

WSR 09-15-048
RULES OF COURT
STATE SUPREME COURT

[July 8, 2009]

IN THE MATTER OF THE ADOPTION ) ORDER
OF THE AMENDMENT TO CrRLJ ) NO. 25700-A-922
4.2(G)-STATEMENT OF DEFENDANT )
ON PLEA OF GUILTY; CrRLJ 4.2(G)- )
"DUI" ATTACHMENT; CrRLJ 4.2(I)- )
PETITION FOR DEFERRED PROSECU- )
TION; CrRLJ 4.2(I)-PETITION FOR )
DEFERRED PROSECUTION OF CRIMI- )
NAL MISTREATMENT CHARGE )

The Pattern Forms Committee having recommended the adoption of the proposed amendment to CrRLJ 4.2(g)-Statement of Defendant on Plea of Guilty; CrRLJ 4.2(g)-"DUI" Attachment; CrRLJ 4.2(i)-Petition for Deferred Prosecution; CrRLJ 4.2(i)-Petition for Deferred Prosecution of Criminal Mistreatment Charge, and the Court having determined that the proposed amendments will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby ORDERED:
(a) That the amendments as attached hereto are adopted.
(b) That pursuant to the emergency provisions of GR 9(j)(1), the amendments will be published expeditiously and become effective upon publication.
DATED at Olympia, Washington this 8th day of July, 2009.

Alexander, C. J.
C. Johnson, J. Owens, J.
Madsen, J. Fairhurst, J.
Sanders, J. J. M. Johnson, J.
Chambers, J. Stephens, J.

Court of Washington
for
Plaintiff,
vs.
Defendant.

No.
Statement of Defendant on Plea of Guilty

- 1. My true name is
2. My age is
3. I went through the grade.
4. I Have Been Informed and Fully Understand that:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me.

(b) I am charged with:

Table with 3 columns: Count, Crime, RCW or Ordinance (with subsection). Rows 1-4.

[ ] In count(s), the defendant committed the offense against another family or household member as defined in RCW 10.99.020.

The elements are:

[ ] as set out in the charging document.

[ ] as follows:

**5. I Understand That I Have the Following Important Rights, and I Give Them All Up by Pleading Guilty:**

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial.

**6. In Considering the Consequences of my Guilty Plea, I Understand That:**

- (a) The crime with which I am charged carries a maximum sentence of \_\_\_\_\_ days in jail and a \$ \_\_\_\_\_ fine.
- (b) The prosecuting authority will make the following recommendation to the judge:

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- (c) The judge does not have to follow anyone's recommendation as to sentence. The judge can give me any sentence up to the maximum authorized by law no matter what the prosecuting authority or anyone else recommends.
- (d) The judge may place me on probation for up to five years if I am sentenced under RCW 46.61.5055 or up to two years for all other offenses and impose conditions of probation. If the court orders me to appear at a hearing regarding my compliance with probation and I fail to attend the hearing, the term of probation will be tolled until I appear before the court on the record.
- (e) The judge may require me to pay costs, fees and assessments authorized by law. The judge may also order me to make restitution to any victims who lost money or property as a result of crimes I committed. The maximum amount of restitution is double the amount of the loss of all victims or double the amount of my gain.
- (f) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

**Notification Relating to Specific Crimes: If any of the Following Paragraphs Apply, the Box Should Be Checked and the Paragraph Initialed by the Defendant.**

- (g) The crime of \_\_\_\_\_ has a mandatory minimum sentence of \_\_\_\_\_ days in jail and \$ \_\_\_\_\_ fine plus costs and assessments. The law does not allow any reduction of this sentence.
- (h) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus.
- (i) This plea of guilty will result in suspension or revocation of my driving license or privilege by the Department of Licensing for a period of \_\_\_\_\_. This period may not include suspension or revocation based on other matters.
- (j) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a superior court in Washington State, and by a federal court if required. I must immediately surrender any concealed pistol license. RCW 9.41.040.
- (k) If this crime involves a drug offense, my eligibility for state and federal education benefits will be affected. 20 U.S.C. § 1091(r).
- (l) If this case involves driving while under the influence of alcohol and/or being in actual physical control of a vehicle while under the influence of alcohol and/or drugs, I have been informed and understand that I will be subject to:
  - the penalties described in the "DUI" Attachment.
  - OR
  - these penalties: The mandatory minimum sentence of \_\_\_\_\_ days in jail, \_\_\_\_\_ days of electronic home monitoring and \$ \_\_\_\_\_ monetary penalty. The court shall require me to apply for an ignition interlock driver's license and to drive only with a functioning ignition interlock device or, if the court waives those requirements, to submit to alcohol monitoring, for \_\_\_\_\_ year(s). I may also be required to drive only motor vehicles equipped with an ignition interlock device as imposed by the Department of Licensing and/or the court. My driving privilege will be suspended or revoked by the Department of Licensing for the period of time stated in paragraph 6(i). In lieu of the minimum jail term, the judge may order me to serve \_\_\_\_\_ days in electronic home monitoring. If I do not have a dwelling, telephone service, or any other necessity to operate electronic home monitoring, if I live out of state, or if the judge determines I would violate the terms of electronic home monitoring, the judge may waive electronic home monitoring and impose an alternative sentence which may include additional jail time, work crew or work camp.
- (m) I understand that if this crime involves sexual misconduct with a minor in the second degree, communication with a minor for immoral purposes, or attempt, solicitation or conspiracy to commit a sex offense, or a kidnapping offense involving a minor, as defined in RCW 9A.44.130, I will be required to register with the county sheriff as described in the "Offender Registration" Attachment.
- (n) Pursuant to RCW 43.43.754, if this crime is an offense which requires sex or kidnapping offender registration, or is one of the following offenses, assault in the fourth degree with sexual motivation, communication with a minor for immoral pur-

poses, custodial sexual misconduct in the second degree, failure to register, harassment, patronizing a prostitute, sexual misconduct with a minor in the second degree, stalking, or violation of a sexual assault protection order granted under chapter 7.90 RCW, I will be required to have a biological sample collected for purposes of DNA identification analysis.

[ ] (o) **Travel Restrictions:** I understand that I will be required to contact my probation officer, the probation director or designee, or the court if there is no probation department, to request permission to travel or transfer to another state if I am placed on probation for one year or more and this crime involves: (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; (iv) a sexual offense that requires the offender to register as a sex offender in the sending state. I understand that I will be required to pay an application fee with my travel or transfer request.

7. I plead guilty to the crime(s) of \_\_\_\_\_ as charged in the complaint(s) or citation(s) and notice. I have received a copy of that complaint or citation and notice.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. **Statement of Facts:** The judge has asked me to state in my own words what I did that makes me guilty of the crime(s). This is my statement (state the specific facts that support each element of the crime(s)):

\_\_\_\_\_  
\_\_\_\_\_

[ ] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

Date: \_\_\_\_\_

\_\_\_\_\_  
Defendant  
I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

\_\_\_\_\_  
Prosecuting Authority

\_\_\_\_\_  
Defendant's Lawyer

\_\_\_\_\_  
Type or Print Name                      WSBA No.

\_\_\_\_\_  
Type or Print Name                      WSBA No.

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that (check the appropriate box):

[ ] (a) The defendant had previously read; or

[ ] (b) The defendant's lawyer had previously read to him or her; or

[ ] (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

**Interpreter Declaration:** I am a certified interpreter or have been found otherwise qualified by the court to interpret in the \_\_\_\_\_ language, which the defendant understands, and I have translated this document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) \_\_\_\_\_, (state) \_\_\_\_\_, on (date) \_\_\_\_\_.

\_\_\_\_\_  
Interpreter

\_\_\_\_\_  
Print Name

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

**Dated:** \_\_\_\_\_

\_\_\_\_\_  
**Judge**

**Case Name:** \_\_\_\_\_

**Cause No.:** \_\_\_\_\_

**"DUI" Attachment:** Driving under the influence of alcohol and/or actual physical control of a vehicle while under the influence of alcohol and/or drugs. (If required, attach to Statement of Defendant on Plea of Guilty.)

**Court - DUI Sentencing Grid (RCW 46.61.5055 as amended through January 1, 2009)**

<b>BAC Result &lt; .15 or No Test Result</b>	<b>No Prior Offense<sup>1</sup></b>	<b>One Prior Offense<sup>1</sup></b>	<b>Two or Three Prior Offenses<sup>1</sup></b>
Mandatory Minimum/ Maximum Jail Time <sup>2</sup>	24 Consecutive Hours/365 Days	30/365 Days	90/365 Days
EHM <sup>2</sup>	15 Days in Lieu of Jail	60 Days Mandatory	120 Days Mandatory
Mandatory Minimum/ Maximum Fine <sup>3</sup>	\$865.50/\$5,000	\$1,120.50/\$5,000	\$1,970.50/\$5,000
Driver's License	90-Day Suspension	2-Year Revocation	3-Year Revocation
II Driver's License* II Device	Required	Required	Required
Alcohol/Drug Ed. or Treatment	As Ordered	As Ordered	As Ordered

\*See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 4.

<b>BAC Result ≥.15 or Test Refusal</b>	<b>No Prior Offense<sup>1</sup></b>	<b>One Prior Offense<sup>1</sup></b>	<b>Two or Three Prior Offenses<sup>1</sup></b>
Mandatory Minimum/ Maximum Jail Time <sup>2</sup>	2 Consecutive/365 Days	45/365 Days	120/365 Days
EHM <sup>2</sup>	30 Days in Lieu of Jail	90 Days Mandatory	150 Days Mandatory
Mandatory Minimum/ Maximum Fine <sup>3</sup>	\$1,120.50/\$5,000	\$1,545.50/\$5,000	\$2,820.50/\$5,000
Driver's License	1-Year Revocation 2 Years if BAC refused	900-Days Revocation 3 Years if BAC refused	4-Year Revocation
II Driver's License* II Device	Required	Required	Required
Alcohol/Drug Ed. or Treatment	As Ordered	As Ordered	As Ordered

\*See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 4.

<b>Court Ordered Ignition Interlock Driver's License and Device Requirements, RCW 46.20.720(2), 46.61.5055(5), 46.20.385, effective January 1, 2009*</b>			
Requirement	No Previous Restriction+	Previous 1-Year Restriction+	Previous 5-Year Restriction+
II Driver's License II Device	1 Year	5 Years	10 Years

+Period of time for ignition interlock restriction is pursuant to RCW 46.61.5055 (5)(f).

\*See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 4.

<b>Department of Licensing Required Ignition Interlock Device Requirements, RCW 46.20.720(3) June 10, 2004*</b>			
Requirement	No Previous Restriction	Previous 1-Year Restriction	Previous 5-Year Restriction
II Device	1 Year	5 Years	10 Years

\*See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 4.

<sup>1</sup>**Prior Offenses:** Count all prior offenses where the arrest date of the prior offense occurred within seven (7) years before or after the arrest date on the current offense. RCW 46.61.5055 (14)(b); *Seattle v. Quezada*, 142 Wn.App. 43, 174 P.3d 129 (Div. 1 2007). "Prior offense" is defined by RCW 46.61.5055 (14)(a) to include-

⇒ **Original Convictions for the following:** (1) DUI (RCW 46.61.502) (or an equivalent local ordinance); (2) Phys. Cont. (RCW 46.61.504) (or an equivalent local ordinance); (3) Veh. Homicide (RCW 46.61.520) or Veh. Assault (RCW 46.61.522) if either committed while under the influence; (4) Equiv. out-of-state statute for any of the above offenses.

⇒ **Deferred Prosecution Granted for the following:** 1) DUI (RCW 46.61.502) (or equivalent local ordinance); (2) Phys. Cont. (RCW 46.61.504) (or equiv. local ordinance); (3) Neg. Driving 1st (RCW 46.61.5249, or equiv. local ord.), *if the person was originally charged with DUI or Phys. Cont. (or an equiv. local ord.), or Veh. Hom. (RCW 46.61.520) or Veh. Assault (RCW 46.61.522).* See *Bremerton v. Tucker*, 126 Wn.App. 26, 103 P.3d 1285 (Div. 2 2005); *Seattle v. Quezada*, 142 Wn.App. 43, 174 P.3d 129 (Div. 1 2007) (a revoked deferred prosecution only counts as one prior offense).

⇒ **Amended Convictions for the following:** *If the person was originally charged with DUI or Phys. Cont. or an equivalent local ordinance, or Veh. Homicide (RCW 46.61.520) or Veh. Assault (RCW 46.61.522) (1) Neg. Driving 1st (RCW 46.61.5249), (2) Reckless Driving (RCW 46.61.500), (3) Reckless Endangerment (RCW 9A.36.050), (4) Equiv. out-of-state or local ordinance for the above offenses. See, Walla Walla v. Greene, 154 Wn.2d 722, ¶ 14, 116 P.3d 1008 (2005).*

**2Mandatory Jail and Electronic Home Monitoring (EHM):** If there are prior offenses within seven (7) years of arrest date, the mandatory jail shall be served by imprisonment for the minimum statutory term and may not be suspended or deferred unless the court finds that imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. The mandatory statutory term may not be converted to EHM. *Bremerton v. Bradshaw*, 121 Wn.App. 410, 88 P.3d 438 (Div. 2 2004). Where there are no prior offenses within seven (7) years of arrest date, the court may grant EHM instead of mandatory minimum jail. If there are prior offenses, the mandatory EHM may not be suspended or deferred unless the court finds that imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. RCW 46.61.5055 (1)(a)(i), (2)(a)(i), (3)(a)(i).

**Mandatory Conditions of Probation for any Suspended Jail Time:** The individual is not to: (i) drive a motor vehicle without a valid license to drive and proof of financial responsibility (SR 22), (ii) drive while having an alcohol concentration of .08 or more within two (2) hours after driving, (iii) refuse to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor. Except for ignition interlock driver's license and device or alcohol monitoring requirements under RCW 46.61.5055(5), violation of **any** mandatory condition requires a minimum penalty of 30 days' confinement, which may not be suspended or deferred, and an additional 30-day license suspension. RCW 46.61.5055(11). Courts are required to report violations of mandatory conditions requiring confinement or license suspension to DOL. RCW 46.61.5055.

