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**PUBLIC RECORDS OFFICER
Designations as of 1/4/2010**

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Big Bend Community College	Ken Turner	P-(509) 793-2002 F-(509) 762-6329	7662 Chanute Street Moses Lake, WA 98837
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General Administration, Department of	Steve Valandra svaland@ga.wa.gov	P-(360) 902-7215 F-(360) 586-5898	P.O. Box 41000 Olympia, WA 98504-1000
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Parks and Recreation Commission	Karen Clevenger Karen.Clevenger@parks.wa.gov	P-(360) 902-8514 F-(360) 586-6651	P.O. Box 42650 Olympia, WA 98504-2650
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Pilotage Commissioners, Board of	Judy Bell belljud@wsdot.wa.gov	P-(206) 515-6347 F-(205) 515-3906	2901 Third Avenue, Suite 500 Seattle, WA 98121
Pollution Liability Insurance Agency	Xyzlinda Marshall xmarshall@plia.wa.gov	P-(360) 586-1060 F-(360) 586-7187	P.O. Box 40930 Olympia, WA 98504-0930
Public Disclosure Commission	Suemary Trobaugh strobaugh@pdc.wa.gov	P-(360) 753-1111 F-(360) 753-1112	P.O. Box 40908 Olympia, WA 98504-0908
Public Employment Relations Commission	Kenneth J Latsch klatsch@perc.wa.gov	P-(360) 570-7320 F-(360) 570-7334	112 N.E. Henry Street, Suite 300 Olympia, WA 98504-0919
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Sentencing Guidelines Commis- sion	Jean Soliz-Conklin Jeans@sgc.wa.gov	P-(360) 407-1050 F-(360) 407-1043	PO Box 40927 Olympia, WA 98504-0927
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**AGENCY RULES COORDINATORS
Designations as of 1/4/2010**

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Columbia Basin College	Camilla Glatt cglatt@columbiabasin.edu	P-(509) 542-5548 Ext. 2202 F-(509) 546-0401	2600 N 20th Avenue Pasco, WA 99301
Columbia River Gorge Commission	Nancy Andring andring@gorgecommission.org	P-(509) 493-3323 F-(509) 439-2229	P.O. Box 730 White Salmon, WA 98672
Commerce, Department of	Cheryl Smith cheryl.smith@commerce.wa.gov	P-(360) 725-3808 F-(360) 586-8440	PO Box 42525 Olympia, WA 98504-2525
Community and Technical Colleges, State Board for	DelRae Oderman doderman@sbctc.ctc.edu	P-(360) 753-2000 F-(360) 586-6440	PO Box 42495 Olympia, WA 98504-2495
Community Economic Revitalization Board	Kate Rothschild kater@cted.wa.gov	P-(360) 725-4058 F-(360) 586-0873	P.O. Box 42525 Olympia, WA 98504-2525
Conservation Commission	Tom Salzer tsal461@ecy.wa.gov	P-(360) 407-6214 F-(360) 407-6215	P.O. Box 47721 Olympia, WA 98504-7721
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County Road Administration Board	Karen Pendleton karen@crab.wa.gov	P-(360) 753-5989 F-(360) 586-0386	P.O. Box 40913 Olympia, WA 98504-0913
Criminal Justice Training Commission	Sonja Hirsch shirsch@cjtc.state.wa.us	P-(206) 835-7372 F-(206) 835-7928	19010 1st Avenue South Burien, WA 98148
Dairy Products Commission	Celeste Piette celeste@havemilk.com	P-(425) 672-0687 F-(425) 672-0674	4201 198th Street SW, Suite 101 Lynnwood, WA 98036
Early Learning, Department of	Andres Fernando andres.fernando@del.wa.gov	P-(360) 725-4665 F-(360) 413-3482	PO Box 40970 Olympia, WA 98504-0970
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Fish and Wildlife, Department of	Loreva Preuss Lori.preuss@dfw.wa.gov	P-(360) 902-2930	P.O. Box 43144 Olympia, WA 98504-3144
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Labor and Industries, Department of	Josh Swanson swaj235@lni.wa.gov	P-(360) 902-4425 F-(360) 902-4202	P.O. Box 44001 Olympia, WA 98504-4001
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Parks and Recreation Commission	Jim French Jim.french@parks.wa.gov	P-(360) 982-8686 F-(360) 586-6580	P.O. Box 42650 Olympia, WA 98504-2650
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Pierce College	Ruth Ann Hatchett rhatchett@pierce.ctc.edu	P-(253) 840-8495	9401 Farwest Drive SW Lakewood, WA 98498-1999
Pilotage Commissioners, Board of	Peggy Larson LarsonP@wsdot.wa.gov	P-(206) 515-3904 F-(206) 515-3906	2901 Third Avenue, Suite 500 Seattle, WA 98121-3014
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Retirement Systems, Department of	Sarah White Rules@drs.wa.gov	P-(360) 664-7291 F-(360) 753-5397	P.O. Box 48380 Olympia, WA 98504-8380
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South Puget Sound Community College	Diana Toledo dtoledo@spscc.ctc.edu	P-(360) 754-7711 Ext. 5202 F-(360) 586-3570	2011 Mottman Road SW Olympia, WA 98512
Southwest Clean Air Agency	Paul Mairose paul@swcleanair.org	P-(360) 574-3058 Ext. 30 F-(360) 576-0925	11815 NE 99th Street, Suite 1294 Vancouver, WA 98682
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Veterans Affairs, Department of	Heidi Audette heidia@dva.wa.gov	P-(360) 725-2154 F-(360) 725-2197	P.O. Box 41150 Olympia, WA 98504-1150
Volunteer Firefighters and Reserve Officers, Board for	Brigette K Smith bridgetted@bvff.wa.gov	P-(360) 753-7318 F-(360) 586-1987	P.O. Box 40945 Olympia, WA 98504-0945
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WSR 10-01-026
RULES OF COURT
STATE SUPREME COURT
[December 3, 2009]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO RAP 5.2-) NO. 25700-A-937
TIME ALLOWED TO FILE NOTICE,)
RAP 12.5-MANDATE, NEW ER 502-)
ATTORNEY-CLIENT PRIVILEGE, AND)
WORK PRODUCT; LIMITATIONS ON)
WAIVER, ER 1101-APPLICABILITY OF)
RULES AND NEW SET OF FAMILY)
LAW CIVIL RULES (FLCR))

The Washington State Bar Association having recommended the adoption of the proposed amendments to RAP 5.2-Time Allowed to File Notice, RAP 12.5-Mandate, New ER 502-Attorney-Client Privilege, and Work Product; Limitations on Waiver, ER 1101-Applicability of Rules and New Set of Family Law Civil Rules (FLCR), and the Court having approved the proposed amendments for publication;

Now, therefore, it is hereby ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2010.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2010. Comment may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Camilla.Faulk@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 3rd day of December, 2009.

For the Court

Gerry L. Alexander
CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendment
RULES OF APPELLATE PROCEDURE (RAP)
Rule 5.2 - Time Allowed to File Notice

(Clarifies the timing of a notice of discretionary review when a motion for reconsideration is filed)

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: This suggested amendment clarifies the current practice of the appellate courts to consider a notice of discretionary review timely if it is filed within 30 days of an

order deciding a timely motion for reconsideration of the act that the party filing the notice wants reviewed. In what appears to be an oversight, the current version of RAP 5.2(b) does not address this situation. This suggested amendment also provides grammatical clarity in the parallel provision of section 5.2(a).

SUGGESTED AMENDMENT
RULES OF APPELLATE PROCEDURE (RAP)
RAP 5.2 - Time Allowed to File Notice

(a) Notice of Appeal. Except as provided in rules 3.2(e) and 5.2 (d) and (f), a notice of appeal must be filed in the trial court within the longer of (1) 30 days after the entry of the decision of the trial court which that the party filing the notice wants reviewed, or (2) the time provided in section (e).

(b) Notice for Discretionary Review. Except as provided in rules 3.2(e) and 5.2 (d) and (f), a notice for discretionary review must be filed in the trial court within the longer of (1) 30 days after the act of the trial court which that the party filing the notice wants reviewed, or (2) 30 days after entry of an order deciding a timely motion for reconsideration of that act under CR 59.

[(c) - (g) unchanged.]

GR 9 COVER SHEET

Suggested Amendment
RULES OF APPELLATE PROCEDURE (RAP)
Rule 12.5 - Mandate

(Clarifies when the Court of Appeals will issue a mandate)

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Under the current version of RAP 12.5(b), the Court of Appeals will issue its mandate 30 days after a decision is filed unless a timely motion for reconsideration has already been filed. The current version of the rule authorizes issuance of the mandate even though a timely motion to publish has been filed pursuant to RAP 12.3(e). However, under RAP 13.4(a), a party may petition for review by the Supreme Court 30 days from a determination of a timely motion to publish. It is therefore possible that the mandate will issue (because no motion for reconsideration was filed) even though the Court of Appeals is considering a motion to publish, the resolution of which should trigger an opportunity to seek review by the Supreme Court.

The suggested amendment resolves this conflict between RAP 12.5(b) and RAP 13.4(a) essentially by deferring to the time limits in the latter rule. In dealing with motions for reconsideration and to publish, the suggested amendment to RAP 12.5 (b)(2) ties issuance of the mandate to the existing deadline for filing a petition for review in RAP 13.4(a). In this way, the mandate will not issue until after the opportunity to petition for review has passed.

This suggested amendment does not add a motion to publish to the list in the first sentence of RAP 12.5(b) of pleadings that the parties can stipulate not to file in order to

accelerate issuance of the mandate. If the parties make the stipulation as currently provided in the first sentence, the rest of section (b)—including the suggested provision about a motion to publish—would not apply, so there will be no conflict: the mandate will issue notwithstanding the motion to publish and the parties will have already agreed not to seek review by the Supreme Court. If the parties want to stipulate about a motion for reconsideration and petition for review, they are free to work out between them whether that stipulation is contingent on either of them refraining from filing a motion to publish.

**SUGGESTED AMENDMENT
RULES OF APPELLATE PROCEDURE (RAP)
RAP 12.5 - Mandate**

[(a) unchanged]

(b) When Mandate Issued by Court of Appeals. The clerk of the Court of Appeals will issue the mandate for a Court of Appeals decision terminating review upon stipulation of the parties that no motion for reconsideration or petition for review will be filed. In the absence of that stipulation, and except to the extent the mandate is stayed as provided in rule 12.6, the clerk will issue the mandate:

(1) Thirty (30) days after the decision is filed, unless (i) a motion for reconsideration of the decision or a motion to publish has been earlier filed, (ii) a petition for review to the Supreme Court has been earlier filed, or (iii) the decision is a ruling of the commissioner or clerk and a motion to modify the ruling has been earlier filed.

(2) If a motion for reconsideration or motion to publish is timely filed ~~and denied~~, 30 days after expiration of the time for filing a petition for review under rule 13.4(a) filing the order denying the motion for reconsideration, unless a petition for review to the Supreme Court has been earlier filed.

(3) If a petition for review has been timely filed and denied by the Supreme Court, upon denial of the petition for review.

[(c) - (e) unchanged]

GR 9 COVER SHEET

**Suggested New Rule
WASHINGTON RULES OF EVIDENCE (ER)
Rule 502 - Attorney-Client Privilege, and Work Product;
Limitations on Waiver)**

(Adding provisions conforming to Federal Rule of Evidence
502)

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: This suggested amendment would fill a gap in Washington law regarding the inadvertent disclosure of privileged communications or work product. The existing law consists of RPC 4.4(b), which provides: "A lawyer who receives a document relating to the representation of the lawyer's client and knows or reasonably should know that the document was inadvertently sent shall promptly notify the

sender." However, Comments 2 and 3 of that rule make clear that it imposes no duty beyond the notification requirement.

Washington law would evolve further, but still not completely, if the Court were to adopt suggested amendments to CR 26 and 45, which the Court has published for comment. If adopted, those amendments would establish what is often referred to as a "claw back" procedure that is based on 2006 amendments to Federal Rules of Civil Procedure 26 and 45. The procedure would allow parties to assert claims of an inadvertent production of privileged communications or work product. However, that procedure would not affect the law that controls the substantive resolution of those claims.

Until recently, there was essentially no law in Washington regarding whether, and under what circumstances, the inadvertent disclosure of attorney-client privilege and work product material caused a waiver of those protections. See *Harris v. Drake*, 152 Wn.2d 480, 495, 99 P.3d 872 (2004) (Alexander, C.J., dissenting) ("Indeed, there are no Washington cases discussing the inadvertent disclosure of work product protected materials.")

The current suggested amendment would fill that gap by providing the substantive law to resolve such waiver claims. The amendment would add a new Rule of Evidence 502 based closely on Federal Rule of Evidence FRE 502, which was signed into law on September 19, 2008. The suggested new ER 502 would comprise six sections, each corresponding to a section of the federal rule¹:

(a) Disclosure made in a Washington State proceeding or to a Washington State office or agency; scope of a waiver. This section provides for when a disclosure of privilege communication can operate to waive the privilege for other, undisclosed communications. In other words, it addresses the scope of "subject matter waiver."

(b) Inadvertent disclosure. This section provides for the circumstances under which an inadvertent disclosure in a Washington proceeding can cause the waiver of attorney-client privilege or work product protection.

(c) Disclosure made in a non-Washington State proceeding. This section provides for the circumstances under which a disclosure in a non-Washington proceeding, in the absence of a court order, can cause the waiver in a Washington proceeding of attorney-client privilege or work product protection.

(d) Controlling effect of a court order. This section provides for the effect of court orders on the waiver of privilege or work product.

(e) Controlling effect of a party agreement. This section provides for the effect of party agreement, in the absence of a court order, on the waiver of privilege or work product.

(f) Definitions. This section provides definitions for "attorney-client privilege" and "work-product protection" as used in the rule.

Following the federal model will provide Washington courts and practitioners access to authority interpreting that model. Several states (including Arizona, Arkansas, Iowa, Louisiana) are considering or have adopted some version of the federal rule in their evidence rules, civil rules, or both.

Suggested new ER 502 would be consistent with RPC 4.4(b) and would complement and work in concert with the

pending suggested "claw back" amendments to CR 26 and CR 45.

Suggested new ER 502 would also be consistent with the Washington Court of Appeals' recent use of the new federal rule to resolve a claim of an inadvertent waiver. *Sitterson v. Evergreen School District No.*, 147 Wn. App. 576, 196 P.3d 735 (2008), was the first appellate ruling in Washington deciding whether inadvertent production waives the attorney-client privilege. The court noted that there are three potential approaches to waiver by inadvertent production: "(1) the traditional 'absolute waiver' approach...; (2) the absolute 'no waiver' approach; and (3) the 'balanced' approach." *Id.*, 147 Wn. App. at 585-86. The court decided to apply the "balanced approach," and cited as support for that decision the fact that "Congress recently amended the federal rules of evidence to reflect a balanced approach to inadvertent waiver of the attorney client privilege." *Id.* at 587-88 and n.8 (quoting FRE 502).

