

**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](mailto: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](mailto: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

AMENDATORY SECTION (Amending WSR 05-02-015, filed 12/27/04, effective 1/27/05)

**WAC 388-412-0005 General information about your cash benefits.** (1) Each separate cash assistance unit (AU) gets a separate benefit amount. If several AUs live in the same house, each AU gets a separate benefit amount.

(2) You cannot receive the same type of benefits in:

(a) Two states in the same month; or

(b) Two AUs in the same month; unless

(c) You left the AU to live in a shelter for battered women and children. See WAC 388-408-0045.

(3) If you are married and both you and your spouse get ~~((general assistance))~~ Disability Lifeline, you and your spouse are one AU.

(4) Your grant is rounded down to the next whole dollar amount unless:

(a) You get a clothing and personal incidental (CPI) allowance; or

(b) Your benefits are reduced to pay an overpayment.

(5) We do not issue any cash benefits if you are eligible for less than ten dollars unless:

(a) You get a CPI allowance;

(b) Your benefits are reduced to pay an overpayment; or

(c) You get Supplemental Social Security (SSI) interim assistance payments.

(6) You may use your cash benefits to pay for basic living expenses as detailed under WAC 388-412-0046 (1)(c).

(7) You may not use your electronic benefit transfer (EBT) cards or cash obtained with EBT cards for any of the activities specified under WAC 388-412-0046 (1)(d).

(8) If you choose to withdraw your cash benefits using an automated teller machine (ATM), our EBT vendor may charge a fee for the transaction in addition to any charges by the bank or ATM owner.

AMENDATORY SECTION (Amending WSR 09-14-018, filed 6/22/09, effective 7/23/09)

**WAC 388-412-0015 General information about your (~~Basic Food~~) food assistance allotments.** (1) Your monthly (~~Basic Food~~ benefits are called an allotment. An allotment is the total dollar value of benefits your eligible assistance unit (AU) gets for a calendar month)) allotment under the Washington Basic Food program, food assistance program for legal immigrants (FAP), Washington combined application project (WASHCAP), or the transitional food assistance (TFA) programs is the total dollar value of benefits your assistance unit (AU) receives for a calendar month.

(2) (~~If your AU does not have countable income as described under WAC 388-450-0162, you get the maximum allotment for the number of eligible people in your AU under WAC 388-478-0060~~) **How we determine monthly allotments:**

(a) We calculate your monthly allotment as described under WAC 388-450-0162 if your AU has income;

(b) If your AU does not have countable income you receive the maximum allotment for the number of eligible people in your AU under WAC 388-478-0060.

(3) (~~If your AU has countable income, we calculate your monthly allotment as described under WAC 388-450-0162~~) **Prorated benefits in the first month - If we determine you are eligible for food assistance, your first month's benefits are calculated from the date you applied through the end of the month of your application. This is called proration and is based on a thirty-day month:**

(a) If your prorated benefits for the first month are under ten dollars, you will not receive an allotment for the first month.

(b) If there was a delay in processing your application, we determine when your benefits start under WAC 388-406-0055.

(4) (~~If we determine you are eligible for Basic Food, your first month's benefits are from the date you applied for benefits through the end of the month of your application. If there was a delay in processing your application, we determine when your benefits start under WAC 388-406-0055. This is called proration and is based on a thirty-day month~~) **Combined allotment for first and second month's benefits - If you apply for benefits on or after the sixteenth of the month, and we determine you are eligible for food assistance, we issue both the first and second months benefits in one allotment if you are eligible for both months.**

(5) (~~If you apply for benefits on or after the sixteenth of the month, and we determine you are eligible for Basic Food, we issue both your first and second months benefits in one allotment if you are eligible for both months~~) **Minimum**

**allotment** - If your AU has one or two members, your monthly allotment will be at least sixteen dollars unless:

(a) It is the first month of your certification period;

(b) Your AU is eligible for only a partial month; and

(c) We reduced your first month's allotment below sixteen dollars based on the date you became eligible for food assistance under WAC 388-406-0055.

(6) (~~If your prorated benefits for the first month are under ten dollars, you will not receive an allotment for the first month:~~

(7) If your AU has one or two members, your monthly allotment will be at least sixteen dollars unless:

(a) It is the first month of your certification period;

(b) Your AU is eligible for only a partial month; and

(c) We reduced your first month's allotment below sixteen dollars based on the date you became eligible for Basic Food under WAC 388-406-0055)) **Use of food assistance benefits** - Your food assistance benefits may only be used to buy eligible food items as described under WAC 388-412-0046. If you use your benefits in any other way, it is an intentional program violation under WAC 388-446-0015 and could result in fines, imprisonment, disqualification from receiving food assistance benefits, or any combination of these penalties.

AMENDATORY SECTION (Amending WSR 09-21-009, filed 10/8/09, effective 11/15/09)

#### **WAC 388-412-0040 Can I get my benefits replaced?**

Under certain conditions, we may replace your benefits.

(1) You may get your EBT cash and/or food assistance benefits replaced if:

(a) We make a mistake that causes you to lose benefits;

(b) (~~Both your~~) The EBT card ((and personal identification number (PIN) are)) mailed to you is stolen from the mail; you never had the ability to use the benefits; and you lost benefits;

(c) You left a drug or alcohol treatment facility on or before the fifteenth of the month and the facility does not have enough (~~Basic Food~~) food assistance benefits in their EBT account for one-half of the allotment that they owe you;

(d) Your EBT benefits that were recently deposited into an inactive EBT account were canceled by mistake (~~along with your state benefits~~); or

(e) (~~Your~~) The food that ((was)) your household purchased with ((Basic Food)) food assistance benefits was destroyed in a household disaster or misfortune.

((2) If you want a replacement) (i) For us to replace your benefits, you must report the loss to ((your local office)) the department within ten days from the date of the loss.

((3) For Basic Food,) (ii) We replace the amount of your loss, up to a one-month benefit amount.

((4)) (2) We will not replace your benefits if your loss is for a reason other than those listed in subsection (1) above ((or)) if:

(a) We decided that your request is fraudulent;

(b) Your (~~Basic Food~~) food assistance benefits were lost, stolen or misplaced after you received them;

(c) You already ((got)) received two ((countable)) replacements ((of Basic Food benefits)) for food destroyed in

household disaster or misfortune within the last five months; or

(d) You ~~((got))~~ received disaster ~~((food-stamp))~~ supplemental nutrition assistance program (D-SNAP) benefits for the same month you requested a replacement for ~~((Basic Food))~~ food assistance.

~~((5))~~ Your replacement does not count if:

(a) Your benefits are returned to us; or

(b) ~~We replaced your benefits because we made an error~~) (3) EBT cards. It is your responsibility to keep track of your household's EBT card.

(a) If you have multiple EBT cards replaced, we may suspect you to be trafficking benefits as described under WAC 388-412-0046 (2)(d).

(b) If we suspect trafficking, we will refer your case for investigation by the office of fraud and accountability. Persons trafficking in food assistance benefits may be subject to fines, disqualification from food assistance, and legal action including criminal prosecution.

#### NEW SECTION

**WAC 388-412-0046 What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits?** (1) What is the purpose of DSHS cash benefits?

(a) DSHS cash assistance benefits are provided to low-income residents who qualify for public assistance programs. These benefits are intended to help pay for basic living expenses as described under RCW 74.04.770. TANF cash grants must be used for the sole benefit of the children, and we may require proof that you are using your TANF cash assistance to benefit your children as allowed under RCW 74.12.260.

(b) Your electronic benefit transfer (EBT) card or cash assistance benefits may only be used by you, an eligible member of your household, or an authorized representative/protective payee for the purposes of your cash assistance program. You are not allowed to sell, attempt to sell, exchange, or donate your EBT card or benefits to any other person or entity.

(c) You may use your cash benefits to pay a reasonable amount of basic living expenses such as:

(i) Shelter;

(ii) Utilities such as heating, telephone, water, sewer, garbage, and recycling;

(iii) Food;

(iv) Transportation;

(v) Clothing;

(vi) Household maintenance;

(vii) Personal hygiene;

(viii) Employment or school related items; and

(ix) Other necessary incidentals and items.

(d) It is not legal to use electronic benefit transfer (EBT) cards or cash obtained with EBT cards to:

(i) Gamble. Gambling includes:

(A) The purchase of lottery tickets;

(B) The purchase of pull tabs;

(C) Use of punch boards;

(D) Purchase of bingo cards;

(E) Betting on horse racing;

(F) Participating in casino games; and

(G) Participating in other games of chance as found in chapters 9.46, 67.16 and 67.70 RCW.

(ii) Participate in or purchase any activities located in a tattoo, body piercing, or body art shop licensed under chapter 18.300 RCW;

(iii) Purchase cigarettes as defined in RCW 82.24.010 or tobacco products as defined in RCW 82.26.010;

(iv) Purchase any alcoholic items regulated under Title 66 RCW;

(v) Purchase or participate in any activities in any of the following locations:

(A) Taverns licensed under RCW 66.24.330;

(B) Beer/wine specialty stores licensed under RCW 66.24.371;

(C) Nightclubs licensed under RCW 66.24.600;

(D) Contract liquor stores defined under RCW 66.04.-010;

(E) Bail bond agencies regulated under chapter 18.185 RCW;

(F) Gambling establishments licensed under chapter 9.46 RCW;

(G) Adult entertainment venues with performances that contain erotic material where minors under the age of eighteen are prohibited under RCW 9.68A.150;

(H) Any establishments where persons under the age of eighteen are not permitted.

(e) If you use your electronic benefit transfer (EBT) card or cash obtained from your EBT card illegally we may:

(i) Assign a protective payee to manage your cash assistance benefits under WAC 388-460-0035;

(ii) For households receiving TANF, require proof that your benefits are being used for the benefit of the children in the household;

(iii) Terminate your cash benefits; or

(iv) Pursue legal action, including criminal prosecution.

(2) What is the purpose of DSHS food assistance benefits?

(a) DSHS food assistance benefits including those from the Basic Food program, state funded basic food program for legal immigrants (FAP), Washington state combined application project (WASHCAP), and transitional food assistance (TFA) help low-income individuals and families have a more nutritious diet by providing food assistance benefits through EBT cards for eligible households to buy groceries.

(b) You, members of your household, or an authorized representative may use your food assistance benefits to buy food items for your household from food retailer authorized to accept supplemental nutrition assistance program (SNAP) benefits by the U.S. Department of Agriculture Food and Nutrition Service (FNS).

(c) You can use your food assistance benefits to buy items such as:

(i) Breads and cereals;

(ii) Fruits and vegetables;

(iii) Cheese, milk, and other dairy products;

(iv) Meats, fish, poultry, and eggs;

(v) Most other food items that are not prepared hot foods; and

(vi) Seeds and plants that produce food.

(d) It is not legal to:

(i) Give your EBT card or benefits to anyone who is not in your food assistance household or your authorized representative.

(ii) Use food benefits on your EBT card for any purpose other than to buy food for eligible household members.

(iii) Exchange your food benefits for anything of value (trafficking). Examples of illegal trafficking include exchanging food benefits for cash, drugs, weapons or anything other than food from an authorized retailer.

(iv) Sell, attempt to sell, exchange, or donate your EBT card or any benefits to any person or entity.

(v) Sell or trade any food that was purchased using your food assistance benefits for cash, drugs, alcohol, tobacco products, firearms, or anything of value.

(vi) Use food benefits to buy nonfood items such as cigarettes, tobacco, beer, wine, liquor, household supplies, soaps, paper products, vitamins, medicine, or pet food.

(e) If you intentionally misuse your food assistance benefits, you may be:

(i) Disqualified for an intentional program violation under WAC 388-446-0015 and 388-446-0020. If you are disqualified you will lose your benefits for at least one year and up to a lifetime. The disqualification continues even if you move to another state.

(ii) Subject to fines.

(iii) Subject to legal action, including criminal prosecution. DSHS will cooperate with state, local and federal prosecuting authorities to prosecute trafficking in food assistance/SNAP benefits.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-446-0001 (~~Cash and medical assistance~~)**  
**When does the department refer a cash, food assistance or medical case for prosecution for fraud?** (1) ~~(All cash or medical assistance cases in which substantial evidence is found supporting a finding of fraud are referred to the county prosecuting attorney. The prosecuting attorney's office determines which cases are subject to criminal prosecution.~~

(2) An applicant or recipient is suspected of committing fraud if intentional misstatement or failure to reveal information affecting eligibility results in an overpayment.) We consider it fraud if you misrepresent your circumstances in order to be eligible for or to receive more benefits than you would receive based on your actual circumstances. This includes misrepresenting:

(a) Who is in the household;

(b) The income of people in your assistance unit;

(c) Your living expenses; or

(d) Other circumstances that impact your eligibility and monthly benefits.

(2) We suspect fraud if it appears that you received more benefits than you should have and it appears that you:

(a) Made an intentional misstatement about your circumstances that caused the incorrect benefits; or

(b) Intentionally failed to reveal information that impacts your eligibility.

(3) If we receive a report of fraud, we actively investigate the circumstances to determine if there is substantial evidence to support a finding of fraud. This includes referring the case for investigation by the office of fraud and accountability.

(4) If we have substantial evidence to support a finding of fraud for cash, food assistance or medical, we refer the case for prosecution. The prosecuting attorney's office decides which cases they will pursue for prosecution.

AMENDATORY SECTION (Amending WSR 05-23-082, filed 11/15/05, effective 1/1/06)

**WAC 388-446-0015 What is an intentional program violation (IPV) and administrative disqualification hearings (ADH) for (~~Basic Food~~) food assistance.** (1) An intentional program violation (IPV) is ~~((defined as))~~ an act in which ~~((a person))~~ someone intentionally:

(a) (~~Makes a false or misleading statement;~~) Misrepresents, conceals or withholds facts in order to be found eligible for benefits or to receive more benefits than their actual circumstances would allow. This includes making a false statement regarding household circumstances.

(b) (~~Misrepresents, conceals or withholds facts; or~~

(c) ~~Acts in violation of the Food Stamp Act, the Food Stamp Program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, trafficking, or possession of food~~) Acts in violation of the Food Nutrition Act of 2008, regulations for the supplemental nutrition assistance program (SNAP) under Title 7 of the Code of Federal Regulations or any state statute relating to the use, presentation, transfer, acquisition, receipt, trafficking, or possession of food assistance benefits.

(2) (~~Basic Food clients suspected of committing~~) If we suspect someone has committed an IPV (~~are subject to referral~~) we refer their case for an administrative disqualification hearing (ADH), if:

(a) The suspected IPV causes an over issuance of four hundred fifty dollars or more; or

(b) The suspected IPV is due to the trafficking of food benefits; and

(c) The person has not been referred for criminal proceedings;~~and~~

(d) ~~The person resides in Washington state, at the time of the referral; or~~

(e) ~~The person resides outside Washington state, but is within one hour's reasonable drive to a CSO).~~

(3) An administrative disqualification hearing (ADH) is a formal hearing to determine if a person committed an IPV. ADHs are governed by the rules found in chapter 388-02 WAC. However, rules in this section are the overriding authority if there is a conflict.

(4) A (~~client who~~) person suspected of an IPV can choose to waive their right to an ADH by signing a disqualification consent agreement that waives their right to the hearing and accepts the IPV penalty under WAC 388-446-0020.

(5) If someone commits one or more IPV's and is suspected of committing another, (~~is referred~~) we refer them for an ADH when the act of suspected violation occurred:

(a) After ~~((the department))~~ we mailed the disqualification notice to the client for the most recent IPV; or

(b) After criminal proceedings for the most recent IPV are concluded.

~~((5))~~ A person suspected of IPV is entitled to receive notice of an ADH at least thirty days in advance of the hearing date. ~~The~~ (6) When we suspect someone has committed an IPV, we refer their case for an administrative disqualification hearing (ADH). The office of administrative hearings (OAH) sends them notice of an ADH at least thirty days in advance of the hearing date. OAH sends the notice ~~((is sent))~~ by certified mail, or ~~((provided to the client by))~~ personal service ~~((and))~~. The notice will contain the following information:

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

(b) The charges against the ~~((individual))~~ person;

(c) A summary of the evidence, and how and where ~~((the))~~ they may examine the evidence ~~((can be examined))~~;

(d) A warning that a decision will be based ~~((solely))~~ entirely on the evidence ~~((provided by))~~ the department ~~((;))~~ provides if ~~((the individual))~~ they fail ~~((s))~~ to appear at the hearing;

(e) A statement that the ~~((individual))~~ person has ten days from the date of the scheduled hearing to show good cause for ~~((failure to appear at))~~ failing to attend the hearing and to ~~((request rescheduling))~~ ask for a new hearing date;

(f) A warning that a determination of IPV will result in a disqualification period; and

(g) A statement that if we schedule a telephone hearing ~~((is scheduled))~~, ~~((the individual))~~ they can request an in-person hearing by filing a request with the administrative law judge one week or more prior to the date of the hearing.

~~((6))~~ (7) The department may combine an ADH and a regular hearing when the reason for both hearings is related.

(8) The person or a representative shall have the right to one continuance of up to thirty days if a request is filed ten days or more prior to the hearing date.

~~((7))~~ (9) The ~~((hearing will be conducted and a decision rendered))~~ administrative law judge (ALJ) will conduct the ADH and render a decision even if the person or representative fails to appear, unless within ten days from the date of the scheduled hearing:

(a) The person can show good cause for failing to appear; and

(b) The person or representative requests the hearing be re-instated.

~~((8))~~ (10) We may change a scheduled telephone hearing ~~((may be changed))~~ to an in-person hearing if this is requested ~~((one))~~ by the person or department representative at least a week ~~((or more))~~ in advance. ~~((If requested))~~ The person requesting a change less than one week in advance ~~((the person))~~ must show good cause for the requested change.

~~((9))~~ (11) The ALJ issues a final decision as specified in WAC ~~((388-02-0215(5) and WAC 388-02-0527))~~ 388-02-0215 through 388-02-0525. The decision determines whether the department ~~((establishes))~~ had established with clear and convincing evidence that the person committed and intended to commit an IPV.

