house-banked card games.** (1) A single wager or a bonus wager for an odds-based pay out must not exceed two hundred dollars.

(2) A player may make a single wager for each decision before the dealer deals or reveals additional cards. For Blackjack, the player may place an additional wager for doubling down or splitting pairs.

(3) Bonus wagers for progressive jackpots must not exceed one dollar.

#### NEW SECTION

**WAC 230-15-145 Making wagers with chips or coin.**

Players in card games must make all wagers and pay fees to play card games with chips, except that:

(1) Players may use half dollars or quarters in house-banked card games;

(2) Players may use dimes and nickels in Pai Gow poker.

#### NEW SECTION

**WAC 230-15-150 Selling and redeeming chips.** (1)

Card game licensees must:

(a) Sell chips and redeem chips at the same value; and

(b) Sell chips for cash at gambling tables; and

(c) Keep all funds from selling chips separate and apart from all other money received; and

(d) Not extend credit to a person purchasing chips, including to card room employees playing cards; and

(2) Licensees may accept checks, if the checks meet the requirements of WAC 230-06-005. They must:

(a) Deposit any check no later than the second banking day after they received the check. Checks deposited to an armored car service within two banking days meet this requirement; and

(b) Count each transaction for the purchase of chips as a separate transaction. (Example: They must not allow a player's check to be altered after it is exchanged for chips.)

#### NEW SECTION

**WAC 230-15-155 NSF checks.** (1) Card game licensees may use a guarantee service to preapprove checks. The bank may send the original nonsufficient funds (NSF) check to the guarantee service.

(2) If card game licensees do not use a guarantee service or choose not to use their guarantee service to preapprove a particular check, licensees must:

(a) Keep records of all NSF checks in the format we require and make the records available to the cashier; and

(b) Prohibit persons who submitted NSF checks from submitting additional checks until the person pays the amount owed in full; and

(c) Have all NSF checks returned directly to them and control the checks.

(3) Card game licensees may immediately redeposit a check that was NSF if they have sufficient reason to believe the check will be honored the second time.

#### NEW SECTION

**WAC 230-15-160 Providing dealers.** (1) "Dealer" means a licensed card room employee who conducts card games, deals cards, collects or pays off players' bets, or collects fees. Card room licensees:

(a) May provide a dealer in any card game; and

(b) Must have a dealer for all house-banked card games, card games operated with a player-supported jackpot, or card games authorized to charge per-hand fees or take a rake.

(2) Dealers must not play in the games while dealing and must have no financial interest in the outcome of the games, except that we allow tip wagers.

#### NEW SECTION

**WAC 230-15-165 Defining "floor supervisor."** "Floor supervisor" means a licensed card room employee who oversees a limited number of card games within a designated area and directly supervises the dealers assigned to those games. The floor supervisor reports to the shift manager.

#### NEW SECTION

**WAC 230-15-170 Photos of card room employees required.** Card game licensees must have photographs of their licensed card room employees with the employees' licenses, available for inspection on the premises. The photo must be of a passport type not less than 2" x 3" and clearly show a full facial view of the employee.

#### NEW SECTION

**WAC 230-15-175 Reporting card room employees no longer working.** Card game licensees, except Class B or Class D, must notify us in writing when a card room employee no longer works for them. We must receive the notice at our Lacey office within ten days of the card room employee terminating employment.

#### NEW SECTION

**WAC 230-15-180 Playing for or assisting others prohibited.** No person may:

- (1) Allow a representative to sit in on a card game on their behalf for any purpose; or
- (2) Act as a representative on anyone's behalf; or
- (3) Allow anyone to assist any player in the game in a manner which gives that player an advantage over other players.

#### NEW SECTION

**WAC 230-15-185 Preventing cheating in card games.**

(1) Card game licensees must take necessary steps to prevent cheating and ensure that games are played fairly.

(2) If card game licensees find someone cheating, they must:

- (a) Contact the local law enforcement agency immediately in urgent situations; and
- (b) Report it to us within three business days.

### **GENERAL RECORDS AND RECORDKEEPING FOR CARD ROOMS**

#### NEW SECTION

**WAC 230-15-190 Preparing card room records.** (1) Card game licensees must prepare all records in the format we require. Licensees must record the data in ink, on storage media, or in other permanent form.

(2) Licensees must print, or back up in a permanent form, all the data kept in computer data bases monthly.

#### NEW SECTION

**WAC 230-15-195 Keeping and making daily records available.** Card game licensees must:

- (1) Keep the daily records of card room operations for at least three years;
- (2) Have the past six months of daily card room records on the premises of the card room and available for inspection; and
- (3) Make records older than six months available within forty-eight hours if we, local law enforcement, or taxing authorities request the records.

#### NEW SECTION

**WAC 230-15-200 Reporting card room activity semi-annually.** Card game licensees, except for Class D, must submit an activity report for their card rooms to us.

- (1) Licensees must complete the report in the format we require; and
- (2) We must receive the completed report, or the report must be postmarked, no later than thirty days after the end of the reporting period; and
- (3) The highest ranking executive officer or designee must sign the report. If someone other than the licensee or an employee prepares the report, the preparer must print his or her name and phone number on the report; and
- (4) Licensees must report activities for:
  - January 1 through June 30; and
  - July 1 through December 31; and
- (5) Licensees must submit a report for any period of time their license was valid. If licensees do not renew, they must submit a report for the period between the previous semi-annual report they filed and the date their license expired.

### **CARD TOURNAMENTS**

#### NEW SECTION

**WAC 230-15-205 Card tournament licenses.** (1) Class A, B, E, F, or house-banked licensees may conduct a card tournament where a fee or buy-in is charged without getting a card tournament license, but they must only operate those card games approved for their license class.

(2) Class D licensees must obtain a card tournament license to charge a fee or buy-in for a card tournament.

#### NEW SECTION

**WAC 230-15-210 Entry fees and buy-ins for card tournaments.** (1) Card game licensees must:

- (a) Not charge more than one hundred dollars per player for an entry fee; and
  - (b) Collect all entry fees before the start of play.
- (2) The entry fee must include all the separate fees for various phases and events of the tournament, for food and drink, and for promotional material.

(3) Card game licensees may award prizes in excess of entry fees collected.

(4) Card game licensees may require a minimum buy-in of chips. The buy-in may be a single or multiple buy-in, but the total per player may not exceed four hundred dollars per tournament.

(5) Card game licensees must:

(a) Keep a record of the buy-ins for each player in the format we require; and

(b) Return all buy-ins to the players in cash or merchandise prizes.

(6) We do not consider buy-ins gross gambling receipts.

#### NEW SECTION

**WAC 230-15-215 Getting card tournaments approved.** (1) Card game licensees must notify us ten days before any card tournament where the single or multiple buy-in(s) are more than fifty dollars. Card game licensees must submit rules for these tournaments for approval in advance.

(2) If a future tournament is identical, no approval is needed. Only notify us ten days in advance of the tournament.

#### NEW SECTION

**WAC 230-15-220 Restricting length of card tournaments.** Card game licensees must not conduct a tournament for longer than thirty consecutive calendar days.

#### NEW SECTION

**WAC 230-15-225 Tournament rules and prizes.** (1) Before the players pay their fees, card game licensees must prominently post on the premises and keep posted until the tournament is complete:

(a) All rules, prizes, and conditions of the tournament; and

(b) The tournament fee; and

(c) Entry and buy-in requirements; and

(d) A description of all of the goods and services they will provide as a part of the tournament.

(2) Licensees must initially provide all tournament entrants with the same number of chips or points and the same opportunity for rebuys.

(3) If there are more players than spots available in the tournament, card game licensees may conduct a drawing to determine which players participate. If there is a fee to enter the tournament, card game licensees must collect it after the drawing has occurred.

(4) After the tournament has begun, card game licensees must not conduct a drawing to decide who will fill an extra seat.

#### NEW SECTION

**WAC 230-15-230 Offering discounted tournament fees as customer appreciation.** Card game licensees may offer discounted fees to card tournaments to specific groups of players (such as Ladies' Night) as customer appreciation.

#### NEW SECTION

**WAC 230-15-235 Exclusive tournament entry as customer appreciation.** Card game licensees may offer exclusive tournament entry to specific groups as customer appreciation. Card game licensees must include all requirements or restrictions in their tournament rules.

#### NEW SECTION

**WAC 230-15-240 Value of tournament chips.** Card game licensees must use chips that have no monetary value and can only be redeemed for prizes posted by the licensee.

#### NEW SECTION

**WAC 230-15-245 Reporting entry fees as gambling receipts.** (1) Card game licensees must report all entry fees as gross gambling receipts.

(2) If card game licensees prepare and provide food and drink as a part of the entry fee, they may treat the fair market value of the food and drink as commercial stimulant sales and not include it as gross gambling receipts.

(3) The fair market value of the food and drink must not exceed twenty-five dollars per player or fifty percent of the entry fee, whichever is more. Card game licensees must support these amounts with records.

(4) When determining adjusted net gambling receipts from the entry fees, card game licensees may deduct:

(a) Cost of promotional items; and

(b) Cost of merchandise prizes awarded; and

(c) Cost of merchandise prizes and cash awarded in customer appreciation tournaments; and

(d) Cash prizes awarded, excluding buy-ins.

#### NEW SECTION

**WAC 230-15-250 Recordkeeping for card tournaments.** (1) Card game licensees must keep tournament records in the format we require.

(2) On the daily control sheet for the first day of a tournament, card game licensees must include the total gross gambling receipts and attach the record of participants.

(3) Licensees must attach the tournament records to the daily card room records for the date they awarded the majority of the prizes in the tournament.

### **ADDITIONAL RULES FOR CHARITABLE AND NONPROFIT CARD GAMES**

#### NEW SECTION

**WAC 230-15-255 Posting rules for unlicensed card and dice games.** Charitable and nonprofit organizations licensed to provide liquor to their members must post house rules for unlicensed social card and dice games. At a minimum, the house rules must include:

(1) General rules of play;

(2) Hours of play;

(3) Portions of the premises to be used for the games; and

(4) The restriction that only their full and regular members may play in the games.

NEW SECTION

**WAC 230-15-260 Allowing guests to play social card games.** If a charitable or nonprofit organization has a social card game license, the organization may permit guests accompanied by full and regular members to play, as long as the guests comprise twenty-five percent or fewer of the persons playing at any one time.

**SURVEILLANCE REQUIREMENTS FOR CLASS F AND HOUSE-BANKED CARD GAME LICENSEES**

NEW SECTION

**WAC 230-15-265 Closed circuit television system surveillance requirements.** Class F and house-banked card game licensees must install and maintain a closed circuit television (CCTV) system. Licensees must use either analog or digital recording equipment. Licensees must record video signals from all required cameras if they are performing any of the following:

- (1) Operating gambling tables; or
- (2) Storing drop boxes or chip trays on the gambling tables; or
- (3) Transporting drop boxes; or
- (4) Counting drop box contents.

NEW SECTION

**WAC 230-15-270 Surveillance when operating both Class F and house-banked card games.** If licensees are conducting both Class F and house-banked card games, they must meet the surveillance requirements for house-banked card games.

NEW SECTION

**WAC 230-15-275 Surveillance requirements for Class F card games.** (1) Class F licensees must use a closed circuit television system (CCTV) to record critical activities when:

- (a) Operating player-supported jackpots; or
- (b) Assessing fees on amounts wagered (rake method).
- (2) Class F licensees must have a CCTV that views:
  - (a) All gambling at each table including, at least, the:
    - (i) Cards; and
    - (ii) Wagers; and
    - (iii) Chip tray; and
    - (iv) Drop box openings; and
    - (v) Table number; and
    - (vi) Players; and
    - (vii) Dealers; and
  - (b) When the count is being conducted, at least, the:
    - (i) Count table; and
    - (ii) Floor; and
    - (iii) Drop boxes; and
    - (iv) Drop box storage shelves/cabinets.

NEW SECTION

**WAC 230-15-280 Surveillance requirements for house-banked card games.** House-banked card game licensees must use a closed circuit television system (CCTV) to closely monitor and record all gambling activities and areas, including, at least:

- (1) Each table, including:
  - (a) Cards; and
  - (b) Wagers; and
  - (c) Chip tray; and
  - (d) Drop box openings; and
  - (e) Table number; and
  - (f) Card shoe; and
  - (g) Shuffling devices; and
  - (h) Players; and
  - (i) Dealers; and
- (2) The designated gambling areas; and
- (3) The cashier's cage, including:
  - (a) Outside entrance; and
  - (b) Fill/credit dispenser; and
  - (c) Customer transactions; and
  - (d) Cash and chip drawers; and
  - (e) Vault/safe; and
  - (f) Storage cabinets; and
  - (g) Fill or credit transactions; and
  - (h) Floor; and
- (4) The count room, including:
  - (a) The audio; and
  - (b) Count table; and
  - (c) Floor; and
  - (d) Counting devices; and
  - (e) Trolley; and
  - (f) Drop boxes; and
  - (g) Storage shelves/cabinets; and
  - (h) Entrance and exit; and
- (5) The movement of cash, gambling chips, and drop boxes; and
- (6) Entrances and exits to the card room.

NEW SECTION

**WAC 230-15-285 Camera and monitor requirements for closed circuit television systems.** (1) Class F and house-banked licensees' closed circuit television system must consist of light sensitive cameras capable of permitting the viewer to determine card and chip values. Each video camera must be capable of having the images displayed on a video monitor and recorded.

- (2) Class F and house-banked licensees must install, at least:
  - (a) Cameras in a manner that will prevent them from being obstructed, tampered with, or disabled; and
  - (b) Pan, tilt, zoom (PTZ) cameras behind a smoked dome, one-way mirror, or similar materials that conceal the camera from view; and
  - (c) One fixed camera focused over each gambling table, covering the entire table layout. In nonhouse-banked games, the fixed camera must focus over the dealer area, covering the chip rack, all drop box openings, and the community card area; and

(d) A sufficient number of fixed cameras and/or PTZ cameras to monitor players and dealers at each gambling table. The PTZ cameras must be:

- (i) Permanently programmed; and
- (ii) Capable of viewing each patron and dealer at each gambling position at least once every five minutes; and
- (e) A sufficient number of fixed cameras and/or PTZ cameras in the count area or count room; and
- (f) Fixed cameras and/or PTZ cameras in any other location deemed necessary.

(4) In addition, house-banked card game licensees must:

(a) Install a sufficient number of video monitors in their CCTV system to simultaneously view multiple gambling tables, the cashier's cage, and count room activities;

(b) Install a sufficient number of fixed cameras and/or PTZ cameras in the cage(s); and

(c) Install a sufficient number of PTZ cameras having the ability to determine the card and chip values for winning hands.

#### NEW SECTION

**WAC 230-15-290 Analog video recording equipment requirements.** Class F and house-banked card game licensees using analog video recording equipment with video cassette recorders, including audio recording where required, must:

(1) Record images at a rate of at least twenty frames per second on standard VHS format; and

(2) Reflect accurately the time and date of the video recording. Licensees using multiple time and date generators must synchronize them to the same time and date.

#### NEW SECTION

**WAC 230-15-295 Digital video recording equipment requirements.** Digital recording, including audio recording where required, using a digital recording and storage system, must:

(1) Record all images on a hard drive; and

(2) Lock so that access to the erase and reformat functions and system data files is restricted to persons authorized in the internal controls; and

(3) Provide uninterrupted recording of surveillance, during playback or copying. Licensees may use motion-activated recording; and

(4) Be capable of copying original images maintaining the original native format; and

(5) Be stored at a rate of not less than twenty-five images per second; and

(6) Record images at a minimum resolution of 320 x 240 and display during playback at a minimum resolution of 640 x 480; and

(7) Store images in a format that is readable by our computer equipment; and

(8) Store images in a format that we can verify and authenticate; and

(9) Include the accurate time and date the video was originally recorded on the recorded images; and

(10) Be equipped with an uninterruptible power source to allow a proper system shutdown.

#### NEW SECTION

**WAC 230-15-300 Using multiplex and quad recording devices in required surveillance.** (1) Licensees must not use multiplexing and quad recording devices for required surveillance, except that they may use:

(a) Multiplexing or quad recording devices on entrances and exits to the card room; and

(b) Quad recording devices to record the movement of drop boxes between tables and the count room.

(2) "Multiplex recording" means combining multiple video inputs into a single signal by cycling through the separate video inputs with the view rotating among different cameras in a predetermined order, recording each video input sequentially in the cycle. Multiplex recording does not provide continuous recording of each video input because the amount of time lapse in the cycle depends on the number of video inputs.

(3) "Quad recording" means four separate video inputs that record continuously and combine into a single signal displayed on one monitor with a view of each video input.

#### NEW SECTION

**WAC 230-15-305 Reporting illegal or suspicious activities.** (1) Class F and house-banked card game licensees must report to us within three business days any illegal or suspicious activities within the portion of their business premises required to be under surveillance.

(2) Licensees must:

(a) Make a copy of the entire recorded sequence of the activity; and

(b) Give the original recording to us or other law enforcement when requested; and

(c) Keep the copy for at least thirty days.

#### NEW SECTION

**WAC 230-15-310 Resolving disputes using video recordings.** (1) If the video recording of a disputed incident is not clear, we will resolve the dispute in favor of the player unless the Class F or house-banked card game licensee can prove to us that the actions taken were warranted.

(2) Licensees may request a review by commission staff if the licensee feels circumstances warrant, for example, cheating has occurred.

#### NEW SECTION

**WAC 230-15-320 Surveillance room requirements for house-banked card game licensees.** House-banked card game licensees must maintain one or more surveillance rooms. They must:

(1) Control access to the surveillance room so that only surveillance department employees use the room. Owners or approved supervisory or management personnel may also enter the surveillance room to monitor activities; and

(2) Ensure that surveillance room entrances are not easily observed from the gambling floor; and

(3) Ensure that a surveillance employee is present in the room and monitoring activities using the equipment any time



the card room is conducting gambling and during the count process. However, licensees may operate the surveillance room without staff for routine breaks that are less than thirty minutes per shift; and

(4) Ensure that any time a winning wager, a jackpot, or bonus pay out greater than one thousand dollars is won, they use pan-tilt-zoom (PTZ) cameras to verify:

- (a) Winning hands; and
- (b) Amounts of the wager; and
- (c) Amounts of the pay out; and
- (d) Players who won the prize.

#### NEW SECTION

##### **WAC 230-15-325 Surveillance room sign-in log.**

House-banked licensees and Class F licensees, if they operate a surveillance room, must keep a surveillance room sign-in log in the format we require to document anyone entering or leaving the surveillance room. Licensees must make the surveillance sign-in log available to us or to law enforcement personnel when requested.

#### NEW SECTION

**WAC 230-15-330 Keeping a surveillance activities log.** Class F and house-banked card game licensees must keep a log of all surveillance activities:

- (1) This log must be kept in the format we prescribe; and
- (2) House-banked licensees' surveillance department must maintain the log.

#### **ADDITIONAL RULES FOR CLASS F CARD GAMES**

#### NEW SECTION

**WAC 230-15-335 Internal controls.** Class F licensees must establish internal controls that ensure gambling activities are closely controlled and operated fairly.

- (1) The internal controls must require, at a minimum:
  - (a) Trained personnel; and
  - (b) Segregation of duties for all employees involved in the operation; and
  - (c) Fee collection and funds safeguarding procedures; and
  - (d) Playing card and chip inventory.
- (2) Licensees must inform their card room employees of the internal controls related to the employees' respective areas of responsibility.
- (3) Licensees and all card room employees must follow the internal controls at all times.

#### NEW SECTION

**WAC 230-15-340 Minimum number of licensed employees required.** (1) Class F card game licensees must have at least one floor supervisor for each gambling area. Each supervisor may supervise up to seven tables. We must approve the arrangement of tables in the internal controls.

(2) Licensees must have two licensed card room employees in the card room at all times player-supported jackpots are

in play or licensees are using the rake type of fee collection. One of the employees must be a floor supervisor.

#### NEW SECTION

**WAC 230-15-345 Numbering tables.** Class F licensees must permanently number each table.

#### NEW SECTION

**WAC 230-15-350 Transporting drop boxes.** For Class F licensees using drop boxes, the supervisor or the supervisor's designee must transport drop boxes directly to the count area.

#### NEW SECTION

**WAC 230-15-355 Counting procedures for fees.** (1) We do not require Class F licensees using the drop box method to collect fees to have a separate count room if they have a secure location to count and they meet all other commission requirements for surveillance and counting procedures in WAC 230-15-275. Class F licensees must:

- (a) Conduct the count at a specific time that licensees have reported to us; and
  - (b) Count all fees at least once every twenty-four hours; and
  - (c) Have at least two card room employees count and record the amount on the count slip for each drop box; and
  - (d) Make an entry in the daily card room record for each type of fee collected at each table. Licensees must retain card room control slips for each table with the daily records.
- (2) If Class F licensees using the drop box method do not have a secure location to conduct the count, they must meet the count room requirements of WAC 230-15-605.

#### **PLAYER-SUPPORTED JACKPOTS**

#### NEW SECTION

**WAC 230-15-360 Defining "player-supported jackpot."** "Player-supported jackpot" (PSJ) means a separate contest of chance directly related to the play or outcome of an authorized nonhouse-banked card game.

- (1) Only Class F or house-banked licensees may establish a prize fund to operate a PSJ for nonhouse-banked card games.
- (2) In PSJs, licensees:
  - (a) Collect funds from the players' wagers (the pot) for a separate prize; and
  - (b) Act only as the custodian of the PSJ funds, including any interest earned on this money; and
  - (c) Maintain no legal right to the funds, except for administrative fees; and
  - (d) Must strictly account for all funds.

#### NEW SECTION

**WAC 230-15-365 Getting approval for player-supported jackpots.** (1) Class F or house-banked licensees must

not operate a player-supported jackpot (PSJ) before we approve it in writing.

(2) To get a PSJ approved, licensees must make a written request, including, at least:

- (a) A detailed description of the card game associated with the PSJ; and
  - (b) All rules of play; and
  - (c) All internal control procedures associated with the PSJ and accounting for funds and prizes; and
  - (d) The name of the prize fund custodian.
- (3) Licensees must get our written approval before making any changes to the PSJ.

#### NEW SECTION

**WAC 230-15-370 Naming a prize fund custodian for a player-supported jackpot.** (1) Class F or house-banked licensees must name at least one prize fund custodian who is responsible and accountable for safeguarding player-supported jackpot funds, and for disbursing funds to winners.

(2) A prize fund custodian may be an owner, partner, officer, or licensed individual named by the licensee.

(3) The custodian must have signature authority for prize fund bank accounts.

#### NEW SECTION

**WAC 230-15-375 Posting rules for a player-supported jackpot.** Class F or house-banked licensees must prominently post a sign stating:

- (1) How they will distribute player supported jackpot (PSJ) money if they discontinue the PSJ or stop operating the card game; and
- (2) How a PSJ will be distributed if it is discontinued or the business closes; and
- (3) Conditions under which prizes may be won; and
- (4) Prize amount; and
- (5) Cost to participate; and
- (6) Administrative fees; and
- (7) Any other conditions which may affect the outcome of the game.

#### NEW SECTION

**WAC 230-15-380 Seeding a player-supported jackpot.** Class F or house-banked licensees may:

- (1) Provide up to five thousand dollars seed money from house funds to start a PSJ. Licensees must issue a check or make an electronic bank transfer from the licensee's business account for the seed money to the PSJ account to start the prize fund; and
- (2) Licensees may replenish the PSJ as funds are depleted with up to five thousand dollars at a time; and
- (3) Recover seed money by having the custodian issue a check or make an electronic bank transfer from the PSJ account to the licensee's business account.

#### NEW SECTION

**WAC 230-15-385 Collecting funds for a player-supported jackpot.** Class F or house-banked licensees may col-

lect up to two dollars per hand or game from the pot for each player-supported jackpot. Licensees:

- (1) Must keep these funds separate from all other fees; and
- (2) Must use either the chip rack or drop box method to collect these funds.

#### NEW SECTION

**WAC 230-15-390 Collecting an administrative fee on the player-supported jackpot.** Class F or house-banked licensees may collect an administrative fee of up to ten percent of the funds collected for a player supported jackpot (PSJ). Licensees must deduct no other expenses from the PSJ account.

#### NEW SECTION

**WAC 230-15-395 House dealer required for a player-supported jackpot.** Class F or house-banked licensees must use a house dealer for all card games offering a player-supported jackpot (PSJ). No one playing in the PSJ game may deal.

#### NEW SECTION

**WAC 230-15-400 Accounting for player-supported jackpot funds.** Class F or house-banked licensees must:

- (1) Maintain a separate bank account in a bank, mutual savings bank, or credit union in Washington state for holding player-supported jackpot (PSJ) funds; and
- (2) Deposit only funds from PSJs into the account; and
- (3) Not make payouts from the PSJ funds until licensees have first deposited the funds in the PSJ account. However, licensees may pay out prizes won during the gambling day and deduct administrative expenses before licensees deposit the funds; and
- (4) Deposit the PSJ funds into the PSJ account or with an armored car service within two banking days of the date of collection; and
- (5) Identify all deposits of PSJ funds by the type of PSJ fund and date of collection. Licensees must keep the validated deposit receipts as a part of their required daily records; and
- (6) Transfer the amount from the PSJ account to the cage or general account before the end of the month if PSJ prizes are paid from the cage or general account. The licensee must keep the transfer information as part of the written records; and
- (7) Reconcile the account balance in their bank statement to the PSJ prize balance on their PSJ fund accrual record each month. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliation as part of their records.

#### NEW SECTION

**WAC 230-15-405 Paying out prizes on a player-supported jackpot.** (1) Class F or house-banked licensees must award all player-supported jackpot funds as prizes; and

(2) Cash prizes of two thousand five hundred dollars or less must be paid in cash or chips; and

(3) Prizes not awarded in cash must be paid within twenty-four hours with a check that provides a duplicate copy; and

(4) Licensees must maintain a record of all prizes paid in the format we prescribe; and

(5) When a player wins a prize of five hundred dollars or more, in view of the surveillance camera, the dealer must:

(a) Display the value and suit of each card in the winning hand; and

(b) Count and put in numerical order by suit the remaining cards in the deck to confirm a complete deck; and

(6) Licensees must collect the hand and seal it with a copy of the prize record. Licensees must keep the winning hand and remaining deck on the business premises for seven days.

#### NEW SECTION

**WAC 230-15-410 Owners, prize fund custodians, and card room employees participating in player-supported jackpots.** (1) Class F or house-banked owners, prize fund custodians, and on-duty card room employees may play in card games that offer a player-supported jackpot (PSJ), but must not share in the winnings of any prize awarded.

(2) Any prizes an owner, prize fund custodian, or on-duty employee may be entitled to under game rules must be divided equally among the other players at the table.

(3) Owners, prize fund custodians, and on-duty card room employees must turn their cards face up at the end of a game so that other players at the table and surveillance may observe their cards if:

(a) They are playing in a game with a PSJ; and

(b) The prize is not based on a predetermined hand, such as four of a kind; and

(c) There is a qualifying hand at the end of a game, such as a "bad beat" hand.

(4) Card room employees that are off duty may win PSJ prizes.

#### NEW SECTION

**WAC 230-15-415 Removing a player-supported jackpot from play.** (1) If licensees discontinue a PSJ, they must distribute the balance, less any seed money, to players within sixty days by offering an approved promotion or tournament of the same card game played to fund the PSJ.

(2) If licensees stop operating card games or fail to maintain a valid card room license, they must immediately distribute all PSJ funds to the Washington State Council on Problem Gambling.

(3) If taxing authorities seize a PSJ account, the licensee must immediately stop offering the PSJ and collecting additional funds for the PSJ until all funds have been replaced in the PSJ account.

#### NEW SECTION

**WAC 230-15-420 Resolving disputes over player-supported jackpots.** (1) If a dispute arises involving the out-

come of a player-supported jackpot (PSJ), Class F or house-banked licensees must:

(a) Preserve the video recording, the winning hand and remaining deck, and all records for the game where the dispute occurred; and

(b) Document all information about the dispute, including:

(i) The names, addresses, and phone numbers of all players, card room staff, and any witnesses involved; and

(ii) The amount of the advertised PSJ; and

(iii) A full description of the circumstances surrounding the dispute; and

(c) Notify us within twenty-four hours.

(2) We will investigate complaints involving PSJ disputes and the director may issue a written decision which is final.

(3) During the course of dispute resolution, we may become the temporary custodian of any prize funds.

(4) Class F or house-banked licensees must not award or advertise the prize amount which is in dispute until it is resolved.

### **ADDITIONAL RULES FOR HOUSE-BANKED CARD GAMES**

#### **Internal Controls for House-Banked Card Games**

#### NEW SECTION

**WAC 230-15-425 Internal controls.** (1) House-banked card game licensees must:

(a) Adopt internal controls in the format we require; and

(b) Ensure that all games are closely controlled and operated in accordance with gambling laws, our rules, and the house-banked card game licensee's internal controls (ICs); and

(c) Follow all ICs at all times; and

(d) Have all ICs available to us at all times at the licensed business premises; and

(e) Have the ICs available to card room employees for their individual functions; and

(f) Ensure that card room employees are knowledgeable in all accounting and internal control procedures for their individual functions and ensure that employees follow the ICs.

(2) Licensed card room employees must follow the internal control procedures for their individual functions.

#### NEW SECTION

#### **WAC 230-15-430 Internal control requirements.**

#### **General accountability requirements.**

(1) House-banked card game licensees must have a system of internal controls including, at least:

(a) **Accounting controls** - Include the licensee's plan, procedures, and records concerned with the safeguarding of assets and the reliability of financial records. Licensees must design these controls to provide reasonable assurance that:

(i) Transactions are executed with management's general and specific authorization; and

(ii) Transactions are recorded so that financial statements are prepared in conformity with generally accepted accounting principles (GAAP), and so that accountability for assets is maintained; and

(iii) Access to assets is permitted only with management's authorization; and

(iv) Records are compared with existing assets at least annually and appropriate action is taken within five working days to correct any differences; and

(b) **Administrative controls** - Include, at least, the licensee's plan, procedures, and records outlining decision-making processes that lead to authorization of transactions. These must provide for:

(i) Competent personnel with an understanding of internal control procedures; and

(ii) Segregation of incompatible functions so that no employee is in a position to commit and conceal errors or wrongdoings in the normal course of his or her duties.

#### **Designating a general manager.**

(2) The owner, partners, or board of directors for the licensee must designate an individual with overall responsibility for the business, called the "general manager." The general manager may also perform the duties of a gambling operations department manager; and

#### **Establish separate departments or functions.**

(3) Licensees must establish separate departments or functions which must be independent from each other. At a minimum, these must include:

- (a) Surveillance;
- (b) Security;
- (c) Gambling; and
- (d) Accounting.

#### **Surveillance department requirements.**

(4) The surveillance department manager must ensure that surveillance employees follow all requirements of the surveillance WACs, including, at least:

(a) Closely and clandestinely observing the operation of the card games, the cashier's cage, and count room; and

(b) Recording video and audio of the activities in the count room; and

(c) Monitoring for cheating, theft, embezzlement, and other illegal activities on the licensed premises; and

(d) Recording video of unusual or suspected illegal activities; and

(e) Notifying appropriate supervisors and us, within three working days, when they detect cheating, theft, embezzlement, or other illegal activities related to gambling; and

(f) Giving our agents or law enforcement personnel immediate access to the surveillance room; and

(g) Ensuring that each dealer is evaluated to determine if he or she follows all required dealer procedures set out in the house-banked card game licensee's approved internal controls; and

(h) Documenting procedures about how winning wagers, jackpots, or bonus pay outs will be verified; and

(i) Ensuring that all surveillance employees have demonstrated a knowledge of:

(i) Operating surveillance systems; and

(ii) Rules of play and procedures for the games being played; and

(iii) Overall procedures relating to the duties of all employees of the house-banked card room, including dealers, shift managers, floor supervisors, cage cashiers and count team members.

#### **Security department requirements.**

(5) The security department manager must ensure that security employees control:

(a) Transfer of cash and chips to and from the gambling tables, cage, and count room; and

(b) Dealing shoes and new and used cards, when not in use or when held in evidence; and

(c) Disposing of or destroying used cards, dealing shoes, and damaged chips when removed from service.

#### **Gambling operations department requirements.**

(6) The gambling operations department manager, or general manager, is responsible for house-banked card games and must ensure that:

(a) Dealers operate card games at assigned gambling tables; and

(b) Cards and dealing shoes are properly accounted for when in use on the gambling floor; and

(c) There is adequate supervision on the business premises.

#### **Accounting department requirements.**

(7) The accounting department must be supervised by a person who reports directly to the general manager. The accounting department must, at least:

(a) Implement and monitor accounting controls; and

(b) Control processes in the count room and cashier's cage; and

(c) Supervise the count room personnel and cashier's cage personnel; and

(d) Control the inventory of unused forms; and

(e) Reconcile the used and unused forms; and

(f) Prepare, control, and store records and data we require.

#### NEW SECTION

**WAC 230-15-435 Defining "incompatible functions."** (1) "Incompatible functions" means job duties that place an employee or department in a position to commit and conceal errors or wrongdoings in the normal course of his or her duties.

(2) Anyone who records a transaction and has access to the assets related to that transaction is in a position to commit and conceal errors or wrongdoings. (Examples: An employee who writes checks should not reconcile the bank account; an employee who transports funds should not have access to keys for locks securing the funds or to surveillance recordings of the transaction.)

NEW SECTION

**WAC 230-15-440 Modifying internal controls and changing card games offered.** (1) House-banked card game licensees must submit proposed changes to their internal controls in writing to us and receive our written approval before making any changes.

(2) Licensees may change the card games they offer by submitting the change to their internal controls in writing and getting an initial verbal or written approval from us. Staff reviews and verifies the changes on their next visit to the card room.

NEW SECTION

**WAC 230-15-445 Defining "gambling operations department manager."** "Gambling operations department manager" means a card room employee who is responsible for managing all card game operations.

NEW SECTION

**WAC 230-15-450 Defining "shift manager."** "Shift manager" means a card room employee who is responsible for all card game operations during a given shift. The shift manager reports to the gambling operations department manager.

### Operating House-banked Card Games

NEW SECTION

**WAC 230-15-455 Keeping funds to pay prizes, progressive jackpot prizes, and odds-based wager prizes.** (1) House-banked card game licensees must ensure that they have sufficient funds available to pay prizes, progressive jackpot prizes and odds-based wager prizes. An "odds-based wager" means a wager where the player wins an amount over and above the amount he or she wagered if a fixed pattern or combination of cards occurs, for example, a royal flush, four aces, or a pair.

(2) Licensees must not offer card games until they have met all of these requirements:

(a) Keep a separate bank account for progressive jackpot prizes and odds-based wager prizes. The account must be kept in a bank, mutual savings bank, or credit union located in Washington state; and

(b) Keep in the account an amount equal to all individual odds-based wager prizes offered which are greater than twenty-five thousand dollars and all progressive jackpot prize funds; and

(c) Use the highest wager they allow to calculate the individual odds-based wager prize amount and determine the deposit requirement; and

(d) Deposit at least weekly all funds accrued for progressive jackpot prizes.

(3) Licensees may limit pay outs by using table aggregates.

(4) If the prize bank account is reduced below the level required, licensees must immediately stop operating games until they are in compliance.

(5) A licensee's failure to keep funds as required in this rule is prima facie evidence of defrauding the public and a violation of RCW 9.46.190.

NEW SECTION

**WAC 230-15-460 Supervision requirements.** (1) House-banked card game licensees must have at least one floor supervisor for each gambling area. Each supervisor may supervise up to seven tables. We must approve the arrangement of tables in the internal controls.

(2) Licensees must have two levels of supervision present on the business premises if more than ten tables are open.

(3) A card room employee may act as a dealer and a supervisor during the same shift as long as he or she does not sign forms as both the dealer and the supervisor.

NEW SECTION

**WAC 230-15-465 Dealing all house-banked card games from a dealing shoe.** House-banked card game licensees must deal all house-banked card games from a dealing shoe or a shuffling device we have approved.

NEW SECTION

**WAC 230-15-470 Numbering gambling tables.** House-banked card game licensees must permanently number each gambling table.

NEW SECTION

**WAC 230-15-475 Tips from players and patrons to card room employees.** House-banked card game licensees may allow selected employees to accept tips from patrons. If allowed, licensees must control tips in a manner to ensure that only authorized employees receive tips, that tips are properly accounted for, and that tips are maintained separately from all other gambling funds. Licensees must apply the following restrictions and procedures:

(1) No employee directly concerned with management, supervision, accounting, security, or surveillance may solicit, accept or otherwise share any tip originating from any player or patron. Licensees may allow cage cashiers to accept tips.

(2) Each licensee must establish procedures necessary to ensure that the floor supervisor and surveillance observe dealers accepting tips. Procedures must include an overt display of tips received, such as tapping the table with the tip before placing it in the tip container.

(3) Cashier tip containers must be located outside the cage enclosure. The patron must directly deposit tips to the cashier into the tip container.

(4) Employees must retain or pool tips among employees as the licensee determines.

(5) Licensees must establish and implement procedures for the proper accounting of tips received by authorized card room employees. The licensee must fully document procedures in the internal controls and must describe in detail any methods used to allocate tips. Accounting and recording of

tip income must be in sufficient detail to meet federal income tax requirements.

#### NEW SECTION

##### **WAC 230-15-480 Commissions on winning hands.**

The only direct or indirect fee (commission) licensees may collect is a maximum of five percent from a winning hand in house-banked card games.

#### NEW SECTION

**WAC 230-15-485 Standards for electronic facsimiles of cards.** (1) House-banked card game licensees may use electronic card facsimiles approved by the director or the director's designee in house-banked card games if the system:

- (a) Produces accurate facsimiles of one or more standard deck(s) of cards; and
  - (b) Randomly shuffles the cards before each round of play or shoe loading; and
  - (c) Contains a backup system that records and displays at least five previous rounds of play; and
  - (d) Meets the surveillance requirements for cards explained in WAC 250-15-280; and
  - (e) Contains security protocols which prevent unauthorized access; and
  - (f) Is designed to prevent the player from playing against the device; and
  - (g) Allows testing of the computer software; and
  - (h) Operates only under card room internal controls specific to each system; and
  - (i) Is tested by a licensed game testing laboratory for compliance with these requirements; and
  - (j) Meets any additional technical requirements we require.
- (2) Card room employees must operate the system.
- (3) The manufacturer must pay the costs of laboratory testing.

#### NEW SECTION

**WAC 230-15-490 Limiting pay outs for odds-based wagers.** (1) House-banked card game licensees may create pay out limits for odds-based wagers made in card games.

(2) Licensees may limit the pay out for odds-based wagers if we approve all pay out limits and their procedures for computing limits.

(3) Individual players' winnings must not be less than the higher of:

- (a) The maximum wager allowed for the game times the highest odds offered up to fifty-to-one (50 to 1). For example: If the maximum wager is one hundred dollars (\$100) and the odds are fifty-to-one (50 to 1); then the per player limit is five thousand dollars ( $\$100 \times 50 = \$5,000$ ); or
- (b) The house minimum required wager for the game times the highest odds offered for any wager in the game. The "minimum required wager" means the least amount a player must wager in order to win. For example: If the minimum required wager is ten dollars (\$10) and the maximum odds are one-thousand-to-one (1,000 to 1); then the per player limit is ten thousand dollars ( $\$10 \times 1,000 = \$10,000$ ).

(4) Table limits (aggregate pay out) must not be less than two times the individual player limit, as computed in subsection (3) of this section; and

(5) Licensees must clearly disclose all procedures for computing any per player or table limit (aggregate pay outs). This explanation must be available to players in a brochure or other printed material.