**3Mandatory Monetary Penalty:** PSEA 1, RCW 3.62.090(1); Alcohol Violators Fee, RCW 46.61.5054; Criminal Justice Funding (CJF) Penalty, RCW 46.64.055 (Note: RCW 3.62.090 (1) and (2) apply to CJF penalty); Criminal Conviction Fee, RCW 3.62.085.

**Felony DUI and Felony Physical Control:** Laws of 2006, ch. 73, §§ 1-3 (effective July 1, 2007) created new class C felony crimes of Felony DUI and Felony Physical Control. With four (4) priors within ten (10) years, or one (1) prior conviction of Veh. Homicide or Veh. Assault (see above), a current offense is a Class C Felony punished under Chapter 9.94A RCW. "Within ten (10) years" means that the arrest for the prior offense occurred within ten (10) years of the arrest for the current offense. Laws of 2007, ch. 474 (effective July 1, 2007); RCW 46.61.5055 (13)(c).

**Jurisdiction:** Court has five (5) years jurisdiction.

**Department of Licensing - DUI Administrative Sanctions and Reinstatement Provisions (As amended through January 1, 2009)**

<b>Administrative Sanctions – RCW 46.20.3101</b>		
<b>REFUSED TEST</b>	<b><i>First Refusal Within 7 Years <u>And</u> No Prior Administrative Action Within Past 7 Years*</i></b>	<b><i>Second or Subsequent Refusal Within Past 7 Years OR First Refusal <u>And</u> At Least One Prior Administrative Action Within Past 7 Years*</i></b>
Adult	1-Year License Revocation	2-Year License Revocation
Minor	1-Year License Revocation	2-Year License Revocation Or Until Age 21 Whichever Is Longer
<b>BAC RESULT</b>	<b><i>First Administrative Action</i></b>	<b><i>Second or Subsequent Administrative Action</i></b>
Adults ≥ 0.08	90-Day License Suspension	2-Year License Revocation
Minors ≥ 0.02	90-Day License Suspension	1-Year License Revocation Or Until Age 21 Whichever Is Longer

\*Day for day credit for revocation period already served under suspension, revocation, or denial imposed under RCW 46.61.5055 and arising out of the same incident.—RCW 46.20.3101(4).

<b>Ignition Interlock Driver's License, RCW 46.20.385 (effective January 1, 2009)</b>
May apply for an Ignition Interlock Driver's License upon receiving RCW 46.20.308 notice or upon suspension or revocation. See "Court and Department of Licensing Ignition Interlock Requirements, page 4."

Note: An individual convicted of DUI or physical control will have his/her driving privilege placed in probationary status for five (5) years from the date he/she is eligible to reinstate his/her driver's license (see RCW 46.61.5055 and 46.20.355). An individual granted a deferred prosecution under RCW 10.05.060 will have his/her driving privilege placed on probationary status for five (5) years from the date of the incident, which was the basis for the deferred prosecution (see RCW 46.20.355 and 10.05.060).

<b>Requirements for Reinstatement of Driving Privilege</b>	
<i>Suspended License* (RCW 46.20.311)</i>	<i>Revoked License* (RCW 46.20.311)</i>
<ul style="list-style-type: none"> <li>• File and maintain proof of financial responsibility for the future with the Department of Licensing as provided in chapter 46.29 RCW (SR 22)</li> <li>• Present written verification by a company that it has installed the required ignition interlock device on a vehicle owned and/or operated by the person seeking reinstatement</li> <li>• Pay \$150 driver's license reissue fee</li> <li>• Driver's ability test NOT required</li> </ul>	<ul style="list-style-type: none"> <li>• File and maintain proof of financial responsibility for the future with the Department of Licensing as provided in chapter 46.29 RCW (SR 22)</li> <li>• Present written verification by a company that it has installed the required ignition interlock device on a vehicle owned and/or operated by the person seeking reinstatement</li> <li>• Pay \$150 driver's license reissue fee</li> <li>• Satisfactorily complete a driver's ability test</li> </ul>

\*If suspension or revocation is the result of a criminal conviction, the driver must also show proof of either (1) enrollment and satisfactory participation in an approved alcohol treatment program or (2) completion of an alcohol information school, as determined by the court and/or treatment agency.

**Court and Department of Licensing (DOL) Ignition Interlock Requirements, RCW 46.20.380, 46.20.385  
Ignition Interlock Driver's License, RCW 46.20.380, 46.20.385**

<b>Eligible to Apply</b>	<ul style="list-style-type: none"> <li>• Conviction of violation of RCW 46.61.502 or 46.61.504, involving alcohol</li> <li>• License suspended, revoked, or denied under RCW 46.20.3101</li> <li>• Proof of installed functioning ignition interlock device</li> </ul>
<b>Requirements</b>	<ul style="list-style-type: none"> <li>• During previous seven (7) years, no conviction for vehicular homicide or vehicular assault</li> <li>• Proof of financial responsibility (SR 22)</li> </ul>
<b>Financial Obligations</b>	<ul style="list-style-type: none"> <li>• \$100 mandatory fee to DOL</li> <li>• Costs to install, remove, and lease the ignition interlock device, and \$20 fee per month, unless waived</li> </ul>
<b>Duration</b>	Extends through the remaining portion of any concurrent or consecutive suspension or revocation imposed as the result of administrative action and criminal conviction arising from the same incident
<b>Operation with Other Requirements</b>	The time period during which the person is licensed under RCW 46.20.385, shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055

**Court Ordered Ignition Interlock (II) Driver's License and Device:** The court may waive II driver's license and device requirements upon written findings of fact when: (i) the devices are not reasonably available in the local area, (ii) the person does not operate a motor vehicle, (iii) the person is not eligible to receive the driver's license under RCW 46.20.385. (RCW 46.61.5055(5) as amended by Laws of 2008, ch. 282, § 14). If the court waives the requirements, the court shall order the person to submit to alcohol monitoring for one (1), five (5), or ten (10) years, and to pay for the monitoring. RCW 46.61.5055(5) (Laws of 2008, ch. 282, §, 14). II device is not required on employer's vehicle driven during business hours upon proof to DOL of employment affidavit. The court sets the calibration level.

**Court Ordered Discretionary Ignition Interlock (II) Device:** The court may order discretionary II device requirements that last up to the five (5) years jurisdictional limit of the court. The court sets the duration and calibration level. Discretionary II device restrictions begin after any applicable period of suspension, revocation, or denial of driving privileges. RCW 46.20.720(1) (as amended Chapter 95, Laws 2004).

**Passenger Under Age 16:** The Court shall order the installation and use of an II device for not less than 60 days if an IID is not mandatory under RCW 46.20.720 or 46.61.5055(5) and for an additional 60 days if an IID is otherwise mandatory.

**Deferred Prosecution:** For application in DUI Deferred Prosecution, see RCW 46.20.385, RCW 46.20.720(2), RCW 10.05.020 and RCW 10.05.140, which require II driver's license and device in a deferred prosecution of any alcohol-dependency based case.

**DOL Imposed Ignition Interlock (II) Device - RCW 46.20.720:** For all offenses occurring June 10, 2004 or later, DOL shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning II device if the person is convicted of "an alcohol-related" violation of DUI or Physical Control. The DOL required II device is not required on employer's vehicle during business hours upon proof to DOL of employment affidavit. DOL may waive requirement if the device is not reasonably available in the local area.

<p>_____ <b>Court of Washington</b></p> <p><b>For</b> _____</p> <hr/> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <hr/> <p style="text-align: right;">Defendant.</p>	<p><b>No:</b> _____</p> <p><b>Petition for Deferred Prosecution (DPPF)</b></p> <p><b>Charges:</b> _____</p> <p><b>Violation Date:</b> _____</p>
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**Comes Now** the defendant and petitions the court for deferred prosecution pursuant to RCW Chapter 10.05, and states as follows:

1. I allege the wrongful conduct charged is the result of or caused by [  ] **Alcoholism** [  ] **Drug Addiction** [  ] **Mental Problems**, for which I need treatment.
2. Unless I receive treatment for my problem, the probability of future reoccurrence is great.
3. I agree to pay for the cost of diagnosis and treatment, if financially able to do so, subject to RCW 10.05.130.
4. I understand that the court will not accept a petition for deferred prosecution from a person who sincerely believes that he or she is innocent of the crime(s) charged or does not suffer from alcoholism, drug addiction, or mental problems.
5. If this charge is a violation of Title 46 or similar municipal ordinance, I have not previously been placed on a deferred prosecution for a Title 46 or similar municipal ordinance violation.
6. A case history and assessment have been filed with this petition pursuant to RCW 10.05.020.
7. I understand and acknowledge I have the following rights: (a) to have a lawyer represent me at all hearings; (b) to have a lawyer appointed at public expense if I cannot afford one; (c) to a speedy, public jury trial; (d) to appeal any conviction; (e) to remain silent and not testify; (f) to question witnesses who testify against me; (g) to call witnesses to testify for me, at no cost; (h) to be presumed innocent unless the charge(s) against me is proven beyond a reasonable doubt; and (i) to present evidence and a defense. By deferring prosecution on these charges, I understand I give up my right to: (a) a speedy trial; (b) a jury; (c) testify; (d) question witnesses; (e) call witnesses; and (f) present evidence or a defense.
8. I stipulate to the admissibility and sufficiency of the facts in the attached police reports. I acknowledge that the above items will be entered and used to support a finding of guilty if the deferred prosecution is revoked.
9. If my deferred prosecution is revoked and I am found guilty, I understand that I may be sentenced up to the maximum penalty allowed by law.
10. I understand that if I proceed to trial and I am found guilty, I may be allowed to seek suspension of some or all fines and incarceration if I seek treatment. I understand that I may seek treatment from a public or private agency at any time, whether or not I have been found guilty or placed on deferred prosecution.
11. I understand that for some crimes, a deferred prosecution will enhance mandatory penalties for subsequent offenses committed within a seven-year period. I understand that a deferred prosecution will be a prior offense under RCW 46.61.5055 (driving under the influence, physical control of a vehicle under the influence, negligent driving if originally charged as driving under the influence or physical control of a vehicle under the influence, vehicular homicide, or vehicular assault).
12. I understand that if the court grants this Petition, I may not operate a motor vehicle on the public highways without a valid operator's license and proof of liability insurance pursuant to RCW 46.29.490. I understand that if my wrongful conduct is the result of or caused by alcohol dependency, I shall also be required to apply for an ignition interlock driver's license and to install an ignition interlock device under RCW 46.20.720(2) and RCW 46.20.385. The required periods of use of the interlock shall be not less than the periods provided for in RCW 46.20.720 (23)(a), (b) and (c). I may also be required to pay restitution to victims, pay court costs, and pay probation costs authorized by law. To help ensure continued sobriety and reduce the likelihood of reoffense, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all non-prescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. Alcoholism programs shall require a minimum of two self-help recovery groups per week for the duration of the treatment program. The court may terminate the deferred prosecution program if I violate this paragraph.
13. I understand that if the court grants this Petition, during the period of deferred prosecution I will be required to contact my probation officer, the probation director or designee, or the court if there is no probation department, to request permission to travel or transfer to another state if my wrongful conduct involves: (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; (iv) a sexual offense that requires me to register as a sex offender in Washington state. I understand that I will be required to pay an application fee with my travel or transfer request.
14. I understand that if I fail or neglect to comply with any part of my treatment plan or with any ignition interlock driver's license or ignition interlock device requirements, then the court ~~will hold a hearing to determine whether I should be removed from the deferred prosecution program~~ shall either order me to comply with the term or condition or be removed from deferred prosecution (RCW 10.05.090). After the hearing, the court will either order that I continue with treatment or be removed from

deferred prosecution and enter judgment. If I am convicted of a similar offense during the deferred prosecution, the court will revoke the deferred prosecution and enter judgment.

15. I understand that the charge(s) against me in this case will be dismissed three years from the end of the two-year treatment program and following proof to the court that I have complied with the conditions imposed by the court following successful completion of the two-year treatment program, but no less than five years from the date the deferred prosecution is granted, if the court grants my petition for deferred prosecution and if I fully comply with all the terms of the court order placing me on deferred prosecution.

I certify under penalty of perjury under the laws of the state of Washington that I have read the foregoing and agree with all of its provisions and that all statements made are true and correct.

Dated at \_\_\_\_\_, Washington this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Petitioner-Defendant

\_\_\_\_\_  
Defense Attorney/WSBA No.

