

WSR 07-18-015
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed August 24, 2007, 11:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-13-081.

Title of Rule and Other Identifying Information: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc., specifically WAC 308-56A-140 Department temporary permit.

Hearing Location(s): Department of Licensing, Conference Room 108, 1125 Washington Street S.E., Olympia, WA 98507, on October 10, 2007, at 11:00 a.m.

Date of Intended Adoption: November 6, 2007.

Submit Written Comments to: Dale R. Brown, P.O. Box 2957, Mailstop 48205, 1125 Washington Street S.E., Olympia, WA 98507-2957, e-mail dbrown@dol.wa.gov, fax (360) 902-7821 or 902-7822, by October 9, 2007.

Assistance for Persons with Disabilities: Contact Dale R. Brown by October 9, 2007, TTY (360) 664-8885.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule making is required to update the rule with current owner retained destroyed vehicle practices.

Reasons Supporting Proposal: The Washington state patrol will no longer inspect wrecked vehicles if they are owner retained.

Statutory Authority for Adoption: RCW 46.01.110.

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

Name of Agency Personnel Responsible for Drafting: Dale R. Brown, 1125 Washington Street S.E., Olympia, WA, (360) 902-4020; Implementation and Enforcement: Gary VanCamp, 1125 Washington Street S.E., Olympia, WA, (360) 902-0122.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. The contents of the proposed rules are explicitly and specifically dictated by statute.

August 24, 2007

Glenn Ball
for Julie Knittle
Assistant Director
Vehicle Services

AMENDATORY SECTION (Amending WSR 04-08-080, filed 4/6/04, effective 5/7/04)

WAC 308-56A-140 Department temporary permit.

(1) **What is a department temporary permit?** A department temporary permit consists of a system-generated permit and a cardboard temporary "plate" which may be issued in lieu of a registration certificate and license plates when:

(a) The vehicle is not currently licensed in Washington; and

For the purposes of this section, a vehicle may be considered unlicensed if the current license expires within sixty days of application for the department temporary permit, or the vehicle's license plates are missing or unreadable; and

(b) Appropriate vehicle documentation to title and license the vehicle is not immediately available but is likely to be available within sixty days; and

(c) The vehicle was purchased from someone other than a licensed Washington dealer((:)) or

~~((d) The vehicle:~~

~~(i) Has been declared a salvage vehicle under RCW 46.12.070; and~~

~~(ii) Has been retained by the registered owner(s) shown on department of licensing records; and~~

~~(iii)) is scheduled for inspection by the Washington state patrol.~~

~~((Note: Except as provided in (d) of this subsection, a department temporary permit will not be issued to any vehicle when the evidence of ownership is a salvage certificate/title, insurance company bill of sale, or wrecker bill of sale from any jurisdiction, or when the evidence of ownership indicates the vehicle may be a salvage vehicle not reported to the department.))~~

(2) **How long is a department temporary permit valid?** The department temporary permit is valid for no longer than sixty days from the date of application.

(3) **Where do I apply for and obtain a department temporary permit?** You may apply for a department temporary permit at any Washington vehicle licensing office.

(4) **What fees are due when applying for a department temporary permit?** All applicable taxes, title, license fees and inspection fees are due when the department temporary permit is issued. Any fees for license plates are due when the department temporary permit is cleared.

(5) **How do I display the cardboard temporary plate?** You must display the cardboard temporary plate where it is visible from outside of the vehicle or towed vehicle (such as on the inside left side of the rear window), or you may weatherproof the plate and place it in the license plate holder. Carry the cardboard temporary plate in the vehicle or the towing vehicle.

(6) **How many months of gross weight must I purchase with a department temporary permit if my vehicle is eligible for monthly gross weight?** If your vehicle is eligible for monthly gross weight, you must purchase a minimum of two months' gross weight license to correspond with the duration of the department temporary permit. You may receive credit as described in WAC 308-96A-220(7) for gross weight license already purchased.

(7) **How do I clear the department temporary permit and obtain a registration certificate and license plates for my vehicle ~~((that has been issued a department temporary permit))~~?** You may obtain a registration certificate and license plates for your vehicle at any vehicle licensing office by submitting:

(a) An application for certificate of ownership; and

(b) An odometer disclosure statement, if applicable; and

(c) License plate fees; and

(d) Other applicable documentation, fees, and taxes.

(8) **What fees are due when clearing a department temporary permit?** In addition to other fees as prescribed by law, the title application fee and license plate fees are due when the department temporary permit is cleared.

(9) **How do I obtain a replacement department temporary permit?** You may obtain a photocopy of the department temporary permit by contacting any vehicle licensing office who will acquire the photocopy from the department. You must provide the vehicle identification number or the department temporary permit number. The replacement department temporary permit will retain the same expiration date as the original.

(10) **How do I obtain a replacement cardboard temporary "plate"?** You may obtain a replacement cardboard temporary "plate" at any Washington vehicle license office where it was purchased. You must provide the vehicle identification number or the department temporary permit number.

(11) **May a department temporary permit be extended?** Yes, a department temporary permit may be extended on a case-by-case basis upon departmental approval.

~~((a) An extension of a department temporary permit issued for a total loss vehicle described in subsection (1)(d) of this section will not be approved.~~

~~((b))~~ An extension of a department temporary permit cannot be granted for vehicles described in subsection (6) of this section when no more than two months' gross weight ~~((were))~~ was purchased. Additional gross weight cannot be issued until the department temporary permit is cleared.

WSR 07-18-019

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed August 24, 2007, 3:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-12-048.

Title of Rule and Other Identifying Information: WAC 308-125-090 Continuing education required.

Hearing Location(s): Department of Licensing, Business and Professions Division, 2000 4th Avenue West, Building #3, 2nd Floor Conference Room, Olympia, WA 98502, on October 9, 2007, at 9:00 a.m.

Date of Intended Adoption: November 6, 2007.

Submit Written Comments to: Ralph C. Birkedahl, P.O. Box 9015, Olympia, WA 98507-9015, e-mail rbirkedahl@dol.wa.gov, fax (360) 570-4981, by October 2, 2007.

Assistance for Persons with Disabilities: Contact Joan Robinson by October 2, 2007, TTY (360) 664-8885 or (360) 664-6504.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To limit the number of allowed continuing education credits for participation other than as a student in educational process and programs; To limit the number of allowed continuing education credits for attendance at the real estate appraiser commission meetings; to allow deferment for completion of continuing educa-

tion for licensees or certificate holders returning from military service active duty; and to eliminate redundancy.

Reasons Supporting Proposal: Rule must conform to the interpretations of the appraisal qualifications board's qualification criteria for real property appraisers. Elimination of redundancy will enhance clarity and understanding.

Statutory Authority for Adoption: RCW 18.140.030 (1), (7), (8) and (15).

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

Name of Proponent: Department of licensing, real estate appraiser program, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ralph C. Birkedahl, Olympia, (360) 664-6504.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule is for individual licensees and has no economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of licensing is not one of the named agencies under this RCW.

August 24, 2007

Ralph C. Birkedahl

Program Manager

AMENDATORY SECTION (Amending WSR 06-06-069, filed 2/28/06, effective 4/1/06)

WAC 308-125-090 Continuing education required.

(1) As a prerequisite to renewal of certification or licensure, the holder of a certificate or license shall present evidence satisfactory to the director of successful completion of the continuing education requirements of this section.

(2) The continuing education requirements for renewal of certification or licensure shall be the completion by the applicant of twenty-eight hours of instruction in courses or seminars which have received the approval of the director. Courses must be completed within the term of certification or licensure immediately preceding renewal. An applicant shall not receive credit in consecutive renewals for courses that have the same or very similar content and are deemed comparable by the department. The holder of a certificate or license will present evidence of successful completion of the seven-hour National USPAP update course or its equivalent.

(3) In order for courses or seminars to be accepted under subsection (2) of this section, the course or seminar must be a minimum of two hours in length and be directly related to real estate appraising. However, a maximum of one-half of the continuing education hours required for renewal can be in two-hour seminars or courses.

(4) An examination is not required for courses or seminars taken for continuing education classroom hours.

(5) Up to one-half of the requirement under subsection (2) of this section may be met by participation other than as a student in educational process and programs approved by the director including teaching, program development, and authorship of textbooks and other written instructional materials. Credit for instructing any given course or seminar can only be awarded once, with the exception of the Uniform

Standards of Professional Appraisal Practice, USPAP, 7-hour update.

(6) Courses or seminars taken to satisfy the continuing education requirement for ~~((general))~~ real estate appraisers, should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Arbitrations, dispute resolution.
- (c) Business courses related to practice of real estate appraisal and consulting.
- (d) Construction estimating.
- (e) Ethics and standards of professional practice, USPAP.
- (f) Land use planning, zoning, and taxation.
- (g) Management, leasing, brokerage, timesharing.
- (h) Property development, partial interests.
- (i) Real estate appraisal (valuations/evaluations).
- (j) Real estate financing and investment.
- (k) Real estate law, easements and legal interests.
- (l) Real estate litigation, damages and condemnation.
- (m) Real estate related computer applications.
- (n) Real estate securities and syndication.
- (o) Real property exchange.
- (p) Appraisal and consulting report writing.
- (q) Such other presentations approved by the director.

~~(7) ((Courses or seminars taken to satisfy the continuing education requirement for residential real estate appraisers should include coverage of real estate appraisal related topics, such as:~~

- ~~(a) Ad valorem taxation.~~
- ~~(b) Business courses related to practice of real estate appraisal.~~
- ~~(c) Construction estimation.~~
- ~~(d) Ethics and standards of professional practice.~~
- ~~(e) Land use planning, zoning, and taxation.~~
- ~~(f) Property development.~~
- ~~(g) Real estate financing and investment.~~
- ~~(h) Real estate law.~~
- ~~(i) Real estate related computer applications.~~
- ~~(j) Real estate securities and syndication.~~
- ~~(k) Real property exchange.~~
- ~~(l) Real estate feasibility and marketability studies.~~
- ~~(m) Such other presentations approved by the director.~~

~~(8) Courses or seminars taken to satisfy the continuing education requirement for licensed real estate appraisers should include coverage of real estate appraisal related topics, such as:~~

- ~~(a) Ad valorem taxation.~~
- ~~(b) Arbitration.~~
- ~~(c) Business courses related to practice of real estate appraisal.~~
- (d) Construction estimating.
- (e) Ethics and standards of professional practice.
- (f) Land use planning, zoning, and taxation.
- (g) Management, leasing brokerage, timesharing.
- (h) Property development.
- (i) Real estate appraisal (valuations/evaluations).
- (j) Real estate law.
- (k) Real estate litigation.
- (l) Real estate financing and investment.

- ~~(m) Real estate appraisal related computer applications.~~
- ~~(n) Real estate securities and syndication.~~
- ~~(o) Real property exchange.~~
- ~~(p) Such other presentations approved by the director.~~
- ~~(9))~~ The director may approve continuing education credit for attendance at ~~((the))~~ one real estate appraiser commission meeting of no more than ~~((two))~~ seven hours.

(8) The director may defer completion of continuing education for licensees or certificate holders returning from military service active duty and place the license or certificate in an active status for a period of one hundred eighty days pending completion of education. If the licensee or certificate holder fails to comply with the continuing education requirement within said one hundred eighty days, the license or certificate will revert to an expired status.

WSR 07-18-024**PROPOSED RULES****NORTHWEST CLEAN****AIR AGENCY**

[Filed August 27, 2007, 9:28 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Northwest Clean Air Agency (NWCAA) Regulation.

Hearing Location(s): Northwest Clean Air Agency, 1600 South Second Street, Mount Vernon, WA 98273, on November 8, 2007, at 1:30 p.m.

Date of Intended Adoption: November 8, 2007.

Submit Written Comments to: Mark Asmundson, Northwest Clean Air Agency, 1600 South Second Street, Mount Vernon, WA 98273, masmundson@nwcleanair.org, fax (360) 428-1620, by November 8, 2007.

Assistance for Persons with Disabilities: Contact Scott Allison by October 8, 2007, (360) 428-1617 ext. 200.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The regulation amendments will allow the NWCAA to clarify various sections of our rules and adopt Section 461 to control NOx emissions.

2007 NWCAA Regulation Revision Summary**Amendatory Section****SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES**

- Update to accommodate new or revised rules.
- Delete "that are in effect as of July 1, 2005" from 104.2 (federal rules). The NWCAA board adoption date defines which version of the federal regulation is being referenced.

Amendatory Section**SECTION 106 - PUBLIC RECORDS**

- Clarifications.

Amendatory Section**SECTION 113 - SERVICE OF NOTICE**

- Clarifications.

Amendatory Section**SECTION 114 - CONFIDENTIAL INFORMATION**

- Clarifications.

Amendatory Section**SECTION 120 - HEARINGS**

- Clarifications.

Amendatory Section**SECTION 121 - ORDERS**

- Clarifications.

Amendatory Section**SECTION 122 - APPEALS FROM ORDERS OR FORMAL ENFORCEMENT ACTION**

- Rename title.
- Clarifications.

Amendatory Section**SECTION 123 - STATUS OF ORDERS ON APPEAL**

- Clarifications.

Amendatory Section**SECTION 131 - NOTICE TO VIOLATORS**

- Rename title.
- Clarify enforcement procedures and authority.

Amendatory Section**SECTION 132 - CRIMINAL PENALTY**

- Clarifications.

Amendatory Section**SECTION 133 - CIVIL PENALTY**

- Clarifications.

Amendatory Section**SECTION 135 - ASSURANCE OF DISCONTINUANCE**

- Rename title.
- Clarifications.

Amendatory Section**SECTION 150 - POLLUTANT DISCLOSURE—REPORTING BY AIR CONTAMINANT SOURCES**

- Clarifications.
- Notice to NWCAA required for all sources that submit a 40 C.F.R. Part 372 Toxic Release Inventory (TRI) report.

Amendatory Section**SECTION 200 - DEFINITIONS**

- Add definitions for "WASHINGTON ADMINISTRATIVE CODE (WAC)," "GREENHOUSE GASES (GHG)" and "HAZARDOUS AIR POLLUTANT (HAP)."
- Delete the following definitions related to agricultural burning; "AGRICULTURAL OPERATION," "FIELD GRASSES," "TURF GRASSES."

- Amend for clarification definitions of "MODIFICATION," "CONTROL OFFICER," "STATE ACT" and "PREVENTION OF SIGNIFICANT DETERIORATION (PSD)."

Amendatory Section**SECTION 300 - NEW SOURCE REVIEW**

- Clarifications.
- Provide exemptions for some nonroad engines and coffee roasters.

Amendatory Section**SECTION 301 - TEMPORARY SOURCES**

- Correct PSD regulatory citation.

Amendatory Section**SECTION 305 - PUBLIC INVOLVEMENT**

- Correct reference to a state regulation citation.

Amendatory Section**SECTION 322 - AIR OPERATING PERMIT PROGRAM (AOP)**

- Redefine scope of pollutants that the agency can charge AOP fees to include pollutants allowed under state and federal rule.

Amendatory Section**SECTION 324 - FEES**

- Provide for the establishment of fee categories and fee schedules by resolution adopted by the board of directors of the NWCAA.

Amendatory Section**SECTION 325 - TRANSFER OR PERMANENT SHUTDOWN**

- Clarify.

Amendatory Section**SECTION 340 - REPORT OF BREAKDOWN AND UPSET**

- Add a provision to report events with VOC emissions over five-hundred pounds.

Amendatory Section**SECTION 428 - HAZARDOUS AIR POLLUTANTS**

- Add a twenty-four hour averaging period to the ambient formaldehyde limit.

Amendatory Section**SECTION 451 - EMISSION OF AIR CONTAMINANT—VISUAL STANDARD**

- Remove 40% opacity limit for existing petroleum catalytic cracking units.
- Remove opacity exemptions for wood waste burners.

New Section**SECTION 461 - EMISSION OF NITROGEN OXIDES**

- Establish a 0.09 lb NO_x/MMBtu limit for heaters and boilers > 100 MMBtu/hr.
- Establish a facility-wide aggregate average limit of 0.06 lb NO_x/MMBtu for heaters and boilers > 100 MMBtu/hr at petroleum refineries.
- Require annual source testing, or a CEM, for heaters and boilers > 100 MMBtu/hr.

Amendatory Section**SECTION 462 - EMISSION OF SULFUR COMPOUNDS**

- Add 162 ppm H₂S limit for refinery fuel gas.

Amendatory Section**SECTION 502 - OUTDOOR BURNING**

- Delete provision allowing for the recouping of fire suppression costs on behalf of fire departments.

Amendatory Section**SECTION 504 - AGRICULTURAL BURNING**

- Update provisions to be consistent with chapter 173-430 WAC.
- Revise fee schedule.

Amendatory Section**SECTION 506 - SOLID FUEL BURNING DEVICES**

- Clarifications.
- Update provision for curtailing woodstove use during air quality forecasts and episodes.

Amendatory Section**SECTION 550 - PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE**

- Rewrite to be more specific regarding expectations for operators of access roads, unloading equipment, transfer points, unpaved traveled surfaces, parking areas, and other sources of potential fugitive particulate matter.

Amendatory Section**SECTION 570 - ASBESTOS CONTROL STANDARDS**

- Rewrite alternative means of compliance provisions.

Amendatory Section**SECTION 580 - VOLATILE ORGANIC COMPOUND CONTROL**

- Delete provision that exempts refineries from applying Section 580 if there is a similar overlapping federal NSPS or NESHAP program.
- Rewrite the petroleum refinery equipment leak provisions to reflect "enhanced" leak detection and repair.

Amendatory Section**SECTION 590 - PERCHLOROETHYLENE DRY CLEANERS**

- Rewrite to be consistent with MACT 40 C.F.R. 63 Subpart M and WAC 173-400-075(7).

Statutory Authority for Adoption: Chapter 70.94 RCW.

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

Name of Proponent: Northwest Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark Asmundson, 1600 South Second Street, Mount Vernon, WA, (360) 428-1617 ext. 208.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

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

August 23, 2007

Mark Asmundson

Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 07-20 issue of the Register.

WSR 07-18-025**PROPOSED RULES****DEPARTMENT OF****RETIREMENT SYSTEMS**

[Filed August 27, 2007, 10:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-10-030.

Title of Rule and Other Identifying Information: WAC 415-02-100 Can I have my insurance premiums deducted from my retirement allowance?

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA 98501, on October 9, 2007, at 11:00 a.m.

Date of Intended Adoption: October 12, 2007.

Submit Written Comments to: Sarah Monaly, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail sarahm@drs.wa.gov, fax (360) 753-3166, by 5:00 p.m. on October 9, 2007.

Assistance for Persons with Disabilities: Contact Sarah Monaly by October 2, 2007, phone (360) 664-7291, TDD (360) 586-5450 or (866) 377-8895.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend WAC 415-02-100, which relates to insurance premium deductions by retirees. The Pension Protection Act (2006) allows eligible retired public safety officers to elect to exclude up to \$3,000 of their retirement benefit from taxable income each year for qualified health insurance premiums. The department is proposing an amendment that reflects these changes.

Reasons Supporting Proposal: The Pension Protection Act of 2006 requires changes to current department of retirement systems rules.

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: Public Law 109-280 (2006).

Rule is necessary because of federal law, Pension Protection Act, Public Law 109-280 (2006) (amends 26 U.S.C. (1986, as amended)).

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Sarah Monaly, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Cathy Cale, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7305.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not one of the named departments in RCW 34.05.328.

August 27, 2007
Sarah Monaly
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-21-001, filed 10/4/06, effective 11/4/06)

WAC 415-02-100 ((Retiree insurance premium deductions—Enrollment requirements.)) Can I have my insurance premiums deducted from my retirement allowance? (1) The department will ((not) only accept requests by retirees ((of any of the systems that the department administers)) to deduct insurance premiums ((for any kind of insurance)) from retirement allowances ((unless)) if one of the following conditions is met:

(a) The retiree's insurance provider has at least twenty-five such retirees enrolled in a ((withholding)) deduction program and has an established agreement with the department; or

(b) The retiree was an eligible public safety officer, as defined by Internal Revenue Code (IRC) 402(l), who has elected to participate in the federal tax savings program on health benefits for public safety officers under IRC 402(l). The retiree's insurance provider must have an established agreement with the department. ((Any qualified provider who drops below twenty-five participants will be suspended if they))

(2) For insurance providers under subsection (1)(a) of this section, the department may suspend deductions if the provider has fewer than twenty-five participants and remains under twenty-five participants for ninety days.

(3) This rule applies to all retirement systems administered by the department.

**WSR 07-18-027
PROPOSED RULES
HORSE RACING COMMISSION**

[Filed August 27, 2007, 4:12 p.m.]

Supplemental Notice to WSR 07-15-052.
Preproposal statement of inquiry was filed as WSR 07-06-068.

Title of Rule and Other Identifying Information: WAC 260-36-085 License and fingerprint fees.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on October 11, 2007, at 9:30 a.m.

Date of Intended Adoption: October 11, 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 October 8, 2007.

Assistance for Persons with Disabilities: Contact Patty Sorby by October 8, 2007, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of amending WAC 260-36-085 is to increase license fees for persons actively participating in racing activities in order to cover the cost to administer the licensing program as required in RCW 67.16.020(1). The licensee fee increase is a comprehensive adjustment of fees approved in the 2007-2009 biennial budget to allow an exception to the fiscal growth factor restrictions.

This supplemental notice is being filed because some of the license fees have been reduced from the amounts listed in the original proposed language filed on July 13, 2007 (WSR 07-15-052).

Reasons Supporting Proposal: Allows the agency to comply with RCW 67.16.020(1) by collecting a license fee that covers the cost of administration of the licensing program.

Statutory Authority for Adoption: RCW 67.16.020.

Statute Being Implemented: RCW 67.16.020(1).

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. Leichner, 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.

July 13, 2007

R. J. Lopez

Deputy Secretary

AMENDATORY SECTION (Amending WSR 07-01-054, filed 12/14/06, effective 1/14/07)

WAC 260-36-085 License and fingerprint fees. The following are the license fees for any person actively participating in racing activities:

Apprentice jockey	\$(69.00) <u>76.00</u>
Assistant trainer	\$(32.00) <u>36.00</u>
Association employee—management	\$(21.00) <u>25.00</u>
Association employee—hourly/seasonal	\$(41.00) <u>15.00</u>
Association volunteer nonpaid	No fee
Authorized agent	\$(21.00) <u>25.00</u>
Clocker	\$(21.00) <u>25.00</u>

Exercise rider	\$(69.00) <u>76.00</u>
Groom	\$(21.00) <u>25.00</u>
Honorary licensee	\$(41.00) <u>15.00</u>
Jockey agent	\$(69.00) <u>76.00</u>
Jockey	\$(69.00) <u>76.00</u>
Other	\$(21.00) <u>25.00</u>
Owner	\$(69.00) <u>76.00</u>
Pony rider	\$(69.00) <u>76.00</u>
Service employee	\$(21.00) <u>25.00</u>
Spouse groom	\$(21.00) <u>25.00</u>
Stable license	\$(42.00) <u>47.00</u>
Trainer	\$(69.00) <u>76.00</u>
Vendor	\$(106.00) <u>116.00</u>
Veterinarian	\$(106.00) <u>116.00</u>

The license fee for multiple licenses may not exceed ~~\$(106.00)~~ 116.00, except persons applying for owner, veterinarian or vendor license must pay the license fee established for each of these licenses.

The following are examples of how this section applies:

Example one - A person applies for the following licenses: Trainer (~~\$(69.00)~~ 76.00), exercise rider (~~\$(69.00)~~ 76.00), and pony rider (~~\$(69.00)~~ 76.00). The total license fee for these multiple licenses would only be ~~\$(106.00)~~ 116.00.

Example two - A person applies for the following licenses: Owner (~~\$(69.00)~~ 76.00), trainer (~~\$(69.00)~~ 76.00) and exercise rider (~~\$(69.00)~~ 76.00). The total cost of the trainer and exercise rider license would be ~~\$(106.00)~~ 116.00. The cost of the owner license (~~\$(69.00)~~ 76.00) would be added to the maximum cost of multiple licenses (~~\$(106.00)~~ 116.00) for a total license fee of ~~\$(175.00)~~ 192.00.

Example three - A person applies for the following licenses: Owner (~~\$(69.00)~~ 76.00), vendor (~~\$(106.00)~~ 116.00), and exercise rider (~~\$(69.00)~~ 76.00). The license fees for owner (~~\$(69.00)~~ 76.00) and vendor (~~\$(106.00)~~ 116.00) are both added to the license fee for exercise rider (~~\$(69.00)~~ 76.00) for a total license fee of ~~\$(244.00)~~ 268.00.

In addition to the above fees, a \$10.00 fee will be added to cover the costs of conducting a fingerprint-based back-

ground check. The background check fee will be assessed only once annually per person regardless of whether the person applies for more than one type of license in that year.

The commission will review license and fingerprint fees annually to determine if they need to be adjusted to comply with RCW 67.16.020.

WSR 07-18-047
PROPOSED RULES
WASHINGTON STATE UNIVERSITY

[Filed August 30, 2007, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-03-063.

Title of Rule and Other Identifying Information: Amendment of chapter 504-26 WAC, Standards of conduct for students.

Hearing Location(s): Washington State University, Lighty Room 405, Pullman, Washington, on October 12, 2007, at 4:00 p.m. to 5:00 p.m.

Date of Intended Adoption: November 16, 2007.

Submit Written Comments to: Ralph T. Jenks, Director, Procedures, Records, and Forms and University Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, e-mail jenks@wsu.edu, fax (509) 335-3969, by October 12, 2007.

Assistance for Persons with Disabilities: Contact Linda Nelson by October 5, 2007, (509) 335-3928.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Revisions clarify how the university intends to address conduct violations.

Reasons Supporting Proposal: Revisions necessary to clarify how the university intends to address conduct violations.

Statutory Authority for Adoption: RCW 28B.30.150.

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

Name of Proponent: Washington State University, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Elaine Voss, Director, Student Affairs, (509) 335-4532.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule has no impact on small business.

A cost-benefit analysis is not required under RCW 34.05.328. The university does not consider this rule to be a significant legislative rule.

August 30, 2007

Ralph T. Jenks, Director
Procedures, Records, and Forms
and University Rules Coordinator

NEW SECTION

WAC 504-26-005 Good standing. The award of a degree is conditioned upon the student's good standing in the university and satisfaction of all university graduation

requirements. "Good standing" means the student has resolved any unpaid fees or acts of academic or behavioral misconduct and complied with all sanctions imposed as a result of any misconduct. The university shall deny award of a degree if the student is dismissed from the university based on his or her misconduct. (See also rule 45 in the university general catalog.)

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-200 Jurisdiction of the university standards of conduct for students. The university standards of conduct for students shall apply to conduct that occurs on university premises, at university sponsored activities, and to off-campus conduct that adversely affects the university community and/or the pursuit of its objectives. Each student is responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending. The university has sole discretion to determine what conduct occurring off campus adversely impacts the university community and/or the pursuit of ~~((its))~~ university objectives.

AMENDATORY SECTION (Amending WSR 07-11-030, filed 5/8/07, effective 6/8/07)

WAC 504-26-201 Misconduct—Rules and regulations. Any ~~((individual))~~ student or student organization found to have committed, assisted, conspired, or attempted to commit the following misconduct (WAC 504-26-202 through 504-26-226) is subject to the disciplinary sanctions outlined in WAC 504-26-405.

AMENDATORY SECTION (Amending WSR 07-11-030, filed 5/8/07, effective 6/8/07)

WAC 504-26-202 Acts of dishonesty. Acts of dishonesty, include but are not limited to ~~((the following))~~ those listed in this chapter:

- (1) Academic integrity violations including, but not limited to, cheating as defined in WAC 504-26-010.
- (2) Knowingly furnishing false information to any university official, faculty member, or office.
- (3) Forgery, alteration, or misuse of any university document or record, or instrument of identification whether issued by the university or other state or federal agency.

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-207 Failure to comply with university officials or law enforcement officers. Failure to comply with lawful directions of university officials and/or law enforcement officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-208 Unauthorized keys or unauthorized entry. Unauthorized possession, duplication, or use of keys, including cards or alphanumeric pass-codes, to any university premises or unauthorized entry to or use of university premises.

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-213 Firearms and dangerous weapons. No student may carry, possess, or use any firearm, explosive (including fireworks), dangerous chemical, or any dangerous weapon on university property or in university-approved housing. Airsoft guns and other items that shoot projectiles are not permitted in university-approved housing. Students wishing to maintain a firearm on campus for hunting or sporting activities must store the firearm with the Washington State University department of public safety.

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-218 Computer abuses or theft. Theft or other abuse of computer facilities and resources, including but not limited to:

- (1) Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
- (2) Unauthorized transfer of a file.
- (3) Unauthorized use of computer hardware.
- (4) Use of another individual's identification and/or password.
- ~~((4))~~ (5) Use of computing facilities and resources to interfere with the work of another student, faculty member, or university official.
- ~~((5))~~ (6) Use of computing facilities and resources to send obscene, harassing, or threatening messages.
- ~~((6))~~ (7) Use of computing facilities and resources to interfere with normal operation of the university computing system.
- ~~((7))~~ (8) Use of computing facilities and resources in violation of any law, including copyright laws.
- ~~((8))~~ (9) Any violation of the university computer use policy found at http://www.wsu.edu/~forms/HTML/EPM/EP4_Electronic_Publishing_Policy.htm

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-219 Abuse of the student conduct system. Abuse of the student conduct system, including but not limited to:

- (1) Failure to obey ~~((the))~~ any notice from a university conduct board or other university official to appear for a meeting or hearing as part of the student conduct system.
- (2) Willful falsification, distortion, or misrepresentation of information before a ~~((student))~~ university conduct ~~((board))~~ proceeding.

(3) Disruption or interference with the orderly conduct of a ~~((student))~~ university conduct board proceeding.

(4) Filing fraudulent charges or initiating a ~~((student))~~ university conduct ~~((code))~~ proceeding in bad faith.

(5) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.

(6) Attempting to influence the impartiality of a member of ~~((a))~~ the university conduct ~~((board))~~ system prior to, and/or during the course of, ~~((the student))~~ any university conduct board proceeding.

(7) Harassment (verbal or physical) and/or intimidation of a member of a university conduct board prior to, during, and/or after ~~((a student))~~ any university conduct ~~((code))~~ proceeding.

(8) Failure to comply with the sanction(s) imposed under the standards of conduct for students.

(9) Influencing or attempting to influence another person to commit an abuse of the ~~((student))~~ university conduct ~~((code))~~ system.

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-225 Trespassing. Knowingly entering or remaining unlawfully in or on university premises or any portion thereof. Any person who has been given ~~((written))~~ notice by a university official of the university's decision to exclude him or her from all or a portion of university property is not licensed, invited, or otherwise privileged to enter or remain on the identified portion of university property, unless given prior explicit written permission by university administration.

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-304 Group conduct. Sororities, fraternities, and recognized groups ~~((are expected to))~~ shall comply with the standards of conduct for students and with university policies. When a member or members of a student organization violates the standards of conduct for students, the student organization or individual members may be subject to appropriate sanctions authorized by these standards.

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-401 Complaints and student conduct process. (1) Any member of the university community may file a complaint against a student for violations of the standards of conduct for students. A complaint is prepared in writing and directed to a student conduct officer. Any complaint is to be submitted as soon as possible after the event takes place, preferably within thirty days.

(2) A student conduct officer, or designee, may review and investigate any complaint to determine whether it appears to state a violation of the code of conduct. If a conduct officer determines that a complaint appears to state a violation of the student code of conduct, she or he considers whether the matter might be resolved through agreement with the accused or through alternative dispute resolution proceed-

ings involving the complainant and the accused. The complainant and the accused are informed of university options for alternative dispute resolution and may request that the matter be addressed using alternative dispute resolution techniques. Generally, the accused and complainant must agree to the use of alternative dispute resolution techniques. If the accused and the student conduct officer reach an agreed resolution of the complaint, the disposition is final; there is no right to appeal from an agreed disposition.

(3) If the conduct officer has determined that a complaint has merit and if the matter is not resolved through agreement or alternative dispute resolution, the matter is handled through either a conduct officer hearing or as a university conduct board hearing.

(a) When the allegation involves ~~((a student/university community complainant))~~ harm or threat of harm to any person or person's property and the accused disputes the facts and/or denies responsibility, the matter ~~((is))~~ may be referred to the university conduct board for resolution.

(b) If the possible or recommended sanction is expulsion or suspension, ~~((except for suspensions resulting from violations of the alcohol or drug provisions of this code,))~~ the matter is referred to the university conduct board.

(c) Matters other than those listed in (a) and (b) of this subsection are heard by a conduct officer, unless the conduct officer exercises his or her discretion to refer the matter to a conduct board at any time before a decision is issued. A student may request that a conduct board hear the case, but the final decision ~~((on the matter))~~ to refer the matter to the university conduct board for hearing is made by the university conduct officer and such decision is not subject to appeal.

(4) The student conduct officer provides complainants who have been targets of alleged misconduct or who feel victimized thereby with names of university and community advocates or resources who may be able to help the complainant address his or her concerns about the behaviors and provide support to the complainant throughout the conduct process. Due to federal privacy law, the university may not disclose to the complainant any sanctions taken against the accused student, unless the complainant was the victim of a violent crime for which the accused was found responsible as defined under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 CFR Part 99), or the accused student consents to such disclosure.

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-402 Conduct officer actions. (1) Any student charged by a conduct officer with a violation of any provision of standards of conduct for students is ~~((informed))~~ notified of the ~~((bases))~~ basis for ~~((those))~~ the charge or charges and of the time, date, and place of a conference between the student and the conduct officer through one of the following procedures.

(a) The conduct officer provides notice by personal delivery or by regular United States mail addressed to the student or student organization at his, her, or its last known address. Duplicate notice may be provided by electronic mail.

(b) If the student is no longer enrolled at the time notice is sent, the notice is sent to the student's permanent address recorded in the registrar's files. The student or student organization is responsible for maintaining an updated mailing address on file with the registrar.

(c) Any request to ~~((continue))~~ extend the time and/or date of the conduct officer conference/hearing should be addressed to the conduct officer.

(2) In order that any informality in disciplinary proceedings not mislead a student as to the seriousness of the matter under consideration, the student is informed of the potential sanctions involved at the initial conference or hearing.

(3) After a review of the evidence and interviewing the student(s) involved in the case, the conduct officer may take any of the following actions:

(a) Terminate the proceeding exonerating the student or students;

(b) Dismiss the case;

(c) Impose ~~((verbal warning to the student directly, not))~~ appropriate sanctions as provided in WAC 504-26-405. Such sanctions are subject to the student's right of appeal as provided in this code; or

(d) ~~((Impose additional sanctions of reprimand, probation, or, for violations of alcohol or drug policies, suspension. Such sanctions are subject to the student's right of appeal as provided in this code; or~~

~~((e)))~~ Refer the matter to the ~~((student))~~ university conduct board pursuant to WAC 504-26-401(3).

(4) The conduct officer may consider the student's past contacts with the office of student conduct in determining an appropriate sanction and/or deciding whether to refer the case for a university conduct board hearing.