~~((10))~~ (12) The department and the client each have the right to request a reconsideration of the decision as specified in WAC 388-02-0610 through 388-02-0635. The final order or the reconsideration decision is the final agency decision.

~~((11))~~ A client's (13) We will not implement a disqualification ~~((is not implemented))~~ and continue benefits ~~((continue))~~ at the current amount ~~((when))~~ if:

(a) The client can show good cause for not attending the hearing within thirty days from the date the disqualification notice was mailed; and

(b) An administrative law judge determines the client had good cause; or

(c) The client requests reconsideration or files a petition for judicial review to appeal the disqualification as specified in WAC 388-02-0530 (1) or (4).

~~((12))~~ An administrative disqualification hearing and a regular hearing can be combined when the cause for both hearings is related.

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-446-0020 What penalties will I receive if I break a food assistance ((disqualification penalties)) rule on purpose?** (1) ~~((Disqualification penalties apply only to the person or persons found to have committed an intentional program violation (IPV) as follows:~~

~~((a))~~ If the intentional program violation occurred in whole or in part after the household was notified of the following penalties:

(i) Twelve months for the first violation;

(ii) Twenty-four months for the second violation;

(iii) Permanently for the third violation.

~~((b))~~ If the violation ended before the household was notified of the penalties in subsection (1)(a) of this section:

(i) Six months for the first violation;

(ii) Twelve months for the second violation;

(iii) Permanently for the third violation.

(2) The disqualification and penalty period for a person convicted in another state stays in effect until satisfied regardless of where a person moves.

(3) Multiple program violations are considered as one violation when determining the penalty for disqualification when the violations occurred before the department notified the household of the penalties, as described in subsection (1), (4) and (5) of this section.

(4) Disqualification penalties for persons convicted by a federal, state, or local court of trading or receiving food coupons for a controlled substance are:

(a) Two years for a first conviction; and

(b) Permanently for a second conviction.

(5) A first conviction by federal, state, or local court permanently disqualifies persons who:

(a) Trade or receive food coupons for firearms, ammunition, or explosives; or

(b) Knowingly buy, sell, trade, or present for redemption food coupons totalling five hundred dollars or more in violation of section 15 (b) and (c) of the Food Stamp Act of 1977, as amended.

(6) Persons convicted of providing false identification or residency information to receive multiple coupon benefits are disqualified for ten years.

(7) When a court convicts a person of an IPV, the disqualification penalties specified in subsection (1) through (5) apply as follows:

(a) In addition to any civil or criminal penalties; and

(b) Within forty-five days of the date of conviction; unless

(c) Contrary to the court order.

(8) Disqualification penalties are applied after notifying the household of the disqualification, the effective date, the amount of benefits the household will receive during the disqualification period and the need to reapply when the certification period expires.

(9) Even though only the individual is disqualified, the food assistance household is responsible for making restitution for the amount of any overpayment)) Breaking a rule on purpose for food assistance is known as an intentional program violation (IPV) under WAC 388-446-0015. These rules apply to all DSHS food assistance programs including:

(a) Washington Basic Food program or Basic Food;

(b) The Washington combined application project (WASHCAP) under chapter 388-492 WAC;

(c) Transitional food assistance (TFA) under chapter 388-489 WAC; and

(d) The state-funded food assistance program (FAP) for legal immigrants.

(2) You will have an IPV if we have shown that you have committed an IPV in any of the following three ways:

(a) We establish that you committed an IPV through an administrative disqualification hearing (ADH) under WAC 388-446-0015;

(b) You signed a disqualification consent agreement that waives your right to an administrative disqualification hearing and accepts the IPV penalty; or

(c) A federal, state or local court found that you committed an IPV or found you guilty of a crime that breaks food assistance rules.

(3) We only apply a disqualification penalty to the person or persons who have committed an IPV. People who commit an IPV are disqualified from all food assistance benefits listed in subsection (1) of this section. If you commit an IPV you will not be eligible for food assistance:

(a) For a period of twelve months for the first violation;

(b) For a period of twenty-four months for the second violation;

(c) Permanently for the third violation.

(4) **Special penalties for certain crimes** - If you are convicted in a court of law for crimes that are an intentional program violation, we disqualify you for the period of time set in the court order. If the court order does not state a disqualification period, we set a disqualification period based on the crime you were convicted of committing:

(a) **Drugs** - If you are convicted in a federal, state, or local court of trading or receiving food benefits for a controlled substance, we disqualify you:

(i) For a period of twenty-four months for a first conviction; and

(ii) Permanently for a second violation.

(b) **Weapons** - If you are convicted in a federal, state or local court of trading your food assistance benefits for firearms, ammunition, or explosives, we permanently disqualify you from receiving food assistance on the first offense.

(c) **Trafficking** - If you are convicted in a federal, state, or local court of knowingly buying, selling, trading, or presenting for redemption food assistance benefits totaling five hundred dollars or more, we permanently disqualify you from receiving food assistance on the first offense.

(d) **False identification** - If you are convicted in a federal, state, or local court of providing false identification to receive benefits in more than one assistance unit, we disqualify you from receiving food assistance for ten years on the first offense.

(e) **Receiving benefits in more than one state** - If you are convicted in a federal, state, or local court of providing false residency information to receive benefits in more than one household or state, we disqualify you from receiving food assistance for ten years on the first offense.

(5) When we start a disqualification. The date of a disqualification depends on how a person was disqualified. We will send you a letter telling you when your disqualification period will start:

(a) **ADH or consent agreement** - If you were found to have committed an IPV in an administrative disqualification hearing or you signed a consent agreement waiving this hearing and accepting the disqualification, we start the disqualification period by the second month after we sent you a letter informing you of the disqualification.

(b) **Conviction in court** - If you are convicted in court of a crime that is an intentional program violation, your disqualification period in subsection (4) is in addition to any civil or criminal penalties. We disqualify you from food assistance within forty-five days of the court order unless this timing conflicts with the court order.

(6) **Disqualifications apply in all states** - If you have an IPV disqualification this stays with you until the penalty period is over, even if you move to another state:

(a) If we disqualify you from food assistance, you are also disqualified from receiving supplemental nutrition assistance program (SNAP) benefits in another state during the disqualification period.

(b) If you are disqualified from receiving SNAP benefits for an IPV from another state, you can't receive food assistance in Washington during the disqualification period.

(7) Even though we only disqualify the persons who have committed an IPV from receiving food assistance benefits, all adults in the assistance unit are responsible to repay any benefits you were overpaid as described under WAC 388-410-0020 and 388-410-0025.

AMENDATORY SECTION (Amending WSR 11-07-014, filed 3/8/11, effective 4/8/11)

**WAC 388-472-0005 What are my rights and responsibilities?** For the purposes of this chapter, "we" and "us" refer to the department and "you" refers to the applicant or recipient.

(1) If you apply for or get cash, food or medical assistance benefits you have the right to:

(a) Have your rights and responsibilities explained to you and given to you in writing;

(b) Have us explain the legal use of DSHS benefits to you.

(c) Be treated politely and fairly no matter what your race, color, political beliefs, national origin, religion, age, gender, disability or birthplace;

~~((e))~~ (d) Request benefits by giving us an application form using any method listed under WAC 388-406-0010. You can ask for and get a receipt when you give us an application or other documents;

~~((f))~~ (e) Have your application processed as soon as possible. Unless your application is delayed under WAC 388-406-0040, we process your application for benefits within thirty days, except:

(i) If you are eligible for expedited services under WAC 388-406-0015, you get food assistance within seven days. If we deny you expedited services, you have a right to ask that the decision be reviewed by the department within two working days from the date we denied your request for expedited services;

(ii) If you are pregnant and otherwise eligible, you get medical within fifteen working days~~(-);~~

(iii) Disability lifeline (DL), alcohol or drug addiction treatment (ADATSA), or medical assistance may take up to forty-five days; and

(iv) Medical assistance requiring a disability decision may take up to sixty days.

~~((e))~~ (f) Be given at least ten days to give us information needed to determine your eligibility and be given more time if you ask for it. If we do not have the information needed to decide your eligibility, then we may deny your request for benefits;

~~((f))~~ (g) Have the information you give us kept private. We may share some facts with other agencies for efficient management of federal and state programs;

~~((g))~~ (h) Ask us not to collect child support or medical support if you fear the noncustodial parent may harm you, your children, or the children in your care;

~~((h))~~ (i) Ask for extra money to help pay for temporary emergency shelter costs, such as an eviction or a utility shut-off, if you get TANF;

~~((i))~~ (j) Get a written notice, in most cases, at least ten days before we make changes to lower or stop your benefits;

~~((j))~~ (k) Ask for an administrative hearing if you disagree with a decision we make. You can also ask a supervisor or administrator to review our decision or action without affecting your right to a fair hearing;

~~((k))~~ (l) Have interpreter or translator services given to you at no cost and without delay;

~~((l))~~ (m) Refuse to speak to a fraud investigator. You do not have to let an investigator into your home. You may ask the investigator to come back at another time. Such a request will not affect your eligibility for benefits; and

~~((m))~~ (n) Get help from us to register to vote.

(2) If you get cash, food, or medical assistance, you are responsible to:

(a) Tell us if you are pregnant, in need of immediate medical care, experiencing an emergency such as having no

money for food, or facing an eviction so we can process your request for benefits as soon as possible;

(b) Report the following expenses so we can decide if you can get more food assistance:

(i) Shelter costs;

(ii) Child or dependent care costs;

(iii) Child support that is legally obligated;

(iv) Medical expenses; and

(v) Self-employment expenses.

(c) Report changes as required under WAC 388-418-0005 and 388-418-0007.

(d) Give us the information needed to determine eligibility;

(e) Give us proof of information when needed. If you have trouble getting proof, we help you get the proof or contact other persons or agencies for it;

(f) Cooperate in the collection of child support or medical support unless you fear the noncustodial parent may harm you, your children, or the children in your care;

(g) Apply for and get any benefits from other agencies or programs prior to getting cash assistance from us;

(h) Complete reports and reviews when asked;

(i) Look for, get, and keep a job or participate in other activities if required for cash or food assistance;

(j) Give your ~~((medical identification card or letter of eligibility from us))~~ Provider One services card to your medical care provider; ~~((and))~~

(k) Cooperate with the quality control review process;

(l) Keep track of your EBT card for cash and food assistance and keep your personal identification number (PIN) secure. If you receive multiple replacement EBT cards, this may trigger an investigation to determine if you are trafficking benefits as described under WAC 388-412-0046 (2)(d); and

(m) Use your cash and food assistance benefits only as allowed under WAC 388-412-0046.

(3) If you are eligible for necessary supplemental accommodation (NSA) services under chapter 388-472 WAC, we help you comply with the requirements of this section.

**WSR 11-15-011**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed July 7, 2011, 12:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-07-066.

Title of Rule and Other Identifying Information: New WAC 415-02-250 Retiree medical accounts established under Internal Revenue Code (IRC) Section 401(h).

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on August 23, 2011, at 2:00 p.m.

Date of Intended Adoption: August 26, 2011.

Submit Written Comments to: Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box

48380, Olympia, WA 98504-8380, e-mail rules@drs.wa.gov, fax (360) 753-5397, by 5:00 p.m. on August 23, 2011.

Assistance for Persons with Disabilities: Contact Ken Goolsby, rules coordinator, by August 12, 2011, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state legislature has enacted legislation providing for the payment of medical benefits for retirees of the Law Enforcement Officers and Firefighters' (LEOFF) Plan 2 who are totally disabled in the line of duty and survivors of LEOFF Plan 2 and the Washington State Patrol Retirement System Plans 1 and 2 who are killed in the line of duty. The department is creating a rule to implement retiree medical accounts established under Internal Revenue Code Section 401(h).

Reasons Supporting Proposal: The new rule ensures compliance with the Federal Internal Revenue Code Section 401(h) regarding retiree medical accounts.

Statutory Authority for Adoption: RCW 41.50.050(5) and chapter 43.43 RCW.

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

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Ken Goolsby, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation: Shawn Merchant, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7303; and Enforcement: Jennifer Dahl, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7219.

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

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

July 7, 2011  
Ken Goolsby  
Rules Coordinator

## NEW SECTION

**WAC 415-02-250 Retiree medical accounts established under Internal Revenue Code (IRC) section 401(h).** RCW 41.26.470(10), 41.26.510(5), and 43.43.285 (2)(b) authorizes LEOFF Plan 2 and WSPRS Plan 1/2 to provide reimbursement to eligible retirees and/or to their eligible survivors for certain medical insurance premiums. These reimbursements are authorized by IRC section 401(h), subject to the IRC and federal regulations.

(1) **How is the money to fund these benefits held by the state?** The money to fund these reimbursements is held in a "retiree medical account" within the trust funds for the respective plans. The trust funds for LEOFF Plan 2 and WSPRS Plan 1/2 each have a separate retiree medical account. The assets in each of these retiree medical accounts shall be accounted for separately. There are no individual member accounts.

(2) **How are the assets in the retiree medical accounts invested?** The assets in the retiree medical accounts may be

commingled with other trust fund accounts for investment purposes. Portions of the investment expenses and investment earnings for the commingled investments will be allocated to the retiree medical accounts on a reasonable basis.

(3) **How are assets in the retiree medical accounts used?**

(a) Assets in the retiree medical accounts are held in trust for the exclusive benefit of eligible retirees and their eligible survivors.

(b) The assets of the respective retiree medical accounts shall be used only for the payment of the benefits provided in RCW 41.26.470(10), 41.26.510(5), and 43.43.285 (2)(b), and the expenses of administering these sections. Assets in the retiree medical accounts may not be used for any other retirement benefit provided by chapters 41.26 and 43.43 RCW or any other purpose.

(c) Upon satisfaction of all liabilities under RCW 41.26.470(10), 41.26.510(5), and 43.43.285 (2)(b), any assets in a retiree medical account that are not used as provided in (b) of this subsection shall be transferred to the department of retirement systems' (DRS) expense fund for the benefit of employers, as required by IRC section 401 (h)(5).

(d) These benefits are subordinate to the retirement benefits provided by the plan.

(4) **How are the retiree medical accounts funded?**

(a) The retiree medical accounts are funded by designated retirement contributions, appropriations, and any other sources. The funding structure and the process for determining the contributions for the accounts are set out in chapter 41.45 RCW, in particular RCW 41.45.050, 41.45.060, 41.45.0604, 41.45.0631, and 41.45.070.

(b) At no time shall the total contributions to a retiree medical account plus the total contributions to its respective plan for the one-time duty-related death benefit be in excess of twenty-five percent of the total contributions to its respective plan (not including contributions to fund past service credits). This comparison is made by comparing all contributions (to the retiree medical account and to the respective plan) that have been made after the effective date of the retiree medical account.

(c) DRS will review the total contributions annually to ensure that the twenty-five percent limit has not been exceeded.

(5) In adopting this section, DRS intends to comply in all respects with IRC sections 401(a) and 401(h) and to preserve the status of LEOFF Plan 2 and WSPRS Plan 1/2 as tax-qualified governmental plans.

**WSR 11-15-022**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
[Filed July 8, 2011, 12:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-15-186.

Title of Rule and Other Identifying Information: Chapter 246-102 WAC, Cancer registry.



Hearing Location(s): Department of Health, Town Center 2, Room 158, 111 Israel Road S.E., Tumwater, WA 98501, on August 24, 2011, at 9:00 a.m.

Date of Intended Adoption: August 29, 2011.

Submit Written Comments to: Riley Peters, Unit Manager, Washington State Cancer Registry, Washington State Department of Health, P.O. Box 47855, Tumwater, WA 98504-7855, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 586-2714, by August 24, 2011.

Assistance for Persons with Disabilities: Contact Beth Watkins by August 17, 2011, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule is to update and clarify existing rules to meet the expanded and revised scope and requirements of cancer surveillance and registration activities according to the Centers for Disease Control and Prevention's National Program of Cancer Registries. The proposed rule also requires the reporting of a patient's usually [usual] occupation or the primary occupation of the patient before retirement.

Reasons Supporting Proposal: The Cancer Registries Amendment Act in 42 U.S.C. 280(e) requires that states receiving federal funds establish regulations to meet reporting requirements. The department must update the current rules in order to stay in compliance with the current federal regulations and to maintain funding. In addition, SB 5149 passed during the 2011 legislative session revising RCW 70.54.240 requiring a patient's usually [usual] occupation or, the primary occupation of the patient before retirement be reported. The best way to collect this information is through the existing cancer registry.

Statutory Authority for Adoption: RCW 70.54.270.

Statute Being Implemented: RCW 70.54.230 through 70.54.260.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Pama Joyer, 111 Israel Road S.E., Tumwater, 98501, (360) 236-3589; Enforcement: Riley Peters, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-3581.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Riley Peters, Unit Manager, 111 Israel Road S.E., Tumwater, WA 98501, phone (360) 236-3581, fax (360) 586-2714, e-mail [Riley.Peters@DOH.WA.GOV](mailto:Riley.Peters@DOH.WA.GOV).

July 8, 2011  
Mary C. Selecky  
Secretary

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

**WAC 246-102-001 Purpose.** The purpose of ~~((cancer case reporting))~~ the Washington state cancer registry is to monitor the incidence of cancer in the state and report applicable limited data according to federal requirements. Information collected through the cancer registry system is used by ~~((medical,))~~ research and public health professionals to understand, control and reduce occurrences of cancer in residents of Washington. This chapter establishes the criteria ~~((and procedures))~~ for identifying and reporting cancer cases ~~((and))~~. It also defines the standards for access and release of cancer case information.

