WSR 11-13-108
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 21, 2011, 11:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-09-030.

Title of Rule and Other Identifying Information: The division of child support (DCS) proposes to adopt new sections and amend other sections in chapter 388-14A WAC to implement changes in the federal regulations concerning establishing and enforcing intergovernmental child support obligations.

New sections WAC 388-14A-2081 Under what circumstances can DCS close a case when the application for services was made directly to DCS? and 388-14A-2083 Under what circumstances can DCS close an intergovernmental case, otherwise known as a case where the application for services was originally made to another state, tribe, territory or country?; amending WAC 388-14A-2080 Once DCS opens a support enforcement case, under what circumstances can it be closed?, 388-14A-2085 Under what circumstances may DCS ((~~deny~~)) keep a support enforcement case open despite a request to close ((~~a support enforcement case~~)) it?, 388-14A-2090 Who ((~~is mailed~~)) receives notice ((~~of DCS' intent to close~~)) when DCS closes a case?, 388-14A-2097 What happens to payments that come in after a case is closed?, 388-14A-2160 ((~~If my information is confidential, can~~)) On what authority does DCS ((~~report me to~~)) share my confidential information with a credit bureau?, 388-14A-3130 What happens if a ((~~parent~~)) party makes a timely request for hearing on a support establishment notice?, 388-14A-3304 The division of child support may serve a notice of support debt and demand for payment when it is enforcing a support order issued in Washington state, a foreign court order or a foreign administrative order for support, 388-14A-3305 What can I do if I disagree with a notice of support debt and demand for payment?, 388-14A-3306 Does a notice of support debt and demand for payment result in a final determination of support arrears?, 388-14A-3307 How does the division of child support proceed when there are multiple child support orders for the same obligor and children?, 388-14A-7100 The division of child support may register an order from another state for enforcement or modification, 388-14A-7305 How ((~~do I~~)) does a party, IV-D agency or jurisdiction ask ((~~DCS to do~~)) for a determination of controlling order?, 388-14A-7325 How does DCS notify the parties ((~~of its~~)) that a determination of the controlling order ((~~has been~~)) is going to be made?, and 388-14A-7335 What happens if someone objects to ((~~DCS' proposed~~)) a notice of support debt and registration which contains a determination of the presumed controlling order?

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html or by calling (360) 664-6094), on August 9, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 10, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on August 9, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by July 26, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: New sections and amended other sections in chapter 388-14A WAC to implement changes in the federal regulations concerning establishing and enforcing intergovernmental child support obligations.

Reasons Supporting Proposal: As part of its state plan under Title IV-D of the federal Social Security Act, DCS must adopt rules to implement changes in the Code [of] Federal Regulations regarding intergovernmental establishment and enforcement of child support obligations. Failure to adopt the rules could lead to a violation of the state plan requirements, which would jeopardize funding for the child support program and the temporary assistance for needy families block grant. The federal rules being implemented in this rule-making order are 45 C.F.R. Parts 301.1, 302.36, 303.7, 303.11, 305.63 and 308.2.

Statutory Authority for Adoption: RCW 26.23.120, 34.05.350 (1)(b), 43.20A.550, 74.04.055, 74.08.090, 74.20.040(9), 74.20A.310.

Statute Being Implemented: RCW 74.20A.310.

Rule is necessary because of federal law, 45 C.F.R. Parts 301.1, 302.36, 303.7, 303.11, 305.63 and 308.2.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Koptur, DCS HQ, P.O. Box 9162, Olympia, WA 98507-9162, (360) 664-5065.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have an economic impact on small businesses. It only affects individuals who have support obligations or individuals who are owed child support.

A cost-benefit analysis is not required under RCW 34.05.328. The rule does meet the definition of a significant legislative rule but DSHS/DCS rules relating to the care of dependent children are exempt from preparing further analysis under RCW 34.05.328 (5)(b)(vii).

June 7, 2011
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-2080 Once DCS opens a support enforcement case, under what circumstances can it be closed? ((~~Once the division of child support (DCS) starts~~

~~providing support enforcement services under RCW 26.23.045 and chapter 74.20 RCW, the case must remain open, unless DCS determines that:~~))

(1) ((~~There is no current support order, and the support debt owed by the noncustodial parent (NCP) is less than five hundred dollars, or cannot be enforced under Washington law;~~)) The circumstances under which the division of child support (DCS) may close a case depend on whether the application for services was made directly to DCS or to another governmental entity.

(2) ((~~The NCP or putative (alleged) father is dead with no assets, income or estate available for collection;~~)) WAC 388-14A-2081 discusses closure of a case when one of the parties submitted an application for support enforcement services directly to DCS, which includes when DCS opened the case as the result of an application for public assistance in the state of Washington.

(3) ((~~The NCP has no assets or income available for collection and is not able to provide support during the child's minority because of being:~~

~~(a) Institutionalized in a psychiatric facility;~~

~~(b) Incarcerated without possibility of parole; or~~

~~(c) Medically verified as totally and permanently disabled with no evidence of ability to provide support.~~

~~(4) The applicant, agency or recipient of nonassistance services submits a written request for closure, and there is no current assignment of medical or support rights;~~

~~(5) DCS has enough information to use an automated locate system, and has not been able to locate the NCP after three years of diligent efforts;~~

~~(6) DCS does not have enough information to use an automated locate system, and has not been able to locate the NCP after one year of diligent efforts;~~

~~(7) DCS is unable to contact the applicant, agency or recipient of services for at least sixty days;~~

~~(8) DCS documents failure to cooperate by the custodial parent (CP) or the initiating jurisdiction, and that cooperation is essential for the next step in enforcement;~~

~~(9) DCS cannot obtain a paternity order because:~~

~~(a) The putative father is dead;~~

~~(b) Genetic testing has excluded all putative fathers;~~

~~(c) The child is at least eighteen years old;~~

~~(d) DCS, a court of competent jurisdiction or an administrative hearing determines that establishing paternity would not be in the best interests of the child in a case involving incest, rape, or pending adoption; or~~

~~(e) The biological father is unknown and cannot be identified after diligent efforts, including at least one interview by DCS or its representative with the recipient of support enforcement services.~~

~~(10) DCS, a court of competent jurisdiction or an administrative hearing determines that the recipient of services has wrongfully deprived the NCP of physical custody of the child as provided in WAC 388-14A-3370(3);~~

~~(11) DCS, the department of social and health services, a court of competent jurisdiction or an administrative hearing determines that action to establish or enforce a support obligation cannot occur without a risk of harm to the child or the CP;~~

~~(12) DCS has provided locate-only services in response to a request for state parent locator services (SPLS);~~

~~(13) The NCP is a citizen and resident of a foreign country, and:~~

~~(a) NCP has no assets which can be reached by DCS; and~~

~~(b) The country where NCP resides does not provide reciprocity in child support matters.~~

~~(14) The child is incarcerated or confined to a juvenile rehabilitation facility for a period of ninety days or more; or~~

~~(15) Any other circumstances exist which would allow closure under 45 C.F.R. 303.11 or any other federal statute or regulation~~)) WAC 388-14A-2083 discusses closure of an intergovernmental case, which is what we call a case where the application for services was made to the child support enforcement agency of another state, tribe, territory, country or political subdivision thereof, which then requested support enforcement services from DCS.

NEW SECTION

WAC 388-14A-2081 Under what circumstances can DCS close a case when the application for services was made directly to DCS? When the application for services was made directly to the division of child support (DCS) by one of the parties, including when DCS opened the case as the result of an application for public assistance in the state of Washington, the case must remain open unless DCS determines that:

(1) There is no current support order, and the support debt owed by the noncustodial parent (NCP) is less than five hundred dollars, or cannot be enforced under Washington law;

(2) The NCP or putative (alleged) father is dead with no assets, income or estate available for collection;

(3) The NCP has no assets or income available for collection and is not able to provide support during the child's minority because of being:

(a) Institutionalized in a psychiatric facility;

(b) Incarcerated without possibility of parole; or

(c) Medically verified as totally and permanently disabled with no evidence of ability to provide support.

(4) The applicant or recipient of nonassistance services submits a written request for closure, and there is no current assignment of medical or support rights;

(5) DCS has enough information to use an automated locate system, and has not been able to locate the NCP after three years of diligent efforts;

(6) DCS does not have enough information to use an automated locate system, and has not been able to locate the NCP after one year of diligent efforts;

(7) DCS is unable to contact the applicant or recipient of services for at least sixty days;

(8) DCS or the prosecutor documents failure to cooperate by the custodial parent (CP), and that cooperation is essential for the next step in enforcement;

(9) DCS cannot obtain a paternity order because:

(a) The putative father is dead;

(b) Genetic testing has excluded all putative fathers;

(c) The child is at least eighteen years old;

(d) DCS, or the prosecutor, a court of competent jurisdiction or an administrative hearing determines that establishing paternity would not be in the best interests of the child in a case involving incest, rape, or pending adoption; or

(e) The biological father is unknown and cannot be identified after diligent efforts, including at least one interview by DCS or its representative with the recipient of support enforcement services.

(10) DCS, or the prosecutor, a court of competent jurisdiction or an administrative hearing determines that the recipient of services has wrongfully deprived the NCP of physical custody of the child as provided in WAC 388-14A-3370(3);

(11) DCS, or the prosecutor, the department of social and health services, a court of competent jurisdiction or an administrative hearing determines that action to establish or enforce a support obligation cannot occur without a risk of harm to the child or the CP;

(12) DCS has provided locate-only services in response to a request for state parent locator services (SPLS);

(13) The NCP is a citizen and resident of a foreign country, and:

(a) NCP has no assets which can be reached by DCS; and

(b) The country where NCP resides does not provide reciprocity in child support matters.

(14) The child is incarcerated or confined to a juvenile rehabilitation facility for a period of ninety days or more; or

(15) Any other circumstances exist which would allow closure under 45 C.F.R. 303.11 or any other federal statute or regulation.

NEW SECTION

WAC 388-14A-2083 Under what circumstances can DCS close an intergovernmental case, otherwise known as a case where the application for services was originally made to another state, tribe, territory or country? (1) When the application for services was originally made by a party to the child support enforcement agency of another state, tribe, territory, country or political subdivision thereof, which then requested support enforcement services from the division of child support (DCS), DCS keeps the case open until:

(a) The state, tribe, territory, country or political subdivision that received the application for services tells DCS that its case is closed.

(b) The state, tribe, territory, country or political subdivision that received the application for services tells DCS that it no longer wants DCS to provide services.

(c) DCS documents failure to cooperate by the initiating jurisdiction, and that cooperation is essential for the next step in enforcement.

(2) DCS calls this type of case an "intergovernmental case."

(a) The state, tribe, territory, country or political subdivision thereof which referred the case to DCS is called the "initiating jurisdiction."

(b) In these cases, DCS is the "responding jurisdiction."

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-2085 Under what circumstances may DCS ((~~deny~~)) keep a support enforcement case open despite a request to close ((~~a support enforcement case~~)) it? (1) The division of child support (DCS) may deny a request to close a support enforcement case when:

(a) There is a current assignment of support or medical rights on behalf of the children in the case;

(b) There is accrued debt under a support order which has been assigned to the state;

(c) Support or medical rights on behalf of the children have previously been assigned to the state; or

(d) The person who requests closure is not the recipient of support enforcement services((~~; or~~

~~(e) A superior court order requires payments to the Washington state support registry (WSSR)~~)).

(2) If DCS is the responding jurisdiction in an intergovernmental case DCS cannot deny a request from the initiating jurisdiction to close the intergovernmental portion of a DCS case.

(3) If there is no current assignment of support or medical rights, DCS may close the portion of the case which is owed to the custodial parent (CP), but if there is accrued debt under a support order which has been assigned to the state, DCS keeps that portion of the case open.

(((~~(3)~~)) (4) If a superior court order specifies that the noncustodial parent (NCP) must make payments to the WSSR, but the CP does not want support enforcement services, DCS ((~~keeps the case open as~~)) changes the case status to a payment services only (PSO) case, which means that:

(a) DCS provides payment processing and records maintenance, and

(b) DCS does not provide enforcement services.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-2090 Who ((~~is mailed~~)) receives notice ((~~of DCS' intent to close~~)) when DCS closes a case? (1) ((~~Sixty days before closing a case the division of child support (DCS) sends a notice of intent to close, advising the parties why DCS is closing the case.~~

~~(a) DCS does not send a notice when closing a case under WAC 388-14A-2080 (11) or (12).~~

~~(b) DCS does not provide sixty days' prior notice when closing a case under WAC 388-14A-2080(4)~~)) The reason for case closure determines whether the division of child support (DCS):

(a) Sends a notice of intent to close;

(b) Sends a notice of case closure; or

(c) Notifies the other jurisdiction.

(2) DCS mails a notice of intent to close by regular mail to the last known address of the custodial parent (CP) and the noncustodial parent.

(3) ((~~In an interstate case, DCS mails the notice to the CP by regular mail in care of the other state's child support agency~~)) If DCS is closing a case under WAC 388-14A-2081, DCS sends a notice of intent to close, advising the par-

ties why DCS is closing the case. DCS sends the notice sixty days before closing the case, except:

(a) DCS sends a notice of case closure but does not send a notice of intent to close when the applicant or recipient of nonassistance services submits a written request for closure, and there is no current assignment of medical or support rights;

(b) DCS notifies the initiating jurisdiction in an intergovernmental case that DCS has closed the case after the initiating jurisdiction requests case closure; and

(c) DCS does not send a notice of intent to close or a notice of case closure when:

(i) DCS, the prosecuting attorney, the department of social and health services, a court of competent jurisdiction or an administrative hearing determines that action to establish or enforce a support obligation cannot occur without a risk of harm to the child or the custodial parent (CP); or

(ii) DCS has provided locate-only services in response to a request for state parent locator services (SPLS).

(4) If DCS is the responding jurisdiction and is closing an ((~~interstate~~)) intergovernmental case because of noncooperation by the initiating jurisdiction, DCS ((~~also mails the notice to~~)) notifies the other ((~~state's~~)) jurisdiction's child support agency sixty days before closing the case.

(5) When DCS is the initiating jurisdiction in an intergovernmental case and DCS closes its case, DCS notifies the responding jurisdiction that DCS has closed its case and provides the reason for closure.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-2097 What happens to payments that come in after a case is closed? After support enforcement services are terminated, the division of child support (DCS) returns support money to the noncustodial parent except if the case remains open as a payment services only (PSO) case as described in WAC 388-14A-2000(1).

(2) If DCS, as the initiating jurisdiction in an intergovernmental case, closed a case without notifying the responding jurisdiction, DCS must attempt to locate the custodial parent (CP) and disburse any payments the CP is entitled to receive.

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

AMENDATORY SECTION (Amending WSR 06-06-076, filed 2/28/06, effective 3/31/06)

WAC 388-14A-2160 ((~~If my information is confidential, can~~)) On what authority does DCS ((~~report me to~~)) share my confidential information with a credit bureau? (1) ((~~When a consumer reporting agency, sometimes called a credit bureau, requests information regarding the amount of overdue support owed by a noncustodial parent (NCP), the division of child support (DCS) provides this information~~)) Under 42 USC §666(7), the division of child support (DCS) may report to consumer reporting agencies the name of any noncustodial parent (NCP) who is delinquent in support and the amount of overdue support owed by that parent. Consumer reporting agencies are sometimes also called credit bureaus.

(2) ((~~In addition to responding to requests for information by consumer reporting agencies~~)) Once DCS has reported an NCP to the credit bureaus, DCS ((~~reports to those agencies information regarding overdue support owed by an NCP. DCS then~~)) updates the information on a regular basis as long as DCS continues to enforce the support order, even after the NCP brings the account current.

(3) Before releasing information to the consumer reporting agency, DCS sends a written notice to the NCP's last known address concerning the proposed release of the information ((~~to the NCP's last known address~~)).

(4) The notice gives the NCP ten days from the date of the notice to request a conference board under WAC 388-14A-6400 to contest the accuracy of the information. If the NCP requests a conference board, DCS does not release the information until a conference board decision has been issued.

(5) ((~~A noncustodial parent (NCP)~~)) An NCP who disagrees with the information supplied by DCS to a consumer reporting agency or credit bureau may file a notice of dispute under the federal Fair Credit Reporting Act, 15 USC 1681.

(6) For interstate or intergovernmental cases, either the initiating jurisdiction or the responding jurisdiction, or both, may report the NCP's debt to the credit bureaus.

AMENDATORY SECTION (Amending WSR 02-06-098, filed 3/4/02, effective 4/4/02)

WAC 388-14A-3130 What happens if a ((~~parent~~)) party makes a timely request for hearing on a support establishment notice? (1) A timely request for hearing is an objection made within the time limits of WAC 388-14A-3110. For late (or untimely) hearing requests, see WAC 388-14A-3135.

(2) If either parent makes a timely request for hearing, the division of child support (DCS) submits the hearing request to the office of administrative hearings (OAH) for scheduling.

(3) OAH sends a notice of hearing by first class mail to all parties at their address last known to DCS, notifying each party of the date, time and place of the hearing. DCS, the noncustodial parent (NCP), and the custodial parent are all parties to the hearing.

(4) A timely request for hearing stops the support establishment notice from becoming a final order, so DCS cannot collect on the notice. However, in appropriate circumstances, the administrative law judge (ALJ) may enter a temporary support order under WAC 388-14A-3850.

(5) A hearing on an objection to a support establishment notice is for the limited purpose of resolving the NCP's accrued support debt and current support obligation. The NCP has the burden of proving any defenses to liability.

AMENDATORY SECTION (Amending WSR 07-08-055, filed 3/29/07, effective 4/29/07)

WAC 388-14A-3304 The division of child support may serve a notice of support debt and demand for payment when it is enforcing a support order issued in Wash-

ington state, a foreign court order or a foreign administrative order for support. (1) The division of child support (DCS) may serve a notice of support debt and demand for payment on a noncustodial parent (NCP) under RCW 74.20A.040 to provide notice that DCS is enforcing a support order entered in Washington state, a foreign court order or a foreign administrative order for support.

(a) A "foreign" order is one entered in a jurisdiction other than a Washington state court or administrative forum.

(b) DCS uses the notice of support debt and demand for payment when there is only one current child support order for the NCP and the children in the case.

(c) When there are multiple current support orders for the same obligor and children, DCS determines which order to enforce as provided under WAC 388-14A-3307.

(2) DCS serves a notice of support debt and demand for payment like a summons in a civil action or by certified mail, return receipt requested.

(3) In a notice of support debt and demand for payment, DCS includes the information required by RCW 74.20A.040, the amount of current and future support, accrued support debt, interest (if interest is being assessed under WAC 388-14A-7110), any health insurance coverage obligation, and any day care costs under the court or administrative order.

(4) After service of a notice of support debt and demand for payment, the NCP must make all support payments to the Washington state support registry. DCS does not credit payments made to any other party after service of a notice of support debt and demand for payment except as provided in WAC 388-14A-3375.

(5) A notice of support debt and demand for payment becomes final and subject to immediate wage withholding and enforcement without further notice under chapters 26.18, 26.23, and 74.20A RCW, subject to the terms of the order, unless, within twenty days of service of the notice in Washington, or within sixty days of service of the notice outside of Washington, the NCP:

(a) Files a request with DCS for a conference board under WAC 388-14A-6400. The effective date of a conference board request is the date DCS receives the request;

(b) Obtains a stay from the superior court; or

(c) Objects to either the validity of the foreign support order or the administrative enforcement of the foreign support order, in which case DCS proceeds with registration of the foreign support order under WAC 388-14A-7100.

(6) ((~~A notice of support debt and demand for payment served in another state becomes final according to WAC 388-14A-7200~~)) RCW 26.21A.515 controls the calculation of the debt on a notice of support debt and demand for payment.

(7) Enforcement of the following are not stayed by a request for a conference board or hearing under this section or WAC 388-14A-6400:

(a) Current and future support stated in the order; and

(b) Any portion of the support debt that the NCP and custodial parent (CP) fail to claim is not owed.

(8) Following service of the notice of support debt and demand for payment on the NCP, DCS mails to the last known address of the CP and/or the payee under the order:

(a) A copy of the notice of support debt and demand for payment; and

(b) A notice to payee under WAC 388-14A-3315 regarding the payee's rights to contest the notice of support debt. The CP who is not the payee under the order has the same rights to contest the notice of support debt and demand for payment.

(9) If the NCP requests a conference board under subsection (5)(a) of this section, DCS mails a copy of the notice of conference board to the CP informing the CP of the CP's right to:

(a) Participate in the conference board; or

(b) Request a hearing under WAC 388-14A-3321 within twenty days of the date of a notice of conference board that was mailed to a Washington address. If the notice of conference board was mailed to an out-of-state address, the CP may request a hearing within sixty days of the date of the notice of conference board. The effective date of a hearing request is the date DCS receives the request.

(10) If the CP requests a hearing under subsection ((~~(9)~~)) (8)(b) of this section, DCS must:

(a) Stay enforcement of the notice of support debt and demand for payment except as required under subsection (6) of this section; and

(b) Notify the NCP of the hearing.

(11) If a CP requests a late hearing under subsection ((~~(8)~~)) (7) of this section, the CP must show good cause for filing the late request.

(12) The NCP is limited to a conference board to contest the notice and may not request a hearing on a notice of support debt and demand for payment. However, if the CP requests a hearing, the NCP may participate in the hearing.

(13) A notice of support debt and demand for payment must fully and fairly inform the NCP of the rights and responsibilities in this section.

AMENDATORY SECTION (Amending WSR 07-08-055, filed 3/29/07, effective 4/29/07)

WAC 388-14A-3305 What can I do if I disagree with a notice of support debt and demand for payment? Once the division of child support has served a notice of support debt and demand for payment, either party may disagree with the notice.

(1) If either party objects to the enforcement of a non-Washington support order, that party may request that DCS register that order under chapter 26.21A RCW. DCS then serves a notice of support debt and registration as provided in WAC ((~~388-14A-7110~~)) 388-14A-7100.

(2) If the noncustodial parent (NCP) objects to the amount of current support or the amount of support debt stated in the notice, the NCP may request a conference board under WAC 388-14A-6400.

(a) The custodial parent (CP) may participate in the conference board under this section.

(b) The CP may choose to convert the proceeding to an administrative hearing. The NCP may participate in a hearing held under this section.

(3) If the custodial parent objects to the amount of current support or the amount of support debt stated in the notice, the CP may request an administrative hearing. The NCP may participate in a hearing held under this section.

(4) See WAC 388-14A-3304 for a more full description of the hearing process on the notice of support debt and demand for payment.

AMENDATORY SECTION (Amending WSR 07-08-055, filed 3/29/07, effective 4/29/07)

WAC 388-14A-3306 Does a notice of support debt and demand for payment result in a final determination of support arrears? (1) After service of a notice of support debt and demand for payment as provided in WAC 388-14A-3304, the final administrative order determines the support debt as of the date of the order, and:

(a) The debt determination is not a final determination under the Uniform Interstate Family Support Act (UIFSA), chapter 26.21A RCW.

(b) ((~~Any party may request that a tribunal determine any amounts owed as interest on the support debt~~)) RCW 26.21A.515 controls in any computation and/or determination of accrued interest on arrearages under the support order.

(2) The final administrative order comes about by:

(a) Operation of law if nobody objects to the notice;

(b) Agreed settlement or consent order under WAC 388-14A-3600;

(c) Final conference board decision under WAC 388-14A-6400;

(d) Final administrative order entered after hearing or a party's failure to appear for hearing.

AMENDATORY SECTION (Amending WSR 07-08-055, filed 3/29/07, effective 4/29/07)

WAC 388-14A-3307 How does the division of child support proceed when there are multiple child support orders for the same obligor and children? When more than one current child support order exists for the same obligor and children, the division of child support (DCS) may proceed as follows:

(1) When not acting as a responding jurisdiction, DCS decides whether or not a determination of controlling order is necessary, and which state has the authority to make a determination of controlling order (DCO) under UIFSA.