(5) The student is notified in writing of the determination made by the conduct officer within ten business days of the proceeding. ~~The ((student is also notified of his or her))~~ notice includes information regarding the student's right to appeal pursuant to WAC 504-26-407.

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-403 Conduct board proceedings. (1)

Any student charged by a conduct officer with a violation of any provision of standards of conduct for students that is to be heard by a conduct board is provided notice by personal delivery or by regular United States mail addressed to the student or student organization at her, his, or its last known address.

(a) If the student is no longer enrolled at the time notice is sent, the notice is sent to the student's permanent address recorded in the registrar's files.

(b) The student or student organization is responsible for keeping an updated mailing address on file with the registrar.

(2) The written notice shall be completed by the conduct officer and shall include:

(a) The specific complaint, including the university policy or regulation allegedly violated;

(b) The approximate time and place of the alleged act that forms the factual basis for the charge of violation;

(c) The time, date, and place of the hearing;

(d) A list of the witnesses who may be called to testify, to the extent known;

(e) A description of all documentary and real evidence to be used at the hearing, to the extent known, including a statement that the student shall have the right to inspect his or her student conduct file.

(3) Time for hearings.

(a) The conduct board hearing is scheduled not less than seven days after the student has been sent notice of the hearing, except in the case of interim suspensions as set forth in WAC 504-26-406. Ordinarily, the hearing occurs within fifteen days of notice.

(b) Requests to ~~((continue))~~ extend the time and/or date for hearing ((date)) must be addressed to the chair of the university conduct board. Requests made by an accused student must be copied to the office of student conduct; requests made by the office of student conduct must be copied to the accused student. A ~~((continuance))~~ request for extension of time is granted only upon a showing of good cause.

(4) University conduct board hearings are conducted by a university conduct board according to the following guidelines, except as provided by subsection (6) of this section:

(a) Procedures:

(i) University conduct board hearings are conducted in private.

(ii) The complainant, accused student, and his or her advisor, if any, are allowed to attend the entire portion of the university conduct board hearing at which information is received (excluding deliberations). Admission of any other person to the university conduct board hearing is at the discretion of the university conduct board chair and/or the student conduct officer.

(iii) In university conduct board hearings involving more than one accused student, the student conduct officer, at his or her discretion, may permit joint or separate hearings.

(iv) In university conduct board hearings involving graduate students, board memberships are comprised to include graduate students and graduate teaching faculty to the extent possible.

(v) The complainant and the accused student have the right to be assisted by an advisor they choose, at their own expense. The complainant and/or the accused student is responsible for presenting his or her own information, and therefore, during the hearing, advisors are not permitted to ~~((speak or))~~ address the board, witnesses, conduct officers or any party or representatives invited by the parties to the hearing, or to participate directly in any university conduct hearing. An advisor may communicate with the accused and recesses may be allowed for ~~((privacy))~~ this purpose. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the university conduct board hearing because delays are not normally allowed due to the scheduling conflicts of an advisor.

(vi) The complainant, the accused student, and the student conduct officer may arrange for witnesses to present pertinent information to the university conduct board. The conduct officer tries to arrange the attendance of possible witnesses who are identified by the complainant. Complainant witnesses must provide written statements to the conduct officer at least two weekdays prior to the hearing. Witnesses

identified by the accused student must provide written statements to the conduct officer at least two weekdays prior to the conduct hearing. The accused student is responsible for informing his or her witnesses of the time and place of the hearing. Witnesses provide information to and answer questions from the university conduct board. Questions may be suggested by the accused student and/or complainant to be answered by each other or by other witnesses. Written questions are directed to the conduct board chair, rather than to the witness directly. This method is used to preserve the educational tone of the hearing and to avoid creation of an unduly adversarial environment, and to allow the board chair to determine the relevancy of questions. Questions concerning whether potential information may be received are resolved at the discretion of the chair of the university conduct board.

(vii) Pertinent records, exhibits, and written statements (including student impact statements) may be accepted as information for consideration by a university conduct board at the discretion of the chair.

(viii) Questions related to the order of the proceedings are subject to the final decision of the chair of the university conduct board.

(ix) After the portion of the university conduct board hearing concludes in which all pertinent information is received, the student conduct board shall determine (by majority vote) whether the accused student has violated each section of the standards of conduct for students as charged.

(x) The university conduct board's determination is made on the basis of a "preponderance of the evidence," that is, whether it is more likely than not that the accused student violated the standards of conduct for students.

(xi) Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in conduct proceedings. Relevant evidence, including hearsay, is admissible if it is the type of evidence that reasonable members of the university community would rely upon in the conduct of their affairs. ((Additionally, rules of privilege and relevancy apply:)) The chair of the student conduct board shall have the discretion to determine admissibility of evidence.

(b) If the accused student is found responsible for any of the charges brought against the accused, the board may, at that time, consider the student's past contacts with the office of student conduct in determining an appropriate sanction.

(c) The accused student or student organization is notified of the conduct board's decision within ten calendar days from the date the matter is heard. The accused student or organization shall receive written notice of the decision, the reasons for the decision (both the factual basis therefore and the conclusions as to how those facts apply to the conduct code), the sanction, notice that the order will become final unless internal appeal is filed within twenty-one days of the date the letter was personally delivered or deposited in the U.S. mail, and a statement of how to file an appeal.

(i) The conduct board's written decision is sent by regular mail or personal delivery, and may also be sent by electronic mail to the accused student's or the president of the student organization's last known address, as set forth in the registrar's files.

(ii) The written decision is the university's initial order.

(iii) If the student or organization does not appeal the conduct board's decision within twenty-one calendar days from the date of the decision letter, it becomes the university's final order.

(5) There is a single verbatim record, such as a tape recording, of all university conduct board hearings (not including deliberations). Deliberations are not recorded. The record is the property of the university.

(6) If an accused student (~~(who has been provided))~~ to whom notice of the hearing has been sent (in the manner provided above) does not appear before a university conduct board hearing, the information in support of the complaint is presented and considered in his or her absence, and the board may issue a decision based upon that information.

(7) The university conduct board may for convenience or to accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, accused student, and/or other witnesses during the hearing by providing separate facilities, and/or by permitting participation by telephone, audio tape, written statement, or other means, as determined in the sole judgment of the vice-president for student affairs or designee to be appropriate.

AMENDATORY SECTION (Amending WSR 07-11-030, filed 5/8/07, effective 6/8/07)

WAC 504-26-404 Procedure for academic integrity violations. (1) Initial hearing.

(a) When a responsible instructor finds that a violation of academic integrity has occurred, the instructor shall assemble the evidence and, upon reasonable notice to the student of the date, time, and nature of the allegations, meet with the student suspected of violating academic integrity policies. If the student admits violating academic integrity policies, the instructor assigns an outcome in keeping with published course policies and notifies the office of student conduct in writing (~~(of the)~~), including the allegations, the student's admission, and the sanctions imposed.

(b) If the instructor is unable to meet with the student or if the accused student disputes the allegation(s) and/or the outcome proposed by the instructor, the instructor shall make a determination as to whether the student did or did not violate the academic integrity policy. If the instructor finds that the student was in violation, the instructor shall provide the student and the office of student conduct with a written determination, the evidence relied upon, and the sanctions imposed.

(c) The student has twenty-one days from the date of the decision letter to request review of the instructor's determination and/or sanction(s) imposed to the academic integrity hearing board.

(2) Review.

(a) Upon timely request for review by a student who has been found by his or her instructor to have violated the academic integrity policy, the academic integrity hearing board shall make a separate and independent determination of whether or not the student is responsible for violating the academic integrity policy and/or whether (~~(or not)~~) the outcome proposed by the instructor is in keeping with the instructor's published course policies.

(b) The academic integrity hearing board is empowered to provide an appropriate remedy for a student including arranging a withdrawal from the course, having the student's work evaluated, or changing a grade where it finds that:

(i) The student is not responsible for violating academic integrity policies; or

(ii) The outcome imposed by the instructor violates the instructor's published policies.

(c) Students who appear before the academic integrity board shall have the same rights to notice and to conduct a defense as enumerated in WAC 504-26-403 except:

(i) Notice of hearing and written orders shall be sent to the address provided by the student in the student's request for review (unless an address is not provided therein); and

(ii) The written decision of the academic integrity hearing board is the university's final order. There is no appeal from findings of responsibility or outcomes assigned by university or college academic integrity hearing boards.

(3) If the reported violation is the student's first offense, the office of student conduct ordinarily requires the student to attend a workshop separate from, and in addition to, any academic outcomes imposed by the instructor. A hold is placed on the student's record preventing registration or graduation until completion of the workshop.

(4) If the reported violation is the student's second offense, the student is ordinarily required to appear before a university conduct board with a recommendation that the student be dismissed from the university.

(5) If the instructor or academic integrity hearing board determines that the act of academic dishonesty for which the student is found responsible is particularly egregious in light of all attendant circumstances, the instructor or academic integrity hearing board may direct that the student's case be heard by the university conduct board with a recommendation for dismissal from the university even if it is the student's first offense.

(6) Because instructors and departments have a legitimate educational interest in the outcomes, reports of academic integrity hearing board and/or conduct board hearings shall be reported to the responsible instructor and the chair or dean.

AMENDATORY SECTION (Amending WSR 07-11-030, filed 5/8/07, effective 6/8/07)

WAC 504-26-405 Sanctions. (1) The following sanctions may be imposed upon any student found to have violated the standards of conduct for students:

(a) Warning. A notice in writing to the student that the student is violating or has violated institutional regulations.

(b) Probation. Formal action placing conditions upon the student's continued attendance at the university. Probation is for a designated period of time and warns the student that suspension or expulsion may be imposed if the student is found to violate any institutional regulation(s) or fails to complete his or her conditions of probation during the probationary period. A student on probation is not eligible to run for or hold an office in any student group or organization; she or he is not eligible for certain jobs on campus, including but not

limited to resident advisor or orientation counselor, and she or he is not eligible to serve on the university conduct board.

(c) Loss of privileges. Denial of specified privileges for a designated period of time.

(d) Restitution. Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(e) Education. The university may require the student to successfully complete an educational project designed to create an awareness of the student's misconduct.

(f) Community service. Imposition of service hours (not to exceed eighty hours per student or per member of an organization).

(g) Residence hall suspension. Separation of the student from the residence halls for a definite period of time, after which the student ~~((is))~~ may be eligible to return. Conditions for readmission may be specified.

(h) Residence hall expulsion. Permanent separation of the student from the residence halls.

(i) University suspension. Separation of the student from the university for a definite period of time, after which the student is eligible to ~~((return))~~ request readmission. Conditions for readmission may be specified. ~~((More than two violations of the standards of conduct for students involving alcohol or drugs may result in a suspension of one or more semesters.))~~

(j) University expulsion. Permanent separation of the student from the university.

(k) Revocation of admission and/or degree. Admission to or a degree awarded from the university may be revoked for fraud, misrepresentation, or other violation of law or university standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.

(l) Withholding degree. The university may withhold awarding a degree otherwise earned until the completion of the process set forth in this student conduct code, including the completion of all sanctions imposed, if any.

(m) Trespass. A student may be restricted from any or all university ~~((property))~~ premises based on his or her misconduct.

(n) Loss of recognition. A student organization's recognition may be withheld permanently or for a specific period of time. A fraternity or sorority may be prohibited from housing freshmen. Loss of recognition is defined as withholding university services, privileges or administrative approval from a student organization. Services, privileges and approval to be withdrawn include, but are not limited to, intramural sports (although individual members may participate), information technology services, university facility use and rental, campus involvement office organizational activities, and office of Greek life advising.

(o) Hold on transcript and/or registration. ~~((This is a temporary measure restricting))~~ A hold restricts release of a student's transcript or access to registration until satisfactory completion of conditions or sanctions imposed by a student conduct officer or university conduct board. Upon proof of satisfactory completion of the conditions ~~((of the))~~ or sanctions, the hold is released.

(p) No contact order. A prohibition of direct or indirect physical, verbal, and/or written contact with another individual or group.

(2) More than one of the sanctions listed above may be imposed for any single violation.

(3) In determining an appropriate sanction for a violation of the student conduct code, a student's or student organization's past contacts with the office of student conduct may be considered.

(4) Other than university expulsion or revocation or withholding of a degree, disciplinary sanctions are not made part of the student's permanent academic record, but shall become part of the student's disciplinary record.

~~((4))~~ (5) In cases heard by university conduct boards, sanctions are determined by that board. The student conduct officer has the authority to assign sanctions in any conduct officer hearing ~~((s or cases in which the accused student takes responsibility for violations of the standards of conduct for students))~~.

~~((5))~~ (6) Academic integrity violations.

~~((a))~~ No credit need be given for work that is not a student's own. Thus, in academic integrity violations, the responsible instructor has the authority to assign a grade and/or educational sanction in accordance with the expectations set forth in the relevant course syllabus. The instructor's choices may include, but are not limited to, assigning a grade of "F" for the assignment and/or assigning an educational sanction such as extra or replacement assignments, quizzes, or tests, or assigning a grade of "F" for the course.

~~((b) Instructors do not have authority to suspend or dismiss a student from the university.))~~

AMENDATORY SECTION (Amending WSR 07-11-030, filed 5/8/07, effective 6/8/07)

WAC 504-26-407 Review of decision. (1) A decision reached by the university conduct board or a sanction imposed by the student conduct officer may be appealed by the accused student(s) ~~((to an appellate board))~~ in the manner prescribed in the decision letter containing the university's decision and sanctions. Such appeal must be made within twenty-one days of the date of the decision letter.

(a) The university president or designee, of his or her own initiative, may direct that an appeals board be convened to review a conduct board decision without notice to the parties. However, the appeals board may not take any action less favorable to the accused student(s), unless notice and an opportunity to explain the matter is first given to the accused student(s).

(b) If the accused and/or the office of student conduct ~~((may))~~ wish to explain their views of the matter to the appeals board they shall do so in writing.

(c) The appeals board shall make any inquiries necessary to ascertain whether the proceeding must be converted to a formal adjudicative hearing under the Administrative Procedure Act (chapter 34.05 RCW).

(2) Except as required to explain the basis of new information, an appeal is limited to a review of the verbatim record of the university conduct board hearing and supporting documents for one or more of the following purposes:

(a) To determine whether the university conduct board hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and to present information that the standards of conduct for students were violated, and giving the accused student a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures are not a basis for sustaining an appeal unless significant prejudice results.

(b) To determine whether the decision reached regarding the accused student was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the standards of conduct for students occurred.

(c) To determine whether the sanction(s) imposed were appropriate for the violation of the standards of conduct for students which the student was found to have committed.

(d) To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original student conduct board hearing.

(3) The university appeals board shall review the record and ~~((any briefing filed))~~ all information provided by the parties and make ~~((one of the))~~ determinations based on the following ~~((determinations))~~:

(a) Affirm, reverse or modify the conduct board's decision;

(b) Affirm, reverse, or modify the sanctions imposed by the conduct board.

(4) The appeal board's decision ~~((is entered within twenty calendar days from the date of the appeal letter. By the close of the next business day following entry of the order, the decision is provided to the accused student(s) by personal delivery or deposited into the United States mail addressed to))~~ shall be personally delivered or mailed via U.S. mail to the student. Such decision shall be delivered or mailed to the last known address of the accused student(s). It is the student's responsibility to maintain a correct and updated address with the registrar. The university appeal board's decision letter is the final order and shall advise the student or student organization that judicial review may be available. If the appeal board does not provide the student with a response within twenty days after the request for appeal is received, the request for appeal is deemed denied.

(5) The appeals board decision is effective as soon as the order is signed. A petition to delay the date that the order becomes effective (a "petition for stay") may be directed to the chair of the appeals board within ten days of the date the order was personally delivered to the student or placed in the U.S. mail. The chair shall have authority to decide whether to grant or deny the request.

(6) There is no further review beyond that of the findings of responsibility or outcomes assigned by university or college academic integrity hearing boards.

WSR 07-18-066
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed September 4, 2007, 8:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-11-117.

Title of Rule and Other Identifying Information: The department is amending WAC 388-450-0195 Utility allowances for Basic Food programs and 388-492-0070 How are my Washington combined application program (WASH-CAP) benefits calculated?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling (360) 664-6094, on October 9, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 10, 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 mailto:dshs.rulescoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on October 9, 2007.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS Rules Consultant, by October 2, 2007, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rules provide standards used to determine monthly benefit levels for the Washington Basic Food program and Washington combined application program (WASHCAP). The rules also indicate when a WASHCAP-eligible household may choose to participate in the Basic Food program.

The proposed changes update utility standards for Basic Food, the WASHCAP high cost shelter standard, the WASH-CAP low cost shelter standard, and the WASHCAP shelter threshold. Emergency rules in this filing will be adopted effective October 1, 2007, because federal implementation timeframes do not allow sufficient time to make the changes using the standard adoption process.

Reasons Supporting Proposal: 7 C.F.R. 273.9 (d)(6)(iii) (B) and the approved waiver the department uses to administer the WASHCAP program requires the department to update the standards contained in these rules on an annual basis. The department updates the standards based on the consumer price index (CPI) and adopts new standards effective with the new federal fiscal year each October.

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

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510, 74.08.090.

Rule is necessary because of federal law, 7 C.F.R. 273.9.

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 setting standards used to determine benefit levels for the Washington Basic Food program.

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."

August 28, 2007

Stephanie E. Schiller

Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-21-011, filed 10/6/06, effective 11/6/06)

WAC 388-450-0195 Utility allowances for Basic Food programs. (1) For Basic Food, "utilities" include the following:

- (a) Heating or cooling fuel;
(b) Electricity or gas;
(c) Water or sewer;
(d) Well or septic tank installation/maintenance;
(e) Garbage/trash collection; and
(f) Telephone service.

(2) The department uses the amounts below if you have utility costs separate from your rent or mortgage payment. We add your utility allowance to your rent or mortgage payment to determine your total shelter costs. We use total shelter costs to determine your Basic Food benefits.

(a) If you have heating or cooling costs, you get a standard utility allowance (SUA) that depends on your assistance unit's size.

Table with 2 columns: Assistance Unit (AU) Size and Utility Allowance. Rows include 1, 2, 3, 4, 5, and 6 or more with corresponding allowance values like \$((298)) 328.

(b) If your AU does not qualify for the SUA and you have any two utility costs listed above, you get a limited utility allowance (LUA) of two hundred ((thirty-eight)) fifty-nine dollars.

(c) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of ((thirty-eight)) forty dollars.

AMENDATORY SECTION (Amending WSR 06-21-011, filed 10/6/06, effective 11/6/06)

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

- (1) We begin with your gross income.
- (2) We subtract one hundred thirty-four dollars from your gross income to get your countable income.
- (3) We figure your shelter cost based on information we receive from Social Security Administration (SSA), unless you report a change as described under WAC 388-492-0080. If you pay:
 - (a) ~~((Three hundred forty-two))~~ Two hundred seventy-five dollars or more a month for shelter, we use three hundred ~~((fifty-four))~~ sixty-six dollars as your shelter cost; or
 - (b) Less than ~~((three hundred forty-two))~~ two hundred seventy-five dollars for shelter, we use one hundred ~~((seventy-one))~~ seventy-six dollars as your shelter cost; and
 - (c) We add the current ~~((limited))~~ standard utility allowance under WAC 388-450-0195 to determine your total shelter cost.
- (4) We figure your shelter deduction by subtracting one half of your countable income from your shelter cost.
- (5) We figure your net income by subtracting your shelter deduction from your countable income and rounding the resulting figure up from fifty cents and down from forty-nine cents to the nearest whole dollar.
- (6) We figure your WASHCAP food benefits (allotment) by:
 - (a) Multiplying your net income by thirty percent and rounding up to the next whole dollar; and
 - (b) Subtracting the result from the maximum allotment under WAC 388-478-0060.
 - (c) If you are eligible for WASHCAP, you will get at least ten dollars in food benefits each month.

WSR 07-18-067
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 [Filed September 4, 2007, 8:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-12-060.

Title of Rule and Other Identifying Information: WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on October 9, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 10, 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 DSHSRULES.COORDINATOR@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., October 9, 2007.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS Rules Consultant, by October 2, 2007, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amendments are necessary to increase the state supplemental payment by \$1.77 per month for state supplemental income (SSI) clients who reside in nursing facilities, residential habilitation centers, or state hospitals and who receive a personal needs allowance.

Reasons Supporting Proposal: The amendments are required by chapter 522, Laws of 2007, signed by Governor Christine O. Gregoire on May 15, 2007.

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

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.08.090.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sharon Fedder, Lacey Government Center, 1009 College Street, (360) 725-4517.

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 increasing the state supplemental payment by \$1.77 per month.

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."

August 27, 2007

Stephanie E. Schiller
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-16-071, filed 7/28/06, effective 8/28/06)

WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)? (1) The SSP is a payment from the state for certain SSI eligible people (see WAC 388-474-0012).

If you converted to the federal SSI program from state assistance in January 1974, because you were aged, blind, or disabled, and have remained continuously eligible for SSI since January 1974, the department calls you a grandfathered client. Social Security calls you a mandatory income level (MIL) client.

A change in living situation, cost-of-living adjustment (COLA) or federal payment level (FPL) can affect a grandfa-

thered (MIL) client. A grandfathered (MIL) client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:

(a) The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal cost-of-living adjustments (COLA) since then; or

(b) The current payment standard.

(2) The monthly SSP rates for eligible persons under WAC 388-474-0012 and individuals residing in an institution are:

SSP eligible persons	Monthly SSP Rate
Individual (aged 65 and older)((--Calendar Year 2005))	\$46.00
Individual (blind as determined by SSA)((--Calendar Year 2005))	\$46.00
Individual with an ineligible spouse((--Calendar Year 2005))	\$46.00
Grandfathered (MIL)	Varies by individual based on federal requirements. Payments range between \$0.54 and \$199.77.
Medical institution	Monthly SSP Rate
Individual	\$(23.68) <u>25.45</u>

WSR 07-18-068
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 [Filed September 4, 2007, 8:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-11-117.

Title of Rule and Other Identifying Information: The department is amending: WAC 388-450-0185 Does the department count all of my income to determine my eligibility and benefits for Basic Food?, 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food?, and 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on October 9, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 10, 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 DSHSRULES

COORDINATOR@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on October 9, 2007.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS Rules Consultant, by October 2, 2007, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rules provide standards used to determine monthly benefit levels for the Washington Basic Food program and Washington combined application program (WASHCAP).

The proposed changes update income and deduction standards used for Basic Food and WASHCAP as required under regulations for the food stamp program. Emergency rules in this filing will be adopted effective October 1, 2007, because federal implementation timeframes do not allow sufficient time to make the changes using the standard adoption process.

Reasons Supporting Proposal: 7 C.F.R. 273.9 requires the department to update the standards contained in these rules on an annual basis. The department updates these standards as provided by the United States Department of Agriculture, Food and Nutrition Service (FNS). FNS requires these changes to be effective with the new federal fiscal year each October.

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

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510, and 74.08.090.

Rule is necessary because of federal law, 7 C.F.R. 273.9

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) 725-4116.

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 setting standards used to determine eligibility and benefit levels for the Washington Basic Food program.

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."

August 28, 2007
 Stephanie E. Schiller
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-21-012, filed 10/6/06, effective 11/6/06)

WAC 388-450-0185 Does the department count all of my income to determine my eligibility and benefits for Basic Food? We subtract the following amounts from your assistance unit's (AU's) countable income before we determine your Basic Food benefit amount:

(1) A standard deduction based on the number of people in your AU under WAC 388-408-0035:

Eligible and ineligible AU members	Standard deduction
1	\$134
2	\$134
3	\$134
4	\$ (139) <u>143</u>
5	\$ (162) <u>167</u>
6 or more	\$ (186) <u>191</u>

(2) Twenty percent of your AU's gross earned income (earned income deduction);

(3) Your AU's expected monthly dependent care expense as described below:

(a) The dependent care must be needed for AU member to:

- (i) Keep work, look for work, or accept work;
- (ii) Attend training or education to prepare for employment; or
- (iii) Meet employment and training requirements under chapter 388-444 WAC.

(b) We subtract allowable dependent care expenses that are payable to someone outside of your AU:

- (i) Up to two hundred dollars for each dependent under age two; and
- (ii) Up to one hundred seventy-five dollars for each dependent age two or older.

(4) Medical expenses over thirty-five dollars a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200.

(5) Legally obligated current or back child support paid to someone outside of your AU:

- (a) For a person who is not in your AU; or
- (b) For a person who is in your AU to cover a period of time when they were not living with you.

(6) A portion of your shelter costs as described in WAC 388-450-0190.

AMENDATORY SECTION (Amending WSR 06-21-012, filed 10/6/06, effective 11/6/06)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food? The department calculates your shelter cost income deduction as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties or mortgage payments you make ahead of time as an allowable cost. We count the following expenses as an allowable shelter cost in the month the expense is due:

- (a) Monthly rent, lease, and mortgage payments;
- (b) Property taxes;
- (c) Homeowner's association or condo fees;
- (d) Homeowner's insurance for the building only;
- (e) Utility allowance your AU is eligible for under WAC 388-450-0195;

(f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:

- (i) AU intends to return to the home;
- (ii) AU has current occupants who are not claiming the shelter costs for Basic Food purposes; and
- (iii) AU's home is not being leased or rented during your AU's absence.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (1) through (5) from your AU's gross income. The result is your AU's net income.

(3) Finally, we subtract one-half of your AU's net income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of four hundred ~~((seventeen))~~ thirty-one dollars if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over four hundred ~~((seventeen))~~ thirty-one dollars.

AMENDATORY SECTION (Amending WSR 06-21-012, filed 10/6/06, effective 11/6/06)

WAC 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food? If your assistance unit (AU) meets all other eligibility requirements for Basic Food, your AU must have income at or below the limits in column B and C to get Basic Food, unless you meet one of the exceptions listed below. The maximum monthly food assistance benefit your AU could receive is listed in column D.

EFFECTIVE ~~((10-1-2006))~~ 10-1-2007

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$ ((1062)) <u>1,107</u>	\$ ((817)) <u>851</u>	\$ ((155)) <u>162</u>	\$ ((1348)) <u>1,404</u>
2	((1430)) <u>1,484</u>	((1100)) <u>1,141</u>	((284)) <u>298</u>	((1815)) <u>1,883</u>

EFFECTIVE ~~((10-1-2006))~~ 10-1-2007

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
3	((1799)) <u>1,861</u>	((1384)) <u>1,431</u>	((408)) <u>426</u>	((2283)) <u>2,361</u>
4	((2167)) <u>2,238</u>	((1667)) <u>1,721</u>	((518)) <u>542</u>	((2750)) <u>2,840</u>
5	((2535)) <u>2,615</u>	((1950)) <u>2,011</u>	((615)) <u>643</u>	((3218)) <u>3,318</u>
6	((2904)) <u>2,992</u>	((2234)) <u>2,301</u>	((738)) <u>772</u>	((3685)) <u>3,797</u>
7	((3272)) <u>3,369</u>	((2517)) <u>2,591</u>	((816)) <u>853</u>	((4153)) <u>4,275</u>
8	((3640)) <u>3,746</u>	((2800)) <u>2,881</u>	((932)) <u>975</u>	((4620)) <u>4,754</u>
9	((4009)) <u>4,123</u>	((3084)) <u>3,171</u>	((1049)) <u>1,097</u>	((5088)) <u>5,233</u>
10	((4378)) <u>4,500</u>	((3368)) <u>3,461</u>	((1166)) <u>1,219</u>	((5556)) <u>5,712</u>
Each Additional Mem- ber	((+369)) <u>+377</u>	((+284)) <u>+290</u>	((+117)) <u>+122</u>	((+468)) <u>+479</u>

Exceptions:

(1) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C. We do budget your AU's income to decide the amount of Basic Food your AU will receive.

(2) If your AU includes a member who is sixty years of age or older or has a disability, your income must be at or below the limit in column C only.

(3) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E to decide if you can be a separate AU.

(4) If your AU has zero income, your benefits are the maximum allotment in column D, based on the number of eligible members in your AU.

WSR 07-18-069

WITHDRAWAL OF PROPOSED RULES

GAMBLING COMMISSION

(By the Code Reviser's Office)

[Filed September 4, 2007, 9:33 a.m.]

WAC 230-10-180 and 230-10-235, proposed by the gambling commission in WSR 07-05-018 appearing in issue 07-05 of the State Register, which was distributed on March 7, 2007, 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 07-18-070

PROPOSED RULES

**DEPARTMENT OF
FISH AND WILDLIFE**

[Filed September 4, 2007, 10:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-15-027.

Title of Rule and Other Identifying Information: WAC 220-130-040 Review and selection process, describes the review and selection process for the aquatic lands enhancement account (ALEA).

Hearing Location(s): Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98504, on October 12 and 13, 2007, at 8:00 a.m.

Date of Intended Adoption: November 2 and 3, 2007.

Submit Written Comments to: Josh Nicholas, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail alea@dfw.wa.gov, fax (360) 902-2183, by October 11, 2007.

Assistance for Persons with Disabilities: Contact Susan Yeager by TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to change the application period in WAC 220-130-040(2) from January 2 through March 31 to December 1 through February 28.

Reasons Supporting Proposal:

- Agency personnel will have time to perform a more thorough review of ALEA proposals.
- The contracts office will have additional time to prepare contracts prior to the July 1 start date of ALEA projects.

- Applicants who received grant awards will have an additional month for project planning.
- Applicants who are not selected for a grant will have additional time to seek alternative funding for their projects.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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: Josh Nicholas, Fish Program, 1111 Washington Street S.E., Olympia, WA, (360) 902-2685; Implementation: Lew Atkins, Fish Program, 1111 Washington Street S.E., Olympia, WA, (360) 902-2651; and Enforcement: Bruce Bjork, Enforcement Program, 1111 Washington Street S.E., Olympia, WA, (360) 902-2929.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule change will not impose costs on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule does not affect hydraulics.

September 4, 2007

Loreva M. Preuss
Rules Coordinator

AMENDATORY SECTION (Amending Order 03-306, filed 12/11/03, effective 1/11/04)

WAC 220-130-040 Review and selection process. (1)

The application method is on application forms provided by the department specifically for this purpose. Application forms will be available by request from the Olympia headquarters and at all regional offices of the department.

(2) Applications for projects will be accepted each year during the open application period of (~~January 2 through March 31~~) December 1 through February 28.

(a) Applications accepted prior to the start of a biennium may be for project funding for one or both years of the ensuing biennium.

(b) Applications accepted during the first year of a biennium will be for project funding in the second year of a biennium.

(3) The funding decision deadline is May 31 of the year of application.

(4) Exceptions to the funding deadline dates will only be allowed in the event of applications for volunteer projects which are responsive to an emergency situation which may arise and which has been declared to be an emergency by the director.

(5) The department will send each applicant, within forty-five days of receipt of each application, a written acknowledgment of the receipt of the application and give the applicant an estimated date when notification of acceptance or rejection of the proposal can be expected. The written acknowledgment will also provide the department's selection criteria and a general description of the review and selection process. Final decisions and notification of acceptance or rejection of proposals where funding is requested will be

made only after the biennial budget is passed by the legislature and signed by the governor.

(6) The department will determine when a proposed project might affect the management programs of federal, other state, and local agencies and of treaty tribes and will make contact with these entities, when the department determines that it is appropriate to do so, during the review and selection process. If the department determines that ongoing coordination between a volunteer group and another agency or tribe would be appropriate, it may be required as a condition of the agreement, when issued.

(7) The department may provide suggested modifications to the proposal which would increase its likelihood of approval together with the name and telephone number of the person within the department responsible for monitoring the review of the proposal.

WSR 07-18-073

PROPOSED RULES

SUPERINTENDENT OF

PUBLIC INSTRUCTION

[Filed September 4, 2007, 11:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-14-001.

Title of Rule and Other Identifying Information: WAC 392-121-188 Instruction provided under contract.

Hearing Location(s): Office of the Superintendent of Public Instruction, Old Capitol Building, 600 South Washington, Olympia, WA, on October 10, 2007, at 10:30 a.m.

Date of Intended Adoption: October 11, 2007.

Submit Written Comments to: Mitch Thompson, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, e-mail Mitch.Thompson@k12.wa.us, fax (360) 725-6306, by September 14, 2007.

Assistance for Persons with Disabilities: Contact Clarice Nnanabu, TTY (360) 664-3631 or (360) 725-6271.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To modify the WAC to allow community and technical colleges to be able to report at-risk students who are taking high school level courses by course credits rather than by the amount of seat time for the class.

Reasons Supporting Proposal: Community and technical colleges are serving high school at-risk and drop-out students. Presently, the rules make them report the students on a seat-time basis, instead of a credit type basis. These colleges don't track seat time, so this becomes a huge burden to them. This rule changes the FTE calculation for these at-risk and drop-out students to make it easier for the colleges to claim the students for funding.

Statutory Authority for Adoption: RCW 28A.150.290 (1).

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

Name of Proponent: Office of superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Mitch Thompson, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6306; Implementation: Calvin W. Brodie, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6300; and Enforcement: Jennifer Priddy, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6292.

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.

Dr. Terry Bergeson
State Superintendent

AMENDATORY SECTION (Amending Order 99-01, filed 3/25/99, effective 4/25/99)

WAC 392-121-188 Instruction provided under contract. School districts have general authority to contract for the services of individuals to provide instruction, subject to applicable state and federal laws and local collective bargaining agreements. School districts also have authority to enter into interdistrict cooperative agreements for instructional services with other school districts under RCW 28A.225.250. However, when a school district contracts with an entity other than a school district and that entity employs staff to provide basic education instruction claimed by the school district for state basic education funding, the requirements of this section also apply. Instruction provided by such an entity (hereafter called the contractor) may be counted as a course of study and claimed by the school district for state funding if the following requirements are met:

(1) The school district board of directors in accordance with RCW 28A.320.015 adopts a resolution that concludes it is in the best interest of the students to expand the options available by providing an appropriate basic education program pursuant to the contract and sets forth the rationale in support of the conclusion;

(2) The school district retains full responsibility for compliance with all state and federal laws;

(3) The contractor complies with all relevant state and federal laws that are applicable to the school district;

(4) The contractor provides instruction free of sectarian or religious influence or control.

(5) The contractor serves the students at no cost to the student for tuition and fees and enrollment is voluntary and no student or person is unlawfully excluded from participation on the grounds of race, creed, color, national origin, sex, marital status, or presence of any sensory, mental, or physical handicap;

(6) Each student is enrolled in the school district reporting the enrollment and each high school student is working toward course credits which satisfy high school graduation requirements;

(7) If the contractor is a state higher education institution, a state funded education center, or any other state funded entity, the contractor is not claiming enrollment of the student or receiving direct state support for the contracted instruction reported pursuant to this section.