<b>Court of Washington</b>	
<b>For</b> _____	
_____	Plaintiff,
vs.	
_____	Defendant.
	<b>No:</b> _____ <b>Petition for Deferred Prosecution of Criminal Mis-</b> <b>treatment Charge (DPPF)</b> <b>Charges:</b> _____ <b>Violation Date:</b> _____

**Comes Now** the defendant and petitions the court for deferred prosecution of a criminal mistreatment charge pursuant to RCW Chapter 10.05, and states as follows:

1. I am the natural or adoptive parent of the alleged victim.
2. The wrongful conduct charged is the result of parenting problems for which I am in need of services.
3. I am in need of child welfare services under chapter 74.13 RCW to improve my parenting skills in order to better provide my child(ren) with the basic necessities of life.
4. I want to correct my conduct to reduce the likelihood of harm to my child(ren).
5. I have cooperated with the Department of Social and Health Services to develop a plan to receive appropriate child welfare services.
6. I agree to pay the cost of the services if I am financially able to do so.
7. I understand that the court will not accept a petition for deferred prosecution from me if I sincerely believe that I am innocent of the crime(s) or if I sincerely believe that I do not need child welfare services.
8. I have not previously been placed on a deferred prosecution for a Chapter 9A.42 RCW or similar municipal ordinance violation.
9. The Department of Social and Health Services' case history and child welfare service plan have been filed with this petition pursuant to RCW 10.05.020.
10. I understand and acknowledge I have the following rights: (a) to have a lawyer represent me at all hearings; (b) to have a lawyer appointed at public expense if I cannot afford one; (c) to a speedy, public jury trial; (d) to appeal any conviction; (e) to remain silent and not testify; (f) to question witnesses who testify against me; (g) to call witnesses to testify for me, at no cost; (h) to be presumed innocent unless the charge(s) against me is proven beyond a reasonable doubt; and (i) to present evidence and a defense. By deferring prosecution on these charges, I understand I give up my right to: (a) a speedy trial; (b) a jury; (c) testify; (d) question witnesses; (e) call witnesses; and (f) present evidence or a defense.
11. I stipulate to the admissibility and sufficiency of the facts in the attached police reports. I acknowledge that the above items will be entered and used to support a finding of guilty if the deferred prosecution is revoked.
12. If my deferred prosecution is revoked and I am found guilty, I understand that I may be sentenced up to the maximum penalty allowed by law.
13. I understand that if I proceed to trial and I am found guilty, I may be allowed to seek suspension of some or all fines and incarceration if I seek treatment. I understand that I may seek treatment from a public or private agency at any time, whether or not I have been found guilty or placed on deferred prosecution.
14. I understand that if the court grants this petition, I may not operate a motor vehicle on the public highways without a valid operator's license and proof of liability insurance pursuant to RCW 46.29.490. I understand that if my parenting problems and resulting wrongful conduct are based on alcohol dependency, I shall also be required to apply for an ignition interlock driver's license and to install an ignition interlock device under RCW 46.20.720(2) and RCW 46.20.385. The required periods of use of the interlock shall be not less than the periods provided for in RCW 46.20.720 (2)(a), (b), and (c). I may also be



required to pay restitution to victims, pay court costs, and pay probation costs authorized by law. To help ensure continued sobriety and reduce the likelihood of reoffense, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. Alcoholism programs shall require a minimum of two self-help recovery groups per week for the duration of the treatment program. The court may terminate the deferred prosecution program if I violate this paragraph.

15. I understand that if the court grants this Petition, during the period of deferred prosecution I will be required to contact my probation officer, the probation director or designee, or the court if there is no probation department, to request permission to travel or transfer to another state if my wrongful conduct involves: (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; (iv) a sexual offense that requires me to register as a sex offender in Washington state. I understand that I will be required to pay an application fee with my travel or transfer request.

16. I understand that if I fail or neglect to comply with any part of my service plan, or with any ignition interlock driver's license or ignition interlock device requirements, the court ~~will hold a hearing to determine whether I should be removed from the deferred prosecution program~~ shall either order me to comply with the term or condition or be removed from deferred prosecution (RCW 10.05.090). The termination of my parental rights with regard to the alleged victim due to abuse or neglect that occurred during the pendency of the deferred prosecution shall be per se evidence that I did not successfully complete the service plan. After the hearing, the court will either order that I continue with treatment or be removed from deferred prosecution and enter judgment. If I am convicted of a similar offense during the deferred prosecution, the court will revoke the deferred prosecution and enter judgment.

17. I understand that if the court grants my petition for deferred prosecution, the charge(s) against me in this case will be dismissed when the court receives proof that I have successfully completed the child welfare service plan, or the service plan has been terminated because the alleged victim has reached his or her majority and there are no other minor children in the home.

I certify under penalty of perjury under the laws of the state of Washington that I have read the foregoing and agree with all of its provisions and that all statements made are true and correct.

Dated at \_\_\_\_\_, Washington this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Petitioner-Defendant Defense Attorney/WSBA No.

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the state supreme court and appears in the Register pursuant to the requirements of RCW 34.08.040.

**Reviser's note:** The brackets and enclosed material in the text of 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.

**WSR 09-15-053**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
[July 8, 2009]

Gerry L. Alexander, C. J.  
C. Johnson, J.      Owens, J.  
Madsen, J.      Fairhurst, J.  
Alexander, C. J.      J. M. Johnson, J.  
Chambers, J.      Stephens, J.

IN THE MATTER OF THE ADOPTION ) ORDER  
OF THE AMENDMENTS TO APR 8-SPE- ) NO. 25700-A-927  
CIAL ADMISSIONS, MAR 4.2-DISCOV- )  
ERY AND CRLJ 45-SUBPOENA )

The Washington State Bar Association having recommended the adoption of the proposed amendments to APR 8-Special Admissions, MAR 4.2-Discovery and CRLJ 45-Subpoena, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto is adopted.

(b) That the amendments will be published in the Washington Reports and will become effective September 1, 2009.

DATED at Olympia, Washington this 8th day of July, 2009.

**SUGGESTED AMENDMENT**  
**ADMISSION TO PRACTICE RULES (APR)**  
**RULE 8 SPECIAL ADMISSIONS**

**(a) In General.** [No change.]

**(b) Exception for Particular Action or Proceeding.** A member in good standing of the Bar of any other state or territory of the United States or of the District of Columbia, who is a resident of and maintains a practice in such other state, territory, or District, or a lawyer who is providing legal services for no fee through a qualified legal services provider pursuant to RPC 5.5(e), may appear as a lawyer in any action or proceeding only (i) with the permission of the court or tri-

bunal in which the action or proceeding is pending, and (ii) in association with an active member of the Washington State Bar Association, who shall be the lawyer of record therein, responsible for the conduct thereof, and present at proceedings unless excused by the court or tribunal.

(1) An application to appear as such a lawyer shall be made by written motion to the court or tribunal before whom the action or proceeding is pending, in a form approved by the Board of Governors, which shall include certification by the lawyer seeking admission under this rule and the associated Washington lawyer that the requirements of this rule have been compiled with, and shall include an indication on which date the fee required in part (2) was paid, or indicating that the fee was waived pursuant to part (2). The motion shall be heard by the court or tribunal after such notice to the Washington State Bar Association as is required in part (2) below, together with the required fee, unless waived pursuant to part (2), and to adverse parties as the court or tribunal shall direct. Payment of the required fee shall only be necessary upon a lawyer's first application to any court or tribunal in the same case. The court or tribunal shall enter an order granting or refusing the motion, and, if the motion is refused, the court or tribunal shall state its reasons.

(2) The lawyer making the motion shall submit a copy of the motion to the Washington State Bar Association, accompanied by a fee in each case in an amount set by the Board of Governors with the approval of the Supreme Court. Payment of the fee shall only be necessary upon a lawyer's first motion to any court or tribunal in the same case. The associated Washington counsel shall be jointly responsible for payment of the fee. The fee shall be waived for a lawyer providing legal services for no fee through a qualified legal services provider pursuant to RPC 5.5(e). The Washington State Bar Association shall maintain a public record of all motions for admission pursuant to this rule.

(3) No member of the Bar Association shall lend his or her name for the purpose of, or in any way assist in, avoiding the effect of this rule.

**(c) Exception for Indigent Representation.** [No change.]

**(d) Exception for Educational Purposes.** [No change.]

**(e) Exception for Emeritus Membership.** [No change.]

**(f) Exception for Foreign House Counsel.** [No change.]

**(g) Exception for Military Lawyers.** [No change.]

#### SUGGESTED AMENDMENT

#### MANDATORY ARBITRATION RULES (MAR)

#### Rule 4.2 - Discovery

After the assignment of a case to the arbitrator, a party may demand a specification of damages under RCW 4.28.-360, may request from the arbitrator an examination under CR 35, may request admissions from a party under CR 36, and may take the deposition of another party, unless the arbitrator orders otherwise. No additional discovery shall be allowed, except as the parties may stipulate or as the arbitrator may order. The arbitrator will allow discovery only when reasonably necessary. The conference requirements of CR

26(i) shall not apply to motions to the arbitrator to allow additional discovery under this rule.

#### SUGGESTED AMENDMENT

#### CIVIL RULES FOR COURTS OF LIMITED JURISDICTION

#### (CRLJ)

#### RULE 45. SUBPOENA

#### ~~RULE 45. SUBPOENA~~

~~(a) For Attendance of Witnesses.~~ The ~~subpoena~~ shall be issued as follows:

~~(1) Form.~~ To require attendance before a court of limited jurisdiction or at the trial of an issue therein, such ~~subpoena~~ may be issued in the name of the State of Washington by the court before which the attendance is required or in which the issue is pending. *Provided*, That such ~~subpoena~~ may be issued with like effect by the attorney of record of the party to the action on whose behalf the witness is required to appear, and the form of such ~~subpoena~~ in each case may be the same as when issued by the court except that it shall only be subscribed by the signature of such attorney.

~~(2) Issuance for Trial.~~ To require attendance before a court of limited jurisdiction or at the trial of an issue of fact, the ~~subpoena~~ may be issued by the clerk in response by a precept or by an attorney of record.

~~(3) Issuance for Deposition.~~ To require attendance out of such court before a judge, justice of the peace, commissioner, referee or other officer authorized to administer oaths or to take testimony in any matter under the laws of this state, it shall be issued by an attorney of record or by such judge, justice of the peace, commissioner, referee or other officer before whom the attendance is required.

~~(b) For Production of Documentary Evidence.~~ A ~~subpoena~~ may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the court, upon motion made promptly and in any event at or before the time specified in the ~~subpoena~~ for compliance therewith, may (1) quash or modify the ~~subpoena~~ if it is unreasonable and oppressive or (2) condition denial of the motion upon the advancement by the person in whose behalf the ~~subpoena~~ is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

~~(c) Service.~~ A ~~subpoena~~ may be served by any suitable person over 18 years of age, by exhibiting and reading it to the witness, or by giving him a copy thereof, or by leaving such copy at the place of his abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit.

~~(d) Subpoena for Taking Depositions; Place of Examination.~~

(1) Proof of service of a notice to take a deposition as provided in CR 30(b) and 31(a) constitutes a sufficient authorization for the issuance by the attorney of record or the officer taking the deposition of ~~subpoenas~~ for the persons named or described therein. The ~~subpoena~~ may command the person to whom it is directed to produce and permit inspection and copying of designated books, papers, documents, or tangible things which constitute or contain matters within the scope of the examination permitted by rule 26, but in that event the ~~subpoena~~ will be subject to the provisions of

section (b) of this rule. The person to whom the ~~subpoena~~ is directed may, within 10 days after the service thereof or on or before the time specified in the ~~subpoena~~ for compliance if such time is less than 10 days after service, serve upon the attorney designated in the ~~subpoena~~ written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the ~~subpoena~~ shall not be entitled to inspect and copy the materials except pursuant to an order of the court from which the ~~subpoena~~ was issued. The party serving the ~~subpoena~~ may, if objection has been made, move upon notice to the deponent for an order at any time before or during the taking of the deposition.

~~(2) Place of Examination.~~ A resident of the state may be required to attend an examination only in the county wherein he resides or is employed or transacts his business in person, or at such other convenient place as is fixed by an order of the court. A nonresident of the state may be required to attend only in the county wherein he is served with a ~~subpoena~~, or within 40 miles from the place of service or at such other convenient place as is fixed by an order of the court.

~~(3) Foreign Depositions for Local Actions.~~ When the place of examination is in another state, territory, or country, the party desiring to take the deposition may secure the issuance of a ~~subpoena~~ or equivalent process in accordance with the laws of such state, territory or country to require the deponent to attend the examination.

~~(4) Local Depositions for Foreign Actions.~~ When any officer or person is authorized to take depositions in this state by the law of another state, territory or country, with or without a commission, a ~~subpoena~~ to require attendance before such officer or person may be issued by any judge or justice of the peace of this state for attendance at any places within his jurisdiction.

~~(e) Subpoena for Hearing or Trial.~~ [Reserved. See RCW 5.56.010.]

~~(f) Contempt.~~ Failure by any person without adequate excuse to obey a ~~subpoena~~ served upon him may be deemed a contempt of the court from which the ~~subpoena~~ issued.

~~(g) When Excused.~~ A witness subpoenaed to attend in a civil case is dismissed and excused from further attendance as soon as he has given his testimony in chief and has been cross-examined thereon, unless either party moves in open court that the witness remain in attendance and the court so orders; and witness fees will not be allowed any witness after the day on which his testimony is given, except when the witness has in open court been required to remain in further attendance, and when so required the clerk shall note that fact in the minutes.

**(a) Form; Issuance.**

(1) Every subpoena shall:

(A) state the name of the court from which it is issued;

(B) state the title of the action, the name of the court in which it is pending, and its case number;

(C) command each person to whom it is directed to attend and give testimony or to produce and permit inspection and copying of designated books, documents or tangible things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified; and

(D) set forth the text of subsections (c) and (d) of this rule.

(2) A subpoena for attendance at a deposition shall state the method for recording the testimony.

(3) A command to a person to produce evidence or to permit inspection may be joined with a command to appear at trial or hearing or at deposition, or may be issued separately. A party may be compelled to produce evidence at a deposition or permit inspection only in accordance with rule 26.

(4) A subpoena may be issued by the court in which the action is pending in the name of the State of Washington or by the clerk in response to a praecipe. An attorney of record of a party or other person authorized by statute may issue and sign a subpoena, subject to RCW 5.56.010.

**(b) Service.**

(1) A subpoena may be served by any suitable person over 18 years of age by giving the person named therein a copy thereof, or by leaving a copy at such person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. When service is made by any person other than an officer authorized to serve process, proof of service shall be made by affidavit.

(2) A subpoena commanding production of documents and things, or inspection of premises, without a command to appear for deposition, hearing or trial, shall be served on each party in the manner prescribed by rule 5(b). Such service shall be made no fewer than five days prior to service of the subpoena on the person named therein, unless the parties otherwise agree or the court otherwise orders for good cause shown. A motion for such an order may be made ex parte.