(2) Using the criteria listed in RCW 26.21A.130, DCS ((~~decides~~)) may decide which child support order it should enforce and ((~~serves~~)) may serve a notice of support debt and demand for payment under WAC 388-14A-3304.

(2) ((~~If DCS decides that a determination of controlling order under chapter 26.21A RCW is required~~)) When a party objects to enforcement of the order selected for enforcement under subsection (1) of this section, or when the order that DCS decides to enforce is not the order presented by a party or another jurisdiction for enforcement of current support, DCS ((~~serves~~)) may serve a notice of support debt and registration as provided in WAC 388-14A-7100.

(3) ((~~Upon request, DCS may do a determination of controlling order (DCO).~~

~~(a) See~~)) WAC 388-14A-7305 ((~~for~~)) describes how ((~~you~~)) either party or the initiating jurisdiction can ask for a DCO.

((~~(b) See~~)) (4) WAC 388-14A-7315 ((~~for~~)) describes how DCS decides whether ((~~or not~~)) to ((~~do~~)) deny a request for a DCO.

((~~(4)~~)) (5) If DCS ((~~does~~)) reviews the orders in response to a request for a DCO and decides that a Washington order is the presumed controlling order, DCS refers the case to superior court.

((~~(5)~~)) (6) If DCS ((~~does~~)) reviews the orders in response to a request for a DCO and decides that a non-Washington order is the presumed controlling order, DCS serves a notice of support debt and registration as provided in WAC 388-14A-7325.

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

AMENDATORY SECTION (Amending WSR 07-08-055, filed 3/29/07, effective 4/29/07)

WAC 388-14A-7100 The division of child support may register an order from another state for enforcement or modification. (1) A support enforcement agency, or a party to a child support order or an income-withholding order for support issued by a tribunal of another state or jurisdiction, may register the order in this state for enforcement pursuant to chapter 26.21A RCW.

(a) At the option of the division of child support (DCS), the support order or income-withholding order may be registered with the superior court pursuant to RCW 26.21A.505 or it may be registered with the administrative tribunal according to subsection (2) of this section. Either method of registration is valid.

(b) A support order or income-withholding order issued in another state or jurisdiction is registered when the order is filed with the registering tribunal of this state.

(c) DCS may enforce a registered order issued in another state or jurisdiction in the same manner and subject to the same procedures as an order issued by a tribunal of this state.

(d) DCS may assess and collect interest on amounts owed under support orders entered or established in a jurisdiction other than the state of Washington as provided in WAC 388-14A-7110.

(e) DCS may notify the parties that it is enforcing a non-Washington support order using the notice of support debt and demand for payment under WAC 388-14A-3304 or using the notice of support debt and registration as provided in this section and in WAC 388-14A-7110. Either method of notice is valid.

(2) DCS must give notice to the nonregistering party when it administratively registers a support order or income-withholding order issued in another state or jurisdiction. DCS gives this notice with the Notice of Support Debt and Registration (NOSDR).

(a) The notice must inform the nonregistering party:

(i) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(ii) That if a party wants a hearing to contest the validity or enforcement of the registered order, the party must request a hearing within twenty days after service of the notice on the nonregistering party within Washington state. If the nonreg-

istering party was served with the notice outside of Washington state, the party has sixty days after service of the notice to request a hearing to contest the validity or enforcement of the registered order;

(iii) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted;

(iv) Of the amount of any alleged arrearages, including interest, if interest is being assessed under WAC 388-14A-7110; and

(v) Whether DCS has made a determination of controlling order under chapter 26.21A RCW, as described in WAC 388-14A-7325.

(b) The notice must be:

(i) Served on the nonregistering party by certified or registered mail or by any means of personal service authorized by the laws of the state of Washington; and

(ii) Served on the registering party by first class mail at the last known address; and

(iii) Accompanied by a copy of the registered order and any documents and relevant information accompanying the order submitted by the registering party.

(c) The effective date of a request for hearing to contest the validity or enforcement of the registered order is the date DCS receives the request.

(3) A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state or jurisdiction may register the order in this state according to RCW 26.21A.540 through 26.21A.-550.

(a) The order must be registered as provided in subsection (1)(a) if the order has not yet been registered.

(b) A petition for modification may be filed at the same time as a request for registration, or later. The petition must specify the grounds for modification.

(c) DCS may enforce a child support order of another state or jurisdiction registered for purposes of modification, as if a tribunal of this state had issued the order, but the registered order may be modified only if the requirements of RCW 26.21A.550 are met.

(4) Interpretation of the registered order is governed by RCW 26.21A.515.

AMENDATORY SECTION (Amending WSR 07-08-055, filed 3/29/07, effective 4/29/07)

WAC 388-14A-7305 How ((~~do I~~)) does a party, IV-D agency or jurisdiction ask ((~~DCS to do~~)) for a determination of controlling order? (1) When there are multiple current support orders covering the same obligor and the same children, a party to a support order may request that the division of child support (DCS) make a determination of controlling order under the Uniform Interstate Family Support Act, chapter 26.21A RCW.

(2) When another state's IV-D agency or another jurisdiction has identified that there are multiple support orders in existence and DCS has personal jurisdiction over both of the parties to the orders, the IV-D agency or jurisdiction may request a determination of controlling order from DCS.

(3) A request for a determination of controlling order may be made at any time, unless there has already been a determination of controlling order for the same obligor and children.

((~~(3)~~)) (4) DCS can provide a form which contains all the required elements for a request for determination of controlling order. A request for a determination of controlling order:

(a) Must be in writing;

(b) Must contain copies of any child support orders known to the requesting party. DCS waives this requirement if DCS has a true copy of the order on file; and

(c) ((~~State the reason the requesting party thinks DCS is enforcing the wrong~~)) Must identify the order that the requesting party believes should be the controlling order.

((~~(4)~~)) (5) A request for determination of controlling order does not constitute a petition for modification of a support order.

AMENDATORY SECTION (Amending WSR 07-08-055, filed 3/29/07, effective 4/29/07)

WAC 388-14A-7325 How does DCS notify the parties ((~~of its~~)) that a determination of the controlling order is going to be made? (1) When the division of child support (DCS) decides that a determination of controlling order is required, or when a party, IV-D agency or jurisdiction asks for a determination of controlling order, DCS reviews the multiple child support orders for the same obligor and children to determine which order should be enforced.

(a) If DCS decides that the order that should be enforced is a Washington order, ((~~we immediately~~)) DCS refers the matter to the superior court for a determination of controlling order proceeding under chapter 26.21A RCW.

(b) If ((~~we~~)) DCS decides that the order that should be enforced is an order which was not entered in the state of Washington, DCS follows the procedures set out in subsections (2) through (4) of this section.

(2) DCS serves a notice of support debt and registration (((~~NOSDR~~))) as provided in WAC 388-14A-7100. DCS serves the ((~~NOSDR~~)) notice of support debt and registration on the obligor, the obligee, and on all identified interested parties. The ((~~NOSDR~~)) notice of support debt and registration includes a determination of controlling order.

(3) DCS serves the notice of support debt and registration on ((~~the nonrequesting~~)) a party who did not request the determination of controlling order by certified mail, return receipt requested, or by personal service.

(4) DCS serves the notice on the ((~~requesting~~)) party who requested the determination of controlling order and on any other identified interested parties by first class mail to the last known address.

AMENDATORY SECTION (Amending WSR 07-08-055, filed 3/29/07, effective 4/29/07)

WAC 388-14A-7335 What happens if someone objects to ((~~DCS' proposed~~)) a notice of support debt and registration which contains a determination of the presumed controlling order? (1) If any party, IV-D agency or

jurisdiction objects to the ((~~proposed~~)) determination of presumed controlling order issued under WAC 388-14A-7325, that objection must be in writing and signed under penalty of perjury. The division of child support (DCS) provides an objection form with the notice of support debt and registration.

(2) ((~~The~~)) An objection to the determination of presumed controlling order must contain:

(a) The reason the party, IV-D agency or jurisdiction objects ((~~to the determination of controlling order~~)). Examples of reasons to object include, but are not limited to:

(i) There is another order that was not considered in making the determination;

(ii) The alleged controlling order has been vacated, suspended or modified by a later order, which is attached to the objection;

(iii) The issuing tribunal lacked personal jurisdiction over the nonpetitioning party;

(iv) The order was obtained by fraud; or

(v) Any other legal defense available under chapter 26.21A RCW.

(b) A copy of the order which the party, IV-D agency or jurisdiction believes should be the controlling order, if that order was not included with the notice.

(c) A statement of facts in support of the ((~~party's~~)) objection.

((~~(2)~~)) (3) When DCS receives an objection to the proposed determination of controlling order, DCS refers the objection to the prosecuting attorney or attorney general to bring an action for determination of controlling order under RCW 26.21A.130 in the superior court.

WSR 11-14-002
PROPOSED RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed June 22, 2011, 12:50 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 392-121-182 Alternative learning experience requirements.

Hearing Location(s): Office of the Superintendent of Public Instruction, Old Capitol Building, 600 Washington S.E., Brouillet Conference Room, 4th Floor, Olympia, WA 98504-7200, on August 17, 2011, at 10 a.m.

Date of Intended Adoption: August 17, 2011.

Submit Written Comments to: Karl Nelson, 4507 University Way N.E., Suite 204, Seattle, WA 98105, e-mail Karl.Nelson@k12.wa.us, fax (206) 616-9940, by August 17, 2011.

Assistance for Persons with Disabilities: Contact Wanda Griffin by August 10, 2011, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The 2011 legislature passed ESHB 2065, which the governor signed on June 15, 2011. The office of superintendent of public instruction (OSPI) has been charged with implementing the requirements of the new legislation by the beginning of the 2011-12 school year.

Reasons Supporting Proposal: ESHB 2065 states, "the superintendent of public instruction shall adopt rules defining minimum requirements and accountability for alternative learning experience programs."

Statutory Authority for Adoption: ESHB 2065, section 2(5).

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

Name of Proponent: OSPI, governmental.

Name of Agency Personnel Responsible for Drafting: Martin Mueller, Old Capitol Building, 600 Washington S.E., Olympia, WA 98504, (360) 725-6175; Implementation: JoLynn Berge, Old Capitol Building, 600 Washington S.E., Olympia, WA 98504, (360) 725-6300; and Enforcement: Shawn Lewis, Old Capitol Building, 600 Washington S.E., Olympia, WA 98504, (360) 725-6111.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

June 22, 2011
Randy Dorn
State Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 11-12-022, filed 5/24/11, effective 9/1/11)

WAC 392-121-182 Alternative learning experience requirements. (1) **Purposes:** The purposes of this section are the following:

(a) To ensure that students enrolled in an alternative learning experience offered by a school district have available to them educational opportunities designed to meet their individual needs;

(b) To provide general program requirements for alternative learning experiences offered by or through school districts;

(c) To provide a method for determining full-time equivalent enrollment and a process school districts must use when claiming state funding for alternative learning experiences.

(2) **General requirements:** A school district must meet the requirements of this section to count an alternative learning experience as a course of study pursuant to WAC 392-121-107. This section applies solely to school districts claiming state funding pursuant to WAC 392-121-107 for an alternative learning experience, including an alternative learning experience on-line program as defined in RCW 28A.150.262. It is not intended to apply to alternative learning experiences funded exclusively with federal or local resources.

(3) **Definitions:** For the purposes of this section the following definitions apply:

(a)(i) "Alternative learning experience" means:

((~~(i)~~)) (A) A course or a set of courses developed by a certificated teacher and documented in an individual written student learning plan for any student who meets the defini-

tion for enrollment specified by WAC 392-121-106. A student may enroll part-time in an alternative learning experience. Such enrollment is subject to the provisions of RCW 28A.150.350 and chapter 392-134 WAC; and

(((~~(ii)~~))) (B) The student pursues the requirements of the written student learning plan in whole or in part independently from a regular ((~~attendance-based instructional~~)) classroom setting or schedule, ((~~although the learning plan~~)) but may include some components of direct ((~~instructional components~~)) instruction; and

(((~~(iii)~~))) (C) The student's learning is supervised, monitored, assessed, evaluated, and documented by a certificated teacher.

(ii) The broad categories of alternative learning experience programs include, but are not limited to:

(A) On-line programs as defined in RCW 28A.150.262;

(B) Parent partnership programs that include significant participation and partnership by parents and families in the design and implementation of a student's learning experience; and

(C) Contract based learning programs.

(b) "Certificated teacher" means an employee of a school district, or of a school district contractor pursuant to WAC 392-121-188, who is assigned and endorsed according to the provisions of chapter 181-82 WAC;

(c) "Written student learning plan" means a written plan for learning that is developed by a certificated teacher that defines the requirements of an individual student's alternative learning experience. The written student learning plan must include at least the following elements:

(i) A beginning and ending date for the student's alternative learning experience;

(ii) An estimate by a certificated teacher of the average number of hours per week the student will engage in learning activities to meet the requirements of the written student learning plan. This estimate must consider only the time the student will engage in learning activities necessary to accomplish the learning goals and performance objectives specified in the written student learning plan((~~.~~));

(iii) A description of how weekly direct personal contact requirements will be fulfilled;

(iv) A description of each alternative learning experience course included as part of the learning plan, including specific learning goals, performance objectives, and learning activities for each course, written in a manner that facilitates monthly evaluation of student progress. This requirement may be met through the use of individual course syllabi or other similarly detailed descriptions of learning requirements. The description must clearly identify the requirements a student must meet to successfully complete the course or program. Courses must be identified using course names, codes, and designators specified in the most recent *Comprehensive Education Data and Research System* data manual published by the office of superintendent of public instruction;

(v) Identification of the certificated teacher responsible for each course included as part of the plan;

(vi) Identification of all instructional materials that will be used to complete the learning plan; and

(vii) A description of the timelines and methods for evaluating student progress toward the learning goals and performance objectives specified in the learning plan;

(viii) Identification of whether each alternative learning experience course meets one or more of the state essential academic learning requirements or grade-level expectations and any other academic goals, objectives, and learning requirements defined by the school district. For each high school alternative learning experience course, the written student learning plan must specify whether the course meets state and district graduation requirements.

(d) "Direct personal contact" means a one-to-one meeting between a certificated teacher and the student, or, where appropriate, between the certificated teacher, the student, and the student's parent. Direct personal contact can be accomplished in person or through the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication. Direct personal contact must be for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan, and must at minimum include a two-way exchange of information between a certificated teacher and the student. All required direct personal contact must be documented.

(e) "Satisfactory progress" means a certificated teacher has determined that a student's progress toward achieving the specific learning goals and performance objectives specified in the written student learning plan is satisfactory. The evaluation of satisfactory progress is conducted in a manner consistent with school district student evaluation or grading procedures, and is based on the professional judgment of a certificated teacher;

(f) "Intervention plan" means a plan designed to improve the progress of students determined to be not making satisfactory progress. An intervention plan must be developed, documented, and implemented by a certificated teacher in conjunction with the student and, for students in grades K-8, the student's parent(s). At minimum, the intervention plan must include at least one of the following interventions:

(i) Increasing the frequency or duration of direct personal contact for the purposes of enhancing the ability of the certificated teacher to improve student learning;

(ii) Modifying the manner in which direct personal contact is accomplished;

(iii) Modifying the student's learning goals or performance objectives;

(iv) Modifying the number of or scope of courses or the content included in the learning plan.

(g) "Substantially similar experiences and services" means that for each purchased or contracted instructional or cocurricular course, lesson, trip, or other experience, service, or activity identified on an alternative learning experience written student learning plan, there is an identical or similar experience, service, or activity made available to students enrolled in the district's regular instructional program:

(i) At the same grade level;

(ii) At an equivalent level of frequency, intensity, and duration including, but not limited to, consideration of individual versus group instruction;

(iii) At an equivalent level of costs to the student with regard to any related club, group, or association memberships; admission, enrollment, registration, rental or other participation fees; or any other expense associated with the experience or service;

(iv) In accordance with district adopted content standards or state defined grade level standards; and

(v) That is supervised, monitored, assessed, evaluated, and documented by a certificated teacher.

(h) "Synchronous digital instructional contact" means real-time communication between a certificated teacher and the student using interactive on-line, voice, or video communication technology.

(i) "Parent" has the same definition as "parent" in WAC 392-172A-01125.

(4) **Alternative learning experience program requirements:**

(a) Each student participating in an alternative learning experience must have a written student learning plan developed by a certificated teacher that is designed to meet the student's individual educational needs. A certificated teacher must have responsibility and accountability for each course specified in the plan, including supervision and monitoring, and evaluation and documentation of the student's progress. The written student learning plan may be developed with assistance from the student, the student's parents, or other interested parties.

(b) Each student enrolled in an alternative learning experience must have direct personal contact with a certificated teacher at least once a week, until the student completes all course objectives or otherwise meets the requirements of the learning plan.

(c) The educational progress of each student enrolled in an alternative learning experience must be evaluated at least once each calendar month of enrollment by a certificated teacher and the results of each evaluation must be communicated to the student or, if the student is in grades K-8, both the student and the student's parent. Educational progress must be evaluated according to the following requirements:

(i) Each student's educational progress evaluation must be based on the learning goals and performance objectives defined in the written student learning plan.

(ii) The progress evaluation conducted by a certificated teacher must include direct personal contact with the student.

(iii) Based on the progress evaluation, a certificated teacher must determine and document whether the student is making satisfactory progress reaching the learning goals and performance objectives defined in the written student learning plan.

(iv) If it is determined that the student failed to make satisfactory progress or that the student failed to follow the written student learning plan, an intervention plan must be developed for the student.

(v) If after no more than three consecutive calendar months in which it is determined the student is not making satisfactory progress despite documented intervention efforts, a course of study designed to more appropriately meet the student's educational needs must be developed and implemented by a certificated teacher in conjunction with the student and where possible, the student's parent. This may include removal of the student from the alternative learning experience and enrollment of the student in another educational program offered by the school district.

(5) **Required school district board policies for alternative learning experiences:** The board of directors of a school district claiming state funding for alternative learning experiences must adopt and annually review written policies authorizing such alternative learning experiences, including each alternative learning experience program and program provider. The policy must designate, by title, one or more school district official(s) responsible for overseeing the district's alternative learning experience courses or programs, including monitoring compliance with this section, and reporting at least annually to the school district board of directors on the program. This annual report shall include at least the following:

(a) Documentation of alternative learning experience student headcount and full-time equivalent enrollment claimed for basic education funding;

(b) Identification of the overall ratio of certificated instructional staff to full-time equivalent students enrolled in each alternative learning experience program;

(c) A description of how the program supports the district's overall goals and objectives for student academic achievement; and

(d) Results of any self-evaluations conducted pursuant to subsection ((~~(9)~~)) (10) of this section.

(6) **Alternative learning experience implementation requirements:**

(a) School districts that offer alternative learning experiences must ensure that they are accessible to all students, including students with disabilities. Alternative learning experiences for special education students must be provided in accordance with chapter 392-172A WAC.

(b) Contracting for alternative learning experiences is subject to the provisions of WAC 392-121-188.

(c) It is the responsibility of the school district or school district contractor to ensure that students have all curricula, course content, instructional materials and learning activities that are identified in the alternative learning experience written student learning plan.

(d) School districts must ensure that no student or parent is provided any compensation, reimbursement, gift, reward, or gratuity related to the student's enrollment or participation in, or related to another student's recruitment or enrollment in, an alternative learning experience unless otherwise required by law. This prohibition includes, but is not limited to, funds provided to parents or students for the purchase of educational materials, supplies, experiences, services, or technological equipment.

(e) School district employees are prohibited from receiving any compensation or payment as an incentive to increase student enrollment of out-of-district students in an alternative learning experience program.

(f) Curricula, course content, instructional materials, learning activities, and other learning resources for alternative learning experiences must be consistent in quality with those available to the district's overall student population.

((~~(f)~~)) (g) Instructional materials used in alternative learning experiences must be approved pursuant to school

board policies adopted in accordance with RCW 28A.320.-230.

(((~~g~~))) (h) A district may purchase educational materials, equipment, or other nonconsumable supplies for students' use in alternative learning experience programs if the purchase is consistent with the district's approved instructional materials or curriculum, conforms to applicable laws and rules, and is made in the same manner as such purchases are made for students in the district's regular instructional program. Items so purchased remain the property of the school district upon program completion.

(i) School districts are prohibited from purchasing or contracting for instructional or cocurricular experiences and services that are included in an alternative learning experience written student learning plan including, but not limited to, lessons, trips, and other activities, unless substantially similar experiences or services are also made available to students enrolled in the district's regular instructional program. This prohibition extends to a district's contracted providers of alternative learning experience programs, and each district shall be responsible for monitoring the compliance of its contracted providers. However, nothing in this subsection prohibits school districts from contracting with on-line providers pursuant to chapter 28A.250 RCW.

(j)(i) A school district that provides one or more alternative learning experiences to a student must provide the parent(s) of the student, prior to the student's enrollment, with a description of the difference between home-based instruction pursuant to chapter 28A.200 RCW and the enrollment option selected by the student. The parent must sign documentation attesting to his or her understanding of the difference. Such documentation must be retained by the district and made available for audit.

(ii) In the event a school district cannot locate a student's parent within three days of a student's request for enrollment in an alternative learning experience, the school district may enroll the student for a conditional period of no longer than thirty calendar days. The student must be disenrolled from the alternative learning experience if the school district does not obtain the documentation required under this subsection before the end of the thirty day conditional enrollment period.

(((~~h~~))) (k) The school district or school district contractor is prohibited from advertising, marketing, and otherwise providing unsolicited information about learning programs offered by the school district including, but not limited to, digital learning programs, part-time enrollment opportunities, and other alternative learning programs, to students and their parents who have filed a declaration of intent to cause a child to receive home-based instruction under RCW 28A.200.010. School districts may respond to requests for information that are initiated by a parent. This prohibition does not apply to general mailings, newsletters, or other general communication distributed by the school district or the school district contractor to all households in the district.

(((~~i~~))) (l) Work-based learning as a component of an alternative learning experience course of study is subject to the provisions of WAC 392-410-315 and 392-121-124.

(((~~j~~))) (m) The school district must institute reliable methods to verify a student is doing his or her own work. The methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district.

(((~~k~~))) (n) State funded alternative learning experience on-line programs must be accredited by the Northwest Accreditation Commission or another national, regional, or state accreditation program listed by the office of superintendent of public instruction on its web site.

(((~~l~~))) (o) School districts may accept nonresident students under the school choice enrollment provisions of RCW 28A.225.200 through 28A.225.230 and chapter 392-137 WAC for enrollment in alternative learning experiences. School districts enrolling such students in alternative learning experiences are subject to all school district duties and liabilities pertaining to such students for the full school year, including ensuring the student's compulsory attendance pursuant to chapter 28A.225 RCW, until such time as the student has actually enrolled in another school district, or has otherwise met the mandatory attendance requirements specified by RCW 28A.225.010.

(((~~m~~))) (p) The alternative learning experience must satisfy the office of superintendent of public instruction's requirements for courses of study and equivalencies as provided in chapter 392-410 WAC((~~;~~)).

(((~~n~~))) (q) Alternative learning experience courses offering credit or alternative learning experience programs issuing a high school diploma must satisfy the state board of education's high school credit and graduation requirements as provided in chapter 180-51 WAC.

(7) **Enrollment reporting procedures:** Effective the 2011-12 school year, the full-time equivalency of students enrolled in an alternative learning experience must be determined as follows:

(a) The school district must use the definition of full-time equivalent student in WAC 392-121-122 and the number of hours the student is expected to engage in learning activities as follows:

(i) On the first enrollment count date on or after the start date specified in the written student learning plan, subject to documented evidence of student participation as required by WAC 392-121-106(4), the student's full-time equivalent must be based on the estimated average weekly hours of learning activity described in the student's written student learning plan.

(ii) On any subsequent monthly count date, the student's full-time equivalent must be based on the estimated average weekly hours of learning activity described in the written student learning plan if:

(A) The student's progress evaluation pursuant to subsection (4)(c) of this section indicates satisfactory progress; or

(B) The student's prior month progress evaluation pursuant to subsection (4)(c) of this section indicates a lack of satisfactory progress, and an intervention plan designed to improve student progress has been developed, documented, and implemented within five school days of the date of the prior month's progress evaluation.