(8) The curriculum is approved by the district;

(9) The contractor provides enrollment reports to the school district that comply with this chapter;

(10) The contractor maintains and has available for audit or review by the school district, state, or federal authorities documentation of enrollment, hours of instructional activity participated in by the students, personnel data, and financial data including all revenues and expenditures pertaining to the contract with the school district;

(11) If a contractor other than an institution of higher education at any time during the school year serves more than twenty-five students which equals more than one quarter of one percent (.0025) of the district's annual average full-time equivalent enrollment claimed for basic education funding the school district reports the certificated instructional employees of the contractor funded with any state moneys or federal moneys that flow through the school district as required by the SPI annual personnel reporting system for calculation of state funding, staff ratios and statistics;

(12) If the contract is with an entity other than an institution of higher education, for the students served pursuant to the contract, the contractor maintains a ratio of full-time equivalent certificated instructional staff serving the annual average full-time equivalent students reported for basic education funding pursuant to this section which is at least equal to the district's basic education funding ratio for the grade level of the students being reported for basic education funding pursuant to this section;

(13) The school district and contractor execute a written contract which is consistent with this section, and which sets forth the duties of the contractor in detail sufficient to hold the contractor accountable to the school district;

(14) The school district and contractor establish a process for periodic on-site monitoring by the school district for compliance with this section and other terms of the contract between the school district and contractor;

(15) Contracts for services for students with disabilities shall comply with WAC 392-172-220 and 392-172-222;

(16) Full-time equivalent enrollment reported for students served under a contract with a higher education institution shall be based on the number of hours of instruction meeting the criteria in WAC 392-121-107 (1)(a) provided by staff of the higher education institution under the contract. This section does not apply to running start enrollment, which is governed by chapter 392-169 WAC or at-risk programs meeting the standards of subsection (18) of this section; and

(17) When a school district contracts for an alternative learning experience program and the contractor exercises primary responsibility for the student's written learning plan, the program shall be for academically at-risk students and shall comply with RCW 28A.150.305. Enrollment in these programs shall be reported pursuant to WAC 392-121-182.

(18) Full-time equivalent enrollment reported for students served under contract with a community or technical college as defined in RCW 28B.50.030 shall be based on the credits generated by the student consistent with WAC 392-169-025 if the program meets the following standards:

(a) The student is earning credits applicable to a high school diploma.

(b) The program is focused on serving credit deficient students.

(c) The student population served is considered at-risk and meet the following criteria:

(i) The students have already dropped out of high school:
or

(ii) The students have not demonstrated success in the traditional high school environment.

WSR 07-18-074

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed September 4, 2007, 11:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-14-069.

Title of Rule and Other Identifying Information: WAC 392-122-205 State institutional education program—Eligible programs.

Hearing Location(s): Old Capitol Building, 600 South Washington, Olympia, WA 98504-7200, on October 10, 2007, at 10:00 a.m.

Date of Intended Adoption: October 11, 2007.

Submit Written Comments to: Mitch Thompson, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, e-mail mitch.thompson@k12.wa.us, fax (360) 664-3683, by September 14, 2007.

Assistance for Persons with Disabilities: Contact Clarice Nnanabu by September 14, 2007, TTY (360) 664-3631 or (360) 725-6271.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To revise current rules to allow the opportunity for institutional funding monies to be paid to a school district where the services for the staffed residential rehabilitation home residents occurs in a school operated facility rather than at the rehabilitation home.

Reasons Supporting Proposal: Some of these homes do not have the classroom space for effective learning for the students living there. The residence isn't always the least restrictive environment for the student.

Statutory Authority for Adoption: RCW 28A.150.290.

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

Name of Proponent: Office of superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Mitch Thompson, Office of Superintendent of Public Instruction, (360) 725-6306; Implementation: Calvin W. Brodie, Office of Superintendent of Public Instruction, (360) 725-6300; and Enforcement: Jennifer Priddy, Office of Superintendent of Public Instruction, (360) 725-6292.

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. This rule is not applicable to nongovernmental agencies.

Dr. Terry Bergeson
State Superintendent

AMENDATORY SECTION (Amending WSR 05-15-127, filed 7/18/05, effective 8/18/05)

WAC 392-122-205 State institutional education program—Eligible programs. Programs supported as state institutional education programs include those provided in:

(1) State operated group homes—i.e., facilities maintained by the division of juvenile rehabilitation of the department of social and health services to house adjudicated youth twenty-four hours a day;

(2) Juvenile detention centers—i.e., facilities meeting the definition of a "detention facility" in RCW 13.40.020.

(3) Institutions for juvenile delinquents—i.e., facilities maintained by the division of juvenile rehabilitation of the department of social and health services for the diagnosis, confinement and rehabilitation of juveniles committed by the courts.

(4) Residential habilitation centers—i.e., facilities maintained by the division of developmental disabilities of the department of social and health services for care and treatment of persons with exceptional needs by reason of mental and/or physical deficiency.

Programs providing educational services to youth in a residential rehabilitation center may include services provided at facilities controlled and operated by the school district providing those services.

(5) Adult correctional facilities housing juveniles—i.e., facilities maintained by the state department of corrections for juvenile inmates under eighteen years of age.

WSR 07-18-075

PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

[Filed September 4, 2007, 11:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-07-110.

Title of Rule and Other Identifying Information: WAC 232-12-073 Advanced hunter education.

Hearing Location(s): Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98504, on October 12 and 13, 2007, at 8 a.m.

Date of Intended Adoption: On or after November 2-3, 2007.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail preuslmp@dfw.wa.gov, fax (360) 902-2155, by October 11, 2007.

Assistance for Persons with Disabilities: Contact Susan Yeager, TTY (360) 902-2207 or (360) 902-2267.

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

Reasons Supporting Proposal: The department wants master hunters to be held accountable if these hunters violate fish and wildlife rules and statutes. The department also wants to be able to determine the requirements and cost of the three levels comprising the advanced hunter education program.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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: Mik Mikitik, 1111 Washington Street, Olympia, (360) 902-8113; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

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

A cost-benefit analysis is not required under RCW 34.05.328. These proposals do not affect hydraulics.

September 4, 2007

Loreva M. Preuss
Rules Coordinator

AMENDATORY SECTION (Amending Order 02-298, filed 12/13/02, effective 1/13/03)

WAC 232-12-073 Advanced hunter education. (1) In order to provide for additional hunting opportunity, on species, in areas, or at times when a higher proficiency and demonstrated skill level is needed for resource protection or public safety, the department establishes the advanced hunter education program. Persons who successfully pass the master hunter level of advanced hunter education are entitled to exercise the privileges of participation in special hunts restricted to master hunters. It is unlawful for any person to participate in a hunt restricted to master hunters if such person has not successfully passed the advanced hunter education master hunter course and such person possesses a valid master hunter identification card while participating in such a hunt ~~(, and)~~. It is unlawful to participate in a hunt restricted to master hunters if the person's master hunter status has been suspended or revoked. Violation of this subsection shall be enforced under RCW 77.15.400 (1)(c) for wild birds, RCW 77.15.410 (1)(b) for big game, and RCW 77.15.430 (1)(b) for wild animals other than big game.

(2) The advanced hunter education program has three levels, ~~((with the following proficiency requirements:))~~ described below. The department will determine the enrollment fee and prerequisites required for each level. Master

hunters will be required to sign and abide by a code of ethics, in addition to abiding by all department laws and regulations.

(a) Sharpshooter education: This program emphasizes marksmanship, with the goal of humanely ~~((killing))~~ harvesting game animals with the least number of shots. ~~((Successful graduates of the sharpshooter course must demonstrate above average shooting skills. The cost of applying for sharpshooter education is five dollars, and))~~ On successfully passing sharpshooter education, each graduate will receive a certificate of completion and an advanced hunter education patch.

(b) Conservationist education: This program emphasizes landowner relations, habitat ~~((restoration))~~ improvement, and land use practices that maximize ~~((protection for wildlife))~~ wise resource use. ~~((Successful graduates of the conservationist course will have spent a minimum of twelve hours participating in landowner sportsman or wildlife-related projects. The cost of applying for conservationist education is five dollars, and))~~ Participants must complete a project to successfully pass this program. All projects require advance approval and must meet the minimum criteria established by the department. On successfully passing conservationist education, each graduate will receive a certificate of completion and an advanced hunter education patch.

(c) Master hunter education: In addition to both sharpshooter and conservationist education, the master hunter program emphasizes ethical behavior while hunting, a detailed knowledge of hunting statutes and rules, and specialized knowledge in how to hunt in damage-control hunts that successfully remove problem animals while maximizing public safety. ~~((Both extensive home study and passing a rigorous test are prerequisites for achieving the master hunter graduate status. The cost of applying for master hunter education is twenty dollars, and))~~ On successfully passing master hunter education, each graduate will be issued a certificate, an advanced hunter education patch, and a master hunter identification card. The master hunter identification card is valid for five consecutive years from the date of issuance. The card will be renewed for an additional five years if, during the period of validity, the master hunter education graduate completes ~~((twelve hours of conservationist education, consisting of participating in landowner sportsman or wildlife-related projects))~~ further education as determined by the department.

(3) Master hunters are held to the highest ethical standards ~~((while hunting,))~~ and are expected to respect all ~~((recreational and trapping))~~ laws. Accordingly, the master hunter candidate shall submit a completed criminal history check, performed at the master hunter's expense, along with the master hunter's application. Thereafter, should a master hunter violate ~~((the trapping or recreational fishing or hunting))~~ fish and wildlife laws, trespass laws, or reckless endangerment laws involving hunting weapons, that person's master hunter status will be suspended or revoked as provided in this subsection. The grounds for suspension and revocation are proof by a preponderance of the evidence that the master hunter has committed a violation of law. A criminal conviction is a rebuttable presumption that the violation occurred. Any person who has master hunter status revoked or suspended under this subsection has the right to an administrative hearing to contest the agency action, and such hearing will be held pur-

suant to chapter 34.05 RCW, the Administrative Procedure Act.

(a) A two-year suspension of master hunter status will be imposed for any ~~((hunting or hunting-related violation))~~ conviction of a first-time law violation listed in this subsection.

(b) A ~~((five-year suspension))~~ lifetime revocation of master hunter status ~~((and a requirement to retake the master hunter course))~~ will be imposed for:

(i) ~~((Any resulting in a suspension of recreational hunting or fishing privileges or in a trapping privilege suspension))~~ A subsequent conviction of a law violation listed in this subsection;

(ii) Any violations that involve two or more big game animals; ~~((or))~~

(iii) Any violation that involves twice or more the daily limit of game or fish ~~((-))~~; or

~~((c))~~ A lifetime revocation of master hunter status will be imposed for:

~~((i))~~ Any conviction resulting in a second suspension of hunting or fishing privileges or in a second trapping privilege suspension;

~~((ii))~~ (iv) Any violation that occurs while the master hunter's recreational hunting or fishing privileges, trapping privileges, or master hunter status is suspended((-or

~~((iii))~~ Any violations that involve three or more big game animals)).

(c) An advanced hunter education peer review committee will review any ethical violations by master hunters where the behavior does not rise to the level of a violation of law. If the peer review committee decides that an ethical violation is egregious, the department may determine whether to suspend or revoke the violator's master hunter status for a two-year period.

(d) A conviction as used in this section is defined in RCW 77.15.050.

WSR 07-18-077

PROPOSED RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Filed September 4, 2007, 2:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-07-050, 07-08-062, and 07-09-053.

Title of Rule and Other Identifying Information: WAC 220-44-020 through 220-44-100, 220-69-230, and 220-69-250, coastal commercial bottomfish rules, and requirements for purchasers and receivers of bottomfish.

Hearing Location(s): Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98504, on October 12-13, 2007, at 8 a.m.

Date of Intended Adoption: On or after November 2-3, 2007.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail preuslmp@dfw.wa.gov, fax (360) 902-2155, by October 11, 2007.

Assistance for Persons with Disabilities: Contact Susan Yeager, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed changes will enable Washington's rules to match federal regulations. The changes also will facilitate marketplace tracking and quota accounting.

Reasons Supporting Proposal: Washington's rules for the coastal commercial bottomfish industry do not meet current federal regulatory requirements. One of these requirements is 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. Changes to these rules will allow Washington to comply.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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: Mike Cenci, 1111 Washington Street, Olympia, (360) 642-5350; Implementation: Lew Atkins, 1111 Washington Street, Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

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

Small Business Economic Impact Statement

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: With one exception, proposed rule changes were meant only to provide clarity to existing regulations. Also, many state groundfish and highly migratory species regulations mirror federal regulations and incorporate the federal rules by reference in the Washington Administrative Code. The proper Code of Federal Regulations and incorporation language was added as reference for each area of regulatory concern: (a) Catch limits; (b) areas; and (c) gear.

The changes also propose a new requirement for fishermen to maintain a copy of submitted trawl logbooks.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply With Such Requirements: None; commercial fishermen typically maintain these records anyway. They will now have to submit them for inspection, to demonstrate catch compliance and records-submittal compliance.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: None anticipated.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

A. Cost per employee;

B. Cost per hour of labor; or

C. Cost per one hundred dollars of sales.

There are no anticipated costs of compliance.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for Not Doing So: Enforcement personnel have been making field contacts with purchasers and receivers to provide direction and to determine where the confusion lies in the rules, which is hindering compliance. No costs are anticipated from these clarifying proposals.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The department will hold a public hearing on the proposed rules at the fish and wildlife commission meeting in October. This will allow small businesses and the public the opportunity to provide additional comments on the rule change proposals.

8. A List of Industries That Will Be Required to Comply with the Rules: All original purchasers and receivers of fish and shellfish and commercial fishermen who catch groundfish.

A copy of the statement may be obtained by contacting Lori Preuss, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail preuslmp@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These proposals do not affect hydraulics.

September 4, 2007
Loreva M. Preuss
Rules Coordinator

AMENDATORY SECTION (Amending Order 01-36, filed 3/13/01, effective 4/13/01)

WAC 220-44-020 Coastal baitfish gear. It is unlawful to fish for or possess smelt, anchovies, candlefish, herring, or pilchard taken for commercial purposes from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, ~~((59A))~~ 59A-1, 59A-2, 59B, 60A-1, or ((60A)) 60A-2, except as provided for in this section.

(1)(a) It is unlawful to fish for or possess smelt taken for commercial purposes except by hand net gear not exceeding 72 inches maximum frame width. It is unlawful to take smelt for commercial purposes during weekly closed periods from 8:00 a.m. Friday to 8:00 a.m. Sunday.

(b) Licensing: A smelt dip bag net fishery license is the license required to operate the gear provided for in this section.

(c) Incidental catch: It is lawful to retain only anchovies and candlefish taken incidental to a lawful smelt fishery.

(2)(a) It is unlawful to fish for or possess candlefish or anchovies taken for commercial purposes with any gear except purse seine or lampara not exceeding 1,400 feet in length nor having mesh size less than 1/2 inch, or dip bag net not exceeding 72 inches maximum frame width.

(b) Licensing:

(i) A baitfish lampara fishery license is the license required to operate the lampara gear provided for in this section.

(ii) A baitfish purse seine fishery license is the license required to operate the purse seine gear provided for in this section.

(iii) A smelt dip bag net fishery license is the license required to operate the hand dip net gear provided for in this section.

(c) Incidental catch: It is lawful to retain only shad and pilchard taken incidental to a lawful anchovy or candlefish fishery. Pilchard may not exceed twenty-five percent of the weight of the landing. Any sturgeon must be released unharmed.

(3)(a) It is unlawful to fish for or possess herring or pilchard taken for commercial purposes except as authorized by permit issued by the director, except pilchard taken incidental to candlefish and anchovy.

(b) Licensing:

(i) An emerging commercial fishery license is the license required for a permittee to fish for or retain pilchard.

(ii) Herring dip bag net, herring drag seine, herring gill net, herring lampara, or herring purse seine are the licenses required for a permittee to fish for or to retain herring.

(4)(a) Violation of licensing requirements under this section is punishable pursuant to RCW 77.15.500.

(b) Violation of gear requirements under this section is punishable pursuant to RCW 77.15.520.

(c) Violation of catch requirements under this section is punishable pursuant to RCW 77.15.550.

AMENDATORY SECTION (Amending Order 00-266, filed 12/29/00, effective 1/29/01)

WAC 220-44-030 Coastal bottomfish gear. ~~(1)(a)~~ It is unlawful to take, fish for, possess, transport through the waters of the state, or land in any Washington state ports, bottomfish taken for commercial purposes in ~~((Marine Fish-Shellfish Management and Catch Reporting Areas 59A, 59B, 60A-1 and 60A-2 and that portion of Area 58 within the United States 200-mile Fishery Conservation Zone with any gear except as provided in this section:~~

~~(4))~~ violation of gear requirements published in the Code of Federal Regulations (CFR), Title 50, Part 660, Subpart G. This subpart provides requirements for commercial groundfish fishing in the Pacific Ocean. Additional regulations may be listed in the Federal Register, and these override the CFR if there are any inconsistencies. Prior to using coastal bottomfish gear, a person must consult both the Federal Register and the CFR. This chapter, chapter 220-44 WAC, adopts the federal regulations imposed by the CFR and the Federal Register, and it incorporates those regulations by reference. Where rules refer to the fishery management area, that area is extended to include Washington state waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Lori Preuss at 360-902-2930, or going on the internet at www.pcouncil.org. State regulations may apply that are more restrictive than federal regulations.

(b) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.520.

(2) Otter trawl and beam trawl.

(a) It is unlawful to use, operate, or carry aboard any fishing vessel otter trawl gear having meshes measuring less than 3 inches anywhere in the net.

(b) It is unlawful to use or operate any bottom roller or bobbin trawl having meshes less than 4.5 inches anywhere in the net. Rollers, bobbins, or discs used in roller or bobbin trawls must be a minimum of 14 inches in diameter.

(c) It is unlawful to use or operate a pelagic trawl with meshes less than 3.0 inches anywhere in the net. Footropes of pelagic trawls must be less than 1.75 inches in diameter, including twine necessary for seizing material. ~~((Sweep lines))~~ Sweep lines, including the bottom leg of the bridle, must be bare.

(d) ~~((For at least 20 feet immediately behind the footrope or headrope, bare rope or mesh of 16-inch minimum mesh size must))~~ It is unlawful to use or operate a pelagic trawl net unless bare rope or webbing with an individual mesh size no smaller than 16 inches completely encircles the net immediately behind the footrope or headrope for at least 20 feet. A band of mesh may encircle the net under transfer cables, or lifting or splitting straps (chokers), but the band must be: Over riblines and restraining straps; of the same mesh size, and coincide knot-to-knot with the net to which it is attached; and no wider than 16 meshes.

(e) It is unlawful to use or operate a trawl net that has chafing gear ((may encircle no)) encircling more than 50 percent of the circumference of any bottom, roller, bobbin, or pelagic trawl, except as specified in (d) of this subsection. No section of chafing gear may be longer than 50 meshes of the body of the net to which it is attached. Except at the corners, the terminal end of each section of chafing gear must not be connected to the net. Chafing gear must be attached outside any ~~((rib lines))~~ rib lines and restraining straps. There is no limit on the number of sections of chafing gear on a net.

(f) It is unlawful to use double-wall ~~((cod ends))~~ cod ends in any trawl gear.

(g) Licensing: ~~((A food fish trawl—non-Puget Sound fishery license is the license required to operate the gear provided for in this section.))~~ A food fish trawl, non-Puget Sound fishery license is the license required to operate the gear provided for in this section. Additionally, a federal limited entry permit is required in Areas ~~((59A))~~ 59A-1, 59A-2, 59B, 60A-1, and 60A-2, and that portion of Area ~~((58))~~ 58B within the Exclusive Economic Zone.

(h) ~~((Area restriction: It is unlawful to use otter trawl or beam trawl gear in state territorial waters (0-3 miles) within Areas 58A, 58B, 59A, 59B, 60A-1 or 60A-2.~~

~~((2))~~ Violation of licensing requirements under this subsection is punishable pursuant to RCW 77.15.500.

(i) Violation of gear requirements under this subsection is punishable pursuant to RCW 77.15.520.

(3) Set lines.

(a) It is unlawful for the operator of set lines to leave such gear unattended, unless ~~((marked as provided in WAC 220-20-010(5)).~~ Set lines must be attended at least once every seven days. Set lines must be marked at the surface at each terminal end with a pole, flag, light, radar reflector, and a buoy displaying clear identification of the owner or operator ~~((the following requirements are met:))~~

(i) Gear must be marked with a buoy. The buoy must have affixed to it in a visible and legible manner a department-approved and registered buoy brand issued to the lic-

ensee. Set lines must also be marked at the surface at each terminal end with a pole and flag, light, and radar reflector.

(ii) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(iii) Set lines must be attended to no less than every seven days.

(b) Licensing: A food fish set line fishery license is the license required to operate the gear provided for in this section.

(c) Violation of licensing requirements under this subsection is punishable pursuant to RCW 77.15.500.

~~((e))~~ Area restriction: It is unlawful to use set line gear in state territorial waters (0-3 miles) within Areas 59A, 59B, 60A-1 and 60A-2 and that portion of Area 58 within the Exclusive Economic Zone.

~~((3))~~ (4) Bottomfish pots.

(a) It is unlawful for the operator of bottomfish pots to leave such gear unattended, unless ~~((marked as provided in WAC 220-20-010(5)).~~ Bottomfish pots must be attended at least once every seven days. Bottomfish pots set individually must be marked at the surface with a pole and a flag, light, or radar reflector, and a buoy displaying clear identification of the owner. Bottomfish pots laid on a groundline must be marked at the surface at each terminal end of the groundline with a pole and a flag, light, and radar reflector, and a buoy displaying clear identification of the owner or operator ~~((unless the following requirements are met:))~~

(i) Gear must be marked with a buoy. The buoy must have affixed to it, in a visible and legible manner, a department-approved and registered buoy brand issued to the licensee.

(ii) Bottomfish pots laid on a ground line must be marked at the surface with a pole and a flag, light, and radar reflector at each terminal end.

(iii) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(iv) Bottomfish pots must be attended to no less than every seven days.

(b) Licensing: A bottomfish pot fishery license is the license required to operate the gear provided for in this section.

(c) Violation of licensing requirements under this subsection is punishable pursuant to RCW 77.15.500.

~~((e))~~ Area restriction: It is unlawful to use bottomfish pots in state territorial waters (0-3 miles) within the catch areas provided for in this section.

~~((4))~~ (5) Commercial jig gear.

(a) Licensing: A bottomfish jig fishery license is the license required to operate the gear provided for in this section.

(b) ~~((Area restriction: It is unlawful to use commercial jig gear in state territorial waters (0-3 miles) within the catch areas provided for in this section.~~

~~((5))~~ Violation of licensing requirements under this subsection is punishable pursuant to RCW 77.15.500.

(6) Troll lines.

(a) Licensing: A bottomfish troll fishery license is the license required to operate the gear provided for in this section.

(b) ~~((Area restriction: It is unlawful to use bottomfish troll gear in state territorial waters (0-3 miles) within the catch areas provided for in this section.~~

~~(6) Incidental catch.~~

~~(a) It is lawful to retain bottomfish taken incidental to any lawful salmon fishery, up to a daily limit of 100 pounds or 30% of all fish on board, whichever is greater. No more than one trip per day provided the bottomfish could be lawfully taken.~~

~~(b) It is unlawful to take salmon incidental to any lawful bottomfish fishery.~~

~~(c) It is lawful to retain sturgeon taken incidental to any lawful bottomfish fishery, provided the sturgeon could be lawfully taken.~~

~~(d) It is unlawful to retain any species of shellfish taken incidental to any lawful bottomfish fishery, except that it is lawful to retain octopus and squid.)~~ Violation of licensing requirements under this subsection is punishable pursuant to RCW 77.15.500.

AMENDATORY SECTION (Amending Order 05-165, filed 8/3/05, effective 9/3/05)

WAC 220-44-035 Highly migratory species fisheries—Possession and landing requirements—Gear restriction. (1) It is unlawful to possess, transport through the waters of the state, or land into any Washington port, highly migratory species taken ~~((from Marine Fish Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63 in violation of any permit or data collection requirements, established by the Pacific Fishery Management Council and published in the *Federal Register*, Volume 70, No. 27, published February 10, 2005. Therefore, persons must consult the federal regulations, which are incorporated by reference and made a part of chapter 220-44 WAC. Where rules refer to the fishery management area, that area is extended to include Washington state waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Evan Jacoby at 360-902-2930. Except as authorized under the federal rules referenced in this section, it is unlawful to use drift gill net gear in state and offshore waters west of the Bonilla-Tatoosh line, north of the Washington-Oregon boundary, and south of the United States-Canada boundary))~~ in violation of any permit or data collection requirements as published in the Code of Federal Regulations (CFR), Title 50, Part 660, Subpart G. These federal regulations provide the requirements for highly migratory species fisheries in the Pacific Ocean. There may be additional regulations listed in the Federal Register, and these override the regulations in the CFR if there are any inconsistencies between the two. Chapter 220-44 WAC incorporates the CFR by reference and is based, in part, on the CFR. Where rules refer to the fishery management area, that area is extended to include Washington state waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Lori Preuss at

360-902-2930, or the internet at www.pcouncil.org. State regulations may apply that are more restrictive than federal regulations.

(2) Except as authorized under the federal rules referenced in this subsection, it is unlawful to use drift gill net gear in state and offshore waters west of the Bonilla-Tatoosh line, north of the Washington-Oregon boundary, and south of the United States-Canada boundary.

(3) Violation of reporting requirements under this section is punishable pursuant to RCW 77.15.280.

(4) Violation of gear requirements under this section is punishable pursuant to RCW 77.15.520.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

WAC 220-44-040 Coastal bottomfishing areas and seasons. ~~((It is lawful to take, fish for, and possess for commercial purposes bottomfish in coastal waters taken with gear described in WAC 220-44-030 all year in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, and 60A, unless otherwise provided.))~~ (1)(a) It is unlawful to possess, transport through the waters of the state, or land in any Washington state port bottomfish in violation of any area or time closure or requirement as published in the Code of Federal Regulations (CFR), Title 50, Part 660, Subpart G. These federal regulations provide the requirements for commercial groundfish fishing in the Pacific Ocean. There may be additional regulations listed in the Federal Register, and these override the regulations in the CFR if there are any inconsistencies between the two. Chapter 220-44 WAC incorporates the CFR by reference and is based, in part, on the CFR. Where rules refer to the fishery management area, that area is extended to include Washington state waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Lori Preuss at 360-902-2930, or the internet at www.pcouncil.org. State regulations may apply that are more restrictive than federal regulations.

(b) Violation of catch requirements under this subsection is punishable pursuant to RCW 77.15.550.

(2)(a) It is unlawful to use otter trawl or beam trawl gear in state territorial waters (0-3 miles) within Areas 58B, 59A-1, 59A-2, 59B, 60A-1 or 60A-2.

(b) Violation of gear requirements under this subsection is punishable pursuant to RCW 77.15.520.

(3)(a) It is unlawful for vessels using trawl gear to take and retain or possess groundfish within the trawl Rockfish Conservation Area (RCA) or Essential Fish Habitat (EFH) zones, except that:

(i) Trawl gear vessels may transit though the trawl RCA or EFH zones with groundfish onboard, as long as the vessel does not fish for any species within the RCA or EFH zone on the same trip; and

(ii) The activity is otherwise authorized under federal regulations.

(b) For purposes of this section, "trawl RCA and EFH zones" means those areas and boundaries defined as "trawl RCA" or "EFH zone" in the Code of Federal Regulations (CFR), Title 50, Part 600, Subpart G. The CFR lists the

requirements for commercial groundfish fishing in the Pacific Ocean. Additional regulations may be enacted and listed in the Federal Register, and these regulations override those in the CFR if there are any inconsistencies between the two.

(c) Violation of catch requirements under this subsection is punishable pursuant to RCW 77.15.550.

(4)(a) It is unlawful for vessels using nontrawl gear to take and retain or possess groundfish within the nontrawl Rockfish Conservation Area (RCA), or to land such fish, except that:

(i) Nontrawl gear vessels may travel through the nontrawl RCA with groundfish onboard as long as the vessel does not fish for any species within the RCA on the same trip; and

(ii) The activity is otherwise authorized under federal regulations.

(b) For purposes of this section, "nontrawl RCA" means those areas and boundaries defined as "nontrawl RCA" in the Code of Federal Regulations (CFR), Title 50, Part 600, Subpart G. The CFR lists the requirements for commercial groundfish fishing in the Pacific Ocean. Additional regulations may be enacted and listed in the Federal Register, and these supersede the federal regulations in the CFR if there are any inconsistencies between the two.

(c) Violation of catch requirements under this subsection is punishable pursuant to RCW 77.15.550.

(5)(a) It is unlawful to use set line gear in state territorial waters (0-3 miles) within Areas 58B, 59A-1, 59A-2, 59B, 60A-1 and 60A-2, and in that portion of Area 58B within the Exclusive Economic Zone.

(b) Violation of catch requirements under this subsection is punishable pursuant to RCW 77.15.550.

(6)(a) It is unlawful to use bottomfish pots in state territorial waters (0-3 miles) within Areas 58B, 59A-1, 59A-2, 59B, 60A-1 and 60A-2, and in that portion of Area 58B within the Exclusive Economic Zone.

(b) Violation of catch requirements under this subsection is punishable pursuant to RCW 77.15.550.

(7)(a) It is unlawful to use commercial jig gear in state territorial waters (0-3 miles) within Areas 58B, 59A-1, 59A-2, 59B, 60A-1 and 60A-2, and in that portion of Area 58B within the Exclusive Economic Zone.

(b) Violation of catch requirements under this subsection is punishable pursuant to RCW 77.15.550.

(8)(a) It is unlawful to use bottomfish troll gear in state territorial waters (0-3 miles) within Areas 58B, 59A-1, 59A-2, 59B, 60A-1 and 60A-2, and in that portion of Area 58B within the Exclusive Economic Zone.

(b) Violation of catch requirements under this subsection is punishable pursuant to RCW 77.15.550.

AMENDATORY SECTION (Amending Order 03-31, filed 2/18/03, effective 3/21/03)

WAC 220-44-050 Coastal bottomfish catch limits.

(1)(a) It is unlawful to possess, transport through the waters of the state, or land in any Washington state port, bottomfish taken ((from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, or 63)) in

excess of the amounts or less than the minimum or maximum sizes, or in violation of any ((gear handling or)) of the possession, landing, or sorting requirements((, established by the Pacific Fisheries Management Council and published in the Federal Register, Volume 66, No. 8, published January 11, 2001, except thresher shark are further restricted as provided for in this section)) published in the Code of Federal Regulations (CFR), Title 50, Part 660, Subpart G. These federal regulations provide the requirements for commercial groundfish fishing in the Pacific Ocean. Additional regulations may be enacted and listed in the Federal Register, and these regulations override those in the CFR if there are any inconsistencies between the two. Therefore, persons must consult ((the)) these federal regulations, which ((incorporated)) chapter 220-44 WAC incorporates by reference and ((made a part of chapter 220-44 WAC)) is based on, in part. Where rules refer to the fishery management area, that area is extended to include Washington state waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting ((Evan Jacoby)) Lori Preuss at 360-902-2930, or the internet at www.pcouncil.org. State regulations may apply that are more restrictive than federal regulations.

(b) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.550.

(2)(a) It is unlawful to possess, transport through the waters of the state, or land into any Washington port, walleye pollock taken with trawl gear from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, or 63, except by trawl vessels participating in the directed Pacific whiting fishery and the directed coastal groundfish fishery.

(b) Violation of this section is a gross misdemeanor, punishable under RCW 77.15.550.

(3)(a) It is unlawful for trawl vessels participating in the directed Pacific whiting and/or the directed coastal groundfish fishery to land incidental catches of walleye pollock greater than forty percent of their total landing by weight, not to exceed ten thousand pounds.

((2) At the time of landing of coastal bottomfish into Washington port, the fish buyer receiving the fish is required to clearly mark on the fish receiving ticket in the space reserved for dealer's use all legally defined trawl gear aboard the vessel at the time of delivery. The three trawl gear types are: Midwater trawl, roller trawl and small foot rope trawl (foot rope less than eight inches in diameter). The notation of the gear type(s) aboard the vessel is required prior to the signing of the fish receiving ticket by the vessel representative.

(3) Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottomfish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an exempted fishing permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving

ticket reporting bottomfish landed as part of any trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "NMFS Compensation Trip" on the fish receiving ticket in the space reserved for dealer's use. The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.) (b) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.550.

(4)(a) It is unlawful for an original receiver to receive whiting and whiting by-catch under the authority of an exempted fishing permit (EFP) issued by ~~((the National Marine Fisheries Service))~~ NMFS through the department, unless the original receiver has entered into a signed agreement with the department specifying the responsibilities of the original receiver in conjunction with the whiting EFP fishery. Failure to comply with the terms of the agreement shall be cause to remove the original receiver from the list of original receivers allowed to receive unsorted whiting catches from EFP vessels.

(b) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.550.

(5)(a) It is unlawful to land thresher shark taken by any means from state and offshore waters of the Pacific Ocean north of the Washington-Oregon boundary and south of the United States-Canada boundary ~~((, and))~~. It is unlawful to land thresher shark taken south of the Washington-Oregon boundary unless each thresher shark landed is accompanied by a minimum of two swordfish.

(b) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.550.

(6)(a) It is unlawful to take salmon incidental to any lawful bottomfish fishery.

(b) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.550.

(7)(a) It is unlawful to retain sturgeon species, other than white sturgeon, taken incidental to any lawful bottomfish fishery. White sturgeon may be taken as long as the fisher complies with minimum and maximum size restrictions for commercial fisheries.

(b) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.550.

(8)(a) It is unlawful to retain any species of shellfish taken incidental to any lawful bottomfish fishery, except that it is lawful to retain octopus and squid.

(b) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.550.

AMENDATORY SECTION (Amending Order 00-124, filed 7/24/00, effective 8/24/00)

WAC 220-44-080 Otter trawl logbook required. ~~((It shall be unlawful for any operator of otter trawl gear to fail to possess and maintain a "Washington-Oregon-California Trawl Logbook" while fishing in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62 and 63. The logbook must~~

~~be kept aboard the vessel while it is fishing in the above areas, or while having fish aboard that were caught in the above areas. The vessel operator must submit the completed logbook for inspection immediately upon request by authorized department representatives. For each vessel trip, the operator shall record the vessel name and registration number, crew size, departure and return date and time, and buyers of fish landed. For each trawl tow conducted the vessel operator shall record the month and day, time gear was set and retrieved, latitude and longitude fished, depth fished, net type, target species, and estimated weight of species of fish retained. Species or species groups with trip or cumulative limits must be identified separately and cannot be recorded in combination with other species. The department's copies of completed log sheets must be submitted to the department for each month in which fishing activity occurs. The department's copies must be received within ten days following any calendar month in which fishing activity occurred, or within ten days following the termination of commercial fishing activity, whichever occurs first.))~~ (1) It is unlawful for any vessel operator engaged in commercial otter trawl fishing in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, and 63, or possessing groundfish taken with such gear from those areas, to fail to obtain and accurately maintain the appropriate logbook.

(2) It is unlawful for the operator of the harvest vessel to fail to keep the logbook aboard the vessel while the vessel is engaged in groundfish fishing or has groundfish onboard.

(3) It is unlawful for the vessel operator to fail to submit harvest logs for inspection upon request by fish and wildlife officers and/or authorized department employees.