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

**WAC 246-102-010 Definitions.** ~~((For the purposes of RCW 70.54.230, 70.54.240, 70.54.250, 70.54.260, 70.54.270, and this chapter, the following words and phrases shall have the following meaning unless the context clearly indicates otherwise:~~

- (1) "Cancer case" means:
  - (a) Any malignant neoplasm with the exception of basal and squamous cell carcinoma of the skin;
  - (b) All brain tumors;
  - (c) Basal and squamous cell carcinoma of the external genital organ sites (vulva, labia, clitoris, prepuce, penis, scrotum);
  - (d) Cancer in situ, except carcinoma in situ of the uterine cervix; or
  - (e) Other diagnoses necessary to meet the reporting requirements of the Center for Disease Control's National Program of Cancer Registries, the National Cancer Institute's Surveillance Epidemiology and End Results Program, the Commission on Cancer, and the North American Association of Central Cancer Registries (a copy is available for review at the department).
- (2) "Cancer diagnosis or treatment facilities" means hospitals, surgical centers, outpatient radiation therapy centers, doctors' offices, independent clinical laboratories and any other facilities where cancer cases are diagnosed or treated.
- (3) "Confidential information" means any information which could lead to the identification of cancer patients, cancer diagnosis or treatment facilities, independent clinical laboratories, or attending health care providers.
- (4) "Contractors" means agencies designated by contract with the department of health to perform activities related to identification, collection, and processing of cancer data.
- (5) "Department" means the Washington state department of health.
- (6) "Designees" means hospital-based cancer registries and other persons or entities designated by the department to perform data collection activities.
- (7) "Hospital-based cancer registry" means a cancer registry which is maintained by a hospital or other health care facility.
- (8) "In situ" means tumors described as "in situ" by the pathologist reading the diagnostic report(s).

(9) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects as defined in RCW 70.02.010.

(10) "Patient" means a case, suspected case or contact.

(11) "Principal health care provider" means the attending health care provider recognized as primarily responsible for diagnosis and treatment of a patient, or in the absence of such, the health care provider initiating diagnostic testing or treatment for the patient.

(12) "Reportable cancer case" means any cancer case diagnosed in a Washington state resident after the effective date of these rules.

(13) "Resident" means an individual residing in Washington state at the time of cancer diagnosis.

(14) "Stage of disease" means a cancer classification system encompassing attributes of a tumor as determined and described by:

(a) *Summary Staging Guide, Surveillance Epidemiology and End Results (SEER), Program, April 1977*; except when superseded by more up-to-date measures (a copy is available for review at the department); and

(b) *Manual for Staging of Cancer, 5th Edition, American Joint Committee on Cancer, (AJCC), 1998*, except when superseded by more up-to-date measures (a copy is available for review at the department).

(15) "State cancer registry" means the statewide cancer data base maintained by the department of health.

(16) "State cancer registry contract" means the legal agreement by which contractors are authorized to obtain information on reportable cancer cases. It also means the document specifying the contractors' obligations to the state cancer registry with respect to how and when information is collected, processed, and provided and how quality assurance standards are met.) The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Cancer case" means:

(a) Any malignant or cancerous neoplasm except basal and squamous cell carcinoma of the skin;

(b) Carcinoma of the external genital organ sites, including those with histology identified as basal or squamous cell type. External genital organ sites include the vulva, labia, clitoris, prepuce, penis and scrotum;

(c) Neoplasms noted as carcinoma in situ or noninvasive carcinomas, except carcinoma in situ of the cervix uteri;

(d) All benign, uncertain, borderline or malignant solid intracranial and central nervous system tumors, including the meninges and intracranial endocrine structures;

(e) All hematopoietic and lymphoid neoplasms including certain potentially malignant hematopoietic conditions;

(f) Other diagnoses that meet the reporting requirements of:

(i) The Center for Disease Control's National Program of Cancer Registries;

(ii) The National Cancer Institute's Surveillance Epidemiology and End Results Program;

(iii) The North American Association of Central Cancer Registries as described by the *International Classification of Disease for Oncology, Third Edition (ICD-O-3)*;

(iv) The North American Association of Central Cancer Registries as described by the *WHO Classification of Tumours of Haematopoietic and Lymphoid Tissues, Fourth Edition, Volume 2* published by the World Health Organization.

(2) "Case report" means a complete report, including all items in WAC 246-102-040(3), documenting a cancer case.

(3) "Certified tumor registrar (CTR)" means an individual certified by the National Cancer Registrars Association.

(4) "Department" means the Washington state department of health.

(5) "First course treatment" means all methods of treatment documented in the treatment plan after the original diagnosis and administered to the patient before disease progression or recurrence.

(6) "Health care facility" means any facility or institution which diagnoses, evaluates, provides treatment to patients or provides biomarker or other required prognostic or predictive information to physicians on patients with reportable or potentially reportable cancer cases. Health care facilities include:

(a) Hospitals providing either inpatient or outpatient services;

(b) Free-standing surgical, radiation therapy, imaging, and oncology centers;

(c) Health maintenance organizations;

(d) Multispecialty clinics;

(e) Hospices;

(f) Ambulatory surgical facilities; and

(g) Other outpatient facilities.

(7) "Health care provider" means a person licensed, certified, or registered under RCW 18.130.040 and who diagnoses, evaluates, or provides treatment to patients with reportable or potentially reportable cancer cases.

(8) "Laboratory" means pathology, cytology, biomarker, molecular, genetic and other clinical or reference laboratories, including both hospital laboratories and free-standing laboratories.

(9) "Potentially reportable cancer case" means the reporting of a cancer case based on ambiguous terminology.

(10) "Reporting entity" means any health care facility, laboratory, treatment center, or health care provider.

(11) "Stage of disease" means how far the cancer has spread from the organ or site of origin at the time of diagnosis and treatment planning.

(12) "State cancer registry" means the Washington state cancer registry.

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

**WAC 246-102-020 Who must report.** ((By statute (RCW 70.54.240), the responsibility for identifying and reporting cases of cancer rests with health care facilities, independent clinical laboratories, and other principal health care providers. The department may, at its discretion, delegate some or all of these responsibilities to contractors or

other designees. A list of the contractors and designees responsible for identifying and reporting cases of cancer diagnosed at specific sites in Washington is available for review at the department.) (1) Reporting entities that diagnose, or provide first course treatment to a patient with a cancer case or potentially reportable cancer case shall report the cancer case to the state cancer registry.

(2) If a health care provider refers patients to a health care facility with cancer registry staffing for diagnostic or first course treatment services, then the health care facility is responsible for reporting the case to the state cancer registry.

(3) For purposes of this section "health care facility with cancer registry staffing" means those health care facilities with in-house cancer registries or contracted registry staff services.

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

**WAC 246-102-030 Cancer case identification.** ((+) Contractors or designees shall identify reportable cancer cases diagnosed and treated at cancer diagnosis and treatment facilities:

(2) ~~Cancer diagnosis or treatment facilities shall:~~

(a) ~~Organize case finding documents by procedure or service date to permit identification of cancer cases; and~~

(b) ~~Submit or make available, case finding documents including the following if maintained:~~

(i) ~~Disease and operation indices for cancer cases;~~

(ii) ~~Pathology and cytology reports;~~

(iii) ~~New patient radiation logs;~~

(iv) ~~New patient chemotherapy logs; and~~

(v) ~~Other alternative case finding documents that are necessary to identify or verify reportable cancer cases;~~

(e) ~~Cancer diagnosis or treatment facilities shall submit case finding documents by paper form, computer disk, or electronic file or make batched hard copy documents available for on-site review, within forty-five days of the date of service.~~

(3) ~~On request, principal health care providers shall identify to contractors, designees, or the department reportable cancer cases diagnosed at facilities other than hospitals, surgical centers, and outpatient radiation therapy centers (as specified under WAC 246-102-030 and 246-102-040) unless the patient was hospitalized for additional cancer diagnosis or treatment services within one month of diagnosis.)~~ The state cancer registry shall:

(1) Publish a reportable list annually.

(2) Publish a recommended case finding list annually.

(3) Publish a list of required data items annually.

(4) Publish recommended reporting guidelines as needed.

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

**WAC 246-102-040 Data collection and submission requirements.** (1) ((Contractors or designees shall complete cancer abstracts for patients identified through cancer diagnosis and treatment facilities:

(2) ~~Cancer diagnosis or treatment facilities shall provide contractors or their designees with access to pathology and cytology reports and all medical records pertaining to identified cancer cases.~~

(3) ~~On request by the contractor, designee or the department, principal health care providers or their staff shall be responsible for completing cancer abstracts for patients diagnosed at facilities other than hospitals, surgical centers, and outpatient radiation therapy centers, unless the patient was hospitalized for additional cancer diagnosis or treatment services within one month of diagnosis.~~

(4) ~~The following information items shall be included in cancer abstracts, providing))~~ Reporting entities shall prepare and submit case reports in a format provided by the state cancer registry.

(2) Reporting entities shall submit completed case reports to the state cancer registry within six months of the date of diagnosis or date patient is first seen for first course treatment, if the diagnosis was made at another health care facility or by another health care provider.

(3) Case reports shall include the following information ((is available)) from the patient's medical records:

(a) Patient information:

(i) Name (last, first, middle);

(ii) Address at time of diagnosis;

(iii) Sex;

(iv) Race(s);

(v) Spanish/hispanic origin;

(vi) Birthdate;

(vii) Age at time of diagnosis;

(viii) Social Security number;

(ix) State or country of birth;

(x) Usual occupation, or if retired, primary occupation before retirement;

(xi) Primary payor;

(b) Diagnostic information:

(i) Date ((first seen for this cancer)) of patient's first contact with the reporting entity for the diagnosis or treatment of the cancer;

(ii) ((Primary site or sites;

(iii) Histologic type or types, behavior and grade;

(iv) Date of each diagnosis;

(v) Method or methods of diagnostic confirmation;

(vi) Stage of disease at diagnosis using:

(A) Summary stage; and

(B) AJCC system if maintained by the cancer diagnostic or treatment facility;

(vii) Sequence;

(viii) Laterality;

(c) First course of treatment information:

(i) Date of initial treatment;

(ii) All treatment modalities given as part of first course of therapy;

(d) Other information:

(i) Name and address of cancer diagnosis or treatment facility providing information;

(ii) Medical record number;

(iii) Name and address of principal health care provider;  
and

(iv) Other items necessary to meet the reporting requirements of the Center for Disease Control's National Program of Cancer Registries, the National Cancer Institute's Surveillance Epidemiology and End Results Program, the Commission on Cancer, and the North American Association of Central Cancer Registries (a copy is available at the department).

(5) The department may require submission of additional information from contractors or designees as needed to assess data reliability and validity.

(6) Contractors shall prepare detailed data collection protocols for inclusion in the state cancer registry contract.)

Date diagnosis made:

(iii) Primary site of originating tumor;

(iv) Laterality (if applicable);

(v) Histology type or types, behavior and grade of tumor;

(vi) Documentation, including dates, of pertinent diagnostic or evaluation studies, and biopsies;

(vii) Written documentation that describes the stage of disease at diagnosis, including Collaborative Staging coding used;

(viii) Sequence number;

(c) First course of treatment information;

(i) Date initial treatment began or the date the decision for no treatment was made;

(ii) Description of all treatment given as part of the first course treatment including, but not limited to, surgery, radiation, chemotherapy, BRM/immunotherapy, hormone or other therapies, or a statement as to why no treatment was given;

(d) Other information:

(i) Date of last contact;

(ii) Vital status at time of last contact;

(iii) Identification of reporting entity providing information:

(A) Name and address; or

(B) National Provider Identification number; and

(iv) Other items necessary to meet the reporting requirements of the state cancer registry as provided annually.

(4) For the purpose of assuring high quality data, the state cancer registry will publish reporting guidelines for assistance in completing the requirements in subsections (2) and (3) of this section, which will be available on the registry's web site.

(5) All laboratories shall provide:

(a) Report files within ten days of the close of each month or on a schedule determined by the volume of reports acquired daily and approved by the state cancer registry;

(b) Updated information made to reports resulting in addendums and amendments; and

(c) Patient demographic information.

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

**WAC 246-102-060 Data quality assurance.** ~~((1) Contractors or designees shall:~~

~~(a) Assess the completeness and accuracy of case identification and data collection through computerized edit programs and on-site audits, or make available information and documentation for this purpose; and~~

~~(b) Maintain a system for retrieval of completed cancer abstracts for a period up to ten years.~~

~~(2) Cancer diagnosis or treatment facilities shall:~~

~~(a) Make available to the contractor, designee or the department, all case finding source documents and medical records for data quality assurance activities.~~

~~(b) Maintain a system for retrieval of case finding source documents and medical records for a period up to ten years.~~

~~(3) The department may require contractors or designees to make available all findings from data quality assurance activities for review and verification.)~~ (1) To assure accurate monitoring of the incidence of cancer in Washington, the state cancer registry shall review the overall quality of all cases received using national guidelines.

(2) The state cancer registry shall follow up with reporting entities for additional case information as needed to ensure the completeness and quality of a case report.

(3) The state cancer registry shall provide education and training related to identifying and reporting cases. The state cancer registry shall:

(a) Offer education and training opportunities to certified tumor registrars on staff at health care facilities.

(b) Offer education and training opportunities to individuals not certified as a certified tumor registrar, but who report cancer cases to the state.

(4) The state cancer registry shall provide technical assistance to reporting entities.

(5) The state cancer registry shall perform audits of reporting entities to ensure accurate and complete reporting.

(6) The state cancer registry will provide thirty days notice of an audit.

(7) The state cancer registry shall request the following documents, as appropriate from the reporting entity, as part of the audit process:

(a) Disease and operations indices files;

(b) Pathology, cytology, and autopsy reports or files;

(c) Report files providing results of specialized testing, such as biomarker results or results of any other tests providing prognostic or predictive information;

(d) Report files providing imaging results;

(e) Radiation therapy new patient or summary treatment files;

(f) Medical oncology new patient or summary treatment files;

(g) Office visit logs; and

(h) Other alternative reports or electronic files necessary to identify and provide information on reportable or potentially reportable cancer cases.

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

**WAC 246-102-070 Access and release of information.** (1) Information collected by the state cancer registry ((information)) shall be used only for statistical, scientific, medical research and public health purposes. ((Contractors and designees must comply with chapter 70.02 RCW regarding the disclosure of patient health care information.))

(2) The department may release ((confidential)) state cancer registry information for research purposes:

~~((Research purposes)) (a) After the research project has been reviewed and approved by ((an institutional review board and a confidentiality agreement is negotiated (a copy of the institutional review board procedures and application are available from the department)).~~

~~(3) The department may release confidential registry information for projects to assess threats to public health or improve public health practice after the project has been reviewed and approved by the department and a data sharing agreement is negotiated (a copy of the procedures for data-sharing agreements is available from the department).~~

~~(4) Cancer diagnosis or treatment facilities may require contractors or designees to sign an agreement of confidentiality regarding access and release of cancer data and prepare, administer, and maintain confidentiality oaths as needed.~~

~~(5) Cancer diagnosis or treatment facilities shall adhere to recommendations in RCW 70.54.260 regarding content of confidentiality agreement if confidentiality agreements are used.~~

~~(6) Cancer diagnosis and treatment centers shall make available to cancer patients printed information which describes the purpose of the state cancer registry, the statutory requirements which apply to health care facilities, independent clinical laboratories, and other principal health care providers to identify and report cases of cancer to the state cancer registry, and to protect the confidential information that is reported, the public health and research uses of information in the state cancer registry, the circumstances under which cancer registry information is disclosed for these purposes and the relevant RCW and WAC pertaining to the state cancer registry.)) the Washington state institutional review board; and~~

(b) After a written agreement between the department and the researcher is in place regarding state cancer registry information accessed, used or disclosed. Written agreements shall incorporate:

(i) The confidentiality requirements in RCW 42.48.020; and

(ii) The department's data security requirements.

(3) The department may release state cancer registry information for projects to assess threats to public health or improve public health practice after the project has been reviewed and approved by the department and a data-sharing agreement is in place.

(4) The state cancer registry shall publish an annual report that includes:

(a) Age-adjusted incidence rates;

(b) Age-adjusted mortality rates; and

(c) Age-adjusted incidence and mortality rates by sex, race, ethnicity, and county at diagnosis subject to confidentially requirements.

(5) The state cancer registry shall make available to health care facilities and health care providers:

(a) Information for patients and their families that describes the purpose of the state cancer registry;

(b) The statutory requirements;

(c) The intended use of case information;

(d) The circumstances under which cancer registry information is disclosed.

(6) The state cancer registry shall exchange data with states that have a data exchange agreement in place. The data provided to other states shall only include cancer cases with an address at the time of diagnosis outside the borders of Washington state.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-102-050

Form, frequency, and format for reporting.

### **WSR 11-15-030 PROPOSED RULES DEPARTMENT OF LICENSING**

[Filed July 12, 2011, 11:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-22-077.

Title of Rule and Other Identifying Information: Title 308 WAC, Licensing, department of, which includes chapter 308-56A WAC, certificates of title, motor vehicles; chapter 308-94 WAC, Snowmobiles; and chapter 308-94A WAC, off-road vehicles.

Hearing Location(s): Department of Licensing, Conference Room 303, 1125 Washington Street S.E., Olympia, WA 98507, on August 25, 2011, at 10:00 a.m. - 11:00 a.m.

Date of Intended Adoption: August 26, 2011.

Submit Written Comments to: Debra Then, P.O. Box 9037, Mailstop 48205, 1125 Washington Street S.E., Olympia, WA 98501-9037, e-mail [dthen@dol.wa.gov](mailto:dthen@dol.wa.gov), fax (360) 570-3706, by August 11, 2011.

Assistance for Persons with Disabilities: Contact Debra Then by August 11, 2011, TTY (360) 664-0116.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To make the rules clearer and to clarify the process for electronically filing dealer temporary permits.

Reasons Supporting Proposal: All vehicle dealerships licensed in Washington state were required to sign up for "e-permitting" (on-line dealer temporary permit application) by July 1, 2011. These WACs clarify the requirements for complying with the rules related to the e-permitting process.

Statutory Authority for Adoption: RCW 46.01.110.

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

Name of Agency Personnel Responsible for Drafting: Debra Then, 1125 Washington Street S.E., Olympia, WA, (360) 902-4094; Implementation and Enforcement: Jennifer Dana, 1125 Washington Street S.E., Olympia, WA, (360) 902-3673.