#### NEW SECTION

**WAC 230-15-495 Opening tables.** Licensees must clearly mark the outside of the chip tray with the gambling table number which it matches. When opening gambling tables, house-banked card game licensees must follow these steps:

(1) A floor supervisor must unlock the table inventory container (chip tray) and take out the table inventory slip (opener); and

(2) The floor supervisor and the dealer assigned to the gambling table must:

- (a) Count the contents of the chip tray; and
- (b) Verify the count against the opener; and
- (3) The dealer and the floor supervisor must then sign the opener, confirming the information on the opener is correct; and

(4) The dealer must immediately deposit the opener in the drop box attached to the gambling table; and

(5) If there is any discrepancy between the amount of gambling chips and coins counted and the amount of the chips and coins recorded on the opener:

- (a) The floor supervisor must report immediately to the shift manager, if on duty or when the manager arrives; and
- (b) The floor supervisor on duty must complete and sign a notification of error slip; and
- (c) The dealer and security must verify and sign the notification of error slip; and
- (d) Security must transport the duplicate of the notification of error slip to the accounting department or the cashier's cage; and

(e) The dealer must drop the original notification of error slip in the drop box attached to the gambling table; and

(f) The accounting department must keep a copy of the notification of error slip in a log in the format we require; and

(g) Licensees must notify us within twenty-four hours of errors of two hundred dollars or more, or if there is a pattern of shortages.

#### NEW SECTION

**WAC 230-15-500 Accounting for table inventory.** (1) House-banked card game licensees must establish procedures to ensure proper accounting for chips and coins stored at gambling tables, known as the "table inventory."

(2) Licensees must not add or remove chips or coins from the table inventory except:

- (a) In exchange for cash from players; or
- (b) To pay winning wagers and collect losing wagers made at the gambling table; or
- (c) In exchange for chips received from a player having an equal total face value (known as "coloring up" or "coloring down"); or

- (d) In compliance with fill and credit procedures.

#### NEW SECTION

##### **WAC 230-15-505 Selling gambling chips to players.**

House-banked card game licensees must accurately account for all chips and cash when they sell chips to players. Licensees must sell chips only at the gambling table. The dealer must:

- (1) Spread the cash on the top of the gambling table so that the player, floor supervisor, and surveillance have a full view of the sale;
- (2) Announce the amount loudly enough to be heard by the player and the floor supervisor assigned to the table;
- (3) Have the floor supervisor verify all cash sales of one hundred dollars or more;
- (4) Prove the denomination and the number of chips to the player, floor supervisor, and surveillance before giving the chips to the player. Licensees must include their method for proving chips in their internal controls; and
- (5) After giving the chips to the player, immediately remove the cash from the table top and put it in the drop box attached to the table.

#### NEW SECTION

**WAC 230-15-510 Transferring chips and coin to the gambling tables.** House-banked card game licensees must closely control and document all transfers of chips or coin to the gambling tables in a manner that ensures accountability and provides adequate security.

- (1) All transfers of chips or coin must be to or from the cashier's cage.
- (2) Chips or coin must not be transferred from one gambling table to another.
- (3) All transfers of chips or coin must be made using requests for fill slips and fill slips or request for credit slips and credit slips.

#### NEW SECTION

**WAC 230-15-515 Requirements for request for fill/credit slips.** A request for fill/credit slip must be:

- (1) A two part form; and
- (2) Completed in the format we require; and
- (3) Secured so that only a floor supervisor has access to the slip.

#### NEW SECTION

##### **WAC 230-15-520 Requirements for fill/credit slips.**

(1) Each fill/credit slip must be a consecutively prenumbered three-part form in the format we require. We may authorize use of a computer based accounting system which includes a nonrepeating consecutive numbering system, which fulfills the controls and safeguards of the manual system. House-banked card game licensees must:

- (a) Control and account for each series of fill/credit slips they receive; and
- (b) Ensure the fill/credit slip dispenser is secured in the cashier's cage; and

(c) Keep each series of fill/credit slips in a locked dispenser that will permit an individual fill/credit slip in the series and its copies to be written on simultaneously while still located in the dispenser, and will discharge the original and duplicate while the triplicate remains in a continuous, unbroken form in the dispenser; and

(d) Use the forms in consecutive order and account for all forms; and

(e) Assign an accounting department employee to be responsible for controlling and accounting for the unused supply of fill/credit slips, placing fill/credit slips in the dispensers, and removing the triplicate copy from the dispensers. Only the accounting department employee may have access to the forms in the dispenser.

(2) If there is a paper jam, the licensee may allow a security department employee access to the dispenser to clear it.

#### NEW SECTION

##### **WAC 230-15-525 Completing the fill process.**

###### **Requesting a fill.**

(1) A floor supervisor must prepare a request for fill slip to authorize the cage cashier to perform a fill for the distribution of chips or coin to gambling tables.

(2) The floor supervisor and security must sign the request for fill slip at the gambling table to which the chips or coin are to be delivered.

###### **Transporting requests for fills.**

(3) Security must transport the completed original request for fill slip directly to the cashier's cage.

(4) The dealer must place the duplicate copy of the request for fill slip face up on the gambling table. It must remain there until the chips or coin are received.

###### **Filling a request.**

(5) The cashier must prepare a fill slip when a request for fill slip is received.

(6) The cashier must sign the fill slip when finished preparing the fill.

(7) A security department employee must compare and verify the request for fill slip to the fill slip and the amount of the fill. Security must sign the fill slip.

(8) Security must transport the chips, coin, and the original and duplicate of the fill slip to the gambling table.

(9) The cashier retains the original of the request for fill slip.

###### **Receiving the fill.**

(10) On receiving chips or coin, the dealer verifies the amount of the fill and signs the fill slip.

(11) The floor supervisor verifies the amount of the fill and signs the fill slip.

(12) After the dealer and floor supervisor sign the fill slip, security must observe that the dealer immediately places the duplicate fill slip and the duplicate request for fill slip in the drop box attached to the gambling table.

(13) Security must return the original fill slip to the cashier.

(14) The cashier must attach the request for fill slip to the original fill slip.

(15) If an error is made on a fill slip, the cage cashier must write "VOID" on the original and duplicate of the slip, and sign the slip.

(16) At the end of the day or shift, the cage cashier must forward all slips to either:

(a) The count team for agreement with the duplicate of the fill slip and duplicate of the request for fill slip removed from the drop box. After the count, all fill slips and request for fill slips must be forwarded directly to the accounting department for agreement with the triplicate of the fill slip; or

(b) The accounting department for agreement with the duplicate fill slip and duplicate of the request for fill slip removed from the drop box and the triplicate of the fill slip.

#### NEW SECTION

##### **WAC 230-15-530 Completing the credit process.**

###### **Requesting credit.**

(1) The floor supervisor must prepare a request for credit to authorize the cage to prepare a credit slip for removing gambling chips and coin to the cashier's cage.

(2) The floor supervisor and a security employee must sign the request for credit slip at the gambling table from which the gambling chips and coin are being removed.

###### **Transporting requests for credit.**

(3) A security department employee transports the original of the request for credit and the gambling chips or coin removed from the gambling table directly to the cashier's cage.

(4) The dealer must place the duplicate copy face up on the gambling table. The request for credit must not be removed until a credit slip is received from the cashier's cage.

###### **Filling a request for credit.**

(5) The cashier must prepare a credit slip in the format we require whenever gambling chips or coin are removed from the gambling tables to the cashier's cage.

(6) The cashier must compare the request for credit to the chips or coin and sign the credit slip.

(7) A security department employee must compare and verify the request for credit to the credit slip and sign the credit slip.

(8) Security must transport the credit slip to the gambling table.

(9) The cashier retains the original of the request for credit.

###### **Receiving the credit.**

(10) On receiving the credit slip, the dealer and the floor supervisor verify the amount of the credit and sign the credit slip.

(11) After the dealer and floor supervisor sign the credit slip, the security employee must observe that the dealer immediately places the duplicate credit slip and the request for credit in the drop box attached to the gambling table from which the gambling chips or coin were removed.

(12) The security department employee must return the original credit slip to the cashier's cage. The cage cashiers must keep together and control the original of the credit slip and request for credit.

(13) If an error is made on the credit slip, the cage cashier must write "VOID" on the original and duplicate of the slip and sign the slip.

(14) At the end of the day or shift, the cage cashier must forward all slips to either:

(a) The count team for agreement with the duplicate of the credit slip and duplicate of the request for credit removed from the drop box. After the count, all credit slips and request for credit must be forwarded to the accounting department for agreement with the triplicate; or

(b) The accounting department for agreement with the duplicate credit slip and duplicate request for credit removed from the drop box and the triplicate.

#### NEW SECTION

**WAC 230-15-535 Closing tables.** When closing tables, house-banked card game licensees must follow these steps:

(1) The floor supervisor and the dealer assigned to the gambling table must count the gambling chips and coins. The surveillance department must monitor and record the entire count and closure process.

(2) The floor supervisor assigned to the gambling table must record the chips and coins counted on a table inventory slip.

(3) Licensees must use consecutively prenumbered three-part forms for table inventory slips. Table inventory slips must be in the format we require and have three parts:

(a) The original (the closer); and

(b) The duplicate (the opener); and

(c) The triplicate (which is transported by security to accounting).

(4) The floor supervisor and the dealer assigned to the gambling table must sign the table inventory slip, confirming the information recorded at the time of closing.

(5) After both the dealer and floor supervisor have signed the closer, the dealer must deposit the closer in the drop box attached to the table. If there are chips and coin remaining at the table, the dealer must place the opener face up in the chip tray, arranged so that it is clearly visible. Then the floor supervisor must lock the clear chip tray cover. The chip trays must be under recorded surveillance at all times.

(6) A security department employee must take the triplicate of the table inventory slip to the accounting department.

(7) If an error is made on the closer, the preparer must write "VOID" on all copies of the form and forward them to the accounting department.

(8) If the locked chip trays are transported to the cashier's cage at the end of each gambling day, a cage cashier must determine that all locked chip trays have been returned to the cage and are adequately secured.

#### NEW SECTION

**WAC 230-15-540 Notifying the commission of card game interruptions.** House-banked card game licensees



must notify us in writing if they interrupt operations of card games for more than seven days. Licensees must:

- (1) Notify us within three days of the interruption; and
- (2) Include the reason for the interruption; and
- (3) Include the estimated date card games will resume.

#### NEW SECTION

**WAC 230-15-545 Interruption of card games for more than seven days.** (1) If a house-banked card game licensee interrupts card game operations for more than seven days, we determine whether a preoperational review and evaluation (PORE) is needed. The licensee must receive our written approval before resuming operations.

(2) The PORE determines whether:

- (a) The licensee has an organizational structure that can support their proposed accounting and administrative controls; and
- (b) Internal accounting and administrative controls ensure that the licensee closely controls the gambling activities and accurately records financial information; and
- (c) The licensee has enough trained staff; and
- (d) The physical layout of the card room and supporting functions can handle the proposed accounting and administrative controls.

#### **Cashier's Cages in House-banked Card Rooms**

#### NEW SECTION

**WAC 230-15-550 Closely controlling money.** House-banked card game licensees must closely control and keep records documenting all receipts and disbursements of cash, cash equivalents, chips, and coin related to the operation of card games.

#### NEW SECTION

**WAC 230-15-555 Cashier's cage design and structure.** (1) House-banked card game licensees must:

- (a) Locate on, or immediately adjacent to, the gambling floor a physical structure to house the cashier and act as a cashier's cage; and
- (b) Design, construct, and operate the cashier's cage to provide maximum security and accountability for funds.
- (2) The cage must include, at a minimum:
  - (a) An enclosed structure with openings through which gambling chips, checks, cash, records, documents, and other such items can be passed;
  - (b) Manually triggered silent alarm systems connected directly to the surveillance room(s) of the closed circuit television system or an alarm monitoring agency; and
  - (c) A locked door, which the surveillance department monitors access to with closed circuit television.

#### NEW SECTION

**WAC 230-15-560 Operating the cashier's cage.** (1) House-banked card game licensees must have a cashier's cage used for securing and accounting for all chips and

monies in the card room portion of the business premises. Licensees must ensure that their cage cashiers, at least:

- (a) Maintain the cage inventory including currency, coin, player checks, gambling chips, forms, documents, and records normally associated with the operation of a cage; and
- (b) Receive gambling chips, cash, checks, and other cash equivalents from players in exchange for currency or coin or for check consolidations, total or partial redemptions, or substitutions; and
- (c) Receive cash or chips from the count room; and
- (d) Perform functions necessary to ensure accurate accountability of funds and chips consistent with these requirements, including, at least:
  - (i) Reconciling the total closing inventory with the total opening inventory; and
  - (ii) Receiving request for fill slips in exchange for issuing fill slips and requested coin or chips; and
  - (iii) Receiving chips or coins removed from gambling tables in exchange for issuing a credit slip; and
  - (iv) Receiving documents with signatures that ensure the effective segregation of duties; and
  - (v) Counting and recording the face value of each cage inventory item on a cashier's count sheet, along with the total opening and closing inventories, at the end of each of their outgoing shifts; and
  - (vi) Signing, at their incoming and outgoing shift, the cashier's count sheet and the cage inventory count sheet, attesting to accuracy of the count; and
  - (vii) Preparing the overall cage reconciliation and accounting records; and
  - (viii) Forwarding, at the conclusion of the daily gambling activity, copies of the cashier's count sheet, cage inventory count sheet, and related documents to the accounting department for reconciling the agreement of opening and closing inventories, notification of error slips, and the agreement of amounts on other forms, records, and documents recording transactions.

(2) Licensees may sell merchandise items out of the cashier's cage as long as they have a separate bank and receiving system for the sale and accounting of these items.

#### NEW SECTION

**WAC 230-15-565 Access and entrance to cashier's cage.** (1) House-banked card game licensees must limit entry to the cashier's cage to authorized personnel. Licensees must place on file with the accounting department the names of all persons:

- (a) Authorized to enter the cage; and
  - (b) Who have the combination, keys, or the mechanism to open the locks to the entrance of the cage; and
  - (c) Who have the ability to operate the alarm systems.
- (2) Licensees must keep a sign-in log in the format we require of all persons accessing the cashier's cage.

#### NEW SECTION

**WAC 230-15-570 Cashier's cage bank requirements.** (1) House-banked card game licensees must keep the cashier's cage on an imprest basis. "Imprest basis" means the cage must replenish funds on a regular basis to maintain exactly

the amount of outgoing cash, chips, or coin (expenditures) minus the amount of funds added.

(2) The accounting department must review expenditures and replenishments.

(3) Licensees who have demonstrated the ability to operate cage activities properly may request our approval to operate on a float basis. "Float basis" means the cage may adjust cash inventory as necessary.

#### NEW SECTION

**WAC 230-15-575 Separate imprest bank allowed for nonhouse-banked card games.** House-banked card game licensees operating both house-banked and nonhouse-banked games may sell chips for poker games through an imprest bank other than the cashier's cage. The bank must be located within the cashier's cage or another location approved in the internal controls.

#### NEW SECTION

**WAC 230-15-580 Accepting checks at the cashier's cage.** (1) House-banked card game licensees may accept checks from players as explained in WAC 230-06-005 and must meet the following additional requirements:

(a) Licensees may only accept checks from players at the cashier's cage; and

(b) Before cashing the check, the cage cashier must examine the player's identification to confirm the player's identity; and

(c) The cage cashier must:

(i) Endorse the check "for deposit only" to the licensee's bank account; and

(ii) Initial the check; and

(iii) Date and time stamp the check; and

(iv) Verify that the player is not listed on the daily returned check report. If licensees use a check guarantee and collection service, the licensee may disregard this subsection; and

(v) Exchange the check for currency and coin in the amount for which the check is drawn, minus any applicable fees; and

(vi) Forward all player checks to the main bank cashier.

(2) Before accepting a traveler's check from a player, the cage cashier must:

(a) Require the player to countersign the traveler's check in the cashier's presence; and

(b) Compare the countersignature with the original signature on the traveler's check; and

(c) Examine the traveler's check for any signs of tampering, forgery, or alteration; and

(d) Perform any other procedures that the issuer of the traveler's check requires in order to indemnify the acceptor against loss.

(3) Licensees must deposit all checks received into their bank account, within two banking days after receipt. Checks deposited to an armored car service within two banking days meet this requirement.

### Drop Boxes in House-banked Card Rooms

#### NEW SECTION

**WAC 230-15-585 Using drop boxes.** (1) House-banked card game licensees must use a drop box to collect all cash, chips, coins, requests for fill, fill slips, requests for credit, credit slips, and table inventory forms.

(2) The dealer or the floor supervisor must deposit these items in the drop box.

#### NEW SECTION

**WAC 230-15-590 Transporting drop boxes.** (1) When transporting drop boxes, house-banked card game licensees must have one security employee and one gambling operation employee transport all drop boxes removed from the gambling tables directly to the count room and secure them there. The security employee must notify the surveillance department when transport begins.

(2) If drop boxes are removed from gambling tables at times other than the close of the gambling day, the persons removing drop boxes must remove them during a shift change. These persons must prepare a table inventory slip as required in WAC 230-15-535, and the incoming and outgoing supervisors must verify the inventory and sign the table inventory slip.

(3) Count team members may pull and transport the drop boxes to the count room for the count process if:

(a) The gambling operation is closed; and

(b) The card room entrances/exits are locked; and

(c) Security supervises the transport.

#### NEW SECTION

**WAC 230-15-595 Storing drop boxes not attached to tables in the count room.** House-banked card game licensees must store all drop boxes not attached to a gambling table in the count room in an enclosed storage cabinet or trolley with two separately keyed locks. The security department must keep and control keys to the first lock and the gambling operation department must keep and control the keys to the second lock.

#### NEW SECTION

**WAC 230-15-600 Storing drop boxes on closed gambling tables.** House-banked card game licensees may store drop boxes on closed gambling tables if recorded surveillance covers the entire area.

### Count Requirements in House-banked Card Rooms

#### NEW SECTION

**WAC 230-15-605 Requirements for count rooms.** (1) House-banked card game licensees must have a secured area, called a "count room," for counting the contents of drop boxes.

(2) Licensees must design and construct the count room to provide maximum security for the materials housed there

and for the activities conducted there. The count room must be fully enclosed with only one entry. Licensees must also have:

(a) A door with at least one lock securing the count room door. The security department must keep and control the key or combination to the door. If a double locking system is used, the gambling operation department must keep the key to the second lock; and

(b) A sign-out procedure for all authorized keys used for the count process; and

(c) An alarm device connected to the entrance of the count room so that opening the door signals the surveillance employees monitoring the closed circuit television system.

(3) In the count room, licensees must have:

(a) A table of clear glass or similar material with a base that does not obstruct viewing for the emptying, counting, and recording of the contents of the drop boxes (the "count"); and

(b) Closed circuit television cameras and microphones that capture effective and detailed video and audio monitoring of the entire count process; and

(c) A sign posted in the count room or at the entrance that states audio recordings are occurring within the count room at all times.

(4) Licensees must keep a count room sign-in log in the format we require.

#### NEW SECTION

**WAC 230-15-610 Preparing to conduct a count.** (1) House-banked card game licensees must assign employees to conduct the count. The count team must be made up of three or more licensed employees. The count team must not include anyone who works in the surveillance department or whose duties included preparing, approving, or reviewing records used in that specific count process.

(2) Licensees must accurately count and record the contents of drop boxes to ensure the proper accountability of all gambling chips, coin, and currency. The count must be done at least once each gambling day.

(3) If a cage cashier completes the opener, closer, fills, and credits portions of the master game report, the cashier sends the original master game report to the count team for completion. The cage cashier must immediately send a copy directly to the accounting department.

(4) A count team member must notify the surveillance room observer that the count is about to begin. The surveillance employee must then make a video and audio recording of the entire count process.

(5) Before opening drop boxes, the count team must lock the door to the count room. Licensees must permit no person to enter or leave the count room, except for a normal work break or an emergency, until the count team has completed the entire counting, recording, and verification process for the contents of drop boxes.

#### NEW SECTION

**WAC 230-15-615 Conducting the count.** (1) The contents of drop boxes must not be combined before the count

team separately counts and records the contents of each box; and

(2) As each drop box is placed on the count table, a count team member must announce the game, table number, and shift, if applicable, loudly enough to be heard by all persons present and to be recorded by the audio recording equipment; and

(3) A count team member must empty the contents onto the count table; and

(4) Immediately after the contents are emptied onto the count table, a count team member must display the inside of the drop box to the closed circuit television camera, and show it to at least one other count team member to confirm that all contents of the drop box have been removed. A count team member must then lock the drop box and place it in the drop box storage area; and

(5) Count team member(s) must separate the contents of each drop box into separate stacks on the count table by denominations of coin, chips, and currency and by type of form, record, or document; and

(6) At least two count team members must count, either manually or mechanically, each denomination of coin, chips, and currency separately. Count team members must place individual bills and coins of the same denomination on the count table in full view of the closed circuit television cameras, and at least one other count team member must observe and confirm the accuracy of the count orally or in writing; and

(7) As the contents of each drop box are counted, a member of the count team must record the total amount of coin, chips, and currency counted (the drop) on the master games report; and

(8) If a cage cashier has recorded the opener, closer, fill slips, and credit slips on the master game report before the count, a count team member must compare the series numbers and totals recorded on the master game report to the fill slips, credit slips, and table inventory slips removed from the drop boxes, confirm the accuracy of the totals, and must record, by game and shift, the totals we require on the master game report. Otherwise, the count team must complete all required information on the master game report; and

(9) The accounting department may complete the win/loss portions of the master game report independently from the count team if this is properly documented in the approved internal controls.

#### NEW SECTION

**WAC 230-15-620 Concluding the count.** (1) After the count team finishes their count, the cage cashier or accounting department employee must verify the contents of the drop boxes.

(2) In the presence of the count team and before looking at the master game report, the verifier must recount the cash, either manually or mechanically.

(3) The verifier must sign the master game report verifying that the cash count is accurate.

(4) Each count team member must sign the report attesting to the accuracy of the information recorded.

(5) After the report is signed, the original master game report must be taken directly to the accounting department, along with the request for fills, the fill slips, the requests for credit, the credit slips, and the table inventory slips removed from drop boxes. The cage cashiers must not be allowed access to any of these records.

#### NEW SECTION

**WAC 230-15-625 Accounting department review of the count.** (1) On a daily basis, the accounting department must:

(a) Have a card room employee with no recording responsibilities compare a sample of originals and copies of the day's master game report, requests for fill, fill slips, requests for credit, credit slips and table inventory slips for agreement with each other and, if applicable, to triplicates or stored data; and

(b) Review a sample for the appropriate number and propriety of signatures; and

(c) Account for the originals and copies by series numbers, if applicable; and

(d) Test for proper calculation, summarization, and recording; and

(e) Subsequently record in monthly records; and

(f) Keep and control the originals and copies.

(2) The accounting department must report discrepancies immediately to us for investigation.

(3) If the accounting department does not work on weekends or federal or state holidays, they must complete these reviews on the next day that they work.

#### **Securing House-banked Card Room Keys**

#### NEW SECTION

**WAC 230-15-630 Restricting access and controlling keys.** House-banked card game licensees must use keys to control access to restricted areas of the business premises.

(1) Licensees must install and keep key control boxes that, at least:

(a) Are constructed of metal with a minimum of one key-lock mechanism. We permit coded key boxes or combination key boxes; and

(b) Are attached to a permanent structure without the hardware used to attach the key box being visible; and

(c) Are tamper proof; and

(d) Store keys so that they are identifiable, have identification labels, and are displayed in numeric or alphabetic order; and

(2) Licensees may decide the location of key control boxes, but the location must not allow an individual to gain access to a restricted area that he or she would not otherwise be authorized to enter.

(3) If licensees locate key boxes in restricted areas, persons who are not authorized to enter those areas must give their key to the key box to an authorized person. The authorized person must then only open the key box in the presence of the unauthorized person or while under camera coverage.

#### NEW SECTION

**WAC 230-15-635 Electronic key control systems.** House-banked card game licensees may use electronic key control systems if we review and approve them in writing.

#### NEW SECTION

**WAC 230-15-640 Keeping individual key control boxes for departments.** (1) House-banked card game licensees must keep individual key control boxes for at least these departments:

(a) Gambling operations;

(b) Accounting;

(c) Security; and

(d) Surveillance.

(2) Licensees must:

(a) Document in their approved written internal controls how they will keep the keys or combinations to each key control box secure; and

(b) Limit access to key control boxes to the licensed card room employee(s) responsible for the overall supervision or management of the department for which the box is kept. The employee(s) must keep this key or combination in their possession while gambling is being conducted; and

(c) Keep any duplicate keys to the key control boxes in the master key control box.

#### NEW SECTION

**WAC 230-15-645 Keeping a key control log.** House-banked card game licensees must keep a key control log in the format we require to record the use and return of keys used to control access to restricted areas.

#### NEW SECTION

**WAC 230-15-650 Keys for the gambling operations department.** In the gambling operations department, the key control box must include, at least, the key(s) to:

(1) Each pit podium; and

(2) Drawers and other locking cabinets located in each designated gambling area podium; and

(3) Remove the cover from the chip trays; and

(4) The second lock on the enclosed storage cabinet or trolley used to store or transport all drop boxes removed from the gambling tables; and

(5) All jackpot pay out boxes included with authorized card games; and

(6) All control boxes used to maintain authorized card games; and

(7) Other areas included in the approved internal controls.

#### NEW SECTION

**WAC 230-15-655 Keys for the security department.** In the security department, the key control box must include key(s) to:

(1) The lock to the count room door; and

(2) Unlock the lock that secures the drop boxes to the gambling table; and

(3) The first lock on the enclosed storage cabinet or trolley used to store or transport all drop boxes; and

(4) The storage cabinet(s) or other secure facility used to store the card inventory including decks not yet placed in play and decks removed from play and waiting to be canceled or destroyed; and

(5) The main entry or access door of the card room; and

(6) Other areas included in the approved internal controls.

#### NEW SECTION

**WAC 230-15-660 Keys for the accounting department.** (1) The accounting department key control box must include the key(s) to:

(a) The lock securing the contents of the drop boxes; and

(b) The rear of the locked dispenser used to store the triplicate of the fill/credit slips in a continuous, unbroken form; and

(c) The door to the cashier's cage; and

(d) Reset the lock to the drop boxes; and

(e) Other areas included in the approved internal controls; and

(2) The cashier's cage key control box must include key(s) to:

(a) Each cashier's window drawer; and

(b) The chip drawer or fill bank; and

(c) The vault and/or the safe; and

(d) The door to the cashier's cage; and

(e) The front of the locked dispenser used to store the triplicate of the fill/credit slips in continuous, unbroken form; and

(f) The dealer tip boxes; and

(g) Other areas included in the approved internal controls.

#### NEW SECTION

**WAC 230-15-665 Keys for the surveillance department.** In the surveillance department, the key control box must include keys to:

(1) The surveillance room; and

(2) The storage cabinet(s) or locker(s) used to keep surveillance recordings, cards, or other items of evidentiary value or recordings documenting details of jackpot pay outs.

#### NEW SECTION

**WAC 230-15-670 Keeping a master key control box.**

(1) House-banked card game licensees may keep a master key control box with access strictly limited to the owner(s), general manager, or other authorized person(s).

(2) Keys in this key control box may include:

(a) Extra keys for the department key boxes and restricted areas; and

(b) Other keys included in the licensee's approved internal controls.

#### NEW SECTION

**WAC 230-15-675 Emergency key for key control box.** For emergency situations, house-banked card game licensees may keep an additional key control box with a key which can be accessed on a limited basis for the safety of employees. We must preapprove any emergency key control boxes.

#### **Progressive Jackpot Prizes for House-banked Card Games**

#### NEW SECTION

**WAC 230-15-680 Operating progressive jackpot prizes.** House-banked card game licensees may operate progressive jackpot prizes with certain approved house-banked card games.

(1) To participate in a progressive jackpot, a player places a separate wager, part of which accrues to the progressively increasing prize.

(2) Manufacturer's game rules determine the winning patterns or combinations of cards.

(3) Licensees must offer a primary jackpot and may have a secondary or reserve jackpot prize.

(4) Licensees must adequately disclose to players the prizes available and how they are won.

(5) Licensees must ensure that they closely control progressive jackpot games and account for all the funds collected.

#### NEW SECTION

**WAC 230-15-685 Restrictions on progressive jackpots.** House-banked card game licensees operating progressive jackpots must follow these restrictions and procedures:

(1) Progressive jackpot funds must accrue according to the rules of the game; and

(2) At each gambling table, licensees must prominently post the amount of the progressive jackpot that players can win; and

(3) Licensees must record the beginning amount of each progressive jackpot offered, including explanations for any increases or decreases in the prize amount offered. Licensees must keep this documentation with the progressive jackpot records; and

(4) Licensees may establish a maximum limit on a progressive jackpot prize. If licensees establish a limit, they must make the amount equal to, or greater than, the amount of the jackpot when they imposed the limit. They must prominently post a notice of the limit at or near the game.

#### NEW SECTION

**WAC 230-15-690 Paying out progressive jackpot prizes.** (1) House-banked card game licensees must immediately pay out verified prizes of five thousand dollars or less.

(2) For verified prizes over five thousand dollars, licensees must immediately pay out a minimum of five thousand dollars and pay the remaining balance within twenty-four hours by check. The player may request that the licensee pay

up to the entire prize balance by check. Licensees must then issue a check for the entire prize balance within twenty-four hours.

#### NEW SECTION

**WAC 230-15-695 Adjusting progressive jackpot amounts.** House-banked card game licensees must not reduce the amount of a progressive jackpot prize accrued or displayed except for the following reasons:

- (1) To reduce the jackpot and the advertised amount by the amount won; or
- (2) To correct an amount displayed incorrectly because of malfunctioning equipment; or
- (3) To correct the display when the amount displayed is greater than the predetermined maximum prize limit; or
- (4) To reduce a reserve or secondary jackpot as long as they record the funds removed as gross receipts and properly documented that in their records; or
- (5) To reduce a reserve or secondary jackpot to recover seed money that was not taken from gross receipts, if they properly document those funds in their records; or
- (6) To reduce the jackpot by the dollar amount they paid for merchandise they award as prizes.

#### NEW SECTION

**WAC 230-15-700 Merchandise prizes for progressive jackpots.** House-banked card game licensees offering merchandise prizes for progressive jackpots must:

- (1) Own the merchandise prizes and pay for them in full, without lien or interest of others, before they award the merchandise as prizes. If the winner has an option to receive a cash prize instead of the merchandise, licensees may enter into a contract to immediately purchase a merchandise prize after the winner chooses their option; and
- (2) Disclose that they used a specific portion of the jackpot funds to buy merchandise to be awarded as prizes, as well as the specific merchandise prizes to be awarded; and
- (3) Disclose the value of the merchandise they plan to award. This value must be accurate and verifiable; and
- (4) Award the merchandise on the specific outcome of a game and include the outcome in the game rules; and
- (5) Keep detailed records, including the purchase invoice, on premises and make them available for our review.

#### NEW SECTION

**WAC 230-15-705 Temporarily removing a progressive jackpot from play.** House-banked card game licensees may temporarily remove a progressive jackpot game from play if:

- (1) The licensee submits a written request for removal with their reasons and we approve in writing; and
- (2) The circumstances are beyond the licensee's control or there is other good cause leading to the disruption, for example, remodeling the card room; and
- (3) The licensee notifies players of the disruption and the estimated date when the jackpot will continue.

#### NEW SECTION

**WAC 230-15-710 Permanently removing a progressive jackpot or a portion of a progressive jackpot from play.** (1) Players have a vested interest in the posted or advertised progressive jackpot prize.

(2) Licensees must:

- (a) Submit a detailed distribution plan to us in writing and receive written approval before removing any progressive jackpot prizes from play;
- (b) Prominently post a notice and the distribution plan, including if they plan to close the business, at least ten days before they begin the process of removing the jackpot and distributing the funds; and
- (c) Distribute the funds in one or more of the following ways:
  - (i) Offering the prize on a different house-banked game; or
  - (ii) Offering the prize in an approved free tournament in which funds must be distributed within sixty days from the date of approval; or
  - (iii) Donating the money to the Washington State Council on Problem Gambling.

#### NEW SECTION

**WAC 230-15-715 Tax authorities seizing all, or a portion, of a progressive jackpot.** If a taxing authority seizes jackpot funds, the house-banked card game licensee must immediately cease operating the progressive jackpot game and collecting funds for the progressive jackpot until the amount that was posted as the prize has been replaced in the bank account. Licensees may either replace reserve or secondary funds that were seized or record the funds as gross receipts.

#### NEW SECTION

**WAC 230-15-720 Deposit and reconciliation requirements for progressive jackpot prizes.** (1) House-banked card game licensees must deposit all progressive jackpot funds in a separate bank account at least weekly.

(2) Licensees must:

- (a) Keep a record of all deposits; and
  - (b) For each progressive prize, identify the deposits by game name and number and dates of collection; and
  - (c) Maintain validated deposit slips as part of their records.
- (3) At the end of the month, licensees must:
- (a) Reconcile the account balance with the bank statement to the progressive jackpot fund balances. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing; and
  - (b) Keep the reconciliation as part of their records.

## Records and Recordkeeping for House-banked Card Games

### NEW SECTION

#### **WAC 230-15-725 Keeping all card game records.**

House-banked card game licensees must keep and maintain all card game records in the format we require.

### NEW SECTION

#### **WAC 230-15-730 Keeping an accounting system.** (1)

House-banked card game licensees must keep and maintain a complete set of accounting records which we have approved before licensure. These records must include all receipts and disbursements of the licensee, including, at least, those related to gambling activities.

#### **Revenue, costs, and expenses.**

(2) Licensees must keep legible, accurate, and complete records of all transactions relating to the revenues, costs, and expenses of the gambling operation. Licensees must keep these records in a format that ensures consistency, comparability, and effective disclosure of financial information.

#### **Accounting system.**

(3) Licensees must keep an accounting system on a double entry method of accounting with transactions recorded on an accrual basis and in conformity with United States' Generally Accepted Accounting Principles (GAAP).

#### **Recordkeeping.**

(4) Licensees must keep detailed, supporting, and subsidiary records including, at least:

(a) Records of all players' checks initially accepted, deposited, and returned as "uncollected," and ultimately written off as "uncollectible"; and

(b) Records of investments in property, including, at least, equipment used directly in connection with the gambling operation; and

(c) Records of amounts payable by the gambling operation; and

(d) Records which identify the purchase, receipt, and destruction of all cards and gambling chips used in wagering; and

(e) Records of services provided for the operation of gambling activities, for example, service provided by gambling service suppliers; and

(f) Master game reports that reflect drop and win amounts for each table, for each game. These records must cover at least each period for which the drop boxes are removed, or at the minimum, the period of each gambling day.

#### **Copies.**

(5) Licensees must color code any form, record, or document that requires duplicate or triplicate copies.

(6) If forms, records, and documents are required to be inserted into a locked dispenser, the last copy must remain in a continuous unbroken form in the dispenser.

#### **Storing documents.**

(7) All forms, records, documents, and stored data required to be kept and controlled must have the title printed on the item, such as "fill slip," "request for fill slip," "credit slip," "request for credit slip," or "reconciliation."

(8) Licensees must keep all records for a period of not less than three years. At least the last six months of gambling records must be available for inspection on the business premises.

### NEW SECTION

**WAC 230-15-735 Keeping employee licensing records.** (1) Licensees must keep a records system on the business premises that ensures all applicable employees have met licensing requirements. The records must include:

(a) Employees' names;

(b) Gambling license numbers;

(c) Gambling license expiration dates; and

(d) Photocopies of all current employees' licenses.

(2) Licensees must keep copies of the applications of all employees who have applied for, but have not yet been issued, a license. The records must include:

(a) Temporary employment authorization;

(b) Documentation that the employee has made the required license or transfer fee payment; and

(c) Proof that the employee has followed the ten-day waiting period, if applicable.

(3) Licensees must notify us if a card room employee does not receive a license within sixty days of employment.

### NEW SECTION

**WAC 230-15-740 Preparing required financial statements.**

#### **Definitions.**

(1) The following definitions apply to all subsections of this rule:

(a) "Financial statements" means documents, including, at least: Balance sheet, statement of income, statement of retained earnings or changes in equity, statement of cash flows, and all required notes or disclosures.

(b) "Card room gross receipts" means all receipts from all house-banked and nonhouse-banked card games offered by the house-banked card room.

(c) "Independent" means there is no relationship that may influence a certified public accountant's impartiality and objectivity in rendering services.

#### **Filing with the commission.**

(2) House-banked card game licensees must submit financial statements covering all financial activities of the licensees' business premises for each business year within one hundred twenty days following the end of their business year.

(3) We may authorize a sixty-day extension if a licensee submits a written request explaining the need for the extension.

**Audited financial statements - gross receipts of over three million dollars.**

(4) Licensees with house-banked card game gross receipts of more than three million dollars for the business year must hire an independent, certified public accounting firm licensed by the Washington state board of accountancy to audit the licensee's financial statements according to Generally Accepted Auditing Standards (GAAS).

**Reviewed financial statements - gross receipts of one to three million dollars.**

(5) Licensees with house-banked card room gross receipts of one to three million dollars for the business year must hire an independent, certified public accounting firm licensed by the Washington state board of accountancy to review the licensee's financial statements according to the Statements on Standards for Accounting and Review Services (SSARS) or audit the licensee's financial statements according to GAAS.

**Compiled financial statements - gross receipts of less than one million dollars.**

(6) Licensees with house-banked card room gross receipts of less than one million dollars for the business year must hire an independent, certified public accounting firm licensed by the Washington state board of accountancy to compile the licensee's financial statements according to SSARS or audit the licensee's financial statements according to GAAS. This compilation must include all required notes or disclosures on an accrual basis of accounting.

**Financial statement preparation.**

(7) Licensees must prepare financial statements on a comparative basis. For the first year of operation only, licensees do not have to submit comparative financial statements. Licensees must report gross revenues from each licensed activity separate and apart from all other revenues.

(8) All financial statements must be prepared in accordance with the United States' Generally Accepted Accounting Principles (GAAP).

**Consolidated financial statements.**

(9) Commonly owned or operated business premises may present consolidated financial statements. Licensees must include consolidated schedules presenting separate financial statements for each licensed card room location.

**Change in business year.**

(10) Licensees must notify us in writing within thirty days if they change their business year. Licensees must submit financial statements covering the period from the end of the previous business year to the end of the new business year.

**NEW SECTION**

**WAC 230-15-745 Signature cards.** House-banked card game licensees must keep signature cards in the format we require for all licensed card room employees.

(1) The card must be prepared in the presence of a member of the accounting department, who must review a picture identification card and verify the signer's identity.

(2) Licensees must keep completed cards in a signature card file, sorted by department and listed alphabetically by name. Licensees must review and adjust the signature records as needed to reflect changes of personnel.

(3) Licensees must securely store signature cards in the accounting department.

(4) The cashier's cage must keep a copy of each signature card and cage personnel must use it to verify signatures.

(5) Licensees must retain the signature records for a period of at least one year after employment ends.

**NEW SECTION**

**WAC 230-15-750 Signature requirements for documents, records, and forms.** (1) House-banked card game licensees must document each transfer of cash, coins, or chips and verify the transfer with the signature(s) of individual(s) responsible for the records.

(2) By signing documents, records, and forms, signers are indicating that they:

(a) Have prepared them according to the requirements of the accounting system and internal controls; and/or

(b) Attest to the accuracy of the information recorded for which they are responsible.

(3) Signers must sign immediately next to, or above, the clearly printed or preprinted title on all forms, records, and documents.

(4) Signatures must, at least, be the signer's first initial and last name, for example, "B. Smith," and the signer's employee number.

**WSR 07-01-036****PROPOSED RULES****DEPARTMENT OF****LABOR AND INDUSTRIES**

[Filed December 12, 2006, 11:45 a.m.]

Supplemental Notice to WSR 06-22-108.

Preproposal statement of inquiry was filed as WSR 06-07-138.