(4) It is unlawful for any vessel operator engaged in groundfish fishing to fail to comply with the following methods and time frames of logbook submittal:

(a) Vessel operators responsible for submitting logs to the department must maintain a copy of all submitted logs for up to three years after the fishing activity ended. The copies must verify that logs sent by mail were received by the department, except that operators submitting logs directly to authorized department employees must record the name and date of the contact on the fisherman's copy of the log. The operators must maintain these copies for up to three years after the fishing activity ended.

(b) The department's copies of completed log sheets must be submitted to the department for each month in which fishing activity occurs. The department's copies must be received within ten days following any calendar month in which fishing activity occurred, or within ten days following the termination of the commercial fishing activity, whichever occurs first.

(5) It is unlawful for vessel operators engaged in commercial groundfish fishing or possessing groundfish to fail to permanently and legibly record in ink the following information within the following time constraints:

(a) For each vessel trip, the operator shall record the vessel name and registration number, crew size, departure and return date and time, and buyers of fish landed.

(b) For each trawl tow conducted, the vessel operator shall record the month and day, time gear was set and

retrieved, latitude and longitude fished, depth at which most fish were caught, net type, target species, and estimated weight of fish species retained. Species or species groups with trip or cumulative limits must be identified separately and cannot be recorded in combination with other species.

(6) Violation of this section is a misdemeanor, punishable under RCW 77.15.280.

AMENDATORY SECTION (Amending Order 94-23, filed 5/19/94, effective 6/19/94)

WAC 220-44-090 Far offshore fishery. (1)(a) It is unlawful for any fisher to transport through the waters of the state, or to land in any Washington state port, bottomfish taken ~~((without))~~ outside the Exclusive Economic Zone (more than 200 miles offshore), except ~~((as provided for in this section:~~

~~((+)))~~ that any fisher may transport bottomfish through the waters of the state or land bottomfish taken without the Exclusive Economic Zone, provided:

~~((+)))~~ (i) The fisher has, at least 48 hours prior to participating in the far offshore fishery, notified the department ~~((by))~~ either by writing to the ~~((Marine Fish-Shellfish Division, Washington State Fisheries))~~ Washington Department of Fish and Wildlife, 48A Devonshire Road, Montesano, WA 98563; or telephoning the department during regular business hours, Monday through Friday ~~((to (360) 586-6129))~~, at 360-586-6129. The fisher must provide the following information: Vessel name and official number; anticipated fishing dates; anticipated port of landing; ~~((and~~

~~((+)))~~ (ii) The fisher ~~((has made))~~ makes the vessel available for a hold inspection, if required to do so by the department, prior to departure ~~((to participate in))~~ for the far offshore fishery; and

~~((+)))~~ (iii) The fisher ~~((has notified))~~ notifies the department at least 24 hours prior to landing bottomfish at any Washington state port. The fisher must provide the following information: Port of landing; estimated date and time of landing; estimated species composition, and weight of fish aboard.

(b) Violation of this subsection is a misdemeanor, punishable under RCW 77.15.280.

(2)(a) It is unlawful for any fisher to fish within, or to land fish taken from within, the Exclusive Economic Zone during any trip for which a declaration to participate in the far offshore fishery has been made.

(b) Violation of this subsection is a misdemeanor, punishable under RCW 77.15.280.

(3)(a) Fishers participating in the far offshore fishery are required to be properly licensed in order to land bottomfish into a Washington state port.

(b) Violation of catch restrictions is punishable pursuant to RCW 77.15.550.

(4) This section does not apply to bottomfish ~~((which))~~ that have been previously landed in another state, territory, or country(-); does not apply to delivery by vessels other than the catcher vessel; and does not apply to bottomfish taken in Canadian territorial waters.

NEW SECTION

WAC 220-44-100 Bottomfish caught during research. (1) Vessels engaged in chartered research for the National Marine Fisheries Service (NMFS) or the International Pacific Halibut Commission (IPHC) may land and sell bottomfish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel.

(2) Vessels that have been compensated for research work by NMFS or IPHC with an exempted fishing permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel.

(3) Any bottomfish landed during authorized NMFS or IPHC research or under the authority of a compensating EFP for past-chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving ticket reporting bottomfish landed as part of any trip or cumulative limit.

(4) Bottomfish landed under the authority of NMFS or IPHC research work or an EFP-compensating research with fish must be clearly marked "NMFS Compensation Trip" or "IPHC Compensation Trip" on the fish receiving ticket in the space reserved for dealer's use.

(5) The NMFS or IPHC scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS or IPHC research. If the fish are landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

AMENDATORY SECTION (Amending WSR 07-04-030, filed 1/29/07, effective 3/1/07)

WAC 220-69-230 Description of Washington state nontreaty fish receiving tickets. (1) There is hereby created the following nontreaty fish receiving ticket forms to be prepared, printed, and distributed upon request, by the department: Puget Sound salmon, troll, marine, utility, and shellfish. These forms shall contain space for the following information:

- (a) Fisherman: Name of licensed deliverer.
- (b) Address: Address of licensed deliverer.
- (c) Boat name: Name or Coast Guard number of landing vessel.
- (d) WDFW boat registration: Washington department of fish and wildlife boat registration number.
- (e) Gear: Code number or name of specific type of gear used.
- (f) Fisherman's signature: Signature of licensed deliverer.
- (g) Date: Date of landing.
- (h) Dealer: Name of dealer, and department number assigned to dealer.
- (i) Buyer: Name of buyer, and department number assigned to buyer.
- (j) Receiver's signature: Signature of original receiver.
- (k) Number of days fished: Days spent catching fish.

(l) Fish or shellfish caught inside or outside 3-mile limit: Check one box.

(m) Catch area: Salmon catch area code if salmon are caught. Marine fish/shellfish catch area code if marine fish are caught or shellfish are caught or harvested.

(n) Tally space for dealer's use: Used at dealer's discretion.

(o) Species code: Department assigned species code.

(p) Individual number of salmon, sturgeon, number of ghost shrimp in dozens, number of oysters in dozens or gallons, species description for all fish and shellfish, original total weight in round pounds of all shellfish or fish, except pounds of legally dressed fish and shellfish may be recorded in original dressed weight. Dressed fish and shellfish must be designated as dressed on the fish receiving ticket. Value of fish and shellfish sold or purchased: Summary information for species, or species groups landed. All species or categories of bottomfish having a vessel trip limit must be listed separately (see WAC 220-44-050).

(q) Work area for dealer's use: Used at dealer's discretion, with the following exceptions:

(i) Federal sablefish endorsed limited entry permit numbers must be recorded in this area for each delivery of sablefish landed under the authority of this permit. Separate fish tickets are required for each permit number being used.

(ii) At the time of landing of coastal bottomfish into a Washington port, the fish buyer receiving the fish is required to clearly mark on the fish receiving ticket in the space reserved for dealer's use all legally defined trawl gear aboard the vessel at the time of delivery. The three trawl gear types are: Midwater trawl, roller trawl and small foot rope trawl (foot rope less than eight inches in diameter). The notation of the gear type(s) aboard the vessel is required prior to the signing of the fish receiving ticket by the vessel representative.

(r) Total amount: Total value of landing.

(s) Take-home fish: Species, number, and pounds of fish or shellfish retained for personal use.

(t) Crew: Name and signature of crew members who take home fish.

(2) The Puget Sound salmon fish receiving ticket shall be used for:

(a) Deliveries of nontreaty salmon caught in inland waters.

(b) Any other delivery of nontreaty salmon where the catch may be easily recorded.

(c) Any imports of fresh salmon into the state of Washington.

(3) The troll fish receiving ticket shall be used for:

(a) Deliveries of nontreaty coastal salmon and incidental catch.

(b) Any other nontreaty deliveries where the species delivered may be easily recorded.

(c) Any imports of fresh salmon into the state of Washington.

(4) The marine fish receiving ticket shall be used for:

(a) Nontreaty deliveries of marine fish or bottomfish that do not include salmon.

(b) Any imports of fresh marine fish or bottomfish.

(5) The utility fish receiving ticket shall be used for:

(a) Any nontreaty deliveries that do not include salmon, where other fish receiving tickets are not appropriate.

(b) Any imports of fresh fish or shellfish that do not include salmon.

(6) The shellfish receiving ticket shall be used for:

(a) Any nontreaty deliveries of shellfish.

(b) Any imports of fresh shellfish.

(c) Any incidental catch of bottomfish made while fishing for shellfish. The species name, total pounds, and price per pounds must be entered for each species of bottomfish caught.

AMENDATORY SECTION (Amending WSR 07-04-030, filed 1/29/07, effective 3/1/07)

WAC 220-69-250 Required information on nontreaty fish receiving tickets. (1) It is unlawful for a person required to complete a nontreaty fish receiving ticket to fail to enter the mandatory information referenced in WAC 220-69-230 (1)(a) through (m), (p), (q), (s), and (t) on each nontreaty fish receiving ticket.

(2) A valid license card or duplicate license card issued by the department shall be used in conjunction with an approved mechanical imprinter in lieu of WAC 220-69-230 (1)(a) through (e) except as provided in WAC 220-69-273.

(3) A valid dealer or buyer card issued by the department shall be used in conjunction with an approved mechanical imprinter in lieu of WAC 220-69-230 (1)(h) and (i).

(4) During the period December 1 through December 30, the crab inspection certificate number is a required entry on all shellfish receiving tickets documenting landings and sale of Dungeness crab from Pacific Ocean, Coastal Washington, Grays Harbor, Willapa Harbor, and Columbia River waters. The crab inspection certificate number must be entered legibly on the left hand side of the ticket in the space indicated for dealer's use.

(5) Violation of this section is a gross misdemeanor, punishable under RCW 77.15.640.

WSR 07-18-078

PROPOSED RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Filed September 4, 2007, 2:32 p.m.]

Original Notice.

Expedited rule making—Proposed notice was filed as WSR 07-13-045.

Title of Rule and Other Identifying Information: WAC 220-56-255 Bottomfish protection in coastal recreational fisheries.

Hearing Location(s): WDFW's Region 6 Office, 48 Devonshire Road, Montesano, WA 98563, (360) 249-1202, on Tuesday, October 9, 2007, at 10 a.m.

Date of Intended Adoption: On or after October 9, 2007.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail preuslmp@dfw.wa.gov, fax (360) 902-2155, by October 8, 2007.

Assistance for Persons with Disabilities: Contact Susan Yeager, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The intent of these rules is to comply with federal fishing regulations adopted by the National Marine Fisheries Service on April 18, 2007, (72 F.R. 19390). The purpose of these rules is to provide protection for overfished rockfish. Action will minimize bycatch of overfished rockfish in offshore waters, and provide for increased survivability of released rockfish.

Reasons Supporting Proposal: These rules incorporate the recommendations of the Pacific Fishery Management Council for the rebuilding of overfished rockfish stocks—primarily canary and yelloweye rockfish—and are necessary to ensure that the state of Washington stays within its harvest targets for canary and yelloweye rockfish. Absent these restrictions, the department would likely have to constrain recreational halibut and bottomfish fisheries even further to comply with the federal rebuilding plans for canary and yelloweye rockfish. Public input was sought and obtained through a series of department-sponsored meetings and through the council's deliberation process.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Statute Being Implemented: RCW 77.12.047 and 77.04.020.

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: Heather Reed, 48 Devonshire Road, Montesano, (360) 249-1202; Implementation: Michele Culver, 48 Devonshire Road, Montesano, (360) 249-1211; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules apply to recreational fishermen, not commercial fishermen. Also, the Pacific Fisheries Management Council and the National Marine Fisheries Service did a full economic analysis as part of National Environmental Policy Act requirements. A copy of the analysis is available on the council's web site at <http://www.pcouncil.org/groundfish/gfspex/gfxpex07-08.html>.

A cost-benefit analysis is not required under RCW 34.05.328. These proposals do not affect hydraulics.

September 4, 2007

Loreva M. Preuss
Rules Coordinator

AMENDATORY SECTION (Amending Order 06-199, filed 8/10/06, effective 9/10/06)

WAC 220-56-255 Halibut—Seasons—Daily and possession limits. (1) It is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1: Open May 1 through September 30. By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish except sable-

fish if the vessel has brought halibut into port or landed halibut.

(b) Catch Record Card Area 2:

(i) Those waters south of the Queets River, north of 47° and east of 124°40'W - Open May 1 through September 30.

(ii) All other waters in Area 2 - Open May 1 through September 30, except closed to fishing for halibut 12:01 a.m. of each Friday through 11:59 p.m. of each Saturday.

(c) Catch Record Card Areas 3 and 4 - Open May 1 through September 30, except closed to fishing for halibut 12:01 a.m. of each Sunday through 11:59 p.m. of each Monday. The following area southwest of Cape Flattery is closed to halibut fishing at all times:

Those waters within an eastward facing "C" shaped closed area defined as: Beginning at 48°18'N. lat.; 125°18'W. long., thence to 48°18'N. lat.; 124°59'W. long., thence to 48°11'N. lat.; 124°59'W. long., thence to 48°11'N. lat.; 125°11'W. long., thence to 48°04'N. lat.; 125°11'W. long., thence to 48°04'N. lat.; 124°59'W. long., thence to 48°00'N. lat.; 124°59'W. long., thence to 48°00'N. lat.; 125°18'W. long., thence to the point of origin.

It is unlawful to fish for or possess bottomfish seaward of a line approximating the 20-fathom depth contour as defined by the following coordinates, from May 21 through September 30, on days and times closed to halibut fishing:

48°23.9'N.; 124°44.2'W.

48°23.6'N.; 124°44.9'W.

48°18.6'N.; 124°43.6'W.

48°18.6'N.; 124°48.2'W.

48°10.0'N.; 124°48.8'W.

48°02.4'N.; 124°49.3'W.

47°37.6'N.; 124°34.3'W.

47°31.7'N.; 124°32.4'W.

(d) Catch Record Card Area 5 - Open May 26 through July 31, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(e) Catch Record Card Areas 6 through 13 - Open April 14 through June 20, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(2) Daily limit one halibut taken from state and offshore waters, except Canadian waters. See WAC 220-56-156 for limits on Canadian-origin halibut.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit. See WAC 220-56-156 for rules on Canadian-origin halibut possession.

(4) It is unlawful to land halibut outside the catch area in which the halibut were taken, except for Canadian-origin halibut. See WAC 220-56-156 for rules on landing Canadian-origin halibut.

WSR 07-18-082
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed September 4, 2007, 4:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-15-056.

Title of Rule and Other Identifying Information: WAC 220-55-010 Recreational shellfish and seaweed license.

Hearing Location(s): Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98504, on October 12-13, 2007, at 8 a.m.

Date of Intended Adoption: On or after November 2-3, 2007.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail preuslmp@dfw.wa.gov, fax (360) 902-2155, by October 11, 2007.

Assistance for Persons with Disabilities: Contact Susan Yeager, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SHB 1082 mandates that the department drop the requirement under RCW 77.32.520 for licensees to display personal-use shellfish and seaweed licenses while harvesting shellfish and seaweed.

Reasons Supporting Proposal: Repealing this rule will comply with legislative mandate.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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: Morris W. Barker, 1111 Washington Street, Olympia, (360) 902-2826; Implementation: Phil Anderson, 1111 Washington Street, Olympia, (360) 902-2720; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Repeal of this rule will have no effect on business owners.

A cost-benefit analysis is not required under RCW 34.05.328. Repeal of this rule does not affect hydraulics.

September 4, 2007

Loreva M. Preuss

Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-55-010	Recreational shellfish and seaweed license.
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WSR 07-18-084
PROPOSED RULES
GAMBLING COMMISSION
 [Filed September 5, 2007, 8:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-11-009.

Title of Rule and Other Identifying Information: New chapter 230-21 WAC, Public disclosure.

Hearing Location(s): Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000, on October 12, 2007, at 9:30 a.m.

Date of Intended Adoption: October 12, 2007.

Submit Written Comments to: Susan Arland, P.O. Box 42400, Olympia, WA 98504-2400, e-mail Susan2@wsgc.wa.gov, fax (360) 486-3625, by October 1, 2007.

Assistance for Persons with Disabilities: Contact Gail Grate, Executive Assistant, by October 1, 2007, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The gambling commission has rewritten its rules manual using plain English techniques. We anticipate the project will be completed by January 1, 2008. The rules manual was broken into sections and rewritten a section at a time. Most chapters are codified. This clean-up package includes rules and rule interpretations that were inadvertently missed during the rewrite, or to include amendments that were made to our current rules after the rules simplification project rule was adopted or to make housekeeping changes so the rules are easier to read. There may be some sustentative changes made during the rewrite.

Overview of Clean-Up Package Rule Changes

SUBSTANTIVE RULE CHANGES:

Post-1/1/2008 WAC 230-01-011 Deadlines for submitting items to be included in the commission meeting agenda.
Pre-1/1/2008 WAC 230-50-815 Deadlines for submitting items to be included in the commission meeting agenda—Exceptions.

We moved this rule from the hearing rules in chapter 230-50 WAC to the about the commission rules in chapter 230-01 WAC.

Post-1/1/2008 WAC 230-06-002 "We," "our," and "us" mean the commission and staff.
Pre-1/1/2008 WAC 230-03-001 "We," "our," and "us" mean the commission and staff.

We moved this rule from the licensing rules in chapter 230-03 WAC to the rules for all licensees in chapter 230-06 WAC.

WAC 230-03-040 Signing the application.

In March 2006, we discovered that we do not have the statutory authority to license incorporated cities and towns to operate gambling activities. The commission only licenses a handful of cities and towns. These cities and towns do not qualify as charitable or nonprofit entities.

At that time, AAG Jerry Ackerman advised us to give the cities and town notice that we would be discontinuing licens-

ing them when the new RSP rules went into effect January 1, 2008. As a result, we are amending WAC 230-03-040 to remove the authority of mayors, or their designees, to sign an application.

Post-1/1/2008 WAC 230-03-050 Additional information required from applicants for licensing.

We revised this rule to include clearer instructions about what documents commercial applicants have to submit and what documents charitable and nonprofit applicants have to submit.

Post-1/1/2008 WAC 230-03-085 Denying, suspending, or revoking a license or permit.

We added language back into the rule which had been omitted in the first version of the rule. This requirement has been a long-standing reason for denial, suspension, or revocation.

Post-1/1/2008 WAC 230-03-175 Requirements for commercial stimulant businesses.

We reworded this rule because we discovered in subsection (1)(a)(ii)(A) that "and" should have been "or." On looking back, we also decided that this rule wasn't as "plain talk"ed as rules in other chapters, so we reworked the language.

Post-1/1/2008 WAC 230-03-180 Additional information required for a house-banked card room application.

We added the preoperational review and evaluation (PORE) back in to chapter 230-03 WAC, Licensing. It was originally removed from chapter 230-03 WAC; however, the subject matter experts from the card game rules small group and the administration review team felt that we needed to state more clearly what the PORE entailed as part of the prelicensing/application rules.

Post-1/1/2008 WAC 230-03-210 Applying for a gambling service supplier license.

We changed the language in this rule to definitively answer questions that continue to arise about when a person must be licensed as a gambling service supplier. Many applicants and licensees fail to understand our requirements that once they have financed two gambling related businesses as a gambling service supplier, they must continue to be licensed as a gambling service supplier to offer financing to any other gambling related businesses in the future.

Post-1/1/2008 WAC 230-05-001 Prorating or refunding of fees.

When staff reviewed this rule, we found that it was not as clear as it could be. The amendment makes the distinctions about prorating or refunding fees as clear as possible.

This prorating or refunding of fees is only available to businesses, not to individuals.

Post-1/1/2008 WAC 230-06-004 Defining "consecutively numbered," "consecutive," and "consecutively."

We added this definition to the chapter for all licensees because we use the words "consecutively numbered," "consecutive," and "consecutively" throughout the rules and we want licensees and operators to know exactly what these methods of counting or setting out numbers mean. At places

in the rules, we've used the word "sequentially" and we believe that "consecutively" works better in those places.

Post-1/1/2008 WAC 230-06-010 Age restrictions for players.

After review, we returned this restriction on raffle sales and make certain that raffle tickets are only sold by young people who are part of a charitable or nonprofit agency which has proper adult supervision of the raffle and which has development of young people as part of its purpose.

Post-1/1/2008 WAC 230-06-031 Using wheels in promotional contests of chance, fund-raising events, or gambling activities.

The current version of this requirement is actually a rule interpretation on WAC 230-12-045 Gambling promotions. We overlooked the rule interpretation during the rewriting process and we added the information it contains into chapter 230-06 WAC, Rules for all licensees, because it impacts several gambling activities. Incorporating rule interpretations was one of the goals of the rules simplification project.

WAC 230-06-035 ~~Offer no~~ Credit, loans, or gifts prohibited.

We overlooked a rule change which came as a response to a petition by Monty Harmon. The change the commission made was "staff's alternative" to the petition to amend WAC 230-12-050 Extension of credit, loans, or gifts prohibited—Limited exception. That alternative included "gift certificates and gift cards" as permitted forms of payment which licensees may accept. The change was not included in the RSP chapter which we filed the next month.

Post-1/1/2008 WAC 230-06-050 Review of electronic or mechanical gambling equipment.

We discovered as we were rewriting the inspection rules in the manufacturer, distributor and gambling service supplier rules that some information had been left out of WAC 230-06-050. We amended the rule to include this information, in particular, what persons submitting equipment do if they do not agree with the director's decision concerning the approval of their equipment.

Post-1/1/2008 WAC 230-06-051 Computation of time.

We moved this rule from the hearing rules chapter of the WAC into the rules for all licensees chapter because the rule sets up the way time is computed for all actions of the agency regarding licensees, not just those who have administrative charges or hearings.

Post-1/1/2008 WAC 230-06-065 Display of licenses.

We made two changes to this rule:

1. In subsection (1), change the language to include the ability for licensees to display a copy of their license instead of the original; and

2. In subsection (3), because card room employee licenses are issued for the location where the person works, require that the original to that license be on premises as well.

Post-1/1/2008 WAC 230-06-071 Washington state identification and inspection stamps to be called "I.D. stamps."

We added a new rule to chapter 230-06 WAC, Rules for all licensees, that renames Washington state identification and inspection stamps as "I.D. stamps."

We refer throughout the rules manual to the purchase, use, replacement, and safeguarding of these I.D. stamps by manufacturers, distributors, linked bingo prize providers, and operators.

Therefore, we will call the stamps by the name most licensees and agents refer to them by: "I.D. stamps." It's simple and consistent, two of the goals of the rules simplification project.

Post-1/1/2008 WAC 230-06-074 Assistance required for commission inspections.

We decided to add these three restrictions back into the rules because some portions were not covered by the RCW.

WAC 230-06-110 Buying, selling, or transferring gambling equipment.

We recommend adding the blanket statement in subsection (1) that "All licensees and persons authorized to possess gambling equipment must closely control the gambling equipment in their possession." This removes the need for a rule in each chapter about a gambling activity that requires the licensee to control equipment and eliminates redundancy. We're also removing "commission identification and inspection stamps" and replacing it with "I.D. stamps."

Post-1/1/2008 WAC 230-06-120 Selling or transferring gambling equipment when no longer licensed.

We changed the title of this rule to make more explicit that it applies when a business is no longer licensed. We added the word "only" to subsection (1) to make it clear that former licensees may only sell or transfer their gambling equipment to manufacturers and distributors. We're also removing "commission identification and inspection stamps" and replacing it with "I.D. stamps."

Post-1/1/2008 WAC 230-07-005 "Licensees," "licensee," "organizations," and "organization" defined.

We changed the definition of licensees, licensee, organizations, and organization in this chapter, not just this particular section, to make it clearer to charitable and nonprofit organizations what standards they must meet if they are unlicensed and what standards they must meet if they are licensed.

Post-1/1/2008 WAC 230-07-106 Insuring prizes.

The current version of this rule is actually a rule interpretation on WAC 230-12-223 Prohibited practices—Leases and compensation and RCW 9.46.120 Restrictions on management or operation personnel—Restriction on leased premises. This rule interpretation was overlooked during the rewriting process and we propose adding it in to the charitable and nonprofit organization rules, chapter 230-07 WAC, where it can explain the restrictions on purchasing insurance for various prizes organizations award in their gambling activities.

Post-1/1/2008 WAC 230-09-056 Activity reports for fund-raising event.

We added a rule about activity reporting because it was inadvertently dropped from the draft during the RSP process.

WAC 230-09-120 Disposable bingo cards at fund-raising events.

This is a "housekeeping change" which involves the change of the word "audit" changed to "control."

Post-1/1/2008 WAC 230-10-001 Defining "licensees," "licensee," "organizations," "organization," "operators" and "operator."

We changed the word "section" to "chapter" to make the reference point for the definition more correct and precise.

New Rule WAC 230-10-180 Electronic bingo card dauber requirements.

This rule was not in the clean-up package at the August meeting. Instead, it was on the agenda as an "RSP companion rule" to Ric Newgard's petition for rule change concerning bingo daubers and the printing of cards. The commissioners took final action on the petition and the companion rule at the August commission meeting. Due to code reviser's office requirements, this rule is being moved to the clean-up package. This rule incorporates the changes in Mr. Newgard's petition.

Post-1/1/2008 WAC 230-10-220 Player selection bingo game card requirements.

We removed the requirements for instant winners from the player selection bingo game card rule. Fortunately, a stakeholder noticed this during the discussion period of chapter 230-10 WAC, Bingo rules and we pulled the rule from the chapter before it was passed, intending to correct the error. We have since added instant winner requirements back into player selection bingo game requirements.

Post-1/1/2008 WAC 230-10-235 Hidden face bingo game requirements.

A licensee noticed during the discussion period of chapter 230-10 WAC, Bingo rules and we pulled the rule from the chapter before it was passed, intending to correct the error. We have since added instant winner provisions back into hidden face bingo game requirements.

We also added the word "bingo" to subsection (2) to make it clear which licensees we were addressing in the rule.

WAC 230-10-310 Selling gift certificates.

The change reflected in this rule is a "housekeeping change" which involves the change of a single word "sequential" to "consecutive."

WAC 230-10-330 Activity reports required for ~~agricultural fairs~~, Class A, B and C bingo, agricultural fairs, and other organizations.

We changed the title of WAC 230-10-330 to make it clearer.

Post-1/1/2008 WAC 230-10-331 Activity reports for Class D and above bingo licensees.

We overlooked the rule on activity reports for Class D and higher bingo licensees when we were rewriting the bingo chapter, so we added WAC 230-10-331 into the chapter.

Post-1/1/2008 WAC 230-10-350 Recording bingo winners.

We amended this rule to make the changes approved by the commission at the July 2007 commission meeting.

Post-1/1/2008 WAC 230-10-445 Linked bingo games;**Post-1/1/2008 WAC 230-10-446 Operating linked bingo prize games;****Post-1/1/2008 WAC 230-10-447 Prizes in linked bingo prize games;****Post-1/1/2008 WAC 230-10-451 Recordkeeping for linked bingo prize games;****Post-1/1/2008 WAC 230-10-456 Additional accounting records for linked bingo prize providers; and****Post-1/1/2008 WAC 230-10-457 Activity reports by linked bingo prize providers.**

As we were completing the manufacturer, distributor, and gambling service supplier rules, we discovered that several linked bingo prize provider rules were contained in the chapter. We moved those rules to the bingo rules, chapter 230-10 WAC, where we think they would be more easily located by linked bingo prize provider licensees.

Post-1/1/2008 WAC 230-11-001 Defining "licensees," "licensee," "organizations," and "organization."

We changed this rule to include another citation to RCW 9.46.0209, concerning who may conduct raffles under the statute.

WAC 230-13-030 Group 4—Coin or token toss amusement game standards.

This rule was not in the clean-up package at the August meeting. Instead, it was on the agenda as an "RSP companion rule." The commissioners took final action on this rule at the August commission meeting. Due to code reviser's office requirements, this rule is being moved to the clean-up package. We propose adding the definition of "four square inches" to the RSP version of this rule.

Post-1/1/2008 WAC 230-13-169 Activity reports for commercial amusement game licensees.

We added a rule about activity reporting in commercial amusement games because it was inadvertently dropped from the draft during the RSP process.

WAC 230-14-040 Maximum number of pull-tabs in a series.

We have changed the RSP version of the rule to match the rule petition passed at the July commission meeting for an increase in the number of pull-tabs permitted in a series and the number of carry-over jackpot pull-tabs permitted.

WAC 230-14-075 Substitute flares.

This is a housekeeping change to keep the word "sequentially" in the description of how distributors may choose winning numbers from a manufacturer's prize flare. By this, we mean the distributor is choosing in sequence in groups larger than one unit, i.e. not consecutively. For instance, the distributor could choose 5, 10, 15, 20 as the sequence of the choice as opposed to choosing 1, 2, 3....

We also removed the word "licensed" from before distributors because the only distributors we regulate are those who are licensed.

WAC 230-14-220 Prize limits for carry-over jackpot pull-tab series.

We have changed the RSP version of the rule to match the rule petition passed at the July commission meeting for an increase in the prize limits permitted for carry-over jackpot pull-tab series.

WAC 230-14-284 Activity reports for punch boards and pull-tab licensees.

We overlooked [the] rule about activity reporting for punch board and pull-tab licensees during the RSP process for the punch board and pull-tab chapter. This rule corrects that oversight. Since the August meeting, we have revised the rule to make it consistent with other rules about activity reports. The rule has been reordered; the substance is the same as what was filed at the August meeting.

Post-1/1/2008 WAC 230-15-035 Requirements for authorized card games.

A rule petition by licensees filed for discussion at the April commission meeting asked for the number of games per hand be changed from two to three. At the July commission meeting, the commissioners agreed to final action on this rule petition.

We are changing the post-1/1/2008 rule to align it with the change filed for final action at the July commission meeting.

New Rule WAC 230-15-111 Destruction and disposal of gambling chips.

This rule was not in the clean-up package at the August meeting. Instead, it was on the agenda as an "RSP companion rule." The commissioners took final action on this rule at the August commission meeting. Due to code reviser's office requirements, this rule is being moved to the clean-up package. This change adds requirements for the destruction and disposal of chips.

Post-1/1/2008 WAC 230-15-126 Cutting cards in center dealer-dealt games.

During the discussion of the card game rules, licensees approached staff about adding the player-dealt cutting cards rule to center-dealt games, so we added the rule. However, when the change was made, we made offering a cut a requirement when licensees wanted it to be an option. Therefore, we changed "must" to "may" in the rule.

Post-1/1/2008 WAC 230-15-135 Wagering limits for non-house-banked card games.

In February 2007, Mr. Kimmerle brought forward a petition to raise wagering limits from twenty-five dollars to forty dollars. Commissioners passed the petition in May 2007. We are changing this rule to reflect the change passed by commission after card game rules, chapter 230-15 WAC, had already been enacted.

Post-1/1/2008 WAC 230-15-141 Additional merchandise or cash prizes for card games.

This rule change resulted from an overlooked rule interpretation which should have been added into chapter 230-15 WAC, Card game rules. The rule impacts licensees choosing to add merchandise or other prizes to existing card games.

One of the goals of the rule simplification project was to incorporate rule interpretations into the rules.

Post-1/1/2008 WAC 230-15-475 Tips from players and patrons to card room employees.

The change to this rule comes from the addition of an "accounting manager who does not work as a cashier" as another person who can "verify" tip totals. This rule was pulled from the March package of the card room rules because of the on-going discussion with stakeholders. This change to the rule is acceptable both to staff and to stakeholders.

Post-1/1/2008 WAC 230-15-485 Electronic facsimiles of cards allowed.

We removed subsections from this rule because the information about system requirements and the approval process for these electronic facsimiles was moved to chapter 230-16 WAC, Manufacturers, distributor, and gambling service supplier rules and including that information here would be duplicative.

Post-1/1/2008 WAC 230-15-491 Limiting payouts to dealers for tip or "toke" wagers.

This rule was added to the card game rules chapter because this was a rule interpretation that existed before the RSP process began. The rule interpretation referred licensees to WAC 230-40-810 which is now WAC 230-15-490 and explains the method to calculate aggregate formulas for toke wagers. One of the goals of the RSP was to include rule interpretations.

Post-1/1/2008 WAC 230-15-670 Keeping a master key control box.

Licensees requested this change during the review process for card game rules. There are two reasons for this change:

1. By making those permitted access to the master key control box "other person(s) authorized by the owner," it is clear who has to authorize the access.
2. Clarifying that the owner must authorize the entry means that the owner is responsible for who has access to the master key control box and removes the power to authorize access from managers or other employees.

HOUSEKEEPING:

The following sections of the Washington Administrative Code were changed for wording, grammar, spelling, or clarity reasons:

WAC 230-06-055 Notify law enforcement of gambling activity.

Reworded for clarity.

WAC 230-10-030 Bingo card definitions, 230-10-050 Electronically generated bingo cards additional requirements, 230-10-220 Player selection bingo game card requirements, 230-10-285 Selling entry guarantee tickets for special event bingo, 230-10-305 Gift certificates as bingo prizes, 230-10-350 Recording bingo winners, 230-10-420 Ticket method of receipting bingo income, 230-10-440 Combination receipting method for bingo income requirements, 230-15-300 Using multiplex and quad

recording devices in required surveillance, 230-15-520 Requirements for fill/credit slips, and 230-15-535 Closing tables.

Changed to replace the word "sequentially" or "sequential" with "consecutively" or "consecutive."

WAC 230-10-390 Disposable bingo card method for receipting bingo income required when disposable bingo cards used.

Changed to add quotation marks around "on the way," the description of a bingo game.

WAC 230-10-455 Operating linked bingo prize games, 230-11-020 Recording information on ticket stub, 230-11-085 Modified and discounted pricing plans for tickets for members-only raffles, and 230-13-080 Operating coin- or token-activated amusement games.

Changed to substitute "participant" for "player" and/or to change "tell" to "disclose to."

WAC 230-09-120 Disposable bingo cards.

Changed to include the word "control" in place of "audit."

REPEALERS:

WAC 230-13-051 Incorporated cities and towns exempt from some information requirements for application.

In March 2006, we discovered that we do not have the statutory authority to license incorporated cities and towns to operate gambling activities. The commission only licenses a handful of cities and towns. These cities and towns do not qualify as charitable or nonprofit entities. At that time, AAG Jerry Ackerman advised us to give the cities and town notice that we would be discontinuing licensing them when the new RSP rules went into effect January 1, 2008. As a result we are repealing WAC 230-03-051 Incorporated cities and towns exempt from some information requirements for application.

WAC 230-06-001 Defining "operator."

We repealed this definition of "operator" because we define operator in other chapters in relation to the specific gambling activity being operated.

WAC 230-10-450.

We repealed this rule because the need for linked bingo prize providers and all other licensees to control gambling equipment has been added to chapter 230-06 WAC, Rules for all licensees.

WAC 230-12-230 Agreements restricting freedom to buy and sell—Prohibited.

We recommend repealing subsections (1), (2), (5) and (6) of this rule. These restrictions on how linked bingo prize providers buy and sell are similar to restrictions for manufacturers, distributors, and operators which the commissioners repealed in October of 2005 when the commission decided not to regulate gambling by restricting the freedom to buy and sell in the marketplace. However, this particular rule was overlooked at that time.

Subsections (3) and (4) of the rule were moved into chapter 230-13 WAC, Amusement game rules because they

dealt with those activities and the decision was made to repeal them. To be complete, these subsections should be repealed.