¹The only section of the federal rule not mirrored in the suggested Washington rule is FRE 502(f), which deals with the controlling effect of the federal rule on other types of proceedings, including state proceedings. Such a provision is unnecessary in Washington, where there is no question of application of the ERs to an inferior jurisdiction and where the suggested new ER 502 will have the same application as all other ERs in Washington proceedings.

SUGGESTED NEW RULE
WASHINGTON RULES OF EVIDENCE (ER)
ER 502 - ATTORNEY-CLIENT PRIVILEGE AND WORK PRODUCT; LIMITATIONS ON WAIVER

The following provisions apply, in the circumstances set out, to disclosure of a communication or information covered by the attorney-client privilege or work-product protection.

(a) Disclosure Made in a Washington Proceeding or to a Washington Office or Agency; Scope of a Waiver. When the disclosure is made in a Washington proceeding or to a Washington office or agency and waives the attorney-client privilege or work-product protection, the waiver extends to an undisclosed communication or information in any proceeding only if:

- (1) the waiver is intentional;
- (2) the disclosed and undisclosed communications or information concern the same subject matter; and
- (3) they ought in fairness to be considered together.

(b) Inadvertent Disclosure. When made in a Washington proceeding or to a Washington office or agency, the disclosure does not operate as a waiver in any proceeding if:

- (1) the disclosure is inadvertent;
- (2) the holder of the privilege or protection took reasonable steps to prevent disclosure; and
- (3) the holder promptly took reasonable steps to rectify the error, including (if applicable) following CR 26 (b)(6).^[1]

(c) Disclosure Made in a Non-Washington Proceeding. When the disclosure is made in a non-Washington proceeding and is not the subject of a court order concerning waiver, the disclosure does not operate as a waiver in a Washington proceeding if the disclosure:

- (1) would not be a waiver under this rule if it had been made in a Washington proceeding; or
- (2) is not a waiver under the law of the jurisdiction where the disclosure occurred.

(d) Controlling Effect of a Court Order. A Washington court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court—in which event the disclosure is also not a waiver in any other proceeding.

(e) Controlling Effect of a Party Agreement. An agreement on the effect of disclosure in a Washington proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.

(f) Definitions. In this rule:

(1) "attorney-client privilege" means the protection that applicable law provides for confidential attorney-client communications; and

(2) "work-product protection" means the protection that applicable law provides for tangible material (or its intangible equivalent) prepared in anticipation of litigation or for trial.

¹The Court has published for comment a suggested amendment to add a new CR 26 (b)(6). The text of this suggested amendment assumes adoption of the new CR 26 (b)(6). If the Court does not adopt that new subsection, the phrase ", including (if applicable) following CR 26 (b)(6)" should be removed from this suggested new rule.

GR 9 COVER SHEET

Suggested Amendment
WASHINGTON RULES OF EVIDENCE (ER)
Rule 1101 - Applicability of Rules

(Clarifying the exemption for certain juvenile court hearings from the Rules of Evidence)

Submitted by the Board of Governors of the Washington State Bar Association

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Purpose: The suggested amendment clarifies which juvenile hearings are exempt from the Rules of Evidence and removes specific statutory citations (one of which is incorrect).

The current language of ER 1101 (c)(3) references RCW 13.34.130(4), which in prior years governed review hearings in dependency matters but now addresses other matters. This reference is out of date; RCW 13.34.138 is the current statute. In addition, courts adjudicate review hearings in At-Risk Youth (ARY) proceedings (RCW 13.32A.198) and permanency planning hearings in dependencies (RCW 13.34.145) without the Rules of Evidence, but these types of hearings are not specifically mentioned in ER 1101 (c)(3).

The suggested amendment confirms that the above hearings, as well as those already listed in ER 1101 (c)(3), are exempt from the Rules of Evidence. By using the terms "preliminary determinations in juvenile court," "juvenile court hearings on declining jurisdiction," and "disposition, review, and permanency planning hearings in juvenile court," the suggested amendment confirms that the following juvenile hearings are exempt from the Rules of Evidence:

1. Preliminary determinations;
2. Hearings on declining jurisdiction (RCW 13.40.110);

3. Disposition hearings in offender (RCW 13.40.150), dependency (RCW 13.34.130), ARY (13.32A.197), and Child in Need of Services (CHINS) (RCW 13.32A.179) proceedings;

4. Review hearings in dependency (RCW 13.34.138), ARY (RCW 13.32A.198), and CHINS (RCW 13.32A.190) proceedings; and

5. Permanency planning hearings in dependency (RCW 13.34.145) proceedings.

The suggested amendment eliminates specific statutory references to avoid the need to amend ER 1101 (c)(3) again if the juvenile statutes are changed. Because the terms used are specific terms of art that are well understood by practitioners in juvenile law, there is no need to cite the specific statutes. The drafters of the suggested amendment do not intend for juvenile hearings other than those listed above (under whichever RCW sections govern them in future) to be exempt from the Rules of Evidence.

The drafters of the suggested amendment intend no change to the application of the Rules of Evidence when contempt is adjudicated in these juvenile hearings. Regardless of whether the type of hearing in general is exempt from the Rules of Evidence, under current law the Rules of Evidence must be applied when non-direct contempt is adjudicated. *See, e.g., In re M.B.*, 101 Wn. App. 425, 469 & n.114, 3 P.3d 780 (2000) (Rules of Evidence apply to contempt issues in ARY, CHINS, and dependency proceedings); ER 1101 (c)(3) (stating that the Rules of Evidence do not apply to contempt proceedings in which the court may act summarily, meaning direct contempt, thus indicating that the Rules of Evidence do apply when the basis for the contempt is an action that occurred outside of the courtroom). An attempt to reflect this current law on contempt proceedings more expressly and broadly in the Rules of Evidence is beyond the scope of this suggested amendment.

**SUGGESTED AMENDMENT
WASHINGTON RULES OF EVIDENCE (ER)
ER 1101 - Applicability of Rules**

[(a) - (b) unchanged]

(c) When Rules Need Not Be Applied. The rules (other than with respect to privileges, the rape shield statute and ER 412) need not be applied in the following situations:

(1) *Preliminary Questions of Fact.* [unchanged]

(2) *Grand Jury.* [unchanged]

(3) *Miscellaneous Proceedings.* Proceedings for extradition or rendition; detainer proceedings under RCW 9.100; preliminary determinations in criminal cases; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; proceedings with respect to release on bail or otherwise; contempt proceedings in which the court may act summarily; habeas corpus proceedings; small claims court; supplemental proceedings under RCW 6.32; coroners' inquests; preliminary determinations in juvenile court proceedings under RCW Title 13; juvenile court hearings on declining jurisdiction under RCW 13.40.110; disposition, hearings in juvenile court; review, and permanency planning hearings in juvenile court under RCW 13.32A.190 and RCW 13.34.130(4); dispositional determinations related to treatment for alcoholism,

intoxication, or drug addiction under RCW 70.96A; and dispositional determinations under the Civil Commitment Act, RCW 71.05.

(4) *Applications for Protection Orders.* [unchanged]

[(d) unchanged]

GR 9 COVER SHEET

**Suggested New Rules
SUPERIOR COURT FAMILY LAW CIVIL RULES (FLCR)**

(Creating new Family Law Civil Rules)

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose:

In 2006, a coalition of eight Washington State Bar Association sections asked the WSBA Court Rules and Procedures Committee to consider the impact of the proliferation of local rules on litigants and their counsel. The coalition recommended abolishment of all local rules with the exception of those rules governing docket management. The Court Rules and Procedures Committee suggested to the Board of Governors that a special task force be convened to evaluate this issue. In the fall of 2006 the WSBA created and chartered the Local Rules Task Force ("the Task Force") and by early winter 2007 appointed its co-chairs and members.

The Task Force consists of representatives of various stakeholders concerned with the proper promulgation, amendment, and application of the local rules of Superior Courts, including court administrators, judges, and lawyer-practitioners. The practitioner group has been augmented by representatives of the family law bar, whose procedures have given rise to a distinct body of rules. Practitioners include members of the trial bar from both the public and private sectors. Jurists include both current and former members of the bench. The Task Force is co-chaired by Supreme Court Justice Charles W. Johnson and attorney Lish Whitson.

The Task Force was created to review the purpose and function of local rules; the impact of local rules on courts, litigants (both pro se and represented) and the trial bar; and possible means to mitigate the detrimental effects of the ever-increasing number of local rules. The Task Force was charged with reviewing the model local rules and practices in other states with non-unified court systems to develop recommendations on possible improvements or modifications to Washington's local rulemaking process and authorizations, in addition to looking at the work product of the earlier efforts in this state to stem the proliferation of local rules. In discharging its mission under this Charter, the Task Force was mindful of the directive in Rule 1 of the Superior Court Civil Rules that the court rules "shall be construed and administered to secure the just, speedy, and inexpensive determination of every action."

The Task Force spent 18 months reviewing every Superior Court local rule from all 39 counties, and unearthed numerous problems which have contributed to the prolifera-

tion of local rules. Some of the concerns that were studied include:

- Local rules vary greatly from county to county, both in terms of content and numbering.
- Local rules are often created in reaction to specific incidents. They commonly persist long after their usefulness, without being reviewed or repealed.
- Often, civil, criminal, and family law rules are commingled in a single set of local rules.
- The sheer number of local rules, combined with commingling and lack of uniformity, causes problems for litigants by making the rules more difficult to understand and follow, creating traps for the unwary.
- The burden and cost placed upon counsel and litigants required to comply with different local rules in each county increases the cost of litigation, which has the effect of reducing access to equal justice.
- In some counties, failure to follow local rules can result in the loss of substantive rights.
- Some individual judges have established "procedures" for their courts that are not even codified as local rules, such as different colored paper for different pleadings.
- Some local rules, rather than being purely procedural in nature, contain matters of substantive law. Worse, some local rules may be best described as "legislating via court rule."
- Some counties include statewide rules, statutes, and even case law in their local rules.
- Some local rules are outdated, referencing obsolete technology and procedures, or have not been modified to reflect changes in the law or statewide rules.
- Some local rules are outright contradictory to statewide rules.
- Local rules differ with regard to the format of pleadings, forms, page limitations, and brief requirements—some with procedurally significant impacts—and do not comply with GR 14.
- There is currently no mechanism for assuring the uniformity of the local rules or for the systematic approval, review, or elimination of local rules from county to county.

During its work, the Task Force became especially concerned about the complex issues and procedures surrounding family law cases. The Task Force learned that family law is a distinct area of law with its own special problems, and that many counties had enacted both civil and family law local rules in an effort to accommodate the special nature of family law cases. The Task Force's review revealed there is often cross-over between family law rules and civil rules at both the state and local levels, because family law cases are also civil law cases. This forces family law practitioners and pro se litigants to not only be cognizant of local rules that are clearly identified as family law local rules, but also of local civil rules containing provisions applicable to family law cases. At the same time, both practitioners and pro se litigants must also keep in mind state Civil Rules in order to find all the rules that may apply to their family law case.

The Task Force created a family law subcommittee with special expertise in family law issues. All local rules as they related to family law matters were separately reviewed by this subcommittee. The subcommittee reported serious access to justice issues, such as the practice of some courts to adopt local rules making court services both mandatory and with required service fees. In addition, the subcommittee found that a number of family law related local rules, rather than being purely procedural in nature, contained matters of substantive law or were substantive with no corresponding authority in law. Finally, there are also specific topic areas of interest to family law practitioners and litigants with no counterpart in the Civil Rules.

The Task Force has presented an interim report to the WSBA Board of Governors (available on the WSBA website, www.wsba.org) and is continuing its important work. As the first step in its ongoing efforts to curb the proliferation of local rules, eliminate sources of confusion and traps for the unwary, and promote and facilitate access to justice, the Task Force has promulgated a proposed set of Superior Court Family Law Civil Rules ("FLCR"). The FLCR are intended to secure the just, speedy, and inexpensive determination of family law matters. The proposed FLCR parallel the Superior Court Civil Rules ("CR") and are intended to provide the framework for general management of family law cases.

Key components of the FLCR include:

- Specific provisions for timing and scheduling of motions, as well as delivery of responses and replies (FLCR 6(d));
- Specific language allowing for presentation of telephonic oral argument, at the court's discretion, and imposing page limits and other restrictions on motions (FLCR 7);
- Format requirements (FLCR 10(d));
- Provision for information exchange/automatic discovery of documents commonly required for family law actions (FLCR 16(c));
- Entry of automatic temporary orders to preserve the status quo on petitions to dissolve marriages, relationships, or meretricious relationships (FLCR 16(d));
- Provisions addressing the use of courthouse facilitators (FLCR 87); and
- Authority to require participation in extra-judicial services/parenting seminars (FLCR 88).

The Task Force anticipates that the FLCR will eliminate the need for many counties' local rules; however, the Task Force also recognizes that different counties have different needs. For example, large counties may feel they have more of a need to manage case flow via local rules. Once adopted, under GR 7, CR 83, and proposed FLCR 83, any County proposing to modify the FLCR would be required to submit their proposed local rules to the Supreme Court for review and approval prior to implementation. The Task Force anticipates working with the state Supreme Court in a concentrated effort to work with counties to eliminate local rules that do not comply with GR 7, CR 1, and/or CR 83, or which are otherwise unnecessary or inappropriate.

In addition to submitting the suggested Family Law Civil Rules, the WSBA Board of Governors respectfully recom-

mends that the Supreme Court establish a timetable and methodology for counties to bring their local rules into conformance.

**SUGGESTED NEW RULES
SUPERIOR COURT FAMILY LAW CIVIL RULES (FLCR)**

RULE 1 SCOPE OF RULES

These rules govern the procedure in the superior court in all Title 26 RCW actions subject to exceptions specifically stated hereunder. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action governed by these rules. The numbering of these rules is intended to be consistent with the Superior Court Civil Rules (CR). Where these rules provide no unique rule or subsection corresponding to a Superior Court Civil Rule or subsection, that Superior Court Civil Rule shall govern.

RULE 2 ONE FORM OF ACTION [Reserved. See CR 2.]

RULE 2A STIPULATIONS [Reserved. See CR 2A.]

RULE 3 COMMENCEMENT OF ACTION [Reserved. See CR 3.]

RULE 4 PROCESS [Reserved. See CR 4.]