Title of Rule and Other Identifying Information: Industrial insurance premium rates, chapter 296-17 WAC, General reporting rules, classifications, audit and record keeping, rates and rating system for Washington workers' compensation insurance.

Date of Intended Adoption: January 24, 2007.

Submit Written Comments to: Ronald Moore, Acting Program Manager, Employer Services, P.O. Box 44140, Olympia, WA 98504-4140, e-mail mooa235@lni.wa.gov, fax (360) 902-4729, by January 5, 2007.

Assistance for Persons with Disabilities: Contact Office of Information and Assistance by December 13, 2006, TTY (360) 602-5797.

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



this supplemental rule filing is to extend the comment period from 5 p.m., December 18, 2006, to 5 p.m., January 5, 2007.

Please see proposal filed in WSR 06-22-108, November 1, 2006.

Statutory Authority for Adoption: RCW 51.06.035 Base rates, 51.32.073 Supplemental pension, 51.08.010 Retrospective rating, and 51.04.020(1) General authority.

Statute Being Implemented: RCW 51.16.035, 51.32.-073, 51.18.010, and 51.04.020(1).

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Bill Moomau, Tumwater, Washington, (360) 902-4774; Implementation: Ronald Moore, Tumwater, Washington, (360) 902-4748; and Enforcement: Bob Malooly, Tumwater, Washington, (360) 902-4209.

December 12, 2006

Judy Schurke  
Acting Director

### WSR 07-01-057

#### PROPOSED RULES

#### GAMBLING COMMISSION

[Filed December 15, 2006, 9:42 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 06-22-050.

Title of Rule and Other Identifying Information: Amending Sections: WAC 230-40-835 Accounting control's cashier's cage, 230-40-865 Distribution of chips and coin to tables—Requests and fills—House-banking, 230-40-870 Removing chips and coins from tables—Requests and credits—House-banking, and 230-40-885 Count procedures—House-banking.

Hearing Location(s): Red Lion Hotel, 2300 Evergreen Park Drive, Olympia, WA 98502, (360) 943-4000, on February 9, 2007, at 9:30 a.m.

Date of Intended Adoption: February 9, 2007.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail Susana@wsgc.wa.gov, fax (360) 486-3625 by February 1, 2007.

Assistance for Persons with Disabilities: Contact Shirley Corbett by February 1, 2007, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: We have received a petition for rule change from the recreational gaming association.

The petitioner is seeking exceptions from performing required daily accounting functions on weekends and holidays. The proposed rule changes would no longer require house-banked operators to have accounting staff perform some daily accounting functions on weekends and/or holi-

days. Instead, they would perform these functions on the day following the weekend or holiday.

The petitioner is proposing to add wording to each of the mentioned rules as follows: "Provided, if the accounting department does not work on weekends or federal or state holidays, they must complete these duties on the next day that they work."

Statutory Authority for Adoption: RCW 9.46.070.

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

Name of Proponent: Recreational gaming association, private.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Sharon Reese, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule change clarifies language of rules without changing the effect.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

November 29, 2006

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 383, filed 4/14/00, effective 5/15/00)

**WAC 230-40-835 Accounting controls for cashier's cage.** Licensees required to maintain a cashier's cage shall adhere to the following controls to ensure proper accountability for funds. The following restrictions and procedures apply to cashiers and the cage:

(1) Cashiers shall be responsible for at least the following functions:

(a) Receive cash, checks, and gaming chips from patrons for check consolidations, total or partial redemptions or substitutions;

(b) Receive gaming chips from patrons in exchange for cash;

(c) Receive traveler's checks and other cash equivalents (including money orders, certified checks, and cashier's checks) from patrons in exchange for currency or coin;

(d) Receive documentation with signatures thereon, required to be prepared for the effective segregation of functions in the cashier's cage;

(e) Receive from security department personnel, chips and coins removed from gaming tables in exchange for the issuance of a credit;

(f) Receive from security department members, requests for fills in exchange for the issuance of a fill slip and the disbursement of gaming chips;

(g) Receive cash or chips from the count room;

(h) At the end of each shift, the cashiers assigned to the outgoing shift shall count each cage inventory item and

record on a cashier's count sheet the face value of each inventory item and the total of the opening and closing inventories. The total closing inventory shall be reconciled with the total opening inventory;

(i) Prepare the overall cage reconciliation and accounting records; and

(j) Perform such other functions as necessary to ensure proper accountability of funds and chips consistent with these standards.

(2) Signatures attesting to accuracy shall, at a minimum, be contained on the following:

(a) Cashier's count sheet; and

(b) Cage inventory countsheet, which includes the signatures of the cashiers assigned to the incoming and outgoing shifts.

(3) At the conclusion of the daily gaming activity, copies of the cashier's count sheet, cage inventory count sheet and related documentation shall be forwarded to the accounting department for agreement of opening and closing inventories, and agreement of amounts thereon to other forms, records and documentation for recording of transactions; Provided, That if the accounting department does not work on weekends or federal or state holidays, the triplicate copy of the fill/credit slip must be removed and the daily gaming activity reconciled on the next day that the accounting department works.

AMENDATORY SECTION (Amending Order 403, filed 6/19/01, effective 7/20/01)

**WAC 230-40-865 Distributing chips and coins to tables—Requests and fills—House-banking.** Gaming chips and coins shall only be distributed to gaming tables with adequate security and in a manner that ensures proper control and accountability. The following restrictions and procedures apply:

**Fill slip.**

(1) Each "fill slip" shall be serially prenumbered three-part forms, which provide an original and duplicate copies as necessary: Provided, That the director may authorize use of a computer based accounting system which includes a nonrepeating sequential numbering system that is consistent with the controls and safeguards of the manual system. Requests for fills shall be a two-part form which provides an original and duplicate copy. These forms shall be controlled in the following manner:

(a) Each series of fill slips received by a licensee shall be controlled and accounted for separately;

(b) Request for fills shall be secured in such a manner that only a gaming operations supervisor has access;

(c) Fill slips shall be secured by the cashier's cage;

(d) These forms shall be used in sequential order and all forms accounted for; and

(e) The preparer shall void forms that have errors by marking "VOID" on both the original and duplicate copies and sign the form.

**Request for fill.**

(2) A "request for fill" shall be prepared by the gaming operation supervisor to authorize the cage to prepare a "fill slip" for the distribution of chips and coins to gaming tables. The original and duplicate of the request for fill shall include the following entries:

(a) The date, time, and shift of preparation;

(b) The denomination of gaming chips or coins to be distributed to the gaming tables;

(c) The total amount of each denomination of gaming chips or coins to be distributed to the gaming tables;

(d) The game and table number to which the gaming chips or coins are to be distributed;

(e) The signature of the gaming operation supervisor; and

(f) The signature of the security department employee that distributed the chips and coins.

**Transporting requests.**

(3) After preparation of the request for fill, the original of such request shall be transported directly to the cashier's cage by security.

**Duplicate copies of the request.**

(4) The duplicate copy of the request for fill shall be placed by the dealer or floor supervisor in public view on the gaming table to which the gaming chips or coins are to be received. Such duplicate copy shall not be removed until the chips and coins are received, at which time the request for fill and fill slip are deposited in the drop box.

**Fill slip procedures.**

(5) A fill slip shall be prepared by a cashier whenever gaming chips or coins are distributed to the gaming tables from the cashier's cage. The following procedures and requirements shall be observed with regard to fill slips:

(a) Each series of fill slips shall be in triplicate form to be kept in a locked dispenser that will permit an individual fill slip in the series and its copies to be written upon simultaneously while still located in the dispenser, and that will discharge the original and duplicate while the triplicate remains in a continuous, unbroken form in the dispenser: Provided, That if a computer system is used, which includes a nonrepeating sequential numbering system, the controls and safeguards of the manual system must be present; and

(b) Access to the triplicate copy of the form shall be maintained and controlled at all times by an accounting department employee responsible for controlling and accounting for the unused supply of fill slips, placing fill slips in the dispensers, and removing from the dispensers, each day, the triplicate copies remaining therein: Provided, That access will be permitted to an employee of the security department for the sole purpose of clearing any paper jams in the dispenser and if the accounting department does not work on weekends or federal or state holidays, they must complete these duties on the next day that they work.

**Information to be recorded on fill slip.**

(6) On the original, duplicate, and triplicate copies of the fill slip, the preparer shall record, at a minimum, the following information:

- (a) The denomination of the gaming chips or coins being distributed;
  - (b) The total amount of each denomination of gaming chips or coins being distributed;
  - (c) The total amount of all denominations of gaming chips or coins being distributed;
  - (d) The game and table number to which the gaming chips or coins are being distributed;
  - (e) The date and shift during which the distribution of gaming chips or coins occurs; and
  - (f) The signature of the preparer.
- (7) Upon preparation, the time of preparation of the fill slip shall be recorded, at a minimum, on the original and the duplicate.

**Employee verification.**

(8) All gaming chips or coins distributed to the gaming tables from the cashier's cage shall be transported directly by a security department employee. This employee shall verify the request for fill to the amount of the fill slip and sign the original of the request for fill, which is maintained at the cashier's cage, before transporting the gaming chips or coins and the original and duplicate of the fill slip for signature.

**Signatures required on fill slips.**

(9) Signatures attesting to the accuracy of the information contained on the original and duplicate of the fill slips shall, at a minimum, be those of the following personnel at the following times:

- (a) The cashier upon preparation;
- (b) The security department employee transporting the gaming chips or coins to the gaming table upon receipt from the cashier of gaming chips or coins;
- (c) The dealer assigned to the gaming table upon receipt; and
- (d) The gaming operation supervisor assigned to the gaming table upon receipt of the gaming chips or coins at such table.

**Transporting chips and coins.**

(10) Upon meeting the signature requirements, the security department employee that transported the gaming chips or coins and the original and duplicate copies of the fill slip to the table, shall observe the following:

- (a) The dealer shall immediately place the duplicate fill slip and duplicate request for fill in the drop box attached to the gaming table to which the gaming chips or coins were transported; and
- (b) The security department employee shall then return the original fill slip to the cashier's cage where the original fill slip and request for fill shall be maintained together and controlled by cage employees.

**VOID procedures.**

(11) The original and duplicate "VOID" fill slips, the original request for fill, and the original fill slip shall be forwarded as follows:

- (a) The count team, as described in WAC 230-40-885(2), for agreement with the duplicate copy of the fill slip and duplicate copy of the request for fill removed from the drop box after which the original and duplicate copy of the request for fill and the original and duplicate copy of the fill slip shall be forwarded to the accounting department for agreement, on a daily basis, with the triplicate; or
- (b) The accounting department for agreement, on a daily basis, with the duplicate fill slip and duplicate copy of the request for fill removed from the drop box and the triplicate; Provided, if the accounting department does not work on weekends or federal or state holidays, they must complete these duties on the next day that they work.

**Transferring chips.**

(12) Transfers of gaming chips from one gaming table to another gaming table is prohibited. All transfers of gaming chips shall be to the cashier's cage.

AMENDATORY SECTION (Amending Order 403, filed 6/19/01, effective 7/20/01)

**WAC 230-40-870 Removing chips and coins from tables—Requests and credits—House-banking.** All transfers of gaming chips and coins shall be closely controlled and documented in a manner that ensures accountability. Gaming chips and coins shall only be removed from gaming tables with adequate security. The following restrictions and procedures apply:

**Credit slip.**

(1) Each "credit slip" shall be serially prenumbered three-part forms, which provide an original and duplicate copies as necessary: Provided, That the director may authorize use of a computer based accounting system which includes a nonrepeating sequential numbering system that is consistent with the controls and safeguards of the manual system. Requests for credits shall be a two-part form which provides an original and duplicate copy. These forms shall be controlled in the following manner:

- (a) Each series of credit slips received by a licensee shall be controlled and accounted for separately;
- (b) Request for credits shall be secured in such a manner that only a gaming operations supervisor has access;
- (c) Credit slips shall be secured by the cashier's cage;
- (d) These forms shall be used in sequential order and all forms accounted for; and
- (e) The preparer shall void forms that have errors by marking "VOID" on both the original and duplicate copies and sign the form.

**Request for credit.**

(2) A "request for credit" shall be prepared by the gaming operation supervisor to authorize the cage to prepare a credit slip for the removal of gaming chips and coins to the

cashier's cage. The original and duplicate of the request for credit shall include the following entries:

- (a) The date, time and shift of preparation;
- (b) The denomination of gaming chips or coins to be removed from the gaming table;
- (c) The total amount of each denomination of gaming chips or coins to be removed from the gaming table;
- (d) The game and table number from which the gaming chips or coins are to be removed; and
- (e) The signature of the gaming operation supervisor and dealer assigned to the gaming table from which gaming chips or coins are to be removed.

#### **Employee verification.**

(3) Immediately upon preparation of a request for credit and transfer of gaming chips or coins to a security department employee, a gaming operation supervisor shall obtain on the duplicate copy of the request for credit the signature of the security department member to whom the gaming chips and coins were transferred. The dealer shall place the duplicate copy in public view on the gaming table from which the gaming chips or coins were removed. Such request for credit shall not be removed until a credit slip is received from the cashier's cage at which time the request for credit and credit slip are deposited in the drop box.

#### **Transporting requests.**

(4) The original of the request for credit and the gaming chips or coins removed from the gaming table shall be transported directly to the cashier's cage by the security department employee.

#### **Credit slip procedures.**

(5) A credit slip shall be prepared by the cashier whenever gaming chips or coins are removed from the gaming tables to the cashier's cage. The following procedures and requirements shall be observed with regard to credit slips:

(a) Each series of credit slips shall be a three-part form and shall be inserted in a locked dispenser that will permit an individual slip in the series and its copies to be written upon simultaneously while still locked in the dispenser, and that will discharge the original and duplicate while the triplicate remains in a continuous, unbroken form in the dispenser: Provided, That if a computer system is used, which includes a nonrepeating sequential numbering system, the controls and safeguards of the manual system must be present; and

(b) Access to the triplicate copy shall be maintained and controlled at all times by an accounting department employee responsible for controlling and accounting for the unused supply of credit slips, placing credit slips in the dispensers, and removing from the dispensers, each day, the triplicates remaining therein: Provided, That access will be permitted to an employee of the security department for the sole purpose of clearing any paper jams in the dispenser and if the accounting department does not work on weekends or federal or state holidays, they must complete these duties on the next day that they work.

#### **Information to be recorded on credit slip.**

(6) On the original, duplicate and triplicate copies of a credit slip, the preparer shall record, at a minimum, the following information:

- (a) The denomination of the gaming chips or coins removed from the gaming table to the cashier's cage;
  - (b) The total amount of each denomination of gaming chips or coins removed from the gaming table to the cashier's cage;
  - (c) The total amount of all denominations of gaming chips or coins removed from the gaming table to the cashier's cage;
  - (d) The game and table number from which the gaming chips or coins were removed;
  - (e) The date and shift during which the removal of gaming chips or coins occurs; and
  - (f) The signature of the preparer.
- (7) Upon preparation, the time of preparation of the credit slip shall be recorded, at a minimum, on the original and duplicate copy.

#### **Signatures required on credit slips.**

(8) Signatures attesting to the accuracy of the information contained on the original and the duplicate copy of a credit slip shall be, at a minimum, the following personnel at the following times:

- (a) The cage cashier upon preparation;
- (b) The security department employee transporting the gaming chips or coins to the cashier's cage upon presentation to the cashier;
- (c) The dealer assigned to the gaming table upon receipt at such table from the security department employee; and
- (d) The gaming operation supervisor assigned to the gaming table upon receipt at such table.

#### **Transporting chips and coins.**

(9) Upon meeting the signature requirements, the security department employee transporting the original and duplicate copies of the credit slip to the gaming table, shall observe the following:

- (a) The dealer shall immediately place the duplicate copies of the credit slip and request for credit in the drop box attached to the gaming table from which the gaming chips or coins are removed; and
- (b) The security department employee shall expeditiously return the original credit slip to the cashier's cage where the original of the credit slip and request for credit shall be maintained together and controlled by cage employees.

#### **VOID procedures.**

(10) The original and duplicate copies of "VOID" credit slips, and the original request for credit and credit slip shall be forwarded to:

- (a) The count team, as described in WAC 230-40-885(2), for agreement with the duplicate credit slip and the duplicate request for credit removed from the drop box, after which the request for credit and the original and duplicate credit slip

shall be forwarded to the accounting department for agreement, on a daily basis, with the triplicate; or

(b) The accounting department for agreement, on a daily basis, with the duplicate copies of the credit slip and request for credit removed from the drop box and the triplicate.

**AMENDATORY SECTION** (Amending Order 403, filed 6/19/01, effective 7/20/01)

**WAC 230-40-885 Count procedures—House-banking.** Card rooms that offer house-banked card games shall ensure the contents of drop boxes are counted and recorded in a manner that ensures the proper accountability of all gaming chips, coins, and currency. The following restrictions and procedures apply:

**Notification of count.**

(1) The security department shall notify the surveillance department whenever the contents of drop boxes removed from gaming tables are to be counted and recorded, which, at a minimum, shall be once each gaming day.

**Count team members.**

(2) The opening, counting and recording of the contents of drop boxes shall be performed in the presence of and by those employees assigned by the gaming operation department for the conduct of the count. The count team must consist of three employees who shall not be in a position to perpetrate or conceal errors or irregularities in the normal course of his or her duties. Anyone both recording transactions and having access to the relevant assets is in a position to perpetrate errors or irregularities.

**Securing the count room.**

(3) Immediately prior to the opening of the drop boxes, the doors to the count room shall be securely locked and except as otherwise authorized, no person shall be permitted to enter or leave the count room, except during a normal work break or in an emergency, until the entire counting, recording, and verification process is completed.

**Video and audio recording of the count.**

(4) Immediately prior to the commencement of the count, one count team member shall notify the person assigned to the closed circuit television surveillance room in the establishment that the count is about to begin, after which such person shall make a video and audio recording of the entire counting process.

**Count procedures.**

(5) Contents of drop boxes shall not be mixed prior to counting and recording of each drop box. Procedures and requirements for conducting the count shall be the following:

(a) As each drop box is placed on the count table, one count team member shall announce, in a tone of voice to be heard by all persons present and to be recorded by the audio recording device, the game, table number, and shift marked thereon;

(b) The contents of each drop box shall be emptied and counted separately on the count table;

(c) Immediately after the contents of a drop box are emptied onto the count table, the inside of the drop box shall be held up to the full view of a closed circuit television camera, and shall be shown to at least one other count team member to confirm that all contents of the drop box have been removed, after which the drop box shall be locked and placed in the storage area for drop boxes;

(d) The contents of each drop box shall be segregated by a count team member into separate stacks on the count table by denominations of coin and currency and by type of form, record or document;

(e) Each denomination of coin and currency shall be counted separately, either manually or mechanically, by at least two count team members who shall place individual bills and coins of the same denomination on the count table in full view of the closed circuit television cameras, and such count shall be observed and the accuracy confirmed orally or in writing, by at least one other count team member;

(f) As the contents of each drop box is counted, one count team member shall record or verify on a master game report, by game, table number, and shift, the following information:

(i) The total amount of currency and coin counted, also known as the "drop";

(ii) The amount of the opener;

(iii) The amount of the closer;

(iv) The serial number and amount of each fill slip;

(v) The total amount of the fill;

(vi) The serial number and amount of each credit slip;

(vii) The total amount of all credit slips; and

(viii) The game win or loss.

(g) After the contents of each drop box have been counted and recorded, one member of the count team shall record by game and shift, on the master game report, the total amounts of currency and coin, table inventory slips, fill slips and credit slips counted, and win or loss, together with such additional information as may be required on the master game report by the licensee;

(h) Notwithstanding the requirements of (f) and (g) of this subsection, if the licensee's system of accounting and internal controls provides for the recording on the master game report of fill slips, credit slips, and table inventory slips by cage cashiers prior to the commencement of the count, a count team member shall compare the serial numbers and totals of the amounts recorded thereon to the fill slips, credit slips, and table inventory slips removed from the drop boxes: Provided, That the accounting department may complete the win/loss portions independently from the count team, if properly documented in the approved internal controls; and

(i) After completion and verification of the master game report, each count team member shall sign the report attesting to the accuracy of the information recorded thereon.

**Concluding the count.**

(6) Procedures and requirements at the conclusion of the count for each gaming shift shall be the following:

(a) All cash removed from each drop box after the initial count shall be presented in the count room by a count team member to a cashier who, prior to having access to the information recorded on the master game report and in the pres-

ence of the count team, shall recount, either manually or mechanically, the cash received;

(b) The top copy of the master game report, after signing, and the request for fills, the fill slips, the request for credits, the credit slips, and the table inventory slips removed from drop boxes, shall be transported directly to the accounting department and shall not be available to any cashier's cage personnel; and

(c) If the licensee's system of accounting and internal controls does not provide for the forwarding from the cashier's cage of the duplicate of the fill slips, credit slips, request for credits, request for fills, such documents recorded or to be recorded on the master game report shall be transported from the count room directly to the accounting department.

#### Accounting.

(7) The originals and copies of the master game report, request for fills, fill slips, request for credits, credit slips and table inventory slips shall on a daily basis, in the accounting department be:

(a) Compared for agreement with each other, on a test basis, by persons with no recording responsibilities and, if applicable, to triplicates or stored data;

(b) Reviewed for the appropriate number and propriety of signatures on a test basis;

(c) Accounted for by series numbers, if applicable;

(d) Tested for proper calculation, summarization, and recording;

(e) Subsequently recorded; ~~(and)~~

(f) Maintained and controlled by the accounting department; and

(g) Provided, if the accounting department does not work on weekends or federal or state holidays, they must complete these duties on the next day that they work.

**WSR 07-01-071**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed December 18, 2006, 3:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-20-074.

Title of Rule and Other Identifying Information: WAC 388-412-0025 How do I get my benefits?

Hearing Location(s): Lacey Government Center, Room 104-B, 1009 College Street S.E., Lacey, WA 98503 (a map or directions are available at [http://iesd.dshs.wa.gov/itdcentral/aboutitd/locate/lgc\\_directions.pdf](http://iesd.dshs.wa.gov/itdcentral/aboutitd/locate/lgc_directions.pdf) or by calling (360) 664-6097), on January 23, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than January 24, 2007.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [schilse@dshs](mailto:schilse@dshs).

wa.gov, fax (360) 664-6185, by 5:00 p.m. on January 23, 2007.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant by January 19, 2007, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at [schilse@dshs.wa.gov](mailto:schilse@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amended rule describes the department's current policy on how we issue cash and food benefits, when we cancel benefits that are in an account that has been unused for three hundred sixty-five days, and when the department will replace cancelled benefits.

Reasons Supporting Proposal: The changes proposed under this filing are to clarify the current process on [how] the department issues cash and Basic Food benefits, when we cancel out unused benefits, and when the department can replace cancelled benefits. The amended rule also removes a reference to an incorrect phone number. The proposed rule is consistent with current policy regarding benefit issuance and requirements for the Food Stamp Program under 7 C.F.R. 274.12.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.515, 74.08.090, 7 C.F.R. 274.12.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510, 74.04.515, 74.08.090, 7 C.F.R. 274.12.

Rule is necessary because of federal law, 7 C.F.R. 274.12.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Camp, 1009 College S.E., Lacey, WA 98504, (360) 725-4616.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients by defining how we issue cash and Basic Food benefits to eligible households, and describing what circumstances must exist for the department to replace unused cash or Basic Food benefits that we cancelled out of an unused electronic benefits transfer (EBT) account.

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."

December 11, 2006

Andy Fernando, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 05-17-089, filed 8/12/05, effective 9/12/05)

**WAC 388-412-0025 How do I get my benefits? (1)**  
We send your cash benefits (~~are sent~~) to you by either:

(a) Electronic benefit transfer (EBT) (~~card~~), which is a direct deposit into a DSHS account that you access with a debit card called the Washington EBT Quest card;

(b) Electronic funds transfer (EFT), which is a direct deposit into your own bank account;

(c) A warrant(check) to a payee who is not approved for direct deposit; or

(d) A warrant (check) to you if you get:

(i) Diversion cash assistance (DCA) that cannot be paid directly to a vendor;

(ii) Additional requirements for emergent needs (AREN) that cannot be paid directly to a vendor;

(iii) Ongoing additional requirements (OAR) that cannot be paid directly to a vendor;

(iv) Clothing and personal incidentals (CPI) payments; or

(v) State supplemental payment (SSP) and you do not receive your benefit through EFT.

~~(2) ((You use a Quest debit card to access your benefits in your EBT account. You get a personal identification number (PIN) that you must enter when using this card))~~ We send your **Basic Food** benefits to you by EBT.

~~(3) ((Your Basic Food benefits are deposited into your EBT account on the day of the month defined in WAC 388-412-0020))~~ We set up an EBT account for the Head of Household of each AU that receives benefits by EBT.

~~(4) ((We establish an EBT account for each AU that receives their benefits by EBT))~~ You use a Quest debit card to access your benefits in your EBT account. You select a personal identification number (PIN) that you must enter when using this card.

~~(5) ((We cancel your cash and Basic Food benefits when you do not use your EBT account for three hundred sixty-five days.~~

~~(a) Basic Food benefits that were canceled because you did not use them for three hundred sixty-five days cannot be replaced.~~

~~(b) Cash benefits that were canceled because you did not use them for three hundred sixty-five days may be replaced. You have two years to contact the department of revenue in order to replace your cash benefits. You can contact department of revenue at 1-888-328-9271. After that time, you must contact the state treasurer to claim any canceled funds))~~ You must use your cash and Basic Food benefits from your EBT account. We do not convert cash or Basic Food benefits to checks.

~~(6) ((You must use your cash and Basic Food benefits from your EBT account. We do not convert cash or Basic Food benefits to checks))~~ We deposit your Basic Food benefits into your EBT account by the tenth day of the month based on your Basic Food assistance unit number as described in WAC 388-412-0020.

(7) **Unused EBT benefits:** If you do not use your EBT account for three hundred sixty-five days, we cancel the cash and Basic Food benefits on your account.

(a) **Replacing Basic Food benefits:**

(i) We **can replace** cancelled benefits we deposited **less than three hundred sixty-five days** from the date you ask for us to replace your benefits.

(ii) We **cannot replace** cancelled benefits deposited **three hundred sixty-five or more days** from the date you ask us to replace your benefits.

(b) **Replacing cash benefits:** We **can replace** cancelled cash benefits for you or another member of your assistance unit. Cash benefits are not transferable to someone outside of your assistance unit.

(8) **Replacing cash warrants:** If we issued you cash benefits as a warrant we can replace these benefits for you or a member of your assistance unit. Cash benefits are not transferable to someone outside of your assistance unit.

(a) If we issued the benefits as a warrant one hundred sixty or fewer days ago, your local office can replace the warrant.

(b) If we issued the benefits as a warrant more than one hundred sixty days ago, the Office of Accounting Services can replace the warrant.

## WSR 07-01-075

### PROPOSED RULES

### SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY

[Filed December 18, 2006, 3:41 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: SCAPCA Regulation I, Article IV, Section 4.02.A-C - General Requirements for Registration; SCAPCA Regulation I, Article X, Section 10.01 - Definitions; and SCAPCA Regulation I, Article X, Section 10.02 - Fees and Charges Required.

Hearing Location(s): Spokane County Public Works Building, 1206 West Broadway, Hearing Room Lower Level, Spokane, WA 99201, on February 1, 2007, at 9:00 a.m.

Date of Intended Adoption: February 1, 2007.

Submit Written Comments to: Matt Holmquist, Compliance Administrator, 1101 West College Avenue, Suite 403, Spokane, WA 99201, e-mail mgholmquist@scapca.org, fax (509) 477-6828, by 4:30 p.m. on January 19, 2007.

Assistance for Persons with Disabilities: Contact Barbara Nelson by 4:30 p.m. on January 19, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Clarifies registration requirements in Section 4.02; general "house-keeping" of definitions in Section 10.01; establishes a processing fee if registration information is not submitted within forty-five days in Section 10.02; and amends existing late fee timeline for fees assessed pursuant to Article X in Section 10.02.

Reasons Supporting Proposal: Provides sources an incentive for timely submittal of annual registration information, processing fees would help SCAPCA recoup costs associated with following-up on late submittal of registration information, prevents delays in assessing annual registration fees when registration information is not submitted on-time, and provide clarification regarding application of late fees.

Statutory Authority for Adoption: RCW 70.94.141(1), 70.94.380, 70.94.151 (1) and (2), 70.94.431(7).

Statute Being Implemented: RCW 70.94.141(1), 70.94.380, 70.94.151 (1) and (2), 70.94.431(7).

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

Name of Proponent: Spokane county air pollution control authority (SCAPCA), governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Matt Holmquist, SCAPCA, 1101 West College, Suite 403, Spokane, WA 99201, (509) 477-4727.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a local air pollution control authority rule, not a state agency pursuant to RCW 70.94.141, and as such, chapter 19.85 RCW does not apply.

A cost-benefit analysis is not required under RCW 34.05.328. This is a local agency rule and pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule.

December 15, 2006

Matt Holmquist

Compliance Administrator

## **AMENDATORY SECTION**

SCAPCA Regulation I, Article X, Section 4.02

### **SECTION 4.02 GENERAL REQUIREMENTS FOR REGISTRATION**

#### A. Registration Responsibility.

The owner, operator, or a designated agent of a stationary source, shall register said stationary source, except those stationary sources exempted under Section 4.03 of this Article, by obtaining proper ((using)) forms ((furnished by)) from the Authority or using an alternative to forms when required by the Authority. The owner and operator of the stationary source are responsible for registration and for timely submitting accurate and complete registration information.

#### B. Registration Information.

The owner, operator, or designated agent shall register each emissions unit, including quantifiable fugitive air emissions, located at the stationary source. The owner, operator, or designated agent shall provide information to the Authority, as may be required by the Authority, concerning location, size, and height of air contaminant outlets, processes employed, nature of the air contaminant emission, and such other information, as is relevant to air pollution. The owner, operator, or designated agent shall submit updated registration information at least annually as required by the Authority, using forms provided by the Authority unless the Authority provides in writing an alternative format or requires an alternate method of reporting registration information. The forms provided by the Authority shall be completed and returned to the Authority within 45 days.

#### C. Signature.

The owner, operator, or the designated agent for such owner or operator shall sign each registration form unless the Authority provides in writing an alternative format or requires an alternate method of reporting registration infor-

mation verifying that the information on the form is to his or her knowledge, complete and accurate.

D. Reporting requirements for transfer or change of ownership of registered stationary sources.

1. The new owner or operator, that assumes ownership and/or operational control of a registered stationary source, shall report any change of ownership or change of operator to the Authority, within ninety (90) days of completing transfer of ownership and/or assuming operational control. The new owner or operator shall report the change on "Change of Ownership Forms" provided by the Authority. The report shall contain the following information:

- a. Legal name of the company prior to transfer;
- b. Site address;
- c. Previous owner's name;
- d. New legal name of company (if different)
- e. New owner's name;
- f. New owner's mailing address;
- g. New owner's phone number;
- h. Effective date of the transfer;
- i. Description of the affected emission units; and
- j. New owner's or responsible agent's signature.

2. Any liability for fee payment, including payment of delinquent fees and other penalties shall survive any transfer of ownership of a stationary source.

E. Reporting requirements for permanent shutdown of registered stationary sources.

1. The owner or operator shall file a "Source Closure Notification Form" with the Authority within ninety (90) days after the owner or operator determines that operations, producing air contaminant emissions, have permanently ceased. The report shall contain the following information:

- a. Legal name of the company prior to closure or shutdown;
- b. Stationary source address;
- c. Effective date of the stationary source closure or emissions unit shutdown;
- d. Description of the affected emission units; and
- e. Owner's or responsible agent's signature.

2. In the event of a permanent closure, process and pollution control equipment may remain in place and on site, but shall be configured such that the equipment or processes are incapable of generating emissions to the atmosphere (e.g. disconnection of power to equipment, mechanical positioning that inhibits processing; placing of padlocks on equipment to prevent operation).

#### F. New Sources.

1. The owner or operator of a stationary source shall file a *Notice of Construction and Application for Approval*, in accordance with Article V of this Regulation, prior to establishing any new or modified stationary source. An approved *Notice of Construction and Application for Approval* suffices to meet the initial requirement to register the stationary source. Registration information shall be updated annually thereafter.

2. Prior to re-opening a closed stationary source, or establishing a new source at a site for which the Authority has received a "Source Closure Notification Form", the proponent shall contact the Authority for a determination as to whether a *Notice of Construction and Application for*



*Approval* must be filed with, and approved by, the Control Officer, per the requirements of Article V of this Regulation, prior to operation.

### **AMENDATORY SECTION**

SCAPCA Regulation I, Article X, Section 10.01

#### **SECTION 10.01 DEFINITIONS**

Unless a different meaning is clearly required by context, words and phrases used in this article shall have the following meaning:

~~((A. Air Operating Permit Source means any facility required to have an operating permit pursuant to Chapter 173-401 WAC.))~~

~~((B))~~A. Emission Fee means the component of a registration fee or operating permit fee, which is based on total actual annual emissions of criteria and toxic air pollutants, except as provided in Section 10.02.B. In the case of a new or modified source or a source being registered initially, the emission fee is based on projected emissions as presented in an approved Notice of Construction or registration form.

~~((C))~~B. Registration Period means the calendar year for which an annual fee has been assessed pursuant to Section 10.06.B.1. (~~or 10.06.B.2.~~)

~~((D. Significant Emissions, for the purposes of this Article, means the same, as defined in Article I, Section 1.04, of this Regulation.))~~

### **AMENDATORY SECTION**

SCAPCA Regulation I, Article X, Section 10.02

#### **SECTION 10.02 FEES AND CHARGES REQUIRED**

A. Registration information not submitted within 45 days pursuant to Section 4.02.

If registration information is submitted after 45 days, a processing fee of \$100 shall be added to the registration fee invoice.

B. Method of calculating registration fees in Section 10.06 when registration information required in Section 4.02 is not submitted within 90 days.

Any owner, operator, or designated agent that fails to submit registration information to the Authority within 90 days of the registration information request issue date or prior to the registration fee invoice date, whichever is later, shall be assumed to be operating at the source's maximum potential production rate and the registration fee specified in Section 10.06 will be assessed on that basis.

~~((A))~~C. Additional fee for failure to pay any fee within 90 days of assessment.

Any fee assessed pursuant to Article X shall be paid within ~~((30))~~ 45 days of assessment. Any person who is more than ~~((90))~~ 45 days late (i.e., more than 90 days from assessment) with such payment shall pay an ~~((penalty))~~ additional fee equal to three times the amount of the original fee owed.

~~((B))~~D. Revenues collected pursuant to RCW 70.94.161.

Revenues collected pursuant to RCW 70.94.161 shall be deposited in the operating permit program dedicated account and shall be used exclusively for the program.

**WSR 07-01-077**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed December 19, 2006, 8:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-21-079.

Title of Rule and Other Identifying Information: Industrial insurance, WAC 296-20-010 General information, 296-20-125 Billing procedures, 296-23A-0160 How must hospitals submit charges for ambulance and professional services?, 296-23A-0230 How does the department or self-insurer pay out-of-state hospitals for hospital services? and 296-31-080 How do providers bill for services?

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501, on February 21, 2007, at 1:00 p.m.

Date of Intended Adoption: April 3, 2007.

Submit Written Comments to: Bob Mayer, Department of Labor and Industries, Tumwater, WA 98501, e-mail MAYR235@LNI.WA.GOV, fax (360) 902-4249, by February 23, 2007.

Assistance for Persons with Disabilities: Contact Bob Mayer by February 16, 2007, TTY (360) 902-5797 or fax (360) 902-4249.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed changes will amend the above mentioned WACs to make the changes identified in this section.

The federal Centers for Medicare and Medicaid (CMS) is changing the names of two of their billing forms used by providers. The purpose of this rule making is to coordinate and reflect this change in our rules.

The department also proposes to update outdated mailing addresses, contact information and reference materials in our rules.

Reasons Supporting Proposal: This proposal will illustrate our department is up to date with current industry standards regarding the names of the two federal billing forms used by providers. The proposal also illustrates our department efforts to update outdated mailing address, contact information and reference materials.

Statutory Authority for Adoption: RCW 51.04.020, 51.36.080, 7.68.030, 7.68.080.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Bob Mayer, Tumwater, Washington, (360) 902-5021; Implementation and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules relate only to internal governmental operations that are not subject to violation by a nongovernment party, and per RCW 34.05.328 (5)(b)(ii) is exempt from the small business economic impact statement requirement.

A cost-benefit analysis is not required under RCW 34.05.328. These rules relate only to internal governmental operations that are not subject to violation by a nongovernment party, and per RCW 34.05.328 (5)(b)(ii) is exempt from the cost benefit analysis requirement.

December 19, 2006  
Judy Schurke  
Acting Director

AMENDATORY SECTION (Amending WSR 05-09-063, filed 4/19/05, effective 7/1/05)

**WAC 296-20-010 General information.** (1) The following rules are promulgated pursuant to RCW 51.04.020 and 51.04.030. The department or self-insurer may purchase necessary physician and other provider services according to the fee schedules. The fee schedules shall be established in consultation with interested persons and updated at times determined by the department in consultation with those interested persons. Prior to the establishment or amendment of the fee schedules, the department will give at least thirty calendar days notice by mail to interested persons who have made timely request for advance notice of the establishment or amendment of the fee schedules. To request advance notice of the establishment or amendment of the fee schedules, interested persons must contact the department at the following address:

Department of Labor and Industries  
Health Services Analysis  
Interested Person's Mailing List for the Fee Schedules  
P.O. Box 44322  
Olympia, WA 98504-4322

As an alternative, interested persons may subscribe to the L&I medical provider news listserv. To subscribe, go to the department's web site at [www.lni.wa.gov](http://www.lni.wa.gov) and click on the link "Provider billing & payment." Look for the icon that says "Get E-mail Updates" and click on it.

The department or self-insurer will require the current version of the federal Health Care Common Procedure Coding System (HCPCS) Level I (or CPT) and II codes on January 1, of each new year. CPT refers to the American Medical Association's Physicians' Current Procedural Terminology codes.

The adoption of these codes on an annual basis is designed to reduce the administrative burden on providers and lead to more accurate reporting of services. However, the inclusion of a service, product or supply within these new codes does not necessarily imply coverage, reimbursement or endorsement, by the department or self-insurer. The department will make coverage and reimbursement decisions for these new codes on an individual basis.

If there are any services, procedures or narrative text contained in the new HCPCS Level I and II codes that conflict with the medical aid rules or fee schedules, the department's rules and policies take precedence.

Copies of the HCPCS Level I and II codes are available for public inspection. These documents are available in each of the department's service locations.

Copies of the HCPCS Level II codes may be purchased from:

The Superintendent of Documents  
United States Government Printing Office  
Washington, DC 20402  
(202) 783-3238

Copies of the Level I (or CPT) codes may be purchased from:

The American Medical Association  
Chicago, Illinois 60601  
(800) 621-8335

In addition to the sources listed above, both the Level I and II codes may be purchased from a variety of private sources.

(2) The fee schedules are intended to cover all services for accepted industrial insurance claims. All fees listed are the maximum fees allowable. Practitioners shall bill their usual and customary fee for services. **If a usual and customary fee for any particular service is lower to the general public than listed in the fee schedules, the practitioner shall bill the department or self-insurer at the lower rate.** The department or self-insurer will pay the lesser of the billed charge or the fee schedules' maximum allowable.

(3) The rules contained in the introductory section pertain to *all* practitioners regardless of specialty area or limitation of practice. Additional rules pertaining to specialty areas will be found in the appropriate section of the medical aid rules.

(4) The methodology for making conversion factor cost of living adjustments is listed in WAC 296-20-132. The conversion factors are listed in WAC 296-20-135.

(5) No fee is payable for missed appointments unless the appointment is for an examination arranged by the department or self-insurer.