Reasons Supporting Proposal: To make our rules manual more user friendly.

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: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

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.

September 5, 2007

Susan Arland

Rules Coordinator

NEW SECTION

WAC 230-01-011 Deadlines for submitting items to be included in the commission meeting agenda. (1) To ensure that the public and the commissioners have sufficient notice of agenda items, we require that items for the commission's monthly meeting agenda be submitted in the format we require and delivered to our administrative office at least fourteen days before the regularly scheduled commission meeting.

(2) Any items submitted after the time frame set forth in subsection (1) of this section must be approved by the commissioners in order to be included on the commission meeting agenda.

(3) We publish the meeting agenda on our web site and with the code reviser's office as explained in WAC 230-01-010.

AMENDATORY SECTION (Amending Order 457, filed 3/22/06, effective 1/1/08)

WAC 230-03-040 Signing the application. The applicant signs the application under oath and under penalty of perjury under the laws of the state of Washington. This oath affirms that the information on the application and any accompanying materials is accurate and complete.

(1) The person signing the application must be:

(a) The highest ranking officer of a charitable, nonprofit, or profit-seeking corporation, or limited liability company seeking licensure; or

(b) The owner of a sole proprietorship seeking licensure; or

(c) All partners of a partnership or general partner of a limited partnership seeking licensure(~~(or~~

~~(d) The mayor or the mayor's designated representative of an incorporated city or town submitting the application)).~~

(2) The person seeking an individual license and a designated officer of the organization for which the person will work must both sign the application.

AMENDATORY SECTION (Amending Order 457, filed 3/22/06, effective 1/1/08)

WAC 230-03-050 Additional information required from applicants for licensing. (1) Applicants must give us details or copies of the following information on or attached to their application:

(a) ~~((Articles of incorporation and bylaws; or, if not a corporation, a copy of any bylaws and other documents which set out the organizational structure and purposes of the organization; and~~

~~(b)))~~ The name of the resident agent as required by state law, and the agent's business and home address; and

~~((c)))~~ (b) Internal Revenue Service tax exemption letter, if one is necessary; and

~~((d)))~~ (c) All lease or rental agreements, whether oral or written, between the applicant and the owner of the site where the applicant will conduct gambling activity; and

~~((e)))~~ (d) Any franchise agreements or other agreements, whether written or oral, between the applicant and distributors or manufacturers of equipment or between the applicant and any other person whose agreements relate to gambling activities or gambling equipment; and

~~((f)))~~ (e) All proposed financing, consulting, and management agreements or contracts between applicant and any gambling service supplier; and

~~((g)))~~ (f) Enough personal information to ensure each substantial interest holder is qualified to hold a license or participate in an authorized gambling activity; and

(g) For commercial applicants: Articles of incorporation, limited liability corporation formation, partnership agreement, and other documents which set out the applicant's business structure; and

(h) For charitable and nonprofit organization applicants: Articles of incorporation and bylaws; or, if not a corporation, a copy of any bylaws and other documents which set out the organizational structure and purposes of the organization.

(2) Applicants must also give us any other information we request within thirty days of the request or within any other time frame we provide.

AMENDATORY SECTION (Amending Order 457, filed 3/22/06, effective 1/1/08)

WAC 230-03-085 Denying, suspending, or revoking ~~((*)~~ an application, license or permit. We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075; or

(2) Has been convicted of, or forfeited bond on a charge of, or pleaded guilty to a misdemeanor or felony crime involving physical harm to individuals. "Physical harm to individuals" includes any form of criminal assault, any crime involving a threat of physical harm against another person, or any crime involving an intention to inflict physical harm on another person; or

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level; or

(4) Has failed to pay gambling taxes to local taxing authorities and the local taxing authority ~~((must petition))~~ have petitioned us to take action; or

(5) Is serving a period of probation or community supervision imposed as a sentence for any juvenile, misdemeanor, or felony criminal offense, whether or not the offense is covered under RCW 9.46.075(4); or

(6) Is the subject of an outstanding gross misdemeanor or felony arrest warrant; or

(7) Fails to provide us with any information required under commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us; or

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by:

- (a) Prior activities; or
- (b) Criminal record; or
- (c) Reputation; or
- (d) Habits; or
- (e) Associations; or

~~((8))~~ (9) Knowingly provides or provided goods or services to an entity that illegally operates gambling activities.

AMENDATORY SECTION (Amending Order 457, filed 3/22/06, effective 1/1/08)

WAC 230-03-175 Requirements for commercial stimulant businesses. Businesses must provide evidence for us to determine the business' qualifications as a commercial stimulant as ~~((set forth))~~ required in RCW 9.46.0217. That evidence includes, but is not limited to:

(1) Proof that it is an "established business" as used in RCW 9.46.0217. "Established business" means any business that:

(a) Has been open to the public for sales of food or drink for on-premises eating and drinking for ninety days or more; or

~~((a) Provides))~~ (b) Passes an inspection by us, is ready to conduct food or drink sales, and gives us ~~((with))~~ a proposed operating plan which includes:

- (i) Hours of operation; and
- (ii) Estimated gross sales from each separate activity the business will conduct on the business premises including, but not limited to:

(A) Gross sales from food or drinks sold for "on-premises" eating ~~((and))~~ or drinking; and

(B) Gross sales from food or drinks sold "to go"; and

(C) Gross sales from all other business activities; and

~~((b) Is ready to conduct food or drink sales; and~~

~~(e) Passes an inspection by us; and))~~

(2) Proof that it is "primarily engaged in the selling of food or drink for consumption on premises" as used in RCW 9.46.070(2). "Primarily engaged in the selling of food or drink for consumption on premises" means that before receiving a gambling license the business has total gross sales of food or drink for on-premises consumption equal to or greater than all other combined gross sales, rentals, or other income-producing activities which occur on the business premises when measured on an annual basis.

AMENDATORY SECTION (Amending Order 457, filed 3/22/06, effective 1/1/08)

WAC 230-03-180 Additional information required for a house-banked card room application. If you apply for a house-banked card room license, you must provide at least the following as part of your application:

(1) A detailed description, including flow charts, of your planned internal accounting and administrative control system. You must provide the information in the standard format we require; and

(2) A detailed diagram of the planned physical layout of the business premises. The diagram must include at least:

- (a) The location of all gambling tables; and
- (b) The location of all surveillance cameras; and
- (c) The count room; and
- (d) The surveillance room; and
- (e) The cashier's cage; and

(3) A detailed description of the card games offered for play, including rules of play, and the type of gambling tables operated, including table layouts.

(4) Before you begin card game operations, we perform a preoperational review and evaluation (PORE). You must receive our written approval before operating.

(5) The PORE determines whether:

(a) You have:

(i) An organizational structure that supports your proposed accounting and administrative controls; and

(ii) Controls in place so that you closely monitor the gambling activities and accurately record financial information; and

(iii) Have enough trained staff; and

(b) The physical layout of the card room and supporting functions can handle the proposed accounting and administrative controls.

AMENDATORY SECTION (Amending Order 605, filed 11/29/06, effective 1/1/08)

WAC 230-03-210 Applying for a gambling service supplier license. (1) You must apply for a gambling service supplier license if you perform any of the following gambling-related services for compensation:

(a) Consulting or advisory services regarding gambling activities; or

(b) Gambling management services; or
 (c) Financing for more than one licensee for purchases or leases of gambling equipment or financing for providing infrastructure or facilities, or equipment that supports gambling operations (~~for more than one licensee~~);

(i) Once you have financed more than one licensee, you must be a licensed gambling service supplier until all loans with licensees or previous licensees are paid.

(ii) Once you have been a licensed gambling service supplier, you must be licensed as a gambling service supplier again before financing purchases or leases for any licensee;
 or

(d) Acting as a lending agent, or loan servicer, or placement agent;

(i) Once you have financed more than one licensee, you must be a licensed gambling service supplier until all loans with licensees or previous licensees are paid.

(ii) Once you have been a licensed gambling service supplier, you must be licensed as a gambling service supplier again before financing infrastructure for any licensee; or

(e) Providing the assembly of components for gambling equipment under a contract with a licensed manufacturer or entering into an ongoing financial arrangement for gambling related software with a licensed manufacturer; or

(f) Installing, integrating, maintaining, or servicing digital surveillance systems that allow direct access to the operating system; or

(g) Training individuals to conduct authorized gambling activities; or

(h) Providing any other service or activity where influence may be exerted over any gambling activity licensed by the commission; or

(i) Performing the testing and certification of tribal lottery systems in meeting requirements specified in the tribal-state compact.

(2) You do not need a gambling service supplier license if you are:

(a) A bank, mutual savings bank, or credit union regulated by the department of financial institutions or any federally regulated commercial lending institution; or

(b) A university or college regulated by the Washington state board of community and technical colleges and the higher education coordinating board that trains individuals to conduct authorized gambling activities; or

(c) An attorney, accountant, or governmental affairs consultant whose primary business is providing professional services that are unrelated to the management or operation of gambling activities; or

(d) A person who only provides nonmanagement-related recordkeeping services for punch board and pull-tab operators, when the combined total gross billings from such services do not exceed twenty-five thousand dollars during any calendar year; or

(e) A person who provides names, images, artwork or associated copyrights, or trademarks, or patent use, or other features that do not affect the results or outcome of the game, for use in gambling equipment; or

(f) Regulated lending institutions.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 230-03-001 "We," "our," and "us" mean the commission and staff.

WAC 230-03-051 Incorporated cities and towns exempt from some information requirements for application.

AMENDATORY SECTION (Amending Order 457, filed 3/22/06, effective 1/1/08)

WAC 230-05-001 Prorating or refunding of fees. (1)

We may prorate organization license fees when we adjust expiration dates to schedule our workload.

(2) We may adjust expiration dates to end on the same day for organizations licensed for more than one activity. Whenever we adjust license expiration dates under this provision, we may prorate the required fees.

(3) We will not prorate or refund fees when:

(a) You discontinue your gambling activities; or

(b) You voluntarily surrender your license or permit; or

(c) We suspend or revoke your license.

(4) We keep a portion of your application fees whether we deny or administratively close your application or you withdraw it.

(5) If you are a commercial stimulant or a charitable or nonprofit licensee, you (~~may~~) have one year from your license expiration to apply for a partial refund of your license fee if your annual gross gambling receipts are less than the minimum for your license class. (~~We will refund~~) After our approval, we refund you the difference between the fees you paid and the fees for the license class level you actually met. (~~You must request the refund within twelve months.~~)

NEW SECTION

WAC 230-06-002 "We," "our," and "us" mean the commission and staff. In this title, "we," "our," and "us" mean the designated commission staff. If a rule refers to the powers or duties of the commissioners or the director or director's designee, the rule states specifically "commissioners" or "director or director's designee."

NEW SECTION

WAC 230-06-004 Defining "consecutively numbered," "consecutive," and "consecutively." (1) "Consecutively numbered" means a numbering system normally beginning with the number one, increased by one for each unit added to the group, and ending with a number equal to the total number of units in the group.

(2) "Consecutive" and "consecutively" mean one after the other without gaps.

AMENDATORY SECTION (Amending Order 601, filed 8/22/06, effective 1/1/08)

WAC 230-06-010 Age restrictions for players. (~~Lic~~ ~~ensee~~) No one must (~~not~~) allow anyone under the age of eighteen to participate in gambling activities except:

(1) To play in licensed bingo games when accompanied by an adult member of his(+) or her immediate family or a guardian, who is at least eighteen years old(-);

(a) "Immediate family" means only the spouse, parents, or grandparents of an individual(-); and

(b) "Guardian" means only a court-appointed, legal guardian of an individual; or

(2) To play bingo at agricultural fairs or school carnivals; or

(3) To play amusement games; or

(4) To sell raffle tickets for a charitable or nonprofit organization that:

(a) Has development of youth as a primary purpose; and

(b) Has at least three members or advisors who are eighteen years old and who supervise the operation of the gambling activity; and

(c) Has an adult member or advisor designated as the manager for the gambling activity.

NEW SECTION

WAC 230-06-031 Using wheels in promotional contests of chance, fund-raising events, or gambling activities.

Promotional contests of chance (PCOCs)

(1) Operators may use wheels specifically manufactured for a promotional contest of chance (PCOC), whether commercially made or home made.

(2) Operators must not use professionally manufactured wheels made specifically for gambling activities (for example, Big 6 Wheels) in PCOCs unless they receive permission ahead of time from us.

Fund-raising events (FREs)

(3) Operators may use commercially made wheels in gambling activities for fund-raising events (FREs).

Separation of PCOCs from gambling activities and promotions

(4) No wheel may be used in conjunction with their gambling activities by:

Card room licensees.

Pull-tab licensees.

Card rooms, pull-tabs, bingo, raffles

(5) Licensees and operators must not use professionally manufactured wheels made specifically for gambling activities (for example, Big 6 Wheels) in:

(a) Bingo; or

(b) Card game; or

(c) Pull-tab.

(6) Operators may use commercially made or home made wheels as part of drawings for prizes, good neighbor

prizes, or second element of chance prizes as part of bingo games, as set out in WAC 230-10-280.

(7) Raffle licensees and operators may use:

Other types of wheels, such as paddle wheels, in raffles; and

Commercially made or home made wheels in an alternative drawing format for determining the winner of a raffle. Alternative drawing formats are set out in WAC 230-11-055 and 230-11-060.

AMENDATORY SECTION (Amending Order 601, filed 8/22/06, effective 1/1/08)

WAC 230-06-035 Offer no credit, loans, or gifts. (1) Licensees, employees, or members must not extend credit, make loans, or give gifts to any person playing in an authorized gambling activity or which makes it possible for any person to play in an authorized gambling activity.

(2) Gifts are items licensees give to their customers. Licensees must not connect these gifts to gambling activities we regulate unless the gifts are:

(a) Gambling promotions; or

(b) Transportation services to and from gambling activities; or

(c) Free or discounted food, drink, or merchandise which:

(i) Costs less than five hundred dollars per individual item; and

(ii) Must not be traded back to you for cash; and

(iii) Must not give a chance to participate further in an authorized gambling activity.

(3) You must collect the price required to participate in the gambling activity in full before allowing someone to participate. Licensees must collect cash, check, gift certificate, gift card, or electronic point-of-sale bank transfer.

(4) If the price paid for the opportunity to play a punch board or pull-tab series is ten dollars or less, licensees may collect the price immediately after the play is completed.

(5) If a charitable or nonprofit organization has a regular billing system for all of the activities of its members, it may use its billing system in connection with the playing of any licensed activities as long as the organization limits play to full and active members of its organization.

(6) Charitable or nonprofit organizations may allow credit cards, issued by a state regulated or federally regulated financial institution, for payment to participate in raffles.

AMENDATORY SECTION (Amending Order 601, filed 8/22/06, effective 1/1/08)

WAC 230-06-050 Review of electronic or mechanical gambling equipment. (1) Persons who wish to submit gambling equipment, supplies, services, or games for our review to verify compliance with chapter 9.46 RCW and Title 230 WAC must pay the application deposit before we perform the review. They must also reimburse us for any additional costs of the review.

(2) We may require manufacturers to submit certain electronic or mechanical gambling equipment for review. The equipment must meet technical standards for compliance, accuracy, security, and integrity. To allow for contin-

ued testing and training, staff may keep any equipment submitted for review for as long as the equipment remains in play in Washington. The manufacturers must reimburse us for any costs of the review. ~~((We))~~ The commissioners and commission staff are not liable for any damage to equipment while in our possession.

(3) Licensees must operate equipment identical to the version ~~((staff))~~ the director or director's designee approved.

(4) If persons submitting equipment do not agree with the director or director's designee's decision, they may file a petition for declaratory order with the commission to be heard as a full review (de novo) by an administrative law judge, according to RCW 34.05.240 and chapter 230-17 WAC.

NEW SECTION

WAC 230-06-051 Computation of time. (1) When a period is in commission rules, orders, or statute, the period of time begins to run on the day after the act, event, or default. The last day of the period is included, unless it is a Saturday, Sunday or a legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday or a legal holiday.

(2) When the period is less than seven days, exclude Saturdays, Sundays and legal holidays in the calculation.

(3) This section does not apply to periods of license suspension.

AMENDATORY SECTION (Amending Order 601, filed 8/22/06, effective 1/1/08)

WAC 230-06-055 Notify law enforcement of gambling activity. (1) Licensees must notify local law enforcement agencies, in writing, that they have been licensed before they begin to conduct any activity under the license.

(2) Licensees must ~~((tell))~~ notify local law enforcement agencies of the:

(a) ~~((The))~~ Address where they will conduct the gambling activity; and

(b) ~~((The))~~ Type of gambling activity licensed; and

(c) ~~((The))~~ First date they will conduct the gambling activity; and

(d) ~~((The))~~ Proposed schedule for the operation of the gambling activity if they plan to conduct the activity on a regular basis.

(3) Licensees must not conduct the activity until they have made the notification.

AMENDATORY SECTION (Amending Order 601, filed 8/22/06, effective 1/1/08)

WAC 230-06-065 Display ~~((copies))~~ of ~~((all))~~ licenses ~~((or have them present on business premises)).~~ (1) Licensees must prominently display originals or copies of all gambling activity licenses or permits we have issued in the gambling area of their business premises.

(2) Licensees must have ~~((these))~~ the licenses and permits ready for inspection by us, other law enforcement, and the public at all times.

(3) Card room employers may choose not to display employee licenses, but must maintain ~~((a copy of))~~ all card room employees' licenses, proof of licensing, or applications if we have not issued a license, on the licensed premises at all times.

NEW SECTION

WAC 230-06-071 Washington state identification and inspection stamps to be called "I.D. stamps." We will refer to Washington state identification and inspection stamps as "I.D. stamps" throughout these rules.

NEW SECTION

WAC 230-06-074 Assistance required for commission inspections. When we arrive to conduct an inspection, the person or business under review must immediately provide:

(1) All requested documents or equipment; and

(2) A safe place with adequate space where we may perform the inspection; and

(3) Reasonable assistance to us.

AMENDATORY SECTION (Amending Order 601, filed 8/22/06, effective 1/1/08)

WAC 230-06-110 ~~((Buy, sell, or transfer))~~ Buying, selling, or transferring gambling equipment. (1) All licensees and persons authorized to possess gambling equipment must closely control the gambling equipment in their possession.

(2) Before selling gambling equipment, licensees must ensure that the buyer possesses a valid gambling license.

~~((2))~~ (3) Before purchasing gambling equipment, licensees must ensure that the seller possesses a valid gambling license.

~~((3))~~ (4) Applicants for Class F or house-banked card room licenses may purchase and possess gambling equipment during the prelicensing process, but only after receiving written approval from us.

~~((4))~~ (5) Licensees may transfer gambling equipment as a part of a sale of a business as long as a condition of the sale is that the buyer receives a gambling license before the sale is complete. Licensees must make a complete record of all gambling equipment transferred in this manner, including ~~((commission identification and inspection services stamp numbers))~~ I.D. stamps. Licensees must report these transfers, including a copy of the inventory record, to us.

AMENDATORY SECTION (Amending Order 601, filed 8/22/06, effective 1/1/08)

WAC 230-06-120 ~~((Sell or transfer))~~ Selling or transferring gambling equipment ~~((to manufacturers or distributors))~~ when no longer licensed. (1) If we have revoked your operator or distributor license, your license has expired, or you have voluntarily surrendered your license, you may only sell or otherwise transfer gambling equipment to a licensed manufacturer or distributor.

(2) Transfers of gambling equipment in this manner are subject to the following requirements:

(a) The transfer must be complete within thirty days of the date the license became invalid; and

(b) Distributors must use the cash or credit against amounts they owe manufacturers; and

(c) Operators or distributors selling the equipment must report to us within ten days of the transaction a complete inventory of all the gambling equipment transferred, including commission ~~((identification and inspection services))~~ I.D. stamps ~~((numbers))~~; and

(d) Manufacturers or distributors receiving the equipment must prepare a credit memorandum and retain it with their records.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-06-001 Defining "operator."

AMENDATORY SECTION (Amending Order 609, filed 4/24/07, effective 1/1/08)

WAC 230-07-005 Defining "licensees," "licensee," "organizations," and "organization." ~~((defined))~~ (1) In this ~~((section))~~ chapter of the rules, "licensee" and "licensees" means those charitable or nonprofit organizations which we require to be licensed to conduct gambling activities.

(2) In this chapter, "organization" and "organizations" means:

(a) Licensees; and

(b) All bona fide charitable or nonprofit organizations conducting unlicensed gambling activities authorized by chapter 9.46 RCW.

NEW SECTION

WAC 230-07-106 Insuring prizes. (1) We prohibit basing contracts for prize insurance on a percentage of the gambling activity.

(2) We allow prize insurance based on a flat fee or monthly fee.

NEW SECTION

WAC 230-09-056 Activity reports for fund-raising events. Fund-raising event licensees must submit an activity report to the commission concerning the operation of the licensed activities of each event. Licensees must complete the report in the format we require and the report must be:

(1) Received at our administrative office or postmarked no later than thirty days after the end of the authorized operating day or days; and

(2) Signed by the licensee's highest ranking executive officer or designee. 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.

AMENDATORY SECTION (Amending Order 604, filed 10/27/06, effective 1/1/08)

WAC 230-09-120 Disposable bingo cards. (1) Licensees that have a separate bingo license and use disposable bingo cards at the FRE must follow the inventory control procedures for disposable cards in the bingo rules chapter.

(2) Licensees that do not have a separate bingo license must keep all unused disposable cards or packets as part of the FRE record. Licensees may return unused cards or packets to the distributor if there are no breaks in the consecutive card/~~((audit))~~ control numbers. Licensees must receive documentation from the distributor of the total number of cards or packets returned and the beginning and ending card/~~((audit))~~ control numbers.

AMENDATORY SECTION (Amending Order 610, filed 4/24/07, effective 1/1/08)

WAC 230-10-001 Defining "licensees," "licensee," "organizations," "organization," "operators" and "operator." (1) In this ~~((section))~~ chapter of the rules, "licensee" and "licensees" means those charitable or nonprofit organizations which we require to be licensed to conduct gambling activities.

(2) In this section of the rules, "organization" and "organizations" means:

(a) Licensees; and

(b) All bona fide charitable or nonprofit organizations conducting unlicensed gambling activities authorized by chapter 9.46 RCW.

(3) In this section of the rules, "operator" and "operators" mean licensees, organizations, and individuals.

AMENDATORY SECTION (Amending Order 610, filed 4/24/07, effective 1/1/08)

WAC 230-10-030 Bingo card definitions. For purposes of this title:

(1) "Card" means a unique group and configuration of numbers printed on paper, cardboard, or other material used in bingo games. This is also called a "face."

(2) "Card number" means the number the manufacturer assigns to identify a single card or face. The "card number" is also called a "face" or "perm" number.

(3) "Number" means numeral or symbol printed on the card.

(4) "Collate" means the process of cutting or assembling master sheets or precut sheets of cards from one or more sets of cards into packets or books for marketing purposes. "Collate" is also called "finish" or "finishing."

(5) "Collation" means a group of packets or books of cards assembled from more than one set of cards.

(6) "Cut" means the layout or orientation of cards or sheets of cards divided from a master sheet of cards. A "cut" may be either square, horizontal, or vertical.

(7) "Disposable bingo card" means a nonreusable paper bingo card manufactured by a licensed manufacturer.

(8) "Duplicate cards" means two or more cards that are imprinted with the same numbers.

(9) "On" means the number of cards imprinted on a sheet. (Example: "Three on.")

(10) "Pack" means a group of cards or sheets of cards collated into a book and each page or sheet is intended to play a separate bingo game, including "on-the-way" games, within a session. This is also called a "packet."

(11) "Product line" means a specific type of card identifiable by unique features or characteristics when compared to other types of cards the manufacturer markets. A "product line" includes all series and all cards within each series the manufacturer identifies.

(12) "~~(Sequentially)~~ Consecutively numbered" means a numbering system normally beginning with the number one, increased by one for each individual unit added to the group, and ending with a number identical to the total number of units assigned to that group.

(13) "Serial number" means a number the manufacturer assigns for identification and tracking purposes to a set of cards. The same number must not identify another set of cards from the same product line, color, border pattern, and series in less than 999,999 occurrences or twelve months, whichever occurs first. If the product line is used as a determining factor for assignment of a serial number, the difference between various product lines must be readily identifiable by observation.

(14) "Series" of cards means a specific group of cards that a manufacturer assigns (~~(sequential)~~ consecutive card numbers. The first and last card numbers in a series typically identify the group of cards. (Example: The "1 to 9000 series.")

(15) "Set" of cards means a specific group of cards from the same product line, which are the same color, border pattern, and imprinted with the same serial number. A "set" of cards may include more than one series of cards.

(16) "Sheet number" means the number the manufacturer assigns to identify an arrangement of more than one card that results from dividing master sheets of cards to help marketing.

(17) "Skip" means the standard spread or difference between card or sheet numbers at different page levels in packs or packets.

(18) "Subset" means a portion of a set of cards or collation of packets that a licensed distributor divides to help marketing.

(19) "Up" means the number of pages or sheets collated into each packet or book of cards. (Example: "Eight up.")

AMENDATORY SECTION (Amending Order 610, filed 4/24/07, effective 1/1/08)

WAC 230-10-050 Electronically generated bingo cards—Additional requirements. (1) "Electronically generated bingo cards" means bingo cards for which a licensed manufacturer has predetermined the numbers and the sequence of arrangement and stored them electronically for computer access. Electronically generated bingo cards must:

(a) Meet the requirements for bingo cards; and

(b) Be printed by the licensed bingo operator, during the bingo session on a printer interfaced with the computer; and

(c) If printed before the time of sale, be sold (~~(sequentially)~~ consecutively) at each individual sales point, beginning with the lowest card, sheet, or transaction number; and

(d) Have a master verification system that provides a facsimile of each card. The master verification system must display the exact numbers and the location or configuration of numbers on the card.

(2) The bingo licensee must keep cards or sheets of cards not issued (~~(sequentially)~~ consecutively) during a session as a part of their daily bingo records.

NEW SECTION

WAC 230-10-180 Electronic bingo card daubers requirements. (1) Electronic bingo card daubers must:

(a) Be manufactured by licensed manufacturers; and

(b) Be sold, leased, and serviced by licensed distributors or manufacturers. Operators may perform routine maintenance on devices; and

(c) Have an I.D. stamp from us sold to the licensed manufacturer or the operator and attached by the licensed manufacturer, the operator, or us; and

(d) Be unable to modify the computer program which operates the dauber units or the electronic data base which stores the bingo cards; and

(e) Store preprinted bingo cards a player purchases. The electronic images of cards stored in daubers are for player convenience only and are not bingo cards for purposes of this title; and

(f) Use cards that meet all requirements of bingo cards and electronic bingo cards; and

(g) Allow players to input the numbers called; and

(h) Compare input numbers to bingo cards stored in an electronic data base; and

(i) Identify to the player those stored bingo cards that contain the input numbers.

(2) Operators providing electronic daubers must have the cards printed, placed in a master index, and available for on-site inspection at the request of law enforcement agencies, customers, or us.

AMENDATORY SECTION (Amending Order 610, filed 4/24/07, effective 1/1/08)

WAC 230-10-220 Player selection bingo game card requirements. (1) Bingo cards used in player selection bingo games:

~~((+))~~ (a) Must be printed on two-part, self-duplicating paper to include an original and a duplicate copy. The duplicate copy must be given to the player and the operator retains the original as a part of the daily bingo records; and

~~((=))~~ (b) Must include a control system in each set which:

~~((#))~~ (i) Identifies that specific set; and

~~((b))~~ (ii) Numbers each sheet of cards within a set (~~(sequentially)~~ consecutively); and

~~((e))~~ (iii) Allows tracking of the transfer of cards from the point of manufacture to the operator and from the operator to the player; and

~~((=))~~ (c) May be produced by unlicensed manufacturers if:

~~((a))~~ (i) The primary activity of the manufacturer is producing nongambling products; and

~~((b))~~ (ii) The cards meet the general bingo cards requirements; and

~~((c))~~ (iii) The licensee assumes responsibility for complying with all requirements for player selection cards; and

~~((d))~~ (iv) The invoice transferring these cards includes the beginning and ending card number in addition to meeting all other sales invoice requirements; and

~~((4))~~ (d) If electronically generated (~~(cards)~~), may be single copy cards if all information from the cards is either printed on a continuous transaction journal retained in the card generating device or stored on the computer hard drive in a data base and printed out at the end of each session.

(2) Operators offering an "instant winner" game under player selection bingo must:

(a) Meet all requirements for awarding bingo prizes; and

(b) Award prizes of not more than twenty-five percent of the total prize pool or two hundred fifty dollars, whichever is less; and

(c) For prizes of two hundred fifty dollars or more:

(i) Have the winner sign the winning card on the back to verify a winner; and

(ii) If using a two-part card, record a neutral player's name and complete address on the back of the original card to verify the winning card was paid.

NEW SECTION

WAC 230-10-235 Hidden face bingo game requirements. (1) Hidden face bingo cards must meet the requirements for disposable bingo cards and each card or sheet of cards must:

(a) Be printed, folded, and sealed in a manner that prohibits anyone from viewing or knowing the numbers, configuration of numbers on the card, or the card number before the player opens it; and

(b) Have a separate numbering system that is randomly distributed when compared to the card number imprinted in the "free" space. Manufacturers must use procedures that mix cards or sheets of cards so that:

(i) No consistent relationship exists between the "card numbers" and separate numbering system within a set or subset; and

(ii) No patterns or consistent relationships exist in the location of a specific card number between subsets from different sets; and

(iii) The serial number and the additional card or sheet number must be imprinted on the outside of the cards or sheets of cards and visible for recording without opening the card or sheet of cards; and

(iv) Each set of cards must contain at least six thousand unique faces or patterns of numbers; and

(2) Bingo licensees must:

(a) Use the disposable bingo card receipting method for sales of hidden face bingo cards; and

(b) Meet all inventory requirements for disposable bingo cards and disposable bingo card receipting; and

(c) Comply with rules about sequentially issuing bingo cards to ensure that duplicate cards are not sold during a

game. Licensees must sell each complete set or subset of cards before they issue any cards from a different set or subset. Licensees may sell cards from more than one set during a game if care is taken to ensure that no duplicate cards are sold; and

(d) Complete all play during a single session and only use cards that are sold during that session; and

(e) Select and call a new set of numbers for each game or set of games (example: "On the way" games); and

(f) Have a separate display board, visible to the players, for displaying numbers called. The numbers must be displayed until the game is completed. Licensees may use alternative displays if the numbers are displayed on the electronic flashboard during all number selection periods; and

(g) Document and prominently post the requirements for a completed game; and

(3) Licensees offering an "instant winner" game under hidden face bingo must:

(a) Meet all requirements for awarding bingo prizes; and

(b) Award prizes of not more than twenty-five percent of the total prize pool or two hundred fifty dollars, whichever is less; and

(c) For prizes of two hundred fifty dollars or more:

(i) Have the winner sign the winning card on the back to verify a winner; and

(ii) If using a two-part card, record a neutral player's name and complete address on the back of the original card to verify the winning card was paid; and

(4) Players who have paid to participate in the game must be present when the numbers are selected.

AMENDATORY SECTION (Amending Order 610, filed 4/24/07, effective 1/1/08)

WAC 230-10-305 Gift certificates as bingo prizes.

When issuing gift certificates as bingo prizes, bingo operators must:

(1) Issue the gift certificates (~~(sequentially)~~) consecutively; and

(2) Not exceed fifty dollars per bingo prize in value; and

(3) Not issue gift certificates exclusively for punch boards or pull-tabs; and

(4) Record the value of each gift certificate as a bingo prize in the daily bingo records under the session awarded; and

(5) Keep the bingo prize receipt for the gift certificates as a part of the daily bingo records.

AMENDATORY SECTION (Amending Order 610, filed 4/24/07, effective 1/1/08)

WAC 230-10-310 Selling gift certificates. When selling gift certificates, bingo operators must:

(1) Issue the gift certificates (~~(sequentially)~~) consecutively; and

(2) Ensure that the gift certificates are paid for in full at the time of purchase; and

(3) Deposit all funds collected separately into the gambling account within five banking days; and

(4) Include each gift certificate number with the deposit record.

AMENDATORY SECTION (Amending Order 610, filed 4/24/07, effective 1/1/08)

WAC 230-10-330 ((Recordkeeping)) Activity reports required for ((agricultural fairs,)) Class A, B, and C bingo, agricultural fairs, and other organizations. Licensees must immediately account for all income from bingo games. Class A, B, and C bingo licensees, organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair must follow the recordkeeping requirements in WAC 230-07-125 or any of the receipting methods for bingo income required for Class D or above licensees.

NEW SECTION

WAC 230-10-331 Activity reports for Class D and above bingo licensees. Each organization licensed to conduct Class D and above bingo games must submit an activity report to the commission. The activity reports must be in the format we require and must:

- (1) Cover the periods:
 - (a) January 1 through March 31; and
 - (b) April 1 through June 30; and
 - (c) July 1 through September 30; and
 - (d) October 1 through December 31 of each year; and
- (2) Be received at our administrative office or post-marked no later than thirty days following the end of the reporting period; and
- (3) Be signed by the licensee's highest ranking executive officer or a designee. If someone other than the manufacturer or distributor or its employee prepares the report, then it must provide the preparer's name and business telephone number; and
- (4) Be submitted regardless of the level of activity. If no activity was conducted during the period, a report stating "no activity" must be submitted; and
- (5) Be filed even if licensees do not renew their license. They must file a report for the period between the previous report filed and the expiration date of the license.

AMENDATORY SECTION (Amending Order 610, filed 4/24/07, effective 1/1/08)

WAC 230-10-350 Recording bingo winners. Organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair, and Class A and B bingo licensees do not have to follow this rule if they meet the requirements for lower volume charitable or nonprofit organizations in WAC 230-07-125. All other bingo licensees must report all prize payments for bingo games and drawings for prizes, good neighbor prizes, and second element of chance prizes at bingo games and record payment on a prize receipt.

- (1) Licensees must use prize receipts printed by a commercial printer. The receipts must:
 - (a) Be two-part, self-duplicating paper that provides for an original and a duplicate copy; and
 - (b) If the licensee is Class F or above, be imprinted with the name of the licensee and a consecutive ascending number that does not repeat in at least 100,000 occurrences; and

(c) If the licensee is Class E or below, the receipt is not required to be imprinted with the licensee's name and the consecutive ascending number may repeat in 1,000 occurrences; and

(d) Provide space for the licensee to record the information we require.

(2) Licensees may receipt ((merchandise)) prizes with a cost or fair market value of ((fifteen)) twenty dollars or less on a single ((merchandise)) prize receipt log sheet. Licensees must:

(a) Maintain a separate ((merchandise)) prize receipt log for each session; and

(b) Retain the receipt log as a part of the bingo daily records.