RULE 4.1 PROCESS - FAMILY LAW ACTIONS

(a) Summons—General. Actions authorized by Title 26 RCW, with the exception of actions governed by RCW 26.50, shall be commenced by filing a petition or by service of a copy of a summons together with a copy of the petition on respondent as provided in CR 4. Upon written demand by the respondent, the petitioner shall pay the filing fee and file the summons and petition within 14 days after service of the demand or the service shall be void. No summons is necessary if both parties sign a joint petition or if the respondent files a written joinder in the proceeding.

(b) Summons—Content, Form.

(1) Content. The summons shall contain the title of the action, the name of the county and the court in which the action is brought, the names of the parties, as petitioner and respondent, a direction to the respondent to serve a copy of his or her response on the person who has signed the summons, the time limit within which the copy of the response must be served, notice that failure to serve a copy of the response within the stated time may result in a judgment by default, the signature and address of the petitioner or petitioner's attorney, and the date.

(2) Form. The summons for personal service in actions subject to this rule and within this State shall be substantially in the form provided in the pattern forms approved by the Administrative Office of the Courts. The summons for personal service out of state should be adapted from this form and must include the modifications required by statute. See RCW 4.28.180.

RULE 4.2 PROCESS - LIMITED REPRESENTATION [Reserved. See CR 4.2]

RULE 5 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS [Reserved. See CR 5.]

RULE 6 TIME

(a) Computation. [Reserved. See CR 6(a).]

(b) Enlargement. [Reserved. See CR 6(b).]

(c) Proceeding Not to Fail for Want of Judge or Session of Court. [Reserved. See CR 6(c).]

(d) For Motions - Affidavits. The time frames set forth in CR 6(d) shall be the minimum allowed for any family law motion other than one brought under a motion to shorten time or a motion seeking temporary relief as set forth below. Any county may expand the time frames set forth in CR 6(d) to allow for additional time of up to fourteen (14) days for the original notice as well as for responsive and reply documents.

(1) Motion to Shorten Time. For good cause shown by motion of a party, the court may alter the time periods set forth in this rule to allow for the hearing of an emergent matter. All such motions shall be supported by a written affidavit setting forth the basis for the good cause and emergent nature of the matter justifying the waiver of time to allow the granting of the motion to shorten time and setting forth the efforts to provide advance notice to the opposing party. Local courts pursuant to rule 83 may impose procedural requirements associated with such motions, such as before whom the motion must be presented.

(2) Motion Seeking Temporary Relief. Notwithstanding the time limits prescribed in this rule, and subject to the relief available in this rule, a party bringing a motion for temporary relief shall serve that written motion and notice of the hearing thereof not later than ten (10) days before the time specified for the hearing. When such a motion is supported by affidavit, opposing affidavits may be served not later than three (3) days before the hearing. Reply pleadings shall be due no later than one day prior to the hearing. This subsection shall not control any motion that may be heard ex parte.

(3) Oral Arguments on Motions. Local rules adopted pursuant to rule 83 may establish a method for the timely and efficient scheduling of oral arguments on motions in cases governed by these rules. Acceptable methods shall include: (a) a limit on the time allocated for oral argument so long as an equal amount of time is provided for each litigant; (b) regular calendars with pre-set time slots assigned to the parties for oral argument of no fewer than ten minutes per side including rebuttal; and (c) special calendars for oral arguments requiring more than a total of thirty minutes.

(e) Additional Time After Service by Mail. [Reserved. See CR 6(e).]

RULE 7 PLEADINGS ALLOWED; FORM OF MOTIONS

At the discretion of each Superior Court, oral argument may be presented by pro se parties or counsel by telephone in family law motions. For testimonial proceedings, see CR 43.

(a) Pleadings. [Reserved. See CR 7(a).]

(b) Motions and Other Papers. [Reserved. See CR 7(b).]

(c) Demurrers, Pleas, etc. Abolished. [Reserved. See CR 7(c).]

(d) Security for Costs. [Reserved. See CR 7(d).]

(e) Page Limits.

(1) Issues To Be Decided Solely On The Pleadings. In matters where the court will decide an issue or motion for relief solely on the pleadings submitted by the litigants, the motion and reply pleadings of the moving party and the responsive pleadings of the responding party shall be limited

to a total of twenty-five (25) pages per party, including all declarations or affidavits of non-expert witnesses.

(2) Issues To Be Decided After A Testimonial Proceeding. In matters where the court will decide an issue or motion for relief only after the taking of oral testimony, the motion and reply pleadings of the moving party and the responsive pleadings of the responding party shall be limited to a total of ten (10) pages per party, including all declarations or affidavits of non-expert witnesses.

(3) Increasing Page Limits. Local rules adopted pursuant to rule 83 may increase the number of pages allowed but all such increases shall be applied equally to all parties.

(4) Exception to Page Limits. This page limit rule does not apply to trial briefs, memorandums of law, guardian ad litem reports, expert reports and evaluations, transcripts, emails, text messages, exhibits other than declarations or affidavits, financial declarations, or any financial or medical documents filed under seal.

(f) Use of Pattern Forms. All pleadings shall be on forms approved by the Administrative Office of the Courts or on substantially similar forms. A party may delete unnecessary portions of the forms according to the rules established by the Administrative Office of the Courts. A party may supplement the mandatory forms with additional material. A party's failure to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. However, the court may require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both.

RULE 8 GENERAL RULES OF PLEADING [Reserved. See CR 8.]

RULE 9 PLEADING SPECIAL MATTERS [Reserved. See CR 9.]

RULE 10 FORM OF PLEADINGS AND OTHER PAPERS

(a) Caption. [Reserved. See CR 10(a).]

(b) Paragraphs; Separate Statements. [Reserved. See CR 10(b).]

(c) Adoption by Reference; Exhibits. [Reserved. See CR 10(c).]

(d) Format Requirements. To the extent this subsection (d) establishes format requirements different from those established by GR 14, the requirements of this subsection (d) shall apply in actions governed by these rules.

(1) Handwritten Documents. To ensure access to the courts for any party appearing pro se, all courts shall allow the submission of pleadings that are legibly handwritten in black or blue ink using only one side of each page. Declarations shall be appropriately verified and formatted.

(2) Font Size for Typed or Computer Generated Documents. Except for footnotes and citations from other documents inserted into the pleading, all typed or computer generated documents shall be prepared using a minimum of 11-point fonts and shall be double-spaced. Local rules adopted pursuant to rule 83 may allow or indicate a non-mandatory preference for a larger sized printing but documents prepared using the minimum size set forth herein shall not be disallowed.

(3) Paper Color. All pleadings and bench copies shall be prepared on white paper.

(e) Format Recommendations. [Reserved. See CR 10(e).]

(f) Personal Identifiers Prohibited. [Reserved. See CR 10(f).]

(g) Unpublished Opinions. [Reserved. See CR 10(g).]

RULE 11 SIGNING AND DRAFTING OF PLEADINGS, MOTIONS, AND LEGAL MEMORANDA; SANCTIONS [Reserved. See CR 11.]

RULE 12 DEFENSES & OBJECTIONS [Reserved. See CR 12.]

RULE 13 COUNTERCLAIM AND CROSS CLAIMS [Reserved. See CR 13.]

RULE 14 THIRD PARTY PRACTICE [Reserved. See CR 14.]

RULE 15 AMENDED & SUPPLEMENTAL PLEADINGS [Reserved. See CR 15.]

RULE 16 PRETRIAL PROCEDURE & FORMULATING ISSUES

(a) Hearing Matters Considered. [Reserved. See CR 16(a).]

(b) Pretrial Order. [Reserved. See CR 16(b).]

(c) Information Exchange/Automatic Discovery. At least fourteen days prior to settlement conference or thirty days prior to trial, whichever is sooner, for any case involving dissolution of marriage or similar dissolutions or the setting of child support, the parties shall exchange:

(1) Complete individual and business tax returns with all schedules and applicable W-2 and 1099 forms for the past two years;

(2) Pay stubs for the last six months;

(3) Balance statements for mortgages, installment purchase contracts, credit cards or other debts from the date of separation to the current date;

(4) Statements for retirement accounts, bank accounts, brokerage or investment accounts or other accounts of assets from the date of separation to the current date;

(5) Appraisals of real or personal property;

(6) Blue book valuations or appraisals of automotive and recreational vehicles;

(7) Summary of tracing of separate property;

(8) Life insurance documents;

(9) Business valuations;

(10) Disclosure of expert witnesses; and

(11) Joint management reports or similar documentation, if any.

(d) Automatic Temporary Orders Preserving Status Quo. Upon the filing of any petition under Title 26 RCW to dissolve any relationship and any complaint to dissolve a meretricious relationship, the court may upon its own initiative issue a temporary order that:

(1) Restrains the parties from transferring or disposing of any property absent written agreement or court order;

(2) Restrains the parties from changing any automobile, health or other insurance absent written agreement or court order;

(3) Makes each party responsible for his/her debts incurred subsequent to the filing of the petition;

(4) Requires notification of extraordinary expenditures or liabilities incurred after issuance of the automatic temporary order;

(5) Requires each party to grant the opposing party access to all tax, financial, legal and household records;

(6) Restrains parents from changing the place of residence of the parties' children absent written agreement or court order;

(7) Authorizes each parent to have full access to the children's education and medical records as per statute; and

(8) Restrains parents from exposing the children to negative or derogatory commentary about the other parent.

RULE 17 Parties Plaintiff & Defendant: Capacity

(-) Designation of Parties. The party commencing the action shall be known as the petitioner and the opposite party as the respondent.

(a) Real Party in Interest. [Reserved. See CR 17(a).]

(b) Capacity to Sue or Be Sued. [Reserved. See CR 17(b).]

(c) Infants, or Incompetent Persons. [Reserved. See CR 17(c).]

(d) Actions on Assigned Choses in Action. [Reserved. See CR 17(d).]

(e) Public Corporations. [Reserved. See CR 17(e).]

(f) Tort Actions Against State. [Reserved. See CR 17(f).]

RULE 18 JOINDER OF CLAIMS & REMEDIES [Reserved. See CR 18.]

RULE 19 JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION [Reserved. See CR 19.]

RULE 20 PERMISSIVE JOINDER OF PARTIES [Reserved. See CR 20.]

RULE 21 MISJOINDER AND NONJOINDER OF PARTIES [Reserved. See CR 21.]

RULE 22 INTERPLEADER [Reserved. See CR 22.]

RULE 23 CLASS ACTIONS [Reserved. See CR 23.]

RULE 23.1 DERIVATIVE ACTIONS BY SHAREHOLDERS [Reserved. See CR 23.1]

RULE 23.2 ACTIONS RELATING TO UNINCORPORATED ASSOCIATIONS [Reserved. See CR 23.2]

RULE 24 INTERVENTION [Reserved. See CR 24.]

RULE 25 SUBSTITUTION OF PARTIES [Reserved. See CR 25.]

RULE 26 GENERAL PROVISIONS GOVERNING DISCOVERY [Reserved. See CR 26.]

RULE 27 PERPETUATION OF TESTIMONY [Reserved. See CR 27]

RULE 28 PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN [Reserved. See CR 28.]

RULE 29 STIPULATIONS REGARDING DISCOVERY PROCEDURE [Reserved. See CR 29.]

RULE 30 DEPOSITIONS UPON ORAL EXAMINATION [Reserved. See CR 30.]

RULE 31 DEPOSITIONS UPON WRITTEN QUESTIONS [Reserved. See CR 31.]

RULE 32 USE OF DEPOSITIONS IN COURT PROCEEDINGS [Reserved. See CR 32.]

RULE 33 INTERROGATORIES TO PARTIES [Reserved. See CR 33.]

RULE 34 PRODUCTION OF DOCUMENTS & THINGS AND ENTRY UPON LAND FOR INSPECTION AND OTHER PURPOSES [Reserved. See CR 34.]

RULE 35 PHYSICAL AND MENTAL EXAMINATION OF PERSONS [Reserved. See CR 35.]

RULE 36 REQUESTS FOR ADMISSION [Reserved. See CR 36.]

RULE 37 FAILURE TO MAKE DISCOVERY - SANCTIONS [Reserved. See CR 37.]

RULE 38 JURY TRIAL OF RIGHT [Reserved. See CR 38.]

RULE 39 TRIAL BY JURY OR BY THE COURT [Reserved. See CR 39.]

RULE 40 ASSIGNMENT OF CASES

Local rules adopted pursuant to rule 83 may establish a system that creates case schedules and the assignment of judicial teams for the efficient management of cases.

RULE 41 DISMISSAL OF ACTIONS [Reserved. See CR 41.]

RULE 42 CONSOLIDATIONS: SEPARATE TRIALS [Reserved. See CR 42.]

RULE 43 TAKING OF TESTIMONY [Reserved. See CR 43.]

RULE 44 PROOF OF OFFICIAL RECORD [Reserved. See CR 44.]

RULE 44.1 DETERMINATION OF FOREIGN LAW [Reserved. See CR 44.1]

RULE 45 SUBPOENA [Reserved. See CR 45.]

RULE 46 EXCEPTIONS UNNECESSARY [Reserved. See CR 46.]

RULE 47 JURORS [Reserved. See CR 47.]

RULE 48 JURIES OF LESS THAN TWELVE [Reserved. See CR 48.]

RULE 49 VERDICTS [Reserved. See CR 49.]

RULE 50 JUDGMENT AS A MATTER OF LAW IN JURY TRIALS; ALTERNATIVE MOTION FOR NEW TRIAL; CONDITIONAL RULINGS [Reserved. See CR 50]

RULE 51 INSTRUCTION TO JURY AND DELIBERATION [Reserved. See CR 51.]

RULE 52 DECISIONS, FINDINGS AND CONCLUSIONS

(a) Requirements.

(1) *Generally.* [Reserved. See CR 52 (a)(1).]

(2) *Specifically Required.* [Reserved. See CR 52 (a)(2).]

(A) Temporary Injunctions. [Reserved. See CR 52 (a)(2)(A).]

(B) Title 26 RCW Cases. Without in any way limiting the requirements of CR 52(1), findings and conclusions are required in all Title 26 RCW cases in which the court makes specific findings of physical or sexual abuse or exploitation of a child, whether heard ex parte or not. Where such findings of physical or sexual abuse or exploitation of a child are entered, the court shall direct the court clerk to notify the state patrol of the findings as required by law.

(C) Other. [Reserved. See 52 (a)(2)(C).]

(3) *Proposed.* [Reserved. See CR 52 (a)(3).]

(4) *Form.* [Reserved. See CR 52 (a)(4).]

(5) *When Unnecessary.* [Reserved. See CR 52 (a)(5).]

(b) Amendment of Findings. [Reserved. See CR 52(b).]

(c) Presentation. [Reserved. See CR 52(c).]

(d) Judgment without Findings, etc. [Reserved. See CR 52(d).]

(e) Time Limit for Decision. [Reserved. See CR 52(e).]