(iii) On any subsequent monthly count date if an intervention plan has not been developed, documented, and implemented within five days of the prior month's progress

evaluation, the student's full-time equivalent must not be included by the school district in that month's enrollment count.

(iv) Enrollment of part-time students is subject to the provisions of RCW 28A.150.350, and generates a pro rata share of full-time funding.

(b) The enrollment count must exclude students meeting the definition of enrollment exclusions in WAC 392-121-108 or students who have not had direct personal contact with a certificated teacher for twenty consecutive school days. Any such student must not be counted as an enrolled student until the student has met with a certificated teacher and resumed participation in their alternative learning experience or is participating in another course of study as defined in WAC 392-121-107;

(c) The enrollment count must exclude students who are not residents of Washington state as defined by WAC 392-137-115((-));

(d) The enrollment count must exclude students who as of the enrollment count date have completed the requirements of the written student learning plan prior to ending date specified in the plan and who have not had a new written student learning plan established with a new beginning and ending date that encompasses the count date;

(e) School districts providing alternative learning experiences to nonresident students must document the district of the student's physical residence, and shall establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate including, but not limited to:

(i) When a resident district and one or more nonresident district(s) will each be claiming basic education funding for a student in the same month or months, the districts shall execute a written agreement that at minimum identifies the maximum aggregate basic education funding each district may claim for the duration of the agreement. A nonresident district may not claim funding for a student until after the effective date of the agreement.

(ii) When a district is providing alternative learning experiences to nonresident students under the school choice enrollment provisions of RCW 28A.225.200 through 28A.-225.230 and 392-137 WAC the district may not claim funding for the student until after the release date documented by the resident district.

(8) **Differentiated funding:** For the 2011-12 school year, school districts reporting student enrollment pursuant to the requirements of this section shall generate and receive funding at eighty percent of the formula funding that would have been generated under the state basic education formula for such enrollment unless the following conditions are met, in which case school districts shall generate and receive funding at ninety percent of the formula funding:

(a) For alternative learning experience on-line programs under RCW 28A.150.262, in addition to the direct personal contact requirements specified in subsection (4) of this section, each student receives on average either:

(i) At least one hour per week of face-to-face, in-person instructional contact time from a certificated teacher during each month of reported enrollment for the student; or

(ii) At least one hour per week of synchronous digital instructional contact time from a certificated teacher during each month of reported enrollment if the student's written student learning plan includes only on-line courses as defined by RCW 28A.250.010;

(b) For all other types of alternative learning experience programs, in addition to the direct personal contact requirements specified in subsection (4) of this section, each student receives on average at least one hour per week of face-to-face, in-person instructional contact time from a certificated teacher during each month of reported enrollment for the student;

(c) The instructional contact time must be for the purposes of actual instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan;

(d) The district certifies monthly to the superintendent of public instruction that the alternative learning experience program is designed and implemented in a manner that will accomplish such contact requirements.

(9) **Assessment requirements:**

(a) All students enrolled in alternative learning experiences must be assessed at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students must also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW.

(b) Any student whose alternative learning experience enrollment is claimed as greater than 0.8 full-time equivalent in any one month through the January count date must be included by the school district in any required state or federal accountability reporting for that school year, subject to existing state and federal accountability rules and procedures.

(c) Students enrolled in nonresident alternative learning experience schools, programs, or courses who are unable to participate in required annual state assessments at the nonresident district must have the opportunity to participate in such required annual state assessments at the district of physical residence, subject to that district's planned testing schedule. It is the responsibility of the nonresident enrolling district to establish a written agreement with the district of physical residence that facilitates all necessary coordination between the districts and with the student and, where appropriate, the student's parent(s) to fulfill this requirement. Such coordination may include arranging for appropriate assessment materials, notifying the student of assessment administration schedules, arranging for the forwarding of completed assessment materials to the enrolling district for submission for scoring and reporting, and other steps as may be necessary. The agreement may include rates and terms for payment of reasonable fees by the enrolling district to the district of physical residence to cover costs associated with planning for and administering the assessments to students not enrolled in the district of physical residence. Assessment results for students assessed according to these provisions must be included in the enrolling district's accountability measurements, and not

in the district of physical residence's accountability measurements.

((~~(9)~~)) (10) **Program evaluation requirements:** School districts offering alternative learning experiences must engage in periodic self-evaluation of these learning experiences in a manner designed to objectively measure their effectiveness, including the impact of the experiences on student learning and achievement. Self-evaluation must follow a continuous improvement model, and may be implemented as part of the school district's school improvement planning efforts.

((~~(10)~~)) (11) **Reporting requirements:**

(a) Each school district offering alternative learning experiences must report monthly to the superintendent of public instruction accurate monthly headcount and full-time equivalent enrollment for students enrolled in alternative learning experiences as well as information about the resident and serving districts of such students.

(b) Each school district offering alternative learning experiences must submit an annual report to the superintendent of public instruction detailing the costs and purposes of any expenditure made pursuant to subsection (6)(i) of this section, along with the substantially similar experiences or services made available to students enrolled in the district's regular instructional program.

(c) Each school district offering alternative learning experiences must ((~~also~~)) report annually to the superintendent of public instruction on the types of programs and course offerings subject to this section. The annual report shall identify the ratio of certificated instructional staff to full-time equivalent students enrolled in alternative learning experience courses or programs. The annual report shall separately identify alternative learning experience enrollment of students provided under contract pursuant to RCW 28A.150.305 and WAC 392-121-188.

((~~(11)~~)) (12) **Documentation and record retention requirements:** School districts claiming state funding for alternative learning experiences must retain all documentation required in this section in accordance with established records retention schedules and must make such documentation available upon request for purposes of state monitoring and audit. School districts must maintain the following written documentation:

(a) School board policy for alternative learning experiences pursuant to this section;

(b) Annual reports to the school district board of directors as required by subsection (5) of this section;

(c) Monthly and annual reports to the superintendent of public instruction as required by subsection ((~~(10)~~)) (11) of this section;

(d) The written student learning plans required by subsection (4) of this section;

(e) Evidence of direct personal contact required by subsection (4) of this section;

(f) Student progress evaluations and intervention plans required by subsection (4) of this section;

(g) The results of any assessments required by subsection ((~~(8)~~)) (9) of this section;

(h) Student enrollment detail substantiating full-time equivalent enrollment reported to the state; ((~~and~~))

(i) Signed parent enrollment disclosure documents required by subsection (6)(((~~(g)~~))(j) of this section((~~.~~)); and

(j) Evidence of face-to-face contact required in subsection (8)(a) of this section.

WSR 11-14-031
PROPOSED RULES
PARKS AND RECREATION COMMISSION

[Filed June 27, 2011, 11:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-09-049.

Title of Rule and Other Identifying Information: The agency has completed a review of the following chapter of administrative rules and has proposed amendments to chapter 352-32 WAC, Public use of state park areas.

Hearing Location(s): Washington State Parks and Recreation Commission, Eastern Region Headquarters, 270 Ninth Street, East Wenatchee, WA 98801, on August 11, 2011, at 9:00 a.m.

Date of Intended Adoption: August 11, 2011.

Submit Written Comments to: Pamela McConkey, 1111 Israel Road, Olympia, WA 98504, e-mail pamela.mcconkey@parks.wa.gov, fax (360) 586-6651, by August 1, 2011.

Assistance for Persons with Disabilities: Contact Eastern Region Headquarters by August 1, 2011, TTY (800) 833-6388 or (509) 665-4319.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: State parks' staff has reviewed the commission rules in consideration of changes to current business practices. The agency has proposed minor changes to the rule in order to reduce restrictions to current resident requirements and to bring state parks in line with like agencies residency requirements. Substantive changes are requested in WAC 352-32-251 Limited income senior citizen, disability, and disabled veteran passes and 352-32-252 Off-season senior citizen pass—Fee.

State parks will request changes to these sections of WAC pertaining to residency requirements for citizens applying for a pass within the state parks pass program. This change will reduce the residency requirement from twelve months to three months.

Statutory Authority for Adoption: RCW 79A.05.030, 79A.05.035.

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

Name of Proponent: Washington state parks and recreation commission, governmental.

Name of Agency Personnel Responsible for Drafting and Drafting [Implementation]: Pamela McConkey, 1111 Israel Road, Olympia, WA 98504, (360) 902-8595; and Enforcement: Robert Ingram, 1111 Israel Road, Olympia, WA 98504, (360) 902-8615.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This chapter of administrative rule does not regulate or have economic impact

through regulations on small business. There are no compliance costs to small business as a result of the modifications to these rules.

A cost-benefit analysis is not required under RCW 34.05.328. Significant legislative rule-making requirements are not imposed on the state parks and recreation commission, nor has the commission voluntarily applied those requirements.

June 20, 2011
Valeria Evans
Management Analyst

AMENDATORY SECTION (Amending WSR 08-24-006, filed 11/20/08, effective 12/21/08)

WAC 352-32-251 Limited income senior citizen, disability, and disabled veteran passes. (1)(a) Persons who are senior citizens, meet the eligibility requirements of RCW 79A.05.065, and have been residents of Washington state for at least the past ((~~twelve~~)) three consecutive months shall, upon application to the commission accompanied by either a copy of a federal income tax return filed for the previous calendar year, or a senior citizen property tax exemption pursuant to RCW 84.36.381, or a notarized affidavit of income on a form provided by the commission, receive a limited income senior citizen pass at no charge, which entitles the holder's camping party to free use of trailer dump stations, watercraft launch sites, and to a 50 percent reduction in the campsite fee, or moorage fee as published by state parks. Limited income senior citizen passes shall remain valid so long as the pass holder meets eligibility requirements.

(b) Proof submitted to the commission for the return of a senior citizen pass surrendered upon request to a commission employee who has reason to believe the user does not meet the eligibility criteria shall be the same as listed in subsections (1) and (5) of this section for original pass issuance.

(2) Persons who are:

(a) Permanently disabled, legally blind, or profoundly deaf, meet the eligibility requirements of RCW 79A.05.065, and have been residents of Washington state for at least the past ((~~twelve~~)) three consecutive months shall, upon application to the commission, receive a five year disability pass at no charge;

(b) Temporarily disabled and who meet the eligibility requirements of RCW 79A.05.065 and have been residents of Washington state for at least the past ((~~twelve~~)) three consecutive months shall, upon application to the commission, receive a one year disability pass at no charge; and

(c) Residents of Washington who have been issued a card, decal (placard) or special license plate for a permanent disability under RCW 46.16.381 shall be entitled, along with the members of their camping party to free use of trailer dump stations, watercraft launch sites, and to a 50 percent reduction in the campsite fee, or moorage fee as published by state parks.

(3) Persons who are veterans, meet the eligibility requirements of RCW 79A.05.065, and have been residents of Washington state for at least the past ((~~twelve~~)) three consecutive months shall, upon application to the commission, receive a lifetime disabled veteran pass at no charge. Pass holders must provide proof of continued residency as determined by the director or designee. The pass entitles the holder's camping party to free use of a state park campsite, trailer dump station, watercraft launch site, moorage facility, and reservation service.

(4) Applications for limited income senior citizen, disability, and disabled veteran passes shall be made on forms prescribed by the commission.

(5) Verification of age shall be by original or copy of a birth certificate, notarized affidavit of age, witnessed statement of age, baptismal certificate, or driver's license. Verification of residency shall be by original or copy of a Washington state driver's license, voter's registration card, or senior citizen property tax exemption, or other proof of continued residency as determined by the director or designee.

(6) Pass holders must be present and show their valid pass and identification upon registration or when requested by any commission employee or representative.

(7) Pass holders that violate or abuse the privileges of their pass, as listed below, may be subject to suspension of their pass and assessed other fees.

(a) Duplicate or multiple reservations for the same night - Thirty-day suspension.

(b) Use of pass by unauthorized person - Sixty-day suspension and/or a fee equal to two times the campsite fee.

(c) Two or more no-shows (failure to use or cancel reservation) for reservations between May 1 and November 1 - Ninety-day suspension.

(d) Repeated park rule violations - Minimum ninety-day suspension.

The pass will be confiscated by the ranger on duty or their designee and sent to the Olympia headquarters office. At the end of the suspension the pass will be returned to the authorized pass holder at no cost.

(8) Pass holders may appeal a suspension of their pass by providing written justification/explanation to the state parks director or designee at P.O. Box 42650, Olympia, WA 98504.

(9) Pass holder discounts shall apply only to those fees listed in subsections (1), (2), and (3) of this section. Pass holder discounts will not apply to all other fees as published by state parks, including but not limited to, extra vehicles, vacation housing, yurts, and cabins.

(10) If the conditions of a pass holder change or the pass holder changes residency to a place outside Washington state during the time period when a pass is valid such that a pass holder no longer meets the eligibility requirements of RCW 79A.05.065 and WAC 352-32-251, the pass becomes invalid, and the pass holder shall return the pass to the commission or surrender the pass to a state park representative.

(11) Any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 07-03-121, filed 1/22/07, effective 2/22/07)

WAC 352-32-252 Off-season senior citizen pass—Fee. (1) Persons who are senior citizens, are at least sixty-two years of age, and have been residents of Washington state for at least the past ((~~twelve~~)) three consecutive months shall, upon application to the commission, receive an off-season

senior citizen pass which entitles the holder's camping party to camp at any camping areas made available by the commission, as well as use of agency mooring facilities, at no cost beyond the charges provided for in subsection (3) of this section, effective October 1 through March 31, and Sunday through Thursday nights in April as determined by the director and posted. Each such pass shall be valid only during one off-season period.

(2) Applications for off-season senior citizen passes shall be made on forms prescribed by the commission and shall be accepted only after August 1 for the following off-season period.

(3) There shall be a fee for each off-season senior citizen pass. Limited income senior citizen pass holders may purchase the off-season pass at a 50 percent discount. A surcharge equal to the fee for an electrical hookup published by state parks shall be assessed for each night an off-season senior citizen pass holder uses a campsite with an electrical hookup.

(4) Pass holders must be present and show their valid pass and identification upon registration or when requested by any commission employee or representative.

(5) Pass holder discounts shall apply only to those fees in subsections (1) and (3) of this section. Pass holder discounts will not apply to other fees as published by state parks, including but not limited to, extra vehicles, vacation housing, yurts, and cabins.

(6) If a pass holder changes residency to a place outside Washington state during the time period when a pass is valid, the pass becomes invalid and the pass holder shall return the pass to the commission or surrender the pass to a state park representative.

(7) Any violation of this section is an infraction under chapter 7.84 RCW.

WSR 11-14-037
PROPOSED RULES
DEPARTMENT OF EARLY LEARNING
[Filed June 28, 2011, 9:08 a.m.]

Continuance of WSR 11-09-081.

Preproposal statement of inquiry was filed as WSR 06-24-051.

Title of Rule and Other Identifying Information: Proposing new chapter 170-296A WAC, Licensed family home child care standards, and repealing all sections of current chapter 170-296 WAC.

Hearing Location(s): Department of Early Learning (DEL), Seattle Office, Downstairs Conference Room, 3600 South Graham Street, Seattle, WA 98118, on Saturday, July 9, 2011, 11:00 a.m. to 1:30 p.m.

The public may join the hearing at anytime during the posted times. This hearing supplements public hearings held on June 15, 18, and 25.

Everyone who comments on the proposed rules orally or in writing at the public hearing will receive the department's combined written response, called a *concise explanatory statement*. This statement is also available to anyone who requests it, by contacting the DEL rules coordinator, or by e-mailing Rules@del.wa.gov.

Date of Intended Adoption: After July 15, 2011.

Assistance for Persons with Disabilities: Contact DEL rules coordinator by 5:00 p.m, July 5, 2011, (360) 725-4397.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department has scheduled one additional public hearing on July 9, 2011, from 11:00 a.m. to 1:30 p.m. to take public input on the proposed new family home child care rules. Due to technical difficulties, DEL was unable to obtain an electronic recording of the public hearing held on June 11, 2011. DEL invites all persons who gave oral or written comments at the June 11 hearing to give their input again for the record. This hearing is open to the public.

The written comment period closed on June 26, 2011. However, the department will accept written comments that are submitted in person at the July 9, 2011 public hearing.

Reasons Supporting Proposal: See the proposed rules filed as WSR 11-09-081 on April 20, 2011. No change is being made to the proposed rule for the purposes of this additional hearing.

Statutory Authority for Adoption: RCW 43.215.060, 43.215.070, and 43.43.832(6); chapter 43.215 RCW.

Statute Being Implemented: Chapter 43.215 RCW, RCW 43.215.350 and 34.05.330.

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

Name of Proponent: DEL, governmental.

June 28, 2011
Andy Fernando
Rules Coordinator

WSR 11-14-048
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed June 28, 2011, 2:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-13-174.

Title of Rule and Other Identifying Information: Chapter 246-889 WAC, Pharmaceutical—Precursor substance control, adding WAC 246-889-010, 246-889-115 and 246-889-120; amending WAC 246-889-070, 246-889-085, 246-889-090, 246-889-095 and 246-889-110; and repealing WAC 246-889-075, 246-889-080, 246-889-100 and 246-889-105, to implement legislation to establish a statewide real-time electronic methamphetamine precursor tracking system for the retail sales of over-the-counter or nonprescription medications containing ephedrine, pseudoephedrine, or phenylpropanolamine.

Hearing Location(s): Blackriver Training and Conference Center, 800 Oakesdale Avenue S.W., Renton, WA 98057, on August 12, 2011, at 9:00 a.m.

Date of Intended Adoption: August 12, 2011.

Submit Written Comments to: Doreen Beebe, Washington State Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, web site http://www3.doh.wa.gov/policyreview/, fax (360) 236-2901, by August 5, 2011.

Assistance for Persons with Disabilities: Contact Doreen Beebe by August 8, 2011, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules establish reporting requirements to a statewide real-time electronic methamphetamine precursor tracking system for pharmacies, shopkeepers, and itinerant vendors (retailers) that sell nonprescription products that contain ephedrine, pseudoephedrine, or phenylpropanolamine. The rules establish standards for protecting the privacy of the purchaser's information and access to the records by law enforcement and the board of pharmacy. In addition, the rules establish a process for retailers to qualify for an exemption from electronic reporting. The proposed rules implement a real-time stop sales tracking system that provides law enforcement tools to combat the illegal manufacturing of methamphetamine and protect the public while ensuring access to needed medications by legitimate users.

Reasons Supporting Proposal: The rules are needed to implement E2SHB 2961 (chapter 182, Laws of 2010). The proposed rules establish clear reporting requirements to the statewide real-time electronic methamphetamine precursor tracking system for licensed pharmacies, shopkeepers and itinerant vendors who sell retail nonprescription medications that contain ephedrine, pseudoephedrine, or phenylpropanolamine.

Statutory Authority for Adoption: RCW 18.64.005 and 69.43.165, E2SHB 2961 (chapter 182, Laws of 2010).

Statute Being Implemented: RCW 69.43.165, E2SHB 2961 (chapter 182, Laws of 2010).

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

Name of Proponent: Washington state board of pharmacy, governmental.

Name of Agency Personnel Responsible for Drafting: Doreen E. Beebe, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4834; Implementation and Enforcement: Susan Teil Boyer, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A copy of the statement may be obtained by contacting Doreen Beebe, Washington State Board of Pharmacy, P.O. Box 47863, Olympia, WA 98501, phone (360) 236-4834, fax (360) 236-2901, e-mail wsbop@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Doreen Beebe, Washington State Board of Pharmacy, P.O. Box 47863, Olympia, WA 98501, phone (360) 236-4834, fax (360) 236-2901, e-mail wsbop@doh.wa.gov. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

June 27, 2011
Susan Teil Boyer
Executive Director

NEW SECTION

WAC 246-889-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the Washington state board of pharmacy.

(2) "Electronic reporting" means detailed reporting obligations of a pharmacy, shopkeeper, or itinerant vendor to submit to the real-time methamphetamine precursor tracking system the retail purchase or attempted purchase of any nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or isomers, or salts of isomers.

(3) "Law enforcement" means any general or limited authority Washington peace officer or federal law enforcement officer.

(4) "Methamphetamine precursor tracking system" means the real-time electronic sales tracking system established by RCW 69.43.110 used to capture the retail purchase or attempted purchase of any nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or isomers, or salts of isomers.

(5) "Purchaser" means an individual who purchases or attempts to purchase a restricted product.

(6) "Restricted product" means any nonprescription product containing any detectable quantity of ephedrine, pseudoephedrine, and phenylpropanolamine or their salts or isomers, or salts of isomers.

(7) "Retailer" means a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW that sells, dispenses, or otherwise provides restricted products to purchasers.

(8) "Sale" means the transfer, selling, or otherwise furnishing of any restricted product to any person.

AMENDATORY SECTION (Amending WSR 06-02-010, filed 12/22/05, effective 1/1/06)

WAC 246-889-070 Retail sales ((~~logs for~~)) of nonprescription ephedrine, pseudoephedrine, and phenylpropanolamine products. Purpose.

The legislature has recognized that restricting access to ephedrine, pseudoephedrine, and phenylpropanolamine products, or their salts or isomers, or salts of isomers, is a valid method to reduce the availability of these products for the ((~~illegal~~)) manufacture of methamphetamine. To reduce the ((~~illegal~~)) use of these products in the manufacture of methamphetamine, while continuing access for legitimate purposes, the legislature directed the board to adopt rules to implement a statewide methamphetamine precursor tracking system for the ((~~recording of retail~~)) nonprescription sales ((~~involving~~)) of products containing ephedrine, pseudo-

ephedrine or phenylpropanolamine ((~~products~~)) or their salts or isomers, or salts of isomers. ((~~The record of sales must be collected and maintained in a written or electronic log or other alternative means. Data from this log will be used to determine if the log is an effective law enforcement tool and if the information received is an effective deterrent to criminal activity. The following rules~~)) This chapter describes the requirements for the ((~~transaction logs~~)) retail sales of restricted products.

AMENDATORY SECTION (Amending WSR 06-02-010, filed 12/22/05, effective 1/1/06)

WAC 246-889-085 Requirements for the sale of ((~~an ephedrine, pseudoephedrine, or phenylpropanolamine~~)) restricted product. Unless exempted in ((~~WAC 246-889-080~~)) RCW 69.43.110, a retailer must:

(1) ((~~Review~~)) Verify the purchaser's ((~~photo~~)) identity by means of acceptable identification as defined in this chapter. ((~~The photo identification must include the date of birth of the purchaser. The~~))

(2) Ensure that the purchaser ((~~must be~~)) is at least eighteen years of age ((~~or older~~)).

(((~~(2)~~))) (3) Record all of the information ((~~detailed~~)) required in WAC 246-889-095 ((~~for~~)) in the record of transaction before completing the sale.

AMENDATORY SECTION (Amending WSR 06-02-010, filed 12/22/05, effective 1/1/06)

WAC 246-889-090 Acceptable forms of photo identification. ((~~To be an~~)) Acceptable forms of identification((~~, the identification must be issued by a government agency and~~)) are defined as current foreign, federal, state, or tribal government-issued identification which include the person's photograph, name, ((~~address,~~)) date of birth, ((~~and~~)) signature, and physical description. ((~~The following are acceptable forms of identification:~~)) Acceptable forms of identification include, but are not limited to:

(1) A valid driver's license or instruction permit issued by any U.S. state or ((~~province of Canada~~)) foreign government. If the ((~~customer's~~)) purchaser's driver's license has expired, he((~~/~~)) or she must also show a valid temporary driver's license with the expired card.

(2) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.

(3) A merchant marine identification card issued by the United States Coast Guard.

(4) ((~~A state liquor control identification card. An official age identification card issued by the liquor control authority of any U.S. state or Canadian province.~~

~~(5) A state~~)) An identification card issued by any ((~~U.S.~~)) foreign, federal, or state ((~~or province of Canada~~)) government.

