

WSR 07-07-003
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Health and Recovery Services Administration)
 [Filed March 8, 2007, 8:49 a.m.]

Subject of Possible Rule Making: WAC 388-478-0070 Monthly income and countable resource standards for medically needy (MN) and 388-478-0080 Supplemental security income (SSI) standards; SSI-related categorically needy income level (CNIL); and countable resource standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These two WAC sections are being amended to comply with federal Medicaid standard changes that became effective January 1, 2007.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Beth Ingram, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1327, fax (360) 664-0910, e-mail ingramb@dshs.wa.gov.

March 8, 2007
 Jim Schnellman, Chief
 Office of Administrative Resources

WSR 07-07-014
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed March 9, 2007, 8:41 a.m.]

Subject of Possible Rule Making: Rules relating to logbooks and commercial fishing.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Providing additional rule clarity and requirements regarding duties of fishers who participate in fisheries where logbooks are required.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lew Atkins, Fish Program Assistant Director, 600 Capitol Way North, Olympia, WA 98504-

1091, phone (360) 902-2651. Contact by July 2, 2007. Expected proposal filing on or after July 5, 2007.

March 9, 2007
 Lori Preuss
 Rules Coordinator

WSR 07-07-015
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed March 9, 2007, 8:42 a.m.]

Subject of Possible Rule Making: Oregon-Washington commercial license reciprocity.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: At present, Oregon and Washington have established reciprocity for salmon charter vessel licenses on the Columbia River downstream of the Longview Bridge. This new WAC will allow Washington and Oregon to establish reciprocity for Oregon outfitters and guides and Washington professional salmon and game fish guides on the Columbia River upstream of the bridge at Longview and downstream of the Oregon boundary in Lake Wallula, except that an Oregon vessel may not take on or discharge passengers for any purpose from any Washington port, the Washington shore, or a dock, landing, or other point in Washington.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Oregon state marine board also regulates the subject of license-reciprocity between Oregon and Washington. We provided a briefing on the subject and took public comment, including testimony from a representative of the Oregon state marine board, on January 4, 2007. We are proposing this new WAC in response to that testimony and public comment.

Process for Developing New Rule: Negotiated rule making; and agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lori Preuss, WDFW Enforcement, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail at preuslmp@dfw.wa.gov. Contact by May 1, 2007. Expected proposal filing on or after May 23, 2007.

March 9, 2007
 Lori Preuss
 Rules Coordinator

WSR 07-07-034**PREPROPOSAL STATEMENT OF INQUIRY
PUBLIC DISCLOSURE COMMISSION**

[Filed March 12, 2007, 1:56 p.m.]

Subject of Possible Rule Making: Title 390 WAC, new rule relating to contribution limits for superior court candidates under RCW 42.17.645.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370 and 42.17.647.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The public disclosure commission will consider a possible new rule to address contribution limits for superior court candidates when the candidate's name is not on the ballot or does not appear as a write-in candidate and a certificate of election is issued pursuant to Article 4, Section 29, Amendment 41 of the state constitution.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: The commission is expected to discuss and possibly approve draft language on the above referenced rule topic. A formal public hearing is expected on June 28, 2007.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Assistant Director, Doug Ellis, Washington State Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, (360) 664-2735, toll free 1-877-601-2828, e-mail dellis@pdc.wa.gov.

March 12, 2007
Vicki Rippie
Executive Director

WSR 07-07-039**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed March 13, 2007, 8:16 a.m.]

Subject of Possible Rule Making: Intrastate movement of livestock.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 16.36 and 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: For movement of livestock within the state of Washington, there are no animal health documentation requirements if there is no change of ownership. At the request of stakeholders, the Washington state department of agriculture intends to propose rules stating this position. Rules exist for moving livestock into the state.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Department staff will discuss any proposed rule making with affected stakeholders. The stakeholders will have an opportunity to submit written comments on the proposed rules during the public comment period, and will be able to present written and oral testimony at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lynn Briscoe, Special Assistant to the State Veterinarian, Washington State Department of Agriculture, Animal Services Division, P.O. Box 42577, Olympia, WA 98504, phone (360) 902-1987.

March 1, 2007
Leonard E. Eldridge, DVM
State Veterinarian

WSR 07-07-041**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed March 13, 2007, 8:39 a.m.]