RULE 53 MASTERS [RESERVED]**RULE 53.1 REFEREES** [Reserved. See CR 53.1.]**RULE 53.2 COURT COMMISSIONERS** [Reserved. See CR 53.2.]**RULE 53.3 APPOINTMENT OF MASTERS IN DISCOVERY MATTERS** [Reserved. See CR 53.3.]**RULE 53.4 PROCEDURES FOR MANDATORY MEDIATION OF HEALTH CARE CLAIMS** [Reserved. See CR 53.4.]**RULE 53.5 MEDIATION IN FAMILY LAW CASES**

Any court may refer parties in any case governed by these rules to mediation or settlement conferences prior to setting the matter for trial. In cases where either of the parties is indigent or such referral would pose a significant financial hardship on either party, the court shall not require participation in such services without also providing funding to pay for the service.

RULE 54 JUDGMENTS AND COSTS [Reserved. See CR 54.]**RULE 55 DEFAULT AND JUDGMENT** [Reserved. See CR 55.]**RULE 56 SUMMARY JUDGMENT** [Reserved. See CR 56.]**RULE 57 DECLARATORY JUDGMENTS** [Reserved. See CR 57.]**RULE 58 ENTRY OF JUDGMENT** [Reserved. See CR 58.]**RULE 59 NEW TRIAL, RECONSIDERATION, AND AMENDMENT OF JUDGMENTS** [Reserved. See CR 59.]**RULE 60 RELIEF FROM JUDGMENT OR ORDER** [Reserved. See CR 60.]**RULE 61 HARMLESS ERROR [RESERVED]** [Reserved. See CR 61.]**RULE 62 STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT** [Reserved. See CR 62.]**RULE 63 JUDGES** [Reserved. See CR 63.]**RULE 64 SEIZURE OF PERSON OR PROPERTY** [Reserved. See CR 64.]**RULE 65 INJUNCTIONS** [Reserved. See CR 65.]**RULE 65.1 SECURITY - PROCEEDINGS AGAINST SURETIES** [Reserved. See CR 65.1.]**RULE 66 RECEIVERSHIP PROCEEDINGS [RESERVED]** [Reserved. See CR 66.]**RULE 67 DEPOSIT IN COURT** [Reserved. See CR 67.]**RULE 68 OFFER OF JUDGMENT** [Reserved. See CR 68.]**RULE 69 EXECUTION** [Reserved. See CR 69.]**RULE 70 JUDGMENT FOR SPECIFIC ACTS; VESTING TITLE** [Reserved. See CR 70.]**RULE 70.1 APPEARANCE BY ATTORNEY** [Reserved. See CR 70.1.]**RULE 71 WITHDRAWAL OF ATTORNEY** [Reserved. See CR 71.]**RULE 72 Reserved****RULE 73 Reserved****RULE 74 Reserved****RULE 75 Reserved****RULE 76 Reserved****RULE 77 SUPERIOR COURTS AND JUDICIAL OFFICERS** [Reserved. See CR 77.]**RULE 78 CLERKS** [Reserved. See CR 78.]**RULE 79 BOOKS AND RECORDS KEPT BY THE CLERK** [Reserved. See CR 79.]**RULE 80 COURT REPORTERS** [Reserved. See CR 80.]**RULE 81 APPLICABILITY IN GENERAL**

Except where inconsistent with rules or statutes applicable to special proceedings or Title 26 RCW proceedings, these rules shall govern all family law proceedings. Where statutes relating to special proceedings or Title 26 RCW proceedings provide for procedure under former statutes applicable generally to family law actions, the procedure shall be governed by these rules.

RULE 82 VENUE [Reserved. See CR 82.]**RULE 82.5 TRIBAL COURT JURISDICTION** [Reserved. See CR 82.5]**RULE 83 LOCAL RULES OF COURT**

(a) Adoption. Each court, in accordance with GR 7, may from time to time make and amend local rules that are not inconsistent with these rules and that govern that court's practice in cases governed by these rules. Local rules shall conform to the same numbering and index system as these rules. Local rules shall be denoted as Local Family Law Civil Rules (with the official abbreviation of LFLCR).

(b) Scope and Limitations. Local court rules shall be limited to procedural matters and shall not address substantive legal issues. Statutes and case law rulings shall not be restated and set forth in local rules but may be cited for purposes of reference pointers only.

RULE 84 FORMS [Reserved] [See RULE 7(f).]**RULE 85 TITLE OF RULES**

These rules shall be known and cited as the Family Law Civil Rules. FLCR is the official abbreviation.

RULE 86 EFFECTIVE DATES

These rules and amendments promulgated pursuant to authority granted to the Supreme Court shall govern all proceedings in all Title 26 RCW actions after the rules and amendments take effect and also all further proceedings in actions pending on their effective dates except to the extent that in the opinion of the superior court, expressed by its order, the application of these rules in a particular action pending when the rules take effect would not be feasible or would work injustice, in which event the procedure existing at the time the action was brought applies.

RULE 87 COURTHOUSE FACILITATORS

A court may require a party appearing pro se to meet with a GR 27 courthouse facilitator or may require review by a GR 27 courthouse facilitator of certain documents prepared by a party appearing pro se prior to submission of those documents to a judicial officer. In cases where either party is indigent or use of a GR 27 courthouse facilitator would pose a significant financial hardship on either party, or where a lawyer has signed documents to indicate review of documents prepared by a party appearing pro se, the court shall not require the use of a GR 27 courthouse facilitator without also providing funding to pay for that use.

**RULE 88 AUTHORITY TO REQUIRE PARTICIPATION IN
EXTRA-JUDICIAL SERVICES**

Subject to the following provisions, a court may require parties to participate in parenting seminars regarding the effect of divorce or separation of parents prior to entry of a parenting plan as set forth in RCW 26.12.172 as the statute may be amended from time to time:

(a) In no case shall opposing parties be required to attend parenting seminars together:

(b) In cases where either of the parties is indigent or such participation in a parenting seminar would pose a significant financial hardship on either party, the court shall not require participation in a parenting seminar without also providing funding to pay for the seminar:

(c) The court must provide a means of waiving the requirement to participate in a parenting seminar for good cause shown; and

(d) Failure of a party to participate in a parenting seminar shall not be the basis for the court denying entry of a final order in the action.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: 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.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 10-02-007

NOTICE OF PUBLIC MEETINGS

**DEPARTMENT OF
RETIREMENT SYSTEMS**

(Employee Retirement Benefits Board)

[Filed December 24, 2009, 9:26 a.m.]

The following information is provided in compliance with the requirement for the employee retirement benefits board (ERBB) to submit a schedule of regular meeting dates and locations for 2010.

Meetings will be held at 9:30 a.m. at the Washington State Department of Retirement Systems, 6835 Capitol Boulevard, Tumwater, WA. Board members will participate in several meetings via WebEx/teleconference. The WebEx/teleconference meetings are open public meetings.

The meeting dates are:

February 23, 2010

May 25, 2010

September 28, 2010

December 7, 2010

If you have any questions or need additional information, please don't hesitate to contact Wilma Eby at 664-7311.

WSR 10-02-008

DEPARTMENT OF CORRECTIONS

[Filed December 24, 2009, 10:48 a.m., effective January 24, 2010]

Reviser's note: The following material has *not* been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

Following are amendments to chapter 137-52 WAC, Resident of adult correctional institution escorted leave of absence and chapter 137-60 WAC, Adult correctional institutions—Release programs—Furlough. These amendments are submitted for publication in the Washington state register and the Washington Administrative Code. Pertinent information follows:

1. The amendments to chapter 137-52 WAC, Resident of adult correctional institution escorted leave of absence and chapter 137-60 WAC, Adult correctional institutions—Release programs—Furlough are adopted as of December 24, 2009.

2. The effective date of these amendments shall be January 24, 2010.

3. I certify pursuant to RCW 34.05.030 that the rule as stated above is excluded from the Administrative Procedure Act.

Eldon Vail
Secretary

AMENDATORY SECTION (Amending WSR 07-08-082, filed 4/2/07, effective 5/3/07)

WAC 137-52-010 Definitions. (1) "Escorted leave" is an approved leave of absence by an inmate from a correctional facility under the continuous supervision of trained correctional staff.

(2) "Immediate family" includes an inmate's parents, stepparents, parent surrogates, grandparents, legal guardians, spouse, state registered domestic partner, brothers, sisters, half or step-brothers or sisters, children, stepchildren, and dependents whether or not in direct lineal relationship to the inmate.

(3) "Indigent" shall be understood to mean an inmate who has not been credited with five dollars or more total from any source(s) for deposit to the inmate's trust fund account during the thirty days preceding the request for an escorted leave and has less than a five dollar balance in his/her trust fund account on the day the escorted leave is requested, or together with his/her immediate family cannot post a five hundred dollar bond to secure the repayment of the expenses of the escorted leave on the day the escorted leave is requested. A declaration of indigency shall be signed by the inmate and the inmate's family on forms provided by the department.

(4) "Director" means the deputy secretary of the prisons division or his/her designee(s).

(5) "Superintendent" means the superintendent of a state correctional institution, state honor camp, or other penal institutions as now or hereafter established under the jurisdiction of the department of corrections pursuant to law or his/her designee.

(6) "Department" means the department of corrections.

(7) "Secretary" means the secretary of the department of corrections or his/her designee(s).

(8) "Nonviolent offender" means any person convicted of a felony not classified as a violent offense under chapter 9.94A RCW.

AMENDATORY SECTION (Amending Order 82-04, filed 3/4/82)

WAC 137-60-050 Furlough of person confined in state correctional institution—Conditions imposed. (1) The applicant must agree to abide by all terms and conditions of the approved furlough plan. Any violation may be cause for suspension or revocation of the furlough, and possible disciplinary action.

(2) The furlough plan will specify the residence address at which the applicant will reside during the period of furlough and will designate the names and relationships of the persons with whom he or she will live.

(3) Upon arrival at his or her destination the furloughed person will, when so required, report to a state probation and parole officer in accordance with instructions given prior to release on furlough. He or she shall report as frequently as may be required by the state probation and parole officer.

(4) The furloughed person shall abide by all local, state, and federal laws, ordinances, and statutes.

(5) With approval of either the designated state probation and parole officer, or institution staff, the furloughed person may accept temporary employment during a period of furlough. Earnings may be used to defray the costs of the furlough, including transportation, living expenses, family support, and incidental needs.

(6) Furloughed persons may not leave the state at any time while on furlough.

(7) Other limitations on movement within the state may be imposed as a condition of furlough. Unless it is part of the approved travel plan, travel outside the county to which furlough is granted must be approved in advance by the probation and parole officer in that county.

(8) A furloughed person shall not drink, ingest, possess, or be under the influence of intoxicating beverages or nonprescribed drugs. All public taverns, bars, liquor stores, and cocktail lounges will be considered "off limits" to furloughed persons.

(9) A furloughed person who drives a motor vehicle must:

(a) Have a valid Washington driver's license in his or her possession(ç);

(b) If unaccompanied by the owner, have the owner's written permission in his or her possession to drive any vehicle not his or her own or his or her spouse's(ç) or state-registered domestic partner's;

(c) Have at least minimum personal injury and property damage liability coverage on the vehicle he or she is driving,

(d) Observe all traffic laws.

(10) Clothing issued for use during the furlough is to be returned to the institution at the completion of the furlough.

(11) Other conditions of furlough specific to the individual may be imposed in writing, prior to the inception of the furlough.

(12) All conditions of furlough, general and specific, shall be listed on the furlough order, and shall be discussed with the inmate by his or her counselor before he or she leaves the institution. The furloughed person shall carry a copy of the furlough order and furlough identification card, with him or her at all times while on furlough. The furlough identification card will be issued to the inmate prior to departure from the institution, and returned at the end of the furlough.

(13) Willful failure to return from a furlough at the time specified in the furlough order constitutes an escape from confinement which is a violation of criminal law.

WSR 10-02-011

NOTICE OF PUBLIC MEETINGS

BOARD OF TAX APPEALS

[Filed December 28, 2009, 10:19 a.m.]

The regular monthly public meeting of the board of tax appeals (board), scheduled for 9:30 a.m., Friday, January 8, 2010, has been cancelled. It is rescheduled for February 12, 2010.

WSR 10-02-012

NOTICE OF PUBLIC MEETINGS

CONSERVATION COMMISSION

[Filed December 28, 2009, 10:19 a.m.]

Per WAC 135-04-020, the Washington state conservation commission shall hold regular bimonthly meetings on the third Thursday of the month at various locations in the state of Washington. The regular business conservation commission meetings are held on the third Thursday of every other month with the exception of the November/December meeting.

The commission meeting schedule for 2010 was adopted by the conservation commission at its September 9, 2009, meeting held in North Bonneville, Washington. Please note that the dates are set and the times listed below are estimated and may vary. Every effort will be made, however, to adhere to the proposed timelines. Please check our web site for any changes or additions that may affect this schedule at www.scc.wa.gov.

If you are a person with a disability and need special accommodations, please contact the conservation commission at (360) 407-6200.

January 20, 2010 Special Meeting	10:30 [a.m.] - 4:30 p.m. Work Session 6 - 8 p.m. Interaction Dinner	
January 21, 2010 Regular Meeting	8:30 a.m. - 4:30 p.m. WSCC Business Meeting	Lacey Department of Ecology ROA 34 and 35 300 Desmond Drive S.E. Lacey, WA

March 17, 2010 Special Meeting	1 - 5 p.m. Field Tour 6 - 8 p.m. Interaction Dinner	Coordinated by: Larry Brewer Franklin Conservation District 1620 Road 44 North Pasco, WA
March 18, 2010 Regular Meeting	8:30 a.m. - 4:30 p.m. WSCC Business Meeting	Pasco Red Lion Hotel 2525 North 20th Avenue Pasco, WA 99301
May 18, 2010 Special Meeting	1 - 5 p.m. Field Tour 6 - 8 p.m. Interaction Dinner	Coordinated by Larry Brewer Palouse-Rock Lake Conservation District Pine Creek Conservation District Palouse Conservation District Whitman Conservation District
May 19, 2010 Planning Meeting	9:00 a.m. - 4:30 p.m. WSCC Planning Meeting	Location Holiday Inn Express 1190 S.E. Bishop Boulevard Pullman, WA 99163
May 20, 2010 Regular Meeting	8:30 a.m. - 4:30 p.m. WSCC Business Meeting	Location Holiday Inn Express 1190 S.E. Bishop Boulevard Pullman, WA 99163
July 14, 2010 Special Meeting	1 - 5 p.m. Field Tour 6 - 8 p.m. Interaction Dinner	Coordinated by Eric Kopp Lincoln Conservation District 1310 Morgan Street Davenport, WA
July 15, 2010 Regular Meeting	8:30 a.m. - 4:30 p.m. WSCC Business Meeting	Location Ramada - Spokane International Airport P.O. Box 19230 Spokane, WA 99219
September 15, 2010 Special Meeting	1 - 5 p.m. Field Tour 6 - 8 p.m. Interaction Dinner	Coordinated by Butch Ogden Pacific Conservation District 1216 Robert Bush Drive South Bend, WA
September 16, 2010 Regular Meeting	8:30 a.m. - 4:30 p.m. WSCC Business Meeting	Location TBD
December 2, 2010 Regular Meeting	10:00 [a.m.] - 3:00 p.m. WSCC Business Meeting	Location Suncadia Resort 3600 Suncadia Trail Cle Elum, WA 98922

September 30, 2010
December 9, 2010

Meetings are held from 9:30 - 11:30 at the Administrative Office of the Courts, SeaTac Office Center-South Tower, 18000 International Boulevard, Suite 1106, SeaTac, WA 98188-4251.