(3) Operators must complete the prize receipt including, at least:

- (a) Date; and
 - (b) Game number; and
 - (c) Complete name and address of the winner; and
 - (d) Dollar amount of the prize or the operator's cost, if noncash prize; and
 - (e) Full description of all noncash prizes; and
 - (f) Check number, if any portion of the prize is paid by check; and
 - (g) Initials of the bingo worker making the payout; and
 - (h) Initials of the cashier making the payment.
- (4) Except for linked bingo prizes, licensees may omit an address for the winner if:

- (a) The prize is greater than \$300; and
- (b) The licensee pays by check or a combination of cash and check; and
- (c) Checks are drawn on the licensee's gambling bank account; and
- (d) Checks used are of a type that provides a duplicate copy. The copies must be kept as a part of the daily bingo records; and
- (e) Checks are made payable only to the winner. Licensees may make checks for prizes won by players under age eighteen payable to the guardian or immediate family member accompanying the player; and

(f) Licensees note the game number and prize receipt number on the check; and

(g) The bank returns all original checks to the licensee. Licensees must have the original checks available for our inspection on demand; and

(h) The licensee does not cash or otherwise redeem prize checks.

(5) Licensees must record the complete name and address of the winner of linked bingo prizes.

(6) Licensees must:

(a) Issue prize receipts ((sequentially)) consecutively in an ascending order; and

(b) Void and retain with the daily records any prize receipts bearing a lower number than the highest number issued during a session; and

(c) Give the original of each prize receipt to the winner; and

(d) Keep a duplicate copy as a part of their records for not less than three years; and

(e) Account for and document all prize receipts purchased or otherwise obtained on a vendor's invoice; and

(f) Keep the vendor's invoice, or a photocopy of it, on the premises and have it available for our inspection. The purchase invoice must document, at least:

- (i) Name of the vendor;
- (ii) Name of the purchasing organization;
- (iii) Date of purchase;
- (iv) Number of receipts purchased; and
- (v) The beginning and ending receipt number.

AMENDATORY SECTION (Amending Order 610, filed 4/24/07, effective 1/1/08)

WAC 230-10-390 Disposable bingo card method for receipting bingo income required when disposable bingo cards used. Bingo licensees must use the disposable bingo card method to receipt for bingo income when disposable bingo cards are used. Licensees using the disposable bingo card method to receipt for bingo income must:

(1) Use bingo cards that meet all disposable bingo card requirements; and

(2) Complete the inventory control record; and

(3) Record for each set of cards or sheets intended for playing a single game, including on-the-way games:

(a) Serial number; and

(b) The color and/or border pattern; and

(c) The value of each card or sheet; and

(d) The lowest consecutive card or sheet number issued as a receipt; and

(e) The last card or sheet number issued as a receipt; and

(f) Missing cards or sheets per the manufacturer's packing record; and

(g) The number of cards returned and not issued; and

(h) The number of cards issued as receipts; and

(i) The total gross gambling receipts from all cards issued as receipts; and

(4) Record for each set or collation of packs or packets of cards sold and intended for playing a defined set of games:

(a) The serial number of the top sheet or page of the packet; and

(b) The color and/or border pattern of the top sheet or page of the packet; and

(c) The lowest consecutive card, sheet, or packet number for the first packet issued as a receipt; and

(d) The card, sheet, or packet number of the last or highest packet issued as a receipt; and

(e) The number of packets issued as receipts; and

(f) The number of packets returned and not issued; and

(g) Missing packets per the manufacturer's packing record; and

(h) The value of each packet; and

(i) The total gross receipts from all packets issued as receipts; and

(5) Record each disposable card issued for each type of sale separately. When more than one card or sheet number appears on a sheet of cards, licensees must use the manufacturer's designated control system to determine the beginning and ending number sold. Each time the numbering of the

sheets breaks in the set, licensees must make a separate entry in the records; and

(6) (~~Sequentially~~) Consecutively issue each disposable card or sheet or packet of cards from the same set at each individual sales point. Licensees may sell these cards, sheets, or packets not issued during a session only at the next bingo session. Otherwise, licensees must retain these cards, sheets, or packets of cards for at least one year; and

(7) Return unsold cards issued to the operator for a linked bingo prize to the linked bingo prize provider. The linked bingo prize provider must store these cards six months or until we have examined and approved them for destruction, whichever is less. Unopened blocks of two hundred fifty cards may be reissued.

AMENDATORY SECTION (Amending Order 610, filed 4/24/07, effective 1/1/08)

WAC 230-10-420 Ticket method of receipting bingo income. Bingo licensees may use tickets to document receipts of bingo income. Tickets must be:

(1) Manufactured by a commercial printer and imprinted with:

(a) At least four digit numbers in a (~~sequential~~) consecutive series. Class F and above licensees must use tickets with numbers that do not repeat in at least 99,999 occurrences; and

(b) Each ticket on a roll must represent the same dollar value or amount of money; and

(c) Include the name of the licensee operating Class F and above bingo game; and

(2) If used by Class F or above licensees, purchased from a licensed distributor or manufacturer; and

(3) Issued (~~sequentially~~) consecutively from each roll, starting with the lowest numbered ticket; and

(4) Accounted for by the licensee. If purchased from a commercial business or licensed distributor, documentation must be on the sales invoice. This invoice, or a photocopy, shall be maintained on the premises and available for inspection. Document the following information on the sales invoice for each roll of tickets purchased:

(a) Name of distributor; and

(b) Name of purchasing licensee; and

(c) Date of purchase; and

(d) Number of rolls of tickets purchased; and

(e) The color, dollar value, total number of tickets, and beginning ticket number for each roll; and

(5) Recorded in the daily records in the format we require; and

(6) Retained by the licensee as a part of the bingo daily records for those not issued as receipts and that bears a number falling below the highest numbered ticket issued during that session and not be used to receipt for any type of income; and

(7) Not be the same color and imprinted with the same ticket number as any other ticket on the premises.

AMENDATORY SECTION (Amending Order 610, filed 4/24/07, effective 1/1/08)

WAC 230-10-440 Combination receipting method for bingo income requirements. (1) Bingo licensees using the combination method of receipting for bingo income must follow all requirements for cash register receipting; and

(2) Licensees may sell similar cards used to play for the same prize at a volume discount, but they must record each separate discount price using a separate cash register or sales identification key to provide an audit trail; and

(3) If receipting for the sale of disposable bingo cards, licensees must:

(a) Follow all requirements for disposable bingo card receipting; and

(b) In addition to those requirements, record the following for each session where sets of cards are sold:

(i) The session number and date; and

(ii) The beginning and ending control numbers of the top page of the packets; and

(iii) Adjustments for any missing packets, compared to the manufacturer's packing record; and

(iv) The number of packets distributed to sales points and returned as unsold; and

(v) Total packets sold; and

(vi) The value of each packet; and

(vii) The extended value obtained by multiplying total packets issued times the value of each packet; and

(viii) The cumulative number of packets issued from the series to date; and

(c) ~~((Sequentially))~~ Consecutively issue each disposable card or sheet or packet of cards from the same set at each individual sales point. If sets are divided into subgroups, then licensees must issue packets or sheets of cards within each subgroup ~~((sequentially))~~ consecutively from each subgroup. Licensees may sell these cards, sheets, or packets not issued during a session only at the next bingo session. Otherwise, licensees must retain these cards, sheets, or packets of cards for at least one year; and

(d) Record all required information in the inventory control record; and

(e) Carry forward the totals from the transaction record to the daily bingo summary and reconcile sales against the cash register record; and

(4) If receipting for electronically generated bingo cards, licensees must:

(a) Follow all requirements of electronically generated bingo card receipting; and

(b) Carry forward the totals from the transaction record to the daily bingo summary and reconcile sales against the cash register record; and

(5) If receipting for bonus games, licensees must:

(a) Follow all requirements of ticket receipting; and

(b) ~~((Sequentially))~~ Consecutively issue tickets from each sales point. Licensees must retain tickets from each sales point with control numbers lower than the highest ticket issued at that sales point as a part of the daily bingo records; and

(c) Carry forward the totals from the transaction record to the daily bingo summary and reconcile sales against the cash register record.

AMENDATORY SECTION (Amending Order 610, filed 4/24/07, effective 1/1/08)

WAC 230-10-445 Linked bingo games ~~((and prizes))~~.

(1) A linked bingo prize provider must request and receive approval from us before allowing a bingo operator to participate in a game that offers a linked bingo prize. ~~((A bingo))~~

(2) Operators must not offer more than one linked bingo game per session or no more than three linked bingo games per day.

(3) The linked bingo prize provider must notify us within seven days when an operator stops participating in linked bingo prize games.

NEW SECTION

WAC 230-10-446 Operating linked bingo prize games.

Before the game begins.

(1) The linked bingo prize provider (provider) must establish procedures for participating operators to follow that reduce the possibility of error; and

(2) Providers must not restrict licensees from participating. However, a provider may establish minimum card sales by an operator to entitle that operator to receive equipment to conduct the game without paying compensation; and

(3) Before beginning a linked bingo prize game, each operator must tell their players the serial numbers and sheet numbers for all cards sold at their premises; and

(4) If hidden face bingo cards are used, providers may, as part of the game rules, allow players to mark all odd or even numbers based on the calendar date; and

(5) All card sales must stop before the drawing of the first ball; and

During the game.

(6) Bingo licensees operating linked bingo prize games must ensure that all numbers selected for a linked bingo prize are selected on the premises of a licensee taking part in the linked bingo prize and in the presence of players paying to participate in the game; and

(7) If a provider distributes cards so that duplicate cards are in play, then the provider is responsible for paying the increases to the prize pool under WAC 230-10-125; and

(8) The blower must remain in operation until management removes all balls and records the order in which they were removed; and

(9) The caller must display the number to all players immediately after drawing each ball; and

(10) Licensees may not require a player to call bingo on the last number called; and

(11) When a player declares a winning bingo for the main or bonus prize, a licensed gambling manager, a neutral player, and the game caller must immediately verify the winning card and disclose the winning combination to all players.

NEW SECTION**WAC 230-10-447 Prizes in linked bingo prize games.**

(1) Operators may have up to forty-eight hours to award a main or bonus prize to the winner(s); and

(2) Linked bingo prize providers may establish a consolation prize amount paid at each participating location. Participating licensees whose sales volume does not meet the minimum set out in WAC 230-10-455(2) may pay a consolation prize that is less than this amount; and

(3) For all linked bingo prize games, a winner must be determined at each premises which sells cards to participate in the game.

NEW SECTION

WAC 230-10-451 Recordkeeping for linked bingo prize games. (1) Class A, B, or C bingo licensees participating in linked bingo games must maintain all records required for Class D bingo licensees for all their bingo operations; and

(2) For funds contributed to accrued linked bingo prizes, licensees must modify each bingo game daily record to include, at least:

(a) The amount of the contribution; and

(b) The amount of any consolation prize the licensee paid for a linked bingo prize game; and

(c) The name of the linked bingo prize provider to whom the contribution is made.

NEW SECTION

WAC 230-10-456 Additional accounting records for linked bingo prize providers. In addition to other accounting records, linked bingo prize providers must keep records in the format we require of:

(1) Each prize offered; and

(2) Equipment installed at participating licensees' locations that includes at least:

(a) The name and address of the licensee where the equipment is installed; and

(b) A physical description of the equipment and its cost; and

(3) All bingo cards purchased or otherwise obtained, where the cards were distributed, and the date the cards were used; and

(4) Video recording of each drawing in the previous one-year period that shows, at least:

(a) The ball selection process, including the numbers drawn; and

(b) All body movements of the caller.

NEW SECTION

WAC 230-10-457 Activity reports by linked bingo prize providers. Linked bingo prize providers must submit an activity report to us concerning their sales and services.

(1) Providers 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:

(a) January 1 through June 30; and

(b) July 1 through December 31; and

(5) Providers must report regardless of the level of activity. If the provider conducted no activity during the period, he or she must submit a report stating "no activity"; and

(6) Providers must submit a report for any period of time their license was valid. If they do not renew their license, they must submit a report for the period between the previous semiannual report they filed and the date their license expired.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-10-450	Controlling gambling equipment by linked bingo prize licensees.
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AMENDATORY SECTION (Amending Order 602, filed 9/26/06, effective 1/1/08)

WAC 230-11-001 Defining "licensees," "licensee," "organizations," and "organization." (~~defined~~) (1) In this chapter, "licensee" and "licensees" means those charitable or nonprofit organizations which we require to be licensed to conduct raffles.

(2) "Organization" and "organizations" means all bona fide charitable or nonprofit organizations conducting unlicensed raffles authorized by chapter 9.46 RCW, including those authorized by RCW 9.46.0209, 9.46.0315 and 9.46.0321.

AMENDATORY SECTION (Amending Order 602, filed 9/26/06, effective 1/1/08)

WAC 230-11-020 Record information on ticket stub.

If an organization sells raffle tickets to the general public or conducts raffles that do not require the winner to be present at the drawing, the organization must include a stub or other detachable section bearing a number, letter, or symbol matching the number, letter, or symbol on the ticket or object representing the ~~(player's)~~ participant's ticket. The organization's portion must include the participant's name, complete address, telephone number, and other information necessary to notify the winner.

AMENDATORY SECTION (Amending Order 602, filed 9/26/06, effective 1/1/08)

WAC 230-11-085 Modified and discounted pricing plans for tickets for members-only raffles. (1) Licensees may use modified ticket pricing plans at members-only raffles when gross revenues do not exceed five thousand five dollars. One type of modified pricing plan is a penny raffle. A

penny raffle is a raffle where licensees sell five hundred consecutively numbered tickets. Participants randomly choose tickets and pay the consecutive number of the ticket multiplied by a predetermined cost, for instance, one penny.

(2) In modified pricing plans, licensees may sell tickets to enter a raffle for different values, not to exceed ten dollars for a single ticket, if the licensee:

(a) ~~((Tells))~~ Discloses to the ((players)) participants the pricing plan before selling them a ticket to participate. The licensee must ~~((tell))~~ disclose to the ((player)) participant the total number of tickets in the population available and the number of tickets at each price level; and

(b) Allows participants to randomly select their ticket from the population of remaining tickets and pay the amount printed on the ticket they select; and

(c) Establishes records for an adequate audit trail to determine gross gambling receipts; and

(d) Holds no more than two such drawings during a meeting or event; and

(e) Sells multiple tickets to enter one or more drawings as a package and the total price of the package must not exceed twenty-five dollars.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-12-230	Agreements restricting freedom to buy and sell—Prohibited.
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AMENDATORY SECTION (Amending Order 612, filed 7/16/07, effective 1/1/08)

WAC 230-13-030 Group 4—Coin or token toss amusement game standards. In Group 4 games, players toss one or more coins or tokens onto a surface or into a target area to win a prize. In coin or token toss amusement games:

(1) The game must have a clear and unobstructed thirty-six inch vertical airspace above the target area or surface; and

(2) The target or surface must be level and not altered to give an advantage to the operator; and

(3) Any game which has a target area of four square inches or less must award a prize if any part of the coin or token is within the target area. "Four square inches" means a two-inch by two-inch square; and

(4) If the target does not include a more than two-inch by two-inch square area, such as a rainbow or star, a prize must be awarded if any part of the coin or token lands on any portion of the target area.

AMENDATORY SECTION (Amending Order 612, filed 7/16/07, effective 1/1/08)

WAC 230-13-080 Operating coin or token activated amusement games. (1) Coin or token activated amusement games must have nonresetting coin-in meters, certified as accurate to within plus or minus one coin or token in one thousand plays, which stop play of the machine if the meter is removed or disconnected when operating at:

(a) Amusement parks; or

(b) Regional shopping malls; or

(c) Movie theaters; or

(d) Bowling alleys; and

(e) Miniature golf course facilities; and

(f) Skating facilities; and

(g) Amusement centers. "Amusement center" means a permanent location whose primary source of income is from the operation of ten or more amusement devices; and

(h) Restaurants; and

(i) Grocery or department stores. A "department or grocery store" means a business that offers the retail sale of a full line of clothing, accessories, and household goods, or a full line of dry grocery, canned goods, or nonfood items plus some perishable items, or a combination of these. A department or grocery store must have more than ten thousand square feet of retail and support space, not including the parking areas; and

(j) Any premises that a charitable or nonprofit organization currently licensed to operate punch boards, pull-tabs, or bingo controls or operates.

(2) All coin or token activated amusement games must have a coin acceptor capable of taking money for one play and may have an additional acceptor to include paper money.

(3) Operators using amusement games that do not return change must have a change-making bill acceptor or the ability to get change in the immediate vicinity of such games. All amusement games using paper money acceptors must either:

(a) Return change; or

(b) Clearly disclose to ~~((the))~~ players before play that change is not returned and ~~((tell))~~ disclose to them where at the location they may get change.

NEW SECTION

WAC 230-13-169 Activity report for commercial amusement game licensees. Commercial amusement game licensees must submit an activity report to the commission. The activity reports must be in the format we require and must:

(1) Cover the periods:

(a) January 1 through June 30; and

(b) July 1 through December 31; and

(2) Be received at our administrative office or post-marked no later than thirty days following the end of the reporting period; and

(3) Be signed by the licensee's highest ranking executive officer or a designee. If someone other than the commercial amusement game licensee or its employee prepares the report, then it must provide the preparer's name and business telephone number; and

(4) Be filed even if they do not renew their license. They must file a report for the period between the previous report filed and the expiration date of the license.

AMENDATORY SECTION (Amending Order 614, filed 8/10/07, effective 1/1/08)

WAC 230-14-040 Maximum number of pull-tabs in a series. The maximum number of pull-tabs must be no more than:

- (1) ~~Ten~~ Twenty-five thousand in a series; or
- (2) ~~Six~~ Ten thousand in a carry-over jackpot series; or
- (3) Fifty thousand in progressive jackpot series.

[Statutory authority: RCW 9.46.070.]

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 614, filed 8/10/07, effective 1/1/08)

WAC 230-14-075 Substitute flares. Manufacturers must make all flares. Operators or distributors must not alter flares, except that substitute flares are allowed if:

- (1) The manufacturer, distributor, or operator who changes the original flare and attaches the substitute flare is responsible for ensuring that the substitute flare meets all other requirements for flares; and
- (2) Manufacturers, distributors, or operators must permanently deface the original manufacturer's flare and attach the substitute flare to the original.
- (3) Distributors or operators may apply manufacturer-produced substitute flares to punch boards and pull-tab series; and
- (4) Distributors or operators must place substitute flares only on the upper face or the top of the punch board; and
- (5) If distributors or operators convert flares from cash-only prizes to combined merchandise and cash prizes, they must offer at least fifty percent of the total value of the prizes in merchandise; and

(6) Distributors or operators may use substitute flares on punch boards and pull-tab series which offer merchandise or combination merchandise-cash prizes. These flares must use numbers, not symbols, to denote winners. distributors or operators making substitute flares must:

- (a) Select winning numbers from the manufacturer's original flare, or from the manufacturer's designated winning numbers on the punch board; and
- (b) Assign the highest valued prize(s) to the lowest available winning number(s); and
- (c) Assign the second highest valued prize(s) to the next lowest available winning number(s) and repeat that pattern until they have assigned all prizes based on their value to winning numbers. (~~Licensed distributors~~) Distributors may select winning numbers (~~(consecutively)~~) sequentially from the manufacturer's original flare; and

(7) Substitute flares must have the I.D. stamp number and series number permanently recorded in ink on its face.

[Statutory authority: RCW 9.46.070.]

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 614, filed 8/10/07, effective 1/1/08)

WAC 230-14-220 Prize limits for carry-over jackpot pull-tab series. Operators may use pull-tab series which include carry-over jackpots. Operators must use the following calculations for prizes and prize payouts for carry-over jackpots:

- (1) Guaranteed prizes must be sixty percent or more of gross gambling receipts available from the pull-tab series. "Guaranteed prizes" means all prizes available, excluding the contribution amount or carry-over jackpot; and
- (2) The manufacturer determines the contribution amount and the method of play and discloses both on the flare; and
- (3) The contribution amount for each series must not be more than five hundred dollars; and
- (4) An accumulated carry-over jackpot must not be more than ~~two~~ five thousand dollars; and
- (5) If the carry-over jackpot is awarded, the sum of the advance-level prize and the carry-over jackpot prize combined must not be more than ~~five~~ two thousand dollars; and
- (6) If the operator carries over the jackpot to a new series, the total of the advance-level prize and the consolation prize must not be more than five hundred dollars.

[Statutory authority: RCW 9.46.070.]

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 230-14-284 Activity report for punch boards and pull-tab licenses. Punch boards and pull-tab licensees must submit an activity report to the commission.

- (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:
 - (a) January 1 through June 30; and
 - (b) July 1 through December 31; and
- (5) Unless they are also licensed for Class D or above bingo, charitable and nonprofit licensees must submit a semi-annual activity report for punch boards and pull-tabs; and
- (6) Class D or above bingo licensees with a punch board and pull-tab license must report punch board and pull-tab activity, on the combined quarterly report provided by the commission as explained in chapter 230-10 WAC; and
- (7) 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 semiannual report they filed and the date their license expired.

AMENDATORY SECTION (Amending Order 608, filed 4/10/07, effective 1/1/08)

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))~~ three 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 230-15-111 Destruction and disposal of gambling chips. Licensees must submit internal controls to us outlining the procedures for destroying or disposing of gambling logo chips.

(1) Licensees' internal controls must set out the method for destroying logo chips that are damaged or worn. The internal controls must include, at least:

(a) That chips must be destroyed or mutilated in such a way that they are unusable for play; and

(b) The two departments, one of which must be the accounting department, that will be responsible for overseeing chip destruction; and

(c) Only licensed employees may perform chip destruction.

(2) Licensees must record all gambling chips they destroyed on a chip destruction log in the format we require.

(3) If a card room closes, the licensee or former licensee must:

(a) Sell or otherwise transfer gambling equipment to a licensed manufacturer or distributor; or

(b) Destroy the chips according to the established internal controls and provide the chip destruction log to us.

AMENDATORY SECTION (Amending Order 611, filed 4/24/07, effective 1/1/08)

WAC 230-15-126 Cutting cards in center dealer-dealt games. In center dealer-dealt games:

(1) After the shuffle, the dealer (~~((must))~~) may 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.

AMENDATORY SECTION (Amending Order 608, filed 4/10/07, effective 1/1/08)

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))~~ forty 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;

(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 additional chips for going out from each participating player.

NEW SECTION

WAC 230-15-141 Additional merchandise or cash prizes for card games.

Nonproprietary games.

(1) Licensees may add additional merchandise or cash prizes to nonproprietary games like Blackjack or Pai Gow. We consider these additional prizes a gambling promotion and they must:

- (a) Not be greater than five hundred dollars each; and
- (b) Meet all requirements of WAC 230-06-030.

Proprietary games.

(2) Licensees must not add additional merchandise or cash prizes to proprietary games without the approval of the company that owns the rights to the games.

(3) To indicate their approval, the owner of the rights to a proprietary game must:

(a) Submit an alternative pay-table that includes the additional or revised prize payout to us for review and approval; or

(b) Send an authorization letter to us allowing the addition of gambling promotions to their game.

(4) Once we approve the changes, the revised pay-tables are available to all card game licensees. The prizes become a part of the game rules and we consider them prize payouts on the game. Because of this, we do not consider the prizes a gambling promotion.

AMENDATORY SECTION (Amending Order 608, filed 4/10/07, effective 1/1/08)

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))~~ **consecutively** 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 230-15-475 Tips from players and patrons to card room employees. (1) House-banked card game licensees may allow selected employees to accept tips from players or patrons.

(2) If licensees allow house-banked card game dealers to accept tips, licensees must ensure that tips are controlled so that only authorized employees receive tips, that tips are properly accounted for, and that tips are maintained separately from all other gambling funds.

(3) Cage cashiers may accept tips. They must locate their tip containers outside the cage enclosure. Players or patrons must deposit the tips directly into the container. A shift or floor supervisor, security, or an accounting manager who does not work as a cashier must verify the tips cage cashiers receive.

(4) Employees directly concerned with management, supervision, accounting, security, or surveillance must not ask for, accept, or share any tip originating from players or patrons.

(5) House-banked card game licensees must:

(a) Establish and implement procedures for the accounting of tips received by authorized card room employees.

(b) Fully document the procedures in their internal controls and describe in detail any methods used to allocate tips.

(c) Establish procedures necessary to ensure that the floor supervisor and surveillance observe card room employees accepting tips. Procedures must include an overt display of received tips, for example tapping the table with the tip before placing it in the tip container.

(6) Employees must:

(a) Drop all tips into a locked tip container which prevents the removal of tips except by unlocking the container. Tip containers must remain under camera coverage of the closed circuit television system at all times; and

(b) Keep all tips received or pool them with tips of all card room employees according to the licensee's internal controls; and

(c) Redeem all tips received under surveillance at the cashier's cage; and

(d) Accurately report all tips to their employer as described in the licensee's internal controls.

(7) Licensees may determine whether employees must retain or pool tips among employees. Employees must redeem all pooled tips under surveillance at the cashier's cage, count room, or a gaming table.

AMENDATORY SECTION (Amending Order 608, filed 4/10/07, effective 1/1/08)

WAC 230-15-485 ~~((Standards for))~~ Electronic facsimiles of cards allowed. (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).~~

(2) Card room employees must operate the system.

NEW SECTION

WAC 230-15-491 Limiting payouts to dealers for tip or "toke" wagers for odds-based payouts. (1) A "toke" is a wager made by a player as a tip for the dealer and it is treated as a separate bet.

(2) House-banked card game licensees may:

(a) Establish a separate, individual limit on the amount of the payout on a toke for odds-based payouts within the requirements of WAC 230-15-490; and

(b) Restrict the types of wagers tokes are allowed on and the amounts of tokes.

(3) Tokes are not included in the calculation of the player or table aggregate payout limits.

AMENDATORY SECTION (Amending Order 608, filed 4/10/07, effective 1/1/08)

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

(1) Each fill/credit slip must be a ~~((sequentially))~~ consecutively prenumbered three-part form in the format we require. We may authorize use of a computer based accounting system which includes a nonrepeating ~~((sequential))~~ 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 ~~((sequential))~~ 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.

AMENDATORY SECTION (Amending Order 608, filed 4/10/07, effective 1/1/08)

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 ~~((sequentially))~~ 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. 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.

AMENDATORY SECTION (Amending Order 608, filed 4/10/07, effective 1/1/08)

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))~~ authorized by the owner.

(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.

WSR 07-18-086

PROPOSED RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Filed September 5, 2007, 8:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-03-033 and 07-09-088.

Title of Rule and Other Identifying Information: WAC 220-69-215, 220-69-240 and 220-69-241, accounting of commercial baitfish harvests, and quick reporting.

Hearing Location(s): Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98504, on October 12-13, 2007, at 8 a.m.

Date of Intended Adoption: On or after November 2-3, 2007.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail preuslmp@dfw.wa.gov, fax (360) 902-2155, by October 11, 2007.

Assistance for Persons with Disabilities: Contact Susan Yeager, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is not getting a full accounting of commercial baitfish harvests. Part of the reason stems from commercial fishermen's confusion regarding who is responsible for reporting baitfish harvests. Commercial fishermen also experience this confusion for other harvests that require quick reporting. These rules will alleviate confusion and provide for a full accounting of baitfish and other harvests.

Reasons Supporting Proposal: Currently, the Washington department of fish and wildlife is not getting a full accounting of commercial baitfish harvests. The department needs a full accounting in order to best manage the commercial baitfish resource.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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: Mike Cenci, 1111 Washington Street S.E., Olympia, (360) 642-5350; Implementation: Lew Atkins, 1111 Washington Street S.E., Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street S.E., Olympia, (360) 902-2373.

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

Small Business Economic Impact Statement

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: Fish tickets must include total weight of harvested forage fish. While that is currently the case, these rule changes clarify how to account for forage fish used as bait to target other fish, such as albacore tuna. This harvest information was lost in the past due to confusion and unclear rules. Under these amended rules, forage fish caught for use as bait will be accounted for at the time target fish are landed. If live bait is transferred from the catcher boat to another vessel, these rule changes clarify whose responsibility it is to complete the fish receiving ticket.

2. Kinds of Professional Services that a Small Business is Likely to Need in Order to Comply With Such Requirements: None - catch accounting is something that these businesses are already required to do. These rule changes clarify when forage fish used for live bait must be accounted for.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: None anticipated.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

A. Cost per employee;

B. Cost per hour of labor; or

C. Cost per one hundred dollars of sales.

There are no anticipated costs of compliance.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for not Doing So: Enforcement personnel have been making field contacts with purchasers and receivers to provide direction and to determine where the confusion lies in the rules, which is hindering compliance. No costs are anticipated from the clarifying proposals.

7. A Description of How the Agency will Involve Small Businesses in the Development of the Rule: The department will hold a public hearing of the proposed rules at the fish and wildlife commission meeting on October 12-13, 2007, in Olympia, Washington, where small businesses and the public can provide their additional comments on the rules.

8. A List of Industries That Will be Required to Comply With the Rule: All original purchasers and receivers of fish and shellfish, and commercial fishermen who catch forage fish for bait purposes.

A copy of the statement may be obtained by contacting Lori Preuss, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail preuslmp@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These proposals do not affect hydraulics.

September 5, 2007

Loreva M. Preuss

Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-04-030, filed 1/29/07, effective 3/1/07)

WAC 220-69-240 Duties of commercial purchasers and receivers. (1) It is unlawful for any person originally receiving fresh or iced fish or shellfish or frozen fish or shellfish that have not been previously delivered in another state, territory, or country, except purchases or receipts made by individuals or consumers at retail, to fail to be a licensed wholesale fish dealer or fish buyer, and to fail to immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket (~~regarding~~) for each and every purchase or receipt of such commodities. Each delivery must be recorded on a separate fish receiving ticket. Failure to be licensed under this subsection is punishable under RCW 77.15.620.

(2) It is unlawful for any person originally receiving fresh or iced fish or shellfish previously delivered in another state, territory, or country, to fail to be a licensed wholesale fish dealer or fish buyer, and to fail to immediately, com-

pletely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket (~~((regarding))~~) for each and every purchase or receipt of such commodities. Failure to prepare a fish receiving ticket under this subsection is punishable under RCW 77.15.630.

(3) It is unlawful for any original receiver of crab or spot shrimp to fail to record all crab or spot shrimp aboard the vessel making the delivery to the original receiver. The poundage of any fish or shellfish deemed to be unmarketable, discards, or (~~((weighbacks))~~) weigh backs must be shown on the fish receiving ticket and identified as such, but a zero dollar value may be entered for such fish or shellfish. Failure to prepare a fish receiving ticket under this subsection is punishable under RCW 77.15.630.

~~((a) Failure to be licensed under this subsection is punishable under RCW 77.15.620.~~

~~((b) Failure to prepare a fish receiving ticket under this subsection is punishable under RCW 77.15.630.))~~

(4) Any employee of a licensed wholesale dealer who has authorization to receive or purchase fish or shellfish for that dealer on the premises of the primary business address or any of its (~~((branch))~~) plant locations as declared on the license application, shall be authorized to initiate and sign fish receiving tickets on behalf of his employer. The business (~~((or)),~~) firm, and/or licensed wholesale fish dealer who the buyers are operating under shall be responsible for the accuracy and legibility of all such documents initiated in its name.

(5) It is unlawful for the original receiver to fail to initiate the completion of the fish receiving ticket upon receipt of any portion of a commercial catch. Should the delivery of the catch take more than one day, the date that the delivery is completed (~~((is required to))~~) must be entered on the fish receiving ticket as the date of delivery. If, for any reason, the delivery vessel leaves the delivery site, the original receiver must immediately enter the current date on the fish receiving ticket. Violation of this subsection is punishable under RCW 77.15.630.

(6) Forage fish: It is unlawful for any person receiving forage fish to fail to report the forage fish on fish receiving tickets (~~((that are))~~) initiated and completed on the day the forage fish are delivered. Herring are also required to be reported on herring harvest logs. The harvested amount of forage fish (~~((is to))~~) must be entered upon the fish ticket when the forage fish are off-loaded from the catcher vessel. An estimate of herring, candlefish, anchovy, or pilchards caught but not sold due to mortality must be included on the fish ticket as "loss estimate." In the coastal pilchard fishery, the amount of pilchards, by weight, purchased for the purposes of conversion into fish flour, (~~((fish meal))~~) fishmeal, fish scrap, fertilizer, fish oil, other fishery products, or by-products for purposes other than human consumption or fishing bait, must be included on the fish ticket as "reduction."

Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(7) Geoduck: It is unlawful for any person receiving geoducks, regardless of whether or not the receiver holds a license as required under Title 77 RCW, to fail to accurately and legibly complete the fish receiving ticket initiated on the harvest tract immediately upon the actual delivery of geoducks from the harvesting vessel onto the shore. This fish

receiving ticket shall accompany the harvested geoducks from the department of natural resources harvest tract to the point of delivery. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(8) Pacific whiting: It is unlawful for the original receiver of Pacific whiting to fail to enter an estimated weight of Pacific whiting on the fish receiving ticket immediately upon completion of the delivery. The exact weights of whiting, by grade, and all incidental species in the delivery must be entered on the fish receiving ticket within twenty-four hours of the landing. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(9) Puget Sound shrimp - Pot gear: It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by pot gear to fail to report to the department the previous week's purchases by 10:00 a.m. the following Monday. For harvest in Crustacean Management Regions 1 or 2, reports must be made to the La Conner district office by (~~((voice))~~) phone at 360-466-4345, extension 245, or (~~((facsimile))~~) by fax at 360-466-0515. For harvest in Crustacean Management Regions 3, 4, or 6, reports must be made to the Point Whitney Shellfish Laboratory by (~~((voice 1-866-859-8439))~~) phone at 1-360-796-4601, (~~((extension 800))~~) option 1, or (~~((facsimile))~~) by fax at 360-586-8408. All reports must specify the serial numbers of the fish receiving tickets on which the previous week's shrimp were sold, (~~((and))~~) plus the total number of pounds caught by gear type, the Marine Fish-Shellfish Management and Catch Reporting Area (Catch Area), and the species listed on each ticket. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(a) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 23A, to fail to record either 23A-C, 23A-E, 23A-W, or 23A-S on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(b) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26A, to fail to record either 26A-E or 26A-W on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(c) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26B, to fail to record either 26B-1 or 26B-2 on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(d) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Areas 20B, 21A, and 22A, to fail to record either 1A-20B, 1A-22A, 1B-20B, 1B-21A, 1B-22A, or 1C-21A on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(10) Puget Sound shrimp - Trawl gear: It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by trawl gear to fail to report to the department the previous day's purchases by 10:00 a.m. the following morning. For harvest in Crustacean Management Region 1, reports must be made to the La Conner district office by ~~((voice))~~ phone at 360-466-4345, extension 245, or ~~((facsimile))~~ by fax at 360-466-0515. For harvest in Crustacean Management Region 3, reports must be made to the Point Whitney Shellfish Laboratory by ~~((voice 1-866-859-8439))~~ phone at 1-360-796-4601, ~~((extension 600))~~ option 1, or ~~((facsimile))~~ by fax at 360-586-8408. All reports must specify the serial numbers of the fish receiving tickets on which the previous day's shrimp were sold, ~~((and))~~ the total number of pounds caught by gear type, the Marine Fish-Shellfish Management and Catch Reporting Area, and the species listed on each ticket. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(11) Puget Sound crab: It is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken by nontreaty fishers, from Puget Sound, to fail to report to the department the previous day's purchases by 10:00 a.m. the following business day. Reports must be made to the ~~((La Conner District Office))~~ Point Whitney Shellfish Laboratory by ~~((facsimile 360-466-0515))~~ fax at 360-586-8408 or by ~~((telephone number))~~ phone at 1-866-859-8439 ~~((extension 500))~~, option 5, and must specify the dealer name~~((:))~~; dealer phone number~~((:))~~; date of delivery of crab to the original receiver~~((:))~~; and the total number of pounds of crab caught by nontreaty fishers, by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area. The fish receiving ticket reporting requirement of WAC 220-69-240 remains in effect. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(12) Salmon and sturgeon:

(a) During any Puget Sound fishery opening that is designated ((by rule)) as "quick reporting required," per WAC 220-47-001.