(6) When a claim has been accepted by the department or self-insurer, no provider or his/her representative may bill the worker for the difference between the allowable fee and the usual and customary charge. Nor can the worker be charged a fee, either for interest or completion of forms, related to services rendered for the industrial injury or condition. Refer to chapter 51.04 RCW.

(7) Practitioners must maintain documentation in claimant medical or health care service records adequate to verify the level, type, and extent of services provided to claimants. A health care practitioner's bill for services, appointment book, accounting records, or other similar methodology do not qualify as appropriate documentation for services rendered. Refer to chapter 296-20 WAC and department policy for reporting requirements.

(8) Except as provided in WAC 296-20-055 (Limitation of treatment and temporary treatment of unrelated conditions when retarding recovery), practitioners shall bill, and the department or self-insurer shall pay, only for proper and necessary medical care required for the diagnosis and curative or rehabilitative treatment of the accepted condition.

(9) When a worker is being treated concurrently for an unrelated condition the fee allowable for the service(s) rendered must be shared proportionally between the payors.

(10) Correspondence: Correspondence pertaining to state fund and department of energy claims should be sent to: Department of Labor and Industries, Claims Administration, P.O. Box 44291, Olympia, Washington 98504-4291.

Accident reports should be sent to: Department of Labor and Industries, P.O. Box 44299, Olympia, Washington 98504-4299.

Send all provider bills (~~by type (UB-92))~~ and adjustments to: Department of Labor and Industries, P.O. Box ~~((44266))~~ 44269, Olympia, Washington ~~((98504-4266))~~ 98504-4269.

~~((Adjustments, Home Nursing, Retraining, Job Modification, and Miscellaneous to: Department of Labor and Industries, P.O. Box 44267, Olympia, Washington 98504-4267.~~

~~Pharmacy to: Department of Labor and Industries, P.O. Box 44268, Olympia, Washington 98504-4268.~~

~~HCFA-1500 to: Department of Labor and Industries, P.O. Box 44269, Olympia, Washington 98504-4269.)~~

State fund claims have six digit numbers or a letter and five digits preceded by a letter other than "S," "T," or "W."

All correspondence and billings pertaining to *crime victims* claims should be sent to Crime Victims Division, Department of Labor and Industries, P.O. Box 44520, Olympia, Washington 98504-4520.

Crime victim claims have six digit numbers preceded by a "V" or five digit numbers preceded by "VA," "VB," "VC," "VH," "VJ," or "VK."

All correspondence and billings pertaining to self-insured claims should be sent directly to the employer or the service representative as the case may be.

Self-insured claims are six digit numbers or a letter and five digits preceded by an "S," "T," or "W."

Communications to the department or self-insurer must show the patient's full name and claim number. If the claim number is unavailable, providers should contact the department or self-insurer for the number, indicating the patient's name, Social Security number, the date and the nature of the injury, and the employer's name. A communication should refer to one claim only. Correspondence must be legible and reproducible, as department records are microfilmed. Correspondence regarding specific claim matters should be sent directly to the department in Olympia or self-insurer in order to avoid rehandling by the service location.

(11) The department's various local service locations should be utilized by providers to obtain information, supplies, or assistance in dealing with matters pertaining to industrial injuries.

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

**WAC 296-20-125 Billing procedures.** All services rendered must be in accordance with the medical aid rules, fee schedules, and department policy. The department or self-insurer may reject bills for services rendered in violation of these rules. Workers may not be billed for services rendered in violation of these rules.

(1) Bills must be itemized on department or self-insurer forms or other forms which have been approved by the

department or self-insurer. Bills may also be transmitted electronically using department file format specifications. Providers using any of the electronic transfer options must follow department instructions for electronic billing. Physicians, osteopaths, advanced registered nurse practitioners, chiropractors, naturopaths, podiatrists, psychologists, and registered physical therapists use the current national standard ~~((HCFA-1500))~~ Health Insurance Claim Form (as defined by the National Uniform Claim Committee) with the bar code placed 2/10 of an inch from the top and 1 1/2 inches from the left side of the form. Hospitals use the ~~((UB-92))~~ current National Uniform Billing Form (as defined by the National Uniform Billing Committee) for institution services and the current national standard ~~((HCFA-1500))~~ Health Insurance Claim Form (as defined by the National Uniform Claim Committee) with the bar code placed 2/10 of an inch from the top and 1 1/2 inches from the left side of the form for professional services. Hospitals should refer to chapter 296-23A WAC for billing rules pertaining to institution, or facilities, charges. Pharmacies use the department's statement for pharmacy services. Dentists, equipment suppliers, transportation services, vocational services, and massage therapists use the department's statement for miscellaneous services. When billing the department for home health services, providers should use the "statement for home nursing services." Providers may obtain billing forms from the department's local service locations.

(2) Bills must specify the date and type of service, the appropriate procedure code, the condition treated, and the charges for each service.

(3) Bills submitted to the department must be completed to include the following:

- (a) Worker's name and address;
- (b) Worker's claim number;
- (c) Date of injury;
- (d) Referring doctor's name and L & I provider account number;
- (e) Area of body treated, including ICD-9-CM code(s), identification of right or left, as appropriate;
- (f) Dates of service;
- (g) Place of service;
- (h) Type of service;
- (i) Appropriate procedure code, hospital revenue code, or national drug code;
- (j) Description of service;
- (k) Charge;
- (l) Units of service;
- (m) Tooth number(s);
- (n) Total bill charge;
- (o) The name and address of the practitioner rendering the services and the provider account number assigned by the department;
- (p) Date of billing;
- (q) Submission of supporting documentation required under subsection (6) of this section.

(4) Responsibility for the completeness and accuracy of the description of services and charges billed rests with the practitioner rendering the service, regardless of who actually completes the bill form;

(5) Vendors are urged to bill on a monthly basis. Bills must be received within one year of the date of service to be considered for payment.

(6) The following supporting documentation is required when billing for services:

- (a) Laboratory and pathology reports;
- (b) X-ray findings;
- (c) Operative reports;
- (d) Office notes;
- (e) Consultation reports;
- (f) Special diagnostic study reports;
- (g) For BR procedures - see chapter 296-20 WAC for requirements; and
- (h) Special or closing exam reports.

(7) The claim number must be placed on each bill and on each page of reports and other correspondence in the upper right-hand corner.

(8) The following considerations apply to rebills.

(a) If you do not receive payment or notification from the department within one hundred twenty days, services may be rebilled.

(b) Rebills must be submitted for services denied if a claim is closed or rejected and subsequently reopened or allowed. In these instances, the rebills must be received within one year of the date the final order is issued which subsequently reopens or allows the claim.

(c) Rebills should be identical to the original bill: Same charges, codes, and billing date.

(d) In cases where vendors rebill, please indicate "REBILL" on the bill.

(9) The department or self-insurer will adjust payment of charges when appropriate. The department or self-insurer must provide the health care provider or supplier with a written explanation as to why a billing or line item of a bill was adjusted at the time the adjustment is made. A written explanation is not required if the adjustment was made solely to conform with the maximum allowable fees as set by the

department. Any inquiries regarding adjustment of charges must be received in the required format within ninety days from the date of payment to be considered. Refer to the medical aid rules for additional information.

AMENDATORY SECTION (Amending WSR 97-06-066, filed 2/28/97, effective 4/1/97)

**WAC 296-23A-0160 How must hospitals submit charges for ambulance and professional services?** Hospitals must submit charges for ambulance services and professional services provided by hospital staff physicians on the current Health Insurance Claim Form (as defined by the National Uniform Claim Committee), ((~~HCFA-1500~~)) using the provider account number(s) assigned by the department for these services. Hospitals using any of the electronic transfer options must follow department instructions for electronic billing.

AMENDATORY SECTION (Amending WSR 00-09-078, filed 4/18/00, effective 7/1/00)

**WAC 296-23A-0230 How does the department or self-insurer pay out-of-state hospitals for hospital services?** The department or self-insurer pays out-of-state hospitals for hospital services using a percent of allowed charges (POAC) factor or department fee schedule. The POAC factor may differ for services performed in inpatient and outpatient settings. Payment rates to hospitals located outside of Washington state are calculated by multiplying the out-of-state percent of allowed charges factor (POAC) by the allowed charges.

Amount paid = (out-of-state POAC Factor) X (Allowed Charges).

Out-of-state hospital providers should bill and the department or self-insurer will pay out-of-state hospitals services according to the following table:

<i>Hospital Professional and Ambulance Services</i>	<i>Hospital Outpatient Services</i>	<i>Hospital Inpatient Services</i>
Professional and ambulance services should be billed with CPT and HCPCS codes on (( <del>HCFA-1500</del> )) <u>current Health Insurance Claim Forms (as defined by the National Uniform Claim Committee)</u> under separate provider numbers. These services will be paid using the fee schedule rates and payment policies stated in the <i>Washington Medical Aid Rules and Fee Schedules</i> .	All hospital outpatient services should be billed on UB forms under the hospital provider number with revenue codes. These services will be paid at the out-of-state percent of allowed charges (POAC) factor as stated in the <i>Washington Medical Aid Rules and Fee Schedules</i> .	All hospital inpatient services should be billed on UB forms under the hospital provider number using revenue codes. These services will be paid at the out-of-state percent of allowed charges (POAC) factor as stated in the <i>Washington Medical Aid Rules and Fee Schedules</i> .
Military and veteran's administration professional and ambulance services should be billed on (( <del>HCFA-1500</del> )) <u>current Health Insurance Claim Forms (as defined by the National Uniform Claim Committee)</u> and will be paid at 100% of allowed charges.	Military, veteran's administration, health maintenance organization, children's, and state-run psychiatric hospitals will be paid at 100% of allowed charges for outpatient hospital services.	Military, veteran's administration, health maintenance organization, children's, and state-run psychiatric hospitals will be paid at 100% of allowed charges for inpatient hospital services.

AMENDATORY SECTION (Amending WSR 99-07-004, filed 3/4/99, effective 4/4/99)

**WAC 296-31-080 How do providers bill for services?**

(1) Neither the department nor the claimant is required to pay for provider services which violate the mental health treatment rules, fee schedule or department policy.

(2) All fees listed are the maximum fees allowable. Providers must bill their usual and customary fee for each service. If this is less than our fee schedule rate, you must bill us at the lesser rate. The department will pay the lesser of the billed charge or the fee schedule's maximum allowable.

The provider is prohibited from charging the claimant for any difference between the provider's charge and our allowable amount.

(3) Regardless of who completes the bill form, you are responsible for the completeness and accuracy of the description of services and of the charges billed.

(4) All bills submitted to the department must:

(a) Be itemized on forms approved by us.

For example: Physicians, psychologists, advanced registered nurse practitioners and master level mental health counselors may use our form or the ~~((national standard HCFA 1500))~~ current Health Insurance Claim Form (as defined by the National Uniform Claim Committee). Hospitals use the ~~((UB 92))~~ current National Uniform Billing Form (as defined by the National Uniform Billing Committee) for institution services and the ~~((national standard HCFA 1500))~~ current Health Insurance Claim Form (as defined by the National Uniform Claim Committee) for professional services.

(b) Refer to the crime victims compensation program mental health ~~((treatment rules and fees booklet for procedure code listings and))~~ billing instructions for detailed billing ~~((instructions))~~ information. Billings must be submitted in accordance with ~~((this publication))~~ these instructions. Procedure codes and fees are available on the crime victims compensation web site or by contacting the crime victims program.

(5) The following supporting documentation must be maintained and, if applicable, submitted when billing for services:

(a) Intake evaluation;

(b) Progress reports;

(c) Consultation reports;

(d) Special or diagnostic study reports;

(e) Independent assessment or closing exam reports;

(f) BR (by report) describing why a service or procedure is too unusual, variable, or complex to be assigned a value unit;

(g) The claimant's or patient's (if patient is other than claimant) private or public insurance information;

For example: When services provided are for survivors of homicide victims.

(6) The claim number must appear in the appropriate field on each bill form. Reports and other correspondence must have the claim number in the upper right hand corner of each page.

(7) You may rebill us if your bill is not reported on your remittance advice within sixty days. Unless the information on the original bill was incorrect, a rebill should be identical.

Rebills must be submitted for services denied if a claim is closed or rejected and subsequently reopened or allowed.

(8) We will adjust charges when appropriate. We must provide you with a written explanation as to why a billing was adjusted. A written explanation is not required if the adjustment was made solely to conform to our maximum allowable fees. Any inquiries regarding adjustment of charges must be received in the required format within ninety days from the date of payment.

**WSR 07-01-085**

**WITHDRAWAL OF PROPOSED RULES  
OFFICE OF THE  
INSURANCE COMMISSIONER**

[Filed December 19, 2006, 9:29 a.m.]

WAC 284-20A-060, proposed by the office of the insurance commissioner in WSR 06-12-076 appearing in issue 06-12 of the State Register, which was distributed on June 21, 2006, 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 07-01-086**

**WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF ECOLOGY**

[Filed December 19, 2006, 9:36 a.m.]

WAC 317-40-010, 317-40-015, 317-40-020, 317-40-025, 317-40-030, 317-40-035, 317-40-040, 317-40-045, 317-40-050, 317-40-055, 317-40-060, 317-40-065, 317-40-070, 317-40-100, 317-40-110, 317-40-125, 317-40-130, 317-40-140, 317-40-150, 317-40-160, 317-40-200, 317-40-210, 317-40-220, 317-40-230, 317-40-240, 317-40-250, 317-40-260, 317-40-300 and 317-40-310, proposed by the department of ecology in WSR 06-12-119 appearing in issue 06-12 of the State Register, which was distributed on June 21, 2006, 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 07-01-087**

**WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF ECOLOGY**

[Filed December 19, 2006, 9:36 a.m.]

WAC 173-182-440, proposed by the department of ecology in WSR 06-12-120 appearing in issue 06-12 of the State Register, which was distributed on June 21, 2006, 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 07-01-088**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed December 19, 2006, 9:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-13-098.

Title of Rule and Other Identifying Information: Chapter 308-20 WAC, Cosmetology, barber, manicurist, and estheticians.

Amending WAC 308-20-110 Minimum safety and sanitation standards for schools, cosmetologists, manicurists, estheticians, barbers, instructors, salon/shops, mobile units and personal services and 308-20-550 Posting of required licenses, registrations, permits and notice to consumers; and repealing WAC 308-20-600 Disinfecting and sterilizing of tools and other implements and 308-20-610 Chemical use and storage.

Hearing Location(s): Department of Licensing, Business and Professions Division, Building 2, Conference Room 209, 405 Black Lake Boulevard S.W., Olympia, WA 98507, on January 29, 2007, at 9:30 a.m.

Date of Intended Adoption: January 30, 2007.

Submit Written Comments to: Sandra Gonzales, Department of Licensing, Cosmetology Program, P.O. Box 9026, Olympia, WA 98507, e-mail sgonzales@dol.wa.gov, fax (360) 664-2550, by January 26, 2007.

Assistance for Persons with Disabilities: Contact Sandra Gonzales by January 26, 2007, TTY (360) 664-8885 or (360) 664-6649.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose is to clarify and improve the safety and sanitation standards and guidelines. In summary, the proposed rules include standards and guidelines for the following:

- Chemical use and storage.
- Sanitation and disinfection of tools and implements.
- Use of "prescriptive" medical devices.
- Personal cleanliness.
- Refuse and waste material.
- Cleaning and disinfecting foot spas.
- Storage of tools and implements.
- Prohibited instruments.
- Blood spills.
- Posting of current inspection report.

Reasons Supporting Proposal: Changes to the safety and sanitation standards will be clearer and more in line with today's industry standards and improve the health, safety, and welfare of licensees and consumers.

Statutory Authority for Adoption: RCW 18.16.030, 43.24.023.

Statute Being Implemented: RCW 18.16.030.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Trudie Touchette, 405 Black Lake Boulevard S.W., (360) 664-6649; Enforcement: Susan Colard, 405 Black Lake Boulevard S.W., (360) 664-6649.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will have minor impact to businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule revision. Washington state department of licensing is not a named agency, therefore, exempt from this provision.

December 19, 2006

Trudie Touchette

Administrator

AMENDATORY SECTION (Amending WSR 04-05-005, filed 2/6/04, effective 3/8/04)

**WAC 308-20-110 Minimum safety and sanitation standards for schools, cosmetologists, manicurists, estheticians, barbers, instructors, salons/shops, mobile units and personal services.** ~~((In addition to the requirements of RCW 18.16.175,))~~ Every licensee shall maintain the following safety and sanitation standards. In addition, school instructors and apprentice trainers must assure persons training in a school or apprentice salon/shop will adhere to the following safety and sanitation standards:

~~((1) Safety shall be maintained as follows:~~

~~(a) A separate area with hot and cold running water shall be designated for use in dispensing and mixing chemicals and disinfecting supplies, tools, equipment, and other materials;~~

~~(b) All containers must be clearly labeled;~~

~~(c) All chemicals must be stored and labeled according to manufacturer's instructions;~~

~~(d) Disinfected supplies, tools, equipment and other material shall be stored separately from those that have been used;~~

~~(e) First-aid supplies shall be available;~~

~~(f) Licensees shall not work on clients with parasites, open wounds, or signs of infection; and~~

~~(g) School instructors and apprentice trainers shall not allow persons training in a school or apprentice salon/shop to work on clients with parasites, open wounds, or signs of infection.~~

~~((2) Sanitation shall be maintained as follows:~~

~~(a) Floors, walls, fixtures, work stations and ceilings shall be clean and free from dust, dirt and hair;~~

~~(b) Hair shall be removed from the floor after each service; and~~

~~(c) Waste receptacles shall be emptied and disinfected daily.~~

~~(d) Disposable products shall be placed in a waste receptacle;~~

~~(e) Creams and lotions shall be dispensed using a disposable, or sanitized applicator, and fluids shall be dispensed with a squeeze bottle or pump;~~

(f) Use clean towel, new neck strip and other sanitized supplies for each client;

(g) Clean reusable supplies and implements with a disinfectant after each use; and

(h) Wash hands with single-use soap and disposable hand-drying towels after toilet use and before providing service to each client.)) **(1) Requirements and standards.**

(a) All locations must have immediate access to a sink with both hot and cold running water. Sinks located in the restroom do not qualify as a water source for the location premises.

(b) All locations must have a dispensing sink that must be labeled "not for public use."

(c) On-site laundry facilities must be maintained in a sanitary condition.

(d) Single-use hand soap and disposable or single use hand-drying towels for customers must be provided.

(e) Use of bar soap or a common towel is prohibited.

(f) Licensees must not work on clients with visible parasites, open wounds, or signs of infection.

(g) Licensees must sanitize and disinfect affected work area if visible parasites, open wounds, or signs of infection are found on a client.

(h) Creams and lotions must be dispensed using a disposable, or sanitized and disinfected applicator, and liquids must be dispensed with a squeeze bottle or pump.

(i) Wash hands with single-use soap and/or hand sanitizer and disposable or single use hand-drying towels after restroom use and before providing service to each client.

(j) Waste receptacles and sweepers must be emptied, sanitized and disinfected daily.

(k) After service on each client, hair and nail clippings must immediately be placed in a closed covered container.

**(2) Personal cleanliness.**

(a) A licensee must thoroughly wash his or her hands with soap and warm water or any equally effective cleansing agent immediately before providing services to each client, before checking a student's work on a client, or after smoking, eating or using the restroom.

(b) A client's skin upon which services will be performed must be washed with soap and warm water or wiped with disinfectant or waterless hand cleanser approved for use on skin before a service on the hands and feet.

(c) A licensee who has a contagious disease, visible parasite, or open wound of a nature that may be transmitted, must not perform services on a client until the licensee takes medically approved measures to prevent transmission of the disease.

**(3) Articles in contact with a client.**

(a) A neck strip or towel must be placed around the client's neck to prevent direct contact between a multiple use haircloth or cape and the client's skin, and must be in place during entire service.

(b) All items, which come in direct contact with the client's skin that do not require disinfecting, must be sanitized; to include reusable gloves.

(c) All articles, which come in direct contact with the client's skin that cannot be sanitized and disinfected, must be disposed of in a waste receptacle immediately after service on each client.

(d) Disposable protective gloves must be disposed of after service on each client.

**(4) Materials in contact with a client.**

(a) All chemical substances, including paraffin wax must be dispensed from containers in a manner to prevent contamination of the unused portion.

(b) Any part of the body being immersed in paraffin wax must be sanitized with soap and water or sanitizing solution.

(c) Paraffin wax must be covered when not in use, and maintained at a temperature specified by the manufacturer's instructions.

**(5) Chemical use and storage.**

(a) When administering services to a client that involve the use of chemicals or chemical compounds, all licensees must follow safety procedures, which prevent injury to the client's person or clothing.

(b) Licensees using chemicals or chemical compounds in providing services to clients must store the chemicals so as to prevent fire, explosion, or bodily harm.

(i) Flammable chemicals must be stored away from potential sources of ignition.

(ii) Chemicals which could interact in a hazardous manner such as oxidizers, catalysts, and solvents, must be segregated in storage.

(iii) All chemicals must be stored in accordance with the manufacturer's directions.

**(6) Refuse and waste material.**

(a) All chemical, flammable, toxic or otherwise harmful waste material must be deposited in a closed container at the conclusion of each service on a client and removed from the premises to a fire-retardant container at the close of each business day.

(b) All nonchemical waste related to the performance of services must be deposited in a covered container to avoid the potential for cross contamination through release of or exposure to infectious waste materials.

(c) All waste unrelated to the performance of services must be deposited in a covered waste disposal container. Containers located in the reception or office area, which do not contain waste relating to the performance of services, are exempt from having covers.

(d) Outer surfaces of waste disposal containers must be kept clean.

(e) Any disposable sharp objects that come in contact with blood or other body fluids must be disposed of in a sealable rigid (puncture proof) labeled container that is strong enough to protect the licensee, client and others from accidental cuts or puncture wounds that could happen during the disposal process.

(f) Licensees must have both sealable plastic bags and sealable rigid containers available for use at all times services are being performed.

**(7) Sanitation/disinfecting.**

(a) All tools and implements, including: reusable skin cleaning sponges and skin care bowls, must be sanitized and disinfected or disposed of after service on each client.

(b) When used according to the manufacturer's instructions, each of the following is an approved method of disinfecting tools and implements after they are cleaned of debris:

(i) Complete immersion or spray with an EPA-registered disinfectant solution of the object(s) or portion(s) thereof to be disinfected; or

(ii) Steam sterilizer, registered and listed with the U.S. Food and Drug Administration; or

(iii) Dry heat sterilizer, registered and listed with the U.S. Food and Drug Administration, or Canadian certification.

(c) All sanitized and disinfected tools and implements must be kept in a sanitizer or closed nonairtight container.

(d) All disinfecting solutions and/or agents must be kept at manufacturer recommended strengths to maintain effectiveness, be free from foreign material and be available for immediate use at all times the location is open for business.

(e) Nail files, cosmetic make-up sponges, buffer blocks, sanding bands, toe separators or sleeves, orangewood sticks, and disposable nail bits which have not been approved for disinfection and reuse, must be given to the client or discarded after service on each client. Presence of these articles in the work area will be prima facie evidence of reuse.

**(8) Disinfecting nonelectrical tools and implements.**

(a) All tools and implements used within a field of practice must be disinfected after service on each client in the following order:

(i) Remove all hair and/or foreign material;

(ii) Clean thoroughly with soap or detergent and water;

(iii) Rinse thoroughly with clear, clean water; and

(iv) Disinfect with an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity, and use according to manufacturer's instructions.

(b) Tools and implements without sharp edges or points, including but not limited to combs, brushes, rollers, rods, etc., must be totally immersed according to manufacturer's instructions.

(c) Clips or other tools and instruments must not be placed in mouths, pockets or unsanitized holders.

(d) A client's personal cosmetology products, tools and instruments must not be used in the establishment except when prescribed by a physician.

**(9) Disinfecting electrical tools and implements.** Electrical tools and implements must be disinfected after service on each client in the following order:

(a) Remove hair and/or foreign matter;

(b) Disinfect with a low level disinfectant according to the manufacturer's instructions.

**(10) Storage of tools and implements.**

(a) New and/or sanitized and disinfected tools and implements must be stored separately from all others.

(b) Roller storage receptacles and contents must be sanitized and disinfected and free of foreign material.

(c) Storage cabinets, work stations and storage drawers for sanitized and disinfected tools and implements must be clean, free of debris and used only for sanitized and disinfected tools and implements.

(d) Storage of used tools and implements that are not in a labeled drawer or container is prohibited at the workstation.

**(11) Cleaning and disinfecting footspas.**

(a) As used in this section, "footspa" or "spa" is defined as any basin using circulating water.

(b) After service upon each client, each footspa must be cleaned and disinfected in the following order:

(i) All water must be drained and all debris must be removed from the spa basin.

(ii) The spa basin must be cleaned with soap or detergent and water.

(iii) The spa basin must be disinfected with an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity, which must be used according to manufacturer's instructions.

(iv) The spa basin must be wiped dry with a clean towel.

(c) At the end of each day, each footspa must be cleaned and disinfected in the following order:

(i) The screen must be removed, all debris trapped behind the screen must be removed, and the screen and the inlet must be washed with soap or detergent and water.

(ii) Before replacing the screen, the screen must be totally immersed in an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity, which must be used according to the manufacturer's instructions.

(iii) The spa system must be flushed with low sudsing soap and warm water for at least ten minutes, after which the spa must be rinsed and drained.

(d) Every other week (biweekly), after cleaning and disinfecting as provided in (c) of this subsection, each footspa must be cleaned and disinfected in the following order:

(i) The spa basin must be filled completely with water and one teaspoon of 5.25% bleach for each one gallon of water, or a solution of sodium hypochlorite of approximately 50 ppm used according to manufacturer's instructions.

(ii) The spa system must be flushed with the bleach and water solution, or sodium hypochlorite solution, for five to ten minutes and allowed to sit for six to ten hours.

(iii) The spa system must be drained and flushed with water before service upon a client.

(e) A record must be made of the date and time of each cleaning and disinfecting as required by (c) and (d) of this subsection, and indicate whether the cleaning was a daily or biweekly cleaning. This record must be made at the time of cleaning and disinfecting. Cleaning and disinfecting records must be made available upon request by either a client or a department representative.

**(12) Headrests and treatment tables.**

(a) The headrest of chairs must be sanitized, disinfected and covered with a clean towel or paper sheet after service on each client.

(b) Shampoo trays and bowls must be sanitized and disinfected after each shampoo, kept in good repair and in a sanitary condition at all times.

(c) All treatment tables must be sanitized, disinfected and covered with sanitary linens or examination paper, which must be changed after each service on a client.

**(13) Walls and ceilings.** Walls and ceilings must be clean and free of excessive spots, mildew, condensation, or peeling paint.

**(14) Liquids, creams, powders and cosmetics.**

(a) All liquids, creams, and other cosmetic preparations must be kept in clean and closed containers.



(b) All bottles and containers must be distinctly and correctly labeled to disclose their contents. All bottles and containers containing poisonous substances must be additionally and distinctly marked as such.

(c) When only a portion of a cosmetic preparation is to be used on a client, it must be removed from the container in such a way as not to contaminate the remaining portion.

(d) Pencil cosmetics must be sharpened before each use. Sanitize and disinfect or dispose of the sharpener after service on each client.

(15) **Towels or linens.** Clean towels or linens must be used for each client in cosmetology, esthetics, manicuring and barbering services. Towels and linens must be sanitized and disinfected with a 10% bleach solution or the equivalent.

(16) **Prohibited hazardous substances—Use of products.** No establishment or school may have on the premises cosmetic products containing hazardous substances which have been banned by the U.S. Food and Drug Administration for use in cosmetic products, including liquid methyl methacrylate monomer and methylene chloride. No product must be used in a manner that is disapproved by the FDA.

(17) **Prohibited instruments or practices.**

(a) Any razor-edged tool, which is designed to remove calluses.

(b) Neck and nail dusters to remove debris from client.

(18) **Blood spills.** If there is a blood spill or exposure to other body fluids during a service, licensees and students must stop and proceed in the following order:

(a) Put on gloves;

(b) Clean the wound with an antiseptic solution;

(c) Cover the wound with a sterile bandage;

(d) If the wound is on a licensee hand in an area that can be covered by a glove or finger cover, the licensee must wear a clean, fluid proof protective glove or finger cover. If the wound is on the client, the licensee providing service to the client must wear gloves on both hands.

All equipment, tools and instruments that have come into contact with blood or other body fluids must be sanitized and disinfected or discarded. Blood-contaminated tissue or cotton or other blood-contaminated material must be placed in a sealed, labeled plastic bag and that plastic bag must be placed into another plastic bag (double bagged), and discarded. Licensees must wear gloves if there is contact with blood or other body fluids, and must sanitize and disinfect or discard gloves and wash hands.

(19) **First aid kit.** The establishment must have a first aid kit that contains at a minimum: Small bandages, gauze, antiseptic, and a blood spill kit that contains disposable bags, gloves and hazardous waste stickers.

(20) **Medical devices.** Any medical device listed with the federal Food and Drug Administration (FDA) as a "prescriptive device" must be under the delegation and supervision of a licensed physician or physician's assistant or an advanced registered nurse practitioner (ARNP) as defined under chapters 18.71, 18.57, 18.71A, and 18.57A RCW, and RCW 18.79.050.

(21) **Restroom.**

(a) All locations must have a restroom available. The restroom must be located on the premises or in adjoining premises, which is reasonably accessible.

(b) All restrooms located on the premises must be kept clean, sanitary and in proper working order at all times.

AMENDATORY SECTION (Amending WSR 04-05-005, filed 2/6/04, effective 3/8/04)

**WAC 308-20-550 Posting of required licenses, registrations, permits, ~~(and)~~ notice to consumers, and current inspection form.** (1) Licenses, the consumer notice required by chapter 18.16 RCW, ~~(and)~~ the apprentice salon/shop notice as defined in WAC 308-20-555, and the most current inspection form shall be posted in direct public view.

(2) Original operator licenses with an attached current photograph shall be posted in clear view of clients in the operator's work station.

(3) School, instructor, salon/shop, and mobile unit licenses shall be displayed in the reception area.

(4) Personal services shall display their licenses and consumer notice in direct view of their client.

(5) A pocket identification card may not be used in lieu of an original license.

(6) No license which has expired or become invalid for any reason shall be displayed by any operator, instructor, or business in connection with the practice of cosmetology, barbering, esthetics, or manicuring. Any license so displayed shall be surrendered to a department representative upon its request.

(7) Licenses issued by another state, territory, or foreign country shall not be displayed in any salon/shop.

(8) A receipt, issued by the department of licensing, showing the application for a duplicate license may be used if the original has been lost, stolen, or otherwise destroyed until the duplicate license is received.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-20-600	Disinfecting and sterilizing of tools and other implements.
WAC 308-20-610	Chemical use and storage.

**WSR 07-01-096**

**PROPOSED RULES**

**DEPARTMENT OF TRANSPORTATION**

[Filed December 19, 2006, 1:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-22-090.

Title of Rule and Other Identifying Information: Chapter 468-60 WAC, Trip reduction performance program.

Hearing Location(s): Washington State Department of Transportation, Commission Board Room 1D2, 310 Maple

Park Avenue S.E., Olympia, WA 98504, on January 29, 2007, at 9:00 a.m.

Date of Intended Adoption: January 29, 2007.

Submit Written Comments to: Robin Hartsell, P.O. Box 47387, Olympia, WA 98504-7387, e-mail hartser@wsdot.wa.gov, fax (360) 705-6862, by January 29, 2007.

Assistance for Persons with Disabilities: Contact Jessica Alexander by January 22, 2007, TTY (360) 705-7000 or (360) 705-7760.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updating this chapter of the WAC will clarify the intent and requirements of the trip reduction performance program.

Reasons Supporting Proposal: The revisions will clarify the program and enhance some elements. Revisions will also eliminate having to update the rules every two years.

Statutory Authority for Adoption: RCW 70.94.996.

Statute Being Implemented: RCW 70.94.996.

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

Name of Proponent: Washington state department of transportation, public transportation and rail division, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Robin Hartsell, Public Transportation and Rail Division, (360) 705-7508.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The trip reduction performance program is a voluntary program therefore it does not have economic impact to small business.

A cost-benefit analysis is not required under RCW 34.05.328. There is no additional financial impact related to the implementation of this rule.

December 13, 2006

P. J. Hammond  
Chief of Staff

AMENDATORY SECTION (Amending WSR 05-19-042, filed 9/14/05, effective 10/15/05)

**WAC 468-60-010 Trip reduction performance program.** The Washington state department of transportation (WSDOT), together with the commute trip reduction (CTR) (~~task force~~) board, will administer the trip reduction performance program (TRPP). This program is designed to create cost-effective trip reduction projects that reduce the number of commute vehicle trips and commute vehicle miles traveled (VMT). The 2003 legislature created this program to provide financial incentives or compensation to organizations that implement and administer cost-effective projects that increase the capacity of the transportation system by reducing the number of vehicle trips and miles traveled for commute purposes. ~~((The amounts awarded will be based on the estimated cost))~~ WSDOT awards funds for cost-effective trip reduction projects, based on a price that the project charges WSDOT to reduce an annualized trip, and the projected number of annual commute vehicle trips and commute VMT reduced during the project period (the project goal). Up to half of the award amount is available through reimbursement for start-up costs. WSDOT will determine the remaining

award amount, as well as any bonus funds, ~~((will be determined))~~ based on the actual performance of ~~((their))~~ the project in meeting or exceeding ~~((their))~~ the goal. ~~((If))~~ As necessary, WSDOT will revise these rules periodically to create a more efficient, cost-effective, trip reduction program.

(1) **What are trip reduction performance projects?** WSDOT awards funds ~~((are awarded))~~ on a competitive basis to organizations that create cost-effective projects designed to reduce commute vehicle trips and commute VMT (based on the morning commute). The organization will receive funds based on the ~~((value))~~ price associated with each trip and overall project performance. The TRPP is available to private employers, public agencies, nonprofit organizations, developers, and property managers who find new (to the area), sustainable ways to reduce the number of vehicle trips and vehicle miles traveled per person for commuting, ~~((or))~~ and who provide financial incentives to their own or other employees for ridesharing, public transportation, nonmotorized transportation, telework, and alternative work schedules.

(2) **Definitions.** For purposes of this section, the following definitions apply.

(a) A financial incentive ~~((s))~~ is defined as a policy, procedure, capital investment or payment intended to provide employees a financial gain if they commute in ways other than by driving alone. For example, the eligible incentives may include, but are not limited to: Providing a free transit pass, reducing the parking charge for rideshare vehicles, initiating parking charges for employee vehicles, reducing the cost of a transportation service such as a transit pass, paying the membership fee for a car sharing program, providing employees alternative work week schedules, providing a direct cash payment, reducing the insurance rate for employees who reduce the use of their vehicle for commuting, or reducing the distance an employee travels to work by reassigning their work location to a worksite closer to their home.

(b) *Car sharing* means a membership program intended to offer an alternative to car ownership under which persons or entities that become members are permitted to use vehicles from a fleet on an hourly basis.

(c) *Telework* means a program where an employee performs work functions that are normally performed at a traditional workplace ~~((are)), but does so~~ instead ~~((performed by an employee at his or her home))~~ at the employee's home, or at a work center that is located closer to the employee's home than to the employee's workplace, for at least one day a week ~~((for the purpose))~~ with the effect of reducing the number of trips to the employee's workplace.

(d) ~~((Commute vehicle trips is defined as the number of vehicle trips made to bring employees to work at a worksite or specified collection of worksites each morning.~~

~~((Reduced commute vehicle trips is defined as the change in the number of vehicle trips made to bring a consistent number of employees to a worksite or collection of worksites. Reduced vehicle trips can be calculated using a baseline survey that measures the number of vehicles arriving at the specified worksite(s) and the mode split, and a subsequent survey that includes the same audience, the mode split, and an adjustment made for the change in the number of employee responses between the two surveys. The difference between the two surveys will show an increase or reduction~~

in commute vehicle trips. Subsection (15) of this section describes in detail the process used by WSDOT to calculate reduced commute vehicle trips.

(f) Commuter vehicle miles traveled per person (VMT) is the average distance employees travel to work (one way) in a motor vehicle, divided by the vehicle occupancy. For passenger cars, trucks, vans, and motorcycles, WSDOT will calculate the vehicle occupancy from survey data using CTR task force guidelines, or from equivalent data as agreed by WSDOT and the applicant. For buses, WSDOT will assume an average occupancy of twenty-five persons. Bicycling, walking, train ridership, and the avoidance of commute vehicle trips via telework and use of compressed workweeks, will not be considered as using motor vehicles.

(g) Reduced VMT is defined as the measured change in the number of vehicle miles traveled per employee. Reduced VMT can be calculated from two separate surveys that measure the commute distance per employee and the way they commute to work.

(h)) A person-trip is one one-way commute trip made by one person to get to work. A trip avoided because the employee teleworks, or because the employee works a compressed work week schedule, is also considered a person-trip.

(e) A mode is the means of transportation an employee took to work. Driving alone, carpooling, working an alternative work schedule, teleworking, bicycling, etc., are examples of modes.

(f) A measurement records the number of person-trips made by employees commuting to work during a period such as a week or month, using each specific transportation mode. A measurement also records the distance each employee commutes to work; the type of work schedule or compressed work week that each employee works; and the number of persons in the employee's carpool or vanpool if the employee uses one of these modes. WSDOT may require that a measurement record additional information.

(g) Mode share is the percentage of person-trips made by a population of employees commuting to work using specific modes of transportation. For example, if twenty-three percent of the person-trips made in commuting to a worksite are by carpool, the carpool mode share for that worksite is twenty-three percent.

(h) A mode split is the set of mode shares for a population of employees, such as those commuting to a worksite. The sum of the mode shares for the population is one hundred percent. When calculating mode shares and mode split from measurement data, WSDOT makes adjustments as necessary for missing data, days reported by employees as not worked, inconsistency between commute mode and vehicle occupancy data, and reported use of compressed work weeks. When making these adjustments, WSDOT follows CTR board guidelines when these are available, and makes reasonable adjustments otherwise.

(i) Commuter vehicle trips is the number of vehicle trips made to bring employees to work at a worksite or specified collection of worksites on an average weekday morning, using the mode split from a measurement. WSDOT will provide information to applicants on calculating commuter vehicle trips.

Calculation: WSDOT calculates a vehicle trip by dividing a person-trip by the number of persons in the vehicle. For passenger cars, trucks, vans, and motorcycles, WSDOT calculates the vehicle occupancy from measurement data using CTR board guidelines, or from equivalent data as agreed by WSDOT and the applicant. For buses, WSDOT assumes an average occupancy of twenty-five persons. If the CTR board issues guidelines for using bus occupancy, WSDOT will follow the board's guidelines in subsequent projects. A person-trip made by bicycling, walking, or other nonmotorized means of transportation; by riding a train; or avoided either because the employee teleworks or because the employee works a compressed work week schedule, is not considered as using a motor vehicle under this definition. If employees at a worksite work at jobs that last less than a full year, WSDOT annualizes the commuter vehicle trips. For example, if the jobs at a worksite last for only nine months, then WSDOT will annualize the commuter vehicle trips as three quarters of the commuter vehicle trips that would be calculated if the employees worked for a full year. WSDOT then will use the annualized values in determining project performance and payments.

(j) Reduced commuter vehicle trips is the reduction in the number of commuter vehicle trips between a baseline measurement and a subsequent measurement. WSDOT will provide information to applicants on calculating reduced commuter vehicle trips.

Calculation: WSDOT calculates reduced commuter vehicle trips by subtracting the number of commuter vehicle trips made by the employees in the subsequent measurement, from the number of vehicle trips the same number of employees would have made if they had commuted using the mode split from the baseline measurement.