Contact OPD at (360) 586-3164 ext. 100 if you have questions regarding the above meeting schedule.

WSR 10-02-018

**NOTICE OF PUBLIC MEETINGS
TRANSPORTATION COMMISSION**

[Filed December 29, 2009, 8:41 a.m.]

Following is the amended transportation commission's 2010 meeting schedule. The July 20 and 21, 2010, meeting has been rescheduled to Tuesday and Wednesday, July 13 and 14, 2010.

The meetings will be held between 9:00 a.m. and 5:00 p.m. in Room 1D2 of the Transportation Building, 310 Maple Park Drive, Olympia, WA.

2010 Calendar

January 20-21 Wednesday/Thursday	Commission meeting Olympia
February 16-17 Tuesday/Wednesday	Commission meeting Olympia
March 16-17 Tuesday/Wednesday	Commission meeting Olympia
April 20 Tuesday	Local meeting Prosser
May 18 Tuesday	Joint commission meeting with MPO/RTPO/WSDOT coordinating council (tentative)
May 19 Wednesday	Commission meeting Olympia
June 22 Tuesday	Local meeting Aberdeen
June 23 Wednesday	Commission meeting Olympia WSF briefing on ferry fare proposal
July 13-14 Tuesday/Wednesday	Commission meeting Olympia
September 21 Tuesday	Local meeting Omak/Okanogan
October 19-20 Tuesday/Wednesday	Commission meeting Olympia
November 16 Tuesday	Local meeting Bellevue

WSR 10-02-013

**NOTICE OF PUBLIC MEETINGS
OFFICE OF
PUBLIC DEFENSE**

[Filed December 28, 2009, 10:44 a.m.]

Washington state office of public defense (OPD) will hold its quarterly advisory committee meetings as follows:

March 24, 2010
June 10, 2010

November 17 Commission meeting
 Wednesday Seattle
 adopt/fine tune WTP
 December 14-15 Commission meeting
 Tuesday/Wednesday Olympia

phone at (360) 586-3065, fax (360) 586-3067 or by contacting Zee Hill at Zee.Hill@dahp.wa.gov.

WSR 10-02-019
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF ARCHAEOLOGY
AND HISTORIC PRESERVATION
 (Advisory Council on Historic Preservation)
 [Filed December 29, 2009, 8:41 a.m.]

In accordance with RCW 42.30.075, this letter is to notify the Washington state register for publication of the 2010 meetings of the Washington state advisory council on historic preservation (ACHP). In 2010, the ACHP will meet on the following dates and communities:

February 24-25 Normandy Park
 May 5-6 Walla Walla
 October 21-22 Harrington

The above meeting dates and locations are subject to change. For updated information on meeting dates and locations, we advise visiting the department of archaeology and historic preservation (DAHP) web site at www.dahp.wa.gov or contact Michael Houser of the Washington state DAHP at (360) 586-3076 or Michael.Houser@dahp.wa.gov.

If anyone wishes to request disability accommodations, notice should be given to the DAHP at least ten days in advance of the meeting in question. Notice may be given by phone at (360) 586-3065, fax (360) 586-3067 or by contacting Zee Hill at Zee.Hill@dahp.wa.gov.

WSR 10-02-020
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF ARCHAEOLOGY
AND HISTORIC PRESERVATION
 (Heritage Barn Advisory Committee)
 [Filed December 29, 2009, 8:41 a.m.]

In accordance with RCW 42.30.075, this letter is to notify the Washington state register for publication of the next meeting of the Washington state heritage barn advisory committee on Wednesday, January 27, 2010, at 10:00 a.m. in the department of archaeology and historic preservation (DAHP) conference room. The conference room is located at 1063 Capitol Way South, Suite 106, Olympia. Meeting date, time, and location of the heritage barn advisory committee may be subject to change. For updated information about the meeting, contact Greg Griffith of the Washington state DAHP at (360) 586-3073 or Greg.Griffith@dahp.wa.gov.

If anyone wishes to request disability accommodations, notice should be given to the DAHP at least ten days in advance of the meeting in question. Notice may be given by

WSR 10-02-030

AGENDA

DEPARTMENT OF COMMERCE

[Filed December 29, 2009, 3:48 p.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 Cheryl Smith if you have questions, cheryl.smith@commerce.wa.gov or (360) 725-2808.

Semi-Annual Rule-Making Agenda
 January 1 through June 30, 2010

WAC Citation	Subject Matter/ Purpose of Rule	Current Activity/Approx. Filing Date
365-190	Amendments to the minimum guidelines to classify agriculture, forest, mineral lands and critical areas.	CR-102 filed July 22, 2009, with adoption expected in January 2010.
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 January 2010.
365-196	Creating a new chapter, procedural criteria for adopting comprehensive plans and development regulations, that codifies all of the WACs previously in chapter 365-195 WAC (except best available science part nine). 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 January 2010.

WAC Citation	Subject Matter/ Purpose of Rule	Current Activity/Approx. Filing Date
New rule within Title 365 WAC	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. Adoption expected April 2010.
365-198	Providing an alternative to an interlocal agreement to cities and counties participating in the regional transfer of development rights (TDR) program for central Puget Sound. The rule would provide terms and conditions that they may adopt by reference in lieu of an interlocal agreement to transfer development rights. RCW authorization: RCW 43.362.050.	CR-101 filed November 24, 2009. CR-102 expected in April 2010, with adoption in May 2010.
365-135	Creating new guidelines for implementation of three federal bond programs: Qualified energy conservation bonds, recovery zone economic development bonds, and recovery zone facility bonds. RCW authorization: RCW 39.86.160 and 39.86.180.	CR-103E filed November 24, 2009. Public hearing for permanent rule scheduled for January 6, 2010. Permanent rule adoption expected in February 2010.
365-120-080	Correcting inadvertent typographical errors related to income eligibility for operating assistance for transitional housing.	CR-105 filed November 2, 2009. Expedited rule adoption expected in February 2010.

WSR 10-02-033

**NOTICE OF PUBLIC MEETINGS
BOARD OF ACCOUNTANCY**

[Filed December 29, 2009, 5:06 p.m.]

2010 BOARD MEETING SCHEDULE

Please publish in the state register as required by RCW 42.30.075 the following schedule of regular meetings the board plans to hold during 2010:

Date	Day	Meeting	Location
January 28, 2010	Thursday	Regular	SeaTac, Washington
April 29, 2010	Thursday	Regular	SeaTac, Washington
July 29, 2010	Thursday	Regular	SeaTac, Washington
October 29, 2010	Friday	Annual	SeaTac, Washington

The exact location of each meeting has not been determined. For persons who wish to attend, please visit the board's web site at www.cpaboard.wa.gov or contact Cheryl Sexton at the board office (360) 664-9194 or fax (360) 664-9190 for the meeting location. Meetings usually begin at 9:00 a.m. The board of accountancy schedules all public meetings at barrier free sites. Persons who need special assistance, such as enlarged type materials, please contact Cheryl Sexton at the board office, (TDD) 800-833-6384, voice (360) 664-9194, or fax (360) 664-9190.

Please be advised the Washington state board of accountancy is required to comply with the Public Disclosure Act, chapter 42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. As such, the information you submit to the board, including personal information, may ultimately be subject to disclosure as a public record.

WSR 10-02-036

**INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE**

[Filed December 30, 2009, 9:07 a.m.]

INTERPRETIVE STATEMENT ISSUED

ETA 3160.2009

Packers of Horticultural Products and the Taxability of Storage Income

Many packers of horticultural products are organized as agricultural cooperative marketing associations that pack, market, and sell horticultural products for the growers. These packers typically perform a variety of activities for growers, including the storage of the horticultural products in cold storage. This ETA discusses how the business and occupation (B&O) tax deduction available to persons receiving, washing, sorting, and packing horticultural products applies in these cases.

A copy of this document is available via the internet at <http://dor.wa.gov/content/FindALawOrRule/>.

Alan R. Lynn
Rules Coordinator

WSR 10-02-046
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed December 30, 2009, 2:17 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 (DSHS).

Health and Recovery Services Administration
Division of Rates and Finance

Document Title: State Plan Amendment 10-001.

Subject: Hospital reimbursement rates.

Effective Date: February 1, 2010.

Document Description: Upon approval of the legislature, DSHS intends to increase reimbursement rates for inpatient and outpatient hospital services. The increases will vary by provider and service category, and will apply through the 2012-2013 biennium. A schedule of specific increases is available for inspection by request to DSHS.

To receive a copy of the interpretive or policy statements, contact Sandy Stith, Office of Financial Operations, P.O. Box 45500, phone (360) 725-1949, TDD/TTY 1-800-848-5429, fax (360) 753-9152, e-mail Sandy.Stith@dshs.wa.gov.

WSR 10-02-047

NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY

[Filed December 30, 2009, 3:43 p.m.]

Pursuant to RCW 42.30.075, this letter provides notice of the 2010 meeting schedule of the WSU board of regents. This notice contains updates to and supersedes an earlier-filed notice. The dates and locations of the 2010 meetings are:

Thursday and Friday	January 28-29	Vancouver
Thursday and Friday	March 25-26	Tri-Cities
Thursday and Friday	May 6-7	Pullman
Tuesday and Wednesday	May 25-26	Seattle
Thursday and Friday	September 2-3	Pullman
Thursday and Friday	October 7-8	Spokane
Thursday and Friday	November 18-19	Pullman
Saturday	December 4	Pullman

Except for the May 25-26 and the December 4 meetings¹, Thursday's meetings will begin with lunch or a series of committee meetings, followed by dinner. Friday's meetings will begin with breakfast, followed by the board of regents meeting. All meetings may be attended by some or all of the regents.

¹The May 25-26 and December 4 meetings will be at 8:00 a.m., or at such later time as may be announced on the regents' web page at www.regents.wsu.edu.

Thursday's meetings will begin at 10:00 a.m. and Friday's meetings will begin at 7:30 a.m., or at such later time as

may be announced on the regents' web page at www.regents.wsu.edu. Such announcements will occur the week prior to the dates listed above, along with room locations for all meetings.

Inquires [Inquiries] about this schedule or board of regents meetings, in general, may be directed to the WSU board of regents office at (509) 335-4200.

WSR 10-02-048
AGENDA
DEPARTMENT OF AGRICULTURE

[Filed December 30, 2009, 4:24 p.m.]

Following is the department of agriculture's semi-annual rules development agenda for the period of January 1 through June 30, 2010. This document is being sent to you in compliance with RCW 34.05.314.

The department may undertake additional rule-making activity as conditions warrant. If you have any questions, please call Teresa Norman at (360) 902-2043 or e-mail at tnorman@agr.wa.gov.

Semi-Annual Rules Agenda
January 1 - June 30, 2010
P.O. Box 42560
Olympia, WA 98504-2560

WAC Number	Rule Title	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101	CR-102	CR-103	
Administrative Services						
16-08	Practice and procedure.	Dannie McQueen Administrative Regulations Program Manager Phone (360) 902-1809	TBD	TBD	TBD	Updating references to WAC and addressing the use and procedures for brief adjudicative proceedings.
Animal Services Division						
16-30	Restricted feed lots and restricted holding facilities.	Jodi Jones Administrative Assistant Phone (360) 902-1889	January 2010	TBD	TBD	Clarifying requirements for restricted holding facilities.
16-54	Animal importation.	Jodi Jones Administrative Assistant Phone (360) 902-1889	December 2009	February 2010	April 2010	Import requirements.
16-70	Animal diseases—Reporting.	Jodi Jones Administrative Assistant Phone (360) 902-1889	December 2009	February 2010	April 2010	Reportable diseases.
16-71	Equine infectious anemia.	Jodi Jones Administrative Assistant Phone (360) 902-1889	December 2009	February 2010	April 2010	Equine diseases.
16-80	Pseudorabies in swine.	Jodi Jones Administrative Assistant Phone (360) 902-1889	December 2009	February 2010	April 2010	Swine diseases.
16-92	Notices of infraction.	Jodi Jones Administrative Assistant Phone (360) 902-1889	December 2009	February 2010	April 2010	Penalty schedule.
16-604	Public livestock markets.	Jodi Jones Administrative Assistant Phone (360) 902-1889	December 2009	February 2010	April 2010	Health requirements at public livestock markets.
Commodity Inspection Division						
16-302-070	When is seed a field inspected by the certifying agency?	Victor Shaul Seed Program Operations Manager Phone (509) 225-2630	December 2009	January 2010	March 2010	Units of certification for seed fields.
16-302-080	What will cause a seed field to be ineligible for seed certification?	Victor Shaul Seed Program Operations Manager Phone (509) 225-2630	December 2009	January 2010	March 2010	When a seed field is to be rejected in regards to prohibited noxious weeds.
16-302-560	Miscellaneous field and seed inspection standards for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, small grain seed certification.	Victor Shaul Seed Program Operations Manager Phone (509) 225-2630	December 2009	January 2010	March 2010	When a seed field is to be rejected in regards to prohibited noxious weeds and verification of traits as criteria of seed certification.