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a direct retail endorsement (DRE) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location, date of purchase, each fish ticket number, including alpha, used on the purchasing date, and the following catch data for each ~~((species purchased))~~ fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight ~~((of fish))~~ for each species purchased, and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, ~~((it is unlawful to fail to comply with the following reporting requirements:~~

(a)) Puget Sound reports must be submitted by 10:00 a.m. on the day after the purchase date. Venue is the county where the submitted reports are required to go. Reports can be submitted via fax at 360-902-2949; via e-mail at psfishtickets@dfw.wa.gov; or via phone at 1-866-791-1279. In

fisheries under Fraser Panel Control within Fraser Panel Area Waters (area defined under Art. XV, Annex II, Pacific Salmon Treaty 1985), other reporting requirements not listed in this subsection may be necessary under Subpart F of the International Fisheries Regulations, 50 CFR Ch. III §300.93.

(b) During any coastal troll fishery opening that is designated by rule as "quick reporting required."

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a direct retail endorsement (DRE) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location, date of purchase, each fish ticket number, including alpha, used on the purchasing date, and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased, and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, coastal troll reports must be ~~((reported))~~ submitted by 10:00 a.m. on the day after the purchase date ~~((by either:~~

~~((i))~~ Venue is the county where the reports are required to go. Reports can be made via fax ~~((transmission to))~~ at 360-902-2949 ~~((ii))~~; via e-mail ~~((to psfishtickets@dfw.wa.gov))~~ at trollfishtickets@dfw.wa.gov; or ~~((iii) Telephone to))~~ via phone at 1-866-791-1279.

~~((b) Coastal troll reports must be reported by 10:00 a.m. on the day after the purchase date by either:~~

~~((i) Fax transmission to 360-902-2949~~

~~((ii) E-mail to trollfishtickets@dfw.wa.gov or~~

~~((iii) Telephone to 1-866-791-1279))~~

(c) During any Grays Harbor ~~((and))~~ or Willapa Bay ~~((reports must be reported by 10:00 a.m. on the day after the purchase date by either:~~

~~((i) Fax transmission to))~~ fishery opening that is designated by rule as "quick reporting required".

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a direct retail endorsement (DRE) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location, date of purchase, each fish ticket number, including alpha, used on the purchasing date, and the following catch data for each fish ticket used: Gear, catch area, species, number, and total weight for each species purchased, and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Grays Harbor and Willapa Bay reports must be submitted by 10:00 a.m. on the day after the purchase date. Venue is the county where the reports are required to go. Reports can be made via fax at 360-664-0689 ~~((iii))~~; e-mail ~~((to))~~ at harborfishtickets@dfw.wa.gov; or ~~((iii) Telephone to))~~ phone at 1-866-791-1280.

(d) During any Columbia River ~~((reports must be reported by 10:00 a.m. on the day after the purchase date by either:~~

~~(i) Fax transmission to))~~ fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon, or for a direct retail endorsement (DRE) holder to fail to report all salmon offered, for retail sale.

(ii) The report must include dealer or DRE holder name and purchasing location, date of purchase, each fish ticket number, including alpha, used on the purchasing date, and the following catch data for each fish ticket used: Gear, catch area, species, number, and total weight for each species purchased, and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Columbia River reports must be submitted within 5, 8, 12, or 24 hours of closure of the designated fishery. The time frame for submitting reports will be established by the department at the time of adoption of the quick reporting fishery. Adoption and communication of the quick reporting regulations for a given fishery will occur in conjunction with the adoption of said fishery through the Columbia River Compact. Venue is the county where the reports are required to go. Reports can be made via fax at 360-906-6776 or 360-906-6777 ~~((+))~~; via e-mail ~~((+))~~ at crfishtickets@dfw.wa.gov; or ~~((+))~~ Telephone ~~((+))~~ via phone at 1-866-791-1281.

(e) Faxing a copy of each fish receiving ticket used ~~((on the previous day))~~, within the previously indicated time frames specified per area, satisfies the reporting requirement.

(f) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(13)(a) Sea urchins and sea cucumbers: It is unlawful for any wholesale dealer acting in the capacity of an original receiver and receiving sea urchins or sea cucumbers from nontreaty fishers to fail to report to the department each day's purchases by 10:00 a.m. the following day. For red sea urchins, the report must specify the number of pounds received from each sea urchin district. For green sea urchins and sea cucumbers, the report must specify the number of pounds received from each Marine Fish-Shellfish Management and Catch Reporting Area. For sea cucumbers, the report must specify whether the landings were "whole-live" or "split-drained." The report must be made by ~~((facsimile))~~ fax ~~((+ transmission to))~~ at 360-902-2943, or by toll-free telephone ~~((+))~~ at 866-207-8223. ~~((Additionally:))~~

(b) It is unlawful for the original receiver of red sea urchins to fail to record on the fish receiving ticket the sea urchin district where the red sea urchins were taken, and it is unlawful for the original receiver of any sea urchins to fail to record on the fish receiving ticket the name of the port of landing where the sea urchins were landed ashore. ~~((Additionally:))~~

(c) It is unlawful for the original receiver of sea cucumbers to fail to record on the fish receiving ticket whether the sea cucumbers were delivered "whole-live" or "split-drained."

(d) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(14) Coastal spot shrimp: It is unlawful for any original receiver of spot shrimp taken from Marine Fish Management and Catch Reporting Area 60A-1 to fail to record separately on the fish receiving ticket spot shrimp taken north or south of 47°04.00' north latitude. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

AMENDATORY SECTION (Amending Order 04-210, filed 8/17/04, effective 9/17/04)

WAC 220-69-215 When state of Washington fish receiving tickets are required. (1) State of Washington fish receiving tickets are required for:

~~((+))~~ (a) Fresh fish and shellfish delivered in the state of Washington, including deliveries not purchased by a dealer, which shall be recorded as weigh-back or take-home fish or shellfish.

~~((+))~~ (b) Fresh fish and shellfish previously delivered in another state, territory or country, and transported into the state of Washington to an original receiver.

~~((+))~~ (c) Frozen fish or shellfish not previously delivered in another state, territory, or country, and transported into the state of Washington to an original receiver. Food fish and shellfish in this category are typically an at-sea processed product.

~~((+))~~ (d) Purchase of fish or shellfish from a fisher who is also a dealer, if the fisher/dealer has not previously completed a fish receiving ticket.

~~((+))~~ (e) Forage fish transferred at sea to another vessel.

(f) Forage fish caught for use as bait by the catching vessel and not transferred to another vessel or an original receiver.

(2) It is unlawful to fail to complete a fish receiving ticket when one is required.

Violation of this section is punishable under RCW 77.15.630.

AMENDATORY SECTION (Amending Order 04-210, filed 8/17/04, effective 9/17/04)

WAC 220-69-241 Duties of commercial fishers. (1)(a) Every fisher selling food fish or shellfish to ~~((the))~~ a consumer, restaurant, boathouse, or other retail outlet, or donating fish or shellfish that have not been previously delivered to an original receiver to a nonprofit or other organization, and every fisher who places, or attempts to place, into inter-state commerce any food fish or shellfish previously landed in this state, or caught ~~((+))~~ or harvested from the territorial waters of this state, is required to possess a valid wholesale dealer's license or a direct retail endorsement.

(b) It is unlawful for such fishers to fail to immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket in their own name for each delivery of fish. The fish receiving ticket must show the total of all fish and shellfish aboard the harvesting vessel upon delivery.

(c) It is unlawful for a fisher selling at retail to fail to complete a fish receiving ticket before offering fish or shell-

fish for retail sale, except that the fisher may complete a fish receiving ticket with an estimated number or weight if food fish or shellfish are being offered for sale directly off the catcher vessel (~~(the fisher may complete the ticket with an estimated number or weight)~~). At the completion of the retail activity, the fisher who has completed a ticket with an estimated number or weight is required to complete a corrected fish receiving ticket with the actual number and weight of fish or shellfish that were sold at retail.

~~((a))~~ (d) Failure to be licensed under this subsection is punishable under RCW 77.15.620.

~~((b))~~ (e) Failure to prepare a fish receiving ticket under this subsection is punishable under RCW 77.15.630.

(2)(a) It is unlawful for a fisher offering food fish or shellfish for retail sale to fail to maintain a sequentially numbered receipt book, which receipt book shall contain(s) a receipt duplicate copy(s) and ~~((must))~~ shall give each purchaser of salmon or crab a receipt showing the number, weight, and value of food fish or shellfish sold to that purchaser.

(b) It is unlawful for the retail seller to fail to retain the duplicate receipts for one year.

(c) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(3)(a) In the commercial geoduck fishery, it is unlawful for a vessel operator so designated by the geoduck tract holder to fail to be present at all times on each vessel commercially harvesting geoducks or having commercially harvested geoducks aboard.

(b) For each day's harvest of geoducks from each tract, it is unlawful for the designated operator to fail to legibly and accurately enter the following information on a fish receiving ticket before leaving the department of natural resources geoduck harvest tract:

~~((a))~~ (i) Enter in the "dealer's use" column the number of cages of geoducks harvested.

~~((b))~~ (ii) Write across the top of the fish receiving ticket, directly below the tear strip, the harvest vessel name, its Washington department of fish and wildlife identification number, and the date.

~~((c))~~ (iii) Sign the fish receiving ticket as the fisher.

~~((d))~~ (c) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(4)(a) It shall be unlawful for operators of commercial fishing vessels catching their own forage fish for the purposes of using them as bait, to fail to accurately report such harvests on a state of Washington fish receiving ticket along with the target food fish or shellfish when such food fish or shellfish are delivered to an original receiver.

(b) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

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

Title of Rule and Other Identifying Information: Uniform procedures for complaint resolution.

Amending WAC 246-14-010 Intent, 246-14-020 Definitions, 246-14-030 What happens if a time period expires?, 246-14-090 Adjudication of statement of charges, 246-14-100 Resolution of a statement of allegations, 246-14-110 What happens if a case returns to a prior stage?, and 246-14-120 Notice of applicable time periods.

Repealing WAC 246-14-070 Limited extensions of basic time periods and 246-14-080 Extension with management oversight.

Hearing Location(s): Department of Health, Point Plaza East, 310 Israel Road S.E., Tumwater, WA, on October 17, 2007, at 9:00 a.m.

Date of Intended Adoption: October 31, 2007.

Submit Written Comments to: Margaret Gilbert, Department of Health, P.O. Box 47860, Olympia, WA 98504-7860, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4930, by October 10, 2007.

Assistance for Persons with Disabilities: Contact Margaret Gilbert by October 10, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This chapter establishes timelines for the steps involved in processing complaints against credentialed health care providers. It also provides for management oversight of the processes. The current rules describe a process for extending basic timelines when necessary. That process is paper-based and halts progress of the case until the extension is granted. The proposed rules would eliminate the paper-based process and rely on management oversight based on electronic tracking systems. The proposal ensures that reasons for exceeding the basic timelines are documented in the case files in a timely manner. This assures that complaints continue moving through the process and minimizes delay.

Reasons Supporting Proposal: The new process will focus on better use of staff time as well as stronger management oversight and expedite the complaint process. It will shorten the time period between complaint and resolution. The proposed rule will decrease costs to the department for managing and tracking cases.

Statutory Authority for Adoption: RCW 18.130.095.

Statute Being Implemented: RCW 18.130.095.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Margaret Gilbert, Department of Health, P.O. Box 47860, Olympia, WA 98504-7860, (360) 236-4913.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule relates only to internal governmental operations that are not subject to violation by a nongovernment party. According to RCW 19.85-025(3), the Regulatory Fairness Act does not apply to the adoption of a rule described in RCW 34.05.310(4).

WSR 07-18-087

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed September 5, 2007, 9:49 a.m.]

Original Notice.

A cost-benefit analysis is not required under RCW 34.05.328. This rule relates only to internal governmental operations that are not subject to violation by a nongovernment party. Therefore, according to RCW 34.05.328 a cost-benefit analysis is not required.

September 5, 2007
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-010 Intent. These rules establish basic time periods for processing and resolving complaints against credentialed health care providers and applicants. The rules also provide ~~((for extensions of the basic time periods and))~~ enforcement mechanisms to ensure timely disposition of complaints and adjudicative proceedings. The department of health does not anticipate that the basic time period will be used in all cases. These rules are adopted as required by RCW 18.130.095(1). The intent is to promote timely protection of the public and fairness to credential holders, applicants, and complainants, without sacrificing public safety.

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-020 Definitions. (1) A "report" is information received by the department of health which raises concern about conduct, acts or conditions related to a credential holder or applicant or about the credential holder or applicant's ability to practice with reasonable skill and safety. If the disciplining authority determines a report warrants an investigation, the report becomes a "complaint."

(2) Basic time periods may be ~~((extended))~~ exceeded for "good cause." Good cause is determined on a case-by-case basis, balancing all relevant factors including risk of harm to the public. Some examples of relevant factors may be circumstances not within the control of the department or the disciplining authority, need for expert review not available within the department or the disciplining authority, and activities which cannot be completed within the time period despite effort to do so.

(3) "Days" are calendar days unless otherwise indicated. If a time period would end on a Saturday, Sunday, or state holiday, that time period will end on the next business day.

(4) "Enhanced management oversight" is enhanced direction of a case imposed by department management as an enforcement mechanism when ~~((an extension is granted))~~ a basic time period is exceeded. ~~((The person granting the extension))~~ Management will ~~((assure))~~ ensure the case moves through the stage promptly. Some examples of enhanced direction may be staffing changes, resource reallocation, and work planning.

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-030 What happens if a time period expires? ~~((If a basic time period expires, the case cannot con-~~

~~tinue in its current stage unless an extension is granted. Department staff and a board or commission member, if applicable, are responsible for seeking an extension or moving the case to another stage. Extensions may be granted retroactively for good cause, but such extensions must meet all otherwise applicable criteria-))~~ When a basic time period expires, enhanced management oversight will occur. The reason for the delay will be noted in the tracking system, but work on the case will not be interrupted.

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-090 Adjudication of statement of charges. (1) Procedures for adjudication of statements of charges are contained in chapters 246-10 and 246-11 WAC. Those rules provide for twenty days to file an answer, with a sixty-day extension for good cause, and thirty days to issue a scheduling order. They also provide for continuances.

(2) The basic time period for settlement, discovery, and commencement of hearing is one hundred eighty days or less, to be set in the scheduling order.

(3) The basic time period for issuing an order is forty-five days ~~((from the end of the hearing including deliberations when the disciplining authority is a board or commission))~~. For secretary professions, the forty-five day period begins upon completion of the hearing. For boards and commission professions, the forty-five day period begins upon completion of the hearing and deliberations. ~~((The secretary may grant a forty-five day limited extension.))~~

(4) If no answer is filed or default occurs during the adjudication, a proposed final order of default will be submitted to the disciplining authority within sixty days of notice of failure to respond or notice of default. A final order will be issued within forty-five days of the submission.

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-100 Resolution of a statement of allegations. (1) If a statement of allegations is issued, the respondent will have ~~((fourteen))~~ twenty-eight days to make an initial response. ~~((The attorney handling the case for the program may grant a limited extension of fourteen days.))~~ If no response is made, the program's attorney may determine informal disposition has been rejected. The case will be returned to case disposition.

(2) If a response is made, the basic period for completion of informal resolution is sixty days. If informal resolution has not been reached within that time, the case will return to case disposition to determine appropriate action.

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-110 What happens if a case returns to a prior stage? If a case returns to a prior stage, any unused basic time period days ~~((or extensions))~~ in the prior stage may be used. ~~((If additional time is needed, extensions may be requested as in any other circumstance.))~~

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-120 Notice of applicable time periods.

(1) Affected credential holders, applicants, and complainants will be notified of applicable time periods (~~and the possibility of extensions~~) as soon as possible consistent with effective case management.

(2) Other information about applicable time periods (~~and extensions~~) will be released according to public records law.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-14-070 Limited extensions of basic time periods.
- WAC 246-14-080 Extension with management oversight.

WSR 07-18-088
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed September 5, 2007, 9:51 a.m.]

Continuance of WSR 07-15-076.

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

Title of Rule and Other Identifying Information: Continuance of the comment period for facility fee increases for WAC 246-310-990 Certificate of need, 246-329-990 Child birth centers, 246-335-990 In-home services agencies, 246-337-990 Residential treatment facilities, and 246-380-990 State institutional survey.

Hearing Location(s): Original hearing held at the Department of Health, Point Plaza East, Room 139, Tumwater, WA 98501, on August 21, 2007, at 10:00 a.m.

Date of Intended Adoption: September 21, 2007.

Submit Written Comments to: Alisa Harris, P.O. Box 47852, Olympia, WA 98504-7852, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by September 14, 2007.

Assistance for Persons with Disabilities: Contact Alisa Harris by August 21, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Extending the deadline for submitting written comments on this proposal to September 14, 2007. The proposed rules increase fees in the certificate of need, child birth centers, in-home services agencies, residential treatment facilities and state institutional survey programs in excess of the fiscal growth factor. This exemption was given to meet the actual cost of conducting business as approved by the legislature in section 222, chapter 522, Laws of 2007 (SHB 1128).

This proposal also adds to WAC 246-335-990(5) In-home services agencies on how the department of health will process refunds.

Reasons Supporting Proposal: RCW 43.70.250 requires the department to charge fees sufficient to cover the full cost of program operations. These additional resources are necessary to maintain current program operations and to assure public health and safety in facilities statewide.

Statutory Authority for Adoption: RCW 43.70.250, 70.38.105, 18.46.030, 70.127.090, 71.12.470, 43.70.040.

Statute Being Implemented: RCW 43.70.250.

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

Name of Proponent: Department of health, office of facilities and services licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steven Saxe, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2905.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt under RCW 19.85.025(3) and does not require a small business economic impact statement. However, the department prepared fee analyses which provides documentation of the need for fee increases. To obtain a copy of a fee analysis, contact Alisa Harris at the address above.

A cost-benefit analysis is not required under RCW 34.05.328. The department did not complete a cost-benefit analysis. This proposal is exempt from this requirement under RCW 34.05.328 [(5)(b)](ii).

September 5, 2007
 Mary C. Selecky
 Secretary

AMENDATORY SECTION (Amending WSR 03-22-020, filed 10/27/03, effective 11/27/03)

WAC 246-310-990 Certificate of need review fees. (1)

An application for a certificate of need under chapter 246-310 WAC must include payment of a fee consisting of the following:

- (a) A review fee based on the facility/project type;
- (b) If more than one facility/project type applies to an application, the review fee for each type of facility/project must be included.

Facility/Project Type	Review Fee
Ambulatory Surgical Centers/Facilities	\$ ((13,379.00)) <u>17,392.00</u>
Amendments to Issued Certificates of Need	\$ ((8,432.00)) <u>10,961.00</u>
Emergency Review	\$ ((5,427.00)) <u>7,055.00</u>
Exemption Requests	
• Continuing Care Retirement Communities (CCRCs)/Health Maintenance Organization (HMOs)	\$ ((5,427.00)) <u>7,055.00</u>
• Bed Banking/Conversions	\$ ((883.00)) <u>1,147.00</u>
• Determinations of Nonreviewability	\$ ((1,261.00)) <u>1,639.00</u>

Facility/Project Type	Review Fee
• Hospice Care Center	\$ ((+1,136.00)) <u>1,476.00</u>
• Nursing Home Replacement/Renovation Authorizations	\$ ((+1,136.00)) <u>1,476.00</u>
• Nursing Home Capital Threshold under RCW 70.38.105 (4)(e) (Excluding Replacement/Renovation Authorizations)	\$ ((+1,136.00)) <u>1,476.00</u>
• Rural Hospital/Rural Health Care Facility	\$ ((+1,136.00)) <u>1,476.00</u>
Extensions	
• Bed Banking	\$ ((505.00)) <u>656.00</u>
• Certificate of Need/Replacement Renovation Authorization Validity Period	\$ ((505.00)) <u>656.00</u>
Home Health Agency	\$ ((16,155.00)) <u>21,001.00</u>
Hospice Agency	\$ ((14,388.00)) <u>18,704.00</u>
Hospice Care Centers	\$ ((8,432.00)) <u>10,961.00</u>
Hospital (Excluding Transitional Care Units-TCUs, Ambulatory Surgical Center/Facilities, Home Health, Hospice, and Kidney Disease Treatment Centers)	\$ ((26,506.00)) <u>34,457.00</u>
Kidney Disease Treatment Centers	\$ ((16,409.00)) <u>21,331.00</u>
Nursing Homes (Including CCRCs and TCUs)	\$ ((30,293.00)) <u>39,380.00</u>

(2) The fee for amending a pending certificate of need application is determined as follows:

(a) If an amendment to a pending certificate of need application results in the addition of one or more facility/project types, the review fee for each additional facility/project type must accompany the amendment application;

(b) If an amendment to a pending certificate of need application results in the removal of one or more facility/project types, the department shall refund to the applicant the difference between the review fee previously paid and the review fee applicable to the new facility/project type; or

(c) If an amendment to a pending certificate of need application results in any other change as identified in WAC 246-310-100, a fee of one thousand ~~((three))~~ seven hundred ~~((fifty-one))~~ fifty-six dollars must accompany the amendment application.

(3) If a certificate of need application is returned by the department under WAC 246-310-090 (2)(b) or (e), the department shall refund seventy-five percent of the review fees paid.

(4) If an applicant submits a written request to withdraw a certificate of need application before the beginning of review, the department shall refund seventy-five percent of the review fees paid by the applicant.

(5) If an applicant submits a written request to withdraw a certificate of need application after the beginning of review, but before the beginning of the ex parte period, the department shall refund one-half of all review fees paid.

(6) If an applicant submits a written request to withdraw a certificate of need application after the beginning of the ex parte period the department shall not refund any of the review fees paid.

(7) Review fees for exemptions and extensions are non-refundable.

AMENDATORY SECTION (Amending WSR 07-07-075, filed 3/16/07, effective 4/16/07)

WAC 246-329-990 Fees. The purpose of the fees section is to describe the fees associated with licensing, renewal and other charges assessed by the department.

(1) Childbirth centers licensed under chapter 18.46 RCW shall submit an annual fee of ~~((five))~~ seven hundred ~~((ninety-nine))~~ thirteen dollars and ~~((ninety))~~ zero cents to the department unless a center is a charitable, nonprofit, or government-operated institution under RCW 18.46.030.

(2) A change of ownership fee of one hundred ~~((fifty))~~ seventy-eight dollars. A new license will be issued and valid for the remainder of the current license period.

(3) The department may charge and collect from a licensee a fee of ~~((seven))~~ eight hundred ~~((fifty))~~ ninety-two dollars for:

(a) A second on-site visit resulting from failure of the licensee to adequately respond to a statement of deficiencies;

(b) A complete on-site survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(4) A licensee shall submit an additional late fee in the amount of ~~((twenty-five))~~ twenty-nine dollars per day, not to exceed five hundred ninety-five dollars, from the renewal date (which is thirty days before the current license expiration date) until the date of mailing the fee, as evidenced by the postmark.

(5) Refunds. The department shall refund fees paid by the applicant for initial licensure as follows:

(a) If an application has been received but no on-site survey or technical assistance has been performed by the department, two-thirds of the fees paid, less a fifty dollar processing fee; or

(b) If an application has been received and an on-site survey or technical assistance has been performed by the department, one-third of the fees paid, less a fifty dollar processing fee.

(c) The department may not refund applicant fees if:

(i) The department has performed more than one on-site visit for any purpose;

(ii) One year has elapsed since an initial licensure application is received by the department, but no license is issued because applicant failed to complete requirements for licensure; or

(iii) The amount to be refunded as calculated by (a) or (b) of this subsection is ten dollars or less.

AMENDATORY SECTION (Amending WSR 04-19-142, filed 9/22/04, effective 10/23/04)

WAC 246-335-990 Fees. (1) A licensee or applicant shall submit to the department:

(a) An initial twelve-month license fee of ~~((one thousand nine hundred sixty-six))~~ two thousand one hundred sixty-two dollars for each service category for new persons not currently licensed in that category to provide in-home services in

# of FTEs	Home Health	Hospice	Home Care	# of Beds	Hospice Care Center
5 or less	\$(1,966.00) <u>2,162.00</u>	\$(983.00) <u>1,081.00</u>	\$(590.00) <u>649.00</u>	5 or less	\$(655.00) <u>720.00</u>
6 to 15	\$(2,765.00) <u>3,041.00</u>	\$(1,035.00) <u>1,138.00</u>	\$(1,068.00) <u>1,174.00</u>	6 to 10	\$(1,311.00) <u>1,442.00</u>
16 to 50	\$(3,146.00) <u>3,460.00</u>	\$(1,540.00) <u>1,694.00</u>	\$(1,147.00) <u>1,261.00</u>	11 to 15	\$(1,966.00) <u>2,162.00</u>
51 to 100	\$(3,965.00) <u>4,361.00</u>	\$(2,467.00) <u>2,713.00</u>	\$(1,343.00) <u>1,477.00</u>	16 to 20	\$(2,621.00) <u>2,883.00</u>
101 or more	\$(4,083.00) <u>4,491.00</u>	\$(2,595.00) <u>2,854.00</u>	\$(1,442.00) <u>1,586.00</u>		

(d) For multiple service category licenses:

(i) One hundred percent of the home health category fee and seventy-five percent of the appropriate service category fee for each additional service category (hospice, home care, hospice care center); or

(ii) One hundred percent of the hospice category fee and seventy-five percent of the appropriate service category fee for each additional service category (home care, hospice care center); and

(e) A change of ownership fee of ~~((one hundred ninety-seven))~~ two hundred sixteen dollars for each licensed service category. A new license will be issued and valid for the remainder of the current license period.

(2) The department may charge and collect from a licensee a fee of ~~((nine hundred eighty-three))~~ one thousand eighty-one dollars for:

(a) A second on-site visit resulting from failure of the licensee to adequately respond to a statement of deficiencies:

(b) A complete on-site survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(3) A licensee with deemed status shall pay fees according to this section.

(4) A licensee shall submit an additional late fee in the amount of ~~((thirty-three))~~ thirty-six dollars per day, not to exceed five hundred fifty dollars, from the renewal date (which is thirty days before the current license expiration date) until the date of mailing the fee, as evidenced by the postmark.

(5) Refunds. The department shall refund fees paid by the applicant for initial licensure as follows:

(a) If an application has been received but no on-site survey or technical assistance has been performed by the department, two-thirds of the fees paid, less a fifty dollar processing fee; or

(b) If an application has been received and an on-site survey or technical assistance has been performed by the depart-

ment, one-third of the fees paid, less a fifty dollar processing fee.

(b) A twenty-four month renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency personnel or contractors, or the number of beds, as follows:

(c) For single service category licenses:

ment, one-third of the fees paid, less a fifty dollar processing fee.

(6) The department may not refund applicant fees if:

(a) The department has performed more than one on-site visit for any purpose;

(b) One year has elapsed since an initial licensure application is received by the department, but no license is issued because applicant failed to complete requirements for licensure; or

(c) The amount to be refunded as calculated by subsection (5)(a) or (b) of this section is ten dollars or less.

AMENDATORY SECTION (Amending WSR 06-21-108, filed 10/17/06, effective 11/17/06)

WAC 246-337-990 Licensing fees. A licensee must submit the following fees to the department:

FEE TYPE	AMOUNT
Administrative processing/initial application fee	\$(155.00) <u>204.00</u>
License bed fee (per bed)	\$(144.60) <u>190.00</u>
Annual renewal fee (per bed)	\$(144.60) <u>190.00</u>
Late fee (per bed)	\$(25.00) <u>33.00</u> (up to \$(500.00) <u>660.00</u>)
Follow-up compliance survey fee or a complete on-site survey fee resulting from a substantiated complaint	\$(1000.00) <u>1,320.00</u>

(1) The department shall refund fees paid by the applicant for initial licensure if:

(a) The department has received an application but has not conducted an on-site survey or provided technical assistance. The department shall refund two-thirds of the fees paid, less a fifty dollar processing fee;

Fee

(b) The department has received an application and has conducted an on-site survey or provided technical assistance. The department shall refund one-third of the fees paid, less a fifty dollar processing fee.

(2) The department will not refund fees paid by the applicant if:

(a) The department has conducted more than one on-site visit for any purpose;

(b) One year has elapsed since the department received an initial licensure application, and the department has not issued a license because the applicant failed to complete requirements for licensure; or

(c) The amount to be refunded as calculated by subsection (1)(a) or (b) of this section is ten dollars or less.

AMENDATORY SECTION (Amending WSR 06-21-108, filed 10/17/06, effective 11/17/06)

WAC 246-380-990 Fees. An annual health and sanitation survey fee for community colleges, ferries, and other state of Washington institutions and facilities shall be assessed as follows:

	Fee
(1) Food Service	
(a) As defined in WAC 246-215-011(12) food service establishments or concessions in community colleges, ferries, or any other state of Washington facility preparing potentially hazardous foods. This shall include dockside food establishments directly providing food for the Washington state ferry system.	\$ ((603.30)) <u>796.00</u>
(b) Food service establishments or concessions that do not prepare potentially hazardous foods.	\$ ((302.60)) <u>399.00</u>
(c) The health and sanitation survey fee referenced in subsection (a) and (b) of this section may be waived provided there is an agreement between the department of health and the local jurisdictional health agency for the local health agency to conduct the food service establishments surveys.	
(2) State institutions or facilities.	

(a) Institutions or facilities operating a food service: The annual fee shall be ~~((nine))~~ twelve dollars and fifty cents times the population count plus ~~((six))~~ seven hundred ~~((three))~~ ninety-six dollars and ~~((thirty))~~ zero cents per food service establishment. The population count shall mean the average daily population for the past twelve months (January through December).

(b) Institutions or facilities that do not operate a food service: The annual fee shall be ~~((nine))~~ twelve dollars and fifty cents times the population count.

(c) The population count for a new institution shall mean the average projected daily population for the first twelve months of operation.

WSR 07-18-089
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
[Filed September 5, 2007, 10:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-10-046.

Title of Rule and Other Identifying Information: Amending the rules in chapter 208-630 WAC, implementing the Check Cashers and Sellers Act, chapter 31.45 RCW.

Hearing Location(s): Department of Financial Institutions, 150 Israel Road S.W., Room 319, Tumwater, WA 98501, on October 25, 2007, at 9:00 to 10:30 a.m.

Date of Intended Adoption: November 6, 2007.

Submit Written Comments to: Jeannette Terry, P.O. Box 41200, Olympia, WA 98504-1200, e-mail jterry@dfi.wa.gov, fax (360) 586-5068, by October 25, 2007.

Assistance for Persons with Disabilities: Contact Jeannette Terry by September 20, 2007, TTY (360) 664-8126 or (360) 902-8786.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amendments include provisions making the rules consistent with federal standards for making small loans to military members; expanding notification of the federal laws licensees must comply with; incorporating SB 5199, Laws of 2007; setting the procedures for cash payments or payoffs of small loans; rules that provide guidance for meeting the federal requirements for the protection of borrowers' nonpublic information,

money service businesses, customer identification programs, and anti-money laundering programs; repeal of WAC 208-630-760 because of rule above providing a comprehensive notification of federal laws licensees must comply with; additions to definitions; a restriction of the use of similar names; fee increases; and technical changes to clarify or correct scrivener's errors.

Reasons Supporting Proposal: Changes in federal and state law, clarification and consistency, adaptation to the changing nature of the industry.

Statutory Authority for Adoption: RCW 43.320.040.

Statute Being Implemented: Chapter 31.45 RCW.

Rule is necessary because of federal law, Public Law 109-364 (H.R. 5122).

Name of Proponent: Department of financial institutions, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cindy Fazio, 150 Israel Road, Olympia, WA, (360) 902-8800.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule amendments will not impose more than minor costs on the businesses impacted by the proposed rules.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable to the proposed rules.

September 5, 2007

Deborah Bortner, Director

Division of Consumer Services

AMENDATORY SECTION (Amending WSR 05-22-009, filed 10/21/05, effective 11/21/05)

WAC 208-630-110 What definitions are required to understand these rules? The definitions in RCW 31.45.010 and this section apply throughout this chapter unless the context clearly requires otherwise.

"Act" means chapter 31.45 RCW.

"Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is in common control with another person.

"Agent" for purposes of RCW 31.45.079 means a person who, pursuant to the terms of a written agreement and for compensation, performs small loan agent services on behalf of an exempt entity.

"Annual percentage rate" or "APR" means, for fixed-rate plans, a rate that has been in effect under the plan within the twelve months preceding the date the disclosures are provided to the consumer. For variable-rate plans, a recent annual percentage rate is the most recent rate provided in the historical example described in Regulation Z, 12 C.F.R. section 226.5b (d)(12)(xi) or a rate that has been in effect under the plan since the date of the most recent rate in the table.

The Office of the Comptroller of the Currency (OCC) provides an APR calculator for free downloading and use. The Windows-based version of the annual percentage rate program (APRWIN v 6.0) is an efficient tool for verifying annual percentage rates and reimbursement adjustments. This version includes relevant finance charge and APR tolerances for verifying the accuracy of annual percentage rates and finance charges on loans secured by real estate or a

dwelling. Access the calculator at the OCC web site, <http://www.occ.treas.gov/aprwin.htm>.

"Board director" means a director of a corporation or a person occupying a similar status and performing a similar function with respect to an organization, whether incorporated or unincorporated.

"Check" means the same as defined in RCW 62A.3-104(f) and, for purposes of conducting the business of making small loans, includes other electronic forms of payment, including stored value cards, internet transfers, and automated clearing house transactions.

"Check casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

For purposes of this definition, "engages, in whole or in part, in the business of cashing checks," means that the check casher provides the currency used as payment to consumers for checks presented for cashing, takes possession of checks presented by consumers for cashing, and deposits the purchased checks into the check casher's bank account. If checks are cashed through a kiosk, the check casher is the supplier of currency for the kiosk, the owner of the checks deposited into the kiosk, and the owner of the bank account into which the checks are subsequently deposited.

"Check seller" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose.

"Close of business" for the purposes of RCW 31.45.86 and these regulations means the actual time a licensee closes for business at the location from which a small loan was originated or 11:59 p.m. Pacific Time, whichever is earlier.

"Department" means the department of financial institutions.

"Exempt entity" means a person described in RCW 31.45.020 that is engaged in the business of making small loans.