**(c) Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to subsection (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance;
- (ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden, provided that the court may condition denial of the motion upon a requirement that the subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.

**(B) If a subpoena**

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) Duties in Responding to Subpoena.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information in camera to the court for a determination of the claim. The person responding to the subpoena must preserve the information until the claim is resolved.

**(e) Subpoena for Taking Deposition, Producing Documents, or Permitting Inspection.**

(1) *Witness Fees and Mileage.* [Reserved. See RCW 2.40.020.]

(2) *Place of Examination.* A resident of the state may be required to attend an examination, produce documents, or permit inspection only in the county where the person resides or is employed or transacts business in person, or at such other convenient place as is fixed by an order of the court. A nonresident of the state may be required to attend an examination, produce documents, or permit inspection only in the county where the person is served with a subpoena, or within 40 miles from the place of service, or at such other convenient place as is fixed by an order of the court.

(3) *Foreign Proceedings for Local Actions.* When the place of examination, production, or inspection is in another state, territory, or country, the party desiring to take the deposition, obtain production, or conduct inspection may secure the issuance of a subpoena or equivalent process in accordance with the laws of such state, territory, or country.

(4) *Local Depositions for Foreign Actions.* When any officer or person is authorized to take depositions in this state by the law of another state, territory, or country, with or without a commission, a subpoena to require attendance before such officer or person may be issued by any court of this state for attendance at any place within its jurisdiction.

**(f) Subpoena For Hearing or Trial.**

(1) *When Witnesses Must Attend—Fees and Allowances.* [Reserved. See RCW 5.56.010.]

(2) *When Excused.* A witness subpoenaed to attend in a civil case is dismissed and excused from further attendance as soon as the witness has given testimony in chief and has been cross-examined thereon, unless either party moves in open court that the witness remain in attendance and the court so orders. Witness fees will not be allowed any witness after the day on which the witness' testimony is given, except when the witness has in open court been required to remain in further attendance, and when so required the clerk shall note that fact.

**(g) Contempt.**

Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a non-party to attend a deposition, produce documents, or permit inspection at a place not within the limits provided by subsection (e)(2).

**(h) Form.** A subpoena should be substantially in the form below.

*[NOTE: Although not underlined, the following form constitutes a rule amendment.]*

**Issued by the  
[NAME OF COURT]  
SUBPOENA IN A CIVIL CASE**

v.

CAUSE NUMBER:

TO:

YOU ARE COMMANDED to appear in the above captioned court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. CRLJ 26.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or tangible things at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
-------	---------------

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

--	--

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
--

**PROOF OF SERVICE**

DATE	PLACE
SERVED	
SERVED ON (PRINT NAME)	MANNER OF SERVICE
SERVED BY (PRINT NAME)	TITLE

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the State of Washington that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_  
DATE/PLACE

\_\_\_\_\_  
SIGNATURE OF SERVER

\_\_\_\_\_  
ADDRESS OF SERVER

CRLJ 45, Sections (c) & (d):

**(c) Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to subsection (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If

objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance;
- (ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden, provided that the court may condition denial of the motion upon a requirement that the subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.

(B) If a subpoena  
 (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or  
 (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) Duties in Responding to Subpoena.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as

trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information in camera to the court for a determination of the claim. The person responding to the subpoena must preserve the information until the claim is resolved.

**Reviser's note:** The brackets and enclosed material in the text of 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.

**WSR 09-16-005**

**AGENDA**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed July 22, 2009, 3:19 p.m.]

**Semi-Annual Rule-Making Agenda  
 (July 31, 2009 - January 31, 2010)**

The following is employment security department's semi-annual rule-making agenda for publication in the Washington state register pursuant to RCW 34.05.314. There may be additional rule-making activity not on the agenda as conditions warrant.

If you have any questions, please contact Pamela Ames, employment security department rules coordinator at (360) 902-9387, or e-mail at pames@esd.wa.gov.

WAC CHAPTER	SUBJECT	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
Title 192 WAC, Benefit rules	General review of UI benefit rules	Juanita Myers (360) 902-9665	CR-101 - 7/8/09 CR-102 - TBD CR-103 - TBD	Update, revise and clarify policy related to UI benefits. This includes, but is not limited to, job separations, job search requirements, reporting requirement, training, educational employees, deductions from benefits, and defining terms.
Chapter 192-100 WAC, Definitions; chapter 192-150 WAC, Job separations; and chapter 192-310 WAC, Reporting of wages and taxes	Domestic partners	Juanita Myers (360) 902-9665	CR-105 - 6/22/09 CR-103P - 9/09	Update rules to reflect that domestic partners are included in all references to spouse, immediate family, family, etc.
Chapter 192-240 WAC, Extended benefits	Extended benefits	Juanita Myers (360) 902-9665	CR-103E - 5/22/09 CR-101 - 6/22/09 CR-102 - TBD CR-103 - TBD	Clarify the payment of extended benefits and the coordination of those benefits with emergency unemployment compensation.

WAC CHAPTER	SUBJECT	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
Chapter 192-150 WAC, Job separations	Quitting part-time work	Juanita Myers (360) 902-9665	CR-101 - 7/2/09 CR-102 - TBD CR-102 [CR-103] - TBD	Implement SB 5804 for claimants who are simultaneously employed in both part-time and full-time jobs and quit the part-time job.
Chapter 192-270 WAC, Training benefits	Training benefits	Juanita Myers (360) 902-9665	CR-101 - 3/27/09 CR-103E - 4/2/09	Implement ESHB 1906 which included significant changes to the training benefits program, including eligibility criteria, application and enrollment timelines, and the definition of terms.
Chapter 192-320 WAC, Experience rating and benefit changes	Waiver of delinquent taxes	Art Wang (360) 902-9587	CR-103E - 7/09 CR-101 - 7/09 CR-102 - TBD CR-103 - TBD	Implement HB 1338 which broadened the commissioner's authority to waive application of the higher tax rate for delinquent taxpayers who acted in good faith.

**WSR 09-16-007****AGENDA****EASTERN WASHINGTON UNIVERSITY**

[Filed July 23, 2009, 8:40 a.m.]

**Semi-Annual Agenda for Rules Under Development  
(Per RCW 34.05.314)  
July 2009**

1. Rule making concerning a new chapter for student education records (chapter 172-191 WAC); repealing the current chapter 172-190 WAC, Implementation of the Family Educational Rights and Privacy Act of 1974, will continue through the second half of 2009.

2. Rule making for chapter 172-116 WAC, Traffic and parking regulations, is anticipated during the second half of 2009.

3. Rule making for chapter 172-139 WAC, Commercial activities, is anticipated during the second half of 2009.

For more information concerning the above rules under review or development contact Trent Lutey, University Policy Administrator, Eastern Washington University, 214 Showalter Hall, Cheney, WA 99004, phone (509) 359-6322, fax (509) 359-7036, or e-mail [tlutey@ewu.edu](mailto:tlutey@ewu.edu).

(2). I have reviewed the chairman's request, as well as the minutes of the WFC board meeting of July 15, 2009, where the proposed suspension was discussed and voted on by the WFC. Based on this documentation, I have decided to approve the requested suspension.

RCW 15.66.093, in pertinent part, allows the director of the department of agriculture "upon the request of a commodity commission and without compliance with RCW 15.66.070 through 15.66.090, [to] suspend the commission's order or term or provision thereof for a period not to exceed one year, if the director finds that the suspension will tend to effectuate the declared policy of this chapter."

I have determined that suspending the collection of assessments will effectuate a stated policy of chapter 15.66 RCW. **I am, therefore, suspending the collection of assessments by the Washington fryer commission for an additional period of two months, effective July 1, 2009, and ending August 31, 2009. Assessment collections would resume September 1, 2009.**

Even though a public hearing process is not required under RCW 15.66.093, I ask that notice of this action be published in the Washington state register.

Dan Newhouse  
Director

**WSR 09-16-008****DEPARTMENT OF AGRICULTURE**

[Filed July 23, 2009, 8:47 a.m.]

Suspension of Marketing Order Rules Pertaining to Assessments for the Washington State Fryer Commission  
July 1 through August 31, 2009

The chairman of the Washington fryer commission (WFC), in a letter dated July 20, 2009, requested a suspension of the marketing order rules pertaining to the collection of assessments upon all fryers, roasters and broilers under the age of six months as described in WAC 16-512-040 (1) and

**WSR 09-16-009**

**NOTICE OF PUBLIC MEETINGS  
CONVENTION AND TRADE  
CENTER**

[Filed July 23, 2009, 8:47 a.m.]

A regular meeting of the Washington state convention and trade center board of directors will be held on **Tuesday, August 4, 2009, at 2:00 p.m.** in Room 2B of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

**WSR 09-16-013**  
**NOTICE OF PUBLIC MEETINGS**  
**WALLA WALLA**  
**COMMUNITY COLLEGE**  
 [Filed July 23, 2009, 12:18 p.m.]

The board of trustees of Walla Walla Community College, District Number Twenty, will hold a special (retreat) meeting on Wednesday, August 19, 2009, beginning at 9:30 a.m. in the board room of Walla Walla Community College, 500 Tausick Way, Walla Walla, WA 99362.

Please direct any questions to jerri.ramsey@wwcc.edu or by phone (509) 527-4274.

**WSR 09-16-014**  
**AGENDA**  
**PUBLIC DISCLOSURE COMMISSION**  
 [Filed July 23, 2009, 2:22 p.m.]

**Agenda for Rules Under Development**  
**July 2009 - January 2010**

Agency contact Doug Ellis, Assistant Director, P.O. Box 40908, Olympia, WA 98504-0908, phone (360) 664-2735, toll free 1-877-601-2828, fax (360) 753-1112, e-mail delis@pdc.wa.gov.

At present, the public disclosure commission (PDC) has seven rules under development:

1. **Topic:** Contributions and expenditures of out-of-state political committees.

**Status:** On October 1, 2008, the commission filed the preproposal statement with the code reviser giving notice that it is considering rules relating to out-of-state political committees including a new rule WAC 390-16-049 to clarify when a political committee that is located out-of-state is required to file as an in-state committee and possible changes to WAC 390-16-050 to clarify requirements in WAC 390-16-049 and update the dollar amounts per RCW 42.17.093 (1)(g). Emergency rules were adopted effective June 30, 2009, and the commission is proceeding with permanent rule making.

A public hearing has been scheduled for August 25, 2009.

**Statutory Authority:** RCW 42.17.370(1), 42.17.093.

**Statute Being Implemented:** Chapter 42.17 RCW.

**WAC Cite:** WAC 390-16-049 Out-of-state political committees—Implementation of RCW 42.17.093 and 390-16-050 Forms for contributions and expenditures of out-of-state political committees.

2. **Topic:** Qualifications for reporting modifications.

**Status:** The commission filed a preproposal statement with the code reviser on June 9, 2009, giving notice that it is considering possible amendments to WAC 390-28-100. The rule is to be amended to modernize the rule language, reference statutory standards for modifications, describe real property disclosures, define bona fide separate property agreements and bona fide separate status and refer filers to modification examples in PDC interpretations.

A public hearing and possible adoption of amended rules may occur on September 24, 2009. If adopted, the amended rule will likely go into effect in November of 2009.

**Statutory Authority:** RCW 42.17.370 (1), (10).

**Statute Being Implemented:** RCW 42.17.241, 42.17.-370(10).

**WAC Cite:** WAC 390-28-100 Reporting modifications—Possible qualifications—Statement of financial affairs.

3. **Topic:** Adjusting dollar amounts under RCW 42.17.640.

**Status:** The commission will file a preproposal statement with the code reviser giving notice that it is considering revising the dollar amounts in WAC 390-05-400. RCW 42.17.690 requires the commission to increase or decrease all dollar amounts based on economic conditions.

A public hearing has not been scheduled.

**Statutory Authority:** RCW 42.17.690 and 42.17.645.

**Statute Being Implemented:** Chapter 42.17 RCW.

**WAC Cite:** WAC 390-05-400 Changes in dollar amounts.

4. **Topic:** Access to public records.

**Status:** The commission will file a preproposal statement with the code reviser giving notice that it is considering possible rule amendments to chapter 390-14 WAC, Access to public records, to update the rules to reflect current practice and terminology.

A public hearing has not been scheduled.

**Statutory Authority:** RCW 42.17.370(1), 42.56.100, 42.56.040.

**Statute Being Implemented:** Chapters 42.17, 42.56 RCW.

**WAC Cite:** Chapter 390-14 WAC.

5. **Topic:** Lists of individuals.

**Status:** The commission will file a preproposal statement with the code reviser giving notice that it is considering repeal of WAC 390-13-010 Optional format for requests for lists of individuals. The authority for the development of model rules is now under the attorney general's office under chapter 42.56 RCW.

A public hearing has not been scheduled.

**Statutory Authority:** RCW 42.17.370(1).

**Statute Being Implemented:** RCW 42.17.360, 42.56.-570.

**WAC Cite:** WAC 390-13-010.

6. **Topic:** Filing procedures in the event of an emergency.

**Status:** The commission will file a preproposal statement with the code reviser giving notice that it is considering a possible new rule to provide guidance to filers during an extended emergency event.

A public hearing has not been scheduled.

**Statutory Authority:** RCW 42.17.370(1).

**Statute Being Implemented:** Chapter 42.17 RCW.

**WAC Cite:** New WAC 390-12-051.



A complete listing of rule-making activity from 1999 to present can be found on the PDC web site at [www.pdc.wa.gov](http://www.pdc.wa.gov) under rule-making activity.