(k) Commuter vehicle-miles traveled per person (VMT) is the average daily vehicle trips each employee makes in a motorized vehicle, multiplied by the employee's one-way distance to work, summed for all employees, and the sum then divided by the number of employees.

(l) Reduced VMT is the reduction in the number of commuter vehicle-miles traveled per person between a baseline measurement and a subsequent measurement. WSDOT calculates reduced VMT by subtracting the commuter vehicle-miles traveled per person in the subsequent measurement, from the commuter vehicle-miles traveled in the baseline measurement.

(m) A project goal is the total number of commuter vehicle trips that a TRPP project proposes to reduce when it applies for TRPP funding.

(n) An interim goal is the number of commuter vehicle trips that a TRPP project proposes to reduce for specified periods shorter than the project's entire duration. Payments for interim goals are subject to WSDOT approval.

(o) Performance is defined as the reduction in the number of commuter vehicle trips to ((the)) work location ((and the))s in the TRPP project, with credit given for reductions in the commuter vehicle miles traveled by employees ((at the specified)) to those work location((s))s. WSDOT will provide directions for calculating this credit as part of the materials used when applying for TRPP funds.

~~((i))~~ Eligible trips are defined in this section as the commute trips taken by employees at the targeted worksite(s) established in the applications and measured using the proposed measurement methodology.

~~((j))~~ (p) Agent is an organization or individual who represents the private employer, public agency, nonprofit organization, developer, or property manager and is charged with managing the TRPP or providing the employee the financial incentive.

~~((k))~~ (q) The price per trip (or trip price) is the amount that WSDOT agrees to pay for each annualized commute vehicle trip reduced by a TRPP project, up to the number of trips proposed in the project goal. WSDOT will set a maximum price per trip that it is willing to pay, that does not exceed the estimated annualized cost of providing new roadway capacity. WSDOT may vary the maximum cost by year. WSDOT will provide the maximum cost per trip as part of the documents for applying for TRPP funds.

(r) A cost-effective application is one that defines a project that will reduce commute vehicle trips and commute vehicle miles traveled at a ~~((oest))~~ price equal to or less than ~~((the defined roadway capacity cost. This cost will vary by year and will be clearly identified on the TRPP application form))~~ WSDOT's maximum price per trip.

~~((l))~~ Mode split is the percentage of employees traveling to work using various means of transportation (known as modes). For example, if the drive alone mode split for a worksite is seventy-three percent, then seventy-three percent of the employees arriving at that site drove alone.

(m) Commute mode is the means of transportation an employee took to work. For example, their commute mode may be by driving alone, carpooling, alternative work schedule, teleworking, etc.

(n) An annualized commute vehicle trip is the average number of vehicle trips made each working day by a commuting population. If, for example, one hundred employees drive alone to a job that lasts six months, the result would be fifty "annualized" commute vehicle trips. WSDOT assumes two hundred fifty workdays per year for calculating an annualized trip.) (s) A basic project is a project that lasts up to two years.

(t) A multi-year project is a project that lasts from three to five years.

(u) The award amount for a project is equal to the price per trip multiplied by the project goal.

**(3) Who can apply?** To be eligible for TRPP funds, the applicant must provide financial incentives to their own or other employees for ridesharing, using public transportation, car sharing, nonmotorized commuting, telework, and/or compressed work weeks. The statewide funds are available on a competitive basis for private employers, public agencies, nonprofit organizations, developers, and property managers or their agents who create ~~((new)), ((sustainable))~~ cost-effective trip reduction projects ~~((, and who provide financial incentives to their own or other employees for ridesharing, public transportation, nonmotorized transportation, telework, and compressed work weeks))~~.

**(4) What kinds of projects will be funded?** To receive funds, the project must meet the program requirements and rank highly in the competitive review. The applicant deter-

mines the actual scope and design of the project. New and existing projects are eligible for selection. The primary focus of the review committee will be to select sustainable, cost-effective trip reduction projects, and if they are new or innovative, they will be given additional consideration.

~~((5))~~ ~~**How much money is available for the program?**~~ The amount of funds made available for this program is set in the state transportation budget. For the 2005-2007 biennium, one million five hundred thousand dollars is budgeted for the projects.

~~((6))~~ **How are the program funds appropriated?** The Revised Code of Washington, RCW 70.94.996 authorizes the legislature to appropriate funding for this program.

**(6) Are any of the TRPP funds set aside for specific use?** Any funds appropriated to TRPP beyond the initial program level of seven hundred fifty thousand dollars per year may be used for projects within growth and transportation efficiency centers (GTEC) and for performance of local jurisdictions.

(a) Up to eighty-five percent of any appropriated funds in excess of the of the initial program level will be available for GTEC projects.

(b) GTEC projects will be subject to the same competitive processes and rules as projects funded with initial program funds.

(c) Fifteen percent of any appropriated funds in excess of the initial program funds will be made available for CTR affected jurisdictions as local jurisdiction performance funds.

(d) Appropriated funds in excess of the initial program funds will be made available to proposals outside of GTECs if there are funds remaining after all proposals within GTECs that fit the program structure for viable, cost-effective, trip reduction projects have been funded.

(e) Any appropriated funds in excess of the initial program funds and any initial program funds that remain after start-up funds, performance funds, and performance bonuses are paid will be used for local jurisdiction performance funds.

(f) WSDOT will determine the jurisdiction performance levels, and payments to the jurisdictions for performance will not exceed the maximum price per trip allowed by WSDOT.

**(7) How will the TRPP funds be distributed?** A minimum amount of the TRPP funds is to be available for each of three funding zones: Ten percent of available funds for Central Puget Sound (CPS) (King, Pierce, Snohomish counties), ten percent of available funds for non-Central Puget Sound applications, and ten percent of available funds for statewide applications (applications with worksites in the CPS and outside the CPS). The remaining funds will be awarded based on the project's ranking and available funds. WSDOT is bound to this distribution only if there are applications that fit the program structure and are viable, cost-effective trip reduction projects. This applies to all current and future funds.

~~((7))~~ **(8) How much money will be awarded to individual projects?** Funds will be allocated based on the estimated commute vehicle trips and miles traveled reduced for the project. The applicant will provide an estimate of the anticipated performance (their goal), and the ~~((amount of funds they request))~~ price per trip that the project will charge WSDOT for reducing a commute vehicle trip. Once the selection committee ranks the projects, WSDOT will award

funds based on committee ranking until ~~((seven hundred fifty thousand dollars is))~~ half of the program funds are awarded in each fiscal year or all cost effective projects are funded. ((No one employer, etc., may)) A project for a single worksite may not receive more than one hundred thousand dollars per fiscal year.

~~((8))~~ **(9) How much money can be awarded to applications with multiple partners?** Each organization (agency or employer) on the application may receive up to one hundred thousand dollars with the total amount not to exceed two hundred fifty thousand dollars per application, per fiscal year.

~~((9))~~ **(10) Who can apply for a "partnership"?** An agent "who will provide the financial incentive to the employee" can submit a project partnership application and be the prime recipient for the project.

**(11) How does the applicant apply for the TRPP funds?** ~~((This subsection describes the application procedures used in the TRPP.))~~ WSDOT will notify eligible applicants of the open period for applications. WSDOT may open more than one application period per year depending on whether all funds are awarded. Applicants apply by submitting a completed "TRPP" application form during an open application period. The "TRPP" application form is available ~~((on))~~ upon request from WSDOT ((and is also available by visiting WSDOT's web site at: <http://wsdot.wa.gov/TDM>)). WSDOT recommends that applicants within a CTR affected area notify the jurisdictional authority, e.g., regional transportation planning organization (RTPO), county, city, or transit agency, that they are submitting an application for TRPP funds.

(a) Applicants may submit more than one project application for consideration; however, when the sum of all the project costs are combined, they cannot exceed what the ~~((individual))~~ applicant is eligible to receive.

(b) Applicants may submit an application that will cover one or two years (basic project) or apply for projects that cover three to five years (multi-year projects).

(c) All applicants must describe how they will measure performance for their project. Every project must have a baseline measurement and a final measurement. Additional measurements are required for multi-year projects, and interim measurements are optional for all projects.

(d) All applicants must describe how and when they will implement their project.

(e) For basic projects, ~~((applications))~~ applicants must estimate the number of vehicle trips and VMT reduced for each fiscal year ~~((and must specify their target audience. Only one baseline measurement will be required for a basic project. A final measurement will be required to determine the project's performance. A two-year basic project can receive the start-up portion of their award in the first year, and the performance portion in the second year. If a basic project is granted a renewal, the applicant may be required to conduct another baseline measurement. Renewal applications may include a proposed adjustment to the trip price and/or goal. Adjustments to the trip price or goal are subject to approval by WSDOT. All basic projects are subject to termination if the project is not performing according to expectations or is not continuing to work towards the reduction of commute trips.~~

~~((d))~~ as well as the project total.

~~((f))~~ In the case of multi-year projects ~~((three to five years)),~~ applicants must estimate the number of vehicle trips and VMT reduced for each ~~((biennium))~~ year, as well as a project total ~~((and must specify their target audience. Only one baseline measurement will be required for multi-year projects, unless otherwise stated in the scope of work. An interim measurement must be conducted prior to the end of each biennium, and a final measurement at the end of the project. Interim and final performance funds, as well as bonus funds will be based on these measurements. Recipients will be able to receive start-up funds that are phased throughout the life of the project (see subsection (12) of this section for details on start-up fund disbursement). Performance funds will be available at the end of each biennium (interim performance funds) and again at the end of the project. The interim and final performance measurements and requests for funds must be received by WSDOT by June 15th. Projects may apply for an adjustment to the trip price and/or their goal at the end of each biennium. Trip price and goal adjustments will be subject to review and approval by WSDOT. All multi-year projects are subject to termination if the project is not performing according to expectations or is not continuing to work towards the reduction of commute trips. Payments for multi-year projects are contingent upon the provision of legislative funding in future biennia.~~

~~((e))~~ No TRPP funds will be awarded to an applicant requesting compensation at a rate higher than the estimated annualized cost of providing new roadway capacity (maximum per trip cost) adopted for this program. The maximum per trip cost will be provided by WSDOT as part of the application document.

~~((f))~~ For purposes of distributing awarded funds, one trip is assumed to equal 13.07 VMT (the average commute distance measured as part of the CTR program) or the average one-way commute distance for the employees covered by the project. The applicant may, through documentation in the applications, provide a different trip to VMT ratio that is specific to employees in their proposal.

~~((g))~~ An agent "who will provide the financial incentive to the employee" can submit a project partnership application and be the prime recipient for the project. All procedures in this section will apply to the agent for this type of partnership project.

~~((h))~~ No applicant may claim full reduction in employee commute vehicle trips or commute VMT that are claimed as part of another project. If the initial screening determines that project overlap will occur, WSDOT will notify the applicants, and will provide them with the opportunity to adjust their trip prices and goals. The payout for areas where WSDOT can determine the overlap will be adjusted by dividing the amount per trip by the number of TRPP projects involved in the overlap.

~~((10))~~.

(12) Can a basic project be renewed? A basic project that performs well may be approved for a renewal; however, the contractor must reapply. If the renewal is approved by the selection committee, the applicant may be required to conduct another baseline measurement. Renewal applications may include a proposed adjustment to the trip price and/or

goal. Adjustments to the trip price or goal are subject to approval by WSDOT. All basic projects are subject to termination if the project is not performing according to expectations or is not continuing to work towards the reduction of commute trips.

(13) How will the application be reviewed? ~~((An award))~~ The chair of the CTR board will select a committee comprised of between six and nine members will ((be selected by the chair of the CTR task force and)) review the applications and selection. The project selection committee will include at least ((two)) one member((s)) of the ((commute trip reduction task force)) CTR board, at least one member from Central Puget Sound and one from the rest of the state, at least one employer, at least one transit member and at least one city government representative. The committee will include at least one member from the CTR technical advisory group (TAG), a member of WSDOT familiar with performance measurement, and an RTPO representative. The award committee will select projects ((will be selected)) based on the criteria as defined in subsection ((+)) (12) of this section.

~~((+))~~ (14) What are the review criteria? The applications will be reviewed based on the following criteria:

(a) **Cost effectiveness:** Does the project have a high likelihood of achieving its benefits at a relatively low expenditure of TRPP funds? Are the projected benefits achievable at a cost less than providing the equivalent roadway capacity?

(b) **Sustainability:** If this project is funded, will its benefits continue after the funding element of the project has been completed? Do the project design and partnerships indicate a high probability for continuing the project after all TRPP funds are used? Can the reduction in trips be sustained over a "multi-year project" timeline?

(c) **Innovation:** Is the proposed project a new idea, or something that's been done before but is new to the area? Does the project propose unique ~~((cost-effective))~~ ways to reduce trips?

(d) **Measurability:** The performance of the project must be measurable. If an applicant proposes to use their own measurement approach, a detailed measurement plan ~~((will))~~ must be submitted as a part of the application and must be approved by WSDOT. The measurement approach must be as accurate an estimate of the trips reduced as would be generated if the applicant made use of the WSDOT-developed measurement tool ~~((subsection (15) of this section))~~. Deviations from the approved measurement plan will be subject to review and approval by WSDOT. WSDOT may reject an application or terminate the contract if the measurement deviation is not approved.

(e) **Project implementation:** What is the timeline for implementation of the project? When and how will the project be advertised to the target ~~((audience))~~ population? All projects must conduct a baseline ~~((survey at the beginning of the project prior to implementation of))~~ measurement of all individual participants as they begin taking part in the project. If a project targets an entire worksite, the project must identify the worksite, and all employees must participate in the measurement, or the total number of employees at the worksite must be indicated in the baseline and performance measurements. The applicant must indicate the imple-

mentation timeline, proposed measurement methods ~~((if other than WSDOT measurement tool))~~ and measurement schedule in the application. ~~((If the nature of the project does not allow for a single baseline survey, the applicant must indicate the proposed measurement methodology as a part of the application. All projects must be implemented within three months (first quarter) after signing the contract in order to receive one hundred percent of the awarded funds. If the project is not implemented until the second quarter, only seventy-five percent of the awarded funds will be available; fifty percent if implementation does not occur until the third quarter; and twenty-five percent if implementation does not occur until the fourth quarter.~~

~~((f))~~ **Applicant provides incentives:** To be eligible for TRPP funds, the applicant must provide financial incentives to their own or other employees for ridesharing, using public transportation, car sharing, or nonmotorized commuting.

~~((g))~~ **Project predictability:** Are the estimates of employee participation, trip reduction, and VMT reduction likely to be achieved based on the assessment of the review committee?

~~((h))~~ **Redundancy:** Does the project propose to provide services that are already available to the employees?

~~((i))~~ **Thoroughness:** Has the project been thoroughly researched and carefully thought out? Are adequate details presented in the application?

~~((12))~~ (15) How will the recipient receive the money? Once the projects have been reviewed, prioritized and selected, the applicant will enter into a contract with the Washington state department of transportation for implementation of the project. This contract will establish the amount of money the award recipient can receive for the project, the timelines ~~((and)),~~ performance expectations, and the project's measurement plan. ~~((The funds will be provided to the recipient through three approaches: Start up, performance and performance bonus. A draft contract will be made available by WSDOT prior to project selection.))~~ The recipient must submit a TRPP fund disbursement form provided by WSDOT in order to request funds. On this form the recipient will identify the funds requested and provide documentation of performance or expenditures for reimbursement of start-up costs. Applications for multi-year projects must demonstrate the organization's ability to accept payments for performance, as well as bonus funds, through the end of the project time frame. WSDOT will provide funds to the recipient through three approaches: Start-up, performance and performance bonus.

(a) **Start-up funds:** WSDOT will provide start-up funding on a dollar for dollar, cost-reimbursable basis, but will not exceed fifty percent of the total project award for the duration of the project. The recipient of basic project award ~~((recipient))~~ may request ~~((up to fifty percent of the awarded amount after a))~~ start-up funds after the baseline measurement ((is completed or accepted)) has begun. The recipient can request start-up funds ((can be requested in the first year of)) throughout the project or until the final performance funds are paid. The recipient of a multi-year project award ((recipients are)) is eligible for start-up funds through a phased payment approach. To calculate the start-up fund disbursement for multi-year projects, multiply the total project amount by

0.5, then divide that number by the number of years in the project. ((Start-up funding will be provided on a dollar for dollar, cost-reimbursable basis, but will not exceed fifty percent of the total project award for the duration of the project. The remaining award amount is considered performance funds.)) This is the amount that will be available as start-up funds each year.

(b) **Performance funds:** The remaining ((funds)) award amount will be available to the recipient following ((the)) performance measurement((For basic projects, the recipient has the option to measure their performance at the halfway point (interim measurement), but is required to measure at the end of their project. If the recipient conducts an interim measurement, they will be eligible to receive half of the performance funding following this measurement with the balance available after the final measurement survey. If the recipient elects to forego an interim measurement, all of the remaining funds will be available after the final measurement, and will be determined by the performance of their project))((s)) for the project, based on the project's performance. All basic projects are required to measure at the end of the project and deliver the measurement data to WSDOT by June 1st. Projects that conduct interim measurements will be eligible to receive a prorated portion of the performance funding following each measurement, with the balance available after the final measurement. Projects that do not conduct interim measurements will receive their remaining performance funds after the final measurement. For multi-year projects, the recipient must measure ((their)) the project's performance at the end of each biennium (and deliver the measurement data to WSDOT by June ((45th)) 1st) at a minimum, and at the end of the project. ((All)) The amount of performance funds paid will be calculated from the project's price per trip and performance. Projects must reduce trips to be eligible for any performance funds. The project application must describe the measurement schedule for the project, and the contract for the project will include a measurement schedule.

(c) **Performance bonus funds:** ((These)) WSDOT will provide performance bonus funds ((with)) only ((be provided)) at the end of the contract period ((and)). The recipient will receive the funds for additional performance above the award amount based on the same ((award rate)) price per trip reduced ((and same award rate per)), including credit for VMT reduced, as identified in their contract. The recipient will be eligible to receive additional bonus funds up to one hundred twenty percent of the contracted price per trip, or up to the maximum price per trip ((cost)) allowed (whichever is less), for every trip that exceeds ((their anticipated performance (the projected number of trips reduced)) the project goal. ((The)) WSDOT will make performance bonus ((portion of the funding will only be)) funds available only if funds are remaining in the TRPP account.

((13) **Receipt of TRPP funds:** To receive all eligible TRPP funds for the fiscal year, the recipient must provide measured data on their project's performance (baseline, interim and final surveys) to WSDOT by June 15th. The recipient must submit a TRPP fund disbursement form provided by WSDOT in order to request funds. On this form the recipient will identify the funds requested and provide docu-

mentation of performance or expenditures for reimbursement of start-up costs. For the performance portion of the TRPP award, no funds will be made available without documentation of actual employee reductions in VMT and vehicle trips. Applications for multi-year projects must demonstrate the organization's ability to accept payments for performance, as well as bonus funds, through the end of the project time frame.

~~(14) **Performance documentation:** The applicant must, as part of the application, describe the measurement approach for their project. WSDOT will make available a survey instrument that can be used to measure performance at employer worksites. The recipient may elect to provide performance data in an alternative format. The alternative format will be subject to approval by WSDOT. The measurement approach used by the applicant must clearly demonstrate how reduced trips and VMT are calculated and how adjustments will be made for changes in employee population.~~

~~(15) **Measurement of VMT and commute trips reduced:** Measurement of performance must provide actual counts of vehicle trips and VMT made by the employees in the program, preceding and following the project period. The performance measurement must adjust for changes in employee populations during the project period. WSDOT will use the following methodology to calculate changes in the number of commute trips and commute VMT at a project worksite(s):~~

~~(a) **Baseline survey.** At the beginning of the project, the worksite(s) will survey their employees about their commuting behavior using the standard WSDOT commute trip reduction employee survey form. This initial survey is called the baseline survey. WSDOT will calculate a baseline mode split, based on results from the baseline survey. In calculating this mode split, and those from subsequent surveys, WSDOT will calculate assumptions to adjust for missing data, days reported by employees as not worked, inconsistency between commute mode and vehicle occupancy data, and reported use of compressed workweeks as specified in the CTR guidelines published by WSDOT and available on the internet at <http://www.wsdot.wa.gov/tdm/tripreduction/CTRguide/SEC3.cfm>. Any start-up costs are contingent upon completion or acceptance of the baseline survey.~~

~~(b) **Performance measurement survey.** For basic projects (one to two year), the recipient will have the option to survey the eligible project employees midway through the project (by June 15th if it is a two-year project), and is required to survey at the end of the project. For multi-year projects (three to five years), the recipient will be required to survey the eligible project employees at the beginning of the project, each biennium (by June 15th), and at the end of the project.~~

~~(c) WSDOT will calculate the mode split based on the results of the performance measurement. Using the number of employees at the site and the mode split from the baseline survey, WSDOT will calculate the average number of vehicle trips that employees took per day. Using this same number of employees, WSDOT will calculate the average number of trips the employees took per day during the performance measurement survey (interim or final) and compare it to the mode split calculated from the baseline survey.~~

(d) The difference between the two numbers calculated under subsection (2)(b) of this section is the change in the average number of trips per day at the site between the two surveys. These calculations take into consideration changes in employment at the site; the employer will not be entitled to increased payments due to a reduction in force or be penalized because of an increase in employment.

(e) WSDOT will calculate the average one-way distance for morning commute trips made by each mode in the performance measurement survey, and multiply this by the change in the average number of trips by that mode per day. The sum of these values for motorized commuting modes is the change in VMT. (d) **Implementation penalties:** All award recipients must implement their projects within three months (first quarter) after signing the contract in order to receive one hundred percent of the awarded funds. If the project is not implemented until the second quarter, only seventy-five percent of the awarded funds will be available; fifty percent if implementation does not occur until the third quarter; and twenty-five percent if implementation does not occur until the fourth quarter. A project is subject to termination if it has not been implemented by the fifth quarter.

**(16) What is the measurement/payment schedule?** Every project must have a baseline measurement, and the baseline measurement must begin before WSDOT will make payments to reimburse start-up costs. Interim measurements can be conducted monthly or quarterly, and must be completed in order to request interim payments. Submission of interim measurements to receive interim payments is subject to prior WSDOT approval. Every project must submit a final performance measurement at the end of the project in order to receive final payment. WSDOT must receive the final performance measurements and request for funds by June 1st of the contract closure year.

**(17) What are interim measurements and payments?** When applicable and when approved in advance by WSDOT, recipients may request monthly and/or quarterly payments for trip and VMT reductions. WSDOT will prorate payments based on the project timeline and the interim performance measurement. The sum of all performance payments will not exceed the total funds awarded to the project. Recipients will also be able to receive start-up funds that are phased throughout the life of the project (see subsection (13)(a) of this section for details on start-up fund disbursement).

**(18) Can the price per trip be adjusted?** Multi-year projects and basic projects seeking a renewal may apply for an adjustment to the trip price and/or their goal at the end of each biennium. Adjustments to trip price and goal for the project will be subject to review and approval by WSDOT. Payments for multi-year projects are contingent upon the provision of legislative funding in future biennia.

**(19) What happens if a project does not perform?** All projects are subject to termination if the project is not performing according to expectations or is not continuing to work towards the reduction of commute trips. Projects must reduce trips to be eligible for any performance funds.

**(20) How are projects that overlap treated?** No applicant may claim full reduction in employee commute vehicle trips or commute VMT that are claimed as part of another project. WSDOT will make an initial screening of awarded

projects to determine whether projects overlap. If WSDOT finds that projects being considered for selection are likely to overlap, WSDOT will notify the applicants, and will provide them with the opportunity to adjust their trip prices and goals. If projects are selected that overlap, WSDOT will ask the applicants to propose a solution to the overlap. If a solution cannot be agreed upon by the applicants, WSDOT will adjust the payments for areas where it can determine overlap occurs, by dividing the amount per trip by the number of TRPP projects involved in the overlap. WSDOT will use the lower price per trip in the overlapped projects to calculate payment.

**(21) Performance documentation:** The applicant must, as part of the TRPP application, describe how the project will measure performance. WSDOT will make measurement instruments available to the project. The applicant may propose alternative ways to measure the project, but must provide a description of the alternative as part of the application. Use of any measurement instrument is subject to approval by WSDOT. WSDOT will incorporate language describing the project's measurement into the contract documents for the project. WSDOT will calculate the reduction in commute vehicle trips for the project, along with any credit for reduction in vehicle miles traveled. At its discretion, WSDOT may make software available to TRPP recipients to calculate the reductions directly.

## WSR 07-01-097

### PROPOSED RULES

#### DEPARTMENT OF TRANSPORTATION

[Filed December 19, 2006, 1:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-22-091.

Title of Rule and Other Identifying Information: Chapter 468-63 WAC, Commute trip reduction program.

Hearing Location(s): Department of Transportation, Commission Board Room 1D2, 310 Maple Park Avenue S.E., Olympia, WA 98504, on January 29, 2006 [2007], at 10:00 a.m.

Date of Intended Adoption: January 29, 2007.

Submit Written Comments to: Keith Cotton, P.O. Box 47387, Olympia, WA 98504-7387, e-mail cottonk@wsdot.wa.gov, fax (360) 705-6862, by January 24, 2007.

Assistance for Persons with Disabilities: Contact Jessica Alexander by January 25, 2006 [2007], TTY (360) 705-7000 or (360) 705-7760.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 70.94.537 requires Washington state department of transportation (WSDOT) to develop rules for the commute trip reduction (CTR) program. The purpose of the proposal is to specify the requirements for CTR plans so that the plans are consistent statewide and their review and approval is conducted in a consistent and transparent manner. The proposal's anticipated effect is the development of local, regional, and voluntary CTR plans by local governments and regional transportation planning organizations that are consistent statewide.



The proposal establishes a new rule; no changes in existing rules will be needed as a result of this proposal.

Reasons Supporting Proposal: WSDOT coordinated the development of the rule with the CTR board, as well as affected cities, counties, regional transportation planning organizations, employers, and other interested parties.

The rule is needed to specify the requirements for CTR plans and local implementation procedures. The proposal will provide consistency in CTR plans and the requirements for major employers affected by the CTR law.

Statutory Authority for Adoption: RCW 70.94.537.

Statute Being Implemented: RCW 70.94.521-[70.94.]555.

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

Name of Proponent: Washington state department of transportation, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Keith Cotton, 310 Maple Park Drive, Olympia, WA 98504-7387, (360) 705-7910.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose more than minor costs on businesses in an industry, so a small business economic impact statement is not needed, according to the requirements of RCW 19.85.030. The proposed rule details the specific requirements for local governments and regional transportation planning organizations as established in RCW 70.94.527. The proposed rule does not impose specific requirements on businesses beyond the existing requirements in the CTR statute (RCW 70.94.-531).

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required for the proposed rule, as the rule does not meet the criteria established in subsection (5) of RCW 34.05.328.

December 6, 2006

P. J. Hammond

Chief of Staff

## Chapter 468-63 WAC

### COMMUTE TRIP REDUCTION PROGRAM

#### NEW SECTION

**WAC 468-63-010 Purpose.** (1) **Background and purpose.** This section describes the background of the commute trip reduction (CTR) law (RCW 70.94.521 through 70.94.555) and the purpose of these rules.

(a) **Program history and goals.** Washington state's laws relating to commute trip reduction (CTR law) were adopted in 1991 and incorporated into the Washington Clean Air Act as RCW 70.94.521 through 70.94.551. The intent of the CTR law is to reduce automobile-related air pollution, traffic congestion, and energy use through employer-based programs that encourage the use of alternatives to the single-occupant vehicle traveling during peak traffic periods for the commute trip. Strategies such as these that encourage travelers to use the transportation system more efficiently are generally known as transportation demand management (TDM).

In 2006, the Legislature amended the CTR law to make the program more efficient and effective.

(b) **Purpose of rules.** These rules are intended to ensure consistency in CTR plans and goals among jurisdictions while fairly taking into account differences in employment and housing density, employer size, existing and anticipated levels of transit service, special employer circumstances, and other factors the board determines to be relevant.

(2) **Program overview.** This section describes some general considerations for affected jurisdictions and employers.

(a) **Existing CTR programs.** Those jurisdictions with an existing CTR ordinance as of March 1, 2007, and the employers within those jurisdictions, shall continue to operate their existing CTR programs as necessary to comply with the requirements of the existing CTR ordinance, until the time that the jurisdiction adopts changes to its CTR ordinance to respond to changes in the CTR law and the planning requirements in these rules.

(b) **Relation to other transportation demand management requirements.** The state encourages local jurisdictions to make existing transportation demand management (TDM) requirements compatible with the requirements of RCW 70.94.521 through 70.94.555 and these rules. Several jurisdictions have implemented TDM requirements for employers or developers through the permitting of new facilities under the State Environmental Policy Act (SEPA), or through development requirements under the Growth Management Act (GMA). The state recognizes that jurisdictions may use TDM to satisfy different goals than those in the CTR law because of other considerations. The state encourages jurisdictions to review existing and proposed TDM requirements that are based on SEPA and GMA and make them compatible with the CTR law where feasible. The state intends for property owners to be treated equitably and that, wherever possible, jurisdictions reduce the conflict, duplication and higher cost of separate or conflicting TDM requirements at the same major employer worksite. To this end, the state recommends that TDM development requirements be measured using the same instruments, methodologies, and reporting requirements used for employers subject to the jurisdiction's CTR ordinance.

(c) **Interjurisdictional cooperation.** The state intends that, to the extent possible, jurisdictions in affected urban growth areas enter into cooperative arrangements for the implementation of their CTR plans. Such arrangements may be made with the county, other cities, transit agencies, regional transportation planning organizations, or other entities, as appropriate. The arrangements may be entered into through interlocal agreements or contracts. The advantages of such arrangements include stretching the limited resources available for implementing CTR plans and facilitating consistent treatment of employers across jurisdictional boundaries.

(d) **Cooperation among affected employers.** The state encourages affected major employers to enter into cooperative arrangements with other affected major employers in their immediate vicinity for the development and implementation of CTR programs. These arrangements could be through the formation of transportation management associa-

tions (TMAs), or they could be less formal. The advantages of such cooperation include economies of scale, the potential for sharing resources, and the formation of a larger grouping of employees, making ridesharing arrangements or special transit services easier.

(e) **State agency leadership.** RCW 70.94.547 recognizes the state's crucial leadership role in establishing and implementing effective commute trip reduction programs, and intends for the department of general administration and other state agencies, including institutions of higher education, to aggressively develop substantive programs to reduce commute trips by state employees. The interagency board created in RCW 70.94.551 is responsible for developing policies and guidelines to promote consistency among state agency commute trip reduction programs and for developing the state's leadership role.

#### NEW SECTION

**WAC 468-63-020 Definitions.** (1) **Definitions.** The definitions in this section apply throughout these rules.

(a) **Statutory definitions.** The terms listed in this subsection are defined in the CTR statutes (RCW 70.94.521 through 70.94.555).

(i) "A major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months during the year.

(ii) "Major employment installation" means a military base or federal reservation, excluding tribal reservations, at which there are one hundred or more full-time employees, who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months during the year.

(iii) "Person hours of delay" means the daily person hours of delay per mile in the peak period of 6:00 a.m. to 9:00 a.m., as calculated using the best available methodology by the department of transportation.

(iv) "Commute trip" means trips made from a worker's home to a worksite during the peak period of 6:00 a.m. to 9:00 a.m. on weekdays.

(v) "Proportion of single-occupant vehicle commute trips" means the number of commute trips made by single-occupant automobiles divided by the number of full-time employees.

(vi) "Commute trip vehicle miles traveled per employee" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.

(vii) "Growth and transportation efficiency center" means a defined, compact, mixed-use urban area that contains jobs or housing and supports multiple modes of transportation. For the purpose of funding, a growth and transportation efficiency center must meet minimum criteria established by the commute trip reduction board under RCW 70.94.537, and must be certified by a regional transportation planning organization as established in RCW 47.80.020.

(viii) "Affected urban growth area" means:

(A) An urban growth area, designated pursuant to RCW 36.70A.110, whose boundaries contain a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, and any contiguous urban growth areas; and

(B) An urban growth area, designated pursuant to RCW 36.70A.110, containing a jurisdiction with a population over seventy thousand that adopted a commute trip reduction ordinance before the year 2000, and any contiguous urban growth areas.

(ix) "Certification" means a determination by a regional transportation planning organization that a locally designated growth and transportation efficiency center program meets the minimum criteria developed in a collaborative regional process and the rules established by the department of transportation.

(b) **Terms defined by rule.** The terms listed in this subsection are defined herein and apply throughout these rules.

(i) "Goal" means a purpose toward which efforts are directed.

(ii) "Target" means a quantifiable or measurable value that is expressed as a desired level of performance, against which actual achievement can be compared in order to assess progress.

(iii) "Drive-alone" means single-occupant vehicle.

(iv) "Single-occupant vehicle" means a motor vehicle, including a motorcycle, occupied by one person for commute purposes. If there are other passengers occupying the motor vehicle, but the ages of these passengers are sixteen or under, the motor vehicle is still considered a "single-occupant vehicle" for measurement purposes.

(v) "Nondrive-alone travel" means travel by a method other than single-occupant vehicle. Travel avoided by telework, alternative work schedules, or condensed work weeks shall also be considered as nondrive-alone travel.

(vi) "Base year value" means the measured values of the proportion of single-occupant vehicle commute trips and commute trip vehicle miles traveled per employee at a major employer worksite, on which commute trip reduction targets for the major employer worksite shall be based.

(vii) "Jurisdiction's base year measurement" means the proportion of single-occupant vehicle commute trips by CTR commuters and commute trip vehicle miles traveled per CTR commuter on which commute trip reduction targets for the local jurisdiction shall be based. The jurisdiction's base year measurement, for those jurisdictions with an affected urban growth area as of March 1, 2007, shall be determined based on employee surveys administered in the 2006-2007 survey cycle. If complete employee survey data from the 2006-2007 survey cycle is not available, then the base year measurement shall be calculated from the most recent and available set of complete employee survey data.

(viii) "Affected employee" means a full-time employee who begins his or her regular workday at a major employer worksite between 6:00 and 9:00 a.m. (inclusive) on two or more weekdays for at least twelve continuous months, who is not an independent contractor, and who is scheduled to be employed on a continuous basis for fifty-two weeks for an average of at least thirty-five hours per week.

(ix) "CTR commuter" means a resident or employee in an affected urban growth area who is a participant in the city or county's commute trip reduction program, including any growth and transportation and efficiency center ("GTEC") programs, implemented to meet the city or county's established targets.

(x) "Commute trip vehicle miles traveled per CTR commuter" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of CTR commuters during that period.

(xi) "Major employer worksite" means the physical location occupied by a major employer, as determined by a local jurisdiction.

(xii) "Voluntary employer worksite" means the physical location occupied by an employer who is voluntarily implementing a CTR program.

(2) **Identification of CTR jurisdictions.** This section establishes the process to be used by WSDOT to determine the state's affected urban growth areas and lists the state's affected urban growth areas.

(a) **Process to determine affected urban growth areas.** WSDOT shall use the definition of an affected urban growth area in RCW 70.94.524 to determine the list of affected urban growth areas. WSDOT shall use the most recent set of valid and available data that covers the entire state highway system to calculate the one hundred person hours of delay threshold for state highway segments. WSDOT shall use the most recent geographical information for the state's urban growth areas as provided by the department of community, trade and economic development, or its successor.

(b) **Listing of affected urban growth areas.** The cities and counties within or containing an affected urban growth area, as determined by WSDOT, are:

(i) Clark County and the cities of Camas, Vancouver, and Washougal;

(ii) King County and the cities of Algona, Auburn, Beaux Arts, Bellevue, Black Diamond, Bothell, Burien, Clyde Hill, Covington, Des Moines, Federal Way, Hunts Point, Issaquah, Kenmore, Kent, Kirkland, Lake Forest Park, Maple Valley, Medina, Mercer Island, Newcastle, Normandy Park, Pacific, Redmond, Renton, Sammamish, SeaTac, Seattle, Shoreline, Tukwila, Woodinville, and Yarrow Point;

(iii) Kitsap County and the cities of Bainbridge Island, Bremerton, and Port Orchard;

(iv) Pierce County and the cities of Bonney Lake, DuPont, Edgewood, Fife, Fircrest, Gig Harbor, Lakewood, Milton, Orting, Puyallup, Ruston, Steilacoom, Sumner, Tacoma, and University Place;

(v) Snohomish County and the cities of Arlington, Bothell, Brier, Edmonds, Everett, Lake Stevens, Lynnwood, Marysville, Mill Creek, Monroe, Mountlake Terrace, Mukilteo, Snohomish, and Woodway;

(vi) Spokane County and the cities of Airway Heights, Liberty Lake, Millwood, Spokane, and Spokane Valley;

(vii) Thurston County and the cities of Lacey, Olympia, and Tumwater;

(viii) Whatcom County and the cities of Bellingham and Ferndale; and

(ix) Yakima County and the cities of Selah, Union Gap, and Yakima.

(c) **Listing of affected urban growth areas exempted from CTR requirements for a period not exceeding two years from March 1, 2007.** The cities or counties within an affected urban growth area, as determined by WSDOT, but which the legislature in RCW 70.94.527(12) has exempted from CTR requirements for a period not exceeding two years from March 1, 2007, are:

(i) Benton County and the cities of Kennewick, Richland, and West Richland; and

(ii) Franklin County and the city of Pasco.

(d) **Notification of cities, counties, and regional transportation planning organizations (RTPOs) required to adopt CTR plans.** WSDOT shall notify the cities, counties, and RTPOs that are determined to be in the affected urban growth areas. Cities and counties in the affected urban growth areas shall identify the major employers, if any, within their boundaries. Only those cities and counties containing a major employer in the affected urban growth area within the boundaries of their official jurisdiction shall be required to adopt a local CTR plan. Only those regional transportation planning organizations whose planning territory encompasses a city or county required to adopt a local CTR plan shall be required to adopt a regional CTR plan.

#### NEW SECTION

##### **WAC 468-63-030 Program goals and measurement.**

(1) **Program goals.** This section establishes the goals and targets for the CTR program that every city and county shall seek to achieve at a minimum for the affected urban growth area within the boundaries of its official jurisdiction. Every two years, the state shall measure the progress of each jurisdiction and region toward their established targets for reducing drive-alone commute trips and commute trip vehicle miles traveled per CTR commuter. Local and regional goals and measurement methodologies shall be consistent with the measurement guidelines established by WSDOT and posted on the agency's web site.

(2) **Statewide minimum program goals and targets.** The goals and targets of local jurisdictions for their urban growth areas shall meet or exceed the minimum targets established in this section.

(a) The first state goal is to reduce drive-alone travel by CTR commuters in each affected urban growth area. This will help urban areas to add employment and population without adding drive-alone commute traffic. The first state target based on this goal is a ten percent reduction from the jurisdiction's base year measurement in the proportion of single-occupant vehicle commute trips (also known as drive-alone commute trips) by CTR commuters by 2011.

(b) The second state goal is to reduce emissions of greenhouse gases and other air pollutants by CTR commuters. The second state target based on this goal is a thirteen percent reduction from the jurisdiction's base year measurement in commute trip vehicle miles traveled (VMT) per CTR commuter by 2011.

(3) **Local program goals and targets.** Local jurisdictions shall establish goals and targets that meet or exceed the minimum program targets established by the state. The goals and targets shall be set for the affected urban growth area in

the city or county's official jurisdiction, and shall be targets for the year 2011 based on the base year measurement for the urban growth area.