(((~~(6)~~))) (5) An official U.S. passport ((~~issued by any nation~~)) or an unexpired foreign passport that contains a temporary I-551 stamp.

(((~~(7)~~))) (6) An enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington state, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington state drivers' licenses ((~~and are recognized by the liquor control board~~)).

AMENDATORY SECTION (Amending WSR 06-02-010, filed 12/22/05, effective 1/1/06)

WAC 246-889-095 Record of sales—Electronic methamphetamine precursor tracking. ((~~Information required. The retailer must record:~~))

(1) Unless granted an exemption under RCW 69.43.110 upon the sale or attempted sale of a restricted product, each retailer must enter and electronically transmit the following information to the methamphetamine precursor tracking system prior to completion of the transaction:

(a) Sale transaction information including:

(i) Date and time of the intended purchase;

(((~~(2) Name of the purchaser;~~

~~(3)~~))) (ii) Product description;

(iii) Quantity of product to be sold including:

(A) Total grams of restricted product per box;

(B) Number of boxes per transaction; and

(b) Purchaser's information including:

(i) Full name as it appears on the acceptable identification;

(ii) Date of birth ((~~of the purchaser~~));

(((~~(4) Type~~))) (iii) The address as it appears on the photo identification or the current address if the form of photo identification used does not contain the purchaser's address. The address information must include the house number, street, city, state, and zip code;

(iv) Form of photo identification((~~, agency issuing the identification~~)) presented by the purchaser, including the issuing agency of the acceptable identification, and the identification number ((~~if applicable~~)) appearing on the identification; and

(((~~(5) Number of packages and the number of tablets per package.~~))) (v) Purchaser's signature. If the retailer is not able to secure an electronic signature, the retailer shall maintain a hard copy of a signature logbook consisting of each purchaser's signature and the transaction number provided by the methamphetamine precursor tracking system.

(c) The full name or initials of the individual conducting the transaction.

(d) Other information as required by the methamphetamine precursor tracking system data base.

(2) If a transaction occurs during a time when the methamphetamine precursor tracking system is temporarily unavailable due to power outage or other technical difficulties, the retailer shall record the information required in this section in a written logbook for entry into the methamphetamine precursor tracking system within seventy-two hours of the system becoming operational.

AMENDATORY SECTION (Amending WSR 06-02-010, filed 12/22/05, effective 1/1/06)

WAC 246-889-110 Maintenance of and access to retail sales records of ((~~sales~~)) restricted products. ((~~Records of~~)) (1) The retail sales records required under WAC 246-889-095 are confidential and ((~~are only open to~~

~~inspection~~)) accessible by the board of pharmacy and law enforcement agencies. ((~~The retailer does not have to transmit records to law enforcement or the board of pharmacy. Law enforcement and/or the board of pharmacy will request and obtain records if they are needed. Retailers shall also produce the records in a court whenever lawfully required to do so.~~)) Law enforcement may access the retail sales records for criminal investigations when, at a minimum, there is an articulated individualized suspicion of criminal activity.

(2) Each law enforcement agency's administrator, chief, sheriff, or other chief executive officer shall ensure:

(a) Only authorized employees have access to the data bases;

(b) Each employee use his or her unique password or access code to access the data bases;

(c) Each employee adheres to all state and federal laws regarding confidentiality; and

(d) As employees change, new passwords or access codes are assigned to new employees and passwords of ex-employees or transferred employees are removed.

(3) Retail sales records of restricted products, electronic or written, must be kept for a minimum of two years.

(4) Retail sales records must be destroyed in a manner that leaves the record unidentifiable and nonretrievable.

NEW SECTION

WAC 246-889-115 Exemptions from electronic reporting. (1) Pharmacies are exempt from entering purchase information into the methamphetamine precursor tracking system when the sale of products containing ephedrine, pseudoephedrine, or phenylpropanolamine or their salts or isomers, or salts of isomers is sold pursuant to a prescription written by an authorized practitioner.

(2) A retailer must demonstrate "good cause" to qualify for an exemption from electronic reporting requirements. "Good cause" includes, but is not limited to, situations where the installation of the necessary equipment to access the methamphetamine precursor tracking system is unavailable or cost prohibitive to the retailer.

(a) A retailer must submit a written request on a form provided by the board, which shall include the following information:

(i) The reason for the exemption; and

(ii) The anticipated duration needed for the exemption.

(b) An exemption from electronic reporting may not exceed one hundred eighty days.

(c) A retailer may request additional exemptions by submitting a form defined in this subsection at least thirty days before the current exemption expires. The retailer must show that compliance will cause the business significant hardship.

(d) For all sales transactions involving the sale or attempted sale of a restricted product occurring during the period of an exemption, the retailer shall record into a written logbook, at the time of the sale or attempted sale, the information required under WAC 246-889-095(1).

(e) The written logbook of each sale or attempted sale shall be available for inspection by any law enforcement officer or board inspector during normal business hours.

NEW SECTION

WAC 246-889-120 Denial of sale—Override. (1) The retailer must deny the sale of restricted product to purchasers who are not able to produce acceptable identification or if the sale would violate RCW 69.43.110 or federal law.

(2) In the event that the retailer perceives that refusal of the purchase may place him or her in imminent physical harm, the retailer may use the data base safety override function to proceed with the sale, provided that when the threat is no longer perceived, the dispenser must immediately contact local law enforcement to report the purchase.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-889-075	Definitions.
WAC 246-889-080	Records of sale.
WAC 246-889-100	Methods for collecting, recording, and storing records of sales data.
WAC 246-889-105	Record retention and destruction.

WSR 11-14-079
PROPOSED RULES
DEPARTMENT OF PERSONNEL

[Filed June 30, 2011, 8:55 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-31-225 When employees separate from state service, are they entitled to a lump sum payment of unused vacation leave?, 357-31-150 Can an employee be paid for accrued sick leave?, 357-31-245 What happens if an employee uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, accrued temporary salary reduction leave, or receives holiday pay during a period when he/she is receiving time loss compensation?, 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather?, 357-28-260 At what rate must overtime be compensated?, 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure?, 357-31-390 What criteria does an employee have to meet to be eligible to receive shared leave?, 357-31-535 Who designates absences which meet the criteria of the Family and Medical Leave Act?, 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined?, and 357-28-285 When must compensatory time be paid in cash?

Hearing Location(s): Department of Personnel, 521 Capitol Way South, Olympia, WA, on August 11, 2011, at 8:30 a.m.

Date of Intended Adoption: August 11, 2011.

Submit Written Comments to: Connie Goff, Department of Personnel, P.O. Box 47500, e-mail connieg@dop.wa.gov, fax (360) 586-4694, by August 4, 2011. FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact department of personnel by August 4, 2011, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These changes are a result of the passage of ESSB 5860. This bill requires that during the 2011-13 biennium, base salaries are reduced three percent for all state employees except for elected officials whose salaries are established by the commission on salaries for elected officials; employees at state institutions of higher education; certificated employees of the state School for the Blind and the Center for Childhood Deafness and Hearing Loss; commissioned officers of the state patrol; represented ferry workers of the department of transportation; and employees whose monthly full-time equivalent salary is less than $2,500 per month. Employees subject to the salary reduction accrue additional temporary salary reduction (TSR) leave of up to 5.2 hours per month. Per language in the bill, amounts paid during the 2011-13 fiscal biennium to state employees who cash-out annual or sick leave at the time of retirement or sick leave in excess of sixty days at any time are not reduced by temporary compensation reductions.

There are provisions in the bill which require us to make changes and additions to the current rules in order to implement the temporary salary reduction and TSR leave as described in the bill.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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

Name of Agency Personnel Responsible for Drafting: Kristie Wilson, 521 Capitol Way South, (360) 664-6408; Implementation and Enforcement: Department of personnel.

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

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

June 30, 2011

Eva N. Santos

Director

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-260 At what rate must overtime be compensated? Overtime worked by an overtime eligible employee must be compensated at a rate of one and one-half times the employee's regular rate. Compensation for overtime worked between July 1, 2011, and June 29, 2013, will not be subject to the three percent temporary salary reduction under chapter 39, Laws of 2011.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-285 When must compensatory time be paid in cash? (1) The accumulation of unused compensatory time of any amount that exceeds two hundred forty hours, or four hundred eighty hours for employees engaged in public safety or emergency response activity, must be paid in cash at the regular rate earned by the employee at the time the employee receives such payment. Payments made between July 1, 2011, and June 29, 2013, will not be subject to the three percent temporary salary reduction under chapter 39, Laws of 2011.

(2) Upon termination of employment, an employee must be paid for unused compensatory time in accordance with applicable state and federal law. Payments made between July 1, 2011, and June 29, 2013, will not be subject to the three percent temporary salary reduction under chapter 39, Laws of 2011.

AMENDATORY SECTION (Amending WSR 09-11-068, filed 5/14/09, effective 6/16/09)

WAC 357-31-150 Can an employee be paid for accrued sick leave? In accordance with the attendance incentive program established by RCW 41.04.340, employees are eligible to be paid for accrued sick leave as follows:

(1) In January of each year, an employee whose sick leave balance at the end of the previous year exceeds four hundred eighty hours may elect to convert the sick leave hours earned in the previous calendar year, minus those hours used during the year, to monetary compensation.

(a) No sick leave hours may be converted which would reduce the calendar year-end balance below four hundred eighty hours.

(b) Monetary compensation for converted hours is paid at the rate of twenty-five percent and is based on the employee's current salary. Monetary compensation for converted hours which is paid between July 1, 2011, and June 29, 2013, will not be subject to a temporary salary reduction.

(c) All converted hours are deducted from the employee's sick leave balance.

(d) Hours which are accrued, donated and returned from the shared leave program in the same calendar year may be included in the converted hours for monetary compensation.

(e) For the purpose of this section, hours which are contributed to a sick leave pool per WAC 357-31-570 are considered hours used.

(2) Employees who separate from state service because of retirement or death must be compensated for their total unused sick leave accumulation at the rate of twenty-five percent. The employer may deposit equivalent funds for a retiring employee in a medical expense plan as provided in WAC 357-31-375. Compensation must be based on the employee's salary at the time of separation. Compensation for unused sick leave which is paid between July 1, 2011, and June 29, 2013, will not be subject to a temporary salary reduction. For the purpose of this subsection, retirement does not include "vested out-of-service" employees who leave funds on deposit with the department of retirement systems (DRS).

(3) No contributions are to be made to the department of retirement systems (DRS) for payments under subsection (1) or (2) of this section, nor are such payments reported to DRS as compensation.

AMENDATORY SECTION (Amending WSR 05-08-137, filed 4/6/05, effective 7/1/05)

WAC 357-31-225 When employees separate from state service, are they entitled to a lump sum payment of unused vacation leave? (1) When an employee who has completed six continuous months of employment separates from service by reason of resignation with adequate notice, layoff, trial service reversion, separation, dismissal, retirement, or death, the employee is entitled to a lump sum payment of unused vacation leave. The payment is computed by using the formula published by the office of financial management. Payments made between July 1, 2011, and June 29, 2013, will not be subject to a temporary salary reduction. No contributions are to be made to the department of retirement systems (DRS) for lump sum payment of excess vacation leave accumulated under the provisions of WAC 357-31-215(2), nor shall such payment be reported to the DRS as compensation.

(2) General government permanent employees may defer the payment of accumulated vacation leave to which they are entitled for a period of thirty calendar days in any of these circumstances:

(a) If the separation resulted from a layoff, trial service reversion, or conclusion of a project or nonpermanent appointment and there is a reasonable probability of reemployment((,)); or

(b) If the separation resulted from an employee returning to a classified position from an exempt position under the provision of RCW 41.06.070.

AMENDATORY SECTION (Amending WSR 09-17-062, filed 8/13/09, effective 9/16/09)

WAC 357-31-245 What happens if an employee uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, accrued temporary salary reduction leave, or receives holiday pay during a period when he/she is receiving time loss compensation? An employee who uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, accrued temporary salary reduction leave, or receives holiday pay during a period when he/she is receiving time loss compensation is entitled to time-loss compensation and full pay for vacation leave, sick leave, compensatory time, recognition leave, temporary salary reduction leave, and holiday pay.

AMENDATORY SECTION (Amending WSR 07-11-093, filed 5/16/07, effective 7/1/07)

WAC 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather? When the employer determines inclement weather conditions exist, the employer's leave policy governs the order in which accrued leave and compensatory time may be used to account for the time an employee is absent from work due to the inclement weather. The employer's policy must allow the use of accrued vacation leave, accrued sick leave up to a maximum of three days in any calendar year, accrued temporary salary reduction leave, and the use of leave without pay in lieu of paid leave at the request of the employee. The employer's policy may allow leave with pay when an employee is absent due to inclement weather.

AMENDATORY SECTION (Amending WSR 07-11-096, filed 5/16/07, effective 7/1/07)

WAC 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure? At a minimum, employees not required to work during suspended operations must be allowed to use their personal holiday ((~~or~~)), accrued vacation leave, or accrued temporary salary reduction leave. Overtime eligible employees must also be allowed to use accrued compensatory time to account for the time lost due to the closure. Overtime eligible employees may be allowed to use leave without pay and given an opportunity to make up work time lost (as a result of suspended operations) within the work week. For overtime eligible employees, compensation for making up lost work time must be in accordance with WAC 357-28-255, 357-28-260, and 357-28-265 if it causes the employee to work in excess of forty hours in the workweek, and must be part of the employer's suspended operations procedures. The amount of compensation earned under this section must not exceed the amount of salary lost by the employee due to suspended operation.

If the employer's suspended operations procedure allows, employees may be released without a loss in pay.

AMENDATORY SECTION (Amending WSR 10-23-120, filed 11/17/10, effective 12/18/10)

WAC 357-31-390 What criteria does an employee have to meet to be eligible to receive shared leave? An employee may be eligible to receive shared leave if the agency head or higher education institution president has determined the employee meets the following criteria:

(1) The employee:

(a) Suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(b) The employee has been called to service in the uniformed services;

(c) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has the needed skills to assist in responding to the emergency or its aftermath and volunteers their services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;

(d) The employee is a victim of domestic violence, sexual assault, or stalking as defined in RCW 41.04.655; or

(e) During the 2009-2011 fiscal biennium only, an employee whose monthly full-time equivalent base salary is

two thousand five hundred dollars or less is eligible to use shared leave in lieu of temporary layoff as described in chapter 32, Laws of 2010.

(2) The illness, injury, impairment, condition, call to service, emergency volunteer service, consequence of domestic violence, sexual assault, or stalking, or temporary layoff under chapter 32, Laws of 2010, has caused, or is likely to cause, the employee to:

(a) Go on leave without pay status; or

(b) Terminate state employment.

(3) The employee's absence and the use of shared leave are justified.

(4) The employee has depleted or will shortly deplete their:

(a) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, accrued temporary salary reduction leave, and accrued sick leave if the employee qualifies under subsection (1)(a) of this section; or

(b) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, accrued temporary salary reduction leave, and paid military leave allowed under RCW 38.40.060 if the employee qualifies under subsection (1)(b) of this section; or

(c) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued temporary salary reduction leave, and accrued vacation leave if the employee qualifies under (1)(c) or (d) of this section; or

(d) Compensatory time, recognition leave as described in WAC 357-31-565, accrued temporary salary reduction leave, and accrued vacation leave if the employee qualifies under subsection (1)(e) of this section.

(5) The employee has abided by employer rules regarding:

(a) Sick leave use if the employee qualifies under subsection (1)(a) of this section; or

(b) Military leave if the employee qualifies under subsection (1)(b) of this section.

(6) If the illness or injury is work-related and the employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if the employee qualifies under subsection (1)(a) of this section.

AMENDATORY SECTION (Amending WSR 05-21-061, filed 10/13/05, effective 11/15/05)

WAC 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined? In accordance with 29 CFR Part 825, an eligible employee is an employee who has worked for the state for at least twelve months and for at least one thousand two hundred fifty hours during the previous twelve-month period. Vacation leave, sick leave, temporary salary reduction leave, the personal holiday, compensatory time off, or shared leave is not counted towards the one thousand two hundred and fifty hour eligibility requirement.

AMENDATORY SECTION (Amending WSR 09-17-056 and 09-18-113, filed 8/13/09 and 9/2/09, effective 12/3/09)

WAC 357-31-535 Who designates absences which meet the criteria of the Family and Medical Leave Act? The employer designates absences which meet the criteria of the Family and Medical Leave Act. Paid or unpaid leave used for that designated absence must be counted towards the twelve weeks of the Family and Medical Leave Act entitlement. Time spent on temporary salary reduction leave will not count towards the twelve weeks of the Family and Medical Leave Act entitlement.

Because the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) does not recognize registered domestic partners, an absence to care for an employee's registered domestic partner is not counted towards the twelve weeks of the Family and Medical Leave Act entitlement.

NEW SECTION

WAC 357-31-740 What is temporary salary reduction (TSR) leave and which employees are eligible to earn TSR leave? Temporary salary reduction (TSR) leave is paid leave prescribed under chapter 39, Laws of 2011. Employees who are subject to the three percent temporary salary reduction under chapter 39, Laws of 2011 may be credited up to a maximum of 5.2 hours of TSR leave per month.

NEW SECTION

WAC 357-31-745 What provisions apply to temporary salary reduction (TSR) leave? (1)Full-time employees whose pay has been reduced in accordance with chapter 39, Laws of 2011 and who have been in pay status for 80 non-overtime hours in a month will accrue 5.2 hours of TSR leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Part-time employees earn TSR leave on a pro rata basis in accordance with WAC 357-31-125.

(3) Employees may use TSR leave as soon as it is accrued.

(4) Employers must identify how employees will request the use of TSR leave.

(5) There is no requirement for TSR leave to be used prior to sick leave or vacation leave unless the employer specifies otherwise.

(6) An employee's request to use TSR leave must be approved under the following conditions:

(a) As a result of the employee's serious health condition.

(b) To care for a spouse, registered domestic partner, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition.

(c) To care for a minor/dependent child with a health condition that requires treatment or supervision.

(d) For parental leave as provided in WAC 357-31-460.

(e) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave

under this section be supported by verification in accordance with WAC 357-31-730.

(f) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(7) In accordance with the employer's leave policy, approval for the reasons listed in (6)(a) through (f) above may be subject to verification that the condition or circumstance exists.

(8) TSR leave has no cash value and balances must be used by July 1, 2013; however, employees may carry forward up to 16 hours of TSR leave that must be used prior to September 1, 2013.

(9) TSR leave may not be donated as shared leave.

(10) TSR leave may be approved for any reason vacation leave and sick leave may be approved.

(11) Unused TSR leave transfers with an employee when the employee changes state employers, without a break in service, and moves to a position which earns TSR leave.

(12) Time spent on temporary layoff as provided in WAC 357-46-063 will not impact an employees TSR leave accrual.

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

WSR 11-14-082
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed July 1, 2011, 8:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-08-067.

Title of Rule and Other Identifying Information: The department is proposing to amend rules and adopt a new section regarding the allowable use of benefits for cash and food assistance programs for WAC 388-412-0005 General information about your cash benefits, 388-412-0015 General information about your Basic Food allotments, 388-412-0040 Can I get my benefits replaced, 388-446-0001 Cash and medical assistance fraud, 388-446-0015 Intentional program violation (IPV) and disqualification hearings for Basic Food, 388-446-0020 Food assistance disqualification penalties and 388-472-0005 What are my rights and responsibilities; and new section WAC 388-412-0046 What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits?

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html or by calling (360) 664-6094), on August 23, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 24, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on August 23, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by August 10, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments proposed under this filing are needed to incorporate federal regulations regarding the allowable use of supplemental nutrition assistance program (SNAP) benefits. Amendments provide definitions of trafficking, appropriate and legal use of food assistance benefits, and adopt federal regulations related to fraud, use of food assistance benefits, and penalties for trafficking of food assistance benefits. The amendments also incorporate department standards for use of DSHS cash assistance benefits consistent with restrictions regarding the use of EBT food and cash assistance by amending RCW 74.08.580. These changes are necessary to carry out the purposes of DSHS cash and food assistance programs.

Reasons Supporting Proposal: DSHS incorporates regulations from federal agencies, exercises state options, and implements approved waivers and demonstration projects by adopting administrative rules for the federal SNAP administered as the Washington Basic Food program. DSHS adopts rules for cash assistance conforming to federal regulations under Title 45 C.F.R., Title IV-A of the Social Security Act, Title 74 RCW and the approved TANF state plan.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, 74.04.770, 74.12.260, 74.08.580, 9.91.142, 7 C.F.R. 273.16, the Food and Nutrition Act of 2008 as amended, and 42 U.S.C. 601a.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, 74.04.770, 74.12.260, 74.08.580, 9.91.142, 7 C.F.R. 273.16, the Food and Nutrition Act of 2008 as amended, and 42 U.S.C. 601a.

Rule is necessary because of federal law, 7 C.F.R. 273.16, the Food and Nutrition Act of 2008 as amended and 42 U.S.C. 601a.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Holly St. John, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4895.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to … rules of the department of social and

health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

July 1, 2011
Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 11-15 issue of the Register.

WSR 11-14-088
PROPOSED RULES
COMMUNITY COLLEGES OF SPOKANE

[Filed July 1, 2011, 11:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-050.

Title of Rule and Other Identifying Information: Chapter 132Q-01 WAC, Board of trustees.

Hearing Location(s): CCS Board of Trustees Meeting, Institute for Extended Learning Lodge, 3305 West Fort George Wright Drive, Spokane, WA, on September 20, 2011, at 8:30 a.m.

Date of Intended Adoption: September 20, 2011.

Submit Written Comments to: Anne Tucker, Community Colleges of Spokane, Mailstop 1009, P.O. Box 6000, Spokane, WA 99217-6000, e-mail atucker@ccs.spokane.edu, fax (509) 434-5169, by September 2, 2011.

Assistance for Persons with Disabilities: Contact Anne Tucker by September 2, 2011, (509) 434-5109.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Housekeeping to update titles, addresses, and internal references.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Name of Proponent: Community Colleges of Spokane, governmental.

Name of Agency Personnel Responsible for Drafting: Anne Tucker, Public Information Officer, Suite 139, 501 North Riverpoint Boulevard, Spokane, WA 99202, (509) 434-5109; Implementation and Enforcement: Dr. Christine Johnson, Chancellor, Suite 110, 501 North Riverpoint Boulevard, Spokane, WA 99202, (509) 434-6006.

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

A cost-benefit analysis is not required under RCW 34.05.328. Community Colleges of Spokane is not a listed agency under RCW 34.05.328 and is therefore exempt from this provision.

July 1, 2011
Anne Tucker
Public Information Officer
and Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-10-065, filed 4/30/04, effective 5/31/04)

WAC 132Q-01-006 Organization and operation. (1) Organization: Washington State Community College District 17, Community Colleges of Spokane including Spokane Community College, Spokane Falls Community College and the Institute for Extended Learning, is established in Title 28B RCW as a public institution of higher education. District 17 is governed by a five-member board of trustees, appointed by the governor. The board employs a chancellor((~~/chief executive officer~~)) who establishes the structure of the administration.

(2) Operation: The administrative office is located at 501 North Riverpoint Boulevard, P.O. Box 6000, Spokane, Washington 99217-6000. Spokane Community College is located at 2000 North Greene Street, Spokane, Washington 99217-5499; Spokane Falls Community College is located at 3410 West Fort George Wright Drive, Spokane, Washington 99224-5288; the Institute for Extended Learning is located at ((~~3305~~)) 2917 West Fort George Wright Drive, Spokane, Washington 99224-((~~5228~~)) 5202. The office hours are 8:00 a.m. to 5:00 p.m. Monday through Friday, except for legal holidays. During summer months, sections of the district may operate on an alternate schedule and throughout the year, evening services are provided. Specific information is available through each campus.

(3) Additional and detailed information concerning the educational offerings may be obtained from the college catalog, available on the Community Colleges of Spokane web site and at various locations including college libraries, ((~~cashier's~~)) admissions, and counseling offices ((~~and district web site~~)).