"Investigation" means an examination undertaken for the purpose of detecting violations of chapter 31.45 RCW or these rules or obtaining information lawfully required under chapter 31.45 RCW or these rules.

"License" means a license issued by the director to engage in the business of check cashing or check selling under the provision of chapter 31.45 RCW.

"Monetary instrument" means a check, draft, money order or other commercial paper serving the same purpose.

"Payday advance lender" or "payday lender" means a licensee under this chapter who has obtained a small loan endorsement under RCW 31.45.073.

"Payday advance loan," "payday loan" or "deferred deposit loan" means the same as a small loan.

"Postdated check" means a check delivered prior to its date, generally payable at sight or on presentation on or after the day of its date. "Postdated check" does not include any promise or order made or submitted electronically by a borrower to a licensee.

"RCW" means the *Revised Code of Washington*.

"Small loan agent services" means all or substantially all of the following services:

- (1) Marketing and advertising small loans;
- (2) Taking small loan applications;
- (3) Assisting customers in completing small loan documentation;
- (4) Providing required disclosures;
- (5) Disbursing small loan proceeds;
- (6) Collecting small loans;
- (7) Retaining documents and records; and
- (8) Making reports.

"State" means the state of Washington.

"Unsafe or unsound financial practice" means any action, or lack of action, the likely consequences of which, if continued, would impair materially the net worth of a licensee or create an abnormal risk of loss to its customers.

AMENDATORY SECTION (Amending WSR 05-22-009, filed 10/21/05, effective 11/21/05)

WAC 208-630-130 How does a business apply for a check casher's or seller's license or a small loan endorsement to a check casher's or seller's license? Each applicant for a check casher license, or check seller license, or a small loan endorsement to a check casher's or seller's license must apply to the director by filing the following:

(1) An application in a form prescribed by the director including at least the following information:

(a) The legal name, residence, and business address of the applicant if the applicant is an individual or sole proprietorship, and in addition, if the applicant is a partnership, corporation, limited liability company, limited liability partnership, trust, company, or association, the name and address of every member, partner, officer, controlling person, and board director;

(b) The trade name or name under which the applicant will do business under the act;

The director or the director's designated representative may deny an application for a proposed license or trade name if the proposed license or trade name is similar to a currently existing licensee name, including trade names.

(c) The street and mailing address of each location in which the applicant will engage in business under the act;

(d) The location at which the applicant's records will be kept; and

(e) Financial statements and any other pertinent information the director may require with respect to the applicant and its board directors, officers, trustees, members, or employees, including information regarding any civil litigation filed within the preceding ten years against the applicant or controlling person of the applicant;

(2) A surety bond and related power of attorney, or other security acceptable to the director in an amount equal to the penal sum of the required bond as set forth in this rule. In lieu of the bond, the applicant may demonstrate to the director net worth in excess of three times the amount of the penal sum of the required bond in accordance with RCW 31.45.030 (5)(b) and (e) and this rule;

(3) A current financial statement as of the most recent quarter end prepared in accordance with generally accepted

accounting principles which includes a statement of assets and liabilities and a profit and loss statement;

(4) Information on the applicant's or any affiliate's current or previous small loan or related type business in this state or any other state, including, but not limited to, name, address, city, state, licensing authority, and whether any enforcement action is pending or has been taken against the applicant in any state;

(5) Upon request, a complete set of fingerprints and a recent photograph of each sole proprietor, owner, director, officer, partner, member, and controlling person; and

(6) An application fee.

Any information in the application regarding a personal residential address or telephone number, and any trade secret as defined in RCW 19.108.010 including any financial statement that is a trade secret is exempt from the public disclosure requirements of chapter 42.17 RCW.

AMENDATORY SECTION (Amending WSR 05-22-009, filed 10/21/05, effective 11/21/05)

WAC 208-630-320 What examination authority does the director have? The director determines the frequency of examinations for the purpose of determining compliance with chapter 31.45 RCW and these rules.

The director or designee may at any time examine the records and documents used in the business of any licensee or licensee's agent wherever located. This includes licensees whose business is conducted entirely on the internet.

The director or designee may examine the records and documents of any person the director believes is engaging in unlicensed business governed by chapter 31.45 RCW wherever located.

AMENDATORY SECTION (Amending WSR 05-22-009, filed 10/21/05, effective 11/21/05)

WAC 208-630-430 When may a licensee expect a fee increase? ~~((The department intends to increase its fee and assessment rates each year for several bienniums. The department intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual increase in the rate of fees and assessments each fiscal year during the 2005-2007 biennium.))~~

(1) On ~~((July))~~ January 1, ((2005)) 2008, the fee and assessment rates ~~((as increased in the prior fiscal year.))~~ under WAC 208-630-400 will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025. ~~((However, there will be no rate increase under this subsection (1) for assessments described in WAC 208-630-022 (2)(a)(i), (b)(i) and (c)(i).))~~

(2) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal growth factor.

AMENDATORY SECTION (Amending WSR 05-22-009, filed 10/21/05, effective 11/21/05)

WAC 208-630-470 What types of information must a licensee include on a borrower's application for a small loan? The licensee must require and maintain an application for each borrower in each small loan transaction. Each application must contain the borrower's full name, Social Security number or other unique identifier acceptable to the director, current address, loan origination date, and whether the applicant is a military borrower at any time prior to the termination date of the loan. As used in this section "other unique identifier" means a state identification card, a passport, a document issued by the U.S. Immigration and ~~(Naturalization Service of the United States)~~ Customs Enforcement that provides identification of the borrower, a matricula consular, a driver's license, or other forms as approved by the director.

Licensees may rely upon an applicant representation regarding the applicant's military status, and are not required to conduct an independent investigation regarding military status.

NEW SECTION

WAC 208-630-505 What process must a licensee follow when a borrower pays off a small loan, or makes a payment toward a payment plan, with cash? A licensee must prepare a receipt with information that includes, but is not limited to, the date of the transaction, the borrower's name, the amount of the cash received, an indication that the payment was made in cash, an indication that the payment was made either on a loan, or towards a payment plan, the borrower's signature, and the signature of the person receiving the payment for the licensee.

NEW SECTION

WAC 208-630-5401 What duties and restrictions must a licensee comply with when making loans to military borrowers? (1) For purposes of this section, "military borrower" means any active duty member of the armed forces of the United States, or any member of the National Guard or the reserves of the armed forces of the United States who has been called to active duty.

(2) A licensee must:

(a) Honor the terms of any repayment agreement, including any repayment agreement negotiated through military counselors or third party credit counselors.

(b) Defer all collection activity against a military borrower who has been deployed to a combat or combat support posting, for the duration of the posting.

(3) A licensee must not:

(a) Make a loan to a military borrower with an annual percentage rate over thirty-six percent.

(b) Garnish any wages or salary paid to a military borrower for service in the armed forces when collecting any delinquent small loan.

(c) Contact a military borrower's chain of command in an effort to collect a delinquent small loan.

(d) Make a loan to a person known to the licensee to be a military borrower from a specific location when the military

borrower's commander has notified the licensee in writing that the specific location is designated off-limits to military personnel under their command.

AMENDATORY SECTION (Amending WSR 05-22-009, filed 10/21/05, effective 11/21/05)

WAC 208-630-560 What types of disclosures must a licensee make to a borrower? (1) A licensee must deliver to the borrower at the time the licensee makes a small loan, a disclosure that meets the requirements of all applicable laws, including the federal Truth in Lending Act.

(2) A licensee must deliver to the borrower at the time the licensee makes the small loan a disclosure of the right to rescind the loan and the right to convert the loan to a payment plan.

(3) A licensee who complies with federal law as indicated in subsection (1) of this section will be deemed in compliance with this act.

AMENDATORY SECTION (Amending WSR 05-22-009, filed 10/21/05, effective 11/21/05)

WAC 208-630-580 In addition to providing disclosures to the borrower, does a licensee have to post any disclosures? (1) Licensees that make small loans must post at each location where small loans are made a conspicuous notice substantially in the form set forth in the preceding question.

(2) Licensees that make small loans must post at each location where small loans are made a conspicuous notice, in a form prescribed by the director, with the following information:

"If you have questions about your rights and responsibilities when taking out a payday loan, contact the Department of Financial Institutions at 1-877-746-4334 or 360-902-8700 or 150 Israel Road S.W., Tumwater, Washington, 98501."

AMENDATORY SECTION (Amending WSR 05-22-009, filed 10/21/05, effective 11/21/05)

WAC 208-630-610 Are there accounting and financial records that a licensee must keep? Licensees must maintain as a minimum the following records for at least two years.

(1) A licensee must maintain a record of transactions conducted. Such a record may be limited to the following provided a sufficient audit trail is available through records obtainable from the licensee's bank of account:

(a) Amount of the checks cashed;

(b) Amount of fees charged for cashing the check;

(c) Amount of cash deducted from the transaction for the sales of other services or products;

(d) Amount of each check or monetary instrument sold;

(e) Amount of fee charged for the monetary instrument;

(f) Amount of small loan proceeds disbursed;

(g) Fees charged for small loans;

(h) Amount of payments on small loans received;

(i) Origination date of each small loan;

(j) Termination date of each small loan;

(k) Payment plan payment due dates;

(1) The information required to be maintained for applications in the rule.

(2) Licensees must maintain a cash reconciliation summarizing each day's activity and reconciling cash on hand at the opening of business to cash on hand at the close of business. Such reconciliation must separately reflect cash received from the sale of checks, redemption of returned items, bank cash withdrawals, cash disbursed in cashing of checks, cash disbursed in making small loans, cash received in payment of small loans and bank cash deposits.

(3) Records of the disbursement of loan proceeds and the receipt of all payments on the balance of small loans must be kept and must indicate the date of the transaction, the borrower's name, amount, and whether the disbursement or payment is on a loan or payment plan.

(4) Records of cash payments made on small loans, in addition to containing the date, the borrower's name, the amount of cash received, and whether the payment is on a loan or payment plan, must be evidenced by a copy of a receipt that has been signed by the borrower and the individual from the company who accepted the cash payment. The licensee shall keep and maintain the receipt as part of its business records as required under subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 05-22-009, filed 10/21/05, effective 11/21/05)

WAC 208-630-710 What other federal and state laws and regulations must a licensee comply with? Each licensee must comply with applicable federal and state laws including, but not limited to, the following:

(1) Washington laws:

Chapter 63.29 RCW, the Uniform Unclaimed Property Act(~~;~~ and)

Chapter 19.16 RCW, Collection agencies

(2) (~~The federal Truth in Lending Act-~~) Federal Laws and Regulations:

• "Bank Secrecy Act (BSA)" means the Currency and Foreign Transactions Reporting Act, 31 U.S.C. Sec. 5311-5330 and 12 U.S.C. Sec. 1818(s), and 1951-1959, 31 C.F.R. Part 103.

• "Equal Credit Opportunity Act" means the Equal Credit Opportunity Act (ECOA), 15 U.S.C. Sec. 1691 et seq., Regulation B, 12 C.F.R. Part 202.

• "Fair Credit Reporting Act" means the Fair Credit Reporting Act (FCRA), 15 U.S.C. Sec. 1681 et seq.

• "Federal Trade Commission Act" means the Federal Trade Commission Act, 15 U.S.C. Sec. 45(a).

• "Gramm-Leach-Bliley Act (GLBA)" means the Financial Modernization Act of 1999, 15 U.S.C. Sec. 6801-6809, and the GLBA-mandated Federal Trade Commission (FTC) privacy rules, at 16 C.F.R. Parts 313-314.

• "Telemarketing and Consumer Fraud and Abuse Prevention Act" means the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. Sec. 6101-6108, Telephone Sales Rule, 16 C.F.R. Part 310.

• "Truth in Lending Act" means the Truth in Lending Act (TILA), 15 U.S.C. Sec. 1601 et seq., Regulation Z, 12 C.F.R. Part 226 et seq.

• "USA Patriot Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA Patriot Act), 115 Stat. 272 (2001).

NEW SECTION

WAC 208-630-711 What are the minimum requirements of a policy that protects borrowers' nonpublic personal information (NPI) under the Gramm-Leach-Bliley Act? (1) Each licensee must establish appropriate policies and procedures with administrative, technical, and physical safeguards:

(a) To insure the security and confidentiality of borrowers' records and information;

(b) To protect against any anticipated threats or hazards to the security or integrity of such records; and

(c) To protect against any unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any borrower.

(2) The policies and practices must, at a minimum, contain the following elements:

(a) A privacy notice to consumers before you share their NPI with nonaffiliated third parties not otherwise excepted;

(b) A plan to limit the reuse and redisclosure of NPI you receive from a nonaffiliated financial institution. The limits of your use depend on how the information is disclosed to you; and

(c) A plan to prevent the disclosure of account numbers or similar access numbers or codes for marketing purposes.

(3) The obligations imposed under this section are in addition to any other obligations imposed under federal law.

NEW SECTION

WAC 208-630-712 What are the minimum requirements of a Customer Identification Program (CIP) required under the USA Patriot Act? Each licensee must implement a CIP that is appropriate given the licensee's size and location. The CIP must be written and incorporated into the licensee's BSA/AML program. The CIP must include:

(1) Risk-based procedures to verify the identity of customers including procedures that:

(a) Specify the identifying information the licensee must obtain from any customer, at a minimum, name, address, identification number, and, for individuals, date of birth;

(b) Describe how the licensee will verify the identity of the customer using documents, nondocumentary methods, or a combination of both methods; and

(c) Respond to circumstances in which the licensee cannot form a reasonable belief that it knows the true identity of the customer.

(2) Procedures to record the identifying information provided by the customer, a description of any document relied on, the methods and results of any measures undertaken to verify the identity of the customer, and the resolution of any substantive discrepancies discovered when verifying the identifying information obtained. Identifying information generally must be retained for five years after the account is closed. The remaining records need only be retained for five years after the records are made.

(3) Procedures for determining whether the customer appears on any list of known or suspected terrorists or terrorist organizations provided to the licensee by any federal government agency and designated as such by the Department of the Treasury in consultation with the federal functional regulators (326 list). The procedures must also require the licensee to follow all federal directives issued in connection with such a list. (Currently no 326 list has been designated.)

(4) Procedures for providing customers with adequate notice that the licensee is requesting information to verify their identities.

(5) A licensee may use the following notice to satisfy subsection (4) of this section:

IMPORTANT INFORMATION ABOUT PROCEDURES
FOR VERIFYING IDENTITIES

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you do business with us, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

AMENDATORY SECTION (Amending WSR 05-22-009, filed 10/21/05, effective 11/21/05)

WAC 208-630-720 Is a licensee required to register as a money service business with the Secretary of the Treasury? (~~Each licensee must register with the Secretary of the Treasury of the United States if required by 31 U.S.C. Section 5330 or any regulations promulgated thereunder.~~) Licensees may be required to register as a money services business (MSB) under the Bank Secrecy Act, 31 U.S.C. Section 5330, or any regulations promulgated thereunder. Generally, an MSB is a business that cashes checks or exchanges currency (other than as an agent for another business) in an amount greater than one thousand dollars in currency or monetary or other instruments for any person on any day, in one or more transactions.

NEW SECTION

WAC 208-630-721 If a licensee is considered a money service business (MSB) under the Bank Secrecy Act (see WAC 208-630-720), what are the minimum requirements for the anti-money laundering program the licensee must develop? (1) Each licensee must develop, implement, and maintain an effective anti-money laundering program. An effective anti-money laundering program is one that is reasonably designed to prevent the licensee's business from being used to facilitate money laundering and the financing of terrorist activities.

(2) The program must be commensurate with the risks posed by the location and size of, and the nature and volume of the licensee's business.

(3) The program must be in writing, and available for inspection by the department upon request.

(4) At a minimum, the program shall:

(a) Incorporate policies, procedures, and internal controls reasonably designed to assure compliance with this section. The policies, procedures, and internal controls must include requirements for:

- (i) Verifying customer identification;
 - (ii) Filing reports with the necessary federal agencies;
 - (iii) Creating and retaining records; and
 - (iv) Responding to law enforcement requests.
- (v) Licensees with automated data processing systems must integrate their compliance procedures with such systems.

(b) Designate a person to assure day-to-day compliance with the program and this section. The responsibilities of the designated person include assuring that:

(i) The licensee properly files reports, and creates and retains records, in accordance with applicable requirements of the federal law requirements; and

(ii) The compliance program is updated as necessary to reflect current requirements, and related guidance issued by the Department of the Treasury.

(c) Provide education or training of appropriate personnel concerning their responsibilities under the program, including training in the detection of suspicious transactions to the extent that the licensee is required to report such transactions under this section.

(d) Provide for independent review to monitor and maintain an adequate program. The scope and frequency of the review shall be commensurate with the risk of the financial services provided by the licensee. The review may be conducted by an officer or employee of the licensee as long as the reviewer is not the person designated in (b) of this subsection.

(e) The licensee must develop and implement an anti-money laundering program that complies with the requirements of this section on or before the end of the ninety-day period beginning on the day following the date the business is licensed with the department.

PROHIBITED PRACTICES

NEW SECTION

WAC 208-630-8201 What business practices are prohibited? (1) It is a violation of this chapter for any person subject to this chapter to:

(a) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(b) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(c) Directly or indirectly obtain property by fraud or misrepresentation;

(d) Make a small loan to any person physically located in Washington through use of the internet, facsimile, telephone, kiosk, or other means without first obtaining a small loan endorsement;

(e) Directly or indirectly refer a borrower, or encourage a borrower, to use the services of more than one payday lending business that results in an amount outstanding that exceeds the loan limit in RCW 31.45.073; and

(f) Directly or indirectly structure a loan transaction in order to exceed the loan limit in RCW 31.45.073.

(2) In addition to any other penalties, any transaction in violation of this section is uncollectible and unenforceable.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 208-630-760 What are the legal restrictions on making small loans?

WSR 07-18-091
PROPOSED RULES
STATE BOARD OF HEALTH

[Filed September 5, 2007, 11:20 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 246-100-166 Immunizations of child care and school children against certain vaccine-preventable diseases.

Hearing Location(s): Yakima Convention Center, 10 North 8th Street, Yakima, WA 98901-2515, on October 10, 2007, at 9:00 a.m.

Date of Intended Adoption: October 10, 2007.

Submit Written Comments to: Jeff Wise, Washington State Department of Health, Immunization Program CHILD Profile, P.O. Box 47843, Tumwater, WA 98504-7843, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-5390, by October 1, 2007.

Assistance for Persons with Disabilities: Contact Desiree Robinson by October 5, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updating the reference to the advisory committee on immunization practices' recommended childhood and adolescent immunization schedule from the 2006 version to the 2007 version. The proposed effective date of the revised immunization schedule is July 1, 2008. With this change, schools and child care centers will be required to follow the 2007 recommendations in order to allow entry for the 2008-2009 school year. Varicella, commonly known as chickenpox, is the sole vaccine of those required for school entry significantly affected by this update in schedule. Under this proposal: (1) The requirement of a single dose before age thirteen under the prior 2006 schedule is replaced with a requirement of two doses prior to kindergarten entry under the new schedule, and (2) documentation by the parent of a history of the disease will no longer be considered proof of a child's immunization against it.

Reasons Supporting Proposal: This rule revision is necessary to maintain consistency between the national immunization standards as set by the advisory committee on immunization practices (ACIP) and Washington state school and child care immunization entry requirements.

Statutory Authority for Adoption: RCW 43.20.050, 28A.210.140.

Statute Being Implemented: RCW 28A.210.140.

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 July 1, 2008, effective date of the revised immunization schedule is specifically chosen to ensure schools and child care centers have enough time to prepare for any changes in the vaccination schedule prior to implementing them for the 2008-2009 school year. The ACIP schedule to be referenced by schools and child care providers lag[s] by approximately one year (e.g., the 2008-2009 school year references the 2007 schedule) in order to allow Washington state enough time to purchase and distribute adequate amounts of vaccines prior to making them a requirement for school entry.

Name of Proponent: Washington state board of health, governmental.

Name of Agency Personnel Responsible for Drafting: Jeff Wise, Department of Health, Town Center #2, Tumwater, WA, (360) 236-3483; Implementation and Enforcement: Janna Bardi, Department of Health, Town Center #2, Tumwater, WA, (360) 236-3568.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule satisfies the conditions of adopting a national consensus code by reference without material change as described in RCW 34.05.310 [(4)](c). Therefore, a small business impact statement is not required under RCW 19.82.025(3).

A cost-benefit analysis is not required under RCW 34.05.328. This rule satisfies the conditions of adopting a national consensus code by reference without material change as described in RCW 34.05.328 [(5)](b)(iii), thereby exempting it from the requirement of a cost-benefit analysis.

September 5, 2007

Craig McLaughlin

Executive Director

AMENDATORY SECTION (Amending WSR 06-17-183, filed 8/23/06, effective 9/23/06)

WAC 246-100-166 Immunization of child care and school children against certain vaccine-preventable diseases. (1) Purpose. Under the authority of RCW 43.20.050 and 28A.210.140, the state board of health is empowered to adopt rules to establish immunization requirements upon entry into school and child care. The following rule improves the public health of Washington by preventing vaccine-preventable disease outbreaks.

(2) Definitions. The words and phrases in this section have the following meanings:

(a) Certificate of immunization status (CIS) means:

(i) A certificate of immunization status form approved by the department; or

(ii) A CHILD profile immunization record; or

(iii) Any other immunization form approved by the department.

(b) "Chief administrator" means:

(i) The person with the authority and responsibility for supervising the immediate operation of a school or child care; or

(ii) A person designated in writing by the statutory or corporate board of directors of the school district or school; or

(iii) In the absence of the above, a person or persons with the authority and responsibility for supervising the general operation of the school district.

(c) "Child" means any person regardless of age admitted to:

(i) Any public school district; or

(ii) Any private school or private institution subject to approval by the state board of education or described in RCW 28A.305.130 and 28A.195.010 through 28A.195.060; or

(iii) Any child care center.

(d) "Child care center" means any licensed facility or center that regularly provides care of children for periods of less than twenty-four hours per day subject to licensure by the department of social and health services as described in chapter 74.15 RCW.

(e) "Conditional status" is a type of immunization status where a child is not fully immunized under (g) of this subsection and is in the process of completing the required immunizations for his/her age.

(f) "Exemption" is a type of immunization status where a child is not fully immunized under (g) of this subsection and meets school and child care documentation requirements under subsection (4)(b)(i) of this section.

(g) "Full immunization" or "fully immunized" is an immunization status where a child has been vaccinated at ages and intervals consistent with the national immunization guidelines, with immunizing agents against:

~~((A))~~ (i) Diphtheria;

~~((B))~~ (ii) Tetanus;

~~((C))~~ (iii) Pertussis (whooping cough);

~~((D))~~ (iv) Poliomyelitis;

~~((E))~~ (v) Measles (rubeola);

~~((F))~~ (vi) Mumps;

~~((G))~~ (vii) Rubella;

~~((H))~~ (viii) Hepatitis B;

~~((I))~~ (ix) Haemophilus influenzae type B disease; and

~~((J))~~ (x) Varicella;

(A) Until July 1, 2008, a single dose for children under thirteen years of age;

(B) Children admitted to school or child care after July 1, 2008, will follow the National Immunization Guidelines regarding varicella as defined in subsection (2)(k) of this section.

(h) "Immunizing agent" means any vaccine or other immunologic drug licensed and approved by the United States Food and Drug Administration (FDA), or meeting World Health Organization (WHO) requirements, for immunization of persons against vaccine-preventable diseases.

(i) "Local health officer" means the individual appointed under chapter 70.05 RCW as the health officer for the local health department, or appointed under chapter 70.08 RCW as the director of public health of a combined city-county or combined county health district.

~~(j) ((Until July 1, 2007, "national immunization guidelines" means the schedule for the immunization described in the "Recommended Childhood and Adolescent Immunization Schedule: United States—2005" approved by the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).~~

~~((k))~~ Effective July 1, 2007, "national immunization guidelines" means the schedule for the immunization described in the "Recommended Childhood and Adolescent Immunization Schedule: United States—2006" approved by the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).

~~(k)~~ Effective July 1, 2008, "National Immunization Guidelines" means the schedule for the immunization described in the "Recommended Immunization Schedules for Persons Aged 0-18 Years—United States, 2007" approved by the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).

(l) "Parent" means, for the purposes of signature requirements in this rule:

(i) The mother, father, legal guardian, or any adult in loco parentis of a child seventeen years of age or younger; or

(ii) A person eighteen years of age or older; or

(iii) An emancipated minor.

(m) "School" means a facility, site, or campus for programs of education as defined in RCW 28A.210.070 to include preschool and kindergarten through grade twelve.

(3) Documentation of immunization status required by schools and child care center.

(a) Schools and child care centers shall require documented proof of immunization status in the form of a CIS.

(b) The CIS form must include:

(i) Name of child or student;

(ii) Birth date;

(iii) Type of vaccine(s) administered;

(iv) Month, day, and year of each dose of vaccine received;

(v) Documentation of immunization status to indicate:

(A) Full immunization under subsection (2)(g) of this section; or

(B) Conditional status under subsection (2)(e) of this section; or

(C) Exemption under subsection (2)(f) of this section;

(vi) Notice to parents that if an outbreak of vaccine-preventable disease for which the child is exempted occurs, the child may be excluded from school or child care for the duration of the outbreak;

(vii) Parent signature.

(c) As proof of a child's immunization status against varicella, schools and child care centers may accept one of the following:

(i) Documentation on the CIS form that the child received age appropriate varicella vaccine; or

(ii) Until July 1, 2008, documentation by the parent that a child has a history of varicella; or

(iii) Serologic proof of immunity against varicella.

(4) Duty of schools and child care centers.

(a) Schools and child care centers shall require a CIS form, signed by parents, for new enrollees registering for admission into kindergarten through grade twelve or child care as a requirement of admission.

(b) Full immunization is required upon admission unless:

(i) Parent(s) sign and submit a CIS form indicating a medical exemption.

(A) A permanent medical exemption is allowed when a signature of a licensed medical doctor (M.D.), a doctor of osteopathy (D.O.), doctor of naturopathy (N.D.), physician assistant (P.A.), or nurse practitioner (A.R.N.P.), acting within the scope of practice, certifies medical reasons to defer or forego one or more immunizations required for full immunization under subsection (2)(g) of this section.

(B) If immunizations are deferred on a temporary basis, the student must receive the required immunizations upon expiration of the exemption.

(ii) Parent(s) sign and submit a CIS form indicating a religious or philosophical, or personal exemption.

(iii) Parent(s) sign and submit a CIS form indicating conditional status if there is evidence of satisfactory progress toward full immunization, including:

(A) Documentation of start or continuance towards full immunization status;

(B) Documentation that immunizations received are consistent with the National Immunization Guidelines defined in subsections (2)(j) and (k) of this section; and

(C) Documentation of when the next immunization is due.

(c) Schools and child care centers maintenance of child immunization records:

(i) Schools and child care centers shall keep a department approved CIS for each enrolled child.

(ii) Schools and child care centers shall keep a list of children with medical, religious, philosophical, or personal exemptions.

(iii) The chief administrator shall retain records for at least three years on a child who is excluded from school under this section. The record must include the child's name, address, and date of exclusion.

(d) Schools and child care centers shall transmit the list of children with medical, religious, philosophical, or personal exemptions to the local health department upon request.

(e) A school or child care center shall return the department approved CIS or a legible copy to the parent if the child is withdrawn from school or child care or transferred from the school.

(f) A school or child care center may not withhold a child's department approved CIS for any reasons, including nonpayment of school child care fees.

(g) A school or child care center shall provide access to immunization records to agents of the state or local health department of each child enrolled.

(h) The chief administrator of a school or child care center shall submit a school immunization status report under chapter 28A.210 RCW either electronically on the internet or on the school immunization status report provided by the department. The report must be:

(i) Submitted to the department by November 1 of each year;

(ii) If a school opens after October 1, the report is due thirty days from the first day of school.

(5) Persons or organizations administering immunizations, either public or private shall:

(a) Furnish each person immunized, or his or her parent, with a written record of immunization containing information required by the state board of health; and

(b) Provide immunizations and records in accordance with chapter 246-100 WAC.

(6) A school or child care center shall exclude a child if one or more of the following applies:

(a) Parent(s) fail to provide a completed CIS form on or before the child's first day of attendance. Schools must use procedures consistent with Title 180 WAC.

(b) A child admitted under conditional status has not received the required immunization(s) within one month from the date due for completion of the next dose.

(c) A child has been admitted under a medical exemption and the particular vaccine for which the exemption was granted is no longer contraindicated and the child has not received the immunization within one month from the due date for completion of the next dose.

(7) A local health officer may exclude a child from school or child care under chapter 246-110 WAC during an outbreak of a vaccine-preventable disease if the child has not been fully immunized against that disease due to:

(a) Medical exemption;

(b) Conditional status;

(c) Religious exemption;

(d) Philosophical exemption; or

(e) Personal exemption.

(8) Implementation.

(a) The department shall develop and distribute implementation guidelines for schools and child care centers that:

(i) Interpret immunization requirements by grade level consistent with the ages specified in the national immunization guidelines and this section; and

(ii) Reflect national immunization guidelines for children who did not receive required immunizations prior to entry into kindergarten or first grade, and for whom a full series of immunizations is not recommended.

(b) The department may develop school implementation guidelines that waive or modify immunization requirements when a phasing-in period is warranted for a new immunization mandate, when there is limited availability of a required immunizing agent, or when new information about the safety or efficacy of an immunizing agent prompts a reevaluation of an existing vaccination requirement. Any waiver or modification must:

(i) Reflect the best available medical research as indicated by the ACIP or the state health officer recommendation;

(ii) Identify a specific vaccine-preventable disease or immunizing agent;

(iii) Identify a specific cohort of children by age or grade level;

(iv) Be limited in duration; and

(v) Be approved by the board.

WSR 07-18-093
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed September 5, 2007, 11:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-11-169.

Title of Rule and Other Identifying Information: WAC 232-12-228 Hunter education deferral.

Hearing Location(s): Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98504, on October 12 and 13, 2007, at 8 a.m.

Date of Intended Adoption: On or after November 2-3, 2007.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail preuslmp@dfw.wa.gov, fax (360) 902-2155, by October 11, 2007.

Assistance for Persons with Disabilities: Contact Susan Yeager, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To implement the provisions of ESHB 1249 relating to a once in a lifetime, one-license-year deferral of hunter education classes for people who are accompanied by a nondeferred, Washington licensed hunter.

Reasons Supporting Proposal: A new law, ESHB 1249, became effective on July 22, 2007. The law requires the Washington fish and wildlife commission to adopt rules for the implementation of the hunter-deferral program to avoid potential fraud and abuse. This rule is needed to comply with the legislature's mandate and goals.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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: Mik Mikitik, 1111 Washington Street S.E., Olympia, (360) 902-8113; and Enforcement: Bruce Bjork, 1111 Washington Street S.E., Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This new rule does not impact small businesses. Hunter education is taught by volunteers, so allowing a once in a lifetime, one-license-year deferral of hunter education is not depriving small businesses of classes they would otherwise have.

A cost-benefit analysis is not required under RCW 34.05.328. This new rule does not affect hydraulics.

September 5, 2007

Loreva M. Preuss

Rules Coordinator

NEW SECTION

WAC 232-12-228 Hunter education deferral. (1) Pursuant to RCW 77.32.155, individuals may apply for a direc-

tor-authorized, once in a lifetime, one-license-year deferral of hunter education training. To qualify, the applicant for deferral and his or her accompanying, licensed hunter must comply with the following requirements:

(a) The applicant for deferral must be at least eight years of age when applying for the deferral.

(b) The accompanying, licensed hunter, as defined in RCW 77.32.155, must:

(i) Be over eighteen years of age; and

(ii) Provide proof that he or she had a Washington hunting license for the three years prior to being an accompanying, licensed hunter.

(c) To provide maximum supervision and to enhance safety afield, an accompanying, licensed hunter must supervise only one deferred hunter while afield.

(2) Application procedures.

(a) Applicants for deferral must submit their applications to the department's hunter education division office in Olympia, Washington.

(b) Applicants for deferral must submit with each deferral application a twenty-dollar application fee payable via personal or cashier's check written to WDFW. Applications submitted without the required fee or information will not be processed and will be returned to the applicant.

(c) Deferral applications will be on forms prescribed by the department and may be made available to the public in both printed and electronic formats.

(3) License purchases.

(a) Individuals granted a deferral under this section will receive a special WILD identification number and a special authorization card that allow the applicant to purchase hunting licenses and tags for the license year during which the applicant requested a deferral. An applicant may not use his or her special WILD identification number and special authorization card for future hunting license purchases in Washington state.

(b) Individuals deferred under this administrative regulation:

(i) May purchase hunting licenses and tags in accordance with current licensing procedures; and

(ii) Must pay all hunting license and tag fees established under current law.

(4) Possession of deferral authorization.

(a) Individuals hunting with a deferral under this administrative regulation must carry their department-issued deferral card at all times while hunting.

(b) Request for replacement of deferral cards must be made by the licensee. A duplicate deferral card may be issued at department offices.

(5) If either the deferred education licensee or the required nondeferred accompanying person, hunting under the authority of RCW 77.32.155(2), is convicted of a violation of this title, except for a violation of RCW 77.15.400 (1) through (3), the department may revoke all hunting licenses and tags and may order a suspension of one or both the deferred education licensee and the nondeferred accompanying person's hunting privileges for one year.

WSR 07-18-094
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)
[Filed September 5, 2007, 11:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-07-132.

Title of Rule and Other Identifying Information: The department is creating and repealing sections in chapter 388-101 WAC, Certified community residential services and support.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094, on November 6, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 7, 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 DSHSRULES.COORDINATOR@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 6, 2007.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS Rules Consultant, by October 30, 2007, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposed rule making is to:

- (1) Comply with the governor's executive order 05-03 plain talk;
- (2) Simplify language, eliminate the question and answer format, reorganize and renumber the chapter so that the requirements are clearer for certified community residential service providers to understand;
- (3) Clarify issues that have been brought to the attention of the department;
- (4) Update rules to comply with statute changes; and
- (5) Repeal all sections in current chapter 388-101 WAC and create sections as described in (2) above without making substantive changes to current requirements.

Reasons Supporting Proposal: To make the rule:

- (1) Easier to read and understand and enforce;
- (2) Easier to find information by changing the format;
- (3) Easier to comply with by clarifying issues that have been brought to the attention of the department; and
- (4) Up-to-date with statute changes.

Statutory Authority for Adoption: Chapters 71A.12 and 74.34 RCW.

Statute Being Implemented: Chapters 71A.12 and 74.34 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: John Gaskell, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, (360) 725-3210; Implementation and Enforcement: Joyce Stockwell, Director, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, (360) 725-2401.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Residential care services analyzed the proposed rule amendments and concludes that costs to small businesses will be minor, if there are any costs at all. The primary purposes of the proposed amendments are to clarify preexisting requirements and to update existing rules to conform to changes in procedures, Washington state statutes, or rules of other Washington state agencies.

As a result, the preparation of a small business economic impact statement is not required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting John Gaskell, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, phone (360) 725-3210, fax (360) 438-7903, e-mail gaskejw@dshs.wa.gov.

August 28, 2007

Stephanie E. Schiller
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 07-20 issue of the Register.