(a) Each local jurisdiction shall implement a plan designed to meet the urban growth area targets. Progress will be determined every two years based on the jurisdiction's performance in meeting its established drive-alone commute trips and VMT targets. Local jurisdictions shall establish base year values and targets for each major employer worksite in the jurisdiction. However, the targets may vary from major employer worksite to major employer worksite, based on the goals and measurement system implemented by the jurisdiction. Variability may be based on the following considerations:

- (i) Previous engagement in trip reduction programs by the employer;
- (ii) Current conditions, policies and services designed to reduce drive-alone travel in the vicinity of the major employer worksite;
- (iii) Planned investments, services, policy changes and other strategies designed to reduce drive-alone travel in the vicinity of the major employer worksite;
- (iv) Transit access to the employer worksite and frequency of transit service during peak periods in the vicinity of the major employer worksite;
- (v) Potential for ride matching internally and with other employers in the area;
- (vi) Bicycle and pedestrian access to the major employer worksite; and
- (vii) Ability to implement compressed work week schedules and/or teleworking.

(b) The base year values for major employer worksites with an existing CTR program as of March 1, 2007, shall be determined based on employee surveys administered in the 2006-2007 survey cycle. If complete employee survey data from the 2006-2007 survey cycle is not available, then the base year values shall be calculated from the most recent and available set of complete CTR employee survey data. The local CTR plan shall use data from the same survey cycle to establish base year values for major employer worksites to ensure consistency.

(c) In their local CTR plans, local jurisdictions shall communicate what local, regional and state benefits would be gained if the established targets were achieved. Benefits may include but are not limited to projected changes in transportation system performance, projected reductions in emissions of pollutants, projected reductions in energy consumption, and projected benefits for economic development. Regional transportation planning organizations (RTPOs) and WSDOT shall provide applicable data, if available, to assist this analysis.

(4) **Goals for employers.** Regardless of the variations in major employer worksite targets that a jurisdiction implements, each major employer worksite shall be accountable for attaining the targets established by the jurisdiction. However, if major employer worksites are meeting the state requirements and giving a good faith effort as defined in RCW 70.94.531, local jurisdictions may not penalize the major employer for not meeting established targets.

(5) **Voluntary employer worksites.** In the local CTR plan, local jurisdictions shall indicate whether voluntary employer worksites that agree to measure will be counted in the calculation of the jurisdiction's progress toward its established targets. Regardless of whether the local jurisdiction chooses to count voluntary employer worksite measurements toward the area goal, jurisdictions shall continue to track results for those employer worksites that agree to measure.

(6) **Other local strategies for achieving the goals.** Jurisdictions may choose to institute trip reduction strategies for residents and employees in the urban growth area who are not affected by the local CTR ordinance. The progress of these efforts may be used in the jurisdiction's calculation of its progress toward its established urban growth area targets, if it is measured in a manner that is consistent with the measurement guidelines established by WSDOT and posted on the agency's web site.

(7) **Regional goal-setting.** The RTPO in its regional CTR plan shall establish regional CTR program goals and targets. The regional program goals and targets shall be developed based on a compilation of the local jurisdiction goals and targets in the region.

(8) **Conditional review of targets.** WSDOT shall evaluate the minimum state goal and target standard at least once every four years to determine whether, based on the current and planned level of support by transit agencies, local jurisdictions, and other service providers, the targets are attainable in each jurisdiction. As part of its evaluation, WSDOT shall determine the circumstances that have affected the ability of jurisdictions to meet the targets, including whether or not sufficient services and support for trip reduction have been provided.

(9) Local jurisdictions shall not be penalized for not meeting their established four-year targets if they are implementing a plan that meets state requirements and if WSDOT determines that there are circumstances beyond the jurisdiction's control that prevented attainment of the targets.

## NEW SECTION

### **WAC 468-63-040 Local commute trip reduction plan. (1) Purpose and process.**

(a) **Purpose of local CTR plan.** The state's intent in requiring local CTR plans is to ensure that CTR program goals and targets help jurisdictions achieve their broader transportation and land use goals, and that the jurisdiction in turn develops services, regulations, policies and programs that support the trip reduction investments of major employers. This can be achieved by integrating the local CTR plan and program with other transportation and land use plans and programs, and collaborating with local service providers, interest groups, and others to develop effective trip reduction strategies. Nothing in these rules is intended to change the requirements for local comprehensive plans developed under the Growth Management Act. The state intends for the CTR planning process to provide a new perspective on the local comprehensive plan; while a jurisdiction may choose to update or amend its comprehensive plan based on the outcome of the CTR planning process, nothing in these rules requires it.

(b) **Plan development process.** RCW 70.94.527(4) requires local CTR plans to be developed in consultation with local transit agencies, the applicable RTPO, major employers, and other interested parties.

(i) Consultation. The local jurisdiction shall invite, as appropriate, representatives of major employers, local transit agencies, the applicable RTPO, business associations and economic development organizations, nonprofit transportation and land use advocacy organizations, pedestrian and bicycle advocacy organizations, public health agencies, tribal governments, and residents, employees and businesses that will be affected by the CTR plan to participate in the development of the local CTR plan. The state intends for the invited partners to work collaboratively with the local jurisdiction by providing data and plans and discussing opportunities, including new and reprioritized investments and policy changes, to reduce drive-alone commute trips in the jurisdiction and increase transportation access to affected major employer worksites.

(ii) State role. WSDOT shall provide information to support local CTR plan development. This information shall include employer and jurisdiction base year values, calculated from CTR survey data, state highway system performance data, and other information as appropriate. WSDOT shall also provide technical assistance to support implementation of the local CTR plan, which may include but is not limited to:

- (A) Printing and processing of state CTR survey forms;
- (B) Creation of survey reports and customized data reports;
- (C) On-line survey set-up and assistance;
- (D) On-line annual report set-up and assistance; and
- (E) Program reviewer and survey training.

(iii) Regional role. It is critical that the local jurisdiction collaborate with the applicable RTPO in the development of its local CTR plan. By working closely with the RTPO, the local jurisdiction can produce a CTR plan that meets state requirements and is consistent with the regional CTR plan.

(iv) Public outreach. The local jurisdiction shall follow, at a minimum, a comparable process to the local requirements and procedures established for purposes of public outreach for comprehensive plan development, adoption, or amendment, including public notices and public meetings and hearings.

(c) **Consistency and integration with other plans, programs and local requirements.** RCW 70.94.527(5) requires local CTR plans to be consistent with applicable state and regional transportation plans and local comprehensive plans. RCW 70.94.527(5) also requires local CTR plans to be coordinated and consistent with those of adjoining jurisdictions or related regional issues to ensure consistency in the treatment of employers who have worksites in more than one jurisdiction. The local jurisdiction shall review the local comprehensive plan to ensure that it is consistent with the local CTR plan. If the local jurisdiction determines that the local comprehensive plan needs to be updated or amended to be consistent with the local CTR plan, the local jurisdiction shall identify in the local CTR plan what changes may be needed and when the changes will be made. The local jurisdiction shall use the regional CTR planning process as a means to discuss

regional issues with adjoining jurisdictions. The local jurisdiction shall follow the administrative guidelines established by WSDOT and posted on the agency's web site to ensure consistency in the treatment of employers who have worksites in multiple jurisdictions.

(d) **Plan review and approval.** RCW 70.94.527(1) requires the local CTR plan to be submitted to the RTPO and be included in the regional CTR plan.

(i) Schedule. In order for a local jurisdiction to receive state CTR program funding in the 2007-2009 biennium, the CTR board must receive the final draft of the local CTR plan by October 1, 2007. For biennia after 2007-2009, the CTR board must receive updated CTR plans by March 31 every two years thereafter if updates to the local CTR plan have been made or if a jurisdiction is adopting a local CTR plan for the first time.

(ii) RTPO review. RCW 70.94.527(5) requires the RTPO to review the local CTR plans. Local jurisdictions shall submit the final draft of their local CTR plans to the applicable RTPO by the date specified by the RTPO, so that the RTPO may review the plans before submission to the CTR board. The RTPO will review the local CTR plan to determine its consistency with the regional CTR plan and state requirements.

(iii) Determination of consistency. RCW 70.94.527(7) requires the RTPO to collaborate with the CTR board to evaluate the consistency of local CTR plans with the regional CTR plan. When the RTPO submits its regional CTR plan to the CTR board, it shall also submit any final drafts of local CTR plans in the region and recommend to the CTR board which local CTR plans are consistent with the regional CTR plan and state requirements.

(iv) Approval by CTR board. RCW 70.94.527(7) requires local CTR plans to be approved by the CTR board in order to be eligible for state CTR funding. The CTR board shall review the final drafts of local CTR plans and communicate its findings in writing to the submitting RTPO within one hundred twenty days following receipt of the plans. If the CTR board approves a local CTR plan, the local jurisdiction shall then adopt the local CTR plan by ordinance and begin to implement the plan and any other necessary changes to local ordinances, plans, or programs. If the CTR board rejects a local CTR plan, it shall communicate its reasoning and recommendations for improvement to the submitting RTPO. The RTPO shall then work with the local jurisdiction to improve the local plan. Jurisdictions may submit a revised local CTR plan to the RTPO and CTR board in the schedule jointly established by the RTPO and the CTR board.

(v) Appeal. If a local CTR plan is not approved by the CTR board, the local jurisdiction may choose to appeal the decision to the secretary of transportation or his/her designee within sixty days of the board's decision by submitting a written request for appeal to the secretary of transportation or his/her designee. The secretary of transportation or his/her designee shall consider the appeal within sixty days of the jurisdiction's request. If the secretary of transportation or his/her designee grants the appeal, the local CTR plan shall be considered valid by the CTR board and RTPO. If the secretary of transportation or his/her designee denies the appeal, the local jurisdiction is not eligible for state CTR program

funding until its revised plan is submitted and approved by the CTR board.

(e) **Plan update cycle.** According to RCW 70.94.527(5), local jurisdictions shall review their local CTR plans annually and revise them as necessary to be consistent with applicable plans developed under RCW 36.70A.070. The local CTR plan shall be updated at least once every four years, in order to establish new four-year targets and program strategies and update other elements as needed.

(2) **Required plan elements.** RCW 70.94.527(4) requires affected local governments to adopt CTR plans consistent with the rules and deadlines established by WSDOT. The state intends for local jurisdictions to use information in existing plans and programs, such as the local comprehensive plan, unified development codes, the transportation improvement program, economic development plans, and others, as much as possible in order to develop the local CTR plan. The local CTR plan is required to meet the requirements specified in these rules, but local jurisdictions may choose to adjust the scope of their local CTR plans as needed to make them more effective. The local CTR plan shall describe how the CTR program will help achieve the jurisdiction's broader land use and transportation goals.

The local CTR plan shall contain the following elements:

(a) **Description of land use and transportation context.** Jurisdictions shall evaluate the significance of local land use and transportation conditions, characteristics and trends to describe the most critical factors to the success of CTR.

The plan shall highlight the existing and future land use and transportation conditions and characteristics considered most critical by the jurisdiction and evaluate the degree to which existing local services, policies, regulations, and programs, as well as any documented future investments, will complement the trip reduction efforts of CTR employers. Jurisdictions may choose to broaden the scope of their local CTR plan by developing a jurisdiction-wide analysis, rather than focusing only on major employers.

The plan shall evaluate the existing barriers to the success of the CTR program, and identify how the jurisdiction and its partners can overcome these barriers. The state intends for the plan to be a mechanism through which employers can describe what policy changes, services and support they need to make their CTR programs more effective.

The plan shall also discuss cross-boundary issues, such as pass-through commute patterns or larger regional issues, and how these affect the local CTR plan.

(b) **Goals and targets.** The plan shall establish the jurisdiction's CTR goals and targets and show how achievement of these goals and targets will contribute to the jurisdiction's other adopted land use and transportation goals. The plan's goals and targets shall be established at a level that meets or exceeds the state minimum standard described in WAC 468-63-030, Program goals and measurement. The plan shall describe the base year values and numerical targets for each major employer worksite required to participate in the CTR program.

(c) **Measurement methodology for determining base year values and progress toward meeting goals and tar-**

**gets.** The plan's measurement methodology shall be consistent with the measurement guidelines established by WSDOT and posted on the agency's web site.

(d) **Description of local services and strategies for achieving the goals and targets.** The plan shall describe what local services and strategies will be implemented to achieve the plan's goals and targets, and how these services and strategies will support the CTR programs of major employers. Strategies may include, but are not limited to:

(i) Modifications of local policies and regulations, including the transportation concurrency system, street design standards, parking, and zoning;

(ii) Investments in services and facilities, including transit services, nonmotorized facilities and amenities; and

(iii) Marketing and incentives.

Transit agencies shall work with counties, cities and towns as a part of their six-year transit development plan established in RCW 35.58.2795 to take into account the location of major employer worksites when planning and prioritizing transit service changes or the expansion of public transportation services, including rideshare services (RCW 70.94.527(5)).

(e) **Description of requirements for major employers.** The plan shall describe the requirements for major employers that will be outlined in the local ordinance. The plan shall also describe the program that the local jurisdiction will offer to its employees and how this contributes to the success of the overall plan. The plan shall also identify the major employer worksites, including affected state agency locations, within the jurisdiction's affected urban growth area and any major employment installations.

(f) **Documentation of consultation.** The plan shall include documentation from the local jurisdiction that verifies consultation with employers, transit agencies and others to develop the plan. If the CTR plan includes new or reprioritized transit service beyond that identified in the six-year transit development plan as a strategy to meet the goals and targets, the plan shall include acknowledgement from the applicable transit agency that it supports the transit element of the plan and has agreed on a plan to fund future service investments. If the plan submittal to the CTR board does not include acknowledgement of support from the applicable transit agency, then the new or reprioritized transit service element of the plan shall not be considered as a valid strategy to meet the plan's goals and targets.

(g) **A sustainable financial plan.** The plan shall describe the funding revenues from public and private sources that are reasonably expected to be available, as well as the expected costs, to implement the plan and achieve its goals and targets. If a jurisdiction identifies program elements that are not necessary to the success of the plan, but would support the plan and are beyond expected resources, the plan shall describe the level of funding that would be needed to implement the program element and how it would contribute to the success of the plan.

(h) **Implementation structure.** The plan shall describe how the various strategies identified in the CTR plan will be implemented, either by the local jurisdiction, its partners, or its contracting partners, and when the elements of the plan are expected to be implemented. If the local jurisdiction decides

to update its comprehensive plan to be consistent with the CTR plan, it shall describe which elements need updating and when the update will occur.

(i) **Growth and transportation efficiency centers.** If the jurisdiction has designated a growth and transportation efficiency center, the local jurisdiction shall summarize and incorporate the GTEC program plan into the local CTR plan in the next update of the plan.

#### NEW SECTION

#### **WAC 468-63-050 Regional commute trip reduction plan. (1) Purpose and process.**

(a) **Purpose of regional CTR plan.** The state's intent in requiring regional CTR plans is to ensure that the region develops a consistent, integrated regional strategy for meeting CTR goals and targets. The region shall use existing plan information as much as possible to determine how the CTR program can help the region achieve its transportation goals. The state intends for CTR services and strategies to be prioritized in regional funding programs.

(b) **Plan development process.** RCW 70.94.527(6) requires the regional CTR plan to be developed in collaboration with all affected local jurisdictions, transit agencies, and other interested parties within the region.

(i) **Collaboration.** The RTPO shall invite, as appropriate, local jurisdictions, local transit agencies, major employers, business associations and economic development organizations, nonprofit transportation and land use advocacy organizations, pedestrian and bicycle advocacy organizations, public health agencies, tribal governments, and others as necessary to participate in the development of the regional CTR plan's goals, targets and strategies.

(ii) **Development of regional GTEC criteria.** The RTPO shall develop minimum land use and transportation criteria for GTECs in collaboration among local jurisdictions, transit agencies, major employers, and other affected parties as part of the regional CTR plan. The state intends for minimum land use and transportation criteria for GTECs to be developed as early in the regional planning process as possible.

(iii) **Regional role.** The state intends for the RTPO to coordinate the local and regional CTR planning process, and work closely with local jurisdictions to ensure consistency in all of the plans. The RTPO shall provide data and technical assistance to local jurisdictions to aid the development of their local CTR plans.

(iv) **Planning framework.** The state intends for local plans to follow a planning framework established by the RTPO. However, the state recognizes that during the initial planning phase in fiscal year 2007, development of local and regional CTR plans will be a concurrent, iterative process. Thus the state intent that RTPOs lead the planning process.

(c) **Identification of lead agencies.** The regional CTR plan shall describe which entities will be implementing the CTR program for each city and county, as determined locally. This description shall include an identification of lead agencies and the expected contractual relationships for program administration.

(d) **Consistency and integration with other plans, programs and local requirements.** RCW 70.94.527(6) requires

the regional CTR plan to be consistent with and incorporated into transportation demand management (TDM) components in the regional transportation plan (as required by RCW 47.80.030). The regional CTR plan shall be consistent with TDM components in the regional transportation plan. The regional CTR plan shall be incorporated by the RTPO into the regional transportation plan by December 31, 2008.

(e) **Plan review and approval.** According to RCW 70.94.527(6), regions without an approved regional CTR plan shall not be eligible for state CTR funds.

(i) **Schedule.** For jurisdictions in the region to receive CTR program funding, the CTR board must receive final draft regional CTR plans by October 1, 2007, and by March 31 every two years thereafter, if updates have been made to the regional CTR plan or if the RTPO is adopting a regional CTR plan for the first time.

(ii) **Submittal.** RCW 70.94.527(7) requires RTPOs to submit their regional CTR plans, related local CTR plans, and certified GTEC programs to the CTR board. By October 1, 2007, and by March 31 every two years thereafter, the RTPO shall submit the regional CTR plan, all local CTR plans in the region, and GTEC certification reports to the CTR board. Local and regional CTR plan submittals shall include documentation of support from the applicable transit agencies if the plans include a transit element.

(iii) **Determination of consistency.** RCW 70.94.527(7) requires the RTPO to collaborate with the CTR board to evaluate the consistency of local CTR plans with the regional CTR plan. When the RTPO submits local CTR plans to the CTR board, it shall also submit its determination of which local CTR plans are consistent with the regional CTR plan and meet state requirements. If any plans are not consistent or do not meet state requirements, the RTPO shall describe its reasoning and what changes need to be made to the plan before it is approved. The CTR board shall use the RTPO recommendation during its review of the local and regional CTR plans.

(iv) **Approval.** According to RCW 70.94.527(7), regional CTR plans must be approved by the CTR board to be eligible for state CTR funding. The CTR board shall review the regional CTR plan and notify the RTPO in writing whether it approves or denies the plan. If the regional CTR plan is approved, jurisdictions in the region are eligible for state CTR funding. If the regional CTR plan is not approved, the CTR board shall state its reasoning and recommendations for improvement to the RTPO. The RTPO may then choose to submit its revised plan to the CTR board by the deadline established by the CTR board or to appeal the decision.

(v) **Appeal.** If a regional CTR plan is not approved by the CTR board, the RTPO may choose to appeal the decision to the secretary of transportation or his/her designee within sixty days of the board's decision by submitting a written request for appeal to the secretary of transportation or his/her designee. The secretary of transportation or his/her designee shall consider the appeal within sixty days of the RTPO's request. If the secretary of transportation or his/her designee grants the appeal, the regional CTR plan shall be considered valid by the CTR board. If the secretary of transportation or his/her designee denies the appeal, the region is not eligible

for state CTR program funding until a revised regional CTR plan is submitted and approved by the CTR board.

(f) **Annual progress report.** RCW 70.94.527(8) requires RTPOs with a regional CTR plan to submit an annual progress report to the CTR board at the end of each state fiscal year. The RTPO is required to submit a progress report to the CTR board by June 30, 2008, and every year thereafter. The report shall describe progress in achieving the regional CTR goals and targets and shall highlight any problems being encountered in achieving the goals and targets. The information shall be reported in a form established by the CTR board.

(g) **Plan update cycle.** The regional CTR plan shall be updated concurrent with the schedule for the regular update of the regional transportation plan or in order to establish new regional goals and targets and incorporate information from updated local CTR plans.

(2) **Required plan elements.** RCW 70.94.527(6) requires affected RTPOs to adopt a regional CTR plan consistent with the rules and deadlines established by WSDOT.

The regional CTR plan shall contain the following elements:

(a) **Description of land use and transportation context.** The state intends for RTPOs to evaluate the significance of regional land use and transportation conditions, characteristics and trends to highlight factors that are considered critical to the success of the regional CTR plan.

The plan shall discuss the existing and future land use and transportation conditions and characteristics considered most critical by the RTPO and evaluate the degree to which existing local services, policies, regulations, and programs, as well as any documented future investments, will complement the trip reduction efforts of major employers and help employer programs be more effective.

The plan shall evaluate the existing barriers to the success of the CTR plan, and identify how the RTPO and its partners can overcome these barriers.

The plan shall also discuss cross-boundary issues, such as pass-through commute patterns or extra-regional issues, and how these affect the regional plan.

(b) **Minimum criteria for growth and transportation efficiency centers.** The RTPO shall adopt minimum transportation and land use criteria that are appropriately scaled to the regional context. The RTPO may establish either absolute or relative criteria. The regional criteria may include, but are not limited to:

(i) Consistency with local and regional CTR plans and local comprehensive plans;

(ii) Support achievement of goals in the regional transportation plan;

(iii) Minimum existing and/or target density thresholds (i.e., activity density, population density, or employment density);

(iv) Minimum and maximum geographic sizes;

(v) Existing and targeted levels of transit service;

(vi) Existing and targeted commute trip mode splits;

(vii) Current and forecasted level of delay on state and regional facilities of significance;

(viii) Number of employees and/or residents;

(ix) Maximum parking development ratios for new commercial and residential development;

(x) Pricing strategies affecting parking demand (commuter and transient); and

(xi) Bicycle and pedestrian accessibility.

(c) **Regional program goals and targets.** The plan shall describe the established CTR goals and targets for each of the region's affected urban growth areas and designated GTECs. The plan shall also describe the entire region's goals and targets for CTR and how the regional goals and targets relate to the local goals and targets. The plan shall describe how the regional CTR goals and targets will help the region achieve its other transportation goals.

(d) **Description of how progress will be measured.** The plan shall describe how the measurement of local CTR plan progress will be used to assess regional progress toward CTR goals and targets. The plan's measurement methodology shall be consistent with the measurement guidelines established by WSDOT and posted on the agency's web site.

(e) **Description of regional strategies for achieving the goals and targets.** The plan shall describe what regional services and strategies will be implemented to achieve the plan's goals and targets, and how these services and strategies will support major employer programs and local CTR plans. The regional services and strategies may include modifying regional funding allocations and program prioritization criteria to support the regional CTR plan.

(f) **A sustainable financial plan.** The plan shall describe the funding revenues from public and private sources that are reasonably expected to be available, as well as the expected costs, to implement the plan and achieve its goals and targets. If a RTPO identifies program elements that are not necessary to the success of the plan, but would support the plan and are beyond expected resources, the plan shall describe the level of funding that would be needed to implement the program element and how it would contribute to the success of the plan.

## NEW SECTION

**WAC 468-63-060 Growth and transportation efficiency centers. (1) Purpose and process.**

(a) **Purpose and objective of the growth and transportation efficiency center (GTEC) program.** The state's goal for the GTEC program is to provide greater access to employment and residential centers while increasing the proportion of people not driving alone during peak periods on the state highway system. Counties, cities and towns may designate existing or new activity centers as GTECs in order to establish a transportation demand management (TDM) program in the designated area. The purpose of the rules pertaining to GTECs is to provide a consistent framework for local jurisdictions to exercise their authority to implement a GTEC via comprehensive plans, development regulations, and transportation investments that support population growth and economic development, transportation-efficient land uses, and transportation demand management strategies.

The state intends for GTECs to be developed in a collaborative planning process that builds upon the information in local and regional CTR plans as well as other existing plans



and programs such as the local comprehensive plan, unified development codes, the transportation improvement program, economic development plans. The state intends for the development of the GTEC program plan to be informed by and coordinated with the development of local and regional CTR plans.

The state intends to focus state program resources provided for GTECs in those urban areas that can provide the greatest current or future benefits for highway system efficiency.

(b) **Jurisdictional coordination.** The state encourages jurisdictions to discuss interjurisdictional issues and evaluate the possibility of creating a cross-boundary GTEC. While these rules refer to the actions of a single city or county in designating a GTEC, nothing in these sections shall prohibit jurisdictions from cooperating to designate GTECs that cross jurisdictional boundaries. Jurisdictions designating a cross-boundary GTEC shall adopt consistent ordinances and enter into a cooperational partnership to implement the GTEC program.

(c) **Consistency for employers.** Major employers that are affected by the base CTR program, when located within a designated GTEC, shall only be required to fulfill one set of requirements, if the GTEC program and base CTR program requirements vary. Jurisdictions that allow major employers to follow the requirements of the GTEC, rather than the base CTR program, shall ensure that major employer worksites are measured in a manner that allows accountability for the worksite and is consistent with the measurement guidelines established by WSDOT and available on the agency's web site.

(d) **Designation and certification.** RCW 70.94.537(2) requires WSDOT to establish methods for RTPOs to evaluate and certify that designated GTECs meet the minimum requirements and are therefore eligible for funding.

(i) **Minimum land use and transportation criteria.** RCW 70.94.537(2) requires WSDOT to establish guidance criteria for GTECs. Minimum land use and transportation criteria for GTECs shall be developed by the RTPO in collaboration with local jurisdictions, transit agencies, major employers, and other affected parties as part of the regional CTR plan. The regional CTR plan may include a map that depicts which areas of the region meet the criteria.

The state's intent is to constrain funding resources to those areas that have the greatest potential to reduce single-occupant vehicle commute trips on the state highway system in the future. The state will use the RTPO certification of the GTEC's potential system benefits as part of its funding prioritization process.

(ii) **Eligibility and designation process.** To be eligible for certification as a designated "growth and transportation efficiency center," the jurisdiction must submit a GTEC certification application to the applicable RTPO that:

(A) Describes how the GTEC meets the minimum land use and transportation criteria established by the RTPO as part of the regional CTR plan;

(B) Includes a copy of the GTEC program plan and the required elements identified in this rule;

(C) Identifies when and how the GTEC program plan will be incorporated into future updates or amendments of the applicable local comprehensive plan; and

(D) Includes letters of support for the GTEC program plan from partners that are expected to contribute resources to the plan or intend to work with the local jurisdiction to develop future strategies and funding resources for the GTEC.

(iii) **Schedule.** For GTEC programs to be eligible for state CTR program funds, the CTR board must receive GTEC certification reports, or local jurisdiction requests for appeal, for new or updated GTEC programs by October 1, 2007, and by April 1 every two years thereafter.

These rules do not constrain the ability of local jurisdictions to designate a GTEC at any time, or for RTPOs to certify new or updated GTECs at any time.

GTEC program plans may be updated annually to reflect changing conditions and new information. However, substantial changes to the program plan, including reductions in targets, densities, and investments, may be made no more than once every biennium. RTPOs may require local jurisdictions to update GTEC program plans as part of the regional CTR plan update. Substantially modified GTEC program plans shall be resubmitted to the RTPO for recertification.

(iv) **Certification.** RCW 70.94.528 (1)(b) requires designated GTECs to be certified by the applicable RTPO to be eligible for state funding. The RTPO shall evaluate the jurisdiction's GTEC certification application to determine if the proposed GTEC meets the requirements outlined in this rule. The RTPO shall, in partnership with the local jurisdiction and WSDOT, evaluate how achievement of the GTEC goal would affect the performance of the state highway system and the regional transportation system.

Within sixty days following receipt of the jurisdiction's application, the RTPO shall issue a certification report to the jurisdiction that either certifies or declines to certify the GTEC. The certification report shall state the rationale for the decision and describe in quantitative terms how the GTEC addresses state and regional highway deficiencies, and what benefits for the transportation system the GTEC is projected to provide. The RTPO shall provide a copy of the certification report and the GTEC program plan report to the CTR board.

(v) **Appeal.** RCW 70.94.528 (1)(b) allows jurisdictions denied certification of a designated GTEC by an RTPO to appeal the decision to the CTR board. If the RTPO declines to certify a GTEC when requested by the local jurisdiction, the local jurisdiction may appeal the decision to the CTR board within sixty days following receipt of the RTPO's certification report. The CTR board will hear the appeal within sixty days of a jurisdiction request.

If the CTR board concurs with the RTPO decision, the jurisdiction's GTEC will not be eligible for state funding. The local jurisdiction may then choose to implement the GTEC (while ineligible for state funding) or revise its application and request RTPO certification during the next biennial budget cycle. If the CTR board overrules the RTPO and certifies the GTEC, then the jurisdiction's GTEC will be eligible for state funding if it is designated within one hundred

twenty days following receipt of the notice of the state GTEC funding allocation.

(vi) **Adoption.** The jurisdiction shall "designate" the GTEC by adopting the GTEC program plan via official resolution or ordinance within one hundred twenty days following receipt of the notice of the state GTEC funding allocation. If the jurisdiction does not designate the GTEC program plan within this deadline, then it will not be eligible for any state or regional funding intended for GTEC programs for the current biennium.

(vii) **Funding.** State funding for GTECs shall be allocated by the CTR board, based on the board's funding policy developed pursuant to RCW 70.94.544.

**(2) GTEC program plan.**

(a) **Program development process.** RCW 70.94.528 (1)(a) requires the GTEC program plan to be developed in consultation with local transit agencies, the applicable RTPO, major employers, and other interested parties.

(i) **Collaboration.** The local jurisdiction shall invite, as appropriate, representatives of major employers, property managers, local transit agencies, the applicable RTPO, business associations and economic development organizations, nonprofit transportation and land use advocacy organizations, pedestrian and bicycle advocacy organizations, public health agencies, tribal governments, and residents, employees and businesses that will be affected by the GTEC to participate in the development of the GTEC program plan. The local jurisdiction and its invitees shall discuss the findings of the gap analysis portion of the plan and collaboratively develop the program's goals, targets, and program strategies.

(ii) **Informal review.** The local jurisdiction shall give collaborating entities and those entities affected by the GTEC designation an opportunity to review the draft program plan before it is released to the public and submitted for certification to the RTPO.

(iii) **Public outreach.** The local jurisdiction shall follow, at a minimum, a comparable process to the local requirements and procedures established for purposes of public outreach for comprehensive plan development, adoption, or amendment, including public notices and public meetings and hearings.

(b) **Required elements.** RCW 70.94.528 (1)(c) requires the TDM program elements in the GTEC to be consistent with the rules established by WSDOT.

The state intends for GTECs to be developed in a collaborative planning process that builds upon the information in local and regional CTR plans as well as other existing plans and programs, such as the local comprehensive plan, unified development codes, the transportation improvement program, and economic development plans. The state intends for the GTEC program plan to be a focused planning element that is coordinated with the local and regional CTR plan.

The GTEC program plan shall describe local conditions and use projections of future growth to define the scope of the problem that the GTEC goals and strategies are designed to address.

The GTEC program plan shall contain the following elements:

(i) **Executive summary.** The GTEC program plan shall include an executive summary of the jurisdiction's vision for

the GTEC, how the GTEC relates to the base CTR program, how the plan's success will affect transportation access to and within the center, and states:

(A) The GTEC program goals and targets;

(B) The GTEC target population;

(C) Proposed program strategies, including policy and service changes needed to execute the plan and proposed land use strategies to support the plan; and

(D) Key funding and service partnerships.

(ii) **Background information.** The GTEC program plan shall include:

(A) A description of the geographic boundaries of the GTEC;

(B) Documentation that the GTEC is located within the jurisdiction's urban growth area; and

(C) A brief description of the jurisdiction's vision for the GTEC, including information from the local comprehensive plan, other transportation plans and programs, and funded transportation improvements.

(iii) **Evaluation of land use and transportation context.** Jurisdictions shall evaluate the significance of local conditions, characteristics and trends to determine which factors are most critical to the success of the plan. The RTPO, local transit agencies, state agencies and other appropriate entities shall assist this process by providing data and plans and discussing issues with jurisdictions.

The local jurisdiction shall evaluate existing conditions and characteristics and projected future conditions and characteristics. The jurisdiction may choose to evaluate, but is not limited to, the following issues:

(A) Existing conditions and characteristics. These may include, but are not limited to:

(I) Existing land uses, including the general location and extent of housing, commerce, industry, recreation, open spaces, public utilities, public facilities, and other land uses, and population densities and building intensities, with particular attention to mix of land uses and proximity of residential and employment locations.

(II) Existing transportation network, including:

- Major origins and destinations of trips, including traffic impacts of activity to, from and within a GTEC to state-owned transportation facilities, if adequate information is available from WSDOT to support this evaluation;

- Transit service network and level of service including unused capacity and facilities, service deficiencies and needs, if adequate information is available from transit agencies to support this evaluation;

- Available capacity and performance of other HOV systems serving the GTEC, if adequate information is available from transit agencies and WSDOT to support this evaluation;

- Public and private parking capacity, pricing, and development standards (minimums, maximums, and incentives to reduce parking);

- Significance of the use of and deficiencies in the street, sidewalk, and trail/bicycle path network for bicyclists and pedestrians and deficiencies in end of trip facilities (e.g., bike parking, storage and shower/locker facilities) necessary to support bicyclists and pedestrians;

- Estimated commute mode share in the GTEC for transit, rideshare, bike and walk for all employers;

- Number and size of CTR-affected employers and commute mode share by CTR employees; and

- Local and regional transportation demand management strategies available to businesses in the GTEC, including incentives and programs that promote nondrive-alone travel.

(III) Local and regional economic development plans.

(B) Projected future conditions and characteristics. Jurisdictions shall use existing data, plans and programs to describe anticipated changes in the future. Jurisdictions shall use projections of future growth to evaluate how it will affect transportation access and economic development in the GTEC. Factors may include, but are not limited to:

(I) Projected population and employment growth for at least ten and twenty years;

(II) Projected changes in land use types and intensities for at least ten and twenty years;

(III) Forecasts of traffic, delay, mode share, and parking needs for at least ten years to provide information on the location, timing, and capacity needs of future growth, as well as to describe the costs to accommodate growth under the status quo (for example, describing the projected parking costs, delay, and other costs that will be incurred from future growth); and

(IV) Identification of jurisdiction plans, policies and capital programs for the provision of infrastructure, services and amenities to support planned growth and reduce single-occupant-vehicle trips, including additional transit routes, HOV capacity, pricing strategies and nonmotorized facilities and amenities.

(iv) Gap analysis. Using the information gathered in discussion of the existing and projected future conditions and characteristics, the local jurisdiction and its partners shall evaluate the degree to which existing and future services, policies, and programs will be sufficient to maintain or improve transportation access and increase the proportion of nondrive-alone travel as the area grows. This evaluation shall describe the gaps between what services, policies and programs will be available versus what may be needed to address the projected conditions. The jurisdiction's evaluation of its own policies, programs, and regulations shall include, but is not limited to an evaluation of land use and transportation regulations, including parking policies and ordinances, streetscape design standards, development requirements, concurrency policies, level of service standards, assessment of impact fees, and zoning, to determine the extent that they can reduce the need for drive-alone travel and attract and maintain a mix of complementary land uses, particularly uses that generate pedestrian activity and transit ridership.

(v) Description of program goals and measurements. The state's goal for the GTEC program is to provide greater access to employment and residential centers while increasing the proportion of people not driving alone during peak periods on the state highway system. The GTEC program plan's established goals and targets shall be more aggressive than the minimum goal for the urban growth area established by the jurisdiction, in accordance with RCW 70.94.528(1). The GTEC's established goals and targets shall be designed to maintain or improve transportation access and increase the proportion of nondrive-alone travel as the area grows. The

goals and targets shall be designed to support achievement of local and regional goals for transportation and land use.

(A) Goals and targets. Jurisdictions shall have flexibility in establishing GTEC goals and targets, as long as the targets are certified by the RTPO to be more aggressive than the minimum drive alone and VMT targets for the CTR program established by the state. The RTPO shall certify that the GTEC program targets meet this standard if the GTEC program target is to reduce, on a relative or absolute basis, more drive-alone trips or more vehicle miles traveled than the minimum base CTR program target in the urban growth area.

The GTEC targets shall be expressed in terms of changes from a base year value.

The RTPO shall determine in the GTEC certification report if the GTEC program target meets the standard defined in RCW 70.94.528(1), and work with WSDOT to evaluate how attainment of the target will affect the performance of the state highway system.

(B) Performance measures. The GTEC program plan shall describe the methodology for measuring the program's performance. The program's performance shall be measured at least once every two years after the base year measurement in order to assess progress toward the established GTEC goals and targets. The program's measurement methodology shall be consistent with the GTEC guidelines established by WSDOT and listed on the agency's web site.

(vi) Description of program strategies. Using the gap analysis evaluation, the local jurisdiction and its partners shall identify what new or revised services, policies and programs may be needed in order to meet the GTEC's established goals and targets.

The local jurisdiction shall consult with appropriate representatives of local transit agencies, the applicable RTPO, business associations and economic development organizations, nonprofit transportation and land use advocacy organizations, public health agencies, and residents, employees and businesses that will be affected by the GTEC so that they may provide their perception of what services, policies and programs are needed to meet the GTEC's established goals and targets. The state's intent is for the discussion to be an open, collaborative process, and for all of the parties to think about how they may be able to improve their own services, policies and programs, or develop stronger partnerships, in order to support the GTEC's established goals and targets.

The GTEC program plan shall identify the target population that will be the focus of the plan, as well as the services, policies and programs that will be needed in order to meet the GTEC's established goals and targets. These may include new services, policies and programs or improvements to existing services, policies and programs. The state recognizes that program strategies will vary across the state, depending on local conditions, needs, partnerships, and resources.

The GTEC program plan may include but is not limited to the following strategies:

(A) Improvements to policies and regulations;

(B) New services and facilities; and

(C) New marketing and incentive programs.

(vii) Financial plan. The GTEC program plan shall include a sustainable financial plan that demonstrates how

the jurisdiction plans to implement the GTEC program to meet its goals and targets. The plan shall describe resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommend any innovating financing techniques consistent with chapter 47.29 RCW, including public/private partnerships, to finance needed facilities, services, and programs. The plan shall specifically describe when and how the expected funding resources will fund the plan's strategies. The plan shall describe how locally derived funding resources will be leveraged as a match to state GTEC program funds allocated through the CTR board according to its funding policy. The plan shall describe the jurisdiction's contingency plan if anticipated funds do not become available to support the plan. Jurisdictions may consider using other state TDM funding resources, including the trip reduction performance program, the vanpool investment program, the rideshare tax credit, and the regional mobility grant program, in funding their GTEC programs.

(viii) Proposed organizational structure for implementing the program. The GTEC program plan shall identify the organization or organizations that are proposed to administer the GTEC program. The plan shall describe the roles of the local jurisdiction's partners by describing who will implement the various strategies identified in the plan and when the elements of the plan are expected to be implemented. If the jurisdiction will update its comprehensive plan to be consistent with the GTEC program plan, it shall describe which elements need updating and when the update will occur.

(ix) Documentation of public outreach. The GTEC program plan shall document the level and frequency of outreach and consultation with local transit agencies, the applicable RTPO, major employers, and other affected parties in the development of the GTEC program plan. The jurisdiction may choose to include letters of support from business associations, developers, employers and others as documentation of consultation. When submitting the plan to the RTPO for certification, the local jurisdiction shall include letters of support from those partners that are expected to contribute resources to the plan or intend to work with the local jurisdiction to develop future strategies and funding resources for the GTEC.

(x) Description of relationship to local CTR plan. Jurisdictions shall describe the relationship of the GTEC program plan to the base CTR program in the local CTR plan. The narrative shall include information about what the GTEC plan adds beyond the requirements and strategies in the base CTR program, and the expected benefits of the GTEC plan for the base CTR program.

### (3) Support for GTECs.

(a) **Prioritization.** RCW 70.94.528 requires transit agencies, local governments, and RTPOs to identify certified GTECs as priority areas for new service and facility investments in their respective investment plans. Transit agencies, local governments, regional transportation planning organizations, and the state shall identify certified growth and transportation efficiency centers as priority areas for new service and facility investments in future updates of their investment plans, as required by RCW 70.94.528(1). Periodically, the

CTR board shall evaluate the degree to which prioritization of GTECs has occurred.