AMENDATORY SECTION (Amending WSR 04-10-065, filed 4/30/04, effective 5/31/04)

WAC 132Q-01-020 Regular meetings of the board of trustees. The board of trustees of Washington State Community College District 17 (Community Colleges of Spokane) shall hold regular monthly meetings according to a schedule including place, time and date filed with the Washington state code reviser on or before January 1 of each year for publication in the Washington State Register. Notice of any change from such meeting schedule shall be published in the Washington State Register at least twenty days prior to the rescheduled meeting date.

All regular meetings of the board of trustees shall be held at ((~~2000 North Greene Street~~)) 3305 W. Fort George Wright Drive, Spokane, Washington, ((~~99217-5499~~)) 99217-5228, unless otherwise announced. Information about specific meeting places and times may be obtained from the office of the board.

AMENDATORY SECTION (Amending Resolution No. 25, filed 1/24/86)

WAC 132Q-01-030 Special meetings of the board of trustees. Special meetings of the board of trustees may be called by the chairperson of the board or by a majority of the members of the board by written notice delivered by e-mail,

mail or ((~~by~~)) in person to each member at least twenty-four hours before the time of such meeting. Such notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings. Notice of such special meetings also shall be provided twenty-four hours prior to such meetings to each local newspaper of general circulation and to each local radio and television station which has on file a written request to be notified of such special meetings or of all meetings of the board.

WSR 11-14-089
PROPOSED RULES
COMMUNITY COLLEGES OF SPOKANE

[Filed July 1, 2011, 11:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-051.

Title of Rule and Other Identifying Information: Chapter 132Q-02 WAC, Student records.

Hearing Location(s): CCS Board of Trustees Meeting, Institute for Extended Learning Lodge, 3305 West Fort George Wright Drive, Spokane, WA, on September 20, 2011, at 8:30 a.m.

Date of Intended Adoption: September 20, 2011.

Submit Written Comments to: Anne Tucker, Community Colleges of Spokane, Mailstop 1009, P.O. Box 6000, Spokane, WA 99217-6000, e-mail atucker@ccs.spokane.edu, fax (509) 434-5169, by September 2, 2011.

Assistance for Persons with Disabilities: Contact Anne Tucker by September 2, 2011, (509) 434-5109.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To ensure compliance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

Rule is necessary because of federal law, Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

Name of Proponent: Community Colleges of Spokane, governmental.

Name of Agency Personnel Responsible for Drafting: Drafting: Anne Tucker, Public Information Officer, Suite 139, 501 North Riverpoint Boulevard, Spokane, WA 99202, (509) 434-5109; Implementation: Chief Student Services Officers, Terri McKenzie, Spokane Community College, Room 105, Building 50, 1810 North Greene Street, Spokane, WA, (509) 533-7015, Alex Roberts, Spokane Falls Community College, Room 150, Building 17, 3410 West Fort George Wright Drive, Spokane, WA, (509) 533-3514 and Amy Lopes-Wasson, Institute for Extended Learning, Room 245, 2917 West Fort George Wright Drive, Spokane, WA, (509) 279-6045; and Enforcement: College Presidents and IEL CEO, Joe Dunlap, Spokane Community College, Room 110, Building 50, 1810 North Greene Street, Spokane, WA, (509) 533-7042, Pam Praeger, Spokane Falls Community College, Room 105, Building 1, 3410 West Fort George Wright Drive, Spokane, WA, (509) 533-3535, and Scott Morgan, Institute for Extended Learning, Room 248, Magnuson, 2917 West Fort George Wright Drive, Spokane, WA, (509) 279-6040.

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

A cost-benefit analysis is not required under RCW 34.05.328. Community Colleges of Spokane is not a listed agency under RCW 34.05.328 and is therefore exempt from this provision.

July 1, 2011
Anne Tucker
Public Information Officer
and Rules Coordinator

NEW SECTION

WAC 132Q-02-335 Purpose. The purpose of this chapter is to establish rules that comply with the requirements of the Family Educational Rights and Privacy Act of 1974 (FERPA), located at Title 20 United States Code. FERPA provides students with the following rights:

(1) The right to inspect and review their education records;

(2) The right to seek amendment of their education records to correct information which they believe is inaccurate, misleading or otherwise in violation of student privacy rights;

(3) The right to consent to disclosure of personally identifiable information, except for disclosure to school officials with a legitimate educational interest and except to the extent FERPA authorizes disclosure without consent; and

(4) The right to be informed annually of their rights under the act if they are currently in attendance.

AMENDATORY SECTION (Amending WSR 07-10-042, filed 4/25/07, effective 6/25/07)

WAC 132Q-02-340 Definitions. The following definitions ((~~in this chapter are those in WAC 132Q-30-105.~~)) shall apply in interpreting these regulations:

(1) Directory information: Information contained in an educational record of a student that would not be generally considered harmful or an invasion of the privacy if disclosed. It includes, but is not limited to: The student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended by the student.

(2) Educational record: Those records, except as provided otherwise in (b) of this subsection, directly related to a student and maintained by the college or a party acting for the college.

(a) Education records include, but are not limited to:

(i) Official transcripts of course taken and grade received; records relating to prior educational experience; and admission records;

(ii) Tuition and payment records;

(iii) Student disciplinary records;

(iv) Course records (e.g., examinations, term papers, essays, etc.);

(v) Employment records based on student status (e.g., work study).

(b) Educational records do not include:

(i) Records of instruction, supervisory, and administrative personnel and educational personnel which are in the sole possession of the originator and which are not accessible or revealed to any other person except a substitute or designee;

(ii) Records created and maintained by campus security for law enforcement purposes;

(iii) In the case of persons who are employed by an educational agency or institution, but who are not in attendance at such agency or institution, records made and maintained in the normal course of business, which relate exclusively to such person's employment, are not available for use for any other purpose;

(iv) Records containing medical or psychological information are not available to anyone other than the individual(s) providing treatment; however, such records may be personally reviewed by a physician or other appropriate professional upon the student's written consent.

(3) Legitimate educational interest: If the information requested by the school official is necessary for the official to perform a task specified in his/her position description or contract agreement including: The performance of a task related to a student's education; the performance of a task related to the discipline of a student; the provision of a service or benefit related to the student or student's family, such as health education, counseling, advising, student employment, financial aid, or other student service related assistance; the maintenance of the safety and security of the campus; and/or the provision of legal assistance regarding a student matter.

(4) Parent: Defined as a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

(5) Personal identifiable information: This includes, but is not limited to: Student's name, the name of the student's parent or other family member; the address of the student or the student's family; a personal identifier such as the student's Social Security number or student identification number; a list of personal characteristics that would make the student's identity easily traceable; other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

(6) Record: Any information recorded in any way, including, but not limited to: Handwriting, print, computer media, video or audio media, microfilm and microfiche.

(7) School official: All of the following who act in the student's educational interests within the limitations of their need to know:

(a) A person employed by Community Colleges of Spokane in an administrative, supervisory, academic, research, support staff, law enforcement or health care service position;

(b) A person serving on the CCS board of trustees;

(c) A student serving on an official CCS committee or assisting another school official in fulfilling their professional responsibilities (examples include, but are not limited to, service on a disciplinary committee and work study students); and

(d) A contractor, consultant, volunteer or other party with whom CCS has contracted to provide a service and/or to assist another school official in conducting official business (examples include, but are not limited to: An attorney, an auditor, a collection agency, or the National Student Clearinghouse, an agency which acts as a clearinghouse for student loan deferment reporting).

(8) Student: Any person, regardless of age, who is or has been officially registered in attendance at CCS at any location at which CCS offers programs/courses with respect to whom CCS maintains educational records.

AMENDATORY SECTION (Amending WSR 07-10-042, filed 4/25/07, effective 6/25/07)

WAC 132Q-02-360 Education records—Student's right to inspect. (((~~(1)~~))) A student has the right to inspect and review his/her education records.

(((~~(a) For purposes of this section the term "education records" means those records, files, documents, and other materials which contain information directly related to a student, including records regarding the employment of a student when such employment is a result of, and directly related to, student status.~~

~~(b) The term "education records" does not include:~~

~~(i) Records of instructional, supervisory and administrative personnel and educational personnel which are in the sole possession of the originator and which are not accessible or revealed to any other person except a substitute or designee.~~

~~(ii) Records of the campus security department, which are kept apart from those records described in subsection (a) and which are maintained solely for law enforcement purposes are not made available to persons other than law enforcement officials of the same jurisdiction.~~

~~(iii) In the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business, which relate exclusively to such person's employment, are not available for use for any other purpose.~~

~~(iv) Student records containing medical/psychological information are not available to anyone other than the individual(s) providing treatment; however, such records may be personally reviewed by a physician or other appropriate professional upon the student's written consent.~~

~~(2)(a)~~))) (1) Recommendations, evaluations or comments concerning a student that are provided in confidence, either expressed or implied, as between the author and the recipient, shall be made available to the student, except as provided in (((~~(b), (c) and (d)~~))) (a), (b), and (c) of this subsection. The col-

lege may require proof of identification, such as a driver's license, college student identification card, or other photographic identification.

(((~~(b)~~))) (a) The student may specifically release his or her right to review where the information consists only of confidential recommendations respecting:

(i) Admission to any educational institution; or

(ii) An application for employment((~~:~~)); or

(iii) Receipt of an honor or honorary recognition.

(((~~(c)~~))) (b) A student's waiver of his or her right to access confidential statements shall apply only if:

(i) The student is, upon request, notified of the names of person(s) making confidential statements concerning him or her; and

(ii) Such confidential statements are used solely for the purpose for which they were originally intended; and

(iii) Such waivers are not required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from the college/instructional unit.

(((~~(d)~~))) (c) Recommendations, evaluations or comments concerning a student that have been provided in confidence, either expressed or implied, as between the author and the recipient, prior to January 1, 1975, shall not be subject to release under (((~~(a) of~~))) this subsection. Such records shall remain confidential and shall be released only with the consent of the author. The institution shall use these records only for the purpose for which they were originally intended.

(((~~(3)~~))) (2) Where requested records or data include information on more than one student, the student shall be entitled to receive or be informed of only that part of the record or data that pertains to himself/herself.

(((~~(4)~~))) (3) The office of the ((~~chief student services officer~~)) registrar is the official custodian of academic records; and, therefore, is the only office who may issue an official transcript of the student's academic record.

(((~~(5)~~))) (4) Student educational records may be destroyed in accordance with a department's routine retention schedule. In no case will any record which is requested by a student for review in accordance with this section be removed or destroyed prior to providing the student access.

AMENDATORY SECTION (Amending WSR 07-10-042, filed 4/25/07, effective 6/25/07)

WAC 132Q-02-370 Records requests and appeals. (1) A request by a student for review of information shall be made in writing to the college individual(s) or office(s) having custody of the particular record. ((~~Any challenge to the contents of educational records shall be addressed by means of a brief adjudicative proceeding.~~))

(a) The college may refuse to provide copies of education records, including transcripts and diplomas in the following circumstances:

(i) If the record is a secure exam as determined by the department that maintains the exam, so that the integrity of such exams may be protected;

(ii) If the student has outstanding debts owed to the college, so that the college may facilitate collection of such debts; and/or

(iii) If disciplinary action is pending or sanctions are not completed.

(b) The college must provide copies of the educational record, subject to the provision of this subsection in the following circumstances:

(i) If failure to do so would effectively prevent the student from inspecting and reviewing a record;

(ii) When records are released pursuant to a student's consent and the student requests copies; and/or

(c) When the records are transferred to another education institution where the student seeks to attend or intends to enroll and the student requests copies.

(2) An individual(s) or office(s) must respond to a request for education records within a reasonable period of time, but in no case more than forty-five days after the request has been made. A college individual(s) or office(s) which is unable to comply with a student's request within the above-stated time period shall inform the student of that fact and the reason(s) in writing.

(3)(((~~(a)~~))) A student who feels that his/her request has not been properly answered by a particular individual(s) or office(s) should contact the chief student services officer.

(((~~(b)~~))) (a) In cases where a student is dissatisfied after consulting with the chief student services officer, the student may appeal to the college records committee. The college's records committee shall render its decision within a reasonable period of time. In all cases, the decision of the college's records committee is final.

(((~~(c)~~))) (b) In no case shall any request for review by a student be considered by the college's records committee, which has not been filed with that body in writing within ninety days from the date of the initial request to the custodian of the record.

(((~~(d)~~))) (c) The college's records committee shall not review any matter regarding the appropriateness of official academic grades.

NEW SECTION

WAC 132Q-02-374 Amendment of records. If a student believes his/her educational records contain information that is inaccurate, misleading, or in violation of the student's rights of privacy, the student may ask the college to amend the record. Requests for amendment must be submitted to college individual(s) or office(s) having custody of the particular record. The college individual(s) or office(s) having custody of the particular record will review the request and may consult other college personnel who participated in the creation of the record to determine whether to grant the request for amendment.

(1) If the college decides to grant the student's request, the college shall amend the education record and will inform the student of the action taken. Such notification will be in writing and will be made within a reasonable time.

(2) If the college decides not to amend the education record as requested, the college will notify the student in writing within a reasonable time after receiving the request for amendment.

(3) If a student wants a hearing, the student must make a written request within ninety days of the date of the denial.

The request shall be submitted to the college individual(s) or office(s) having custody of the particular record and must identify why the student believes the information contained in the education record(s) is inaccurate, misleading or in violation of the privacy rights of the student.

NEW SECTION

WAC 132Q-02-377 Disclosure of education records requiring consent. Students shall provide a signed and dated written consent before the college discloses personally identifiable information from a student's educational records. The written consent must:

(1) Specify the records that may be disclosed;

(2) State the purpose of the disclosure; and

(3) Identify the party or class of parties to whom the disclosure may be made.

AMENDATORY SECTION (Amending WSR 07-10-042, filed 4/25/07, effective 6/25/07)

WAC 132Q-02-380 ((~~Release of personally identifiable records.~~)) Disclosures authorized without consent. (((~~(1)~~))) The college shall not permit access to or the release of education records or personally identifiable information contained therein, other than "directory information," without the written consent of the student, to any party other than the following:

(((~~(a) College personnel and students when officially appointed to a faculty council or administrative committee, when the information is required for a legitimate educational interest within the performance of their responsibilities to the college, with the understanding that its use will be strictly limited to the performance of those responsibilities.~~

~~(b) Federal and state officials requiring access to education records in connection with the audit and evaluation of a federally supported or state-supported educational program or in connection with the enforcement of the federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parent(s) to other than those officials and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements.~~

~~(c)~~)) (1) Agencies or ((~~individual's~~)) organizations requesting information in connection with a student's application for or receipt of financial aid((~~.~~

~~(d) Organizations conducting studies for or on behalf of the college for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than the representatives of such organizations, and such information will be destroyed when no longer needed for the purposes for which it was provided.~~

~~(e) Accrediting organizations in order to carry out their accrediting functions.~~

~~(f) Any person or entity designated by judicial order or lawfully issued subpoena, upon condition that the student is notified of all such orders or subpoenas in advance of the compliance unless the court or other issuing agency orders the college not to notify the student before compliance with the subpoena. The college president, the president's designee, or office(s) receiving a subpoena or judicial order for education records should immediately notify the attorney general.~~

~~(g) Parents transfer their rights under FERPA to their child when he/she reaches 18 years of age or attends an institution of postsecondary education. Parents of college students, who request to review their "adult child's" record, must provide documented "dependency status" under Internal Revenue Service (IRS) regulations or have written consent from the student. The final decision whether or not to disclose information about students to their parents is a matter of the institution's policy.~~

~~(2) Where the consent of a student is obtained for the release of education records, it shall be in writing, signed and dated by the person giving such consent, and shall include:~~

~~(a) A specification of the records to be released;~~

~~(b) The reasons for such release; and~~

~~(c) The names of the parties to whom such records will be released.~~

~~(3) In cases where records are made available without student release as permitted by subsection (1)(b), (c), (d), (e) and (f), the college shall maintain a record kept with the education record released which will indicate the parties which have requested or obtained access to a student's records maintained by the college and which will indicate the legitimate interest of the investigating party. Releases in accordance with subsection (1)(a) need not be recorded.~~

~~(4) Personally identifiable education records released to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other parties without obtaining consent of the student.~~

~~(5) The term "directory information" used in subsection (1) is defined as information contained in an educational record of a student that would not be generally considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended by the student.~~

~~(6) Students may request in writing that the college not release directory information through written notice to the chief student services officer.~~

~~(7) Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person(s)~~)). If the information is necessary to:

(a) Determine eligibility for financial aid;

(b) Determine the amount of financial aid;

(c) Determine the conditions of financial aid; or

(d) Enforce the terms and conditions of financial aid.

(2) Authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the United States Department of Education, or state or local authorities requiring access to education records, in connection with the audit or evaluation of a federal or state supported education program or in connection with the enforcement of or compliance with federal legal requirements which relate to such a program.

(3) School officials who have a legitimate educational interest in the records.

(4) Parent of a minor student or a nonminor dependent student, as defined in the Internal Revenue Code and upon submission of a copy of the most recent Internal Revenue Service annual tax return showing the student as a dependent.

(5) Officials of another school, school system or institution of postsecondary education where the student seeks or intends to enroll or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer.

(6) Organizations conducting studies for, or on behalf of, the college for the purpose of developing, validating or administering predictive tests; administering student aid programs or improving instruction, if the studies are conducted in a manner that will not permit the personal identification of students or their parents by persons other than representatives of such organizations who have legitimate interests in the information; such information will be destroyed when no longer needed for the purposes for which it was provided, and the college enters into a written agreement with the organization that specifies the purpose, scope, and duration of the study and the information to be disclosed, requires the organization to use personally identifiable information from education records only to meet the purpose(s) of the study as stated in the written agreement and requires the organization to conduct the study in a manner that does not permit personal identification of parents and students to anyone other than representatives of the organization within a specified time period when it is no longer needed for the purposes for which the study was conducted.

(7) Accrediting organizations to carry out accreditation functions.

(8) Persons or entities designated by a judicial order or lawfully issued subpoena, upon the condition that the college makes a reasonable effort to notify the student of all such orders or subpoenas and of its intent to release records in advance of compliance with the order or subpoena, unless:

(a) It is a federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;

(b) A subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response not be disclosed; or

(c) An ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b (g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

(9) Appropriate persons, including parents of an eligible student, in connection with an emergency if the knowledge of the information is necessary to protect the health or safety of the student or other individuals.

(10) Persons who request information that is designated as "directory information."

(11) Victims alleging a crime of violence or a nonforcible sex offense, the final results of a disciplinary proceeding conducted by the college after October 7, 1998, with respect to the alleged crime or offense. Disclosure is permitted regardless of whether the college concluded a violation was committed.

(12) To others, the final results of the disciplinary proceeding when, at its discretion the college believes that disclosure will serve a legitimate educational interest, and determines through a disciplinary proceeding conducted under its student conduct code that the alleged student perpetrator committed a crime of violence or a nonforcible sexual offense that is a violation of the college rules or policies with respect to such crime or offense. For purposes of this subsection, "final results" means the name of the student perpetrator, the violation committed, and any sanction imposed by the college on that student. Names of other students involved in the violation, such as a victim or witness, will be released only with the written consent of those students.

(13) Parent of a student of the college regarding the student's violation of any federal, state or local law, or of any rule or policy of the college governing the use of alcohol or controlled substance, if the student is under the age of twenty-one, and the college had determined that the student has committed a disciplinary violation with respect to that use or possession.

(14) When a parent or eligible student initiates legal action against the college or when the college initiates legal action against the parent or eligible student, the college may disclose to the court any education records of the student that are relevant to the legal action.

(15) Students upon providing evidence sufficient to demonstrate that the requesting individual is in fact the student to whom the records relate such as: A driver's license, a college student identification card, or other photographic identification.

(16) For deceased students, members of the family or other persons with the written approval of the family or representatives of the estate. The request for education records must be accompanied by a copy of the death certificate or obituary. Absent written approval from the family or representative of the estate, only directory information will be disclosed to persons upon request.

(17) The disclosure concerns sex offenders and other offenders required to register under Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, and the information was provided to the educational agency or institution under 42 U.S.C. 14071 and applicable federal guidelines.

(18) The disclosure involves records or information from which all personally identifiable information has been removed

Students may request in writing that the college not release directory information through written notice to the registrar.

Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person(s).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132Q-02-350	Confidentiality of student records.
WAC 132Q-02-410	Eligibility for clinical programs.

WSR 11-14-090
PROPOSED RULES
COMMUNITY COLLEGES OF SPOKANE

[Filed July 1, 2011, 11:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-052.

Title of Rule and Other Identifying Information: Chapter 132Q-20 WAC, Faculty and student traffic rules and regulations.

Hearing Location(s): CCS Board of Trustees Meeting, Institute for Extended Learning Lodge, 3305 West Fort George Wright Drive, Spokane, WA, on September 20, 2011, at 8:30 a.m.

Date of Intended Adoption: September 20, 2011.

Submit Written Comments to: Anne Tucker, Community Colleges of Spokane, Mailstop 1009, P.O. Box 6000, Spokane, WA 99217-6000, e-mail atucker@ccs.spokane.edu, fax (509) 434-5169, by September 2, 2011.

Assistance for Persons with Disabilities: Contact Anne Tucker by September 2, 2011, (509) 434-5109.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In fall 2009, the chancellor called for the creation of a CCS parking services taskforce. It had been many years since CCS had done a comprehensive review of parking services. Members of the taskforce worked diligently over the course of two academic years to examine various issues and bring forward recommendations for improvements. This proposal incorporates the updates and changes recommended by the taskforce.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Name of Proponent: Community Colleges of Spokane, governmental.

Name of Agency Personnel Responsible for Drafting: Anne Tucker, Public Information Officer, Suite 139, 501 North Riverpoint Boulevard, Spokane, WA 99202, (509) 434-5109; Implementation: Chief Student Services Officers, Terri McKenzie, Spokane Community College, Room 105, Building 50, 1810 North Greene Street, Spokane, WA, (509) 533-7015, Alex Roberts, Spokane Falls Community College, Room 150, Building 17, 3410 West Fort George Wright Drive, Spokane, WA, (509) 533-3514 and Amy Lopes-Wasson, Institute for Extended Learning, Room 245, 2917 West Fort George Wright Drive, Spokane, WA, (509) 279-6045; and Enforcement: College Presidents and IEL CEO, Joe Dunlap, Spokane Community College, Room 110, Building 50, 1810 North Greene Street, Spokane, WA, (509) 533-7042, Pam Praeger, Spokane Falls Community College, Room 105, Building 1, 3410 West Fort George Wright Drive, Spokane, WA, (509) 533-3535, and Scott Morgan, Institute for Extended Learning, Room 248, Magnuson, 2917 West Fort George Wright Drive, Spokane, WA, (509) 279-6040.

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

A cost-benefit analysis is not required under RCW 34.05.328. Community Colleges of Spokane is not a listed agency under RCW 34.05.328 and is therefore exempt from this provision.

July 1, 2011
Anne Tucker
Public Information Officer
and Rules Coordinator

Chapter 132Q-20 WAC

((~~FACULTY~~)) EMPLOYEE AND STUDENT TRAFFIC RULES AND REGULATIONS

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-005 Definitions. As used in this chapter the following words and phrases shall mean:

(1) **Annual permits—**Permits, which are valid for fall through summer quarters.

(2) **Appropriate vice-president—**The chief administrative officer over student services regardless of current position title.

(3) **Board—**The board of trustees of Washington State Community College District 17, also known as Community Colleges of Spokane (CCS).

(4) **Campus—**Any or all real property owned, leased, operated or maintained by Community Colleges of Spokane.

(5) **Campus ((~~patrol~~)) safety**—((~~An employee of the college, Administration of~~)) College security officers, criminal justice, work-study students ((~~or~~)), contracted security personnel, or college employees, who are responsible to the appropriate vice-president or designee for campus ((~~security~~)) safety.

(6) **College—**Any community college or separate instructional unit which may be created by the board of trustees of Community Colleges of Spokane.