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

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

July 12, 2011  
Ben T. Shomshor  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-16-017, filed 7/24/09, effective 8/24/09)

**WAC 308-56A-420 Delivery of vehicle on dealer temporary permit. (~~How do I deliver a vehicle using a dealer temporary permit?~~)**

~~(1) A vehicle dealer properly licensed pursuant to chapter 46.70 RCW may deliver a vehicle not currently registered or that does not bear valid Washington state license plates or tabs by utilizing an electronic dealer temporary permit or a hard copy dealer temporary permit.~~

Note: Effective July 1, 2011, an electronic dealer permit (e-permit) will replace a hard copy dealer permit. A hard copy dealer temporary permit will only be issued after July 1, 2011, in the instance of "system unavailability" (for example: An issue with auctions that go on-site and cannot access the internet) and an electronic permit cannot be issued.

~~(2) The application for title portion of the permit form must be properly and completely filled out by the selling/leasing dealer, including the dealer's report of sale and the date on which the vehicle is physically delivered to the purchaser/lessee. If license based on gross weight is required, the amount of gross weight purchased must be clearly shown. The application must be signed by the registered owner(s) or lessee.~~

~~(3) The dealer must collect all fees required for titling and registration of a vehicle.~~

~~(4)(a) For e-permit, the permit printed by the system must display the expiration date and e-permit number. The date of expiration is forty-five calendar days from the date the vehicle is physically delivered to the purchaser/lessee.~~

~~(b) For hard copy permits, the dealer must detach the hard copy of the dealer permit and must record the date of expiration in dark, bold letters and numbers on the permit side of that copy. Date of expiration is forty-five calendar days from the date the vehicle is physically delivered to the purchaser/lessee.~~

~~(5) The application copies must be used by the dealer to apply for title and to complete licensing of the vehicle. Except as provided in RCW 46.70.180(8), when a second temporary permit is authorized, the selling dealer must submit the application and all title/licensing fees to the department of licensing or an authorized licensing agent within forty-five calendar days from the date the vehicle is physically delivered to the purchaser/lessee. The date that the selling or leasing dealer physically delivers the vehicle to the purchaser/lessee will start the forty-five day interval of an application for a certificate of title in the purchaser's or lessee's name. Additionally, the director may excuse late applications only in situations where applications are delayed, for reasons beyond the control of the dealer.~~

~~(6) The electronic or hard copy dealer temporary permit, temporary vehicle registration, and a purchase order identify-~~

~~ing the vehicle and the date that the vehicle was physically delivered to the purchaser/lessee must be carried in the vehicle or the towing vehicle at all times the vehicle is operated on the temporary permit.~~

~~(7) The electronic or hard copy dealer temporary permit must be displayed on the inside of the rear window in the lower left corner, or enclosed in a moisture proof protective case securely attached in the rear license plate holder, with the expiration date visible to one standing behind the vehicle.~~

~~(8) The electronic or hard copy dealer temporary permit is valid for not more than forty-five calendar days starting with the date that the vehicle is physically delivered to the purchaser/lessee.~~

~~(9) The electronic or hard copy dealer temporary permit will not be issued:~~

~~(a) For a dealer inventoried vehicle that has not been sold or a dealer or dealer-employee operated vehicle;~~

~~(b) As a demonstration permit;~~

~~(c) For a vehicle processed as a courtesy delivery.~~

~~(10) Fees paid for an electronic or hard copy dealer temporary permit application forms are not refundable unless the dealer ceases doing business as a vehicle dealer.~~

~~(11) The dealer must maintain a record of each dealer temporary permit acquisition and distribution including the following:~~

~~(a) Date and location of purchase of each permit and the permit number;~~

~~(b) Identification of vehicles delivered on temporary permits;~~

~~(c) Dates of vehicle sales, leases and deliveries.)~~ (1)

**How does a Washington licensed vehicle dealer deliver a vehicle using a dealer temporary permit?**

(a) Washington licensed vehicle dealers may deliver a vehicle that is not currently registered, or that does not have valid Washington license plates, tabs, decals, or gross weight, or the current tabs will expire within forty-five days of the date of delivery, by using an e-permit or a hard copy (paper/card stock) dealer temporary permit.

(b) The application for title part of the dealer temporary permit form must be properly and completely filled out by the selling or leasing dealer, including the dealer's report of sale and the date on which the vehicle is physically delivered to the purchaser or lessee. If license based on gross weight is required, the amount of gross weight purchased must be clearly shown. The application must be signed by the registered owner(s) or lessee.

(c) The Washington licensed vehicle dealer must collect all fees required for titling and registration of a vehicle.

(d) For e-permits, the permit printed by the e-permitting system must display the expiration date and e-permit number. The date of expiration is forty-five calendar days from the date the vehicle is physically delivered to the purchaser or lessee.

(e) For hard copy (paper/card stock) permits, the Washington licensed vehicle dealer must detach the card stock portion of the dealer temporary permit and record the date of expiration in dark, bold letters and numbers on the permit side of that copy. The date of expiration is forty-five calendar days from the date the vehicle is physically delivered to the purchaser or lessee.

(f) The application copies must be used by the Washington licensed dealer to apply for title and to complete licensing of the vehicle. Except as provided in RCW 46.70.180(8), when a second temporary permit is authorized, the selling dealer must submit the application and all titling and licensing fees to the department of licensing or an authorized licensing agent within forty-five calendar days from the date the vehicle is physically delivered to the purchaser or lessee. The date that the selling or leasing dealer physically delivers the vehicle to the purchaser or lessee will start the forty-five day interval of an application for a certificate of title in the purchaser's or lessee's name. Additionally, the director may excuse late applications only in situations where applications are delayed, for reasons beyond the control of the dealer.

(g) The e-permit or hard copy (paper/card stock) dealer temporary permit, temporary vehicle registration, and a purchase order identifying the vehicle and the date that the vehicle was physically delivered to the purchaser or lessee must be carried in the vehicle or the towing vehicle at all times the vehicle is operated on the dealer temporary permit.

(h) The e-permit or hard copy (paper/card stock) dealer temporary permit must be displayed on the inside of the rear window in the lower left corner, or enclosed in a moisture proof protective case securely attached in the rear license plate holder, with the expiration date visible to one standing behind the vehicle.

(i) The e-permit or hard copy (paper/card stock) dealer temporary permit is valid for not more than forty-five calendar days starting with the date that the vehicle is physically delivered to the purchaser or lessee.

(j) The e-permit or hard copy (paper/card stock) dealer temporary permit will not be issued:

(i) For a dealer inventoried vehicle that has not been sold or a dealer or dealer-employee operated vehicle;

(ii) As a demonstration permit;

(iii) For a vehicle processed as a courtesy delivery;

(iv) For out-of-state residents unless Washington registration is intentionally being obtained.

(k) Fees paid for e-permit or hard copy (paper/card stock) dealer temporary permit application forms are not refundable unless the dealer ceases doing business as a vehicle dealer.

(l) Washington licensed dealers must maintain a record of each dealer temporary permit acquisition and distribution including the following:

(i) Date and location of purchase of each permit and the permit number;

(ii) Identification of vehicles delivered on temporary permits;

(iii) Dates of vehicle sales, leases and deliveries.

(2) Customer's complete name.

#### NEW SECTION

**WAC 308-56A-425 Obtaining dealer temporary permits. (1) What is a dealer temporary permit?** For the purposes of vehicles, a dealer temporary permit is a combination title application and temporary registration used by Washington licensed vehicle dealers when delivering a vehicle that is not currently registered, or does not have valid Washington

license plates, tabs, decals, or gross weight, or the current tabs will expire within forty-five days of the date of delivery.

**(2) How does a Washington licensed vehicle dealer obtain dealer temporary permits?** Washington licensed vehicle dealers may purchase dealer temporary permits at any Washington vehicle licensing office for the fee required in RCW 46.17.400.

**(3) What will Washington licensed vehicle dealers receive when purchasing dealer temporary permits?** Washington licensed vehicle dealers will receive either:

(a) Hard copy (paper/card stock) dealer temporary permits; or

(b) Electronic dealer temporary permits (e-permits).

**(4) What are e-permits, and when are Washington licensed vehicle dealers required to use them?** E-permits are dealer temporary permits issued through an on-line e-permitting system required by RCW 46.16A.300. All Washington licensed vehicle dealers must use the e-permitting system by July 1, 2011.

**(5) Will Washington licensed vehicle dealers be able to use and issue hard copy (paper/card stock) dealer temporary permits after July 1, 2011?** Washington licensed vehicle dealers will be able to use and issue hard copy (paper/card stock) dealer temporary permits after July 1, 2011, only if signed up for the e-permitting system.

**(6) What are Washington licensed vehicle dealers required to do beginning July 1, 2011, when using and issuing hard copy (paper/card stock) dealer temporary permits?** In addition to the requirements in WAC 308-56A-420, Washington licensed vehicle dealers who issue hard copy (paper/card stock) dealer temporary permits must enter the hard copy (paper/card stock) dealer temporary permit information into the department's e-permitting system within twenty-four hours of issuance or hardware/software resolution or within twenty-four hours of returning to the office if the hard copy was issued off-site.

AMENDATORY SECTION (Amending WSR 05-01-090, filed 12/13/04, effective 1/13/05)

**WAC 308-94-105 Delivery of snowmobile on dealer temporary permit. ~~((1) How are snowmobile dealer temporary permits used?~~** By licensed snowmobile dealers as a dealer temporary permit:

**~~(2) How is the dealer temporary permit application issued and completed?~~**

~~(a) The dealer temporary permit application is issued by and must be completed by the selling dealer.~~

~~(b) The application must be signed by the registered owner(s).~~

~~(c) The dealer must collect all fees required for registration of a snowmobile.~~

~~(d) The dealer must detach the hard copy of the dealer permit and record the date of expiration in dark, bold letters and numbers on the permit side of that copy. Date of expiration will be forty-five calendar days after date on which the snowmobile is physically delivered to the customer/purchaser.~~

~~(e) The application copies must be used by the dealer to apply for registration of the snowmobile. Except as provided~~

in chapter 46.10 RCW the selling dealer must submit the application and all registration fees to the department of licensing or an authorized licensing agent within forty-five calendar days from the date of sale.

~~(f) The hard copy of the permit and a purchase order identifying the snowmobile and the date on which the snowmobile is delivered to the customer must be carried on the snowmobile or on the person operating the snowmobile at all times the snowmobile is operated on the temporary permit.~~

~~(3) **How long is the dealer temporary permit valid?** The dealer temporary permit is valid for not more than forty-five calendar days commencing with the date on which the vehicle is delivered to the customer.~~

~~(4) **What restrictions apply to the dealer temporary permit?**~~

~~(a) The dealer temporary permit must not:~~

~~(b) Be issued for a dealer inventoried or a dealer or dealer employee operated snowmobile;~~

~~(c) Be issued as a demonstration permit;~~

~~(d) Be issued for a snowmobile processed as a courtesy delivery.~~

~~(5) **Are fees paid for the dealer temporary permit application forms refundable?** Fees paid for dealer temporary permit application forms are not refundable unless the dealer ceases doing business as a snowmobile dealer.~~

~~(6) **Is the dealer reimbursed for the cost of the dealer temporary permit when used?** Yes, a credit in the amount of the permit form fee will be credited when the permit is used by the snowmobile dealer to make application for a snowmobile registration.~~

~~(7) **Is the dealer required to keep a record of the permits?** Yes, the dealer must maintain a record of each dealer temporary permit form acquisition and distribution including the following:~~

~~(a) Snowmobile purchaser's names;~~

~~(b) Vehicle identification number;~~

~~(c) Dates of snowmobile sales and deliveries; and~~

~~(d) Date and location of purchase of each permit form and the permit number.~~

~~(8) **Is the dealer required to submit the application for registration within a certain period of time?** Yes, the dealer must submit the application for registration in accordance with WAC 308-94-030 within forty-five days from the date of delivery of the snowmobile to the customer.~~

~~The director may excuse late applications only in situations where applications are delayed for reasons beyond the control of the dealer.) **What are the requirements for Washington-licensed snowmobile dealers when purchasing and issuing dealer temporary permits?** Washington-licensed snowmobile dealers must follow the same requirements as provided in WAC 308-56A-420 and 308-56A-425.~~

#### NEW SECTION

**WAC 308-94A-035 Delivery of off-road vehicle on dealer temporary permit. What are the requirements for Washington licensed off-road vehicle dealers when purchasing and issuing dealer temporary permits?** Washington licensed off-road vehicle dealers must follow the same requirements as provided in WAC 308-56A-420 and 308-

56A-425, with the exception that the off-road vehicle dealer must apply for title in the purchaser's name within fifteen days following the sale as defined in RCW 46.09.330.

**WSR 11-15-039**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed July 13, 2011, 10:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-033.

Title of Rule and Other Identifying Information: WAC 415-111-210 Investment program election and 415-111-230 Self-directed investment program allocation.

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on August 23, 2011, at 2:00 p.m.

Date of Intended Adoption: August 26, 2011.

Submit Written Comments to: Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail rules@drs.wa.gov, fax (360) 753-5397, by 5:00 p.m. on August 23, 2011.

Assistance for Persons with Disabilities: Contact Ken Goolsby, rules coordinator, by August 12, 2011, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state legislature has enacted legislation which changes the default investment option for new members of the defined contribution portion of the Plan 3 retirement systems.

Reasons Supporting Proposal: The amended rules ensure compliance with HB 1625 from the 2011 legislative session, signed into law on April 15, 2011.

Statutory Authority for Adoption: Chapters 41.32, 41.34, 41.35, 41.50 RCW.

Statute Being Implemented: RCW 41.34.130, 41.34-060, and 41.34.140.

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

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Ken Goolsby, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation: Shawn Merchant, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7303; and Enforcement: Jennifer Dahl, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7219.

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

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

July 13, 2011

Ken Goolsby

Rules Coordinator



AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

**WAC 415-111-210 Investment program election. (1)**

You must choose between two investment programs:

(a) The total allocation portfolio, managed by the Washington state investment board ~~((and a))~~; and

(b) The self-directed investment program. You may contribute to only one of these programs at a time. However, you may maintain accounts in both investment programs and transfer money between investment programs.

~~((Pursuant to))~~ Under WAC 415-111-110, you bear the responsibility for completing the correct form for making an investment program election and submitting it to your employer as directed on the form.

~~((1))~~ (2) **Where do I get the form to make my election?** Your employer must provide the appropriate form to elect an investment program if you are enrolling into Plan 3, transferring from Plan 2 to Plan 3, or changing your investment program.

~~((2))~~ (3) **When do I have to choose an investment program?** If you are a new member or are reenrolling, you must select one of the investment programs (the total allocation portfolio or the self-directed investment program) within ninety calendar days from your date of hire in an eligible position. However, if you are transferring from Plan 2 to Plan 3, you must select an investment program when you transfer. The ninety-day period does not apply to a member transferring from Plan 2 to Plan 3.

If ~~((it is determined))~~ we discover and determine you should be reported into Plan 3 membership retroactively, the ninety-day period starts from the date ~~((it is discovered, as determined by the department,))~~ you are notified that you should have been reported.

~~((3))~~ (4) **What happens if I do not make an investment program election?** You will be assigned to the default investment program described in subsection ~~((4))~~ (5) of this section, if:

(a) You are a new ~~((employee))~~ member or changing your employer and do not make an investment program election within the ninety-day election period described in subsection ~~((2))~~ (3) of this section; or

(b) You are transferring from Plan 2 to Plan 3 and do not make an investment program election at the time of transfer.

~~((4))~~ (5) **What is the default investment program?** The default investment program is the ~~((total allocation portfolio of the Washington state investment board))~~ self-directed investment program. See WAC 415-111-230.

~~((5))~~ (6) **Can I change my investment program?** Once you have made an initial investment election or been directed into the default program, you may change your investment program at any time by submitting the appropriate form to your employer.

AMENDATORY SECTION (Amending WSR 08-18-058, filed 9/2/08, effective 10/3/08)

**WAC 415-111-230 Self-directed investment program allocation.** This section applies ~~((only))~~ to members who ~~((elect))~~ invest in the self-directed investment program ~~((pursuant to WAC 415-111-210)).~~

(1) **What is an allocation?** An allocation is a set of instructions identifying your choice of investment program funds and the percentage of your money you want to invest in each fund. The amount you allocate to each fund must be designated as a whole percentage, and the total must equal one-hundred percent.

Example: Martha has elected the self-directed investment program and is contributing \$150 per month. Martha decides to invest in three different funds with the following amounts: \$30 invested in fund #1, \$45 invested in fund #2 and \$75 invested in fund #3. To accomplish this she must establish the following allocation:

Allocation to fund #1	20%
Allocation to fund #2	30%
Allocation to fund #3	50%
Total Allocation	100%

(2) **How do I establish an allocation?** You must establish your allocation by contacting the department's designated recordkeeper. Once established, you may change your allocation according to the provisions in subsection (5) of this section.

(3) **What happens if I do not establish an allocation?** If you do not provide an allocation before the department's designated recordkeeper begins receiving your ~~((investment money, or if you provide an allocation but the sum of the allocated portions does not equal one hundred percent))~~ contributions, your ~~((investment))~~ money will be invested as follows:

(a) ~~((If the total of the percentages you have allocated is less than one hundred percent, the department will determine the percentage that is unallocated, and invest the unallocated percentage in the default fund.~~

Example: Ralph designates the following allocation: 33% fund #1, 33% fund #2, and 33% fund #3. Since the total allocation equals 99%, the unallocated 1% will be invested in the default fund.

~~((b) If the total of the percentages you have allocated is greater than one hundred percent, all of your investment money will be invested in the default fund.~~

Example: Chris designates the following allocations: 38% into fund #1, 40% into fund #2, 10% into fund #3, and 15% into fund #4. Since the total allocation equals 103%, all of Chris' investment money will be invested in the default fund.

~~((c) If you do not provide an allocation, your money will be invested as follows:~~

~~((i) If you previously participated in the self-directed investment program,))~~ Your most recent allocation will be used if you previously participated in the self-directed investment program. However, if your allocation includes a fund or funds that are no longer available, the portion of your

((investment)) money allocated to the unavailable fund(s) will be invested in the default fund.