WAC Number	Rule Title	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101	CR-102	CR-103	
16-302-170	Other considerations in applying the standards for certification.	Victor Shaul Seed Program Operations Manager Phone (509) 225-2630	December 2009	January 2010	March 2010	Verification of traits as criteria of seed certification.
16-302-685	Small grains standards for seed certification.	Victor Shaul Seed Program Operations Manager Phone (509) 225-2630	December 2009	January 2010	March 2010	Verification of traits as criteria of seed certification.
Food Safety and Consumer Services Division						
16-101X	Degrades, license suspensions and revocations for dairy producers and processors.	Claudia Coles Food Safety Program Manager Phone (360) 902-1905	TBD	TBD	TBD	Procedures for dairy degrades.
16-167	Intrastate commerce in foods.	Claudia Coles Food Safety Program Manager Phone (360) 902-1905	TBD	TBD	TBD	Updating references to the code of federal regulation.
New WAC		Nora Mena Livestock Nutrient Management Program Manager Phone (360) 902-2894	TBD	TBD	TBD	Livestock nutrient management program enforcement and penalty matrix.
16-157	Organic food standards and certification.	Les Eklund Acting Program Manager Phone (360) 902-1891	TBD	TBD	TBD	Transitional certification.
16-160	Registration of materials for organic food production.	Les Eklund Acting Program Manager Phone (360) 902-1891	TBD	TBD	TBD	Procedures for material registration.
Pesticide Management Division						
16-230	Use of chemicals and chemically treated materials in certain counties.	Cliff Weed Compliance Program Program Manager Phone (360) 902-2036	May 2009	February 2010	March 2010	Modify the nozzle requirements for air and ground applications. Definition change for "commercial vineyard."
16-231	Restricted use herbicides.	Cliff Weed Compliance Program Program Manager Phone (360) 902-2036	May 2009	February 2010	March 2010	Modify the nozzle requirements for air and ground applications. Definition change for "commercial vineyard."
16-232	Restricted use herbicides in certain counties.	Cliff Weed Compliance Program Program Manager Phone (360) 902-2036	May 2009	February 2010	March 2010	Modify the nozzle requirements for air and ground applications. Definition change for "commercial vineyard."
16-228	Wood destroying organisms.	Cliff Weed Compliance Program Program Manager Phone (360) 902-2036	May 2009	February 2010	March 2010	Modify wood destroying reporting requirements.
Plant Protection Division						
16-462	Grape planting stock—Registration and certification.	Tom Wessels Plant Services Program Manager Phone (360) 902-1984	January 2010	March 2010	May 2010	The department is considering revising the field eligibility provisions for participation in the grape planting stock program. In addition, the department may amend the existing language to

WAC Number	Rule Title	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101	CR-102	CR-103	
						increase its clarity and readability and update the language to conform to current industry and regulatory standards.
16-470	Quarantine—Agricultural pests.	Tom Wessels Plant Services Program Manager Phone (360) 902-1984	April 2010	June 2010	July 2010	The department is considering initiating a quarantine that would place restrictions on the importation of hazelnut plants into Washington state in response to eastern filbert blight and at the request of the hazelnut industry.

Teresa Norman
Rules Coordinator

WSR 10-02-049
NOTICE OF PUBLIC MEETINGS
HOME CARE

QUALITY AUTHORITY

[Filed December 30, 2009, 4:41 p.m.]

2010 BOARD MEETING SCHEDULE
(Third Tuesday of even months)
10:00 a.m. - 3:00 p.m.

- February 16, 2010
- April 20, 2010
- June 15, 2010
- August 17, 2010
- October 19, 2010
- December 21, 2010

All meetings are held in the home care quality authority board room, Sixth Avenue Center, 4317 6th Avenue S.E., Suite 101, Lacey, WA 98506, phone (360) 493-9350, toll-free 1-866-580-4272.

WSR 10-02-050
NOTICE OF PUBLIC MEETINGS
MARINE EMPLOYEES' COMMISSION

[Filed December 31, 2009, 8:51 a.m.]

There will be a change in the previously adopted 2010 meeting schedule for the marine employees' commission.

The January 29, 2010, meeting has now been rescheduled to January 22, 2010. The meeting will be held at 10:00 a.m. in the 2nd Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way South, Olympia, WA.

For further information, please call (360) 586-6354 or send an e-mail to mec@olywa.net.

WSR 10-02-051
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES

(Natural Heritage Advisory Council)

[Filed December 31, 2009, 8:52 a.m.]

The natural heritage advisory council will meet on the following dates:

- January 27, 2010 9:30 a.m. to 4:30 p.m.
Office Building 2
1115 Washington Street S.E.
Lookout Conference Room
- March 10, 2010 9:30 a.m. to 4:30 p.m.
Natural Resources Building
1111 Washington Street S.E.
Room 172
- June 9 - 11, 2010 Field trip - to be determined
- October 20, 2010 9:30 a.m. to 4:30 p.m.
Office Building 2
1115 Washington Street S.E.
Room SL04

Regular council business generally includes consideration of proposals for new natural areas, additions to existing natural areas, and management activities within existing natural areas.

For further information contact the Department of Natural Resources, Natural Heritage Program, 1111 Washington Street S.E., Olympia, WA 98504-7014, (360) 902-1916.

**WSR 10-02-052
NOTICE OF PUBLIC MEETINGS
ECONOMIC DEVELOPMENT
FINANCE AUTHORITY**

[Filed December 31, 2009, 8:55 a.m.]

The Washington economic development finance authority (WEDFA) is an independent agency (#106) within the executive branch of state government. The authority has five regular board meetings each year. The authority's meetings are open to the public, and access for persons with disabilities is provided at all meetings of the authority. We would like to notify you that the 2010 regular meetings of the board will be held at the locations, dates and times listed below:

February 12, 2010 10:00 a.m. Regular Meeting	WEDFA Offices Board Room, 28th Floor 1000 2nd Avenue Seattle, WA 98104
April 30, 2010 10:00 a.m. Regular Meeting	Cave B Inn at SageCliffe 344 Silica Road N.W. Quincy, WA 98848
July 16, 2010 10:00 a.m. Regular Meeting	WEDFA Offices Board Room, 28th Floor 1000 2nd Avenue Seattle, WA 98104
October 1, 2010 10:00 a.m. Regular Meeting	Davenport Hotel 10 South Post Street Spokane, WA 99201
December 10, 2010 10:00 a.m. Regular Meeting	WEDFA Offices Elliott Bay Room, 28th Floor 1000 2nd Avenue Seattle, WA 98104

Please call Rodney Wendt at (206) 587-5634 if you have any questions.

**WSR 10-02-053
DEPARTMENT OF ECOLOGY**

[Filed December 31, 2009, 10:45 a.m.]

Notice of Intent to Develop a New General Permit for Biosolids Management

The department of ecology (ecology) intends to develop a new *general permit for biosolids management* (biosolids general permit) because the existing biosolids general permit is expiring. The new biosolids general permit will apply to public and private entities that treat, store, transfer, apply, or dispose of biosolids in the state; there are currently about

three hundred seventy-five applicable facilities. This permit is the primary regulatory mechanism for approving the final use or disposal of biosolids in the state.

Ecology will use the standards for biosolids management adopted in chapter 173-308 WAC and the accepted best management practices to assure that conditions in the biosolids general permit protect human health and the environment. Ecology has previously issued two biosolids general permits (1998 and 2005).

A list of facilities that have expressed their intent to be covered under a new biosolids general permit is available from the person identified below or on-line at <http://www.ecy.wa.gov/programs/swfa/biosolids/forms.html>.

Ecology requests your response to the following questions:

(a) Should ecology develop a biosolids general permit to cover all facilities that use or dispose of biosolids? (Note: Each facility would still be required to individually apply for and obtain coverage under the biosolids general permit.)

or

(b) Should ecology require each facility that uses or disposes of biosolids to obtain an individual permit?

By February 20, 2010, please send your response, comments, questions, or requests to Daniel Thompson, Department of Ecology, Waste 2 Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, Daniel.Thompson@ecy.wa.gov.

**WSR 10-02-054
NOTICE OF PUBLIC MEETINGS
TREE FRUIT RESEARCH COMMISSION**

[Filed December 31, 2009, 11:34 a.m.]

2010 Board Meeting Calendar

Date	Time	Location
February 19	Following Pear Review (Approx. 1 p.m.)	Red Lion Hotel Yakima Center Yakima, Washington
March 11	3:00 p.m.	Wenatchee
April 8	Following Spring Technology Review (Approx. 2 p.m.)	Ellensburg, Washington
May 6	3:00 p.m.	Teleconference
June 3	3:00 p.m.	Teleconference
August 12	9:00 a.m.	TBD
September 2	Following Fall Technology Review (Approx. 2 p.m.)	Ellensburg
October 7	3:00 p.m.	Wenatchee
November 12	Following Cherry Research Review	Wenatchee
December 12-14	Winter Retreat	TBD

WSR 10-02-059
INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE
[Filed December 31, 2009, 3:28 p.m.]

INTERPRETIVE STATEMENTS ISSUED

Effective January 1, 2010, reseller permits will replace resale certificates as the means to substantiate wholesale purchases, chapter 563, Laws of 2009.

The department has updated the following ETAs for the sole purpose of recognizing that resale certificates are no longer valid after December 31, 2009, and that reseller permits should be used instead.

- ETA 3005r1.2009 Intervening Use
- ETA 3036r1.2009 Extermination and Pest Control Services
- ETA 3040r1.2009 Chemicals Used in Processing by the Pulp Industry
- ETA 3052r1.2009 Retail Sales Tax: Road Construction
- ETA 3068r1.2009 Taxability of Highway Construction Contract Projects Administered by Washington State Department of Transportation
- ETA 3084r1.2009 Retail Sales Tax - Charges for Towing Damaged or Inoperable Vehicles for Repair
- ETA 3093r1.2009 Prepaid Telephone Debit Cards
- ETA 3096r1.2009 Fund-raising Activities of Public Schools, Associated Student Body Groups and Parent Teacher Associations
- ETA 3097r1.2009 Deferred Sales Tax
- ETA 3100r1.2009 Staffing Companies
- ETA 3128r1.2009 Repair Work on Goods Damaged in Transit Ordered by the Shipper, the Carrier, or the Owner
- ETA 3153r1.2009 Road Construction - Contractors Applying Sand, Gravel and Rock Retail Sales Tax - Use Tax

Copies of these documents are available via the internet at <http://dor.wa.gov/content/FindALawOrRule/>.

Alan R. Lynn
Rules Coordinator

WSR 10-02-061
NOTICE OF PUBLIC MEETINGS
PUGET SOUND
SALMON COMMISSION
[Filed January 4, 2010, 8:54 a.m.]

Following is a list of the Puget Sound salmon commission meetings for 2010:

- Saturday, January 23 Downtown Everett Holiday Inn
1:00 p.m. Everett
- Saturday, April 17 Downtown Everett Holiday Inn
9 a.m. Everett

Saturday, October 2 Fishermen's Terminal
9 a.m. Nordby Conference Center
Seattle

For more information, contact the Puget Sound salmon commission at (206) 595-8734.

WSR 10-02-062
NOTICE OF PUBLIC MEETINGS
APPLE COMMISSION
[Filed January 4, 2010, 8:55 a.m.]

Please publish the regular meetings of the Washington apple commission on [in] the Washington state register as follows:

- March 18, 2010 W.L. Hansen Building 9:00 a.m.
Yakima, Washington
- July 22, 2010 Washington Apple Commission 9:00 a.m.
Building
Wenatchee, Washington
- October 7, 2010 via teleconference 9:00 a.m.
- December 9, 2010 W. L. Hansen Building 9:00 a.m.
Yakima, Washington

WSR 10-02-064
DEPARTMENT OF AGRICULTURE
[Filed January 4, 2010, 8:57 a.m.]

2009 Petitions for Rule-Making

The following information is being sent to you in order to implement RCW 1.08.112 [(1)](g). The Washington state department of agriculture received four petitions for rule making during 2009.

- 1 April 3 Fryer commission
- 2 April 30 Apple commission
- 3 August 20 Thurston county noxious weed control
- 4 October 12 Washington State Crop Improvement Association

Teresa Norman
Rules Coordinator

WSR 10-02-066

AGENDA

DEPARTMENT OF LICENSING

[Filed January 4, 2010, 9:57 a.m.]

Following is the rule-making agenda for the department of licensing. This agenda is sent as a requirement of RCW 34.05.314.

Feel free to contact Walt Fahrer if you need any assistance concerning this matter at 359-4015.

**RULE-MAKING AGENDA FOR RULES UNDER DEVELOPMENT
JANUARY 2010**

CR-101	CR-102	PROGRAM	SUBJECT
97-11-002		Driver responsibility	Procedural rules regarding the revocation and restoration of driving privileges of those forced to be an [a] habitual traffic offender under chapter 46.65 RCW, including rules regarding the right to a hearing.
03-17-029		Camping resorts	Fee adjustment to chapter 308-420 WAC, regulating camping resorts.
06-22-105	09-13-101	Motorcycle	Establish basic requirements governing the operation and scope of motorcycle education courses offered by commercial businesses.
07-10-016		Driver training schools	Driver training school program, professional development education, school and instructor approval.
08-07-004		Engineers	Chapter 196-26A WAC, Engineer and land surveyor fees.
08-11-045		Appraiser	Chapter 308-125 WAC.
08-11-046		Appraiser	Chapter 308-125 WAC.
08-14-031	10-02-065	Real estate	Implement sections 1-51, chapter 23, Laws of 2008.
08-14-032		Real estate	Implement section 10, chapter 110, Laws of 2008.
08-18-055		Prorate	Chapter 308-91 WAC, Reciprocity and proration.
08-18-066		Driver responsibility	WAC 308-104-160 Nonmoving violation defined.
08-18-068		Driver examining	WAC 308-104-018.
08-19-040	09-09-111	Funeral	Chapter 308-48 WAC, clarify licensing examination process.
09-03-037		Landscape architect	Chapter 308-13 WAC.
09-07-060	09-12-049	Engineering	Chapter 196-09 WAC, to differentiate the types of board meetings from regular meetings to special meetings.
09-08-075		Engineering	Chapter 196-20 WAC, part of an effort to better organize existing and future rules under the existing chapter that pertain to engineers-in-training.
09-08-077		Land surveyor	Chapter 196-21 WAC, part of an effort to better organize existing and future rules under the existing chapter that pertain to land surveyors-in-training.
09-08-005	09-12-050	Engineering	Chapter 196-25 WAC, to better define the language regarding direct supervision.
09-15-055		Dealers	Chapter 308-66 WAC.
09-19-078	09-23-080	Dealers	Chapter 308-65 WAC, to clarify language that promotes a consistent application of law.
09-20-001	09-24-034	Dealers	Chapter 308-66 WAC.
09-09-106		Home inspectors	WAC 308-408B-130.
09-21-055		Cosmetology	Chapter 308-20 WAC.
	09-23-019	Uniform commercial code	WAC 391-106 [308-391-106].
09-23-078		Driver policy, programs	Chapter 308-330 WAC.
09-24-065		Boxing, wrestling, martial arts	Chapters 36-12, 36-13, 36-14 WAC.
10-01-035		Tattoo	New rules.

CR-101	CR-102	PROGRAM	SUBJECT
10-01-075		Title and registration	WAC 308-56A-420.
	10-01-124	Master licensing	WAC 308-300-160.
10-01-136		Engineers	Chapter 196-25 WAC.
10-01-137		Engineers	Chapter 196-13 WAC.
10-01-149		Engineers	Chapter 196-26A WAC.
10-01-150		Engineers	Chapter 196-30 WAC.