Subject of Possible Rule Making: Card games.
Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: We have received a petition for rule change from Shuffle Master. The petitioner is requesting that the limit on the number of games that can be played within a single hand of cards be increased from two to three.

Process for Developing New Rule: Interested parties can participate in the discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; Sharon Reese, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3452; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, e-mail Susana@wsgc.wa.gov.

[Meetings on] April 13, 2007, at the Red Lion Hotel, 2525 North 20th Avenue, Pasco, WA 99301, (509) 547-0701; on May 11, 2007, at The Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, (360) 254-3100; and on July 13, 2007, at the La Quinta Inn & Suites, 1425 East 27th Street, Tacoma, WA 98421, (253) 383-0146.

March 13, 2007
Susan Arland
Rules Coordinator

WSR 07-07-042**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed March 13, 2007, 8:56 a.m.]

Subject of Possible Rule Making: Card games.
Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: We have received a petition

for rule change from a bingo operator. The petitioner is requesting changes to rules relating to drawings held during bingo games.

Process for Developing New Rule: Interested parties can participate in the discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; Sharon Reese, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3452; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, e-mail Susana@wsgc.wa.gov.

[Meetings on] April 13, 2007, at the Red Lion Hotel, 2525 North 20th Avenue, Pasco, WA 99301, (509) 547-0701; on May 11, 2007, at The Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, (360) 254-3100; and on July 13, 2007, at the La Quinta Inn & Suites, 1425 East 27th Street, Tacoma, WA 98421, (253) 383-0146.

March 13, 2007
Susan Arland
Rules Coordinator

WSR 07-07-050

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF FISH AND WILDLIFE

[Filed March 14, 2007, 8:46 a.m.]

Subject of Possible Rule Making: Requirements for purchasers and receivers of commercial bottomfish.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: New management requirements to record the federal fishery permit number on fish tickets if sablefish are landed under the authority of a federal sablefish endorsed limited entry permit. This will enable the tracking of permitted product in the market place and account for quota management.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Phil Anderson, Special Assistant to the Director, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2720. Contact by July 2, 2007. Expected proposal filing on or after July 5, 2007.

March 14, 2007
Loreva M. Preuss
Rules Coordinator

WSR 07-07-054

PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed March 14, 2007, 12:16 p.m.]

Subject of Possible Rule Making: Bingo games.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: We have received a petition for rule change from a bingo operator. The petitioner is requesting changes to rules relating to electronic bingo card daubers.

Process for Developing New Rule: Interested parties can participate in the discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; or Sharon Reese, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3452; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, e-mail Susana@wsgc.wa.gov.

[Meetings on] April 13, 2007, at the Red Lion Hotel, 2525 North 20th Avenue, Pasco, WA 99301, (509) 547-0701; on May 11, 2007, at The Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, (360) 254-3100; and on July 13, 2007, at the La Quinta Inn & Suites, 1425 East 27th Street, Tacoma, WA 98421, (253) 383-0146.

March 14, 2007
Susan Arland
Rules Coordinator

WSR 07-07-062

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

(Board of Psychology)

[Filed March 14, 2007, 3:50 p.m.]

Subject of Possible Rule Making: Examining board of psychology, WAC 246-924-358 Sexual misconduct.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.83.050 and 18.130.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The examining board of psychology (board) is considering amending the current sexual misconduct rules. The board would like to amend the current rules to further define activities by practitioners that are sexual misconduct and define appropriate sanctions.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Betty Moe, Program Manager, Exam-

ining Board of Psychology, P.O. Box 47869, Olympia, WA 98504-7869, office (360) 236-4912, fax (360) 236-4909.

March 12, 2007
Betty Moe
Program Manager

WSR 07-07-072

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed March 16, 2007, 8:01 a.m.]

Subject of Possible Rule Making: WAC 246-310-010 Certificate of need, definition of "established ratio."

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.38.135.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department of health has been asked to initiate rule making to change the bed-to-population ratio used, in part, to determine nursing home bed need throughout the state. The current "established ratio" is the ratio of forty beds per one thousand persons age sixty-five and older. The average age for all nursing home residents was 79.97 years. Changing the "established ratio" based on the population age seventy or older more accurately reflects the population served by nursing homes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Yvette Fox, Department of Health, Facilities and Services Licensing, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-2928, fax (360) 236-2901, e-mail yvette.fox@doh.wa.gov. The department of health will conduct public meetings and provide other formats for information.