((ii) If you do not meet the conditions in (e)(i) of this subsection,))

Example: After participating in the self-directed program, Linda terminates employment. Subsequently, she is reemployed and elects to participate in the self-directed investment program again. She does not provide an allocation. Linda's previous allocation was:

<u>Allocation to fund #1</u>	<u>10%</u>
<u>Allocation to fund #2</u>	<u>40%</u>
<u>Allocation to fund #3</u>	<u>50%</u>
<u>Total Allocation</u>	<u>100%</u>

Fund #2 is no longer available. Linda's future contributions will be allocated as follows:

<u>Allocation to fund #1</u>	<u>10%</u>
<u>Allocation to Default Fund</u>	<u>40%</u>
<u>Allocation to fund #3</u>	<u>50%</u>
<u>Total Allocation</u>	<u>100%</u>

(b) All of your ((investment)) money will be invested in the default fund if you do not meet the conditions in (a) of this subsection.

Example: Lew is a new member and elects the self-directed investment program, but does not establish an allocation. All of Lew's ((investment)) money will be invested in the default fund.

((Example: ~~Linda becomes reemployed in an eligible position and elects to participate in the self-directed investment program again, but does not provide an allocation. Linda previously participated in the self-directed investment program and had the following allocation:~~

<del>10% in Fund #1</del>
<del>10% in Fund #2</del>
<del>30% in Fund #3</del>
<del>25% in Fund #4</del>
<del>25% in Fund #5</del>

~~Because she did not establish a new allocation, her previous allocation will be used. However, fund #2 is no longer available, so that portion of her money will be invested in the default fund. A new allocation will be established for Linda as follows:~~

<del>10% in Fund #1</del>
<del>10% in Default Fund</del>
<del>30% in Fund #3</del>

<del>25% in Fund #4</del>
<del>25% in Fund #5)</del>

(4) **What is the default fund?** The default fund for the self-directed investment program is the ~~((Target Date)) Retirement Strategy Fund~~ that assumes ~~((your current age is))~~ you will retire at age 65.

Example: Samantha was born in 1983. She will turn age 65 in 2048. The Retirement Strategy Fund closest to her age-65 retirement target date is the 2050 Retirement Strategy Fund. If Samantha does not establish an allocation per subsection (3) of this section, her money will be invested in the 2050 Retirement Strategy Fund.

(5) ~~((May))~~ **Can I change my allocation?** ~~((Once you have established an allocation or been directed into the default fund,))~~ You may change your allocation by contacting the department's designated recordkeeper. However, changes must be consistent with any restrictions on trading imposed by the funds involved~~((, and,))~~. If necessary to protect the performance results of the investment program funds, the department may:

- (a) Limit the number of times you change allocations;
- (b) Limit the frequency of the changes;
- (c) Limit the manner of making changes; or
- (d) Impose other restrictions.

**WSR 11-15-044  
PROPOSED RULES  
DEPARTMENT OF LICENSING**

[Filed July 14, 2011, 2:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-17-044.

Title of Rule and Other Identifying Information: WAC 308-125-050 Educational courses—Preexamination, 308-125-060 Alternate to classroom hours, requirement preexamination, and 308-125-120 Fees and charges.

Hearing Location(s): Department of Licensing, Business and Professions Division, 2000 4th Avenue West, Building 3, Second Floor Conference Room, Olympia, 98502, on August 24, 2011, at 10:00 a.m.

Date of Intended Adoption: September 20, 2011.

Submit Written Comments to: Ralph C. Birkedahl, P.O. Box 9021, Olympia, WA 98507-9021, e-mail rbirkedahl@dol.wa.gov, fax (360) 570-4981, by August 17, 2011.

Assistance for Persons with Disabilities: Contact Dee Sharp by August 17, 2011, TTY (360) 664-0116 or (360) 664-6504.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Modification of WAC 308-125-050(2) will bring the rule into compliance with the appraisal qualification board's criteria regarding distance-learning, amending WAC 308-125-120 will simplify the national registry fee requirement and repeal of WAC 308-

125-060 will disallow qualifying education credit for teaching.

Reasons Supporting Proposal: These changes will bring the real estate appraiser rules into compliance with the appraisal qualifications board's real property appraiser qualification criteria, the appraisal subcommittee policies and Title XI.

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

Rule is necessary because of federal law, 12 U.S.C. 3338(a) as amended by PL 111-203 § 1473 (h)(1)(A).

Name of Proponent: [Department of licensing], governmental.

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

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

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

July 14, 2011  
Ben T. Shomshor  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-09-025, filed 4/13/10, effective 5/14/10)

**WAC 308-125-050 Educational courses—Preexamination.** (1) To be accepted under WAC 308-125-030(1), 308-125-040(1), and 308-125-045(1), courses must:

- (a) Be a minimum of fifteen classroom hours in length;
- (b) Include an examination;
- (c) Be directly related to real estate appraising; and
- (d) Be approved by the director as identified in the appraiser program's publication *Approved Courses, Real Estate Appraisers*; or
- (e) Be approved by the appraiser qualifications board and approved by the director.

(2) The following limitations may apply to course work submitted to the department for approval:

(a) ~~((A correspondence course))~~ Distance education may be acceptable to meet classroom hour requirements only if each course meets the following conditions:

(i) The course ~~((has been presented by an accredited college or university which offers correspondence courses in other disciplines))~~ provides interaction. Interaction is a reciprocal environment where the student has verbal or written communication with the instructor;

(ii) An individual successfully completes a closed-book written examination administered at a location by an official approved by the college or university; ~~((and~~ and

~~((The content and length of the course meet the requirements for real estate appraisal related courses established by the appraiser qualifications board and approved by the director.~~

(b) ~~Video and remote television educational courses may be used to meet the classroom hour requirements only if each course meets the following conditions:~~

~~(i) The course has been presented by an accredited college or university which offers similar courses in other disciplines;~~

~~(ii) An individual successfully completes a written examination administered at a location by an official approved by the college or university; or~~

~~(iii) The content and length of the course meet the requirements for real estate appraisal related courses established by the appraiser))~~ Content and course delivery mechanism approvals are obtained from the appraisal qualifications board or an accredited college, community college, or university that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States Secretary of Education. Nonacademic credit college courses provided by a college shall be approved by the appraisal qualifications board and approved by the director.

~~((e))~~ (b) An applicant shall not receive "dual credit" for courses that have the same or very similar content and are deemed comparable by the department, even if an applicant completes the courses through different course providers.

(3) Copies of official transcript of college records or certificates of course completion will be considered as satisfactory evidence for education requirements.

(4) Preexamination review seminars or examination preparation seminars will not be approved for clock hour credit.

(5) An application shall be submitted for approval not less than ninety days preceding the course start date. Course approval expiration shall be three years from the date of approval, except for the Uniform Standards of Professional Appraisal Practice courses or seminars having a definite date.

(6) All courses approved by the appraiser qualifications board will continue to be accepted by the department as approved courses until the expiration date.

(7) Appraisal course providers who have received the appraiser qualifications board's course approval are not required to submit course material or content materials to the department for approval. The course provider shall submit a secondary provider course content approval application to the department.

AMENDATORY SECTION (Amending WSR 09-24-037, filed 11/23/09, effective 1/1/10)

**WAC 308-125-120 Fees and charges.** The following fees shall be paid under the provisions of chapter 18.140 RCW:

Title of Fee	Fee
(1) Application for examination	\$370.00
(2) Examination	120.00**
(3) Reexamination	120.00**
(4) Original certification	250.00*
(5) Certification renewal	530.00*
(6) Late renewal penalty	38.00
(7) Duplicate certificate	30.00
(8) Certification history record	30.00

Title of Fee	Fee
(9) Application for reciprocity	370.00
(10) Original certification via reciprocity	250.00*
(11) Temporary practice	150.00
(12) Trainee registration	200.00
(13) Trainee registration renewal	200.00
* ((Proposed)) Fees for these categories marked with an asterisk include ((an estimated \$50.00)) a national registry fee in an amount determined by the appraisal subcommittee to be submitted by the state ((to Federal Government)). Title XI, SEC. 1109 requires each state to submit a roster listing of state licensed and certified appraisers to the Appraiser Subcommittee ("no less than annually." The state is also required to collect from such individuals who perform appraisals in federally related transactions, an annual registry fee of "not more than \$25," such fees to be transmitted by the state to the federal government on an annual basis)).	
** Charges for categories marked with a double asterisk are determined by contract with an outside testing service.	

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-125-060 Alternate to classroom hours, requirement preexamination.

**WSR 11-15-050  
PROPOSED RULES  
STATE BOARD FOR COMMUNITY  
AND TECHNICAL COLLEGES**  
[Filed July 15, 2011, 11:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-12-084.

Title of Rule and Other Identifying Information: WAC 131-16-010 through and including WAC 131-06-066 governing the Washington state board for community and technical colleges retirement plan. Rule changes are required due to legislation (ESHB 1981) adopted during the 2011 session of the legislature.

Hearing Location(s): State Board for Community and Technical Colleges, 3101 Northup Way, Bellevue, WA 98004-1449, on September 14, 2011, at 8:00 a.m.

Date of Intended Adoption: September 14, 2011.

Submit Written Comments to: John Boesenberg, 1300 Quince Street S.E., Olympia, WA 98504, e-mail jboesenberg@sbctc.edu, fax (360) 704-4415, by September 1, 2011.

Assistance for Persons with Disabilities: Contact DelRae Oderman by September 1, 2011, TTY (360) 704-4309 or fax (360) 704-4415.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule changes are required to comply with state law revisions resulting from the 2011 legislature's adoption of ESHB 1981. The proposals eliminate supplemental benefits for participants establishing plan eligibility on or after July 1, 2011; prohibit retirees of plans administered by the department of

retirement systems from participating in the state board retirement plan; and provide eligible employees with retirement plan options thirty days to make their election.

Reasons Supporting Proposal: Compliance with newly adopted state law.

Statutory Authority for Adoption: RCW 28B.50.400.

Statute Being Implemented: RCW 28B.50.400.

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

Name of Proponent: Washington state board for community and technical colleges, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Boesenberg, 1300 Quince Street S.E., Olympia, WA 98504, (360) 704-4303.

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. State board is not a listed agency under RCW 34.05.328 and is therefore exempt from the provision.

July 15, 2011

DelRae Oderman

Executive Assistant

**AMENDATORY SECTION** (Amending WSR 10-22-073, filed 10/29/10, effective 11/29/10)

**WAC 131-16-011 Definitions.** For the purpose of WAC 131-16-010 through 131-16-066, the following definitions shall apply:

(1) "Participant" means any employee who is eligible to participate in the plan (~~and who, as a condition of employment, on and after January 1, 1997, shall participate in the plan upon initial eligibility~~).

(2) "Supplemental retirement benefit" means payments, as calculated in accordance with WAC 131-16-061, to an eligible retired participant in the plan prior to July 1, 2011, or designated beneficiary whose retirement benefits provided by the plan do not attain the level of the retirement benefit goal established by WAC 131-16-015.

(3) "Year of full-time service" means retirement credit based on full-time employment or the equivalent thereof based on part-time employment in an eligible position for a period of not less than five months in any fiscal year during which contributions to TIAA-CREF were made by both the participant and a participating employer or a Washington public higher education institution or any year or fractional year of prior service in a Washington public retirement system while employed at a participating employer or a Washington public higher education institution: Provided, That the participant will receive a pension benefit from such other retirement system and that not more than one year of full-time service will be credited for service in any one fiscal year.

(4) "Fiscal year" means the period beginning on July 1 of any calendar year and ending on June 30 of the succeeding calendar year.

(5) "Average annual salary" means the amount derived when the salary received during the two consecutive highest salaried fiscal years of full-time service for which contributions to TIAA-CREF were made by both the participant and

a participating employer or a Washington public higher education institution is divided by two.

(6) "Plan retirement benefit" means the amount of annual retirement income derived from a participant's accumulated balances including dividends at the time of retirement: Provided, That solely for the purpose of calculating a potential supplemental retirement benefit, such amount shall be adjusted to meet the assumptions set forth in WAC 131-16-061(2).

(7) "Salary" means all remuneration received by the participant from the participating employer, including summer quarter compensation, extra duty pay, leave stipends, and grants made by or through the participating employer; but not including any severance pay, early retirement incentive payment, remuneration for unused sick or personal leave, or remuneration for unused annual or vacation leave in excess of the amount payable for thirty days or two hundred forty hours of service.

(8) "Designated beneficiary" means the surviving spouse of the retiree or, with the consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's participating employer.

(9) "State board" means the state board for community and technical colleges as created in RCW 28B.50.050.

(10) "Appointing authority" means a participating employer's governing board or the designees of such boards.

(11) "Plan" means the retirement plan sponsored by the state board and funded by TIAA-CREF.

(12) "Participating employer" means an educational organization or agency operated by the state of Washington which is the employer of one or more eligible employees or former eligible employees and which is an employing entity designated by the state board to participate in the plan. The participating employers are listed in Appendix A of the plan document.

AMENDATORY SECTION (Amending WSR 05-24-051, filed 12/1/05, effective 1/1/06)

**WAC 131-16-015 Retirement benefit goal established.** A retirement benefit goal is established for use in calculating eligibility for a supplemental benefit. Subject to the provisions of WAC 131-16-061, the retirement benefit goal for participants in the plan prior to July 1, 2011, is to provide participants at age sixty-five having twenty-five years of full-time service a minimum annual retirement income, exclusive of Federal Old Age Survivors Insurance benefits, equivalent to fifty percent of their average annual salary.

AMENDATORY SECTION (Amending WSR 10-22-073, filed 10/29/10, effective 11/29/10)

**WAC 131-16-021 Employees eligible to participate in the retirement plan.** (1) Eligibility to participate in the plan is limited to persons who hold appointments to participating employer staff positions as full-time or part-time faculty members, administrators or professional staff exempt from the provisions of chapter 41.06 RCW and, effective July 1, 1999, are assigned a cumulative total of at least fifty percent

of a full-time workload as defined by the collective bargaining agreement and/or the appointing authority at one or more participating employers for at least two consecutive college quarters or its equivalent. (Part-time faculty workload is calculated in accordance with RCW 28B.50.489 and 28B.50-4891.) Effective July 1, 2011, otherwise eligible employees who have retired or are eligible to retire from a public employees' retirement system listed in RCW 41.50.030 are prohibited from participation in the plan.

(2) Participation in the plan is also permitted for current and former employees of participating employers who are on leave of absence or who have terminated employment by reason of permanent disability and who are receiving a salary continuation insurance benefit through a plan made available by the state of Washington: Provided, That such noncontributory participation shall not be creditable toward the number of years of full-time service utilized in calculating eligibility for supplemental retirement benefits pursuant to WAC 131-16-061.

(3) Optional participation in tax-deferred annuities other than this qualified plan as offered by participating employers is permitted consistent with the Internal Revenue Code: Provided, That the provisions of WAC 131-16-015, 131-16-050, and 131-16-061 shall not apply in such cases. Optional tax-deferred annuities are provided through a salary reduction agreement between the employee and employer. There is no employer contribution for optional tax-deferred annuities.

(4) An employee who moves from an ineligible to an eligible position for the same appointing authority may become a participant by so electing in writing within ~~((six months))~~ thirty days following such move.

(5) A participant who moves from an eligible position to a classified position for the same appointing authority may continue to be a participant by so electing within ~~((six months))~~ thirty days following such move.

(6) As specified in RCW 28B.10.400, participation in the plan by employees of the higher education coordinating board is limited to eligible employees who have contributed premiums to a similar qualified plan and who are not receiving or accruing a retirement allowance under Title 41 RCW or chapter 43.43 RCW.

(7) Participants shall continue participation regardless of the proportion of full-time duties assigned, except as otherwise provided in this section, as long as continuously employed by a participating employer. The participating employer shall notify, in writing, all newly hired employees of their potential right to participate. A participating employee, who changes employers without a break in service, shall have the responsibility to notify in writing the new participating employer of his or her eligibility. In no case will there be a requirement for retroactive contributions if an employee fails to inform his or her participating employer about eligibility previously established with another participating employer. For the purposes of determining eligibility, spring and fall quarters shall be considered as consecutive periods of employment.

~~((8) As a condition of employment, all employees who become eligible on and after January 1, 1997, shall participate in this plan upon initial eligibility. Notwithstanding this provision, all eligible new employees who at the time of~~

employment are members of the Washington state teachers retirement system or the Washington public employees retirement system may participate as provided in WAC 131-16-031.)

AMENDATORY SECTION (Amending WSR 10-22-073, filed 10/29/10, effective 11/29/10)

**WAC 131-16-031 Participation in the plan.** (1) Except as provided in this chapter, participation in the plan is required of all otherwise eligible new employees(~~(= Provided, That)~~), provided that:

(a) Any such new employee, who at the time of employment is a member of the Washington state teachers retirement system (TRS) or the Washington public employees retirement system (PERS), and whose employment meets the requirements of an "eligible position" as defined by such plan, may irrevocably elect to retain such membership (~~(or, if not vested in that system, retain membership until vesting occurs and then irrevocably elect to participate in the plan)~~) within thirty days of meeting the plans eligibility criteria. Failure to make an election after thirty days will result in such new employee being placed into the state board retirement plan.

(b) Any such new employee, not already a member of TRS or PERS, may irrevocably elect to establish membership in TRS Plan 3 or PERS Plan 3 provided the employee's position meets the requirements of an "eligible position" as defined by such plan. Failure to make an election after thirty days will result in such new employee being placed into the state board retirement plan.

(2) Employees who establish plan eligibility in accordance with WAC 131-16-021 and who, through concurrent employment with another employer, are active Washington public employee retirement system (PERS) members are required to so advise the participating employer and shall be given the following options:

(a) To participate in the state board retirement plan in accordance with chapter 131-16 WAC, forgoing active PERS membership (contributions and service credit) with their other employer; or

(b) To continue active participation in PERS based upon their employment with the other public employer; forgoing participation in the state board retirement plan.