July 23, 2009  
 Douglas J. Ellis  
 Assistant Director

**WSR 09-16-030**  
**POLICY STATEMENT**  
**DEPARTMENT OF ECOLOGY**  
 [Filed July 27, 2009, 12:45 p.m.]

The Washington state department of ecology, toxics cleanup program (TCP) has recently updated the following polices [policies] and procedures. To obtain a copy of these and other TCP policies, go to <http://www.ecy.wa.gov/programs/tcp/policies/tcppoly.html> or contact Ann McNeely at the department of ecology at (360) 407-7205 or [AMCN461@ecy.wa.gov](mailto:AMCN461@ecy.wa.gov).

**WSR 09-16-022**  
**NOTICE OF PUBLIC MEETINGS**  
**LEGISLATIVE ETHICS BOARD**

[Filed July 24, 2009, 1:38 p.m.]

The ethics board has modified its regular meeting schedule for the balance of this year as follows:

August 20	Olympia, 12 p.m.	SHR 3
October 1	Olympia, 12 p.m.	SHR 3
December 3	Olympia, 12 p.m.	SHR 3

**WSR 09-16-023**  
**INTERPRETIVE STATEMENT**  
**DEPARTMENT OF REVENUE**

[Filed July 24, 2009, 3:33 p.m.]

**INTERPRETIVE STATEMENTS ISSUED**

ESHB 2075, an act relating to the excise taxation of certain products and services provided or furnished electronically, takes effect July 26, 2009. The law continues the existing tax treatment of digital products in some areas, creates several newly-defined classes of digital products in others, and changes how some of these products are taxed.

The department of revenue (department) has issued two new excise tax advisories to provide guidance on this legislation.

ETA 9001 summarizes the department's phased process for implementing ESHB 2075. It explains that the department intends to provide progressive guidance by issuing a series of ETAs. It explains how a taxpayer can provide feedback on the ETAs and how to obtain a letter ruling from the department if you are unclear if your activities fall under the new law.

ETA 9002 explains the taxation of digital songs, digital movies, digital books, and online games.

A copy of this document is available via the internet at Digital Products.

Alan R. Lynn  
 Rules Coordinator

Policy or Procedure	Title	Description
Policy 710	Permit exemptions for remedial actions under MTCA.	<p>This policy describes how ecology will fulfill the requirements of permits exempt under RCW 70.105D.090 and recover costs related to these permits and nonexempt permits.</p> <p>This policy includes the following ecology director determinations:</p> <p>(1) Remedial actions under MTCA are not exempt from NPDES permits.</p> <p>(2) Hazardous waste treatment, storage and disposal facilities (TSD facilities) conducting remedial actions under MTCA (RCRA corrective actions) are not exempt from obtaining a TSD facility permit.</p>

**WSR 09-16-032**  
**AGENDA**  
**BOARD OF**  
**PILOTAGE COMMISSIONERS**  
 [Filed July 27, 2009, 1:56 p.m.]

**Semi-Annual Rule-Making Agenda**  
**January through June 2009**

Below is the board of pilotage commissioner's semi-annual rule-making agenda for publication in the Washington state register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on this agenda, as necessary.

Please direct any questions about this agenda to Peggy Larson, Rules Coordinator, 2901 Third Avenue, Suite 500, Seattle, WA 98121, (206) 515-3904, fax (206) 515-3906, e-mail Larsonp@wsdot.wa.gov.

WAC Citation	Subject Matter	Current Activity		
		Preproposal (CR-101)	Proposed (CR-102)	Permanent (CR-103)
363-116-300	Puget Sound pilotage district rates	Exempt	March filing for public hearing in May 2009	May filing for implementation on July 1, 2009
363-116-185	Grays Harbor pilotage district rates	Exempt	April filing for public hearing in June 2009	June filing for implementation on August 1, 2009

Peggy Larson  
 Rules Coordinator

**WSR 09-16-033**  
**NOTICE OF PUBLIC MEETINGS**  
**CRIMINAL JUSTICE**  
**TRAINING COMMISSION**  
 [Filed July 27, 2009, 3:03 p.m.]

A special commission meeting will be held telephonically on Wednesday, August 12, 2009, at 2 p.m., to discuss possible legislation to change the membership of the commission.

<b>Wednesday, August 12, 2009</b>	
<b>2:00 - 3:00 p.m.</b>	Discussion and possible action on legislation to change the membership of the commission, which is currently set in RCW 43.101.030.

If you would like to participate and will be calling from outside the agency, please dial 1-877-873-8017 and enter access code 1597961.

If you would like to participate and will be at the Washington state criminal justice training commission, a speaker phone will be set up in room E-154.

If you have questions or concerns about the special commission meeting, please call Sonja Hirsch at (206) 835-7372.

**WSR 09-16-036**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON**  
**STATE HISTORICAL SOCIETY**  
 [Filed July 28, 2009, 9:09 a.m.]

Following is the schedule for the board of trustees for the Eastern Washington State Historical Society for the fiscal year, August 2008 [2009] through September 2009 [2010]. We are agency number 395 and our board is a volunteer board.

**2009-2010 Board of Trustees Meeting Schedule**  
**12:00 noon - 1:30 p.m.**  
**Gilkey Community Room**  
**(unless otherwise noted)**

<b>Finance Committee (2:30 p.m.)</b>	<b>Full Board of Trustees Noon</b>
<b>Executive Committee (4:00 p.m.)</b>	<b>Normally First Tuesday of the Month</b>
<b>Normally Last Tuesday of Each Month</b>	
August 25, 2009	September 1, 2009
September 29, 2009	October 6, 2009
October 27, 2009	November 3, 2009
November 24, 2009	No meeting scheduled in December
January 5, 2010 (combined meeting at 10:30 a.m.)	January 5, 2010

<b>Finance Committee (2:30 p.m.) Executive Committee (4:00 p.m.) Normally Last Tuesday of Each Month</b>	<b>Full Board of Trustees Noon Normally First Tuesday of the Month</b>
January 26, 2010	February 2, 2010
February 23, 2010	No meeting scheduled in March
March 30, 2010	April 6, 2010
April 27, 2010	May 4, 2010
May 25, 2010	June 1, 2010
June 29, 2010	July 6, 2010
July 27, 2010	No meeting scheduled in August
August 31, 2010	September 7, 2010

Approved by the executive committee on June 30, 2009.  
Approved by the board of trustees on July 7, 2009.

**WSR 09-16-037**

**NOTICE OF PUBLIC MEETINGS  
BARLEY COMMISSION**

[Filed July 28, 2009, 9:09 a.m.]

The Washington barley commission (WBC) will merge with the Washington wheat commission (WWC) to create a new state agency called the **Washington grain commission, effective July 27, 2009**. As the legislative language (RCW and WAC) would not be written until September, we were instructed to refer to the following language for legal authority for this merger: SHB 1254, section 14, chapter 33, Laws of 2009.

Please remove the below scheduled meetings previously sent to you for publication as this agency will cease to exist:

Regular September 16 (10:00 a.m.) and 17 (8:00 a.m.)  
Regular November 18 (10:00 a.m.) and 19 (8:00 a.m.)

Notification of the Washington grain commission meetings for the remainder of 2009 will be forwarded to you promptly. If you have any questions, please contact our office.

**WSR 09-16-038**

**NOTICE OF PUBLIC MEETINGS  
WHEAT COMMISSION**

[Filed July 28, 2009, 9:09 a.m.]

The Washington wheat commission (WWC) will merge with the Washington barley commission (WBC) to create a new state agency called the **Washington grain commission, effective July 27, 2009**. As the legislative language (RCW and WAC) would not be written until September, we were instructed to refer to the following language for legal author-

ity for this merger: SHB 1254, section 14, chapter 33, Laws of 2009.

Please remove the below scheduled meetings previously sent to you for publication as this agency will cease to exist:

Regular September 16 (10:00 a.m.) and 17 (8:00 a.m.)  
Regular November 18 (10:00 a.m.) and 19 (8:00 a.m.)

Notification of the Washington grain commission meetings for the remainder of 2009 will be forwarded to you promptly. If you have any questions, please contact our office.

**WSR 09-16-047**

**NOTICE OF PUBLIC MEETINGS  
LAW ENFORCEMENT OFFICERS' AND  
FIREFIGHTERS' PLAN 2 RETIREMENT BOARD**

[Filed July 28, 2009, 1:47 p.m.]

The law enforcement officers' and fire fighters' plan 2 retirement board has cancelled the August 26, 2009, board meeting.

The board has also rescheduled the October 28 meeting to **Wednesday, October 21**.

The next regularly scheduled meeting is **Wednesday, September 23** at 9:30 a.m. located in the Washington state investment board room.

Please feel free to contact Jessica Burkhart at (360) 586-2322 or by e-mail at [jessica.burkhart@leoff.wa.gov](mailto:jessica.burkhart@leoff.wa.gov) should you have any questions.

**WSR 09-16-052**

**AGENDA  
DEPARTMENT OF HEALTH  
STATE BOARD OF HEALTH**

[Filed July 28, 2009, 4:00 p.m.]

**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 09-17 issue of the Register.

**WSR 09-16-055**  
**AGENDA**  
**BOARD OF**  
**PILOTAGE COMMISSIONERS**  
 [Filed July 29, 2009, 10:13 a.m.]

**Semi-Annual Rule-Making Agenda**  
**July through December 2009**

Below is the board of pilotage commissioner's semi-annual rule-making agenda for publication in the Washington state register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on this agenda, as necessary.

Please direct any questions about this agenda to Peggy Larson, Rules Coordinator, 2901 Third Avenue, Suite 500, Seattle, WA 98121, (206) 515-3904, fax (206) 515-3906, e-mail Larsonp@wsdot.wa.gov.

WAC Citation	Subject Matter	Current Activity		
		Preproposal (CR-101)	Proposed (CR-102)	Permanent (CR-103)
363-116-078	Training program	Filed July 21, 2009	<b>CR-102E</b> <b>filed July 21, 2009</b> Proposed September filing CR-102	Proposed November public hearing

Peggy Larson  
 Rules Coordinator

**WSR 09-16-059**  
**PROCLAMATION**  
**OFFICE OF THE GOVERNOR**  
 [Filed July 29, 2009, 1:51 p.m.]

**PROCLAMATION BY THE GOVERNOR**  
**TERMINATING STATES OF EMERGENCY**  
**09-03**

I, Christine O. Gregoire, Governor of the state of Washington, under RCW 43.06.210, terminate the following proclamations:

1. Proclamation 09-01 dated January 9, 2009, which amended Proclamation 08-10 for all counties in Washington State for a severe winter storm system and its cumulative effects.
2. Proclamation 08-11 dated January 2, 2009, which amended Proclamation 08-10 by extending the ten day suspension of driver hours of service regulations for delivery of milk.
3. Proclamation 08-10 dated December 24, 2008, which declared a state of emergency in Washington State and suspended driver hours of service regulations for delivery of milk.
4. Proclamation 08-09 dated December 18, 2008, which declared a state of emergency in Washington State for high winds and flooding.

Signed and sealed with the official seal of the state of Washington this 25th day of July, A.D, Two Thousand and Nine at Olympia, Washington.

By: \_\_\_\_\_  
 Christine O. Gregoire  
 Governor

BY THE GOVERNOR:  
 Sam Reed  
 \_\_\_\_\_  
 Secretary of State

**WSR 09-16-060**  
**PUBLIC RECORDS OFFICER**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**  
 [Filed July 29, 2009, 3:37 p.m.]

Pursuant to RCW 42.56.580, please show Eric Mark, phone (360) 725-7003, fax (360) 664-2782, e-mail pdr@oic.wa.gov, P.O. Box 40255, Olympia, WA 98504-0255, as public disclosure officer of the insurance commissioner's office.

Mike Kreidler

**WSR 09-16-064**  
**AGENDA**  
**RECREATION AND CONSERVATION**  
**OFFICE**  
 (Recreation and Conservation Funding Board)  
 (Salmon Recovery Funding Board)  
 [Filed July 30, 2009, 8:29 a.m.]

To comply with RCW 34.05.314, the recreation and conservation office (RCO), on behalf of the recreation and conservation funding board and salmon recovery funding board, has prepared the following agenda for rules under develop-

ment. As required, filing will be made with the code reviser for publication in the state register by January 31 and July 31 each year. Within three days of publication, the RCO will provide copies to each person so requesting, the director of the office of financial management, the rules review committee, and other state agencies that may reasonably be expected to have an interest in this subject.

Contact Megan Duffy, rules coordinator, (360) 725-3936, Megan.Duffy@rco.wa.gov.

Rules Development Agenda June - December 2009	
Subject of possible rule making	Reasons why rules on this subject may be needed and what might be accomplished
Title 286 WAC	Change the agency's name from inter-agency committee for outdoor recreations to the recreation and conservation funding board and recreation and conservation office as required in HB 1813 (2007).
Title 286 WAC	Update code references such as the state's public disclosure law, recently changed from chapter 42.17 RCW to chapter 42.56 RCW.
Title 286 WAC	Update section titles to an easier to understand format. Many titles have already been improved to this new format.
WAC 286-06-045	Move to a more logical location and clarify the text.

July 29, 2009  
Megan Duffy  
Rules Coordinator

**WSR 09-16-065**  
**NOTICE OF PUBLIC MEETINGS**  
**RECREATION AND CONSERVATION**  
**OFFICE**

(Recreational Trails Program Advisory Committee)

[Filed July 30, 2009, 8:52 a.m.]

An open public meeting of the recreational trails program advisory committee is scheduled for **September 9, 2009**, from 9:30 a.m. to approximately 3:30 p.m. at the Cle Elum City Hall, 119 West 1st Street, Cle Elum. The agenda will include: 2009 grant program post evaluation, confirm project rankings, and come to an agreement on recommendations to the director of the recreation and conservation office. For further information, please contact Greg Lovelady at (360) 902-3008.

An open public meeting of the recreational trails program advisory committee is scheduled for **October 5, 2009**, from 1:30 p.m. to approximately 2:30 p.m. in room #259 of the Natural Resources Building, 1111 Washington Street

S.E., Olympia. The agenda will include: A review of the past grant cycle, a review of current projects, a review of active and past projects. For further information, please contact Greg Lovelady at (360) 902-3008.