(i) Transit development plan. The local transit agency shall examine and revise funding prioritization policies, recognizing funding constraints and competing priorities, in order to meet the state's intent to prioritize certified GTECs for investments in facilities, services, and amenities in its transit development plan.

(ii) City and county six-year comprehensive transportation programs. The city or county shall examine and revise funding prioritization policies, recognizing funding constraints and competing priorities, in order to meet the state's intent to prioritize certified GTECs for investments in facilities, services, and amenities in its comprehensive transportation program.

(iii) Regional transportation plan. The RTPO shall examine and revise funding prioritization policies, recognizing funding constraints and competing priorities, in order to meet the state's intent to prioritize certified GTECs for investments in facilities, services, and amenities in its regional transportation plan.

(iv) State plans. WSDOT, the department of community, trade, and economic development, the transportation improvement board and the public works trust fund shall examine funding prioritization policies, recognizing funding constraints and competing priorities, in order to meet the state's intent to prioritize certified GTECs for investments in facilities and services as part of state plans and programs.

(b) **Integration.** The GTEC program plan shall be incorporated into other plans and programs, including local comprehensive plans and transportation improvement programs, as they are updated after January 1, 2008.

## NEW SECTION

### **WAC 468-63-070 Opt-in, additions, and exemptions.**

(1) **Criteria and process for opt-in.** RCW 70.94.537 (2)(h) requires WSDOT to establish criteria and a process to determine whether jurisdictions that voluntarily implement CTR are eligible for state funding. Jurisdictions that are not required to implement CTR may volunteer to participate in the program. The state CTR board is not required to provide state CTR program funding to jurisdictions that opt-in. WSDOT shall provide technical assistance to opt-in jurisdictions that meet the requirements of these rules. The state intends for each jurisdiction participating in CTR to implement a consistent set of requirements for employers. Therefore, jurisdictions that opt-in to the CTR program shall follow the requirements of the rules, with the following exceptions listed below.

(a) **Local CTR plan.** Voluntary jurisdictions may, instead of developing a stand-alone CTR plan meeting the planning requirements described in these rules, develop an amendment to the transportation element of the local comprehensive plan. The amendment shall contain the following:

(i) Goals and numerical targets for reductions in the proportion of single-occupant vehicle commute trips and vehicle miles traveled per CTR commuter for the area established by the jurisdiction;

(ii) An assessment of current conditions and how attainment of the program goal can help the jurisdiction meet its broader growth and transportation goals;

(iii) A description of local services that will help the jurisdiction and its employers meet the goals and targets;

(iv) A description of the requirements for employers;

(v) A determination of the base year value and how progress toward meeting the program goal will be measured, consistent with the measurement guidelines issued by WSDOT; and

(vi) A description of how the program will be funded and administered.

The jurisdiction must adopt the comprehensive plan amendment and adopt an ordinance implementing the CTR requirements described in the comprehensive plan to be considered an opt-in CTR jurisdiction.

(b) **State technical assistance.** After an opt-in jurisdiction provides confirmation to the CTR board that a CTR ordinance has been adopted and the jurisdiction has updated its comprehensive plan to include CTR plan information, the jurisdiction shall be eligible to receive a comparable level of technical assistance that WSDOT provides to other jurisdictions required to adopt and implement CTR plans.

(2) **Criteria and procedure for RTPOs to propose to add urban growth areas.** RCW 70.94.537 (2)(f) requires WSDOT to establish criteria and procedures for RTPOs in consultation with local jurisdictions to propose to add urban growth areas. In their regional CTR plans, RTPOs may propose to add urban growth areas to the CTR program. The proposal shall list the jurisdictions in the urban growth area proposed to be added, and shall include documentation of the jurisdiction's consent to be added to the CTR program. If the proposed additions are accepted by the CTR board, the identified, consenting jurisdictions in the added urban growth areas shall be considered as opt-in jurisdictions. The opt-in jurisdictions shall be eligible to receive a comparable level of technical assistance that WSDOT provides to other jurisdictions required to adopt and implement CTR plans. The state CTR board is not required to provide state CTR program funding to jurisdictions that opt-in.

The CTR board shall consider proposed additions to the CTR program as part of its review of the regional CTR plan. In order for a jurisdiction to be approved as an opt-in jurisdiction through the regional CTR plan, the regional CTR plan shall include the following elements for each opt-in jurisdiction:

(a) Goals and numerical targets for reductions in the proportion of single-occupant vehicle commute trips and vehicle miles traveled per CTR commuter established by the proposed jurisdiction for the urban growth area and its employers;

(b) An assessment of current conditions and how attainment of the program goal can help the proposed jurisdiction meet its broader growth and transportation goals;

(c) A description of local services that will help the proposed jurisdiction and its employers meet the goals and targets;

(d) A description of the requirements for employers;

(e) A determination of the base year value and how progress toward meeting the program goal will be measured,

consistent with the measurement guidelines issued by WSDOT; and

(f) A description of how the program will be funded and administered.

(3) **Criteria and procedure for RTPOs to propose to exempt urban growth areas.** RCW 70.94.537 (2)(f) requires WSDOT to establish criteria and procedures for RTPOs in consultation with local jurisdictions to propose to exempt urban growth areas.

(a) Exemption criteria. In order for their urban growth area to be exempted, jurisdictions must document in the submittal of their local CTR plan that they meet the following criteria:

(i) Development of a local CTR plan that meets the requirements in these rules;

(ii) The jurisdiction is not currently experiencing any problems with traffic congestion or traffic safety; and

(iii) The jurisdiction has not received any state transportation funding, including grant funding, for transportation improvements in the urban growth area within two years of the submittal of the local CTR plan;

(b) **Exemption application process.** A jurisdiction that seeks an urban growth area exemption shall notify its RTPO as part of the submittal of its local CTR plan. If the RTPO concurs with the urban growth area exemption request, the RTPO will submit the urban growth area exemption request with the regional CTR plan to the CTR board. The urban growth area exemption request shall describe why the exemption is justified.

RTPOs shall submit any urban growth area exemption requests to the CTR board by October 1, 2007, or by March 31 every two years thereafter. The CTR board may consider urban growth area exemption requests at other times.

The CTR board shall consider the proposed urban growth area exemption while reviewing the regional CTR plan, and approve or deny the urban growth area exemption. The CTR board shall state the reasoning for its decision and communicate the information in writing to the RTPO.

If the CTR board grants the urban growth area exemption, the jurisdiction is exempt from the requirements of the CTR law until the regional CTR plan is updated and the exemption is reevaluated.

If the CTR board denies the urban growth area exemption, the jurisdiction may appeal the decision to the secretary of transportation or his/her designee within sixty days of the board's decision by submitting a written request for appeal to the secretary of transportation or his/her designee. The secretary of transportation or his/her designee shall consider the appeal within sixty days of the jurisdiction's request. If the secretary of transportation or his/her designee grants the appeal, the exemption shall be granted by the CTR board. If the secretary of transportation or his/her designee denies the appeal, the jurisdiction is required to follow the CTR requirements and the regional CTR plan must reflect the inclusion of the jurisdiction's CTR plan.

(c) **Reevaluation of exemption.** As part of the regional CTR plan update, RTPOs, in consultation with local jurisdictions, shall reevaluate any exempted urban growth areas to assess whether the conditions that qualified the area for the exemption have changed. For each proposed urban growth

area, the RTPO shall discuss its reasoning for a continued exemption or removal of exemption with the CTR board, and the CTR board will decide whether or not a change is warranted.

**WSR 07-01-106  
PROPOSED RULES  
DEPARTMENT OF AGRICULTURE**

[Filed December 19, 2006, 3:39 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-22-068.

Title of Rule and Other Identifying Information: The department of agriculture is proposing to amend chapter 16-409 WAC, Standards for asparagus.

Hearing Location(s): Educational Service District 123, 3918 West Court Street, Pasco, WA 99301, on Friday, January 26, 2007, at 10:00 a.m.

Date of Intended Adoption: March 1, 2007.

Submit Written Comments to: Maryann Connell, P.O. Box 42560, Olympia, WA 98504-2560, e-mail mconnell@agr.wa.gov, fax (360) 902-2085, by 5:00 p.m., January 26, 2007.

Assistance for Persons with Disabilities: Contact the Washington state department of agriculture receptionist by January 19, 2007, TDD (360) 902-1996 or (360) 902-1976.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amend chapter 16-409 WAC, Standards for asparagus, by making changes relevant to grades, size requirements, and fresh asparagus containers, in order to increase marketing opportunities for asparagus growers.

Reasons Supporting Proposal: These amendments will allow asparagus growers, packers and shippers to market asparagus in accordance with U.S.D.A. grade standards and sizes. Additionally, entities would be allowed to pack and market in various types of containers that may be requested or required by buyers and the consuming public.

Statutory Authority for Adoption: Chapter 15.17 RCW, Standards of grades and packs and chapter 34.05 RCW, Administrative Procedure Act.

Statute Being Implemented: Chapter 15.17 RCW, Standards of grades and packs.

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

Name of Proponent: The Washington asparagus commission and Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Quigley, Olympia, (360) 902-1833.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no economic impact associated with these rule amendments.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture is not a listed agency in RCW 34.05.328 (5)(a)(i).

December 19, 2006

Dennis Hannapel  
Assistant Director

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-020 ((What) Standards that apply to all asparagus marketed within Washington state(?)).** Any lot of fresh asparagus, including "culls," marketed within Washington state must have no more than ten percent of the stalks that(=

- (1)) have white in excess of two inches(=and
- (2) Are less than 4/16 inch in diameter)).

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-022 ((What grades are used to identify asparagus in Washington state?)) Asparagus grades.** (1) The following table identifies and describes the asparagus grades used in Washington state:

Washington Asparagus Grades:					
Stalk Characteristics:	"Extra Fancy Grade Asparagus"	"Extra Fancy Grade Asparagus Tips"	"Fancy Grade Asparagus"	"Consumer Pack Asparagus"	"Culls"
Stalks must be:					
(a) Clean;	Yes	Yes	Yes	Yes	No
(b) Fresh;	Yes	Yes	Yes	Yes	No
(c) Fairly uniform in length;	Yes	Yes	Yes	Yes	No
(d) Well trimmed;	Yes	Yes	No	No	No
(e) Fairly well trimmed;	No	No	Yes	Yes	No
(f) Fairly straight;	Yes	Yes	No	Yes	No
(g) Not wilted;	Yes	Yes	Yes	Yes	No
(h) Not badly misshapen;	No	No	Yes	No	No
(i) Free from decay;	Yes	Yes	Yes	Yes	No

<b>Washington Asparagus Grades:</b>					
<b>Stalk Characteristics:</b>	<b>"Extra Fancy Grade Asparagus"</b>	<b>"Extra Fancy Grade Asparagus Tips"</b>	<b>"Fancy Grade Asparagus"</b>	<b>"Consumer Pack Asparagus"</b>	<b>"Culls"</b>
Stalks must be:					
(j) Free from damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means;	Yes	Yes	Yes	Yes	No
(k) At least eighty-five percent green in color;	Yes	No	Yes	Yes	No
(l) All green.	No	Yes	No	No	No

(2) "Culls" describes asparagus that:

(a) Is not graded in conformity with Washington extra fancy, Washington extra fancy tips, Washington fancy, Washington consumer pack, or U.S. No. 1, or U.S. No. 2; and

(b) Must not be marketed if more than ten percent by count of the stalks show white in excess of two inches.

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-024 ((~~What are the~~) Size requirements for Washington asparagus grades((?)).** The following ((table identifies asparagus)) size ((requirements by Washington grades:)) designations apply to all grades of asparagus in Washington state.

<del>((Washington Asparagus Grades</del>	<del>Stalks within individual containers must meet one of the following designated sizes:</del>	<del>Grade lots must be designated as:</del>	<del>Ninety percent, by count, of the stalks in any lot must conform to the diameters for such designations:</del>
<del>"Extra Fancy Grade Asparagus"</del>	Jumbo	Washington extra fancy jumbo or Washington jumbo	Washington extra fancy jumbo or Washington jumbo must have stalks at least 13/16 inch in diameter.
	Large	Washington extra fancy large or Washington large	Washington extra fancy large or Washington large must have stalks at least 7/16 inch in diameter.
	Standard	Washington extra fancy standard or Washington standard	Washington extra fancy standard or Washington standard must have stalks at least 6/16 inch in diameter.
<del>"Extra Fancy Grade Asparagus Tips"</del>	Jumbo	Washington extra fancy tips jumbo	Washington extra fancy tips jumbo must be 13/16 inch in diameter or larger.
	Large	Washington extra fancy tips large	Washington extra fancy tips large must be 7/16 inch in diameter or larger.
	Standard	Washington extra fancy tips standard	Washington extra fancy tips standard must be 6/16 inch in diameter or larger.
	Small	Washington extra fancy tips small	Washington extra fancy tips small must have a diameter of at least 4/16 inch.

<del>((Washington Asparagus Grades</del>	<del>Stalks within individual containers must meet one of the following designated sizes:</del>	<del>Grade lots must be designated as:</del>	<del>Ninety percent, by count, of the stalks in any lot must conform to the diameters for such designations:</del>
<del>"Fancy Grade Asparagus"</del>	Small	Minimum diameter; or <del>Washington fancy small or Washington small</del>	Washington fancy grade asparagus lots must be designated by minimum diameter. However, when at least ninety percent, by count, of the stalks in any lot are at least 4/16 inch in diameter, the lot may be designated as <del>Washington fancy small or Washington small.</del>
<del>"Washington consumer pack"</del>	N/A	Washington consumer pack	Washington consumer pack lots must be designated by minimum diameter and stalks must be at least 4/16 inch in diameter.
<del>"U.S. No. 1 grade"</del>	N/A	Minimum diameter; or	N/A
	Jumbo	<del>Washington jumbo</del>	U.S. No. 1 grade jumbo must have stalks at least 13/16 inch in diameter.
	Large	<del>Washington large</del>	U.S. No. 1 grade large must have stalks at least 7/16 inch in diameter.
	Standard	<del>Washington standard</del>	U.S. No. 1 grade standard must have stalks at least 6/16 inch in diameter.
<del>"U.S. No. 2 grade"</del>	N/A	Minimum diameter; or	N/A
	Small	<del>Washington small</del>	U.S. No. 2 grade small must have stalks at least 4/16 inch in diameter.))

- (1) Jumbo: Stalks at least 13/16 inch in diameter.
- (2) Extra large: Stalks at least 10/16 inch in diameter.
- (3) Large: Stalks at least 7/16 inch in diameter.
- (4) Standard: Stalks at least 5/16 inch in diameter.
- (5) Small: Stalks less than 5/16 inch in diameter.
- (6) All size designations, as defined in WAC 16-409-024, may be packed in all grades and in all containers.

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-026 ((Does the department adopt)) Adoption of U.S. standards for fresh asparagus as Washington state standards((?)).** (1) In addition to the Washington state fresh asparagus standards contained in this chapter, the Washington state department of agriculture has adopted, as Washington state standards, modified United States fresh asparagus standards for U.S. grades No. 1 and No. 2.

(2) The department's modifications to the U.S. standards are as follows:

- (a) U.S. No. 1 must ~~((be at least 6/16 inch in diameter and must))~~ meet or exceed Washington extra fancy grade requirements.

- (b) U.S. No. 2 must ~~((be at least 4/16 inch in diameter and must))~~ meet or exceed Washington fancy grade requirements.

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-030 ((What)) Tolerances ((are adopted for Washington asparagus?)).** The following table identifies and explains the tolerances adopted for Washington asparagus:



Washington Asparagus Grades to Which Tolerances Apply	Defect, color and trim tolerances adopted for Washington asparagus	Diameter and length tolerances adopted for Washington asparagus
Washington extra fancy Washington extra fancy tips Washington fancy Washington consumer pack	To allow for variations incident to proper grading and handling, the following tolerances are adopted:	To allow for variations in diameter and length incident to proper sizing, the following tolerances are adopted:
	(1) Ten percent, by count, for stalks failing to meet grade requirements other than for trim and color, including no more than one percent for decayed stalks.	(1) Ten percent, by count, for stalks failing to meet the required minimum and maximum diameter defined in WAC 16-409-015 ("fairly uniform in length").
	(2) An additional ten percent, by count, for stalks having less than the required amount of green color.	(2) Ten percent, by count, for stalks failing to meet the required length as established in WAC 16-409-022.
	(3) An additional ten percent, by count, for stalks not meeting trim requirements.	

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-035** (~~How does the department apply its~~) **Application of asparagus tolerances during an inspection(?)**. (1) If the averages for an entire lot are within the tolerances specified in WAC 16-409-030, the limitations in this section, based upon sample inspections, apply to the contents of individual containers in the lot.

(2) Individual containers:

(a) May contain one decayed or otherwise defective stalk, one poorly trimmed stalk, one poorly colored, and one off-size stalk.

(b) Must have no more than one and one-half times the tolerance specified when a tolerance is ten percent or more.

(c) Must have no more than double the tolerance specified when a tolerance is less than ten percent.

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-065** (~~What~~) **Container requirements** (~~apply to the containers used to market fresh asparagus?~~). (~~The following table identifies and explains the requirements that apply to the containers used to market fresh asparagus:~~

<b>Asparagus Grades:</b>	<b>Container Requirements:</b>
(1) All fresh asparagus:	Must be marketed in containers that are clean and free from dirt, trash, and visible contaminants.
(2) All fresh asparagus:	Must not be marketed in field containers.
(3) For testing or trial marketing purposes, the director:	May allow the use of any experimental containers not specified in this table.
(4) Washington extra fancy, Washington extra fancy tips, Washington fancy, U.S. No. 1, and U.S. No. 2 grades of fresh asparagus:	Must be marketed in containers with moisture pads.
(5) Washington consumer pack grade of fresh asparagus:	Must be marketed either in:  (a) Pyramid type containers with moisture pads; or (b) Fiberboard or wooden "western lug" containers with: (i) Inside dimensions of approximately seven inches, by eleven and one-half inches, by eighteen inches; or (ii) A capacity of thirteen hundred and fifty to fifteen hundred and fifty cubic inches. (iii) Western lugs must contain at least twenty pounds net weight.
(6) Culls:	Must be marketed in wooden pyramid containers with moisture pads.)

(1) All fresh asparagus must be marketed in containers that are clean and free from dirt, trash, and visible contaminants.

(2) All fresh asparagus must not be marketed in field containers.

(3) For testing or trial marketing purposes, the director may allow the use of any experimental container.

(4) Culls must be marketed in wooden pyramid containers with moisture pads.

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-070 ((What)) Container marking requirements ((apply to fresh asparagus containers?))**, (1)

All required markings must be placed on one end of the container, but may be duplicated on the opposite end.

(2) Containers must be conspicuously and legibly marked with the:

(a) Name and address of the grower, packer, or distributor;

(b) Grade;

(c) Net weight; and

(d) Size designation or diameter size as defined in WAC 16-409-024.

(3) The grade and size designation required in subsection (2) of this section must be marked in letters at least 3/8 inch in height.

(4) The following abbreviations of grade and size designation are acceptable:

(a) Washington as Wash. or WA.

(b) Extra fancy as ex fcy or extra fcy.

(c) Fancy as fcy.

(d) Jumbo as jbo.

(e) Extra large as ex lge.

(f) Large as lge.

~~((a))~~ (g) Standard as std.

(h) Small as sm.

(5) The use of U.S. No. 1 or U.S. No. 2 grade markings is permissible subject to the requirements in WAC 16-409-026.

(6) If culls are marketed:

~~((a))~~ The word "culls" must be:

~~((i))~~ (a) Conspicuously and legibly marked in letters at least one inch in height; and

~~((ii))~~ (b) Predominant in size over any other markings on the container.

~~((b) They must be marketed only in wooden pyramid containers with moisture pads.))~~

Title of Rule and Other Identifying Information: Chapter 260-28 WAC, Ownership, trainers, and employees.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on February 9, 2007, at 9:30 a.m.

Date of Intended Adoption: February 9, 2007.

Submit Written Comments to: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail rlopez@whrc.state.wa.us, fax (360) 459-6461, by February 6, 2007.

Assistance for Persons with Disabilities: Contact Patty Sorby by February 9, 2007, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed amendments is the continued effort of the agency toward regulatory reform (Executive Order 97-02) and to write rules in clear language (Executive Order 05-03 and 06-02), and to adopt rules consistent with the national model horse racing rules whenever possible. In addition to minor changes to existing rules substantive changes are being proposed to the following sections: WAC 260-28-010, redefining the roles and responsibilities of an authorized agent; WAC 260-28-020, clarifying the rules related to stable names; WAC 260-28-080, redefining the rules of ownership by corporations, companies and other organizations; WAC 260-28-100, clarifies the requirements of the trainer when a new trainer is assigned; and WAC 260-28-130 and 260-28-235.

Reasons Supporting Proposal: Proposal has removed unnecessary and outdated language, rewritten rules in clear and concise language, and rules in the chapter are now consistent with national model horse racing rules.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert M. Lechner, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

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

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

December 20, 2006

Robert J. Lopez  
Deputy Executive Secretary

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-28-010 Authorized agent.** ~~((An authorized agent is an agent appointed by document signed by the owner before a notary public and lodged with the secretary. An agent so appointed will be recognized by the commission as having authority to handle any and all matters pertaining to the stable for which he is authorized to act, and the acts of such agent shall be deemed the acts of the owner, and owner~~

**WSR 07-01-114**

**PROPOSED RULES**

**HORSE RACING COMMISSION**

[Filed December 20, 2006, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-17-026.

accepts responsibility for his agent's acts. The term of the license shall expire December 31st of each year, unless the agent's appointment is revoked by the owner in writing or until revoked for cause by the commission.) An authorized agent is a person appointed by an owner or by a stable to act as their agent. Before an authorized agent can act on behalf of the owner or the stable, the agent must be licensed by the commission as an authorized agent. All licensed authorized agents must also file a notarized document signed by the owner or stable manager with the commission verifying their authorization to act as authorized agent along with the scope of their duties. A trainer is not required to be an authorized agent in order to represent the owner in the matter of entries, nominations, scratches, and the employment of jockeys.

AMENDATORY SECTION (Amending WSR 04-24-019, filed 11/22/04, effective 12/23/04)

**WAC 260-28-020 Stable names—Registration fees and restrictions.** ((Each stable name must be duly registered with the commission:

(1) In applying to race under a stable name the applicant must disclose the identity or identities behind a stable name. If a partnership is involved in the identity behind a stable name, the rules covering partnerships must be complied with.

(2) Changes in identities must be reported immediately to and approval obtained from the commission.

(3) No person can use his real name for racing purposes so long as he has a registered one, without permission of the board of stewards.

(4) A trainer who is a licensed owner or part owner may use a stable name as owner or part owner. However, no trainer may be licensed as trainer other than in his legal name.

(5) Any person who has been registered under a stable name may, at any time, cancel it after he has given written notice to the commission.

(6) A stable name may be changed at any time by registering a new stable name and by paying the fee as required above.

(7) A person cannot register as his stable name one which has been registered by any other person with an association conducting a recognized meeting, or the Jockey Club (N.Y.) or with another racing authority.

(8) A person may not register as his stable name one which is the real name of any owner of race horses, nor one which is the real or assumed name of any prominent person not owning race horses.

(9) A stable name shall be plainly distinguishable from that of another duly registered stable name.

(10) No stable name shall be used if in the judgment of the stewards it is being used for advertising purposes.

(11) Any combination of more than three owners will be required to race under a stable name.) Licensed owners and lessees may adopt a stable name subject to the approval of the stewards.

(1) Any combination of four or more owners are required to race under a stable name.

(2) The applicant must identify all persons using the stable name. Changes must be reported immediately to the stewards.

(3) Application for a stable name must include a designation of a managing owner and an address. Receipt of any correspondence, notice or order at such address will constitute official notice to all persons involved in the ownership of such horse.

(4) All persons with an ownership interest in the stable name must comply with all rules regarding licensing of owners.

(5) A person who has registered a stable name may cancel it upon written notice to the stewards.

(6) The stewards will not approve a stable name that has been registered by any other person with any association conducting a recognized race meeting.

(7) No stable name may be used, if in the judgment of the stewards, it is being used for advertising purposes.

(8) A stable name must be clearly distinguishable from other stable names.

AMENDATORY SECTION (Amending WSR 03-07-056, filed 3/14/03, effective 4/14/03)

**WAC 260-28-030 Financial responsibility.** (1) ((No licensee shall)) A licensee may not willfully fail or refuse to pay money due for services, supplies, or fees connected with his or her operations as a licensee. ((No licensee shall)) A licensee may not falsely deny such an amount due or the validity of a complaint on such an amount due for the purpose of hindering, delaying, or defrauding the person to whom the amount is due.

(2) A financial responsibility complaint against a licensee must be in writing, signed by the complainant, and accompanied by documentation of the services, supplies or fees alleged to have been provided, or by a judgment from a civil court that has been issued within two years of the date of the complaint.

(3) Any licensee failing to make restitution as a result of a complaint where the amount owed is undisputed or judgment may be subject to disciplinary action, including a license suspension.

(4) The stewards will consider for disciplinary action only those financial responsibility complaints that meet the following criteria:

(a) The complaint involves services, supplies or fees that are directly related to the licensee's Washington racetrack and training operations; and

(b) The debt or cause of action originated in Washington, or the civil court judgment was issued in Washington, within two years of the date the complaint is filed.

(5) In determining whether to act on a financial responsibility complaint, the stewards may consider the number of financial responsibility complaints made by the complainant against the same licensee within a two-year period immediately preceding the current complaint.

(6) ((No)) A licensee ((shall)) may not write, issue, make or present any check in payment for any license fee, fine, nomination or entry fee or other fees, or for any service or supplies when the licensee knows or should reasonably know that the check will be refused for payment by the bank upon which it is written, or that the account upon which the check is written does not contain sufficient funds for payment of the

check, or that the check is written on a closed or nonexistent account. The fact that such a check is returned to the payee by the bank as refused is ~~((a))~~ grounds for ~~((a))~~ license suspension pending satisfactory redemption of the returned check.

AMENDATORY SECTION (Amending Order 82-05, filed 6/25/82)

**WAC 260-28-050 Colors—Registration and fees.** (1) Racing colors must be registered, and authority for their use ~~((sanctioned))~~ approved by a steward. ~~((Such registration shall))~~ Approval will be made annually ~~((upon issuance of a))~~ when the owner's license is approved.

(2) Colors registered with any racing commission or with the Jockey Club ~~((of New York shall be respected))~~ will be honored in Washington and only the registrant ~~((shall))~~ will be permitted to use them.

(3) No person ~~((shall))~~ may start a horse in racing colors other than those registered in his ~~((own or assumed))~~ her name ~~((, but a temporary change from the recorded))~~ or stable name. A temporary change of racing colors ~~((may))~~ must first be ~~((approved by the stewards))~~ authorized by the jockey room supervisor.

(4) Any disputes ~~((between claimants to the right of particular))~~ related to racing colors ~~((shall))~~ will be decided by the stewards.

~~((5) Any temporary change from the recorded colors of the owner must be approved by the stewards and posted by the clerk of the scales on the notice board.))~~

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-28-060 Engagements and transfer** ~~((of same)).~~ (1) When a horse is claimed ~~((out of a claiming race)),~~ any nominations previously made to a stake or any breed association sponsored race for the horse ~~((s engagements are included))~~ will remain valid.

(2) ~~((Subscriptions and all))~~ Nominations, entries or rights of entry ~~((are))~~ remain valid when a horse is sold ~~((with his engagements duly transferred; in duly registered partnerships when subscriptions, entries and rights of entries survive in the remaining partners; and when entries under the decedent's subscription has been made previous to the decedent's death by the transfer of the right of entry))~~ or claimed, except when the horse is transferred to a person whose license is suspended or who is otherwise disqualified to race or enter the horse, then the nomination will be void as of the date of the transfer.

(3) ~~((Subscriptions and all entries or rights of entry under them become void on the death of a subscriber, except in case of duly registered partnerships or except subject to the sanction of the stewards, when the personal representative of an estate shall in writing, request that the benefits of such accrue to the estate of the decedent subscriber for the privilege of transfer, and shall agree to assume any and all obligations incident to the original entries.))~~ The death of a nominator to a stake race will not render void any nomination, entry, or right of entry. All rights, privileges and obligations will

attach to the legal heir of the decedent or the new owner of the horse.

(4) ~~((In case of any transfer of a horse with its engagements, such horse will not be eligible to start in any stakes, unless at the usual time of the running of the stakes, or prior thereto, the transfer of the horse and its engagements shall be exhibited when demanded to the racing secretary.~~

~~((5) Should))~~ If a horse ~~((be))~~ is sold ~~((with his engagements, or any part of them,))~~ or claimed the seller cannot ~~((strike))~~ withdraw the horse ~~((out of any such))~~ from any engagements.

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-28-070 Ownerships to be filed with commission and racing secretary.** ~~((All ownerships in a horse, except a trainer's percentage of his winnings, shall be filed with the racing secretary, before the horse shall start, as also shall every change in ownership thereafter during the meeting.))~~ Before a horse may start, all persons with an ownership interest in the horse must be disclosed to the commission and racing secretary.

(1) A trainer's entitlement to a percentage of a horse's winnings is not considered an ownership interest.

(2) If ownership changes during the race meet, the new owner must notify the commission.

AMENDATORY SECTION (Amending Order 75-1, filed 2/18/75)

**WAC 260-28-080** ~~((Corporate ownership and leases.))~~ Ownership by corporations, companies, or other organizations. ~~((No license as an owner shall be granted to a corporation or to the lessee or lessees of any corporation unless such corporation shall have no more than ten stockholders or members each of whom shall be the registered and beneficial owner of stock or membership in such corporation; nor shall any corporation having more than ten such stockholders have the power to lease for racing purposes to any natural person or persons or partnership any horse owned or controlled by it. Each stockholder must file an application for an owner's license: Provided, That the commission, through its board of stewards, may waive the requirement of ten or less stockholders and permit a corporation which has up to twenty-five stockholders to be licensed if all of the stockholders have sufficient local connections so that the process of checking applications is not unduly burdensome.~~

All the stockholders or members of a corporation which owns or leases horses for racing purposes in the state of Washington and also all such corporations shall make and file with the commission as and when requested by it, a report or reports containing such information as the commission may specify; and upon refusal or failure to file such report or reports the commission may refuse a license to any lessee or lessees of such corporation or may revoke any such license which it may have granted.)) (1) If the legal owner of any horse is a corporation, company, or other organization, each shareholder or member must be licensed.

(2) Each corporation, company, or other organization must disclose to the commission all shareholders or members of the organization.

(3) Corporations, companies, or other organizations must submit an application for a stable license.

#### NEW SECTION

**WAC 260-28-085 Leases.** A horse may be raced under a lease if a completed breed registry or other notarized lease form is attached to the certificate of registration and on file with the commission. The lessee must be licensed as the horse owner. If the legal owner of the horse is ineligible for licensing, the lessee will not be licensed.

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-28-100 Change of trainers.** If an owner changes trainers, he/she must notify the racing commission ~~((and require))~~ within seventy-two hours. This form must be signed by the new trainer ~~((to sign his name on said owner's registration))~~ acknowledging that he/she accepts responsibility for the horse or horses, and by the previous trainer to release any obligations in connection with the horse or horses.

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-28-110 Employment of jockey to prevent riding.** ~~((No))~~ An owner ((shall)) or trainer may not employ a jockey for the purpose of preventing ((him)) the jockey from riding in any race.

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-28-120 Bribes and gratuities.** ~~((No))~~ An owner ((shall)) or trainer may not accept, directly or indirectly, any bribe, gift or gratuity in any form which might influence the result of any race, ((or tend to do so)) or which was intended to influence the result of any race.

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-28-130 May not employ ((nonlicensed)) unlicensed veterinarian**~~((—Report of certain illnesses and treatments)).~~ ~~((No owner or trainer or their representative, shall employ a veterinarian who is not licensed as such by the state board of veterinary examiners. Licensed))~~ Owners and trainers will only employ veterinarians who are properly licensed by the Washington state department of health and the commission. Racing associations ((shall)) will use all reasonable efforts to prevent ((nonlicensed)) unlicensed veterinarians from practicing on their ((premises)) grounds. ((Every such veterinarian who shall prescribe or use any medication or treatment which contains a drug or drugs which he has reason to believe are of such character as would affect the racing condition of a horse in a race, shall at the

~~time of prescribing or use deliver to the trainer of the horse under treatment a written statement, setting forth the date, the name of the horse and of the owner, and the name of said drug or drugs so prescribed or used. A copy of this statement shall also be delivered to the board of stewards. Any illness with unusual symptoms shall immediately be reported by the trainer or attending veterinarian to the stewards.))~~

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-28-200 Trainer—Paddock duties.** (1) A trainer ~~((shall))~~ must have his or her horse in the paddock at the time appointed.

(2) A trainer ~~((shall))~~ must attend his or her horse in the paddock, and ~~((shall))~~ must be present to ~~((supervise his saddling))~~ saddle the horse, unless he/she has obtained the permission of a steward to send another licensed trainer as a substitute.

AMENDATORY SECTION (Amending Order 4, filed 12/24/69)

**WAC 260-28-210 Trainer—Substitute for absent trainer.** If a trainer ~~((is to))~~ will be absent from the track where his or her horses are participating in races, ~~((he))~~ the trainer must first obtain a licensed trainer to substitute for him or her during ~~((his))~~ the trainer's absence. ~~((Such a))~~ The substitute trainer must be approved by ~~((the board of stewards upon forms approved by the racing commission))~~ a steward prior to the original trainer's absence. The original trainer ~~((is))~~ remains the absolute insurer of ~~((the))~~ any horses he or she has entered. ~~((The))~~ Once a substitute trainer has been approved by a steward, the substitute trainer will then become the absolute insurer of any additional horses he or she may enter.

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-28-220 Trainer—Duty to register horses with racing secretary.** Each trainer ~~((shall))~~ must register with the racing secretary all the horses in his or her charge, giving the name, age, sex, breeding and ownership of each horse.

AMENDATORY SECTION (Amending WSR 06-07-067, filed 3/10/06, effective 4/10/06)

**WAC 260-28-230 Trainer—Duty to register personnel—Safety equipment.** A trainer ~~((shall be))~~ is required to notify the commission of the name(s) of every person in the trainer's employ and ~~((be))~~ is responsible to ensure that all the trainer's employees are properly licensed by the commission before being allowed to work. If a trainer releases any employee from employment, the trainer ~~((shall))~~ must notify the stewards within forty-eight hours.

A trainer ~~((shall also be responsible to))~~ must ensure that all the trainer's employees wear a safety helmet and safety vest while on horseback, in compliance with WAC 260-12-180.

AMENDATORY SECTION (Amending Rules of racing, filed 5/4/66)

**WAC 260-28-235 Trainer—Duty to provide employees financial relief from injury.** ~~((As a proper means of financial relief from injury, the Washington horse racing commission requires as a condition to issuance of a license that the applicant file proof of compliance with one of the following coverages:~~

~~(1) That the trainer cover his employees under state industrial insurance through the Washington state department of labor and industries.~~

~~(2) Trainers obtain coverage from private insurance carrier duly licensed to do business in the state of Washington, and approved by the Washington horse racing commission.~~

~~(3) Posting of surety bond with sureties to be approved by the commission, in such amount as designated by the Washington horse racing commission.)~~ At the time of submitting a license application, all trainers must pay the industrial insurance premium assessment required by RCW 67.16.300 and 51.16.210 for each person in their employment.

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-28-240 Trainer—Restriction as to horses owned by disqualified person.** A trainer ~~((shall))~~ may not have in his or her charge or under his or her supervision any horse owned, in whole or in part, by a disqualified person.

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-28-280 Trainer—Reporting sickness of horse.** A trainer ~~((shall see to it that a report is made promptly to the racing secretary and track veterinarian of any and all sickness of his horse or horses))~~ must immediately report any sickness or illness of any of his or her horses to an official veterinarian.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 260-28-040	Feed and supplies may be bought at open market.
WAC 260-28-090	Owner to register horses with racing secretary.
WAC 260-28-150	Registration of stable personnel.
WAC 260-28-160	Partnerships.
WAC 260-28-170	Duty to name jockey upon making entry.
WAC 260-28-180	Trainer—Insurer of condition of horse.

WAC 260-28-190	Trainer—Authority to represent owner.
WAC 260-28-250	Trainer—Bribery prohibited.
WAC 260-28-260	Trainer—Removing horses from grounds.
WAC 260-28-270	Trainer—Employing jockey to prevent riding.

#### **WSR 07-01-115**

#### **PROPOSED RULES**

#### **HORSE RACING COMMISSION**

[Filed December 20, 2006, 10:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-17-030.

Title of Rule and Other Identifying Information: Chapter 260-70 WAC, Controlled medication program.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on February 9, 2007, at 9:30 a.m.

Date of Intended Adoption: February 9, 2007.

Submit Written Comments to: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail rlopez@whrc.state.wa.us, fax (360) 459-6461, by February 6, 2007.

Assistance for Persons with Disabilities: Contact Patty Sorby by February 6, 2007, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to insure the equine medication rules are consistent with the national model rules of racing and that they are also written in clear and concise language. The changes to the sections in this chapter are minor and intended to clarify rather than be substantive changes.

Reasons Supporting Proposal: Proposal complies with the national model [model] rules of racing and the proposed amendments to this chapter are written in clear and concise language.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert M. Lechner, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

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

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

December 20, 2006

Robert J. Lopez  
Deputy Executive Secretary

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-500 Definitions applicable to chapter 260-70 WAC.** (1) "Interfering substance" or "interfere" means and refers to any medication which might mask or screen the presence of prohibited drugs or prevent testing procedures from detecting a prohibited drug.

(2) "Post time" means the time set for the arrival of the horses at the starting point in a race as specified in writing and posted by the board of stewards.

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-510 Equine health and safety.** The purpose of this chapter is to protect the integrity of horse racing, to ensure the health and welfare of horses under the jurisdiction of the commission, and to safeguard the interests of the public and the participants in racing. ~~((With this in mind,))~~ The commission ((shall convene)) will hold an annual public meeting, ((open to all interested parties, for the)) to review ((of)) veterinarian practices, equine health and medication. ((Such)) This meeting ((shall)) will include:

(1) An annual report from an official veterinarian.

(2) Presentation of data regarding equine medication and treatment, including a review of the commission's quantitative medication levels and any recommendations for modifications.

(3) Public comment regarding equine health and safety, medication and veterinarian practices.

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-540 Veterinarians' reports.** (1) Every veterinarian who treats a racehorse at any location under the jurisdiction of the commission ~~((shall, in writing)) must, on a form approved by the commission, ((provide a)) report all treatment ((report)) to an official veterinarian. The report ((shall)) must include the ((name of the horse treated, any medication, drug or substance or procedure administered or prescribed, the name of the trainer of the horse, the date and time of treatment and any other information requested)) following:~~

(a) The name of the horse treated;

(b) The name of any medication, drug, or substance administered or prescribed;

(c) The procedure administered;

(d) The name of the trainer;

(e) The date and time of treatment; and

(f) Any other information required by the official veterinarian.

(2) The practicing veterinarian must sign the report ((shall be signed by the practicing veterinarian,)) and ((filed)) file the report with ((the)) an official veterinarian no later than post time of the race for which the horse is entered. If the horse is not entered to run in a race, the report must be filed with an official veterinarian within forty-eight hours of treatment.