Failure to make an election within thirty days of notification results in the employee being placed in the plan. The participating employer is required to advise the department of retirement systems (DRS) of a PERS member's participation in the plan, whether through election or default. It shall be the employee's responsibility to notify the other employer if he or she elects to participate in the plan. The employee will notify his or her participating employer should the employee cease to be an active PERS member. This irrevocable election remains in effect as long as the employee is actively participating in a PERS plan and is required because RCW 41.40.-023(4) prohibits PERS members from simultaneously participating in two state retirement plans.

(3) Any current active participant of the plan who becomes an active member of PERS based on employment with another PERS employer is required to notify his or her

participating employer. The employee will be provided the options listed in subsection (2) of this section and the participating employer will follow through accordingly.

AMENDATORY SECTION (Amending WSR 10-22-073, filed 10/29/10, effective 11/29/10)

**WAC 131-16-061 Supplemental retirement benefits.**

(1) A participant is eligible to receive supplemental retirement benefit payments, provided the amount of the supplemental retirement benefit as calculated in accordance with this section is a positive amount, if at the time of retirement the participant (~~(is)~~):

(a) Participated in the plan prior to July 1, 2011; and

(b) Is at least age sixty-two; and

(c) Has ten years of full-time service in the plan at a Washington public institution of higher education(~~(= Provided, That the amount of the supplemental retirement benefit, as calculated in accordance with the provisions of this section, is a positive amount)~~).

(2) Subject to the provisions of subdivisions (c), (d), and (e) of this subsection, the annual amount of supplemental retirement benefit payable to a participant upon retirement is the excess, if any, when the value determined in subdivision (b) is subtracted from the value determined in subdivision (a), as follows:

(a) The lesser of fifty percent of the participant's average annual salary or two percent of the average annual salary multiplied by the number of years of full-time service; provided that if the participant did not elect to contribute ten percent of salary beginning July 1, 1974, or if later, after attainment of age fifty, service for such periods shall be calculated at the rate of one and one-half percent instead of two percent.

(b) The combined retirement benefit from the TIAA-CREF annuity and any other Washington state sponsored retirement plan that the participant would receive in the first month of retirement multiplied by twelve: Provided, That the state board retirement plan benefit shall be calculated on the following assumptions:

(i) After July 1, 1974, fifty percent of the combined contributions were made to the TIAA traditional annuity and fifty percent to the CREF stock account during each year of full-time service: Provided, That benefit calculations related to contributions made prior to July 1, 1974, shall be computed on the basis of actual allocations between TIAA and CREF; and

(ii) The full TIAA-CREF annuity accumulations, including all dividends payable by TIAA Traditional Annuity and further including the amounts, if any, paid in a single sum under the retirement transition benefit option, were fully settled on a joint and two-thirds survivorship option with a ten-year guarantee, using actual ages of retiree and spouse, but not exceeding a five-year difference; except that for unmarried participants the TIAA Traditional Annuity accumulations, including dividends, were settled on an installment refund option and the CREF Stock Account accumulations were settled on a life annuity with ten-year guarantee option, all to be based on TIAA-CREF estimates at the time of retirement; and

(iii) Annuity benefits purchased by premiums paid other than as a participant in a Washington public institution of higher education retirement plan shall be excluded.

(iv) For the purposes of this calculation, the assumptions applied to the plan accumulation settlement shall also apply to settlement of the benefit from any other retirement plan.

(c) The amount of supplemental retirement benefit for a participant who has not attained age sixty-five at retirement is the amount calculated in subsection (2) of this section reduced by one-half of one percent for each calendar month remaining until age sixty-five: Provided, That the supplemental retirement benefit for an otherwise qualified participant retired for reason of health or permanent disability shall not be so reduced.

(d) Any portion of participant's plan accumulation paid to a participant's spouse upon dissolution of a marriage shall be included in any subsequent calculation of supplemental retirement benefits just as if these funds had remained in the participant's plan account.

(e) The selection of a retirement option other than the joint and two-thirds survivorship with ten-year guarantee shall not alter the method of calculating the supplemental retirement benefit; however, if the participant's combined plan retirement benefit and calculated supplemental retirement benefit exceeds fifty percent of the participant's average annual salary, the supplemental retirement benefit shall be reduced so that the total combined benefits do not exceed fifty percent of average annual salary.

(3) The payment of supplemental retirement benefits shall be consistent with the following provisions:

(a) Supplemental retirement benefits shall be paid in equal monthly installments, except that if such monthly installments should be less than ten dollars, such benefit payments may be paid at longer intervals as determined by the state board.

(b) Supplemental retirement benefit payments will continue for the lifetime of the retired participant; however, prior to retirement, a participant may choose to provide for the continuation of supplemental retirement benefit payments, on an actuarially equivalent reduced basis, to his or her spouse or designated beneficiary after the retiree's death. Notification of such choice shall be filed in writing with the state board and shall be irrevocable after retirement. If such option is chosen, the supplemental retirement benefit payments shall be in the same proportion as any plan survivor annuity option potentially payable to and elected by the participant. If a designation of a survivor's option is not made and the participant dies after attaining age sixty-two but prior to retirement, any supplemental benefit payable shall be based on the two-thirds benefit to survivor option.

(c) Prior to making any supplemental benefit payments, the state board shall obtain a document signed by the participant and spouse, if any, or designated beneficiary acknowledging the supplemental retirement benefit option chosen by the participant.

(4) A retired participant who is reemployed shall continue to be eligible to receive retirement income benefits, except that the supplemental retirement benefit shall not continue during periods of employment for more than forty percent of full-time or seventy hours per month or five months

duration in any fiscal year. Retirement contributions shall not be made from the salary for such employment, unless the individual once again becomes eligible to participate under the provisions of WAC 131-16-021.

## WSR 11-15-056

### PROPOSED RULES

## WASHINGTON CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS

[Filed July 18, 2011, 10:03 a.m.]

### Original Notice.

Preproposal statement of inquiry was filed as WSR 11-12-087.

Title of Rule and Other Identifying Information: Chapter 183-08 WAC, to implement changes made by the 2011 legislature to amend membership provisions of RCW 43.03.305 and modify chapters 183-01, 183-05, and 183-07 WAC, to better inform the public about the commission's operating policies and procedures.

Hearing Location(s): Room 301A, General Administration Building, 210 11th Avenue S.W., Olympia, WA, on August 25, 2011, at 10:00 a.m.

Date of Intended Adoption: September 1, 2011.

Submit Written Comments to: Teri Wright, P.O. Box 43120, Olympia, WA 98504-3120, e-mail [teri.wright@salaries.wa.gov](mailto:teri.wright@salaries.wa.gov), fax (360) 586-7544, by August 19, 2011.

Assistance for Persons with Disabilities: Contact Teri Wright by August 19, 2011, (360) 725-5669.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 1. Modify chapter 183-08 WAC to implement changes made by the 2011 legislature (SHB 1008) which amended RCW 43.03.305 to:

a. Enable the commission to appoint a new member when Congressional District #10 is created; and

b. Inform the public that the definition of "immediate family members of public employees" has been changed with respect to service on the commission.

2. Modify chapters 183-01, 183-05, and 183-07 WAC to better inform the public about the commission's operating policies and procedures.

Statutory Authority for Adoption: Chapter 43.03 RCW.

Statute Being Implemented: Chapter 43.03 RCW.

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

Name of Proponent: Washington citizens' commission on salaries for elected officials, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Teri Wright, 210 11th Avenue S.W., Room 301A, Olympia, (360) 725-5669.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The commission has determined that the rule is not subject to the Regulatory Fairness Act because the rule is for the purpose of informing the public about the impact of recent legislation on its appointment process and its operating policies and procedures.

A cost-benefit analysis is not required under RCW 34.05.328. The commission is not an agency listed in RCW 43.05.328 [34.05.328] (5)(a)(i).

July 6, 2011  
Teri Wright  
Director

AMENDATORY SECTION (Amending WSR 09-19-112, filed 9/22/09, effective 10/23/09)

**WAC 183-01-020 Authority and duties.** The ~~((commission's authority and duties are described))~~ commission has sole authority for setting the salaries of the elected officials in the executive, legislative, and judicial branches of Washington state government as described in Article 28, section 1 of the state Constitution and in RCW 43.03.310.

NEW SECTION

**WAC 183-01-030 Schedule of salaries adopted by the commission.** The biennial salaries adopted by the commission can be found on the commission's web site at [www.salaries.wa.gov](http://www.salaries.wa.gov) or in RCW 43.03.011 (executive branch), 43.03.012 (judicial branch), and 43.03.013 (legislative branch).

AMENDATORY SECTION (Amending WSR 09-12-077, filed 6/1/09, effective 7/2/09)

**WAC 183-05-010 Purpose.** The purpose of this chapter is to:

(1) Implement the public records provisions of chapter 42.56 RCW.

(2) Establish processes and procedures for both requestors and commission staff to follow that will assist members of the public to obtain full access to the commission's public records.

AMENDATORY SECTION (Amending WSR 09-12-077, filed 6/1/09, effective 7/2/09)

**WAC 183-07-010 Meetings.** The commission conducts its meetings in compliance with the Open Public Meetings Act, chapter 42.30 RCW.

(1) Other than executive sessions, the commission's regular meetings, special meetings, and emergency meetings are open to the general public.

(2) Regular meetings. In conformance with the requirement of RCW 43.03.310(6) that the commission schedule at least four public hearings to take public testimony on its proposed salary schedule, the commission shall schedule such hearings by majority vote. The public hearings so scheduled shall be "regular meetings" as defined by RCW 42.30.075. The commission shall fix the time and place of these public hearings and publish a schedule in the *Washington State Register*, in accordance with chapter 42.30 RCW, the Open Public Meetings Act.

(3) Special meetings. The chair, presiding officer, or a majority of commission members may call a special meeting at any time in accordance with RCW 42.30.080. In addition, the time and place of special meetings that are scheduled at the same time that the regular meetings described in subsec-

tion (1) of this section are scheduled will also be published in the *Washington State Register*.

(4) Regular meetings and special meetings may be adjourned prior to the published end time if all business has been conducted.

(5) Executive sessions. The chair, presiding officer, or a majority of commission members may call an executive session at any time in accordance with RCW 42.30.110. Executive sessions are not open to the public. Commission staff will attend any executive sessions called except the chair or presiding officer will excuse staff when the purpose of the executive session is to discuss personnel matters.

(6) The presence of at least one-half of the members of the commission shall constitute a quorum.

(7) The affirmative vote of at least nine members of the commission is required to set a schedule of salaries as defined in RCW 43.03.310(4).

(8) The commission shall maintain records of meeting proceedings as minutes; duly recorded, and maintained at the commission's office.

AMENDATORY SECTION (Amending WSR 09-12-077, filed 6/1/09, effective 7/2/09)

**WAC 183-07-020 Conduct of meetings and order of business.** (1) All commission meeting business shall be transacted by motion. Motions may be made by any commission member and shall require a second.

(2) Voting on all motions shall be by voice vote unless a record of the vote is called for in which case the executive director shall call the roll in alphabetical order and record the vote of each member present, "yea" or "nay."

(3) The chair and vice-chair are voting members of the commission.

(4) The order of commission meeting business shall be conducted as prescribed by the agenda.

(5) The executive director shall prepare each meeting's agenda in consultation with the chair.

(6) The commission shall approve the minutes of the preceding meeting as the first act of each meeting.

(7) The chair or ~~((any commission member))~~ presiding officer may modify ~~((a meeting's))~~ the agenda ~~((by motion))~~ of a meeting if deemed necessary or beneficial.

**Chapter 183-08 WAC**

**COMMISSION MEMBERSHIP, APPOINTMENTS,  
AND VACANCIES**

AMENDATORY SECTION (Amending WSR 09-12-077, filed 6/1/09, effective 7/2/09)

**WAC 183-08-010 Membership.** Membership on the commission is as defined in RCW 43.03.305.

(1) One member from each congressional district is selected randomly by the secretary of state from the rolls of registered voters.

(2) Seven commissioners are selected jointly by the speaker of the house of representatives and the president of the senate. Of these seven members, one is selected from



each of the following five sectors: Private institutions of higher education, business, professional personnel management, legal profession, and organized labor. Of the remaining two members, one is recommended to the speaker of the house of representatives and the president of the senate by the chair of the Washington personnel resources board and one is recommended by majority vote of the presidents of the state's four-year institutions of higher education.

#### NEW SECTION

**WAC 183-08-015 Eligibility criteria.** (1) No state official, lobbyist, or public employee, or immediate family member of the state official, lobbyist, or public employee is eligible for membership on the commission.

Definitions:

(a) "Immediate family" means:

(i) The parents, spouse or domestic partner, siblings, children, or dependent relative of the state official or lobbyist whether or not they live in the home of the state official or lobbyist;

(ii) The parents, spouse or domestic partner, siblings, children, or dependent relative of the public employee who live in the home of the employee; and

(iii) Any person who is dependent, in whole or in part, for his or her support upon the earnings of a state employee.

(b) "Lobbyist" means any person required to be registered as a lobbyist in the state of Washington under the provisions of chapters 42.17 and 42.17A RCW.

(c) "Public employee" means any person who, at the time of selection, is an officer or employee of any governmental body or political subdivision located in the state of Washington including, but not limited to, the agencies of the federal, state, or county government or any other municipal corporation operating under federal or state law or local ordinance. Generally, this means any person whose salary is paid by public or tax dollars.

(d) "State official" means the elected officials in the executive, legislative, and judicial branches of Washington state government.

(2) Any person selected from a congressional district must be a registered voter and, at the time of selection, be eligible to vote in the congressional district from which he or she was selected.

(3) Any person selected jointly by the speaker of the house of representatives and the president of the senate must be a resident of Washington and have had experience in personnel management.

AMENDATORY SECTION (Amending WSR 09-12-077, filed 6/1/09, effective 7/2/09)

**WAC 183-08-020 Appointments.** ~~((The secretary of state and the speaker of the house of representatives and the president of the senate shall forward the names of the persons selected as described in RCW 43.03.305(3) and WAC 434-209-080 to the governor for appointment.))~~ (1) The secretary of state will forward the names of the persons selected as described in WAC 183-08-010(1) and chapter 434-209 WAC to the governor for appointment not later than the first day of July, every two years.

(2) The speaker of the house of representatives and the president of the senate will forward the names of the persons jointly selected by them as described in WAC 183-08-010(2) to the governor for appointment not later than the first day of July, every two years.

(3) The governor will appoint to the commission those persons whose names have been submitted by the secretary of state and the speaker of the house of representatives and the president of the senate.

AMENDATORY SECTION (Amending WSR 09-12-077, filed 6/1/09, effective 7/2/09)

**WAC 183-08-030 Term of office.** (1) The governor shall appoint the individuals selected (~~(under RCW 43.03.305 to the commission for a four-year term-))~~ by the secretary of state and the speaker of the house of representatives and the president of the senate to the commission for a four-year term that begins on July 1st and ends on June 30th.

(2) No person may serve more than two terms.

(3) When an individual is appointed to fill an unexpired term, that term constitutes his or her first term. The term of office is from the date of appointment until the end of the unexpired term of the position being vacated.

AMENDATORY SECTION (Amending WSR 09-12-077, filed 6/1/09, effective 7/2/09)

**WAC 183-08-040 (~~(Vacancy-)) Vacancies.~~** (1) Upon a vacancy in any position on the commission, (~~(a successor shall be selected and appointed to fill the unexpired term of the previous member in accordance with RCW 43.03.305(6) and WAC 434-209-090 if the vacancy is in a congressional district-))~~ due to a resignation or the member becoming ineligible to serve, a successor will be selected and appointed to fill the unexpired term of the previous member within thirty days of the date the position became vacant. The selection must be done in the same manner as the original appointment.

(a) The selection and appointment to fill a vacancy in a congressional district will be conducted in accordance with WAC 183-08-010(1), 183-08-020 (1) and (3), and 434-209-090.

(b) The selection and appointment to fill a vacancy in a position recommended jointly by the speaker of the house of representatives and the president of the senate shall be conducted in accordance with WAC 183-08-010(2) and 183-08-020 (2) and (3).

(2) Upon a vacancy in any position on the commission due to a commissioner having two unexcused absences as defined in RCW 43.03.305(4), the executive director will send a letter to that commissioner informing him or her of the relinquishment of his or her position on the commission. ~~The ((selection and appointment to fill the vacancy shall be conducted in accordance with RCW 43.03.305(6) and WAC 434-209-090 if the vacancy is in a congressional district-))~~ position will be filled under the provisions of WAC 183-08-040(1).

(3) The initial member from a newly created congressional district will be selected and appointed within ninety days of the creation of the district and in the manner described in WAC 183-08-010(1) and 183-08-020(3).

NEW SECTION

**WAC 183-08-050 Removal of a member for cause.**

(1) No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, malfeasance in office, or for a disqualifying change of residence.

(2) A disqualifying change of residence would occur if:

(a) A member moves out of the state of Washington; or

(b) A member selected from a congressional district moves out of the boundaries of his or her district.

**WSR 11-15-069**

**PROPOSED RULES**

**DEPARTMENT OF CORRECTIONS**

[Filed July 19, 2011, 9:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-12-073.

Title of Rule and Other Identifying Information: Amendment to WAC 137-25-030 Serious infractions.

Hearing Location(s): Department of Corrections, Edna Lucille Goodrich (ELG) Building, Room 1028 - C, 7345 Linderson Way S.W., Tumwater, WA 98501, on August 23, 2011, at 1 p.m.

Date of Intended Adoption: August 23, 2011.

Submit Written Comments to: John Nispel, P.O. Box 41114, Olympia, WA 98504-1114, e-mail john.nispel@doc.wa.gov, fax (360) 664-2009, by August 22, 2011.

Assistance for Persons with Disabilities: Contact John Nispel by August 22, 2011, TTY (800) 833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To add a new infraction for providing false or misleading information in the course of an investigation of sexual misconduct.

Reasons Supporting Proposal: To provide a penalty for interference in the investigation of sexual misconduct and a disincentive for false accusations against staff.

Statutory Authority for Adoption: RCW 72.09.130, 72.01.090, and 72.65.100.

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

Name of Proponent: Beth Schubach, governmental.