**WSR 09-16-066**

**AGENDA**

**ENERGY FACILITY SITE  
EVALUATION COUNCIL**

[Filed July 30, 2009, 8:53 a.m.]

Following is the energy facility site evaluation council's semi-annual rules development agenda for publication in the Washington state register, pursuant to RCW 34.05.314. There may be additional rule-making activity not on the agenda as conditions warrant.

Please contact Allen J. Fiksdal if you have questions, allen.fiksdal@commerce.wa.gov or (360) 956-2152.

WAC Citation	Subject Matter/ Purpose of Rule	Current Activity/ Approximate Filing Date
Title 463 WAC	Greenhouse gas emission reporting rule for owners or operators of facilities permitted by EFSEC. Required by E2SHB 2815.	CR-101 filed August 13, 2008. Coordinating with ecology on rule development. CR-102 possible in December 2009, with adoption in January 2010.

Allen J. Fiksdal  
Rules Coordinator

**WSR 09-16-067**

**AGENDA**

**DEPARTMENT OF  
EARLY LEARNING**

[Filed July 30, 2009, 8:54 a.m.]

**Semi-Annual Rule-Making Agenda under RCW  
34.05.314**

**July 1 through December 31, 2009**

The department of early learning (DEL) prepares a semi-annual rule-making agenda in January and July of each year to let the public know about DEL rule changes underway or planned. The current agenda also updates the 2007 child care provider rule review plan prepared under RCW 43.215.502. DEL rules are part of the Washington Administrative Code (WAC), and permanent DEL rules can be found online at Title 170 WAC. This agenda includes links to rule-making notices that DEL has filed with the office of the code reviser for publication in the Washington state register. Find more information about DEL rules and current rule-making projects at the DEL web site.

<b>Subject Matter</b>	<b>WAC Chapter or Sections</b>	<b>Description</b> (Contact the DEL rules coordinator at rules@del.wa.gov for current information on these rule proceedings.)	<b>Emergency Rule (CR-103E)</b>	<b>Preproposal Notice (CR-101)</b>	<b>Proposed Rule CR-102 and Public Hearing or CR-105 Expedited Rule</b>	<b>Permanent Rule (CR-103P)</b>
Common terms, definitions and standards	New WAC chapter, and possible revisions of other DEL rules in Title 170 WAC	Adopting a new DEL WAC chapter to include terms, definitions and standards that apply to more than one DEL WAC chapter or program. Other DEL WAC chapters may be revised to eliminate duplication.	None	Filed December 24, 2008, as WSR 09-01-185. Rule review to start in late 2009 or early 2010.	To be determined.	To be determined.
Public records, DEL organization	New chapter 170-01	Adopting a new DEL WAC chapter on public records requests, and adopting DEL organization and index rules required by law.	None	Anticipated filing this period.	Proposal anticipated in early 2010.	Anticipated in spring 2010.
DEL hearing rules	Chapter 170-03	Adopting technical changes needed to make the rules consistent with other DEL WAC chapters and to revise hearing procedures. Some changes to procedural rules do not require filing a CR-101 preproposal notice.	None	Anticipated filing this period if required.	Proposal anticipated in early 2010.	Anticipated in spring 2010.
Background checks	Chapter 170-06	Revising the list of crimes that may disqualify a person from child care, and procedures for disqualification, reconsideration and due process. Reviewing the rules for consistency with the law and considering whether to apply DEL background check rules to other early learning programs.	None	Filed December 24, 2008, as WSR 09-01-184. Rule review to start in late 2009.	To be determined.	To be determined.
Head start coordination	Chapter 170-12	No current rule-making activity.	None	N/A	N/A	N/A
Early childhood education and assistance program (ECEAP)	Chapter 170-100	No current rule-making activity.	None	N/A	N/A	N/A
Working connections child care (WCCC) subsidies and seasonal child care (SCC) subsidies	Chapters 170-290 and 170-292	Revising the entire WCCC chapter and combining the SCC subsidy rules into chapter 170-290 WAC (and repealing chapter 170-292 WAC - see below). Assuring rules are consistent with current law, federal requirements and the child care collective bargaining agreement. Reviewing child care subsidy policy options to increase program effectiveness and efficiency. Revising the rules to make them clearer, and reorganizing the WAC chapter. Rules will be proposed in phases.	None	Filed February 3, 2009, as WSR 09-04-084 and 07-19-028 filed on September 11, 2007.  Second phase to begin in late 2009.	First phase - proposal filed June 3, 2009, as WSR 08-12-115. Public hearings held July 7 and 11, 2009.  Second phase proposal to be determined.	First phase - anticipated adoption in August 2009 and effective September 2009.  Second phase to be determined.
Seasonal child care subsidies	Chapter 170-292	Updating internal references in this chapter to be consistent with other DEL rules. Clarifying other existing sections for consistent application of the rules. Adopting program definitions including "eligible child."	None	Filed February 16, 2007, as WSR 07-05-048 and 07-19-028 filed on September 11, 2007.	Proposal filed November 5, 2008, as WSR 08-22-102; also, see WSR 09-01-186.	N/A

Subject Matter	WAC Chapter or Sections	Description (Contact the DEL rules coordinator at rules@del.wa.gov for current information on these rule proceedings.)	Emergency Rule (CR-103E)	Preproposal Notice (CR-101)	Proposed Rule CR-102 and Public Hearing or CR-105 Expedited Rule	Permanent Rule (CR-103P)
		<b>Proposed rules were withdrawn</b> , see WSR 09-10-008. The seasonal child care rule revision was combined with changes to chapter 170-290 WAC. See revised proposed rules filed as WSR 08-12-115. Chapter 170-292 WAC will be repealed.			<b>Proposal withdrawn April 23, 2009</b> , see WSR 09-10-008.	
School-age child care centers	Chapter 170-151	Revising the entire school-age child care licensing WAC chapter. DEL has contracted School's Out Washington (SOWA), a nonprofit group, to review the current rules, gather stakeholder input, and recommend possible WAC changes. SOWA is expected to complete its review by July 2010. See the SOWA website to learn more.	None	Filed April 23, 2009, as WSR 09-10-009.	Anticipated in early 2011.	To be determined.
Child care centers	Chapter 170-295	No current rule-making activity.	None	Rule review anticipated to start in 2011.	To be determined.	To be determined.
Family home child care	Chapter 170-296	Revising the entire family home child care chapter using a negotiated rule-making team consisting of parents, child care providers, the Service Employees International Union, advocates, Washington Child Care Resource and Referral network and DEL staff. Recommended draft rules are being developed by the NRM team and will be available for public input. DEL will develop and file the formal proposed rules.	None	Filed December 1, 2006, as WSR 06-24-051. Rule review January 2007 through December 2009.	Anticipated in mid-2010.	Anticipated in late 2010 or early 2011.
DEL rules	All chapters of Title 170	As rules in Title 170 WAC or other agency rules affecting DEL WAC are revised, DEL may revise its rules to update cross-references or other information without changing the intended effect of the rules.	N/A	N/A	Expedited rule making as needed.	As needed.

**Permanent rules adopted in the twelve months prior to this report: None.**

**Notes:** This agenda is prepared for information purposes, and anticipated rule-making dates or periods noted in this agenda are planning estimates only. Any errors or omissions in this agenda do not affect the actual DEL rules or DEL rule-making notices filed with the office of the code reviser and published in the Washington state register.

There may be additional DEL rule making that cannot be forecasted as the department adopts rules to implement new state laws, to meet federal requirements, or to meet unforeseen circumstances. Emergency rules noted, if any, are those in effect at the time this agenda was filed with the code reviser or were the last emergency rules filed on the particular subject.

For more information about DEL rule making, or to join a mailing list to receive DEL rule notices and draft materials, please e-mail Rules@del.wa.gov, or write to the DEL Rules Coordinator, P.O. Box 40970, Olympia, WA 98504-0970.

**CR** means "code reviser." The legislature's office of the code reviser creates the rule-making notice forms filed by all state agencies.

**CR-101** is a preproposal statement of inquiry notice filed under RCW 34.05.310.

**CR-102** is a proposed rule-making notice filed under RCW 34.05.320; a continuance notice under RCW 34.05.325, or a supplemental proposed rule-making notice under RCW 34.05.340.

**CR-103** is a CR-103P rule-making order filed under RCW 34.05.360 for permanent rules, or a CR-103E rule-making order filed under RCW 34.05.350 for temporary emergency rules.

**CR-105** is an expedited rule-making notice filed under RCW 34.05.353.

**WSR** means "Washington state register," and the **WSR numbers** noted in the agenda are the official filing numbers assigned by the office of the code reviser and entered on materials submitted for publication in the state register.

WSR 09-16-074
RULES OF COURT
STATE SUPREME COURT
[July 27, 2009]

Order on Supplemental Administrative Rule
(July 2009)

THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of )
)
SUPPLEMENTAL COURT OF ) ORDER
APPEALS ADMINISTRATIVE )
RULE (SCAR) )

The Court of Appeals judges have approved an amendment to Section (a) of the Supplemental Court of Appeals Administrative Rule.

Now, therefore, it is hereby

ORDERED:

That the amendment set forth below is adopted and effective immediately. Copies of this Order signed by the Presiding Chief Judge of the Court of Appeals, are to be filed in the office of the clerk of the three Divisions of the Court of Appeals.

DATED at Seattle, Washington, this 27 day of July, 2009.
Appelwick, PCJ
Presiding Chief Judge

AMENDMENT TO
SUPPLEMENTAL COURT OF APPEALS ADMINISTRATIVE
RULE (SCAR)

PRESIDING CHIEF JUDGE—EXECUTIVE COMMITTEE

(a) Executive Committee. There is hereby created an executive committee of the Court of Appeals. It shall be made up of the Presiding Chief Judge, as chair, and the remaining Chief Judges and Acting Chief Judges of the divisions of the court and the Acting Chief Judge of Division One.

- (b) Duties of the Executive Committee. [No change.]
(c) Selection of Presiding Chief Judge. [No change.]
(d) Duties of the Presiding Chief Judge. [No change.]
(e) Meetings and Reports. [No change.]
(f) Voting at Meetings of the Court of Appeals as a Whole. [No change.]
(g) Role of Committees other than the Executive Committee. [No change.]
(h) Amendments. [No change.]

[Amended effective December 11, 1981; December 12, 1991; September 22, 1993; January 24, 1994; January 1, 1996; September 8, 1997; January 27, 2009.]

Reviser's note: The brackets and enclosed material in the text of 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.

WSR 09-16-076
AGENDA
DEPARTMENT OF COMMERCE
[Filed July 31, 2009, 9:31 a.m.]

Following is the department of commerce's semi-annual rules development agenda for publication in the Washington state register, pursuant to RCW 34.05.314. There may be additional rule-making activity not on the agenda as conditions warrant.

Please contact Marie Sullivan if you have questions, marie.sullivan@commerce.wa.gov or (360) 725-4010.

SEMI-ANNUAL RULE-MAKING AGENDA
JULY - DECEMBER 2009

Table with 3 columns: WAC Citation, Subject Matter/Purpose of Rule, Current Activity/Approx. Filing Date. Rows include items 365-135, 194-24, 365-180, and 365-190.



<b>WAC Citation</b>	<b>Subject Matter/ Purpose of Rule</b>	<b>Current Activity/ Approx. Filing Date</b>
365-195	Repealing all sections except best available science. Also renames this chapter best available science to provide clarity around the chapter.	CR-102 filed July 22, 2009, with adoption expected in November 2009.
365-196	Creating a new chapter that codifies all of the WACs previously in chapter 365-195 WAC. This is being done to avoid confusion with adopted comprehensive plans or court cases that cite to the existing WAC.	CR-102 filed July 22, 2009, with adoption expected in November 2009.
	Creating a new chapter to develop rules for determining projects of statewide significance, due to changes in chapter 43.157 RCW (SB 5473, chapter 421, Laws of 2009).	CR-101 filed July 22, 2009.

Marie Sullivan  
Rules Coordinator

**WSR 09-16-077**  
**AGENDA**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed July 31, 2009, 11:59 a.m.]

Following, in accordance with RCW 34.05.314, is the department of labor and industries' semi-annual rules development agenda for July through December 31, 2009.

Please contact Josh Swanson at (360) 902-6805 or e-mail swaj235@lni.wa.gov, if you have any questions.