(7) ((~~**College personnel**—Any person employed or representing on a full- or part-time basis Community Colleges of Spokane.~~)) **Employee**—Any person employed or representing Community Colleges of Spokane on a full- or part-time basis.

(8) **Community Colleges of Spokane (CCS)**—Spokane Community College, Spokane Falls Community College, Institute for Extended Learning and the District Office.

(9) CCS Facilities are facilities owned by CCS or the CCS Foundation.

(10) **Quarterly permits**—Permits valid for a specified academic quarter.

(((~~(10)~~))) (11) **Special permits**—Permits issued under special circumstances such as ((~~"D" permit which is a quarterly disabled parking permit issued by disability support services;~~)) carpool permits, issued to college personnel who participate in commuter trip reduction; and honorary permits which are issued to Community Colleges of Spokane personnel upon retirement.

(((~~(11)~~))) (12) **Student**—Any person who is or has officially registered at any college or instructional unit with the Community Colleges of Spokane and with respect to whom the college maintains education records or personally identifiable information.

(((~~(12) **Temporary**~~))) (13) **Invited guest permits**—Permits, which are valid for an individual invited to campus by a department for a specific period designated on the permit.

(((~~(13)~~))) (14) **Vehicle**—An automobile, truck, motorcycle, scooter, or any vehicle ((~~empowered~~)) powered by a motor.

(((~~(14)~~))) (15) **Visitors**—Any person ((~~or persons~~)), excluding students ((~~as previously defined, who come upon the campus as guests and person or persons~~)), employees, vendors and guests who lawfully visit the campus for purposes, which are in keeping with the colleges' role as institutions of higher learning in the state of Washington.

(16) **Vendors**—Persons contracted to provide services to CCS.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-010 Purpose and jurisdiction for adopting rules. Pursuant to the authority granted by RCW 28B.50.140(10), the board of trustees of Community Colleges of Spokane is granted authority to make rules and regulations for pedestrian and vehicular traffic on property owned, operated or maintained by the college district. The rules and regulations contained in this chapter pertain to all students, ((~~college personnel~~)) employees, vendors, invited guests, and visitors who use district facilities unless exempted by the chancellor((~~/CEO~~)) of the district and are established for the following purposes:

(1) To protect and control pedestrian and vehicular traffic; and

(2) To assure access at all times for emergency traffic; and

(3) To minimize traffic disturbance during class hours; and

(4) To facilitate the work of the community colleges.

AMENDATORY SECTION (Amending Resolution No. 27, filed 7/23/87)

WAC 132Q-20-030 Applicable traffic rules and regulations. The other traffic rules and regulations which may also be applicable upon the campuses are as follows:

(1) The motor vehicle and other traffic laws of the state of Washington; and

(2) The ((~~Spokane~~)) appropriate municipal code.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-040 Permits required for vehicles on campus. ((~~Students, college personnel, guests and visitors~~)) Vehicles shall not ((~~stop, park, or leave a vehicle whether attended or unattended upon the campus~~)) be parked at CCS facilities without a valid parking permit issued pursuant to WAC 132Q-20-050, ((~~except guests and visitors who will be given a reasonable time to secure a temporary permit from the appropriate vice-president or designee. All students who plan to park on campus and are attending educational programs on campus that meet ten or more times per quarter are required to purchase a valid quarterly permit~~)) unless parked in a metered space. Failure to obtain a permit may be grounds for disciplinary action. The fees for the parking permits shall be established by the board of trustees of Community Colleges of Spokane and shall be published. ((~~Anyone parking on campus less than ten times per quarter shall obtain temporary guest permit(s).~~)) Students parking at CCS facilities off the main campuses of SCC and SFCC are not required to have a parking permit.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-050 Authorization for issuance of permits. The colleges are authorized to issue parking permits to students, college ((~~personnel~~)) employees, guests, vendors and visitors of the college pursuant to regulations and the payment of appropriate fees as determined by the board of trustees of Community Colleges of Spokane.

Employees, students, and visitors may obtain permits from the cashier's office. Guests and vendors may obtain permits from the sponsoring department.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-060 Valid permit. A valid ((~~[CCS]~~)) CCS parking permit is:

(1) An unexpired student or employee parking permit registered and properly displayed; or

(2) A visitor or special parking permit authorized by the appropriate vice-president or designee, and properly displayed; or

(3) A temporary guest or vendor parking permit issued by the sponsoring department and authorized by the appropriate vice-president or designee, and properly displayed.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-070 Display of permit. All CCS ((~~permanent and temporary~~)) parking permits shall be hung on the rear view mirror or in such a manner that they may be viewed through the front windshield. For motorcycles, permits must be placed on the front fork area of the vehicle.

(1) Expired permits should be removed before new permits are attached.

(2) Permits not displayed pursuant to the provisions of this section ((~~shall~~)) are not ((~~be~~)) valid.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-090 Permit revocation. Parking permits are the property of ((~~the college~~)) CCS and may be recalled by the appropriate vice-president or designee for any of the following reasons:

(1) When the purpose for which the permit was issued changes or no longer exists; or

(2) When a permit is used for an unregistered vehicle or by an unauthorized individual; or

(3) Falsification on a parking permit application; or

(4) Continued violations of parking regulations; or

(5) Counterfeiting or altering a parking permit.

AMENDATORY SECTION (Amending Order 71-4, filed 7/26/71)

WAC 132Q-20-100 Right to refuse permit. ((~~The colleges~~)) CCS reserves the right to refuse the issuance of a parking permit to anyone who has had a previous parking permit revoked.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-110 Right to appeal permit revocation/refusal. ((~~,~~)) When a student parking permit has been recalled pursuant to WAC 132Q-20-090, or has been refused in accordance with WAC 132Q-20-100, or when a fine or penalty has been levied against a violator of the rules ((~~and regulations~~)) set forth in this chapter, such action by the appropriate vice-president or designee, may be appealed pursuant to WAC 132Q-108-050((~~; faculty, administrators, and college personnel~~)). Employees of Community Colleges of Spokane shall appeal permit revocations, refusals to grant permits, and fines or penalties levied for violations ((~~by~~)) to the appropriate vice-president ((~~to the respective college president~~)) whose decision on the matter shall be final.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-130 Designation of parking spaces. The parking spaces available on campus shall be designated and allocated by the appropriate vice-president or designee, in such a manner that best achieves the objectives of the rules ((~~and regulations~~)) in this chapter.

(1) Faculty staff, student, and visitor spaces will be designated for their use; and

(2) Parking spaces for the exclusive use by persons of disability will be designated((~~. The appropriate vice-president or designee may issue special permits to students and others to park in these designated spaces~~));

(3) A CCS parking permit along with an official state disabled parking permit allows the permit holder to park in any designated employee or disabled parking space ((~~as listed above; and~~));

(4) Other special use spaces may be designated; and

(5) Parking at metered parking requires payment.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-140 Parking within designated spaces. (1) All vehicles shall follow traffic arrows and other markings established for the purpose of directing traffic on campus.

(2) In areas marked for diagonal parking, vehicles shall be parked at a forty-five degree angle, facing in.

(3) In areas marked for parallel or right-angle parking, space or stall markings will be observed.

(4) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not constitute an excuse for a violation of this section.

(5) No vehicle shall be parked ((~~on the campus~~)) except in those areas set aside and designated pursuant to WAC 132Q-20-130.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-150 Parking hours. Parking ((~~is permitted on campus~~)) permits are required to park at CCS facilities between the hours of 6:30 a.m. to ((~~11:00~~)) 5:00 p.m. ((~~for college personnel, and students~~)) Monday through Friday. The rules and regulations pertaining to the use of certain parking permits in specific areas are contained in WAC ((~~132Q-20-[130]~~)) 132Q-20-130. Students and ((~~college personnel~~)) employees may park in any of the spaces or stalls designated in WAC 132Q-20-140 except visitor's areas on a first-come, first-served basis ((~~between the hours of 5:00 p.m. and 11:00~~)) after 3:30 p.m. Custodial and other authorized personnel may park on campus from 10:00 p.m. to 6:30 a.m., and are still required to follow regular parking regulations and obtain parking permits.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-210 Two-wheeled motor bikes or bicycles. (1) All two-wheeled vehicles ((~~empowered~~)) powered by a motor shall park in a space designated for *motorcycles only.*

(2) No vehicle shall be driven or ridden on the sidewalks on campus at any time unless authorized by the appropriate vice-president or designee.

(3) No skateboards or roller blades/skates shall be allowed on campus.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-230 Exceptions from traffic and parking restrictions. These rules ((~~and regulations~~)) shall not apply to city-, county-, state- or federally owned emergency vehicles.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-240 Enforcement. (1) Enforcement of the parking rules ((~~and regulations will begin the first day of fall quarter and will continue until the start of the following fall quarter~~)) is continuous throughout the year.

(2) The appropriate vice-president or designee shall be responsible for the enforcement of the rules ((~~and regulations~~)) contained in this chapter.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-250 Issuance of traffic citations. Upon violation of any rules ((~~and/or regulations~~)) contained in this chapter, the ((~~appropriate vice-president or designee,~~)) campus safety office may issue ((~~a~~)) traffic citations setting forth the date, approximate time, permit number, license information, infraction, officer, and schedule of fines. Traffic citations may be served by attaching or affixing a copy in a prominent place outside the vehicle or by personally serving the operator/owner and by direct entry into the violator's "Customer Account((~~[.]~~))."

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-260 Fines and penalties ((~~for students~~)) violations. (1) Fines will be levied by the appropriate vice-president or designee for all violations of the ((~~regulations~~)) rules contained in this chapter. A current schedule of fines is available from the ((~~security~~)) campus safety office.

(2) ((~~Students~~)) Violators have the right to due process and may appeal ((~~a decision of the appropriate vice-president or designee to the college president or chief administrator of a recognized instructional unit~~)) to the college parking appeals board created in WAC 132Q-20-265, whose decision shall be final.

(3) Vehicles parked on any campus in violation of any of the ((~~regulations~~)) rules contained in this chapter, may be impounded or detained by use of mechanical devices at the discretion of the ((~~appropriate vice-president or designee~~)) campus safety office. If a vehicle is impounded, it may be taken to such place for storage as the appropriate vice-president or designee selects. The expenses of such impounding and storage shall be the sole responsibility of the owner or operator of the vehicle. CCS shall not be liable for loss or damage of any kind resulting from such impounding and storage.

(4) At the discretion of the appropriate vice-president or designee, an accumulation of traffic violations by a student will be cause for disciplinary action, pursuant to ((~~WAC 132Q-02-270.~~

~~(5) The duly elected associated student government officers of CCS recommend a proposed schedule of fines prior to adoption of a new fine schedule.~~

~~(6)~~)) chapter 132Q-30 WAC. In the case of students, failure to pay fines shall be grounds for the college, in addition to disciplinary action, to deny admission to CCS, registration, official transcripts, graduation or other administrative action. Failure to pay fines could result in the denial of issuing a permit.

(5) For students and employees, refusal to pay a fine still existing after exhaustion of the appellate process shall be grounds for disciplinary action. ((~~In the case of students, failure to pay fines shall be grounds for the college, in addition to disciplinary action, to deny admission to CCS, registration, official transcripts, graduation or other administrative action. Failure to pay fines could result in the denial of issuing a permit.~~))

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-20-265 ((~~Fines and penalties for all district employees.~~)) Appeals. (((~~1) Fines levied for all violations are subject to payment to CCS in accordance with the established fine schedule.~~

~~(2) Faculty and other district employees have the right of due process and may appeal a decision of the appropriate vice-president or designee to the college president or chief administrator of a recognized institutional unit whose decision shall be final.~~

~~(3) Vehicles parked on any campus in violation of any of the regulations contained in this chapter, may be impounded or detained by use of mechanical devices at the discretion of the appropriate vice-president or designee. If a vehicle is impounded, it may be taken to such a place of storage as the appropriate vice-president or designee selects. The expenses of such impounding and storage shall be the sole responsibility of the owner or operator of the vehicle. CCS shall not be liable for loss or damage of any kind resulting from such impounding and storage.~~

~~(4) At the discretion of the appropriate vice-president or designee, an accumulation of traffic violations by college personnel is subject to disciplinary action pursuant to WAC 132Q-02-270.~~

~~(5) Refusal to pay a fine still existing after exhaustion of the appellate process shall be grounds for disciplinary action. Failure to pay fines could result in the denial of issuance of a permit, and/or impounding of vehicle.~~)) (1) Each college shall establish a parking appeals board consisting of no less than three members appointed by the president. The appeals board membership shall be evenly balanced between faculty, students and classified staff. Appeals from IEL sites shall be considered by the SFCC parking appeals board.

(2) The parking appeals boards shall use criteria on which to fairly judge appeals including, but not limited to:

(a) Did an institutional error occur?

(b) Were there extenuating circumstances that caused the error to occur?

(c) Did the person make a good faith effort to comply with the parking rules?

WSR 11-14-091
PROPOSED RULES
COMMUNITY COLLEGES OF SPOKANE

[Filed July 1, 2011, 11:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-053.

Title of Rule and Other Identifying Information: Chapter 132Q-30 WAC, Standards of conduct for students.

Hearing Location(s): CCS Board of Trustees Meeting, Institute for Extended Learning Lodge, 3305 West Fort George Wright Drive, Spokane, WA, on September 20, 2011, at 8:30 a.m.

Date of Intended Adoption: September 20, 2011.

Submit Written Comments to: Anne Tucker, Community Colleges of Spokane, Mailstop 1009, P.O. Box 6000, Spokane, WA 99217-6000, e-mail atucker@ccs.spokane.edu, fax (509) 434-5169, by September 2, 2011.

Assistance for Persons with Disabilities: Contact Anne Tucker by September 2, 2011, (509) 434-5109.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To clarify existing rules and add a new section regarding smoking and tobacco use.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Name of Proponent: Community Colleges of Spokane, governmental.

Name of Agency Personnel Responsible for Drafting: Anne Tucker, Public Information Officer, Suite 139, 501 North Riverpoint Boulevard, Spokane, WA 99202, (509) 434-5109; Implementation: Chief Student Services Officers, Terri McKenzie, Spokane Community College, Room 105, Building 50, 1810 North Greene Street, Spokane, WA, (509) 533-7015, Alex Roberts, Spokane Falls Community College, Room 150, Building 17, 3410 West Fort George Wright Drive, Spokane, WA, (509) 533-3514 and Amy Lopes-Wasson, Institute for Extended Learning, Room 245, 2917 West Fort George Wright Drive, Spokane, WA, (509) 279-6045; and Enforcement: College Presidents and IEL CEO, Joe Dunlap, Spokane Community College, Room 110, Building 50, 1810 North Greene Street, Spokane, WA, (509) 533-7042, Pam Praeger, Spokane Falls Community College, Room 105, Building 1, 3410 West Fort George Wright Drive, Spokane, WA, (509) 533-3535, and Scott Morgan, Institute for Extended Learning, Room 248, Magnuson, 2917 West Fort George Wright Drive, Spokane, WA, (509) 279-6040.

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

A cost-benefit analysis is not required under RCW 34.05.328. Community Colleges of Spokane is not a listed agency under RCW 34.05.328 and is therefore exempt from this provision.

July 1, 2011
Anne Tucker
Public Information Officer
and Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-10-042, filed 4/25/07, effective 6/25/07)

WAC 132Q-30-130 Responsibility for guests. A student or student organization is responsible for the conduct of guests on or in college premises and at functions sponsored by the college or sponsored by a recognized student organization. Bringing any person including children to a teaching environment without the express approval of the faculty member or other authorized official is prohibited.

NEW SECTION

WAC 132Q-30-231 Smoking and tobacco use. Smoking and tobacco use are prohibited in all Community Colleges of Spokane facilities and motor pool vehicles with no exception.

(1) Smoking and tobacco use are also prohibited:

(a) Within twenty-five feet of entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking and tobacco use are prohibited; and

(b) Where designated on college premises.

(2) "Smoking" means:

(a) Inhaling, exhaling, burning, carrying or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lit tobacco products; or

(b) Use of electronic nicotine delivery devices including, but not limited to, electronic cigarettes, vapor cigarettes, or similar products.

(3) "Tobacco use" means the personal use of:

(a) Any tobacco product, which shall include smoking, as defined in subsection (2) of this section, as well as use of an electronic cigarette or any other device intended to simulate smoking;

(b) Smokeless tobacco, including snuff, chewing tobacco, smokeless pouches, or any other form of loose-leaf, smokeless tobacco.

(4) "Facilities" means a district owned or controlled property, building, or component of that property/building.

(5) "Motor pool vehicles" means vehicles assigned to specific college departments or programs; vehicles used for instructional purposes; vehicles dispatched to staff and students on a reserved, single-use basis; and vehicles assigned to specific faculty and staff.

AMENDATORY SECTION (Amending WSR 07-10-042, filed 4/25/07, effective 6/25/07)

WAC 132Q-30-238 Abuse or theft of CCS information technology. Theft or abuse of computer facilities, equipment and information technology resources including:

(1) Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.

(2) Unauthorized transfer of a file.

(3) Use of another individual's identification and/or password.

(4) Use of computing facilities and resources to interfere with the work of another student, faculty member, or college official.

(5) Use of computing facilities and resources to send obscene, harassing, or threatening messages.

(6) Use of computing facilities and resources to interfere with normal operation of the college computing system.

(7) Use of computing facilities and resources in violation of copyright laws.

(8) Any violation of the CCS ((~~Information Technology Resources~~)) Acceptable Use of Information Technology Resources policy ((~~(7.30.05) or procedure~~)).

WSR 11-14-092
PROPOSED RULES
COMMUNITY COLLEGES OF SPOKANE

[Filed July 1, 2011, 11:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-054.

Title of Rule and Other Identifying Information: Chapter 132Q-108 WAC, Rules of practice.

Hearing Location(s): CCS Board of Trustees Meeting, Institute for Extended Learning Lodge, 3305 West Fort George Wright Drive, Spokane, WA, on September 20, 2011, at 8:30 a.m.

Date of Intended Adoption: September 20, 2011.

Submit Written Comments to: Anne Tucker, Community Colleges of Spokane, Mailstop 1009, P.O. Box 6000, Spokane, WA 99217-6000, e-mail atucker@ccs.spokane.edu, fax (509) 434-5169, by September 2, 2011.

Assistance for Persons with Disabilities: Contact Anne Tucker by September 2, 2011, (509) 434-5109.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Housekeeping to update titles, addresses, and internal references.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Name of Proponent: Community Colleges of Spokane, governmental.

Name of Agency Personnel Responsible for Drafting: Anne Tucker, Public Information Officer, Suite 139, 501 North Riverpoint Boulevard, Spokane, WA 99202, (509) 434-5109; Implementation and Enforcement: Dr. Christine Johnson, Chancellor, Suite 110, 501 North Riverpoint Boulevard, Spokane, WA 99202, (509) 434-6006.

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

A cost-benefit analysis is not required under RCW 34.05.328. Community Colleges of Spokane is not a listed agency under RCW 34.05.328 and is therefore exempt from this provision.

July 1, 2011
Anne Tucker
Public Information Officer
and Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-108-020 Appointment of presiding officers. The chancellor((~~/CEO~~)) shall appoint a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the ((~~chief executive officer~~)) chancellor or a designee of the ((~~chief executive officer~~)) chancellor, or any combination of the above. Where more than one individual is designated to be the presiding officer, one person shall be designated by the ((~~chief executive officer~~)) chancellor or the designee of the ((~~chief executive officer~~)) chancellor to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-108-050 Brief adjudicative procedures. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

(1) Residency determinations made pursuant to RCW 28B.15.013, conducted by the admissions office;

(2) Disputes concerning educational records;

(3) Student conduct proceedings. The procedural rules in chapter ((~~132Q-02~~)) 132Q-30 WAC apply to these procedures;

(4) Parking violations. The procedural rules in chapter 132Q-20 WAC apply to these proceedings;

(5) Outstanding debts owed by students or employees;

(6) Loss of eligibility for participation in institution-sponsored athletic events((~~, pursuant to WAC 132Q-02-510 [132Q-02-420]~~)).

WSR 11-14-093
PROPOSED RULES
COMMUNITY COLLEGES OF SPOKANE

[Filed July 1, 2011, 11:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-055.

Title of Rule and Other Identifying Information: Chapter 132Q-113 WAC, Legislative liasons.

Hearing Location(s): CCS Board of Trustees Meeting, Institute for Extended Learning Lodge, 3305 West Fort George Wright Drive, Spokane, WA, on September 20, 2011, at 8:30 a.m.

Date of Intended Adoption: September 20, 2011.

Submit Written Comments to: Anne Tucker, Community Colleges of Spokane, Mailstop 1009, P.O. Box 6000, Spokane, WA 99217-6000, e-mail atucker@ccs.spokane.edu, fax (509) 434-5169, by September 2, 2011.

Assistance for Persons with Disabilities: Contact Anne Tucker by September 2, 2011, (509) 434-5109.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Housekeeping to update titles, addresses, and internal references.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Name of Proponent: Community Colleges of Spokane, governmental.

Name of Agency Personnel Responsible for Drafting: Anne Tucker, Public Information Officer, Suite 139, 501 North Riverpoint Boulevard, Spokane, WA 99202, (509) 434-5109; Implementation and Enforcement: Dr. Christine Johnson, Chancellor, Suite 110, 501 North Riverpoint Boulevard, Spokane, WA 99202, (509) 434-6006.

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

A cost-benefit analysis is not required under RCW 34.05.328. Community Colleges of Spokane is not a listed agency under RCW 34.05.328 and is therefore exempt from this provision.

July 1, 2011
Anne Tucker
Public Information Officer
and Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-10-065, filed 4/30/04, effective 5/31/04)

WAC 132Q-113-010 Designation of legislative liaisons. As required by RCW 42.17.190, those persons holding the following positions within Washington State Community College District 17 are designated legislative liaisons for Washington State Community College District 17 and those community colleges contained within Community Colleges of Spokane:

(1) Members of the board of trustees;

(2) Chancellor((~~/chief executive officer~~));

(3) College presidents, ((~~executive vice president[;]~~)) chief executive officer;

(4) District management services officers; and

(5) All those persons designated in writing by the chancellor((~~/chief executive officer~~)) of Washington State Community College District 17, which writing shall be made available among the records maintained by the office of the chancellor((~~/chief executive officer~~)) of Washington State Community College District 17.

WSR 11-14-094
PROPOSED RULES
COMMUNITY COLLEGES OF SPOKANE

[Filed July 1, 2011, 11:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-056.

Title of Rule and Other Identifying Information: Chapter 132Q-135 WAC, Environmental policy.

Hearing Location(s): CCS Board of Trustees Meeting, Institute for Extended Learning Lodge, 3305 West Fort George Wright Drive, Spokane, WA, on September 20, 2011, at 8:30 a.m.

Date of Intended Adoption: September 20, 2011.

Submit Written Comments to: Anne Tucker, Community Colleges of Spokane, Mailstop 1009, P.O. Box 6000, Spokane, WA 99217-6000, e-mail atucker@ccs.spokane.edu, fax (509) 434-5169, by September 2, 2011.

Assistance for Persons with Disabilities: Contact Anne Tucker by September 2, 2011, (509) 434-5109.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Housekeeping to update titles, addresses, and internal references.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Name of Proponent: Community Colleges of Spokane, governmental.

Name of Agency Personnel Responsible for Drafting: Anne Tucker, Public Information Officer, Suite 139, 501 North Riverpoint Boulevard, Spokane, WA 99202, (509) 434-5109; Implementation: Dennis Dunham, District Director of Facilities, Building 50, 2000 North Greene Street, Spokane, WA 99217, (509) 533-8630; and Enforcement: Greg Stevens, Chief Administration Officer, Suite 125, 501 North Riverpoint Boulevard, Spokane, WA 99202, (509) 434-5037.

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

A cost-benefit analysis is not required under RCW 34.05.328. Community Colleges of Spokane is not a listed

agency under RCW 34.05.328 and is therefore exempt from this provision.