(3) A timely and accurate treatment report may be ~~((used in the mitigation of the penalty)) considered by the stewards or the commission as a mitigating factor when determining the penalty for violation of these rules.~~

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-545 Prohibited practices.** The following are prohibited practices:

(1) The possession or use of ~~((a)) any drug, substance, or medication ((specified in subsection (3) of this section, on the premises of a facility under the jurisdiction of the commission, or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider, or the use of which may adversely affect the integrity of racing)) if the use may endanger the health or welfare of the horse or endanger the safety of the rider, or which may adversely affect the integrity of racing; or~~

(2) The possession or use of a drug or medication on the premises of a facility under the jurisdiction of the commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in human or animal, or any ~~((forbidden)) substance forbidden by an official veterinarian.~~

(3) The possession and/or use of blood doping agents, including, but not limited to, those listed below, on the premises of a facility under the jurisdiction of the commission:

(a) Erythropoietin

(b) Darbepoietin

(c) Oxyglobin

(d) Hemopure

(4) ~~((The use of)) Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy ((shall not be permitted)) unless the following conditions are met:~~

(a) Any treated horse ~~((shall not be permitted to)) may not race for a minimum of ten days following treatment;~~

(b) ~~((The use of)) Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines ((shall be limited to)) may only be used by licensed veterinarians ((licensed by the commission));~~

(c) ~~((Prior to use, a report)) The practicing veterinarian has ~~((been)) filed a report with an official veterinarian ((advising)) notifying the commission that ((any)) an Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machine is on ((the)) association grounds;~~~~

(d) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments are reported to an official veterinarian on the prescribed form not later than ~~((the time prescribed by an official veterinarian)) twenty-four hours after treatment.~~

(5) The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within twenty-four hours prior to the post time of the race in which the horse is entered ~~((is prohibited)) and without the prior ((permission)) approval of an official veterinarian.~~

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-550 Medication labeling.** (1) No person ~~((on association grounds)),~~ excluding licensed veterinarians, ~~((shall have in or upon association grounds, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection))~~ may possess any drug, medication, chemical, foreign substance or other substance unless the product is labeled as required by this rule.

(2) ~~((Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with applicable state statutes.))~~ Only medications and drugs prescribed or dispensed by a veterinarian licensed to practice veterinary medicine in this jurisdiction may be on the grounds of a racing association during its licensed race meet or training periods. All ~~((such allowable))~~ medications must have a prescription label ~~((, which is securely))~~ attached ~~((and clearly ascribed to show))~~ with the following:

- (a) The name of the product;
- (b) The name, address and telephone number of the veterinarian prescribing or dispensing the product;
- (c) The name of each horse ~~((for whom))~~ (patient) the product is intended/prescribed;
- (d) The dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and
- (e) The name of the trainer or owner to whom the product was dispensed.

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-560 Treatment restrictions.** (1) Except as otherwise provided by this ~~((subsection))~~ section, no person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the commission may administer a prescription or controlled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) to a horse at any location under the jurisdiction of the commission.

(2) ~~((Nonveterinarians))~~ Persons not licensed as veterinarians may administer the following substances, provided that, in post race testing the substances do not exceed approved quantitative levels, and the substances do not interfere with post race testing:

- (a) A recognized ~~((noninjectable))~~ nutritional supplement or other substance, except that any such supplements or substances that have been disapproved by an official veterinarian may not be administered;
- (b) A ~~((noninjectable))~~ substance ~~((on))~~ given at the direction of or by a prescription ~~((of))~~ issued by a licensed veterinarian; or
- (c) A ~~((noninjectable))~~ nonprescription medication or substance.

(3) No person ~~((shall)),~~ other than a licensed veterinarian, may possess a hypodermic needle, syringe or ~~((injectable~~

~~of any kind))~~ device used for intravenous or intramuscular injections on ~~((association premises))~~ the grounds, unless ~~((otherwise))~~ approved by the stewards. ~~((At any location))~~ On all grounds under the jurisdiction of the commission, veterinarians may use only onetime disposable needles, and shall dispose of them in a manner approved by the ~~((stewards))~~ department of health. ~~((If a person has a medical condition which makes it necessary to have a needle and syringe at any location under the jurisdiction of the commission, that person may request permission of the stewards in writing, furnish a letter from a licensed physician explaining why it is necessary for the person to possess a needle and syringe, and must comply with any conditions and restrictions on possession of a needle and syringe established by the stewards.))~~

(4) A person who has a medical condition requiring the use of a hypodermic needle, syringe or other device used for intravenous or intramuscular injections must possess a valid prescription issued by a physician licensed to practice medicine and prescribe medication. Such a person must control the storage and use of these devices and may be held accountable for any unauthorized use. Any person possessing a hypodermic needle or syringe without a valid prescription may be removed from the grounds.

(5) Veterinarians ~~((shall))~~ may not treat or administer medication or drugs to any ~~((entered))~~ horse on a race day ~~((, and))~~ before the post time for the race the horse is entered to run, except for the administration of furosemide under the guidelines set forth in WAC 260-70-650, unless first approved by ~~((the))~~ an official veterinarian.

~~((5))~~ Any horse entered for racing must be present on the grounds as follows, except with the prior approval of the official veterinarian:

(a) A first time starter must be present on the grounds two hours prior to the first post time or five hours prior to the post for the race the horse is entered for racing, whichever is earlier.

(b) A horse that has previously started must be present on the grounds five hours prior to the post time for the race the horse is entered for racing.)

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-570 ((Physical inspection of horses.))** All horses are subject to inspection. All horses at locations under the jurisdiction of the commission ~~((shall be))~~ are subject to inspections at the discretion of the stewards or an official veterinarian.

(1) ~~((Every horse entered to participate in an official race shall be subject to an inspection by an official veterinarian.~~

(2) ~~((The trainer of each horse or a representative of the trainer ((shall)) must present the horse for inspection as required by an official veterinarian.~~

~~((3))~~ (2) The assessment of a horse's racing condition ~~((shall))~~ will be based on the recommendations of the American Association of Equine Practitioners and ~~((shall))~~ may include:

(a) Proper identification of ~~((each))~~ the horse ~~((inspected));~~

(b) Observation of each horse in motion;



(c) Manual palpation when indicated;

(d) Close observation in the paddock and saddling area, during the parade to post and at the starting gate; and

(e) Any other inspection deemed necessary by an official veterinarian.

~~((4) Every horse shall be observed by an official veterinarian during and after the race.~~

~~(5) The~~ (3) An official veterinarian ~~((shall))~~ will maintain a continuing health and racing soundness record of each horse inspected.

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-580 Official veterinarian's list.** (1) An official veterinarian ~~((shall))~~ will maintain a list of all horses ~~((which are))~~ determined by an official veterinarian to be unfit to compete in a race due to illness, physical distress, unsoundness, infirmity or other medical condition.

(2) A horse may be removed from the veterinarian's list when ~~((, in the opinion of the))~~ an official veterinarian ~~((;))~~ determines the horse is capable of competing in a race.

(a) Horses placed on the veterinarian's list will remain on the list for a minimum of ten days. (For purposes of counting days, the first day ~~((on the veterinarian's list))~~ is the day the horse is placed on the veterinarian's list.)

(b) ~~After the tenth day, an owner or trainer may request a horse ((may)) be removed from the veterinarian's list ((after the tenth day)).~~ Horses that must work to be removed from the veterinary list due to soreness, lameness, or certain injuries will be allowed to work no sooner than the eleventh day after being placed on the list.

(i) Works should be scheduled with ~~((the))~~ an official veterinarian twenty-four hours in advance.

(ii) Horses must work a minimum distance to be determined by ~~((the))~~ an official veterinarian in a time comparable for the track condition that day.

(iii) A blood test will be taken by an official veterinarian following the workout and medications levels may not exceed permitted post-race levels.

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-590 Reporting to the test barn.** (1) The official winning horse and any other horse ordered by the stewards, official veterinarian or the commission ~~((shall))~~ must be taken to the test barn to have a blood and/or urine sample taken at the direction of an official veterinarian.

(2) Random or extra testing may be required by the stewards, ~~((the))~~ an official veterinarian, or the commission at any time on any horse on association grounds.

~~((Unless otherwise directed by the stewards or an official veterinarian.))~~ A horse ~~((that is))~~ selected for testing must be taken directly to the test barn, unless otherwise directed by the stewards or an official veterinarian.

~~((Access to the test barn shall be monitored and restricted. All persons who wish to enter the test barn must be currently licensed by the commission, display their commission identification badge and have a legitimate reason for being in the test barn area. No horse shall have more than~~

~~three representatives in the test barn at any one time.))~~ Only persons currently licensed by the commission may enter the test barn on a race day. Licensees must have a valid reason for being in the test barn, and may be required to display their license. When accompanying a horse to the test barn no more than three licensees will be permitted to enter the test barn.

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-610 Storage and shipment of split samples.** (1) Split samples obtained in accordance with WAC 260-70-600 (2)(b) and (c) ~~((shall))~~ will be secured and made available for further testing in accordance with the following procedures:

(a) A split sample ~~((shall))~~ must be secured in the test barn ~~((under))~~ in the same manner as the ~~((portion of the specimen))~~ primary sample acquired for shipment to a primary laboratory. The split samples will be stored until ~~((such time as specimens))~~ the primary samples are packed and secured for shipment to the primary laboratory. Split samples ~~((shall))~~ will then be transferred to a freezer at a secure location approved by the ~~((commission))~~ executive secretary.

(b) A freezer ~~((for storage of))~~ used to store split samples ~~((shall))~~ will be ~~((equipped with a lock. The lock shall be))~~ closed and locked ~~((to prevent access to the freezer))~~ at all times except as specifically provided by these rules.

(c) A freezer for storage of split samples ~~((shall))~~ may only be opened ~~((only for depositing or removing))~~ to deposit or remove split samples, for inventory, or for checking the condition of samples.

~~((A))~~ An official veterinarian will maintain a split sample log ~~((shall be maintained by the official veterinarian))~~ that ~~((shall))~~ must be used each time a split sample freezer is opened ~~((to specify each person in attendance, the purpose for opening the freezer, identification of split samples deposited or removed, the date and time the freezer was opened, and the time the freezer was closed and to verify that the lock was secured prior to and after opening of the freezer)).~~ The log will record the following:

(i) The name of the person opening the split sample freezer;

(ii) The purpose for opening the freezer;

(iii) The split samples deposited or removed from the freezer;

(iv) The date and time the freezer was opened;

(v) The time the freezer was closed; and

(vi) A notation verifying that the lock was secured after the freezer was closed.

~~((Any evidence of a malfunction of a split sample freezer or samples that are not in a frozen condition during storage shall be documented in the log and immediately reported to an official veterinarian or a designated commission representative.))~~ If at any time it is discovered that the split sample freezer failed or samples were discovered not in a frozen condition, an official veterinarian must document this discovery on the split sample freezer log and immediately report this to the executive secretary.

(2) A trainer or owner of a horse having been notified that a written report from a primary laboratory states that a

substance has been found in a specimen obtained pursuant to these rules may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent to another laboratory approved by the commission. The request must be made in writing and delivered to the stewards not later than forty-eight hours after the trainer of the horse receives written notice of the findings of the primary laboratory. The split sample ~~((shall))~~ must be shipped within seventy-two hours of the delivery of the request for testing to the stewards.

(3) The owner or trainer requesting testing of a split sample ~~((shall be))~~ is responsible for the cost of shipping and testing. A split sample must be removed from the split sample freezer, and packaged for shipment by an official veterinarian or designee in the presence of the owner, trainer, or designee. Failure of the owner, trainer or designee to appear at the time and place designated by ~~((the))~~ an official veterinarian to package the split sample for shipping ~~((shall))~~ will constitute a waiver of all rights to split sample testing. Prior to shipment, the split sample laboratory's willingness to provide the testing requested and to send results to both the person requesting the testing and the commission, ~~((shall))~~ must be confirmed by an official veterinarian. Arrangements for payment satisfactory to the split sample laboratory ~~((shall))~~ must also be confirmed by the owner or trainer. A laboratory for the testing of a split sample must be approved by the commission. The commission ~~((shall))~~ will maintain a list of laboratories approved for testing of split samples.

(4) Prior to opening the split sample freezer, the commission ~~((shall))~~ must provide a split sample chain of custody verification form. The split sample chain of custody verification form ~~((shall))~~ must be completed and signed by the representatives of the commission and the owner, trainer or designee. A commission representative ~~((shall))~~ will keep the original and provide a copy ~~((for))~~ to the owner, trainer or designee.

The split sample chain of custody verification form ((requirements)) must include the following:

- (a) The date and time the sample is removed from the split sample freezer;
- (b) The sample number;
- (c) The address where the split sample is to be sent;
- (d) The name of the carrier and the address where the sample is to be taken for shipment;
- (e) Verification of retrieval of the split sample from the freezer;
- (f) Verification of each specific step of the split sample packaging in accordance with the recommended procedure;
- (g) Verification of the address of the split sample laboratory on the split sample package;
- (h) Verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; and
- (i) The date and time custody of the sample is transferred to the carrier.

~~((5) A split sample shall be removed from the split sample freezer, and packaged for shipment by an official veterinarian or designee in the presence of the owner, trainer or designee.))~~

(j) The split sample chain of custody verification form ~~((shall))~~ must be signed by both the owner's representative and ~~((the))~~ an official veterinarian or designee to confirm the packaging of the split sample.

(5) The exterior of the package ~~((shall))~~ must be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package. The owner, trainer or designee may inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

(6) The package containing the split sample ~~((shall))~~ will be transported to the location where custody is transferred to the delivery carrier charged with delivery of the package to the commission approved laboratory selected by the owner or trainer.

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-640 Permitted medication.** Trainers using permitted medication in the care of their horses are subject to all rules governing such medications. Failure to administer permitted medication to a horse on a program of permitted medication ~~((shall be))~~ is a violation of these rules.

(1) The use of one of three approved nonsteroidal anti-inflammatory drugs (NSAIDs) ~~((shall be))~~ is permitted under the following conditions:

(a) The drug ~~((shall))~~ may not exceed the following permitted serum or plasma threshold concentrations, which are consistent with administration by a single intravenous injection at least twenty-four hours before the post time for the race in which the horse is entered:

- (i) Phenylbutazone - 5 micrograms per milliliter;
- (ii) Flunixin - 20 nanograms per milliliter;
- (iii) Ketoprofen - 10 nanograms per milliliter.

(b) No NSAID, including the approved NSAIDs listed in this rule, may be administered within the twenty-four hours before post time for the race in which the horse is entered.

(c) The presence of more than one of the three approved NSAIDs, with the exception of phenylbutazone in a concentration below 1 microgram per milliliter of serum or plasma or any unapproved NSAID in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDs ~~((shall))~~ must be discontinued at least forty-eight hours before the post time for the race in which the horse is entered.

(2) Any horse to which a NSAID has been administered ~~((shall be))~~ is subject to having a blood and/or urine sample(s) taken at the direction of an official veterinarian to determine the quantitative NSAID level(s) and/or the presence of other drugs which may be present in the blood or urine sample(s).

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-650 Furosemide.** (1) Furosemide may be administered intravenously to a horse which is entered to compete in a race. Except under the instructions of ~~((the))~~ an official veterinarian for the purpose of removing a horse from

the veterinarian's list or to facilitate the collection of a urine sample, furosemide ~~((shall))~~ will be permitted only after ~~((the))~~ an official veterinarian has placed the horse on the furosemide or bleeder list.

(2) The use of furosemide ~~((shall be))~~ is permitted under the following circumstances:

(a) Furosemide ~~((shall))~~ must be administered on the grounds of the association, by a single intravenous injection, prior to post time for the race for which the horse is entered.

(b) The furosemide dosage administered ~~((shall))~~ must not exceed 500 mg nor be less than 150 mg.

(c) The trainer of the treated horse ~~((shall cause to be delivered))~~ must deliver to an official veterinarian or his/her designee no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form provided by the commission:

(i) The name of the horse, the horse's tattoo number, racetrack name, the date and time the furosemide was administered to the entered horse;

(ii) The dosage amount of furosemide administered to the entered horse; and

(iii) The printed name and signature of the attending licensed veterinarian who administered the furosemide.

(iv) The signature of the trainer or his/her representative.

(d) Failure to administer furosemide in accordance with these rules may result in the horse being scratched from the race by the stewards.

(e) Test results must show a detectable concentration of the drug in the post-race serum, plasma or urine sample.

(i) The specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity ~~((shall))~~ must not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of furosemide in serum or plasma ~~((shall))~~ will be performed;

(ii) Quantitation of furosemide in serum or plasma ~~((shall))~~ must be performed when the specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

**AMENDATORY SECTION** (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-660 Furosemide and bleeder lists.** The official veterinarians ~~((shall))~~ will maintain a furosemide list and a bleeder list of all horses eligible to race with furosemide. The list is a statewide list that applies to all licensed associations.

(1) Furosemide list.

(a) A horse is eligible to race with furosemide if the licensed trainer and/or veterinarian determine that it would be in the horse's best interests to race with furosemide. Notification using prescribed commission forms must be given to ~~((the))~~ an official veterinarian prior to the close of entries to ensure public notification.

(b) If ~~((the))~~ an official veterinarian so orders, a horse placed on the furosemide list ~~((shall))~~ will be placed in detention in its regularly assigned stall, no later than four hours

prior to the scheduled post time for any race in which it is entered to start, and with oral or written notification to the trainer may be watched by commission staff. Once placed in detention, a horse must remain in its barn or on its assigned hotwalker until it is taken to the receiving barn or to the paddock to be saddled for the race, except that the stewards may permit a horse to leave detention to engage in exercise blow-outs or warm-up heats.

(c) The confirmation of a horse eligible to race with furosemide must be certified in writing by an official veterinarian and entered on the furosemide list. Copies of the certification ~~((shall))~~ will be issued to the owner of the horse or the owner's designee upon request.

(d) Every horse eligible to race with furosemide, regardless of age, ~~((shall))~~ will be placed on the furosemide list.

(e) A horse placed on the official furosemide list must remain on that list unless the licensed trainer and/or veterinarian submit(s) a written request to remove the horse from the list. The request must be on commissioned-approved forms ~~((provided by the official veterinarian))~~ and must be submitted to ~~((the))~~ an official veterinarian no later than time of entry. After a horse has been removed from the furosemide list, the horse may not be placed back on the list for a period of sixty calendar days unless determined to be detrimental to the welfare of the horse, in consultation with an official veterinarian. If a horse is removed from the official furosemide list a second time in a three hundred sixty-five day period, the horse may not be placed back on the list for a period of ninety calendar days.

(2) Bleeder list.

(a) ~~((The))~~ An official veterinarian ~~((shall))~~ will maintain a bleeder list of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by ~~((the))~~ an official veterinarian.

(b) ~~((Every confirmed bleeder))~~ Following an incident of bleeding that is confirmed to be as a result of exercise induced pulmonary hemorrhage, the horse, regardless of age, ~~((shall))~~ must be placed on the bleeder list and ~~((be))~~ is ineligible to race for the following time periods:

(i) First incident - fourteen days;

(ii) Second incident within three hundred and sixty-five day period - thirty days;

(iii) Third incident within three hundred and sixty-five day period - one hundred and eighty days;

(iv) Fourth incident within three hundred and sixty-five day period - barred from racing for life.

(c) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the ~~((recovery))~~ ineligibility period.

(d) The voluntary administration of furosemide without an external bleeding incident ~~((shall))~~ will not subject the horse to the initial period of ineligibility as defined by this policy.

(e) Every horse that is confirmed a bleeder ~~((shall))~~ will have a notation affixed to the horse's certificate of registration.

(f) A horse may be removed from the bleeder list only upon the direction of ~~((the))~~ an official veterinarian.

(3) A horse which has been placed on a furosemide or bleeder list in another jurisdiction may be placed on the furosemide list in this jurisdiction.

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-675 Bicarbonate testing.** No bicarbonate-containing substance or alkalizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or total carbon dioxide in a horse (~~(shall)~~ may be administered to a horse within twenty-four hours of post time of the race in which the horse is entered.

~~(The)~~ An official veterinarian, the board of stewards or the executive secretary acting on behalf of the commission may at their discretion and at any time order the collection of test samples from any horses either in the horse's stall or within the receiving or test barn to determine the serum or plasma pH or concentration of bicarbonate, total carbon dioxide, or electrolytes.

Test samples (~~(shall)~~ must not exceed 37.0 millimoles of total carbon dioxide concentration per liter of serum or plasma. A serum or plasma total carbon dioxide level exceeding this value (~~(shall constitute)~~ is a violation of this rule. Penalties (~~(shall)~~ will be assessed as a Class ~~(4)~~ B violation as provided in WAC 260-84-110~~(6)~~.

Split samples will be taken from all horses entered to run in a race when bicarbonate testing is to be done. When split samples are taken, they (~~(shall)~~ will be shipped as soon as practical to the commission-approved laboratories for total carbon dioxide split sample testing. The commission (~~(shall be)~~ is responsible for the cost of shipping and testing of split samples taken under this section.

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-720 Posterior digital neurectomy.** (1) No person (~~(shall)~~ may bring onto the grounds of a racing association, or enter or cause to be entered in any race, or sell, offer for sale, or act as an agent in the sale of any horse on the grounds under the jurisdiction of the commission that has had a posterior digital neurectomy performed, or has had any nerve removed from the leg of such horse, except as provided in this chapter.

(2) A horse upon which a posterior digital neurectomy has been performed is eligible to race if the following conditions are met:

(a) Prior approval of an official veterinarian has been obtained before the horse was brought onto the grounds of the racing association;

(b) An official veterinarian is satisfied that the loss of sensation to the horse due to the posterior digital neurectomy will not endanger the safety of the public and the participants in racing and does not compromise the integrity of horse racing;

(c) The racing secretary is notified of the posterior digital neurectomy at the time the horse is admitted to the grounds of the racing association; and

(d) The horse's registration or eligibility certificate has been marked to indicate that a posterior digital neurectomy was performed.

AMENDATORY SECTION (Amending WSR 06-09-009, filed 4/10/06, effective 5/11/06)

**WAC 260-70-730 Postmortem examination.** (1) The commission may require a postmortem examination of any horse that is injured on the grounds of a racing association during its scheduled race meet and training periods, while the horse is in training or in competition and that subsequently expires or is destroyed, or any horse that expires while housed on the grounds. In proceeding with a postmortem examination the commission or its designee (~~(shall)~~ will coordinate with the trainer and/or owner to determine and address any insurance requirements.

(2) Trainers and owners (~~(shall be required to)~~ must cooperate with such action as a condition of licensure.

(3) ~~(The)~~ An official veterinarian may take possession of the horse upon death for postmortem examination. ~~(The)~~ An official veterinarian may submit blood, urine, other bodily fluid specimens or other tissue specimens collected during a postmortem examination for analysis. Upon completion of the postmortem examination, the remains may be returned to the owner or disposed of at the owner's option.

(4) The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation of these rules.

(5) The cost of commission-ordered postmortem examinations, testing and disposal (~~(shall)~~ will be borne by the commission.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 260-70-530

Veterinarians under authority of official veterinarian.

**WSR 07-01-116  
PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed December 20, 2006, 10:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-22-096.

Title of Rule and Other Identifying Information: WAC 232-12-025 Hunts authorized pursuant to RCW 77.12.240, and WAC 232-28-266 Landowner damage hunts.

Hearing Location(s): Comfort Inn and Conference Center, 1620 74th Avenue S.W., Tumwater, WA 98501, on February 2-3, 2007, at 8:00 a.m.

Date of Intended Adoption: March 8-9, 2007.

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 January 11, 2007.

Assistance for Persons with Disabilities: Contact Nancy Burkhart by January 29, 2007, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 232-12-025, amendments to this WAC will help clarify the types of hunts authorized by different statutes (RCW 77.12.150 and 77.12.240).

WAC 232-28-266, amendments to this WAC will help clarify the authorities granted to WDFW by RCW 77.12.150 and 77.12.240, and will remove temporary changes (for 2005 and 2006) made to address elk issues in the Blackrock area near Hanford.

Reasons Supporting Proposal: WAC 232-12-025, there has been some confusion from agency staff and the public regarding the legal authorities of the department to kill elk causing damage.

WAC 232-28-266, there has been some confusion from agency staff and the public regarding the legal authorities of the department to kill elk causing damage. A new fish and wildlife commission policy regarding hunter access to private lands has been adopted. The new landowner hunting permit program (LHP) will facilitate development of a contract with Blackrock landowners for hunting in 2007.

Statutory Authority for Adoption: RCW 77.12.150 and 77.12.240.

Statute Being Implemented: RCW 77.12.150 and 77.12.240.

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

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

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

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

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

December 19, 2006  
Loreva M. Preuss  
Rules Coordinator

AMENDATORY SECTION (Amending Order 241, filed 2/1/85)

**WAC 232-12-025 Hunts authorized pursuant to RCW 77.12.240.** Anyone participating in a director-authorized hunt must conduct themselves in accordance with the following rules:

(1) Black bear

(a) No dogs are permitted out of the vehicle, including on a strikeboard, outside of the designated hunting area. If the

bear is started inside a permit area, it may be pursued and killed outside the permit boundaries.

(b) When a bear is taken, the permittee shall skin the entire bear, including head, leaving claws attached, and deliver the hide, together with the first tooth behind the canine tooth on the lower jaw, to the regional office. All bear hides taken pursuant to a black bear damage permit shall be disposed of as prescribed in RCW 77.12.240.

(c) Within 5 days after expiration of a black bear permit, the permittee shall return to the respective region a bear hunting report and the windshield identification cards. Failure to comply with this provision shall constitute ineligibility for the next year's black bear damage permit drawings.

(d) The permittee shall abide by all conditions as set forth on the black bear damage permit. Failure to comply with these hunting conditions shall constitute a violation of RCW 77.16.020(1) (Hunting bear during closed season).

(2) Deer and elk.

(a) Only persons with a damage permit (hot-spot hunt, kill permit, or landowner preference permit) are allowed to hunt and take one deer or one elk as designated on their damage control permit.

(b) Hunters must have valid, unused general deer/elk tags to hunt and kill a legal animal during the prescribed damage permit hunt. If a hunter takes an animal of the same species during an earlier hunt, that person will be ineligible for a damage hunt permit.

(c) Deer and elk damage control hunts will be antlerless only, unless ~~((specified)),~~ the damage permit specifies either sex ~~((on the damage permit)).~~

(d) The April 1 to June 30 time period will be excluded from damage control hunts.

(e) Permittees may hunt only within the prescribed area and season dates as specified on their permit. If a deer or elk is wounded inside the damage hunt area, it may be pursued and taken outside permit boundaries.

(f) Within five days after expiration of a deer or elk permit, the permittee shall return to the respective region a deer/elk hunting report. ~~((If an animal is taken, the permittee shall skin the entire animal and deliver the hide together with an incisor tooth to a regional game department office. All deer or elk hides taken pursuant to a damage permit shall be disposed of as prescribed in RCW 77.12.240.))~~ Failure to comply with this provision shall constitute ineligibility for the next year's damage permit drawings.

AMENDATORY SECTION (Amending Order 06-92, filed 5/8/06, effective 6/8/06)

**WAC 232-28-266 (~~Landowner~~) Damage prevention permit hunts.**

~~((LANDOWNER))~~ DAMAGE PREVENTION PERMIT HUNTS

Pursuant to RCW 77.12.150 and 77.12.240, a landowner with deer/elk damage ~~((with))~~ may enter into a Cooperative Agreement (contract) with WDFW and establish a boundary, season dates, and number of animals to be removed, as described below, for deer/elk hunts ~~((season dates within the framework and number of animals to be removed)).~~ Landowner agrees not to claim damage payments, except Elk Areas 3721

and 3722, and will allow access to hunters during the general hunting seasons. Landowner selects hunters. A (~~landowner~~) damage prevention access permit provided by the landowner will authorize the hunter to use an unused general deer/elk tag to hunt and kill a legal animal during the prescribed damage hunt season.

**Deer:**

Tag Required: Deer hunter must have a current valid, unaltered, unnotched deer tag on his/her person.

Hunting Method: Any legal weapon((-))

Season Framework: August 1 - March 31

Location: Statewide

Legal Deer: Antlerless Only

Kill Quota: 300 Per license year

Location: Region One

Legal Deer: Antlerless Only

Kill Quota: 300 Per license year

Location: GMUs 105-124

Legal Deer: Whitetail Antlerless Only

Kill Quota: 300 Per license year

**Elk:**

Tag Required: Elk hunter must have a current valid, unaltered, unnotched elk tag on his/her person.

Hunting Method: Any legal weapon

Season Framework: August 1 - March 31

Location: Statewide

Legal Elk: Antlerless Only

Kill Quota: 200 Per license year

Location: Hanford Area - GMUs 372 and 381

(~~Elk Area 3722~~)

Kill Quota: (~~40 any elk; 12 spike bull or antlerless;~~) 60 antlerless only(=), per license year

Elk Area 3721

Kill Quota: 50 spike or antlerless during Aug. 1 - March 31; 30 bulls only during May 15 - July 31, except spike only July 1-31(=), per license year.

Special Note: Access in Elk Area 3721 may not be sold as a condition of use of these permits. The director may consider damage claims from landowners in Elk Areas 3721 and 3722 who accept these permits and do not charge for access. (~~Landowners in Elk Area 3722 who receive bull permits will not be considered for damage claims.~~)

**WSR 07-01-117****PROPOSED RULES****DEPARTMENT OF COMMUNITY, TRADE  
AND ECONOMIC DEVELOPMENT**

[Filed December 20, 2006, 11:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-15-138.

Title of Rule and Other Identifying Information: Appliance energy efficiency, establish rules for the identification, certification for compliance with the statute, and packaging of products listed in chapter 19.260 RCW.

Hearing Location(s): Washington Department of Community, Trade and Economic Development, 906 Columbia Street S.W., Olympia, WA 98504, on January 23, 2006 [2007], at 1 p.m. - 2 p.m.

Date of Intended Adoption: February 20, 2007.

Submit Written Comments to: Cory Plantenberg, P.O. Box 42525, Olympia, WA 98502-2525, e-mail coryp@cted.wa.gov, fax (360) 725-3111, by January 31, 2006 [2007].

Assistance for Persons with Disabilities: Contact Carolee Sharp by January 15, 2007, TTY (360) 586-0772 or (360) 725-3118.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adopt rules that establish efficiency standards for certain products sold or installed in the state assure consumers and businesses that such products meet minimum efficiency performance levels thus saving energy and money on utility bills.

Reasons Supporting Proposal: These rules will bring Washington into alignment with other states that have implemented or are implementing appliance efficiency standards.

Statutory Authority for Adoption: Chapter 19.260 RCW states: The department may adopt rules as necessary to ensure the proper implementation and enforcement of this chapter.

- The department shall establish rules governing the identification of these products and packaging, which shall be coordinated to the greatest practical extent with the labeling programs of other states and federal agencies with equivalent efficiency standards.

- The department shall establish rules governing the certification of these products and may coordinate with the certification programs of other states and federal agencies with similar standards.

Statute Being Implemented: Chapter 298, Laws of 2005 and chapter 194, Laws of 2006 codified as RCW 19.260.040.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The original CR-101 was filed under HB 1062, Laws of 2005.

Name of Proponent: Washington department of community, trade and economic development, governmental.

Name of Agency Personnel Responsible for Drafting: Cory Plantenberg, Olympia, (360) 725-3111; Implementation: Elizabeth Klumpp, Olympia, (360) 725-3113; and Enforcement: Tony Usibelli, Olympia, (360) 725-3110.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The appliances addressed by this bill are manufactured by large companies that do business nationally.

A cost-benefit analysis is not required under RCW 34.05.328. This rule adopts House Bill 1062 of the Laws of 2005 and Senate Bill 6840 of the Laws of 2006.

December 20, 2006  
Marie Sullivan, Director  
Government Relations

#### NEW SECTION

**WAC 194-24-010 Authority.** The authority to develop these rules is granted to the department in Title 19.260 RCW.

#### NEW SECTION

**WAC 194-24-020 Purpose.** The purpose of these rules is to establish efficiency standards for certain products sold or installed in the state assuring consumers and businesses that such products meet minimum efficiency performance levels thus saving energy and money on utility bills. This chapter applies equally to products regardless of whether they are sold, offered for sale, or installed as a stand-alone product or as a component of another product.

#### NEW SECTION

**WAC 194-24-030 Definitions.** The following words and terms have the following meanings for the purposes of this chapter unless otherwise indicated:

(1) "Automatic commercial ice cube machine" means a factory-made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice-making section operating as an integrated unit with means for making and harvesting ice cubes. It may also include integrated components for storing or dispensing ice, or both.

(2) "Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions, such as voltage, current, and waveform, for starting and operating the lamp.

(3) "Commercial clothes washer" means a soft mount horizontal or vertical-axis clothes washer that:

(a) Has a clothes container compartment no greater than 3.5 cubic feet in the case of a horizontal-axis product or no greater than 4.0 cubic feet in the case of a vertical-axis product; and

(b) Is designed for use by more than one household, such as in multifamily housing, apartments, or coin laundries.

(4) "Commercial prerinse spray valve" means a handheld device designed and marketed for use with commercial dishwashing and warewashing equipment and that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue prior to their cleaning.

(5)(a) "Commercial refrigerators and freezers" means refrigerators, freezers, or refrigerator-freezers designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages, or ice at specified temperatures that:

(i) Incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet; and

(ii) may be configured with either solid or transparent doors as a reach-in cabinet, pass-through cabinet, roll-in cabinet, or roll-through cabinet.

(b) "Commercial refrigerators and freezers" does not include:

(i) Products with 85 cubic feet or more of internal volume;

(ii) Walk-in refrigerators or freezers;

(iii) Consumer products that are federally regulated pursuant to 42 U.S.C. Sec. 6291 et seq.;

(iv) Products without doors; or

(v) Freezers specifically designed for ice cream.

(6) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

(7) "Department" means the department of community, trade, and economic development.

(8) "High-intensity discharge lamp" means a lamp in which light is produced by the passage of an electric current through a vapor or gas, and in which the light-producing arc is stabilized by bulb wall temperature and the arc tube has a bulb wall loading in excess of three watts per square centimeter.

(9) "Metal halide lamp" means a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

(10) "Metal halide lamp fixture" means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

(11) "Pass-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on both the front and rear of the unit.

(12) "Probe-start metal halide ballast" means a ballast used to operate metal halide lamps which does not contain an igniter and which instead starts lamps by using a third starting electrode "probe" in the arc tube.

(13) "Reach-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors or lids, but does not include roll-in or roll-through cabinets or pass-through cabinets.

(14)(a) "Roll-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors that allow wheeled racks of product to be rolled into the unit.

(b) "Roll-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on two sides of the cabinet that allow wheeled racks of product to be rolled through the unit.

(15)(a) "Single-voltage external AC to DC power supply" means a device that:

(i) Is designed to convert line voltage alternating current input into lower voltage direct current output;

(ii) Is able to convert to only one DC output voltage at a time;

(iii) Is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load;

(iv) Is contained within a separate physical enclosure from the end-use product;

(v) Is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring; and

(vi) Has a nameplate output power less than or equal to 250 watts.

(b) "Single-voltage external AC to DC power supply" does not include:

(i) Products with batteries or battery packs that physically attach directly to the power supply unit;

(ii) Products with a battery chemistry or type selector switch and indicator light; or

(iii) Products with a battery chemistry or type selector switch and a state of charge meter.

(16) "State-regulated incandescent reflector lamp" means a lamp that is not colored or designed for rough or vibration service applications, that has an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, and a rated voltage or voltage range that lies at least partially within one hundred fifteen to one hundred thirty volts, and that falls into one of the following categories:

(a) A bulged reflector or elliptical reflector bulb shape and which has a diameter which equals or exceeds 2.25 inches;

(b) A reflector, parabolic aluminized reflector, or similar bulb shape and which has a diameter of 2.25 to 2.75 inches.

(17) "Transformer" means a device consisting of two or more coils of insulated wire and that is designed to transfer alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

(18)(a) "Unit heater" means a self-contained, vented fan-type commercial space heater that uses natural gas or propane, and that is designed to be installed without ducts within a heated space.

(b) "Unit heater" does not include any products covered by federal standards established pursuant to 42 U.S.C. Sec. 6291 et seq. or any product that is a direct vent, forced flue heater with a sealed combustion burner.

#### NEW SECTION

**WAC 194-24-040 Implementation dates, end dates, and applicability.** (1) This chapter applies to the following types of new products manufactured after the stated date and installed for compensation, the dates these rules take effect and, in the case of federal preemption, are rescinded:

(a) Automatic commercial ice cube machines (January 1, 2008, to December 31, 2009);

(b) Commercial refrigerators and freezers (January 1, 2007, to December 31, 2009);

(c) Unit heaters (January 1, 2007, to July 31, 2008);

(d) Single-voltage external AC to DC power supplies (starting January 1, 2008) except power supplies that are classified as devices for human use under the Federal Food, Drug, and Cosmetic Act and require U.S. Food and Drug Administration listing and approval as a medical device;

(e) State-regulated incandescent reflector lamps (starting January 1, 2007); and

(f) Metal halide lamp fixtures (starting January 1, 2008).

(2) No new commercial refrigerator or freezer, state-regulated incandescent reflector lamp, or unit heater manufactured on or after January 1, 2007, may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(3) No new automatic commercial ice cube machine, single-voltage external AC to DC power supply, or metal halide lamp fixtures manufactured on or after January 1, 2008, may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(4) On or after January 1, 2008, no commercial refrigerator or freezer, state-regulated incandescent reflector lamp, or unit heater manufactured on or after January 1, 2007, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(5) On or after January 1, 2009, no new automatic commercial ice cube machine, single-voltage external AC to DC power supply, or metal halide lamp fixtures manufactured on or after January 1, 2008, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

#### NEW SECTION

**WAC 194-24-050 Labeling.** Manufacturers of new products covered by these rules shall identify each product offered for sale or installation in the state as in compliance with this chapter by means of a mark, label, or tag on the product and packaging at the time of sale or installation. The marking required by the state of California in their Appliance Efficiency Regulations dated July 1, 2006, Section 1607 or as revised will meet this requirement.

#### NEW SECTION

**WAC 194-24-060 Testing and certification.** (1) Products must be tested as set out by the California energy commission in their Appliance Efficiency Regulations dated July 1, 2006, Sections 1603 and 1604.

(2) If products tested are found not to be in compliance with the minimum efficiency standards established under RCW 19.260, the department may:

(a) Charge the manufacturer of the product for the cost of product purchase and testing; and

(b) Make information available to the public on products found not to be in compliance with the standards.

(3) Manufacturers shall submit a copy of test reports for any covered products offered for sale or installation if requested by the department.

(4) The following minimum information must be provided to the CEC as specified in their Appliance Efficiency Regulations dated July 1, 2006, Section 1606 for all covered appliances:

(a) Manufacturer name;

(b) Brand name (if different);

(c) Model number(s);



(d) Test method used (unless the standard is prescriptive and requires no specific test procedure to determine compliance);

(e) A statement that the model number(s) specified has been tested in accordance with required test methods, if applicable;

(f) A statement that the specified model meets the state's efficiency standards;

(g) A contact person with address, phone number and e-mail address;

(h) A declaration signed by a responsible company official attesting to the accuracy of the information included in the submittal.

(5) Manufacturers must provide to the department a certification from the California energy commission for each unique product that will be sold to a Washington buyer. The exception is that no certification is required for single voltage external AC to DC power supplies but the information listed in (4) of this section must be provided to the department.

(6) All appliances covered by these rules that are listed in the California data base of approved appliances shall be acceptable for sale in the state of Washington except for single voltage external AC to DC power supplies which are not currently listed in the California data base.

(7) The energy policy division director shall inform manufacturers within forty-five days of receipt of certification if their products meet these rules or what other information is required by the department.

(8) All required information and certification shall be submitted to the: Washington Department of Community, Trade and Economic Development, Energy Policy Division, P.O. Box 43173, Olympia, WA 98504-3173, Attn: Executive Assistant.

#### NEW SECTION

**WAC 194-24-070 Penalties for noncompliance.** The energy policy division shall investigate complaints received concerning violations of these rules. Any manufacturer or distributor who violates this chapter shall be issued a warning by the director of the department for any first violation. Repeat violations are subject to a civil penalty of not more than two hundred fifty dollars per day.