Name of Agency Personnel Responsible for Drafting: John Nispel, Tumwater, Washington, (360) 725-8365; Implementation and Enforcement: Dan Pacholke, Acting Prisons Director, Tumwater, Washington, (360) 725-8779.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule adoption as the agency is not named in RCW 34.05.328 (5)(a)(i).

July 18, 2011  
Bernie Warner  
Secretary

AMENDATORY SECTION (Amending WSR 09-01-195, filed 12/24/08, effective 1/24/09)

**WAC 137-25-030 Serious infractions.**

**Category A**

501 - Committing homicide.
502 - Aggravated assault on another offender.
507 - Committing an act that would constitute a felony and that is not otherwise included in these rules.
511 - Aggravated assault on a visitor or community member.
521 - Taking or holding any person hostage.
550 - Escape.
601 - Possession, manufacture, or introduction of an explosive device or any ammunition, or any components of an explosive device or ammunition.
602 - Possession, manufacture, or introduction of any gun, firearm, weapon, sharpened instrument, knife, or poison or any component thereof.
603 - Possession, introduction, use or transfer of any narcotic, controlled substance, illegal drug, unauthorized drug, mind altering substance, or drug paraphernalia.
604 - Aggravated assault on a staff member.
611 - Sexual assault on a staff member.
612 - Attempted sexual assault of staff.
613 - Abusive sexual contact with staff.
635 - Sexual assault on another offender.
636 - Attempted sexual assault of another offender.
637 - Abusive sexual contact with another offender.
650 - Rioting.
651 - Inciting others to riot.
882 - Possession or unauthorized use of a cell phone.

**Category B - Level 1**

504 - Engaging in sexual acts with others within the facility with the exception of approved conjugal visits.
553 - Setting a fire.
560 - Unauthorized possession of items or materials likely to be used in an escape attempt.
633 - Assault on another offender.
704 - Assault on a staff member.
711 - Assault on a visitor or community member.
744 - Making a bomb threat.
884 - Urinating, defecating or placing feces or urine, in any location other than a toilet or authorized receptacle.
886 - Adulteration of any food or drinks.
892 - Giving, selling or trading any prescribed medication with another offender.

**Category B - Level 2**

505 - Fighting with any person.
556 - Refusing to submit or cooperate in a search when ordered to do so by a staff member.
607 - Refusing to submit to a urinalysis and/or failure to provide a urine sample when ordered to do so by a staff member within the allotted time frame.
608 - Refusing or failing to submit to a breathalyzer or other standard sobriety test when ordered to do so by a staff member.
609 - Refusing or failing to submit to testing required by policy, statute, or court order, such as DNA blood tests when ordered to do so by a staff member.
652 - Engaging in or inciting a group demonstration.
655 - Making intoxicants, alcohol, controlled substances, narcotics, or possession of ingredients, equipment, items, formulas, or instructions that are used in making intoxicants, alcohol, controlled substances, or narcotics.
682 - Engaging in or inciting an organized work stoppage.
707 - Possession, introduction, or transfer of any alcoholic or intoxicating beverage or substance.
716 - Unauthorized use of an over the counter medication or failure to take prescribed medication as required when administered under supervision.
736 - Possession, manufacture or introduction of unauthorized keys.
750 - Indecent exposure.
752 - Receiving a positive test for use of unauthorized drugs, alcohol, or other intoxicants.
830 - Any escape from work release with voluntary return within 24 hours.

**Category B - Level 3**

503 - Extortion, blackmail, demanding or receiving money or anything of value in return for protection against others, or under threat of informing.
506 - Threatening another with bodily harm or with any offense against another person, property, or family.
509 - Refusing a direct order by any staff member to proceed to or disperse from a particular area.
525 - Violating conditions of a furlough.
<u>549 - Providing false or misleading information during any stage of an investigation of sexual misconduct, as defined in DOC policy on <i>Response to and Investigation of Sexual Misconduct</i>.</u>
558 - Interfering with staff members, medical personnel, firefighters, or law enforcement personnel in the performance of their duties.
600 - Tampering with, damaging, blocking, or interfering with any locking or security device.

**Category B - Level 3**

605 - Impersonating any staff member, contracted staff member, volunteer, other offenders or visitor.
653 - Causing an inaccurate count or interfering with count by means of unauthorized absence, hiding, concealing oneself, or other form of deception or distraction.
654 - Counterfeiting, forgery, altering, falsification, or unauthorized reproduction of any document, article of identification, money, security, or official paper.
660 - Unauthorized possession of money or other negotiable instruments the value of which is five dollars or more.
709 - Out-of-bounds: Being in another offender's cell or being in an area in the facility with one or more offenders without authorization.
738 - Possession of clothing or assigned equipment of a staff member.
739 - Possession of personal information about currently employed staff, contractors, or volunteers, or their immediate family members, not voluntarily given to the offender by the individual involved; including, but not limited to: Social Security numbers, unpublished home addresses or telephone numbers, driver's license numbers, medical, personnel, financial, or real estate records, bank or credit card numbers, or other like information not authorized by the court or the superintendent.
745 - Refusing a transfer to another institution.
746 - Engaging in or inciting an organized hunger strike.
762 - Failing to complete, or administrative termination from, DOSA substance abuse treatment program. Note: <i>This infraction must be initiated by authorized staff and heard by a community corrections hearing officer in accordance with chapter 137-24 WAC.</i>
777 - Causing injury to another person by resisting orders, resisting assisted movement or physical efforts to restrain.
813 - Unauthorized/unaccounted time in the community or being in an unauthorized location in the community.
814 - While in work release, violation of an imposed special condition.
831 - While in work release, failure to return from an authorized sign out.
879 - Operating a motor vehicle without permission or in an unauthorized manner or location.
889 - Unauthorized use of facility phones/related equipment or use of computer to conduct unauthorized or illegal business.

**Category C - Level 1**

508 - Throwing objects, materials, substances, or spitting in the direction of another person(s).
517 - Committing any act that would constitute a misdemeanor and that is not otherwise included in these rules.
555 - Theft of property or possession of stolen property.

**Category C - Level 1**

557 - Refusing to participate in an available education or work program or other mandatory programming assignment.
563 - Making a false fire alarm or tampering with, damaging, blocking, or interfering with fire alarms, fire extinguishers, fire hoses, fire exits, or other firefighting equipment or devices.
610 - Unauthorized possession of prescribed medication greater than a single or daily dose.
620 - Receipt or possession of contraband during participation in off-grounds or outer perimeter activity or work detail.
659 - Sexual harassment.
663 - Using physical force, intimidation or coercion against any person.
702 - Possession, manufacture or introduction of an unauthorized tool.
708 - Organizing or participating in unauthorized group activity or meeting.
714 - Giving, selling, borrowing, lending, or trading money or anything of value to, or accepting or purchasing money or anything of value from, another offender or that offender's friend(s) or family, the value of which is ten dollars or more.
717 - Causing a threat of injury to another person by resisting orders, resisting assisted movement or physical efforts to restrain.
720 - Flooding a cell or other area of the institution/facility.
724 - Refusing a cell or housing assignment.
734 - Participating or engaging in the activities of any unauthorized club, organization, gang or security threat group; or wearing or possessing the symbols of an unauthorized club, organization, gang or security threat group.
810 - Failure to seek/maintain employment or training or maintain oneself financially or being terminated from a job for negative or substandard performance.

**Category C - Level 2**

552 - Causing an innocent person to be penalized or proceeded against by providing false information.
554 - Damaging or destroying state property or any other item the value of which is ten dollars or more and that is not the personal property of the offender.
559 - Gambling; possession of gambling paraphernalia.
656 - Giving, receiving, or offering any person a bribe or anything of value for an unauthorized favor or service.
706 - Giving false information when proposing a release plan.
710 - Being tattooed while incarcerated, tattooing another, or possessing tattoo paraphernalia.

**Category C - Level 2**

718 - Use of mail or telephone in violation of court order or local, state, or federal law.
725 - Any telephonic or written correspondence with any offender in a correctional facility without prior written approval of the superintendent/community corrections supervisor/designee.
726 - Telephoning or sending written communication or otherwise initiating communication with a minor without the approval of that minor's parent or guardian.
727 - Telephoning or sending written communications to any person contrary to previous written warnings or direction and/or documented disciplinary action.
728 - Possession of any sexually explicit material(s), as defined by department policy and/or WAC 137-25-020.
740 - Fraud, embezzlement, or obtaining goods, services, money, or anything of value under false pretense.
742 - A pattern of creating a false emergency by feigning illness.
778 - Providing a urine specimen that has been diluted, substituted or altered in any way.

**Category C - Level 3**

551 - Providing false information to the disciplinary hearings officer or on a disciplinary appeal.
606 - Possession, introduction, or transfer of any tobacco, tobacco products, matches, or tobacco paraphernalia.
657 - Being found guilty of four or more general infractions arising out of separate incidents within a 90-day period.
658 - Failing to comply with any administrative or post-hearing sanction imposed for committing any general or serious infraction.
662 - Soliciting goods or services for which the provider would expect payment when the offender knows or should know that no funds are available to pay for those goods or services.
712 - Attempted suicide as determined by mental health staff.
713 - Self-mutilation or self-harm.
741 - Theft of food the value of which is more than five dollars.
755 - Misuse or waste of issued supplies, goods, services, or property the replacement value of which is ten dollars or more.
811 - Entering into an unauthorized contract.
812 - Failure to report/turn in all earnings income.
861 - Performing or taking part in an unauthorized marriage.
890 - Failure to follow a medical directive and/or documented medical recommendations resulting in injury.

(1) In determining whether a #728 infraction or a #328 infraction pursuant to WAC 137-25-030 should be charged, the infracting officer shall consider mitigating factors as defined in WAC 137-25-020.

(2) Attempts to commit infraction #611 or #635 are now separate infractions #612 and #636 for the Prison Rape Elimination Act (PREA) reporting purposes only and do not impact the definition in WAC 137-25-020 which includes "attempts."

**WSR 11-15-071**  
**PROPOSED RULES**  
**WASHINGTON STATE UNIVERSITY**

[Filed July 19, 2011, 9:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-044.

Title of Rule and Other Identifying Information: The university is updating the library policies, rules and regulations.

Hearing Location(s): Lighty 401, WSU Pullman, Pullman, Washington, on September 1, 2011, at 4:00 p.m.

Date of Intended Adoption: October 7, 2011.

Submit Written Comments to: Ralph Jenks, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, e-mail [jenks@wsu.edu](mailto:jenks@wsu.edu), fax (509) 335-3969, by September 1, 2011.

Assistance for Persons with Disabilities: Contact Deborah Bartlett, (509) 335-2005, by August 30, 2011.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update and clarify the library policies, rules and regulations, including but not limited to, administration and use of the library and library materials. These changes include repeal of chapter 504-40 WAC and creation of new chapter 504-41 WAC.

Statutory Authority for Adoption: RCW 28B.30.150.

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

Name of Proponent: Washington State University, public.

Name of Agency Personnel Responsible for Drafting: Elizabeth Blakesley, Associate Dean, Libraries, Holland Library 221, Pullman, WA 99164-5610, (509) 335-6134; Implementation and Enforcement: Jay Starratt, Dean, Libraries, Holland Library 221, Pullman, WA 99164-5610, (509) 335-4558.

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

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

July 19, 2011  
Ralph T. Jenks, Director  
Procedures, Records, and Forms  
and University Rules Coordinator

**Chapter 504-41 WAC**

**LIBRARY POLICIES, RULES, AND REGULATIONS**

NEW SECTION

**WAC 504-41-010 General provisions.** (1) The board of regents of Washington State University (WSU) establishes the following regulations to govern the use of the Washington State University libraries. These regulations apply to all library facilities operated by the Washington State University library and govern the services, schedules, and premises of the Washington State University library.

(2) The dean of the library and his or her designee have the authority to grant exceptions to these rules with respect to library business hours, borrowing and return provisions, and fine and charges provisions.

(3) Violating WSU library regulations may subject the violator to appropriate disciplinary action by the WSU administration and/or the office of student standards and accountability.

NEW SECTION

**WAC 504-41-015 Definitions.** (1) "Borrow" means any action to obtain authorization to use the materials for a period of minutes, hours, or days. Materials on reserve or which are otherwise restricted in use to a library's premises are considered borrowed if the individual user is required to register to access the materials.

(2) "Classification" means an individual's official relationship with the university which may include, but is not limited to faculty, associate, staff, graduate student, undergraduate student, or community member.

(3) "Dean" means the administrator appointed by the university president or board of regents as the chief executive of the WSU library system.

(4) "Library" means the WSU libraries generally.

(5) "Materials" means any library document or item which the library allows patrons to borrow or access, including those accessed electronically.

(6) "Proxy" means an individual authorized to function or act as a substitute borrower for a specific faculty member, staff member, or other patron.

(7) "Recall" means an instruction to return material to the library facility or location from which it was removed or borrowed.

NEW SECTION

**WAC 504-41-020 Use of the library.** (1) The university may establish policies for the use of library facilities which may include, but are not limited to, policies on patron behavior within the facilities, food and beverage policies, policies to prevent damage or loss of books and materials, noise control policies, and use of equipment policies. The policies on use of the library facilities are posted in a conspicuous location at each library facility and on the university web site.

(2) Library personnel may impose restrictions on patrons who violate library policy. Library personnel refer serious or

repeat violations of library rules and policies to the appropriate authorities which may include, but are not limited to law enforcement, Washington State University administrators, and the office of student standards and accountability.

(3) Library personnel may inspect briefcases, book bags, and other containers when users leave a university library.

#### NEW SECTION

**WAC 504-41-025 Use of library materials.** (1) The dean adopts a schedule of borrowing periods for materials. The periods are established based on the type of materials, the classification of borrower, and the borrower's history, if any, of violations of library policies.

(2) The university may adopt a policy which establishes a system for specified users to borrow by proxy. Proxy borrowing may be limited by the borrower's classification or other factor as designated by the dean. The borrower who authorizes a proxy remains responsible for materials borrowed by the authorized proxy.

(3) The university may establish policies to restrict the use of materials to a designated location and/or to handling standards that may assist in the preservation of the materials and effective allocation of library resources.

#### NEW SECTION

**WAC 504-41-030 Business hours.** (1) Scheduled business hours are posted at each respective library facility. A change to business hours must be posted fourteen days before the change is effective unless the change is governed by subsection (2) of this section.

(2) The library may close on legal and university holidays. The dean or his or her designee may make temporary changes to library hours without notice. The dean or his or her designee may declare unscheduled closures. Unscheduled closures must be for good cause, which may include natural disasters, staffing, or physical plant problems.

#### NEW SECTION

**WAC 504-41-035 Borrower identification.** (1) The university establishes a policy to allow effective identification of each borrower, including verification of the identity of a patron borrowing materials through electronic communication with the library.

(2) An individual's valid CougarCard provides sufficient identification if presented at the circulation desk. The circulation desk may, in its discretion, allow an individual to borrow materials using his or her WSU identification number and picture identification.

(3) A patron may apply for a borrower card at the circulation desk of a WSU library. The circulation desk may request satisfactory picture identification before accepting a borrower card to identify the borrower.

(4) A patron is responsible for all materials borrowed using his or her WSU CougarCard, borrower card, or electronic verification information. A patron should notify the library or appropriate WSU authorities of the loss of a borrower card, CougarCard, or other WSU-issued identifying information.

(5) If a patron wishes to not be held responsible for the use of his or her identifying information or card because that identifying information or card was used without the patron's permission, the patron is responsible to produce sufficient documentation of the misuse to the dean or library staff member(s) authorized to evaluate such documentation.

(6) Each borrower must keep the library informed of changes of name, permanent address, e-mail address, telephone number, and classification with WSU.

#### NEW SECTION

**WAC 504-41-040 Disclosure of library user identity.** Unless otherwise required by law, all library records that contain information about individual users of library services are confidential.

#### NEW SECTION

**WAC 504-41-045 Borrowing rules.** (1) Borrowers and library patrons must comply with posted library policies on the terms of borrowing, including requests for holding materials or placing materials on reserve.

(2) Misuse of library privileges may result in revocation of borrowing privileges by the dean or his or her designee.

(3) Materials are due on the date and hour specified at the time checked out or as adjusted by recall. If the hour is not specified, material is due at midnight on the date specified. Fines are assessed for materials returned after the designated date and/or time due. Replacement charges and a nonrefundable service charge are assessed for materials which are damaged or not returned to the library within thirty days of the date due.

(4) All materials are subject to recall at any time, and all users may be fined for failing to return recalled material.

#### NEW SECTION

**WAC 504-41-050 Return of materials.** (1) Reserve material must be returned directly to the unit from which it is borrowed. If it is returned elsewhere, it is considered to be returned at the time it is received at the unit from which it was borrowed. Special material may be designated for return directly to the unit from which it is borrowed.

(2) All other material is considered returned on the date it is returned to any library unit in the system and presented at the circulation desk or placed in a book drop or receptacle provided for and marked as a material's return location.

(3) Material returned to the outside book drop when the library unit is closed is considered returned as of closing time the previous day that the library was open.

#### NEW SECTION

**WAC 504-41-055 Fines and charges.** (1) The dean or his or her designee establishes a schedule of fines for materials not returned by the due date or time and for materials which are damaged or lost by a patron or borrower. Fines are in addition to replacement charges and repair charges, which are based on the actual cost of such replacement or repair. All patrons and borrowers are subject to the established fines

and charges. The established schedule of fines and charges is available on the library web page and at the circulation desk of each library facility.

(2) Replacement charges are levied to pay for the replacement of materials more than ninety days overdue. The replacement charges include the cost of the material and the cost of processing the material for the shelves. Regardless of the amount of fines, fees, and charges that a borrower pays, all library materials remain state property.

(3) Binding, mending, and damage charges are levied to repair material, to prepare replacement materials for circulation, or to compensate for the decreased value of materials due to irreparable damage.

(4) Fines are monetary sanctions imposed for the failure to return materials to the library by the designated time or date. Materials due on a designated date must be returned before the library's close of business on that day. Materials due at a designated time are overdue if returned to the unit from which it was borrowed more than five minutes after that time.