**Semi-Annual Rules Development Agenda**  
**(July - December 31, 2009)**

CHAPTER	SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
<b>DIVISION: INSURANCE SERVICES</b>						
Chapter 296-15 WAC	Industrial Insurance— Suppressing workers' compensation claims	Brenda Heilman (360) 902-6518	6/5/07	To be determined	To be determined	The proposed rules will assist in the implementation of chapter 77, Laws of 2007 (SSB 5443) relating to suppression of workers' compensation claims.
Chapter 296-14 WAC	Industrial insurance—Wages	Brenda Heilman (360) 902-6518	4/22/08	To be determined	To be determined	This rule making will amend existing rules for consistency with chapter 297, Laws of 2007 (SHB 1244). A new rule will be added to clarify when the value of health care benefits is included in determining the worker's monthly wage.
Chapter 296-14 WAC	Industrial insurance—Confidentiality of worker's compensation claim files	Brenda Heilman (360) 902-6518	11/06/04	To be determined	To be determined	This rule making will define the responsibility of employers, workers, and other parties who have access to worker's compensation claim files for confidentiality and release of claim information.
Chapter 296-14 WAC	Industrial insurance—Pension discount rates and mortality assumptions	Brenda Heilman (360) 902-6518	6/20/01	To be determined	To be determined	This rule making will update the mortality assumptions used to determine pension reserves and actuarial benefit reductions.
Chapters 296-17 and 296-17A WAC	Housekeeping changes	Bill Moomau/JoAnne Smith (360) 902-4774	3/18/09	6/2/09	8/4/09	This provides updates and corrections to existing language in reporting requirement rules and classifications.
Chapters 296-17 and 296-17A WAC	State agencies evaluation of actual losses	Bill Moomau/JoAnne Smith (360) 902-4774	3/31/09	6/2/09	8/4/09	Creates a new subclassification for state agencies to track claims in higher-risk jobs. Revise rule for evaluation of actual losses to include reserve amounts for permanent partial disability and vocational option 2 claims.
Chapter 296-17A WAC	Construction 0516	Bill Moomau/JoAnne Smith (360) 902-4774	7/1/08	6/2/09	8/4/09	This rule making creates a new subclassification of 0516 building repair for those employers who choose to report all phases of construction separately. Additionally, it provides clarification to classifications 1109 Towing Services, 4002 Dairy Products Manufacturing and 4910 Property Management. It also creates a new subclassification for 6103 Schools for

CHAPTER	SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
						reporting maritime worker's classroom training hours.
Chapter 296-17A WAC	Audio visual/legal messengers	Bill Moomau/JoAnne Smith (360) 902-4774	6/16/09	8/4/09	9/29/09	This rule making creates a new subclassification in 6306 Furniture stores, for audio visual firms who provide audio visual sales and/or service, repair, and set up for events. It also creates a subclassification in 6601 Detective agencies for firms who provide legal messenger services.
Chapter 296-14 WAC	Industrial insurance—Definitions	Brenda Heilman (360) 902-6518	5/3/05	To be determined	To be determined	This rule making will define terms used in chapter 296-14 WAC and move definitions currently in chapter 296-20 WAC to chapter 296-14 WAC. The rule making will amend the definition of temporary partial disability. This rule making will impact crime victims' compensation.
Chapter 296-14 WAC	Industrial insurance—Social security offset	Brenda Heilman (360) 902-6518	To be determined	To be determined	To be determined	Review social security offset rules for possible changes.
Chapter 296-19A WAC	Vocational rehabilitation	Brenda Heilman (360) 902-6518	4/22/08	8/18/09	12/1/09	The proposed rules will address option 2 benefits. This rule making will include new rules to clarify the process and requirements for making application for option 2 vocational costs and define which vocational costs require department or self-insurer oversight and the vocational costs that can be paid.
Chapter 296-19A WAC	Vocational rehabilitation	Brenda Heilman (360) 902-6518	12/2/08	8/18/09	12/1/09	This rule making will include new rules to clarify the process and factors L&I will consider for approving or denying nonaccredited or unlicensed training programs for injured workers.
Chapter 296-14 WAC	Industrial insurance—Worker employment patterns	Brenda Heilman (360) 902-6518	8/21/02	To be determined	To be determined	This rule making will provide clarification on how to determine a worker's employment pattern at the time of injury or on the date of disease manifestation for the purpose of calculating the worker's wage. This rule will impact crime victims' compensation.
Chapter 296-17A WAC	Logging	Bill Moomau/JoAnne Smith (360) 902-4774	6/16/09	9/23/09	9/28/09	This repeals subclassification 0101-41 Logging machine operator. It creates new subclassification in 5005 Logging for those firms who previously reported in 0101.
Chapter 296-17 WAC	Rates	Bill Moomau/JoAnne Smith (360) 902-4774	6/16/09	9/22/09	11/30/09	Annual premium rate changes for 2010.
Chapter 296-17 WAC	Retrospective rating	Diane Doherty (360) 902-4835	6/3/09	9/22/09	9/29/09	The department is considering rules relating to how occupational disease claim costs are used in the calculation of retrospective rating refunds. The rules will include how the department calculates the

CHAPTER	SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
						performance adjustment factor (PAF), which is used to compare the relative performance between retro and nonretro employers.
Chapter 296-15 WAC	Pay during appeal	Margaret Conley (360) 902-6723	7/22/08	TBD	TBD	Pursuant to Chapter 280, Laws of 2008 (ESSB [ESHB] 3139). We will implement rules to allow for stays of industrial insurance orders on appeal. These rules will clarify the process for self-insurers, including when benefits must be paid, how any overpayments resulting from a decision of the board of industrial insurance appeals or courts can be recouped, establishing a fund for such repayment, and defining new reporting requirements so that the department can effectively track such overpayments.
Chapter 296-15 WAC	Housekeeping	Margaret Conley (360) 902-6723	7/22/08	TBD	TBD	The purpose of this rule making is to review chapter 296-15 WAC for any corrections and to ensure consistency with statute. Affected rules will also be rewritten using "plain talk."
Chapter 296-33 WAC	Attendant care	Janice Deal (360) 902-5369	8/3/09	TBD	TBD	The purpose of this rule making is to require home care providers to be licensed.
WAC 296-20-071, 296-21-270, and 296-23-241	Psychiatric ARNPs and concurrent care	Jami Lifka (360) 902-4941	6/29/08	3/31/09	6/30/09	The change being proposed is to add psychiatric ARNPs as psychiatric providers for injured workers and to allow concurrent care providers to prescribe medication.
WAC 269-20-03002 and new sections in chapter 296-20 WAC	Structured intensive multi-disciplinary program (SIMP) for chronic non-cancer pain, lumbar fusion, and artificial disc replacement	Jami Lifka (360) 902-4941	5/5/09	6/30/09	9/14/09	The purpose of this rule making is to implement two health technology clinical committee (HTCC) coverage determinations. The determinations state that lumbar fusion and artificial intervertebral disc replacement surgeries are covered for the treatment of chronic pain due to uncomplicated degenerative disc disease. However, a noninvasive SIMP must be completed prior to the department or self-insurer authorizing a lumbar fusion or lumbar artificial disc replacement.

CHAPTER	SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
<b>DIVISION: Specialty Compliance Services</b>						
Chapter 296-05 WAC	Apprenticeship rules	Sally Elliott (360) 902-6411	8/4/09	1/2010	4/2010	This rule making is a result of ESSB 5873, which passed the 2009 legislature. The rule making will incorporate the new apprenticeship utilization requirements into rule.

CHAPTER	SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-46B WAC	Electrical rules	Sally Elliott (360) 902-6411	2/3/08	6/30/09	8/18/09	The department has reviewed the electrical rule for additions and revisions. The electrical rules are reviewed on a regular basis to: Ensure the rules are consistent with the national consensus standards, industry practice, clarify the rules, and make fee changes.
Chapter 296-96 WAC	Elevator rules	Sally Elliott (360) 902-6411	7/21/09	9/22/09	12/1/09	This rule making is a result of SHB 1055 and SSB 5850, which passed the 2009 legislature.
Chapter 296-104 WAC	Board of boiler rules	Sally Elliott (360) 902-6411	6/30/09	9/22/09	11/17/09	The purpose of this rule making is to make clarification and technical changes to the Board of boiler rules—Substantive (chapter 296-104 WAC) based on actions and requests of the board of boiler rules.
Chapter 296-127 WAC	Prevailing wage—Electronic technician	Sally Elliott (360) 902-6411	5/2/06	6/2/09	8/18/09	This rule making will amend the scope of work definition for electronic technicians. The department will work with stakeholders throughout the rule-making process.
Chapter 296-127 WAC	Prevailing wage	Sally Elliott (360) 902-6411	6/2/09	8/4/09	10/20/09	The prevailing wage rules have not gone through a comprehensive review since the early 90s. We have reviewed the rules and will be making amendments to reflect court decisions, integrate administrative policies, streamline current processes, create consistency with the statute, and make housekeeping changes.
Chapter 296-127 WAC	Prevailing wage	Sally Elliott (360) 902-6411	8/4/09	11/17/09	3/2010	This rule making is a result of SB 5903 and SSB 5904, which passed the 2009 legislature.
Chapter 296-126 WAC	Employment standards	Sally Elliott (360) 902-6411	6/16/09	8/4/09	10/20/09	The industrial welfare rules were adopted in 1974 and have not been reviewed by the department for need. Therefore, there are outdated requirements in the industrial welfare rules that need to be repealed and deleted. The purpose of this rule making is to review the industrial welfare rules for housekeeping and clarifying changes.
Chapter 296-135 WAC	Domestic violence	Sally Elliott (360) 902-6411	8/19/08	To be determined	To be determined	This rule making is a result of SHB 2602, which passed the 2008 legislature and became effective on April 1, 2008.
Chapters 296-150C, 296-150F, 296-150I, 296-150M, 296-150P, 296-150R, 296-150T, and 296-150V	Factory assembled structure rules	Sally Elliott (360) 902-6411	2/3/08	To be determined	To be determined	The purpose of this rule making is to review the factory assembled structure rules for possible changes.
Chapter 296-200A WAC	Contractor certificate of registration	Sally Elliott (360) 902-6411	7/21/09	9/22/09	12/1/09	This rule making is a result of SHB 1555 (relating to the underground economy), which passed the 2009 legislature.

CHAPTER	SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-400A WAC	Plumbers certification	Sally Elliott (360) 902-6411	7/21/09	9/22/09	12/1/09	This rule making is a result of SHB 1055 (relating to photo identification), which passed the 2009 legislature.

WAC CHAPTER	SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
<b>DIVISION: Division of Occupational Safety and Health (DOSH)</b>						
Chapters 296-36 and 296-155 WAC	Compressed air	Jamie Scibelli (360) 902-4568	TBD	TBD	TBD	The requirements for compressed air are out-of-date and will be updated as necessary and reformatted for ease of use and understanding.
Chapter 296-155 WAC	Construction cranes (Phase 2)	Cindy Ireland (360) 902-5522	9/16/08	11/09	2/10	The department is required by ESHB 2171 (chapter 49.17 RCW), which is effective January 1, 2010, to establish rules for the certification of cranes, accreditation of crane inspectors, certification of crane operators and rules pertaining to cranes in the construction industry.
Chapter 296-24 WAC	Electrical	Jamie Scibelli (360) 902-4568		7/21/09 Expedited	11/3/09	The department is updating rules in chapter 296-24 WAC, Part L and WAC 296-800-280, to incorporate the Federal Occupational Safety and Health Administration (OSHA) recently adopted amendments to their rules.
Chapter 296-155 WAC	Fall protection	Jamie Scibelli (360) 902-4568	4/4/06	TBD	TBD	This rule making is focused on clear rule writing and combines two parts of the construction safety code for clarity and ease of use. In addition, the department intends to clarify the interpretation of current rules and policies with respect to walking-working surfaces on roofs and as recommended by a business and labor ad hoc committee.
Chapter 296-305 WAC	Fire fighting	Kim Johnson (360) 902-5008	11/4/08	TBD	TBD	The fire fighting rules are being updated and rewritten for clarity, ease of use, and understanding with the assistance of a stakeholder group consisting of business, labor and the fire chiefs.
Chapter 296-803 WAC	Lockout tagout	Jamie Scibelli (360) 902-4568		4/21/09 Expedited	8/4/09	The OSHA has determined that the department's rules regarding lockout/tagout is not at-least-as-effective-as the federal rule. The proposed changes will make Washington state's rule as-effective-as the federal equivalent.
Chapter 296-56 WAC	Longshoring and marine terminals	Cindy Ireland (360) 902-5522		3/31/09 Expedited	7/21/09	The department intends to adopt requirements prescribed by a new OSHA rule related to the practice of lifting two intermodal containers together, one on top of the other, connected by semiautomatic twistlocks (SATLs). This practice is known as a vertical tandem lift (VTL). The final standard permits VTLs of no more than two empty

WAC CHAPTER	SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
						containers provided certain safeguards are followed.
Chapters 296-62, 296-155, 296-811, 296-817, 296-842, 296-848, 296-849, 296-855, 296-856 WAC	Personal protective equipment (PPE) training	Kim Johnson (360) 902-5008		3/31/09 Expedited	7/21/09	OSHA has amended their rules to clarify that employers are to provide PPE, especially respirators, for each employee who needs one. They also have reworded their rules to ensure that training is provided to each and every employee. DOSH has a statutory obligation to remain as-effective-as OSHA, so we are amending our wording with the same clarifications.
Chapter 296-842 WAC	Respiratory protection (REDON fit testing)	Jill Saibel (360) 902-4519		6/30/09 Expedited	9/22/09	This activity is to adopt an additional fit testing alternative as recommended by OSHA.
Chapter 296-32 WAC	Telecommunications	Beverly Clark (360) 902-5516	TBD	TBD	TBD	The vertical code for the telecommunications industry is out-of-date and is being updated and rewritten for clarity, ease of use, and understanding.
Chapter 296-307 WAC, Part I	Worker protection standard (WPS)	Beverly Clark (360) 902-5516		6/16/09 Expedited	8/18/09	The department is proposing to change existing language in chapter 296-307 WAC, Part I (worker protection standard) to adopt federal changes for use of glove liners and also to update references to current WAC numbers. The language being proposed incorporates changes from the federal Environmental Protection Act (EPA) Worker Protection Standards into state rules in order to be consistent with other requirements in Washington state law. This proposal is being adopted simultaneously in conjunction with rule making by the Washington state department of agriculture as statutorily required for these pesticide protection rules.

Josh Swanson  
Legislative Liaison  
Rules Coordinator

## WSR 09-16-083

## AGENDA

## HEALTH CARE AUTHORITY

[Filed July 31, 2009, 1:29 p.m.]

Following please find the Washington health care authority's semi-annual rule-making agenda for publication in the Washington state register.

If you have any questions, Jason Siems can be reached at (360) 923-2720.