July 1, 2011
Anne Tucker
Public Information Officer
and Rules Coordinator

AMENDATORY SECTION (Amending WSR 91-17-077, filed 8/21/91, effective 9/21/91)

WAC 132Q-135-050 State Environmental Policy Act (SEPA). It is the policy of the Community Colleges of Spokane that capital projects shall be accomplished in compliance with chapter 43.21C RCW, the State Environmental Policy Act (SEPA), and in accordance with chapter 197-11 WAC and all subsequent amendments thereto, and WAC 131-24-030.

In compliance with chapter 197-11 WAC, the ((~~chief executive officer~~)) chancellor or a duly appointed administrator designee shall be the responsible official for implementing this policy.

WSR 11-14-095
PROPOSED RULES
COMMUNITY COLLEGES OF SPOKANE

[Filed July 1, 2011, 11:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-049.

Title of Rule and Other Identifying Information: Chapter 132Q-136 WAC, Use of district facilities.

Hearing Location(s): CCS Board of Trustees Meeting, Institute for Extended Learning Lodge, 3305 West Fort George Wright Drive, Spokane, WA, on September 20, 2011, at 8:30 a.m.

Date of Intended Adoption: September 20, 2011.

Submit Written Comments to: Anne Tucker, Community Colleges of Spokane, Mailstop 1009, P.O. Box 6000, Spokane, WA 99217-6000, e-mail atucker@ccs.spokane.edu, fax (509) 434-5169, by September 2, 2011.

Assistance for Persons with Disabilities: Contact Anne Tucker by September 2, 2011, (509) 434-5109.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Housekeeping to update titles, addresses, and internal references.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Name of Proponent: Community Colleges of Spokane, governmental.

Name of Agency Personnel Responsible for Drafting: Anne Tucker, Public Information Officer, Suite 139, 501 North Riverpoint Boulevard, Spokane, WA, 99202, (509) 434-5109; Implementation: Chief Student Services Officers, Terri McKenzie, Spokane Community College, Room 105, Building 50, 1810 North Greene Street, Spokane, WA, (509) 533-7015, Alex Roberts, Spokane Falls Community College, Room 150, Building 17, 3410 West Fort George Wright Drive, Spokane, WA, (509) 533-3514 and Amy Lopes-Wasson, Institute for Extended Learning, Room 245, 2917 West Fort George Wright Drive, Spokane, WA, (509) 279-6045; and Enforcement: College Presidents and IEL CEO, Joe Dunlap, Spokane Community College, Room 110, Building 50, 1810 North Greene Street, Spokane, WA, (509) 533-7042, Pam Praeger, Spokane Falls Community College, Room 105, Building 1, 3410 West Fort George Wright Drive, Spokane, WA, (509) 533-3535, and Scott Morgan, Institute for Extended Learning, Room 248, Magnuson, 2917 West Fort George Wright Drive, Spokane, WA, (509) 279-6040.

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

A cost-benefit analysis is not required under RCW 34.05.328. Community Colleges of Spokane is not a listed agency under RCW 34.05.328 and is therefore exempt from this provision.

July 1, 2011
Anne Tucker
Public Information Officer
and Rules Coordinator

AMENDATORY SECTION (Amending Resolution No. 22, filed 9/14/84)

WAC 132Q-136-010 Use of district facilities—General policy and delegation. (1) Washington State Community College District 17 (((~~the~~)) Community Colleges of Spokane) is an educational institution provided and maintained by the people of the state in order to carry out its mission pursuant to chapter 28B.50 RCW. The purpose of this policy is to assure that all facilities operated, owned or maintained by the district are reserved primarily for those activities which either are related directly to the district's mission or are otherwise justifiable on the basis of their contributions to the cultural, educational, economic or recreational interests of the state and its people.

(2) The board of trustees delegates to the ((~~chief executive officer and district president~~)) chancellor, or staff so designated by the ((~~chief executive officer~~)) chancellor, the authority to establish procedures for the regulation and review of the use of district facilities and to establish user fees where appropriate.

AMENDATORY SECTION (Amending Resolution No. 22, filed 9/14/84)

WAC 132Q-136-020 Definitions. As used in this chapter, the following terms shall have the following meaning:

(1) "Facilities" shall include all structures, building, grounds, parking lots, sidewalks and airspace owned or controlled by District 17.

(2) "District" or "District 17" shall include Spokane Community College, Spokane Falls Community College, the Institute of Extended Learning and any other college or orga-

nizational unit of Washington State Community College District 17 hereafter established by the district board of trustees.

(3) "Use of facilities" shall include the holding of events, the posting and removal of signs, all forms of advertising, commercial activities, charitable solicitation and any other activity which takes place in or on facilities owned or controlled by District 17.

(4) "Scheduling office" shall be the office within the organization of the district which is designated as the office responsible for scheduling a particular district facility. The designation of scheduling offices shall be made by the ((~~chief executive officer~~)) chancellor, or staff so designated by the ((~~chief executive officer~~)) chancellor, pursuant to WAC 132Q-136-010(2).

(5) "User fee" shall be the fee, if any, charged any user for the use of facilities, including a use fee, fees for special custodial, attendant or security services, fees for supervisor services, fees for the use of special district equipment in conjunction with the use of facilities and any other fees established pursuant to WAC 132Q-136-010(2). The schedule of user fees may be amended from time to time.

(6) "Academic or administrative unit sponsorship" shall mean that the head of an academic or administrative unit within the district has reviewed a request for use of facilities, has determined that such use of facilities meets the general policy concerning the use of district facilities pursuant to WAC 132Q-136-010(1) and all limitations on the use of facilities pursuant to WAC 132Q-136-040, has determined that the academic or administrative unit is willing to sponsor the proposed use of facilities and has signed the appropriate request form.

AMENDATORY SECTION (Amending WSR 04-10-065, filed 4/30/04, effective 5/31/04)

WAC 132Q-136-030 Users. (1) College personnel, and official student organizations of Washington State Community College District 17 may use district facilities to hold events for college personnel and students provided such use complies with the general policy on the use of district facilities pursuant to WAC 132Q-136-010 and that all events are scheduled pursuant to WAC 132Q-136-050. Such use does not require either academic or administrative unit sponsorship nor does such use require approval by the chancellor((~~/chief executive officer~~)) or other designated staff.

(2) College personnel and official student organizations may use district facilities to hold events to which the general public is invited when the event has academic or administrative unit sponsorship and the approval of the chancellor((~~/chief executive officer~~)) or other designated staff.

(3) Organizations or persons other than district personnel or official student organizations may use district facilities to hold events for members of that organization provided such use complies with the general policy of the use of district facilities. Such use does not require either academic or administrative unit sponsorship, but does require the approval of the chancellor((~~/chief executive officer~~)) or designee.

(4) Organizations or persons other than district personnel or official student organizations may use district facilities to hold events to which the general public is invited when the event has academic or administrative unit sponsorship and the approval of the chancellor((~~/chief executive officer~~)) or designee.

(5) Use of facilities for religious purposes is permitted on the same basis as for nonreligious purposes as long as use for religious purposes does not dominate access to facilities pursuant to WAC 132Q-136-040.

AMENDATORY SECTION (Amending WSR 04-10-065, filed 4/30/04, effective 5/31/04)

WAC 132Q-136-040 Limitations. (1) District facilities of Washington State Community College District 17 may not be used in ways that substantially obstruct or disrupt educational activities or freedom of movement or other lawful activities on or in district facilities.

(2) District facilities may not be used by groups, including informal groups, which discriminate in their membership or limit participation in activities on the basis of race, creed, color, national origin, sex, marital status, age, or the presence of any sensory, mental, or physical handicap.

(3) College personnel or official student organizations may use district facilities to present educational forums regarding ballot propositions and/or candidates who have filed for public office as long as the audience is limited to college personnel and students. However, pursuant to RCW 42.17.130 "the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition" is prohibited.

(4) District facilities may not be used for private or commercial purposes such as sales, advertising, or promotional activities unless such activities are in conjunction with authorized use of facilities by outside groups, fund raising activities directly benefiting the district, or activities fulfilling an educational or service need of the students or college personnel. The sale of any item, the use of any advertising material, or operation of any promotional activity is subject to prior approval of the chancellor((~~/chief executive officer~~)) or designee.

(5) The distribution of handbills, leaflets, pamphlets and similar materials is not permitted in or on those facilities to which access by the general public is restricted or where such distribution would significantly impinge upon the primary business being conducted.

(6) Charitable solicitation is not permitted in or on those facilities to which access by the general public is restricted or where such solicitation would significantly impinge upon the primary business being conducted.

(7) District facilities may be used by other public or private educational institutions or public agencies only insofar as the intended use of the facilities meets a community need not being fulfilled by District 17 and where such activities do not interfere with the educational programs being offered by District 17 or with the maintenance and repair programs of the district. A user fee, if any, for such use shall be determined by the chancellor((~~/chief executive officer~~)) or designee.

(8) Organizations or persons other than district personnel or official student organizations may use district facilities only after the procedures pursuant to WAC 132Q-136-050 are completed and appropriate user fees have been paid in full or satisfactory payment arrangements completed.

(9) District 17 reserves the right to require that the district be represented at any use of facilities where the presence of a representative is in the best interest of the district.

(10) District equipment shall be used only when authorized and shall not be removed from any facility unless written authorization for such removal has been obtained prior to use.

(11) No decorations or other application of material to walls, ceiling or floors of any facility shall be permitted if such application will in any way mar, deface or injure the facility. Users shall be responsible for the removal or disposal of any decorations, materials, equipment, furnishings or rubbish that remain in or on any facility following use of the facility. Failure of any user to meet this obligation that results in additional cost to the district shall subject the user to additional charges for such costs.

AMENDATORY SECTION (Amending Resolution No. 22, filed 9/14/84)

WAC 132Q-136-060 Safety and liability. (1) It is the responsibility of any person or organization requesting the use of district facilities to ((~~insure~~)) ensure that the proposed use will be carried out in a manner that assures the safety of all persons concerned. Compliance with applicable fire, health and safety regulations is required.

(2) Authorization to organizations or persons other than district faculty, staff, or official student organizations for the use of district facilities is granted with the express understanding and condition that such organization or person assumes full responsibility for any loss, damage or claims arising out of such use. When the event involves physical activity, or otherwise would increase the risk of bodily injury above the level inherent in the facilities to be used, proof of appropriate liability insurance coverage with limits of at least one million dollars per occurrence shall be provided to the ((~~chief executive officer~~)) chancellor or designee.

WSR 11-14-099
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed July 5, 2011, 8:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-071.

Title of Rule and Other Identifying Information: Chapter 296-17A WAC, Classifications for Washington workers' compensation insurance.

Hearing Location(s): Labor and Industries, Room S117, 7273 Linderson Way S.W., Tumwater, WA 98501, on August 11, 2011, at 11:00 a.m.

Date of Intended Adoption: September 2, 2011.

Submit Written Comments to: Bill Moomau, P.O. Box 44148, Olympia, WA 98504-4148, e-mail moom235@lni.wa.gov, fax (360) 902-4988, by 5:00 p.m. on August 11, 2011.

Assistance for Persons with Disabilities: Contact office of information assistance by August 8, 2011, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule is being proposed to be consistent with the Washington horse racing commission's (WHRC) emergency rule adoption (WSR 11-09-077) to permit discounted short-duration license fees at Class A, B, and C racing associations. Class A and B associations' short-duration licenses will be for three thirty-day periods while Class C licenses will allow three seven-day limits. The industrial insurance fees associated with Classes A and B will be 33.3 percent of the full annual license fee, the fee associated with Class C will be twenty percent of the annual license fee. This rule making follows an emergency rule filed June 21, 2011 (WSR 11-13-101).

Reasons Supporting Proposal: The horseracing industry will be able to report and pay premium for the short-duration licenses they issue.

Statutory Authority for Adoption: RCW 51.04.020, 51.16.035, and 51.16.100.

Statute Being Implemented: RCW 51.16.035.

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

Name of Proponent: WHRC, governmental.

Name of Agency Personnel Responsible for Drafting: Jo Anne Attwood, Tumwater, Washington, (360) 902-4777; Implementation: Les Hargrave, Tumwater, Washington, (360) 902-4298; and Enforcement: Beth Dupre, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency is exempt from conducting a small business economic impact statement since the proposed rules set or adjust fees or rates to legislative standards described in RCW 34.05.310 (4)(f) and do not change current coverage options for employers and workers.

A cost-benefit analysis is not required under RCW 34.05.328. Since the proposed rules do not change any existing coverage options for employers or workers and adjust fees pursuant to legislative standards, they are exempted by RCW 34.05.328 (5)(b)(vi) from the requirement for a cost-benefit analysis.

July 5, 2011
Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

WAC 296-17A-6614 Classification 6614.

6614-00 Parimutuel horse racing: All employees, except grooms and exercise riders N.O.C. - major tracks

(*to be assigned only by the horse racing underwriter*)

Applies to licensed employees of licensed horse trainers at a major parimutuel horse racing track such as Emerald Downs in Auburn. This classification applies to on and off

track employees such as assistant trainers and pony riders. Coverage provided in this classification is funded by premiums collected at the time of licensing and is valid from the time of licensing through the end of the calendar year. Trainers premiums are collected on a per license basis.

This classification excludes the following employees:

(1) Licensed grooms working at major tracks are reported separately in classification 6615;

(2) Licensed assistant trainers and pony riders working at a nonprofit track are reported separately in classification 6616;

(3) Licensed exercise riders working at a major track are reported separately in classification 6622;

(4) Licensed exercise riders at a nonprofit track are reported separately in classification 6623; and

(5) Unlicensed employees who work on a farm or ranch are reported in classification 7302.

***Special note*:** All employees whether working at a major track or employed off track must be licensed by the Washington state horse racing commission to be covered under this section.

6614-30 Temporary parimutuel horse racing: All employees, except grooms and exercise riders N.O.C. - major tracks: Temporary thirty-day license.

(*to be assigned only by the horse racing underwriter*)

Applies to licensed employees of licensed horse trainers at a major parimutuel horse racing track such as Emerald Downs in Auburn. This classification applies to on and off track employees such as assistant trainers and pony riders. Coverage provided in this classification is funded by premiums collected at the time of licensing and is valid from the time of licensing for thirty days. Temporary trainers premiums are collected on a per license basis for thirty days.

This classification excludes the following employees:

(1) Temporary licensed grooms working at major tracks are reported separately in classification 6615-30;

(2) Temporary licensed exercise riders at a major track are reported separately in classification 6622-30; and

(3) Unlicensed employees who work on a farm or ranch are reported in classification 7302.

***Special note*:** All employees whether working at a major track or employed off track must be licensed by the Washington state horse racing commission to be covered under this section.

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

WAC 296-17A-6615 Classification 6615.

6615-00 Parimutuel horse racing: Grooms - major tracks

(*to be assigned only by the horse racing underwriter*)

Applies to licensed grooms performing services for licensed horse trainers at a major parimutuel horse racing track such as Emerald Downs in Auburn. This classification includes all on or off track duties of a licensed groom such as, but not limited to, cleaning or mucking horses stalls, feeding, and bathing the horses. For workers' compensation purposes, a groom is considered to be an employee of the trainer when the groom is hired by the trainer or when the trainer notifies the commission of the trainer's intent to hire the groom. Coverage provided in this classification is funded by the premiums collected from the trainer at the time of licensing and is valid from the time of licensing through the end of the calendar year.

This classification excludes the following:

(1) Licensed grooms working at a nonprofit track are reported separately in classification 6617;

(2) Licensed assistant trainers and pony riders working at major tracks are to be reported separately in classification 6614;

(3) Licensed assistant trainers and pony riders working at nonprofit tracks are reported separately in classification 6616;

(4) Licensed exercise riders working at a major track are reported separately in classification 6622;

(5) Licensed exercise riders working at a nonprofit track are reported separately in classification 6623;

(6) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

***Special note*:** All grooms whether working at a major track or employed off track must be licensed by the Washington state horse racing commission to be covered under this section.

6615-30 Temporary parimutuel horse racing: Grooms - major tracks: Temporary thirty-day license.

(*to be assigned only by the horse racing underwriter*)

Applies to licensed grooms performing services for licensed horse trainers at a major parimutuel horse racing track such as Emerald Downs in Auburn. This classification includes all on or off track duties of a licensed groom such as, but not limited to, cleaning or mucking horse stalls, feeding, and bathing the horses. For workers' compensation purposes, a groom is considered to be an employee of the trainer when the groom is hired by the trainer or when the trainer notifies the commission of the trainer's intent to hire the groom. Coverage provided in this classification is funded by the premiums collected from the trainer at the time of licensing and is valid from the time of licensing for thirty days.

This classification excludes the following:

(1) Licensed assistant trainers and pony riders working at major tracks are to be reported separately in classification 6614-30;

(2) Licensed exercise riders working at a major track are reported separately in classification 6622-30;

(3) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

***Special note*:** All grooms whether working at a major track or employed off track must be licensed by the Washington state horse racing commission to be covered under this section.

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

WAC 296-17A-6616 Classification 6616.

6616-00 Parimutuel horse racing: All employees except grooms and exercise riders, N.O.C. - nonprofit tracks

(*to be assigned only by the horse racing underwriter*)

Applies to licensed employees of licensed horse trainers at a nonprofit track. This classification applies to on or off track employees such as assistant trainers and pony riders. Coverage provided in this classification is funded by premiums collected at the time of licensing and is valid from the time of licensing through the end of the calendar year. Trainer's premiums are collected on a per license basis.

This classification excludes the following:

((~~1.~~)) (1) Licensed assistant trainers and pony riders working at a major track are reported separately in classification 6614;

((~~2.~~)) (2) Licensed grooms working at a major track are reported separately in classification 6615;

((~~3.~~)) (3) Licensed grooms working at a nonprofit track are reported separately in classification 6617;

((~~4.~~)) (4) Licensed exercise riders working at a major track are reported in classification 6622;

((~~5.~~)) (5) Licensed exercise riders at a nonprofit track are reported in classification 6623;

((~~6.~~)) (6) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

***Special note*:** All employees whether working at a nonprofit track or employed off track must be licensed by the Washington state horse racing commission to be covered under this section.

6616-07 Temporary parimutuel horse racing: All employees except grooms and exercise riders, N.O.C. - nonprofit tracks: Temporary seven-day license.

(*to be assigned only by the horse racing underwriter*)

Applies to licensed employees of licensed horse trainers at a nonprofit track. This classification applies to on or off track employees such as assistant trainers and pony riders. Coverage provided in this classification is funded by premiums collected at the time of licensing and is valid from the time of licensing for seven days. Temporary trainer's premiums are collected on a per license basis for seven days.

This classification excludes the following:

(1) Licensed grooms working at a nonprofit track are reported separately in classification 6617-07;

(2) Temporary licensed exercise riders at a nonprofit track are reported in classification 6623-07;

(3) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

***Special note*:** All employees whether working at a nonprofit track or employed off track must be licensed by the Washington state horse racing commission to be covered under this section.

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

WAC 296-17A-6617 Classification 6617.

6617-00 Parimutuel horse racing: Grooms - nonprofit tracks

(*to be assigned only by the horse racing underwriter*)

Applies to licensed grooms performing services for licensed horse trainers at a nonprofit track. This classification includes all on or off track duties of a licensed groom such as, but not limited to, cleaning or mucking horse stalls, feeding, and bathing the horses. For workers' compensation purposes, a groom is considered to be an employee of the trainer when the groom is hired by the trainer or when the trainer notifies the commission of the trainer's intent to hire the groom. Coverage provided in this classification is funded by the premiums collected from the trainer at the time of licensing and is valid from the time of licensing through the end of the calendar year.

This classification excludes the following:

(1) Licensed grooms working at a major track are reported separately in classification 6615;

(2) Licensed assistant trainers and pony riders working at major tracks are reported separately in classification 6614;

(3) Licensed assistant trainers and pony riders working at nonprofit tracks are reported separately in classification 6616;

(4) Licensed exercise riders working at a major track are reported separately in classification 6622;

(5) Licensed exercise riders working at a nonprofit track are reported separately in classification 6623; and

(6) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

***Special note*:** All grooms whether working at a nonprofit track or employed off track must be licensed by the Washington state horse racing commission to be covered by this section.

6617-07 Temporary parimutuel horse racing: Grooms - nonprofit tracks: Temporary seven-day license.

(*to be assigned only by the horse racing underwriter*)

Applies to licensed grooms performing services for licensed horse trainers at a nonprofit track. This classification includes all on or off track duties of a licensed groom such as, but not limited to, cleaning or mucking horse stalls, feeding, and bathing the horses. For workers' compensation purposes, a groom is considered to be an employee of the trainer when the groom is hired by the trainer or when the trainer notifies the commission of the trainer's intent to hire the groom. Coverage provided in this classification is funded by the premiums collected from the trainer at the time of licensing and is valid from the time of licensing for seven days.

This classification excludes the following:

(1) Temporary licensed assistant trainers and pony riders working at nonprofit tracks are reported separately in classification 6616-07;

(2) Temporary licensed exercise riders working at a nonprofit track are reported separately in classification 6623-07; and

(3) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

***Special note*:** All grooms whether working at a nonprofit track or employed off track must be licensed by the Washington state horse racing commission to be covered by this section.

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

WAC 296-17A-6622 Classification 6622.

6622-00 Parimutuel horse racing: Exercise riders - major tracks

(*to be assigned only by the horse racing underwriter*)

Applies to licensed exercise riders of licensed horse trainers at a major parimutuel horse racing track such as Emerald Downs. This classification applies to on and off track employment of licensed exercise riders. Jockeys are considered exercise riders when validly licensed as exercise riders and performing exercise rider duties while employed by a licensed trainer. Coverage provided in this classification is funded by premiums collected at the time of licensing and is valid from the time of licensing through the end of the calendar year. Trainers' premiums are collected on a per license basis.

This classification excludes the following:

(1) Licensed grooms at major tracks are reported separately in classification 6615;

(2) Licensed grooms working at nonprofit tracks are reported separately in 6617;

(3) Licensed assistant trainers and pony riders working at a major track are reported separately in classification 6614;

(4) Licensed assistant trainers and pony riders working at a nonprofit track are reported separately in 6616;

(5) Licensed exercise riders at a nonprofit track are reported separately in 6623; and

(6) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

***Special note*:** All exercise riders whether working at a major track or employed off track must be licensed by the Washington state horse racing commission to be covered by this section.

6622-30 Temporary parimutuel horse racing: Exercise riders - major tracks: Temporary thirty-day license.

(*to be assigned only by the horse racing underwriter*)

Applies to licensed exercise riders of licensed horse trainers at a major parimutuel horse racing track such as Emerald Downs. This classification applies to on and off track employment of licensed exercise riders. Jockeys are considered exercise riders when validly licensed as exercise riders and performing exercise rider duties while employed by a licensed trainer. Coverage provided in this classification is funded by premiums collected at the time of licensing and is valid from the time of licensing for thirty days. Temporary trainers' premiums are collected on a per license basis for thirty days.

This classification excludes the following:

(1) Temporary licensed grooms at major tracks are reported separately in classification 6615-30;

(2) Temporary licensed assistant trainers and pony riders working at a major track are reported separately in classification 6614-30;

(3) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

***Special note*:** All exercise riders whether working at a major track or employed off track must be licensed by the Washington state horse racing commission to be covered by this section.

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

WAC 296-17A-6623 Classification 6623.

6623-00 Parimutuel horse racing: Exercise riders - nonprofit tracks

(*to be assigned only by the horse racing underwriter*)

Applies to licensed exercise riders of licensed horse trainers at a nonprofit track. This classification applies to on or off track employment of exercise riders. Jockeys will be considered exercise riders when validly licensed as exercise riders and performing exercise rider duties while employed by a licensed trainer. Coverage provided in this classification is funded by premiums collected at the time of licensing and is valid from the time of licensing through the end of the calendar year. Trainer premiums are collected on a per license basis.