Walt Fahrer
Rules Coordinator

WSR 10-02-067

AGENDA

LIQUOR CONTROL BOARD

[Filed January 4, 2010, 10:49 a.m.]

Semi-Annual Rule-Making Agenda January 1 through June 30, 2010

Following is the liquor control board'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 Karen McCall, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, phone (360) 664-1631, e-mail rules@liq.wa.gov.

WAC Chapter or Section(s)	Subject Matter	Current Activity		
		Preproposal (CR-101)	Proposal (CR-102) or Expedited (CR-105)	Permanent (CR-103)
Chapter 314-37	Rules review , liquor vendors.	WSR 09-07-105 Filed 3/18/09	WSR 09-14-138 Filed 7/1/09	WSR 09-19-002 Filed 9/2/09
Chapter 314-17	Rules review , MAST.	WSR 09-12-037 Filed 5/27/09		
Rule making may include several chapters in Title 314 WAC	Rules review , added activities, extended and outside service.	WSR 09-11-050 Filed 5/13/09		
Rule making may include several chapters in Title 314 WAC	Rules review , requirements for grocery stores, beer/wine specialty shops, and beer/wine gift delivery licensees delivering beer/wine.	WSR 09-11-051 Filed 5/13/09	WSR 09-24-115 Filed 12/2/09	
Chapter 314-05	Rules review , special occasion licenses.	Expect to file CR-101		
Chapter 314-07	Rules review , how to apply for a liquor license.	Expect to file CR-101		
Chapter 314-68	Rules review , importation of alcoholic beverages for personal or household use.	Expect to file CR-101		
Chapter 314-18	Rules review , banquet permits.	Expect to file CR-101		
Chapter 314-36	Rules review , liquor importers, public storage warehouses and importation of liquor.	Expect to file CR-101		
Chapter 314-44	Rules review , licensed agents.	Expect to file CR-101		

WAC Chapter or Section(s)	Subject Matter	Current Activity		
		Preproposal (CR-101)	Proposal (CR-102) or Expedited (CR-105)	Permanent (CR-103)
Chapter 314-45	Rules review , serving and donating of liquor by suppliers at trade conventions of licensees.	Expect to file CR-101		
Chapter 314-52	Rules review , advertising.	WSR 09-04-039 Filed 1/30/09	WSR 09-16-058 Filed 7/29/09	
314-29-015, 314-29-020, 314-29-025, 314-29-030, 314-29-035	Rules review , penalty guidelines.	WSR 09-10-094 Filed 5/6/09	WSR 09-15-112 Filed 7/15/09	WSR 09-21-050 Filed 10/14/09
314-07-120, 314-42-010, chapter 314-09	Rules review , delegation of authority.	WSR 09-12-126 Filed 6/3/09	WSR 09-16-057 Filed 7/29/09	WSR 09-21-048 Filed 10/14/09
Rules implementing legislation				
314-07-010 Definition (public institution)	Implementing SSB 6540/06 , modifies the processing of liquor licenses.	WSR 06-09-102 Filed 4/19/06		
Chapter 314-09 (new sections)	Implementing EHB 2113/07 , guidelines for interpreting the terms "pervasive pattern" and "unreasonably high number of DUI referrals" as part of the definition of chronic illegal activity included in a local government objection to a liquor license application or renewal of a liquor license.	WSR 07-17-085 Filed 8/15/07		
Create a new chapter in Title 314 WAC	Implementing SHB 1435/09 , cigarette and tobacco licensing and administration.	WSR 09-12-125 Filed 6/3/09	WSR 09-22-100 Filed 11/4/09	WSR 10-01-089 Filed 12/16/09
Rule making may include several chapters in Title 314 WAC	Implementing SSB 5367 , creates a nightclub liquor license. SSB 5834/09 , allows B/W specialty shops to sell kegs, allows retail-to-retail product transfers, allows private clubs to sell bottled wine for off-premises consumption, and changes the electronic fund transfer process. Implementing SSB 2358 , increases most retail liquor license fees.	WSR 09-12-123 Filed 6/3/09	WSR 09-22-101 Filed 11/4/09	WSR 10-01-091 Filed 12/16/09
Rule making may include several chapters in Title 314 WAC	Implementing SSB 5834/09 , changes the definition of "authorized representative," creates a winery warehouse, provides new exceptions to tied house, and modifies requirements for distributor changes. Implement EHB 2040/09 ,	WSR 09-12-124 Filed 6/3/09	WSR 09-22-102 Filed 11/4/09	WSR 10-01-090 Filed 12/16/09

WAC Chapter or Section(s)	Subject Matter	Current Activity		
		Preproposal (CR-101)	Proposal (CR-102) or Expedited (CR-105)	Permanent (CR-103)
	changes in beer and wine regulation including financial ownership or interest, money's worth, price post and hold, and minimum mark-up. SHB 1812/09 , changes label requirements on appellation of origin. SHB 1441 , process for terminating agreements between distributors and producers of malt beverages.			

WSR 10-02-071

AGENDA

UNIVERSITY OF WASHINGTON

[Filed January 4, 2010, 2:50 p.m.]

**Semi-Annual Agenda for Rules Under Development
(Per RCW 34.05.314)
January 2010**

Washington Administrative Code (WAC) rules listed as anticipated indicate a preliminary study expected to eventually lead to full rule-making activity. Additional rule-making activity not now anticipated may also be added as conditions warrant between semi-annual agendas.

1. Rule making for chapter 478-116 WAC, Parking and traffic rules of the University of Washington, Seattle, is anticipated to continue during the first half of 2010 (CR-101 was filed as WSR 09-05-014).

2. Rule making for chapter 478-140 WAC, Rules and regulations for the University of Washington governing stu-

dent education records, is anticipated to continue during the first half of 2010 (CR-101 was filed as WSR 09-17-078).

3. Rule making for chapter 478-136 WAC, Use of University of Washington facilities and WAC 478-137-030 Administrative authority, is anticipated during the first half of 2010.

4. Rule making for chapter 478-165 WAC, Cost savings in course materials, is anticipated during the first half of 2010.

5. Rule making for chapter 478-355 WAC, Small works roster, is anticipated during the first half of 2010.

6. Housekeeping amendments for several Title 478 WAC rules are anticipated during the first half of 2010.

7. Rule making for chapter 478-276 WAC, Governing access to public records, is anticipated during 2010.

For more information concerning the above rules, please contact Rebecca Goodwin Deardorff, Director of Rules Coordination, University of Washington, Box 351210, Seattle, WA 98195-1210, phone (206) 543-9219, fax (206) 685-3825, e-mail rules@uw.edu, web www.washington.edu/admin/rules/.

WSR 10-02-075

AGENDA

BUILDING CODE COUNCIL

[Filed January 5, 2010, 11:38 a.m.]

**Rules Agenda
Anticipated Rule Making in 2010**

This report details current and anticipated rule-making activities for the Washington state building code council (SBCC). If you have any questions regarding this report or SBCC rule-making activities, please contact Tim Nogler at (360) 725-2966.

This agenda is for information purposes, and the noted dates of anticipated rule-making actions are estimates. There may be additional unforeseen rule-making activities.

Subject Matter	WAC	Description	Emergency Rule	CR-101	CR-102	CR-103
Policies and procedures	51-04	Possible update of procedures for statewide code change submittals.	None anticipated	Anticipated filing in March 2010 (if necessary)	Anticipate filing in July 2010	Anticipate filing in December 2010

Subject Matter	WAC	Description	Emergency Rule	CR-101	CR-102	CR-103
Energy Code	51-11	Possible revisions/clarifications to the Washington State Energy Code.	None anticipated	Anticipated filing in March 2010 (if necessary)	Anticipate filing in July 2010	Anticipate filing in January 2011
Energy Code	51-11	Adoption of new model energy code, International Energy Conservation Code.	None anticipated	Anticipated filing in March November 2010	Anticipate filing in July 2012	Anticipate filing in December 2012
Building Code	51-50	Possible revision/clarification of building code requirements.	None anticipated	Anticipated filing in March 2010 (if necessary)	Anticipate filing in July 2010	Anticipate filing in February 2010
Residential Code	51-51	Possible revision/clarification of building code requirements pertaining to residential construction.	None anticipated	Anticipated filing in March 2010 (if necessary)	Anticipate filing in July 2010	Anticipate filed January 27, 2009, as 09-04-023
Mechanical Code	51-52	Possible revision/clarification of mechanical code requirements.	None anticipated	Anticipated filing in March 2010 (if necessary)	Anticipate filing in July 2010	Anticipate filing in December 2010
Fire Code	51-54	Possible revision/clarification on fire code requirements.	None anticipated	Anticipated filing in March 2010 (if necessary)	Anticipate filing in July 2010	Anticipate filing in December 2010
Plumbing Code	51-56	Possible revision/clarification of plumbing requirements.	None anticipated	Anticipated filing in March 2010 (if necessary)	Anticipate filing in July 2010	Anticipate filing in December 2010
Building permit surcharges and fees	365-110	Repeal and move to chapter 51-XX WAC, update references.	None	Anticipated filing in May 2010	Anticipate filing in July 2010	Anticipate filing in December 2010

Peter D. DeVries
Chair

WSR 10-02-076
NOTICE OF PUBLIC MEETINGS
PUBLIC WORKS BOARD
[Filed January 5, 2010, 11:44 a.m.]

Meeting cancelled: The public works board has cancelled the January 12, 2010, board meeting.
Please contact the public works board at (360) 725-3150 for any further information.

WSR 10-02-078
AGENDA
DEPARTMENT OF
NATURAL RESOURCES
[Filed January 5, 2010, 2:14 p.m.]

Following is the department of natural resources' 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 call (360) 902-1561, or e-mail at jamey.taylor@dnr.wa.gov if you have questions.

RULES DEVELOPMENT AGENDA
January to June 2010

WAC Chapter or Section	Purpose of Rule Being Developed or Amended
332-30-166	Update rules for open water disposal sites.
332-120-070 and 332-130-025	Update rules for survey application/permit form and corner restoration recording form.

Jamey D. Taylor
Agency Rules Coordinator

WSR 10-02-082
DEPARTMENT OF ECOLOGY
[Filed January 5, 2010, 3:22 p.m.]

PUBLIC NOTICE
Announcing the Draft Sand and Gravel General Permit for Review and Comment

Permit Issuance: The Washington state department of ecology (ecology) will release a draft sand and gravel NPDES and state waste discharge general permit (SGGP) on January 20, 2010. Ecology will accept written and oral comments on the draft permit and fact sheet until **5 p.m., February 24, 2010.**

Purpose of the Permit: The purpose of the sand and gravel general permit is to control the discharge of pollutants from sand and gravel mining operations and related facilities into waters of the state. This general permit provides coverage for discharges of process water, stormwater, and mine dewatering water associated with sand and gravel operations, rock quarries and similar mining activities, including stockpiles of mined materials, concrete batch operations, and hot mix asphalt operations. The permit authorizes wastewater discharges to waters of the state of Washington subject to the permit conditions.

Copies of the Draft Permit: You may download a copy of the permit and fact sheet at <http://www.ecy.wa.gov/programs/wq/sand/index.html>; or you may request a copy of the permit or fact sheet from Julie Robertson at (360) 407-6575 or by e-mail at julie.robertson@ecy.wa.gov.

Ecology Contact: Gary Bailey, Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6433, fax (360) 407-6426, e-mail gary.bailey@ecy.wa.gov.

Submitting Written and Oral Comments: Ecology will accept written and oral comments on the draft permit and fact sheet until **5 p.m., February 24, 2010**. Ecology prefers comments to be submitted by e-mail. E-mailed comments must contain the commenters name and postal address. Comments should reference the specific permit and specific text when possible.

Submit written comments to Gary Bailey, Sand and Gravel General Permit Comments, Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504.

Submit comments by e-mail to gary.bailey@ecy.wa.gov.

Written comments must be postmarked no later than **5 p.m., February 24, 2010**. You must send e-mail comments before **5 p.m., February 24, 2010**. You may provide oral testimony at the public hearing.

Hearing and Workshop: The public hearing and workshop on the permit is scheduled to be held in Lacey, Washington. At the workshop ecology will explain the draft permit and answer questions. A hearing will immediately follow the workshop. The hearing will provide the opportunity for formal oral testimony and comments on the proposed permit.

Workshop and Hearing: February 22, 2010, at 1 p.m., at the Lacey Timberland Regional Library, 500 College Street S.E., Lacey, WA 98503.

Issuing the Permits: After ecology receives and considers all public comments, it will issue the final permit. If public comments cause a substantial change in the permit conditions from the original permit, another public notice of draft and comment period will occur. Ecology expects to issue the permit in the summer of 2010.

WSR 10-02-083

NOTICE OF PUBLIC MEETINGS DEPARTMENT OF LICENSING

(Real Estate Appraiser Commission)

[Filed January 5, 2010, 3:27 p.m.]

The real estate appraiser commission meetings will meet on a regular basis per WAC 308-125-225. Regular meetings are scheduled in February, May, August and November on the third Friday.

Following is the schedule for the year 2010:

- | | |
|--------------------------|--|
| February 19, 2010 | Renton City Hall
7th Floor Council Chambers
1055 South Grady Way
Renton, WA 98057 |
| May 21, 2010 | Labor and Industries
7273 Linderson Way S.E.
Rooms S 17 and 18
Tumwater, WA 98501 |
| August 20, 2010 | Howard Johnson Summit Inn
603 SR 906
Summit Room 1
Snoqualmie Pass, WA |
| November 19, 2010 | Department of Labor and Industries
7273 Linderson Way S.E.
Rooms S 17 and 18
Tumwater, WA |

WSR 10-02-085

BUILDING CODE COUNCIL

[Filed January 5, 2010, 3:47 p.m.]

Washington State Energy Code, Chapter 51-11 WAC, and Joint Administrative Rules Review Committee Notice of Objection

In accordance with RCW 34.05.630(3), the Washington state building code council (SBCC) will be holding a special hearing on the joint administrative rules review committee (JARRC) finding regarding the Washington State Energy Code, chapter 51-11 WAC, as filed under WSR 09-17-136 and amended and adopted by the council on November 20, 2009. The hearing will be held on **Friday, February 12, 2010**, beginning at 10 a.m., at the Seattle Area Pipe Trades Education Center, 595 Monster Road S.W., Renton, WA.

Following is the letter from JARRC for their finding on the proposed rule. See also WSR 10-01-065 for JARRC's notice of objection to the proposed Washington State Energy Code changes.

If you have questions or need additional information, please contact council staff at (360) 725-2966 or via e-mail at sbcc@cted.wa.gov.