March 15, 2007
B. White
for M. C. Selecky
Secretary

WSR 07-07-096

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed March 19, 2007, 8:32 a.m.]

Subject of Possible Rule Making: WAC 388-513-1325 Determining available income for a single client for long-term care (LTC) services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:

- DSHS is correcting WAC references to the appropriate SSI related WACs.
- DSHS is defining LTC services in the title as institutional, waiver or hospice.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lori Rolley, Home and Community Services, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2271, fax (360) 407-7582, e-mail rollej@dshs.wa.gov.

March 19, 2007
Jim Schnellman, Chief
Office of Administrative Resources

WSR 07-07-101

PREPROPOSAL STATEMENT OF INQUIRY HORSE RACING COMMISSION

[Filed March 19, 2007, 1:12 p.m.]

Subject of Possible Rule Making: WAC 260-48-520 Parimutuel tickets.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently in Title 260 WAC the rules are silent regarding how long an outstanding parimutuel ticket is valid. The commission proposes to add language to section WAC 260-48-520 to set a minimum period of time in which an outstanding parimutuel ticket will remain valid, after which a racing association may expire any outstanding parimutuel tickets (including uncashed vouchers).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Robert J. Lopez, Administrative Services Manager, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, phone (360) 459-6462, fax (360) 459-6461, rlopez@whrc.state.wa.us.

March 10, 2007
R. J. Lopez
Deputy Secretary

WSR 07-07-109**PREPROPOSAL STATEMENT OF INQUIRY
HORSE RACING COMMISSION**

[Filed March 20, 2007, 8:04 a.m.]

Subject of Possible Rule Making: Chapter 260-36 WAC, Licenses, the commission is considering amending the appropriate section(s) of chapter 260-36 WAC to allow persons, who are licensed in another state by a recognized racing jurisdiction, to serve as mutuel clerks at a Class A and B racing association for a limited time per year.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A short duration reciprocity provision would allow a Class A or B racing association to hire extra help to assist on high wagering days, such as the Kentucky Derby or Longacres Mile, without having to require these persons to get a license.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Robert J. Lopez, Administrative Services Manager, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, phone (360) 459-6462, fax (360) 459-6461, rlopez@whrc.state.wa.us.

March 20, 2007

R. J. Lopez

Deputy Secretary

WSR 07-07-110**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed March 20, 2007, 10:16 a.m.]

Subject of Possible Rule Making: WAC 232-12-073 Advanced hunter education.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rule on this subject does not allow the department any flexibility in changing the requirements or cost of sharpshooter education, conservationist education, and master hunter education. Additionally, the current rule does not give the department the authority to hold master hunters to the ethical standards the department deems appropriate for such hunters. The proposed amendments to the rule will cure these shortfalls.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Fish and Wildlife Service regulates hunter education and provides grant money to the Washington department of fish and wildlife for hunter education. The

department's advanced hunter education program is one component of the five-year plan we are required to submit to the United States Fish and Wildlife Service to receive grant money from them.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mik Mikitik, WDFW Hunter Education, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-8113, fax (360) 902-2155, e-mail mikitmjm@dfw.wa.gov. Contact by June 1, 2007. Expected proposal filing on or after June 20, 2007.

March 20, 2007

Lori Preuss

Rules Coordinator

WSR 07-07-112**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD FOR COMMUNITY
AND TECHNICAL COLLEGES**

[Filed March 20, 2007, 10:36 a.m.]

Subject of Possible Rule Making: WAC 131-08-005 General description of state board organization and operations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.50.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Update address to new office location.

Process for Developing New Rule: Normal rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting DelRae Oderman, P.O. Box 42495, Olympia, WA 98504-2495, (360) 704-4309.

March 20, 2007

DelRae Oderman

Executive Assistant

Agency Rules Coordinator

WSR 07-07-113**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FINANCIAL INSTITUTIONS**

[Filed March 20, 2007, 10:47 a.m.]

Subject of Possible Rule Making: Amending the rules, chapter 208-620 WAC, implementing the Consumer Loan Act, chapter 31.04 RCW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.320.040, 31.04.165.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Existing rules must be amended for clarity and consistency in implementing chapter 31.04 RCW and to reflect current industry practices.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: The division will seek input from stakeholders concerning these proposed rules. The division may also discuss any proposed rules with other interested parties or regulatory agencies.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jeannette Terry, Division of Consumer Services, P.O. Box 41200, Olympia, WA 98504-1200, (360) 902-8786, jterry@dfi.wa.gov.