## July 31, 2009, Semi-Annual Rule-Making Agenda

WAC CHAPTER	TITLE	AGENCY CONTACT (Name and phone #)	PROPOSED TIMELINE				DESCRIPTION OF PROPOSED CHANGES	OTHER AGENCIES WHO MAY HAVE INTEREST IN THE SUBJECT OF RULE(S)
			CR-101	CR-102	CR-103	CR-105		
182-55	Chapter 182-20 WAC, Standards for community health clinics.	Jan Ward Olmstead, CCHC Grant Manager, 676 Woodland Square Loop S.E., P.O. Box 42721, Lacey, WA 98504-2721, phone (360) 923-2803, fax (360) 923-2835, Jan.Olmstead@hca.wa.gov	August 2009	October 2009	November 2009	n/a	Amendment of rules is needed to incorporate changes made by 2009 legislation. Rules are expected to clarify the administration of the collaborative program, define eligibility requirements, and set parameters for grant funding for this program.	None.
182-25	Chapter 182-25 WAC, Washington Basic Health plan.	Bob Longhorn, P.O. Box 42686, Olympia, WA 98504-2686, e-mail Robert.longhorn@hca.wa.gov, phone (360) 923-2941	March 3, 2009	August 2009	October 2009	n/a	Rules to implement anticipated legislation adjusting enrollment in the Basic Health plan.	Department of social and health services (DSHS). Office of the insurance commissioner (OIC).
182-08 182-12 182-16	Chapter 182-08 WAC, Procedures; chapter 182-12 WAC, Eligible and non-eligible employees; chapter 182-16 WAC, Practice and procedure.	Barbara Scott, PEBB Benefits Services Program, P.O. Box 42684, Olympia, WA 98504-2684, e-mail barbara.scott@hca.wa.gov, phone (360) 923-2642	May 4, 2009	September 2009	October 2009	n/a	Rules to comply with anticipated legislation clarifying and simplifying PEBB benefits eligibility criteria.	All state agencies and institutions of higher education whose employees participate in PEBB benefits.

Jason Siems  
Rules Coordinator

## WSR 09-16-084

## OFFICE OF THE GOVERNOR

[Filed July 31, 2009, 2:18 p.m.]

## NOTICE OF DECISION ON APPEAL

RCW 34.05.330(3)

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On June 18, 2009, the Governor's Office received an appeal from Mr. John Worthington relating to the Department of Health Pharmacy Board's denial of a petition to



repeal or amend WAC 246-887-100. The Governor denied the Petition on July 29, 2009.

DATE: July 30, 2009  
 Martin C. Loesch  
 Senior Advisor and  
 General Counsel to the Governor

July 29, 2009

John Worthington  
 4500 S.E. 2nd Place  
 Renton, WA 98059

Re: Administrative Rule Appeal - Marijuana Rescheduling

Dear Mr. Worthington:

The Board of Pharmacy (Board) denied your petition to repeal or amend WAC 246-887-100 to reschedule marijuana on June 12, 2009, after reviewing evidence from you and testimony by several individuals who supported your petition. You appealed the Board's denial of your petition to me on June 18, 2009. After careful review, I have decided to deny your petition.

I note that you previously petitioned for a similar amendment of WAC 246-887-100 to remove medical marijuana from the category of Schedule 1 controlled substances in 2007. In 2008 you requested that the Board adopt a rule rescheduling industrial cannabis under the Uniform Controlled Substances Act. After that petition was denied, you filed a petition for judicial review in Thurston County Superior Court, although you later agreed to dismiss that petition.

As I expressed to you previously, I support efforts to implement Initiative 692, as intended by the voters in 1998 and ESSB 6032, as intended by the Legislature in 2007, to allow for limited medical marijuana use by patients with terminal or debilitating illnesses. I recognize that organizations, including the Institute of Medicine, note both the potential therapeutic value and potential risk factors of medical marijuana. It remains important to address patient needs while ensuring public safety.

I have denied your petition because substantial questions remain about the safety of medical marijuana. As the Board noted in its denial of your current petition, there are no current standards for dose, strength, production or methods of administering medical marijuana as a medicine. The Board also found, and I agree, that sufficient questions exist about whether medical marijuana meets the standards in RCW 69.50.201(a) for rescheduling or entirely removing from all schedules, particularly RCW 69.50.201 (a)(i) through (vii), given the dearth of scientific studies of a pharmacological grade or product of medical marijuana, other than the currently produced and available by prescription, synthetic cannabinoid pharmacological product, Marinol. For these reasons, I am denying your petition.

Sincerely,  
 Christine O. Gregoire  
 Governor

**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.

**WSR 09-16-088**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**

[Filed August 3, 2009, 10:05 a.m.]

The chair of the board of regents, with the concurrence of the board, has directed to provide notice of a change in the start time of the meeting of the board of regents on Thursday, September 17, 2009. The original notice of the meeting said it would begin at 3:00 p.m. The revised start time is 9:00 a.m.

The revised meeting location is the UW Tower, board room, 22nd floor.

**WSR 09-16-089**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed August 3, 2009, 11:03 a.m.]

**Notice of Interpretive or Policy Statement**

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services.

**Economic Services Administration**  
**Division of Child Support**

Document Title: Administrative Policy 2.06: Missing Negotiables.

Subject: Missing negotiables.

Effective Date: July 31, 2009.

Document Description: This policy explains how the division of child support (DCS) responds to incidents involving missing negotiables, including currency, checks, and money orders.

To receive a copy of the interpretive or policy statements, contact Jeff Kildahl, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD/TTY (360) 753-9122, fax (360) 586-3274, e-mail JKildahl@dshs.wa.gov, web site <http://www.dshs.wa.gov/dcs/>.

**WSR 09-16-090**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed August 3, 2009, 2:02 p.m.]

**Notice of Interpretive or Policy Statement**

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services.

**Economic Services Administration  
Division of Child Support**

Document Title: Administrative Policy 7.01: IRS Confidentiality and Security.

Subject: IRS confidentiality and security.

Effective Date: July 31, 2009.

Document Description: This policy explains division of child support policy for handling Internal Revenue Service (IRS) tax return information to meet the IRS security and disclosure requirements.

To receive a copy of the interpretive or policy statements, contact Jeff Kildahl, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD/TTY (360) 753-9122, fax (360) 586-3274, e-mail JKildahl@dshs.wa.gov, web site <http://www.dshs.wa.gov/dcs/>.

**WSR 09-16-091  
RULES COORDINATOR  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed August 3, 2009, 2:41 p.m.]

I am the rules coordinator for the Washington department of fish and wildlife. My e-mail address has changed. It used to be preuslmp@dfw.wa.gov. Now it is Lori.preuss@dfw.wa.gov.

Lori Preuss  
Rules Coordinator

**WSR 09-16-094**

**AGENDA**

**BOARD OF ACCOUNTANCY**

[Filed August 3, 2009, 4:31 p.m.]

**Semi-Annual Rule-Making Agenda  
July through December 2009**

Following is the Washington state board of accountancy's semi-annual rule-making agenda for publication in the Washington state register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on the agenda as conditions warrant.

If you have questions about this rule-making agenda, please contact Cheryl M. Sexton, Rules Coordinator, P.O. Box 9131, Olympia, WA 98507-9131, phone (360) 664-9194, fax (360) 664-9190, e-mail [cheryls@cpaboard.wa.gov](mailto:cheryls@cpaboard.wa.gov).

WAC Citation	Subject Matter	Current activity		
		Preproposal (CR-101)	Proposed (CR-102) or Expedited (CR-105)	Permanent (CR-103)
Chapter 4-25 WAC	Due to the passage of SSB 6604 passed through the 2008 legislative session, the board proposes a comprehensive review [of] all of its rules for effectiveness, clarity, cost, fairness, and need.	WSR 08-13-024 filed June 9, 2008	CR-102 in 2009 and 2010 will be done in installments	CR-103 in 2010 and 2011 will be done in installments

**WSR 09-16-093  
NOTICE OF PUBLIC MEETINGS  
DAIRY PRODUCTS COMMISSION**

[Filed August 3, 2009, 3:57 p.m.]

**Board Meeting Schedule Revision  
2009**

The regular scheduled board meetings on September 23-24 and October 28 have been changed. The new meeting dates are as follows:

DATE	LOCATION	TIME
September 22-23	September 22 Qwest Field Seattle, Washington September 23 Washington Dairy Center Lynnwood, Washington	TBD
October 27	Red Lion Hotel 2525 North 20th Avenue Pasco, WA 99301	TBD

Note: Please confirm meeting times with Celeste Piette at (425) 672-0687 prior to meeting.

WAC Citation	Subject Matter	Current activity		
		Preproposal (CR-101)	Proposed (CR-102) or Expedited (CR-105)	Permanent (CR-103)
WAC 4-25-830, 4-25-831	Clarify language in two of the board's rules regarding continuing professional education (CPE).	WSR 08-13-024 filed June 9, 2008	WSR 09-12-016 filed May 21, 2009	CR-103 in August 2009
WAC 4-25-640	Records and clients confidential information.	WSR 08-13-024 filed June 9, 2008	CR-102 in 2010	CR-103 in 2010
WAC 4-25-820	Quality assurance review (QAR).	WSR 08-13-024	CR-102 in 2009	CR-103 in 2010
WAC 4-25-530	Examination fees.	CR-101 in August 2009	CR-102 in October 2009	CR-103 in January 2010
WAC 4-25-730	The experience requirements in order to obtain a certified public accountant (CPA) license.	CR-101 in August 2009	CR-102 in October 2009	CR-103 in January 2010

Richard C. Sweeney, CPA  
Executive Director

#### WSR 09-16-096

**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed August 4, 2009, 8:23 a.m.]

#### Notice of Interpretive or Policy Statement

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services.

**Economic Services Administration  
Division of Child Support**

Document Title: Administrative Policy 1.24: How the Division of Child Support (DCS) Pays Claims for DCS Liability.

Subject: How the division of child support (DCS) pay claims for DCS liability.

Effective Date: July 31, 2009.

Document Description: This policy explains how DCS pays claims and accounts for payments in the agency budget.

To receive a copy of the interpretive or policy statements, contact Jeff Kildahl, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD/TTY (360) 753-9122, fax (360) 586-3274, e-mail JKildahl@dshs.wa.gov, web site <http://www.dshs.wa.gov/dcs/>.

#### WSR 09-16-099

**NOTICE OF PUBLIC MEETINGS  
GROWTH MANAGEMENT  
HEARINGS BOARDS**

[Filed August 4, 2009, 10:40 a.m.]

Pursuant to RCW 36.70A.270(9) and WAC 242-02-076(2), the growth management hearings boards will conduct their joint board annual meeting on **Wednesday, September 30, 2009, and Thursday, October 1, 2009**. The meeting will take place in the Plaza Room of the Edmonds Public Library, 650 Main Street, Edmonds, WA 98020.

The agenda for this annual meeting shall be posted on the boards' web site at <http://www.gmhb.wa.gov>, no later than one week prior to the meeting date. The boards will be discussing general administrative business, including the administrative consolidation of the three boards, as well as discussions related to amendments for the boards' rules of practice and procedures.

If you have any questions please contact Paulette Yorke, office of the growth management hearings boards, at (360) 586-0260 or [paulettey@wwgmhb.wa.gov](mailto:paulettey@wwgmhb.wa.gov).

#### WSR 09-16-106

**NOTICE OF PUBLIC MEETINGS  
GRAIN COMMISSION**

[Filed August 4, 2009, 1:38 p.m.]

The Washington wheat commission (WWC) merged with the Washington barley commission (WBC) to create a new state agency called the **Washington grain commission, effective July 27, 2009**. As the legislative language (RCW and WAC) would not be written until September, we were instructed to refer to the following language for legal author-

ity for this merger: **SHB 1254, section 14, chapter 33, Laws of 2009.**

The Washington grain commission hereby complies with regulations as stated in RCW 42.30.075 and provides pertinent scheduled meeting information of the board of directors for publication in the state register for the remainder of 2009. The September and November meetings will take place in the commission conference room at 2702 West Sunset Boulevard, Spokane, WA. The meetings will begin at 10:00 a.m. on the first day and will reconvene at 8:00 a.m. on the second day.

**Regular September 16 (10:00 a.m.) and 17 (8:00 a.m.)**

**Regular November 11 (10:00 a.m.) and 12 (8:00 a.m.)**

### WSR 09-16-117

#### NOTICE OF PUBLIC MEETINGS

#### BATES TECHNICAL COLLEGE

[Filed August 4, 2009, 2:00 p.m.]

The board of trustees of Bates Technical College will hold a special meeting on August 7, 2009, 8:00 a.m. to approximately 9:00 a.m., in the Clyde Hupp Board Room at the Downtown Campus, 1101 South Yakima Avenue, Tacoma, WA.

If you have any questions, please feel free to contact David Borofsky at (253) 680-7100.

### WSR 09-16-122

#### DEPARTMENT OF LABOR AND INDUSTRIES

[Filed August 4, 2009, 2:56 p.m.]

#### Prevailing Rate of Wage

As per RCW 39.12.015, 39.12.020 and WAC 296-127-011 and as was published on the internet on August 3, 2009, the industrial statistician has determined the statewide prevailing rates of wage. These prevailing rates of wage are effective for public works projects bid on or after September 2, 2009.

Every contractor and subcontractor on every public works project must file a statement of intent to pay prevailing wages and an affidavit of wages paid. Both forms must be filed on every project. The filing of the affidavit of wages paid does not set aside the requirement to also file the statement of intent to pay prevailing wages. The department may fine contractors \$500 for failure to file these forms.

For more information on prevailing wage or a copy of the rates please visit our web site at [www.lni.wa.gov/TradesLicensing/PrevailingWage/](http://www.lni.wa.gov/TradesLicensing/PrevailingWage/) or call (360) 902-5335.

### WSR 09-16-136

#### NOTICE OF PUBLIC MEETINGS UNIVERSITY OF WASHINGTON

[Filed August 5, 2009, 10:00 a.m.]

The chair of the board of regents, with the concurrence of the board, has directed a notice of a change in the start time of the meeting of the board of regents on Thursday, September 17, 2009. The original notice of the meeting said it would begin at 3:00 p.m. The revised start time is 9:00 a.m.

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