This classification excludes the following:

(1) Licensed assistant trainers and pony riders working at a major track are reported separately in classification 6614;

(2) Licensed assistant trainers and pony riders working at a nonprofit track are reported separately in 6616;

(3) Licensed grooms working at a major track are reported separately in classification 6615;

(4) Licensed grooms working at a nonprofit track are reported separately in classification 6617;

(5) Licensed exercise riders working at a major track are reported separately in 6622; and

(6) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

***Special note*:** All exercise riders whether working at a nonprofit track or employed off track must be licensed by the Washington state horse racing commission to be covered by this section.

6623-07 Temporary parimutuel horse racing: Exercise riders - nonprofit tracks: Temporary seven-day license.

(*to be assigned only by the horse racing underwriter*)

Applies to licensed exercise riders of licensed horse trainers at a nonprofit track. This classification applies to on or off track employment of exercise riders. Jockeys will be considered exercise riders when validly licensed as exercise riders and performing exercise rider duties while employed by a licensed trainer. Coverage provided in this classification is funded by premiums collected at the time of licensing and is valid from the time of licensing for seven days. Temporary trainer premiums are collected on a per license basis for seven days.

This classification excludes the following:

(1) Licensed assistant trainers and pony riders working at a nonprofit track are reported separately in 6616-07;

(2) Temporary licensed grooms working at a nonprofit track are reported separately in classification 6617-07;

(3) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

***Special note*:** All exercise riders whether working at a nonprofit track or employed off track must be licensed by the Washington state horse racing commission to be covered by this section.

WSR 11-14-100
PROPOSED RULES
DEPARTMENT OF FISH AND WILDLIFE
[Filed July 5, 2011, 9:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-10-060 on May 2, 2011.

Title of Rule and Other Identifying Information: WAC 220-52-052 Spot shrimp fishery—Coastal waters.

Hearing Location(s): Washington Department of Fish and Wildlife (WDFW), Region Six Office, 48 Devonshire Road, Montesano, WA 98563, on Tuesday, August 9, 2011, at 9:30 a.m.

Date of Intended Adoption: On or after August 9, 2011.

Submit Written Comments to: Rules Coordinator, WDFW Enforcement, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Lori.preuss@dfw.wa.gov, fax (360) 902-2155, by Friday, July 29, 2011.

Assistance for Persons with Disabilities: Contact Susan Galloway by July 29, 2011, at (360) 902-2267 or by TTY 1-800-833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SHB 1148 (2011) establishes a coastal spot shrimp license limitation program. These rules are needed to implement the program. These rules largely replicate rules used to manage this fishery over the past decade under the Emerging Commercial Fisheries Act (EFCA) [(ECFA)]. Under the ECFA, a permit (issued at no cost) was required to participate in the coastal spot shrimp fishery. These rules continue this requirement for a permit (issued at no cost) to preserve WDFW's ability to place observers on board vessels participating in the coastal spot shrimp fishery and/or to add conditions as necessary to ensure the sustainable management of the spot shrimp resource and the marine ecosystem of which it is part.

Reasons Supporting Proposal: This rule implements SHB 1148 and provides for a commercial spot shrimp fishery while managing the state's spot shrimp resources.

Statutory Authority for Adoption: RCW 77.04.020 and 77.12.047.

Statute Being Implemented: RCW 77.04.020 and 77.12.047.

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

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting: Dan Ayres, 48 Devonshire Road, Montesano, WA 98563, (360) 249-4628; Implementation: Jim Scott, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2651; and Enforcement: Chief Bruce Bjork, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2373.

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

Small Business Economic Impact Statement

1. Description of the Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule: WDFW has managed the coastal spot shrimp fishery under the EFCA [ECFA] since 1999. The proposed rules mirror those that have been used over the last several years while the fishery was managed under EFCA [ECFA].

The one record-keeping requirement that will be continued is a requirement that commercial fishers participating in the coastal spot shrimp fishery maintain a log book.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: There are no professional services a commercial fisher will need to comply with the requirements of these rules.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: The proposed rules - which mirror the rules used to manage the fishery under the ECFA - carry potential compliance costs that include (a) license purchase; and (b) gear restrictions:

(a) These rules require that commercial fishers purchase a standard limited entry spot shrimp pot license. Fishers who held an experimental fishery permit while the fishery was managed under the ECFA will be issued a standard limited entry coastal spot shrimp pot license for the cost of the license. New fishers entering the fishery will be required to purchase a license from an existing license holder at a mutually agreed-upon price.

(b) These rules would impose several gear restrictions during coastal spot shrimp pot fisheries. All gear restrictions proposed by the rules are identical to gear restrictions WDFW has required in recent years for coastal spot shrimp pot fisheries. Businesses should be accustomed to these gear restrictions, and vessels that have participated in the coastal spot shrimp fishery in recent years have already purchased equipment that meets the requirements.

Although WDFW does not consider the coastal spot shrimp pot fishery gear restrictions new requirements, since they have been imposed in recent years, WDFW estimates the cost of compliance with these requirements is as follows:

The cost of each pot is estimated to be $105. This is for a pot with a size that exceeds a maximum 153-inch bottom perimeter and a maximum 24-inch height and is constructed with net webbing or rigid mesh. At least fifty percent of the net webbing or mesh covering the sides of the pot must easily allow passage of a 7/8-inch diameter dowel and have an escape mechanism as provided for in WAC 220-52-035.

The required set line end marker buoys, pole, flag, radar reflector, and operating light together will cost approximately $1,000.

Assuming a business would need to buy all new gear (up to the full 500-pot limit), it is estimated that the cost would be $53,500. It should be noted that this fishing gear will last for many seasons.

WDFW does not have access to the necessary data to estimate an individual business' labor or administrative costs.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? The proposed rules are necessary in order to provide the opportunity to catch harvestable spot shrimp in a manner that will allow for sustainable stocks and sustainable future harvest. Therefore, the proposed rules should not cause any businesses to lose sales or revenue but

will likely increase sales and revenue relative to opportunities for the fishers, absent compliance with the rules.

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

1. Cost per employee;

2. Cost per hour of labor; or

3. Cost per one hundred dollars of sales:

The only metric available to the department for identifying the cost of compliance is the cost of fishing gear that meets the requirement in these rules, compared to the exvessel value of spot shrimp sold by each coastal spot prawn commercial EFCA [ECFA] permit holder in recent years. This exvessel value is used as a surrogate for sales in this analysis, but it is an underestimate of total sales, since all of the affected businesses have additional revenue from other fisheries. In addition, this analysis assumes that all current EFCA [ECFA] permit holders (who will be eligible to convert their EFCA [ECFA] permits to limited entry commercial spot shrimp licenses) will be required to purchase equipment described above in 3. All of the current EFCA [ECFA] permit holders already own the gear that meets the requirements, and they will *not be required to purchase new gear*. These two factors combined mean that the cost of compliance per one hundred dollars of sales will be overestimated for small and large businesses.

There are currently eight coastal spot shrimp pot ECFA permit holders that participated in the coastal spot prawn fishery in 2009 or 2010. The average cost of compliance per license is approximately $53,500, using the *unlikely* assumption that all license holders will be required to spend the amounts described above in 3. The businesses affected by these rules qualify as small businesses, so an average cost of compliance for all businesses was calculated using the average exvessel value for 2009 and 2010. This average was $70,893. This means that the cost of compliance per $100 of exvessel value would be $75.47. However, this estimated cost of compliance is believed to be a gross overestimate because, as is describe [described] above, all current EFCA [ECFA] permit holders that will be eligible to convert their permits to limited entry commercial coastal spot shrimp licenses already own this fishing equipment. These rules make no changes in the requirements for the gear already purchased by the affected businesses.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: Most businesses affected by these rules are small businesses. As indicated above, all of the gear restrictions proposed by the rules apply only to the coastal spot shrimp pot fishery and are identical to gear restrictions the department has required in recent coastal spot shrimp fishery seasons. By imposing similar requirements it is likely that commercial fishers will already have the gear needed to comply with the regulations. Therefore, the gear restrictions will not impose new costs on small businesses. In addition, WDFW will provide to holders of coastal commercial spot shrimp licenses the log book they require, free of charge.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: In the development of the supporting legislation (HB 1448), WDFW interacted with and received input from affected ECFA permit holders (the small business owners referred to here) through a series of meetings that occurred in 2010 and early 2011. In addition, a formal public hearing is scheduled in August 2011 to gather input on the specific rules being proposed here. These meetings allowed constituents to participate in formulating these rules, and the August meeting will allow constituents to comment on the final draft.

8. A List of Industries That Will Be Required to Comply with the Rule: All licensed fishers participating in the Washington coastal commercial spot shrimp pot fishery will be required to comply with these rules.

9. An Estimate of the Number of Jobs That Will Be Created or Lost as a Result of Compliance With the Proposed Rule: As explained above, these rules impose similar requirements used in the Washington coastal commercial spot shrimp pot fishery. Compliance with the rules will not result in the creation or loss of jobs.

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

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

July 5, 2011
Lori Preuss
Rules Coordinator

NEW SECTION

WAC 220-52-052 Ocean spot shrimp pot fishery—Coastal waters. It is unlawful to fish for, possess, or deliver ocean spot shrimp (*Pandalus platyceros*) taken for commercial purposes from state waters west of the Bonilla-Tatoosh line, or from offshore waters, except as provided for in this section:

License and area

(1) It is unlawful to fish for, possess, or deliver spot shrimp taken for commercial purposes from state waters west of the Bonilla-Tatoosh line, or from offshore waters, unless the fisher has a valid Washington-coastal spot shrimp pot fishery license. A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license—Penalty.

(2) It is unlawful to fish for or possess spot shrimp or to set spot shrimp gear in waters of the Pacific Ocean adjacent to the state of Oregon without the licenses or permits required to commercially fish for spot shrimp within the state waters of Oregon. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

Season

(3) It is unlawful to fish for, take, or possess spot shrimp on board a commercial fishing vessel, except from March 15 through September 15 of each year. A violation of this sub-

section is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

(4) The total allowable catch of spot shrimp taken from waters west of the Bonilla-Tatoosh line and from offshore waters during a calendar year is 200,000 pounds round weight. Of this 200,000 pounds round weight, no more than 100,000 pounds can be taken south of 47 degrees 04.00' N. latitude, and no more than 100,000 pounds can be taken north of 47 degrees 04.00' N. latitude.

Gear

(5) It is unlawful to fish with spot shrimp pot gear for commercial purposes if the pots exceed a maximum 153-inch bottom perimeter and a maximum 24-inch height. It is unlawful to possess spot shrimp taken with spot shrimp pot gear that exceeds a maximum 153-inch bottom perimeter and a maximum 24-inch height.

(a) Shrimp pot gear must be constructed with net webbing or rigid mesh. At least 50 percent of the net webbing or mesh covering the sides of the pot must easily allow passage of a seven-eighths inch diameter dowel.

(b) Pot gear is required to have an escape mechanism as provided for in WAC 220-52-035.

(c) Set line end marker buoys must be floating and visible on the surface of the water, equipped with a pole, flag, radar reflector, and operating light, and marked with the clear identification of the license holder and the vessel designated on the coastal spot shrimp pot license.

(6) It is unlawful to fish for spot shrimp for commercial purposes with more than a maximum of 500 pots. It is unlawful to possess spot shrimp taken for commercial purposes with more than a maximum of 500 pots.

(7) A violation of subsection (5) or (6) of this section is punishable under RCW 77.15.520, Commercial fishing—Unlawful gear or methods—Penalty.

Incidental catch

(8) It is unlawful for persons fishing in any coastal spot shrimp fishery to deliver spot shrimp while having on board the fishing vessel any bottomfish taken in the coastal bottomfish fishery under WAC 220-44-050.

(9) It is unlawful to retain any species of finfish or shellfish taken with spot shrimp pot gear, except octopus, squid, or up to 50 pounds round weight of other shrimp species taken incidentally with spot shrimp pot gear.

(10) A violation of subsection (8) or (9) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

Harvest logs

(11) It is unlawful for any spot shrimp pot fishery license holder or vessel operator engaged in fishing for spot shrimp in the coastal commercial spot shrimp fishery to fail to complete a department-issued harvest log for all fishing activity in state or offshore waters.

(12) It is unlawful for any vessel operator engaged in fishing for spot shrimp for commercial purposes to fail to comply with the following method and time frame related to harvest log submittal and recordkeeping:

(a) Completed harvest logs must be submitted so that the department receives them within ten days following any calendar month in which fishing occurred. Washington-coastal spot shrimp pot license holders can submit the completed harvest logs to a WDFW employee upon request, or mail the completed harvest logs to Washington Department of Fish and Wildlife, Attention: Coastal Spot Shrimp Manager, 48 Devonshire Rd., Montesano, WA 98563.

(b) Washington-coastal spot shrimp pot license holders or vessel operators engaged in fishing for spot shrimp in the coastal commercial fishery must complete a harvest log entry for each day fished, prior to offloading the spot shrimp. Washington-coastal spot shrimp pot license holders must maintain a copy of all submitted harvest log entries for no less than three years after the fishing activity ended.

(c) Washington-coastal spot shrimp pot license holders or vessel operators can obtain a harvest logbook by contacting the department's coastal spot shrimp manager at 360-249-4628.

(13) A violation of subsection (11) or (12) of this section is a misdemeanor, punishable under RCW 77.15.280, Reporting of fish or wildlife harvest—Rules violation—Penalty.

Permit

(14) It is unlawful to fish for, retain, land, or deliver spot shrimp taken with pot gear for commercial purposes without a valid coastal spot shrimp pot fishery permit.

(15) It is unlawful to take, retain, land, or deliver any spot shrimp taken with pot gear without complying with all provisions of a coastal spot shrimp pot fishery permit.

(16) A violation of subsection (14) or (15) of this section is punishable under RCW 77.15.750, Unlawful use of a department permit—Penalty.

WSR 11-14-106
PROPOSED RULES
PARKS AND RECREATION COMMISSION

[Filed July 5, 2011, 3:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-05-039.

Title of Rule and Other Identifying Information: The Washington state parks and recreation commission (parks) is proposing rules that would allow and regulate small-scale beach prospecting and placer mining in the Seashore Conservation Area.

Hearing Location(s): Washington State Parks, Eastern Region Office, 270 Ninth Street N.E., Suite 200, East Wenatchee, WA 98802, on August 11, 2011, at 10:00 a.m.

Date of Intended Adoption: August 22, 2001 [2011].

Submit Written Comments to: Lisa Lantz, 1111 Israel Road, Olympia, WA 98504, e-mail lisa.lantz@parks.wa.gov, fax (360) 586-4272, by August 5, 2011.

Assistance for Persons with Disabilities: Contact Al Wolslegel at (360) 902-8659, by August 5, 2011. Persons with hearing loss, call 711 for Washington relay service. Persons with a speech disability, call 877-833-6341.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: During its 2008 session, the Washington state legislature established a two-year pilot program to examine the impacts of small scale min-

eral prospecting on coastal areas. The Washington department of fish and wildlife (WDFW) was directed to monitor the prospecting and mining activities through its permit authority. Parks and WDFW reported their findings and recommendations on the activity to the legislature in December 2010. The report did not identify any significant user conflicts or natural resource impacts.

Based on the results of the pilot, parks was open to continuing to allow the activity. However, a rule change was needed. Under RCW 79A.05.165, people are prohibited from removing natural objects from any park or parkway, unless specifically allowed by the commission by rule. The pilot project legislation set up a short-term exemption to this statute, which expired on December 1, 2010. In order to continue to allow the activity, the legislature would need to make a permanent statutory change or the commission would need to allow the activity by rule. The proposed rule change will address this issue.

Reasons Supporting Proposal: The rule change was requested and supported by the regulated entities (beach prospectors and miners). A pilot program using the same equipment as allowed in the proposed rules has been completed. No significant impacts to natural and/or recreational resources were identified in the pilot.

Statutory Authority for Adoption: RCW 79A.05.030.

Statute Being Implemented: RCW 79A.05.165 and 79A.05.615.

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

Name of Proponent: Washington state parks and recreation commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Lisa Lantz, S.W. Region Headquarters, Olympia, (360) 725-9777; and Enforcement: Robert Ingram, Parks Headquarters, Olympia, (360) 902-8615.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rule changes are exempt from the small business economic impact statement (SBEIS) because they do not impose additional costs on businesses. Therefore, costs are determined to be below the minor cost threshold definition in RCW 19.-85.020(2). RCW 19.85.030 exempts the agency from the requirement to prepare an SBEIS when costs are minor.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 (5)(a)(i) does not identify the Washington state parks and recreation commission as one of the agencies required to prepare a cost-benefit analysis.

July 5, 2011
Valeria Evans
Management Analyst

AMENDATORY SECTION (Amending WSR 07-03-121, filed 1/22/07, effective 2/22/07)

WAC 352-37-020 Definitions. Whenever used in this chapter the following terms shall have the meanings herein defined unless the context clearly indicates otherwise:

"Aggregate" shall mean a mixture of minerals separable by mechanical or physical means.

"Aircraft" shall mean any machine designed to travel through the air, whether heavier or lighter than air; airplane, dirigible, balloon, helicopter, etc. The term aircraft shall not include paraglider or remote controlled aircraft.

"Campfires" shall mean any open flame from a wood source.

"Camping" shall mean erecting a tent or shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

"Commission" shall mean the Washington state parks and recreation commission.

"Concentrate" shall mean the valuable mineral content separated from aggregate.

"Concentrator" shall mean a device used to physically or mechanically separate the valuable mineral content from aggregate.

"Director" shall mean the director of the Washington state parks and recreation commission or the director's designee.

"Driveable beach" shall mean that area of the ocean beaches lying between the upper or landward limit of the hard sand area and the clam beds.

"Dry sand area" shall mean that area lying above and to the landward side of the hard sand area as defined in this section.

"Excavation site" shall mean the pit, furrow, or hole from which aggregate is removed to process and recover minerals or into which wastewater is discharged to settle out sediments.

"Fire" shall mean any open flame from any source or device including, but not limited to, campfires, stoves, candles, torches, barbeques and charcoal.

"Ganged equipment" shall mean two or more pieces of mineral prospecting equipment coupled together to increase efficiency. An example is adding a second sluice to a high-banker.

"Geocache" means geocaches, letterboxes, and related activities. Geocaching is an outdoor treasure hunting game in which participants (called geocachers) use a Global Positioning System receiver or other navigational techniques to hide and seek containers (called "geocaches" or "caches").

"Hand-held mineral prospecting tools" shall mean tools that are held by hand and are not powered by internal combustion, hydraulic, or pneumatics. Examples include metal detectors, shovels, picks, trowels, hammers, pry bars, hand-operated winches, and battery-operated pumps specific to prospecting; and vac-pacs.

"Hard sand area" shall mean that area over which the tide ebbs and flows on a daily basis; and which is sufficiently hard or firm to support the weight of, and to provide unhindered traction for, an ordinary passenger vehicle.

"High-banker" shall mean a stationary concentrator that can be operated outside the wetted perimeter of the body of water from which the water is removed, using water supplied by hand or by pumping. A high-banker consists of a sluice box, hopper, and water supply. Aggregate is supplied to the high-banker by means other than suction dredging. This definition excludes rocker boxes.

"Hovercraft" shall mean a powered vehicle supported by a cushion of air capable of transporting persons.

"Intimidate" means to engage in conduct which would make a reasonable person fearful.

"Long Beach Peninsula" shall mean that area of the ocean beaches as defined in this section lying between Cape Disappointment on the south and Leadbetter Point on the north.

"Mineral prospecting equipment" shall mean any natural or manufactured device, implement, or animal (other than the human body) that can be used in any aspect of prospecting for or recovering minerals.

"Motor vehicle" shall mean every vehicle that is self-propelled. For the purposes of this chapter, a motor vehicle must be approved for highway use in accordance with Title 46 RCW.

"North Beach" shall mean that area of the ocean beaches as defined in this section lying between Damon Point on the south and Cape Flattery on the north.

"Obstruct pedestrian or vehicular traffic" means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional right to picket or to legally protest, and acts authorized by a permit issued pursuant to WAC 352-32-165 shall not constitute obstruction of pedestrian or vehicular traffic.

"Ocean beaches" shall mean all lands fronting on the Pacific Ocean between Cape Disappointment and Leadbetter Point; between Toke Point and the south jetty on Point Chehalis; and between Damon Point and the Makah Indian Reservation, and occupying the area between the line of ordinary high tide and the line of extreme low tide, as these lines now are or may hereafter be located, and, where applicable, between the Seashore Conservation Line, as established by survey of the commission and the line of extreme low tide, as these lines now are or may hereafter be located, or as defined in RCW 79A.05.605, provided, that the ocean beaches shall not include any lands within the established boundaries of any Indian reservation.

"Pan" shall mean an open metal or plastic dish that can be operated by hand to separate gold or other minerals from aggregate by washing the aggregate.

"Parasail" shall mean a parachute-type device attached to a rope pulled by a motor vehicle, resulting in the participant being lifted from the ground by the force of the wind.

"Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

"Placer" shall mean a glacial or alluvial deposit of gravel or sand containing eroded particles of minerals.

"Power sluice" shall mean high-banker.

"Power sluice/suction dredge combination" shall mean a machine that can be used as a power sluice, or with minor modifications as a suction dredge.

"Prospecting" shall mean the exploration for minerals and mineral deposits.

"Riffle" shall mean the bottom of a concentrator containing a series of interstices or grooves to catch and retain a mineral such as gold.

"Rocker box" shall mean a nonmotorized concentrator consisting of a hopper attached to a cradle and a sluice box that can be operated with a rocking motion.

"Seashore conservation area" shall mean all lands now or hereafter under state ownership or control as defined in RCW 79A.05.605.

"Sluice" shall mean a trough equipped with riffles across its bottom which can be used to recover gold and other minerals with the use of flowing water.

"South Beach" shall mean that area of the ocean beaches as defined in this section lying between Toke Point on the south and the south jetty on Point Chehalis on the north.

"Spiral wheel" shall mean a hand-operated or battery-powered rotating pan that is used to recover gold and minerals with the use of water.

"Suction dredge" shall mean a machine that is used to move submerged aggregate via hydraulic suction. Aggregate is processed through an attached sluice box for the recovery of gold and other minerals.

"Wetted perimeter" shall mean the areas of a watercourse covered with flowing or nonflowing water.

"Wind/sand sailer" shall mean a wheeled, wind-driven recreational conveyance.

NEW SECTION

WAC 352-37-340 Small-scale beach prospecting and placer mining. (1) Small-scale beach prospecting and placer mining is allowed year-round in the seashore conservation area, except within fifty feet on either side of designated ocean beach access roads.

(2) The director may close specific areas to beach prospecting or placer mining when deemed necessary for wildlife protection or public safety.

(3) Only hand-held mineral prospecting tools and the following mineral prospecting equipment may be used in the seashore conservation area:

(a) Pans;

(b) Spiral wheels;

(c) Sluices, concentrators, rocker boxes, and high-bankers with riffle areas totaling ten square feet or less, including ganged equipment;

(d) Suction dredges that have suction intake nozzles with inside diameters that should be five inches or less, but shall be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the suction intake nozzle size;

(e) Power sluice/suction dredge combinations that have riffle areas totaling ten square feet or less, including ganged equipment, suction intake nozzles with inside diameters that should be five inches or less, but shall be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle, and pump intake hoses with inside diameters of four inches or less. The inside diameter of the dredge hose attached to the suction intake nozzle may be no greater than one inch larger than the suction intake nozzle size; and

(f) High-bankers and power sluices that have riffle areas totaling ten square feet or less, including ganged equipment, and pump intake hoses with inside diameters of four inches or less.

(4) Upon request, other mineral prospecting equipment may be considered by the commission on a pilot basis.

(5) All trenches, depressions, or holes created in the beach during mining activities must be back-filled before working another excavation site.

(6) Setting up or using mining equipment or conducting mining activities in a manner and/or location that subjects people, personal property, or park resources to injury or damage or impedes traffic on the driveable portion of the beach is prohibited.

(7) A person may possess or transport up to ten gallons of concentrate per day.

(8) Any violation of this section is an infraction under chapter 7.84 RCW.