March 15, 2007

Deborah Bortner, Director
Division of Consumer Services

WSR 07-07-114

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF FINANCIAL INSTITUTIONS

[Filed March 20, 2007, 10:47 a.m.]

Subject of Possible Rule Making: Regulating mortgage brokers and loan originators licensed under chapter 19.146 RCW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.320.040, 19.146.223.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Existing rules must be amended for clarity and consistency in implementing chapter 19.146 RCW which was significantly amended by chapter 19, Laws of 2006.

Process for Developing New Rule: The division will seek input from stakeholders concerning these proposed rules. The division may also discuss any proposed rules with other interested parties or regulatory agencies.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jeannette Terry, Division of Consumer Services, P.O. Box 41200, Olympia, WA 98504-1200, (360) 902-8786, jterry@dfi.wa.gov.

March 15, 2007

Deborah Bortner, Director
Division of Consumer Services

WSR 07-07-127

WITHDRAWAL OF PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Filed March 21, 2007, 11:02 a.m.]

The department of ecology is withdrawing the CR-101 preproposal statement of inquiry filed on September 6, 2006, as WSR 06-18-101. Immediately following this withdrawal, ecology is filing a new preproposal statement of inquiry.

This new filing clarifies the department's statutory authority for this rule making.

Sarah Rees
for Stuart A. Clark
Air Quality Program Manager

WSR 07-07-128

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 07-07—Filed March 21, 2007, 11:03 a.m.]

Subject of Possible Rule Making: This rule making proposes to adopt requirements for mercury emissions from coal-fired power plants into chapter 173-406 WAC and WAC 173-400-112 and 173-400-113. A new federal rule establishes a national cap on mercury emissions and gives each state a mercury budget. States may adopt the federal rules or they may adopt rules that are more stringent. The rule making will determine Washington state requirements in place of the federal rule, opt out of mercury trading and establish emission standards through a phased approach. This rule making will develop a methodology to distribute mercury emission credits in Washington state, including evaluating establishing an in-state trading program for those credits once the state is not participating in the federal program. This rule may also adopt by reference requirements for new coal-fired electrical generating units under the NSPS program, with adoption of more stringent requirements being evaluated.

This action will also change the name of chapter 173-406 WAC from the acid rain rule to the electric generating unit rule and replace the current requirements for the acid rain program with adoption by reference of the federal requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.94.331, 70.94.141, 70.94.154, 70.94.850, and 70.94.860.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules will implement the federal clean air mercury rules adopted by the Environmental Protection Agency (EPA) in May 2005. The federal rules have state air agency requirements that begin in 2006 and source specific requirements that begin in 2009. EPA's rules will apply in Washington if we fail to adopt our own by November 2006. We intend to complete the rule-making process as soon as possible, knowing that the state rules will substitute for the federal rules once EPA approves them. The Washington state rules will establish our procedure to distribute mercury emission credits to coal-fired power plants and determine when emissions trading will and will not be allowed in Washington. Establishing a stringent emission limit would be part of the mercury emissions distribution plan and will require TransAlta, currently the sole coal-fired power plant in Washington, to install controls to meet the limit.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: EPA Region 10, energy facility site evaluation council (EFSEC), and department of community, trade and economic

development (CTED) will be involved in this effort. They will be part of the stakeholder group assisting with the rule development effort. EFSEC has independent authority to regulate new energy facilities in Washington state. EFSEC and ecology will be working closely with each other to propose rules in tandem that represent the Washington state approach to regulating mercury emissions from existing and future coal-fired power plants.

Process for Developing New Rule: This rule making is to amend an existing rule. Amendments to the rule will be drafted and reviewed internally and by an advisory group. The public will be provided with the opportunity to comment on the proposed rule. At least one public hearing will be held. The proposed amendments will be posted on the agency web site and provided to parties that have identified themselves as interested parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties can access more information on this rule making by contacting Elena Guilfoil, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6855, fax (360) 407-7534, e-mail EGUI461@ecy.wa.gov or accessing the ecology web site <http://www.ecy.wa.gov/law/rules/index.html>.

March 20, 2007

Sarah Rees

for Stuart A. Clark

Air Quality Program Manager