Peter D. DeVries
Chair

Joint Administrative Rules Review Committee
PO Box 40600
Olympia, WA 98504-0600

December 9, 2009

The Honorable Peter DeVries, Council Chair
Mr. Jon Napier, Council Vice-Chair
Washington State Building Code Council
128 - 10th Avenue Southwest
Olympia, Washington 98504-2525

Dear Chair DeVries and Vice-Chair Napier:

The Joint Administrative Rules Review Committee (Committee) respectfully acknowledges the significant work performed by the many agencies and stakeholders in an effort to achieve greater energy efficiencies, including the State Building Code Council (Council) and the Council's Technical Advisory Groups.

As you know, the Committee expressed concerns regarding the sufficiency of the economic impact analysis performed in regards to the Council's 2009 proposed changes to the State Energy Code (Chapter 51-11 of the Washington Administrative Code). The purpose of this letter is to advise you of the outcome of the Committee's December 2 meeting, at which the Committee considered the adequacy of the Council's response to the Committee's request for additional economic impact and cost-benefit analyses.

As you are aware, by way of letter dated October 14, the Committee requested that the Council amend the Small Business Economic Impact Statement (SBEIS) to comply with all requirements of the Regulatory Fairness Act, Chapter 19.85 RCW, and to support it with a detailed and rigorous costs analysis of the cumulative impact of all the changes. The Committee specifically requested that the Council provide an estimate of how many jobs will be lost or created as a result of compliance with all the proposed rules, as required by RCW 19.85.040 (2)(d), and that the Council solicit industry and supplier sources in reaching its cost estimates. In addition, the Committee exercised its statutory authority to direct the Council to perform a cost-benefit analysis pursuant to RCW 34.05.328. Finally, the Committee asked that this additional analysis be provided to the Committee prior to adoption of the rules by the Council.

While the Committee is appreciative of the analysis and information provided to the Committee in response to its request, the Committee unanimously found on December 2 that the Council's response was inadequate and failed to comply with all requirements of the law. Support for these findings include the following facts: the SBEIS was not amended to reflect specific consideration of the cumulative impacts of all the proposed changes, nor was any analysis performed to estimate job loss or creation (as specifically required by statute) or to provide the requested cost-benefit analysis. The Committee feels the Council and the Legislature need this information to fully evaluate the value, impacts, and consequences of the proposed codes, with due diligence to their respective fiduciary responsibilities, to create the best informed public policy.

Based on the Committee's findings at the December 2 hearing, the Committee unanimously agreed to take several actions, including recommending suspension of adoption and implementation of the rules; causing a statement to be published in the State Register and Washington Administrative Code; and introducing legislation in the 2010 legislative session that would delay implementation of these proposed changes until the Legislature has received the analysis we requested and had an opportunity to determine whether the additional analysis is sufficient. (See attached, copy of adopted motion).

The Committee is aware that the Council's standard practice is to consider updates to the Energy Code every three years. However, it seems that the 2009 proposed changes are unusually comprehensive and complex. While the Committee believes that this work is extremely important, and that the Council has worked diligently, the Committee believes the Council did not fully develop and consider the economic impact and cost-benefits of these significant changes to our Energy Code.

Respectfully,
Bob Hasegawa
Chair
Joel Kretz
Vice-Chair

cc: Mr. Tim Nogler, Managing Director, SBCC
Ms. Sandra Adix, SBCC AAG
Representative Ormsby
Representative Dammeier
Senator Tom
Senator Holmquist
Representative Kelley
Representative Kristiansen
Senator McCaslin
Senator Kastama
Senator Fraser
Representative Crouse
Representative Hudgins
Senator Keiser
Representative McCoy
Senator Rockefeller
Representative Rolfes
Senator Kilmer
Speaker Chopp
Majority Leader Brown
Mr. Keith Phillips
Ms. Diane Smith

Attachment: JARRC Energy Code motion adopted Dec. 2, 2009

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Joint Administrative Rules Review Committee and appear in the Register pursuant to the requirements of RCW 34.08.040.

Joint Administrative Rules Review Committee (JARRC)
Motion, State Energy Codes Work Session, December 2, 2009

As adopted by the Committee on: 12/2/2009

Motion passed: 5-0-2

Motion

(Vice-Chair): I move that the Joint Administrative Rules Review Committee find that the State Building Code Council's adoption of proposed changes and amendments to the State Energy Code, Chapter 51-11 of the Washington Administrative Code, on November 20, 2009 was not done in accordance with all applicable provisions of law and that the Council failed to adequately respond to this Committee's October 14, 2009 request for additional information because:

1. The Council failed to amend the small business economic impact statement and provide the amended impact statement to this Committee prior to adoption of the rules in order to comply with all the requirements of RCW 19.85.030, and it failed to include in the amended impact statement an estimate of the number of jobs that will be created or lost and to support the amended statement with a detailed and rigorous cost analysis of the cumulative impact of all the changes; and
2. The Council failed to submit to this Committee a cost-benefit analysis prepared pursuant to RCW 34.05.328 and to provide the analysis to this Committee prior to adoption of the rules.

Based on these findings, and pursuant to RCW 34.05.640, the Committee shall take the following actions:

- Recommend that the Governor suspend adoption and implementation of the changes to the State Energy Code that were adopted by the Council on November 20, 2009;

- Provide the Committee's objections to the Governor, the Office of the Code Reviser, the appropriate standing committees of the Legislature, and the Council;
- Direct the Code Reviser to publish the Committee's objections in the State Register and Washington Administrative Code; and
- Direct Committee staff to draft legislation that would suspend the implementation of the State Building Code Council's 2009 proposed changes and amendments to Chapter 51-11 of the Washington Administrative Code (the State Energy Code) until the Legislature has been provided with the additional economic impact and cost-benefit analysis information, as requested by the Committee in its October 14, 2009 letter to the Council, and has been given an opportunity to determine whether the additional information is sufficient to make an informed decision.

(Chair): It has been moved that the Committee find that the State Building Code Council's adoption of proposed changes and amendments to the State Energy Code on November 20, 2009 was not done in accordance with all applicable provisions of law, that the Council failed to adequately respond to this Committee's request for additional information, and that the Committee recommend suspension of the rules, provide appropriate entities with notice of our objections, cause the Code Reviser to publish our objections, and direct staff to draft legislation.

Motion passed, 5-0-2.

Roll Call:

Voting yea:	Representatives Hasegawa, Kretz, Kelley, and Kristiansen; Senator McCaslin
Voting nay:	None.
Absent:	None.
Excused:	Senators Fraser and Kastama.

WSR 10-02-086

AGENDA

CODE REVISER'S OFFICE

[Filed January 5, 2010, 3:56 p.m.]

**Semi-Annual Rule-Making Agenda
 January through June 2010**

Following is the office of the code reviser'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 Kerry S. Radcliff, Rules Coordinator, P.O. Box 40551, Olympia, WA 98504-0551, phone (360) 786-6697, fax (360) 786-1529, e-mail Radcliff.Kerry@leg.wa.gov.

WAC Citation	Subject Matter	Current Activity		
		Preproposal (CR-101)	Proposed (CR-102) or Expedited (CR-105)	Permanent (CR-103)
Chapter 1-21 WAC	The changes may include, but not be limited to, filing deadlines; creating explanatory language that will set out in rule a process for accepting electronic filings; and clarifying specific procedures for filing WSR documents.	WSR 06-01-003 filed December 7, 2005 CR-101 supplemental in 2010	CR-102 in 2010	CR-103 in 2010

Kerry S. Radcliff
Rules Coordinator

WSR 10-02-090
NOTICE OF PUBLIC MEETINGS
UNIFORM LEGISLATION COMMISSION
[Filed January 6, 2010, 9:22 a.m.]

Following are the 2010 meeting days and times for the Washington uniform legislation commission for publication in the *Washington state register*. These meetings will take place at 10 a.m. on a Wednesday in January, April, and October in the office of Professor Anita Ramasastry, commission chair, at the University of Washington School of Law, Room 417, William H. Gates Hall, Seattle, Washington 98195-3020. The actual dates are:

- January 6 (first Wednesday of the month)
- April 14 (second Wednesday of the month)
- October 13 (second Wednesday of the month)

WSR 10-02-092
PUBLIC RECORDS OFFICER
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed January 6, 2010, 9:30 a.m.]

This memorandum is to notify your office that as per RCW 42.56.580, Deanna Jackson, e-mail JACG235@Lni.wa.gov, phone (360) 902-5542, fax (360) 902-5529, is the designated public records officer for the department of labor and industries.

Deanna Jackson
Public Records Officer

WSR 10-02-093
AGENDA
DEPARTMENT OF ECOLOGY
[Filed January 6, 2010, 9:46 a.m.]

Pursuant to RCW 34.05.314, following is the department of ecology's rule agenda for January - June 2010. If you have any questions please contact Jerry Thielen at (360) 407-7551 or e-mail at jthi461@ecy.wa.gov.

Rule-Making Agenda						
*The bolded dates indicate filings that have occurred.						
WAC Chapter	Program	Chapter Title	CR-101 Filing Date (Month-Year)	CR-102 Filing Date (Month-Year)	CR-103 Filing Date (Month-Year)	Program Contact
173-406 and 173-400 AO 07-07 5/06	AQ	Acid rain regulation (mercury emissions from coal burning power plants) and general regulation for air pollution sources (WAC 173-400-112 and 173-400-113 only).	March 2007	On Hold	On Hold	Nancy Pritchett
173-441 AO 08-13 6/08	AQ	Reporting of emissions of greenhouse gases.	July 2008	September 2009	March 2010	Nancy Pritchett or Neil Caudill
173-422 AO 08-01 3/08	AQ	Motor vehicle emission inspection.	August 2008	February 2010	May 2010	John Raymond

WAC Chapter	Program	Chapter Title	CR-101 Filing Date (Month-Year)	CR-102 Filing Date (Month-Year)	CR-103 Filing Date (Month-Year)	Program Contact
173-400 AO 09-01 1/09	AQ	General regulation for air pollution sources.	February 4, 2009 withdrawn and new CR-101 filed November 10, 2009	March 2010	August 2010	Linda Whitcher
173-50 AO 09-09 7/09	EAP	Accreditation of environmental laboratories.	September 2009	March 2010	August 2010	Stew Lombard or Will Kendra
173-26-070 AO 08-15 8/08	SEA	Spokane county shoreline master program.	August 2008	On Hold	On Hold	Doug Pineo or Peter Skowlund
173-351 AO 07-15 7/07	W2R	Criteria for municipal solid waste landfills.	August 2007	March 2010	August 2010	Kathi Scanlan or Wayne Krafft
173-334 AO 09-04 3/09	W2R	Children's safe products rule - pilot rule making.	May 2009	February 2011	July 2011	John Williams
173-340 and 173-204 AO 08-07 4/08	TCP	Model Toxics Control Act (MTCA) cleanup regulation and cleanup portions of the sediment management standards (SMS).	February 2009	October 2010	March 2011	Martha Hankins
173-360 AO 08-08 4/08	TCP	Underground storage tank regulations.	July 2008	August 2010	February 2011	Martha Hankins
173-539A Emergency AO 08-11 3/09	WR	Upper Kittitas emergency ground water rule.	N/A		November 25, 2009 expires March 25, 2010	Bob Barwin
173-539A Permanent AO 08-12 6/08	WR	Upper Kittitas ground water rule (permanent).	July 2008	Withdrawn filing new CR-102 in spring 2010	Fall 2010	Mark Schupper or Bob Barwin
173-525 AO 05-03 3/05	WR	Grays-Elochoman instream resources protection and water management program - WRIA 25.	March 2005	March 2010	August 2010	Travis Burns
173-526 AO 05-04 3/05	WR	Cowlitz instream resources protection and water management program - WRIA 26.	March 2005	March 2010	August 2010	Travis Burns
173-503A AO 04-01 2/04	WR	Samish River subbasin instream resources protection program - Lower and Upper Skagit water resources inventory area - WRIAs 3 and 4.	February 2004	On Hold	On Hold	Sarah Ferguson
173-518 AO 07-17 11/07	WR	Dungeness instream resources protection and watershed management program - WRIA 18.	November 2007	February 2010	Fall 2010	Sarah Ferguson
173-152 AO 09-05 4/09	WR	Water rights.	August 2009	March 2010	July 2010	Janet Rajala
173-219 AO 06-12 8/06	WQ	Reclaimed water use.	November 2006	August 2010	December 2010	Kathleen Emmett or Tim Gaffney

Jerry Thielen
Rules Coordinator

WSR 10-02-104
NOTICE OF PUBLIC MEETINGS
BELLEVUE COLLEGE
 [Filed January 6, 2010, 10:37 a.m.]

Please note that the 2010 notice of public meetings for the Bellevue College board of trustees was inadvertently filed as the notice of public meetings for the Bellevue *Community* College board of trustees. Our name was changed to Bellevue College effective April 11, 2010. The corrected notice is below.

The 2010 meetings of the board of trustees of Community College District VIII will be held at 12:30 p.m. in the Board Room (B201), Bellevue College, 3000 Landerholm Circle S.E., Bellevue, WA, on the following dates:

Wednesday, February 3
 Wednesday, March 10
 Wednesday, May 12
 Wednesday, June 16
 Wednesday, June 30 (tentative,
 pending budget process needs)
 Wednesday, September 8
 Wednesday, October 6 (tentatively
 scheduled as an all-day retreat)
 Wednesday, November 17

WSR 10-02-115
POLICY STATEMENT
UNIVERSITY OF WASHINGTON
 [Filed January 6, 2010, 11:44 a.m.]

The University of Washington has recently created or revised the following policy statements:

- "On-Site Childcare Center Enrollment Policy," revised effective July 17, 2009 (Administrative Policy Statement 51.1).
- "The Vice President for Human Resources," Executive Order No. 9, effective September 16, 2009 (*University Handbook*, Vol. 2, Part I, Chapter 12, Section 12-23. Subsection IV).
- "Personal Use of University Facilities, Computers, and Equipment by University Employees," revised effective November 4, 2009 (Administrative Policy Statement 47.2).
- "UW Health and Safety Committees," revised effective December 4, 2009 (Administrative Policy Statement 10.11).
- "University Organization Chart," revised effective December 18, 2009 (Administrative Policy Statement 1.1).
- "University-Wide Organization List," revised effective December 18, 2009 (Administrative Policy Statement 1.2).

To view any current policy statement from the *Administrative Policy Statements*, see <http://www.washington.edu/admin/rules/APS/APSIndex.html>; to view material from the

University Handbook, see <http://www.washington.edu/faculty/facsenate/handbook/handbook.html>. Or, to request a paper copy of any policy listed above, contact Rebecca Goodwin Deardorff, Director of Rules Coordination, University of Washington, Box 351210, Seattle, WA 98195-1210, by e-mail rules@uw.edu, or by fax (206) 685-3825.