(5) Fines, charges, and/or unpaid fees levied by the library are a debt to Washington State University. All policies and law applicable to university debts apply to the fines, charges, and unpaid fees.

(6) The library may levy reasonable charges to defray the costs incurred by the library in billing for fines, charges, and unpaid fees.

(7) The library sends all notices and invoices for fines, charges, and unpaid fees by United States first class, campus, or electronic mail. A library patron or borrower owes the fines, charges, and fees invoiced even if the patron or borrower does not receive a notice or invoice for those amounts.

#### NEW SECTION

**WAC 504-41-057 Payment of fines, fees, and charges.** (1) Individuals are to remit payment of fines, fees, and charges to the WSU cashier unless the university refers the charges to a collection agency.

(2) Departmental, grant, or other funds controlled by the university may not be used to pay fines, fees, and charges.

(3) Failure to pay library fines, charges, and fees and/or failure to return library material by the end of the semester in which the materials are due may result in:

- (a) Holds being placed on student records;
- (b) Cancellation or blocking of registration for students;
- (c) Collection processing by the library and/or campus agencies or a referral to a collection agency;
- (d) Revocation of borrowing privileges;
- (e) Civil or criminal action against the borrower; or
- (f) Any combination thereof.

(4) The dean or his or her designee has the right to reduce or forgive fines and charges for borrowers in accordance with guidelines established by the dean.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 504-40-010      General policies.

WAC 504-40-020	Library patron identification.
WAC 504-40-030	Internal use of library materials, facilities, and services.
WAC 504-40-045	External use of library resources.
WAC 504-40-055	Loan time periods.
WAC 504-40-060	Fines and charges.

#### **WSR 11-15-075**

#### **PROPOSED RULES**

#### **DEPARTMENT OF ECOLOGY**

[Order 11-02—Filed July 19, 2011, 11:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-09-011.

Title of Rule and Other Identifying Information: Rule amendment for chapter 173-224 WAC, Wastewater discharge permit fees.

Hearing Location(s): Videoconference hearings at the following: Ecology Central Regional Office, 15 West Yakima Avenue, Suite 200, Sundance Room, Yakima, WA 98902; Ecology Eastern Regional Office, 4601 North Monroe Street, Room 1-SW-11, Spokane, WA 99205; and Ecology Headquarters Building, 300 Desmond Drive, Room R3A-19, Lacey, WA 98504; on August 24, 2011 at 1:30 p.m.

Date of Intended Adoption: September 20, 2011.

Submit Written Comments to: Bev Poston, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, e-mail [bpos461@ecy.wa.gov](mailto:bpos461@ecy.wa.gov), fax (360) 407-7151, by September 1, 2011, no later than 5:00 p.m.

Assistance for Persons with Disabilities: Contact Bev Poston 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: To increase fees for some wastewater and stormwater permit fee categories by the following: 4.34 percent for state fiscal year 2012 and 4.62 percent for state fiscal year 2013 as authorized in ecology's budget passed by the 2011 Washington state legislature. The fee categories subject to the fee increase include: Aquatic pest control, boatyards, dairies, concentrated animal feeding operations, construction stormwater individual and general permits, industrial stormwater individual and general permits, municipal domestic wastewater permits, municipal stormwater permits, and water treatment plants.

Reasons Supporting Proposal: The fee increase will allow continued operation of the wastewater/stormwater permit program. Wastewater and stormwater permits are tools used by ecology to ensure that man-made activities that discharge into the various water bodies of the state are discharged at a level where they will not impair the water.

Statutory Authority for Adoption: RCW 90.48.465 Water pollution control. RCW 43.135.055 requires a majority vote of the legislature to raise or add fees. The 2011 leg-

islature authorized ecology to increase fees by 4.34 percent for fiscal year 2012 and 4.62 percent for fiscal year 2013.

Statute Being Implemented: RCW 90.48.465 Water pollution control.

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

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bev Poston, 300 Desmond Drive, Lacey, WA, (360) 407-6425.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 173-224 WAC, Wastewater discharge permit fees, already provides relief from fees for small business with no more than one million dollars in gross revenue from the activity regulated by the permit. To the extent there may be a disproportionate impact on small business, this provides mitigation, as would be required by the Regulatory Fairness Act (RCW 19.85.030) were a small business economic impact statement found to be necessary.

A cost-benefit analysis is not required under RCW 34.05.328. Rules changing fee schedules are exempt from significant legislative rule cost-benefit analysis (RCW 34.05.328) requirements. The exemptions apply to rules

which set or adjust fees or rates pursuant to legislative standards. Legislative standards for these fees appear in RCW 90.48.465 Water pollution control (authorizing the fee). Ecology is proposing to increase fees by the state fiscal growth factor projections determined by the Washington state expenditure limit committee.

July 19, 2011

Polly Zehm

Deputy Director

AMENDATORY SECTION (Amending Order 09-06, filed 9/28/09, effective 10/29/09)

**WAC 173-224-040 Permit fee schedule.** (1) Application fee. In addition to the annual fee, first time applicants (except those applying for coverage under a general permit) will pay a one time application fee of twenty-five percent of the annual permit fee, or \$250.00, whichever is greater. An application fee will be assessed for RCRA sites regardless of whether a new permit is being issued or an existing permit for other than the discharge resulting from the RCRA corrective action, is being modified.

(2) Industrial facility categories.

INDUSTRIAL FACILITY CATEGORIES	FY ((2010)) 2012 ANNUAL PERMIT FEE	FY ((2011)) 2013 ANNUAL PERMIT FEE & BEYOND
Aluminum Alloys	\$16,713.00	\$16,713.00
Aluminum and Magnesium Reduction Mills		
a. NPDES Permit	98,554.00	98,554.00
b. State Permit	49,279.00	49,279.00
Aluminum Forming	50,136.00	50,136.00
Aggregate Production - Individual Permit Coverage		
a. Mining Activities		
1. Mining, screening, washing and/or crushing	2,876.00	2,876.00
2. Nonoperating aggregate site (fee per site)	118.00	118.00
b. Asphalt Production		
1. 0 - < 50,000 tons/yr.	1,198.00	1,198.00
2. 50,000 - < 300,000 tons/yr.	2,877.00	2,877.00
3. 300,000 tons/yr. and greater	3,598.00	3,598.00
c. Concrete Production		
1. 0 - < 25,000 cu. yds/yr.	1,198.00	1,198.00
2. 25,000 - < 200,000 cu. yds/yr.	2,877.00	2,877.00
3. 200,000 cu. yds/yr. and greater	3,598.00	3,598.00
The fee for a facility in the aggregate production category is the sum of the applicable fees in the mining activities and concrete and asphalt production categories.		
d. Portable Operations		
1. Rock Crushing	2,876.00	2,876.00
2. Asphalt	2,876.00	2,876.00
3. Concrete	2,876.00	2,876.00



INDUSTRIAL FACILITY CATEGORIES	FY ((2010)) <u>2012</u> ANNUAL PERMIT FEE	FY ((2011)) <u>2013</u> ANNUAL PERMIT FEE & <u>BEYOND</u>
<b>Aggregate Production - General Permit Coverage</b>		
a. Mining Activities		
1. Mining, screening, washing and/or crushing	2,012.00	2,012.00
2. Nonoperating aggregate site (fee per site)	83.00	83.00
b. Asphalt Production		
1. 0 - < 50,000 tons/yr.	840.00	840.00
2. 50,000 - < 300,000 tons/yr.	2,013.00	2,013.00
3. 300,000 tons/yr. and greater	2,517.00	2,517.00
c. Concrete Production		
1. 0 - < 25,000 cu. yds/yr.	840.00	840.00
2. 25,000 - < 200,000 cu. yds/yr.	2,013.00	2,013.00
3. 200,000 cu. yds/yr. and greater	2,517.00	2,517.00
The fee for a facility in the aggregate production category is the sum of the applicable fees in the mining activities and concrete and asphalt production categories.		
d. Portable Operations		
1. Rock Crushing	2,013.00	2,013.00
2. Asphalt	2,013.00	2,013.00
3. Concrete	2,013.00	2,013.00
<b>Aquaculture</b>		
a. Finfish hatching and rearing - Individual Permit	5,012.00	5,012.00
b. Finfish hatching and rearing - General Permit Coverage	3,511.00	3,511.00
c. Shellfish hatching	182.00	190.00
<b>Aquatic Pest Control</b>		
a. Irrigation Districts	((397.00)) <u>433.00</u>	((415.00)) <u>453.00</u>
b. Mosquito Control Districts	((397.00)) <u>433.00</u>	((415.00)) <u>453.00</u>
c. Invasive Moth Control	((397.00)) <u>433.00</u>	((415.00)) <u>453.00</u>
d. Aquatic Species Control & Eradication	((397.00)) <u>433.00</u>	((415.00)) <u>453.00</u>
e. Oyster Growers	((397.00)) <u>433.00</u>	((415.00)) <u>453.00</u>
f. Rotenone Control	((397.00)) <u>433.00</u>	((415.00)) <u>453.00</u>
<b>Boat Yards - Individual Permit Coverage</b>		
a. With storm water only discharge	428.00	428.00
b. All others	856.00	856.00
<b>Boat Yards - General Permit Coverage</b>		
a. With storm water only discharge	((313.00)) <u>341.00</u>	((327.00)) <u>357.00</u>
b. All others	((633.00)) <u>691.00</u>	((662.00)) <u>723.00</u>
<b>Coal Mining and Preparation</b>		
a. < 200,000 tons per year	6,680.00	6,680.00

INDUSTRIAL FACILITY CATEGORIES	FY ((2010))	FY ((2011))
	<u>2012</u> ANNUAL PERMIT FEE	<u>2013</u> ANNUAL PERMIT FEE & <u>BEYOND</u>
b. 200,000 - < 500,000 tons per year	15,042.00	15,042.00
c. 500,000 - < 1,000,000 tons per year	26,739.00	26,739.00
d. 1,000,000 tons per year and greater	50,136.00	50,136.00
Combined Industrial Waste Treatment		
a. < 10,000 gpd	3,342.00	<del>((3,342.00))</del> <u>3,342.00</u>
b. 10,000 - < 50,000 gpd	8,354.00	8,354.00
c. 50,000 - < 100,000 gpd	16,713.00	16,713.00
d. 100,000 - < 500,000 gpd	33,422.00	33,422.00
e. 500,000 gpd and greater	50,136.00	50,136.00
Combined Food Processing Waste Treatment Facilities	16,000.00	16,000.00
Combined Sewer Overflow System		
a. < 50 acres	3,342.00	3,342.00
b. 50 - < 100 acres	8,354.00	8,354.00
c. 100 - < 500 acres	10,030.00	10,030.00
d. 500 acres and greater	13,368.00	13,368.00
Commercial Laundry	428.00	428.00
Concentrated Animal Feeding Operation		
a. < 200 Animal Units	<del>((180.00))</del> <u>196.00</u>	<del>((188.00))</del> <u>205.00</u>
b. 200 - < 400 Animal Units	<del>((450.00))</del> <u>491.00</u>	<del>((471.00))</del> <u>514.00</u>
c. 400 - < 600 Animal Units	<del>((901.00))</del> <u>984.00</u>	<del>((943.00))</del> <u>1,029.00</u>
d. 600 - < 800 Animal Units	<del>((1,351.00))</del> <u>1,474.00</u>	<del>((1,413.00))</del> <u>1,542.00</u>
e. 800 Animal Units and greater	<del>((1,803.00))</del> <u>1,968.00</u>	<del>((1,886.00))</del> <u>2,059.00</u>
Crop Preparing - Individual Permit Coverage		
a. 0 - < 1,000 bins/yr.	333.00	333.00
b. 1,000 - < 5,000 bins/yr.	669.00	669.00
c. 5,000 - < 10,000 bins/yr.	1,337.00	1,337.00
d. 10,000 - < 15,000 bins/yr.	2,676.00	2,676.00
e. 15,000 - < 20,000 bins/yr.	4,425.00	4,425.00
f. 20,000 - < 25,000 bins/yr.	6,183.00	6,183.00
g. 25,000 - < 50,000 bins/yr.	8,271.00	8,271.00
h. 50,000 - < 75,000 bins/yr.	9,192.00	9,192.00
i. 75,000 - < 100,000 bins/yr.	10,694.00	10,694.00
j. 100,000 - < 125,000 bins/yr.	13,368.00	13,368.00
k. 125,000 - < 150,000 bins/yr.	16,712.00	16,712.00
l. 150,000 bins/yr. and greater	20,055.00	20,055.00
Crop Preparing - General Permit Coverage		
a. 0 - < 1,000 bins/yr.	232.00	232.00
b. 1,000 - < 5,000 bins/yr.	468.00	468.00

INDUSTRIAL FACILITY CATEGORIES		FY ((2010)) <u>2012</u> ANNUAL PERMIT FEE	FY ((2011)) <u>2013</u> ANNUAL PERMIT FEE & <u>BEYOND</u>
c.	5,000 - < 10,000 bins/yr.	937.00	937.00
d.	10,000 - < 15,000 bins/yr.	1,873.00	1,873.00
e.	15,000 - < 20,000 bins/yr.	3,100.00	3,100.00
f.	20,000 - < 25,000 bins/yr.	4,328.00	4,328.00
g.	25,000 - < 50,000 bins/yr.	5,788.00	5,788.00
h.	50,000 - < 75,000 bins/yr.	6,433.00	6,433.00
i.	75,000 - < 100,000 bins/yr.	7,481.00	7,481.00
j.	100,000 - < 125,000 bins/yr.	9,360.00	9,360.00
k.	125,000 - < 150,000 bins/yr.	11,698.00	11,698.00
l.	150,000 bins/yr. and greater	14,037.00	14,037.00
Dairies \$.50 per Animal Unit not to exceed \$((1,261.00)) <u>1,376.00</u> for FY ((2010))			
<u>2012</u> and \$((1,319.00)) <u>1,440.00</u> for FY ((2011)) <u>2013 &amp; beyond</u>			
Facilities Not Otherwise Classified - Individual Permit Coverage			
a.	< 1,000 gpd	1,671.00	1,671.00
b.	1,000 - < 10,000 gpd	3,342.00	3,342.00
c.	10,000 - < 50,000 gpd	8,355.00	8,355.00
d.	50,000 - < 100,000 gpd	13,368.00	13,368.00
e.	100,000 - < 500,000 gpd	26,606.00	26,606.00
f.	500,000 - < 1,000,000 gpd	33,422.00	33,422.00
g.	1,000,000 gpd and greater	50,135.00	50,135.00
Facilities Not Otherwise Classified - General Permit Coverage			
a.	< 1,000 gpd	1,172.00	1,172.00
b.	1,000 - < 10,000 gpd	2,425.00	2,425.00
c.	10,000 - < 50,000 gpd	5,851.00	5,581.00
d.	50,000 - < 100,000 gpd	9,360.00	9,360.00
e.	100,000 - < 500,000 gpd	18,715.00	18,715.00
f.	500,000 - < 1,000,000 gpd	23,394.00	23,394.00
g.	1,000,000 gpd and greater	35,095.00	35,095.00
Flavor Extraction			
a.	Steam Distillation	171.00	171.00
Food Processing			
a.	< 1,000 gpd	1,670.00	1,670.00
b.	1,000 - < 10,000 gpd	4,259.00	4,259.00
c.	10,000 - < 50,000 gpd	7,604.00	7,604.00
d.	50,000 - < 100,000 gpd	11,948.00	11,948.00
e.	100,000 - < 250,000 gpd	16,712.00	16,712.00
f.	250,000 - < 500,000 gpd	21,977.00	21,977.00
g.	500,000 - < 750,000 gpd	27,572.00	27,572.00
h.	750,000 - < 1,000,000 gpd	33,422.00	33,422.00
i.	1,000,000 - < 2,500,000 gpd	41,175.00	41,175.00
j.	2,500,000 - < 5,000,000 gpd	45,957.00	45,957.00
k.	5,000,000 gpd and greater	50,136.00	50,136.00
Fuel and Chemical Storage			
a.	< 50,000 bbls	1,671.00	1,671.00

INDUSTRIAL FACILITY CATEGORIES		FY ((2010)) <u>2012</u> ANNUAL PERMIT FEE	FY ((2011)) <u>2013</u> ANNUAL PERMIT FEE & <u>BEYOND</u>
b.	50,000 - < 100,000 bbls	3,342.00	3,342.00
c.	100,000 - < 500,000 bbls	8,354.00	8,354.00
d.	500,000 bbls and greater	16,713.00	16,713.00
Hazardous Waste Clean Up Sites			
a.	Leaking Underground Storage Tanks (LUST)		
1.	State Permit	4,383.00	4,383.00
2.	NPDES Permit Issued pre 7/1/94	4,383.00	((4,383.00)) <u>4,383.00</u>
3.	NPDES Permit Issued post 7/1/94	8,765.00	8,765.00
b.	Non-LUST Sites		
1.	1 or 2 Contaminants of concern	8,570.00	8,570.00
2.	> 2 Contaminants of concern	17,140.00	17,140.00
Ink Formulation and Printing			
a.	Commercial Print Shops	2,571.00	2,571.00
b.	Newspapers	4,286.00	4,286.00
c.	Box Plants	6,856.00	6,856.00
d.	Ink Formulation	8,571.00	8,571.00
Inorganic Chemicals Manufacturing			
a.	Lime Products	8,354.00	8,354.00
b.	Fertilizer	10,058.00	10,058.00
c.	Peroxide	13,368.00	13,368.00
d.	Alkaline Earth Salts	16,713.00	16,713.00
e.	Metal Salts	23,393.00	23,393.00
f.	Acid Manufacturing	33,416.00	33,416.00
g.	Chlor-alkali	66,846.00	66,846.00
Iron and Steel			
a.	Foundries	16,713.00	16,713.00
b.	Mills	33,453.00	33,453.00
Metal Finishing			
a.	< 1,000 gpd	2,004.00	2,004.00
b.	1,000 - < 10,000 gpd	3,341.00	3,341.00
c.	10,000 - < 50,000 gpd	8,353.00	8,353.00
d.	50,000 - < 100,000 gpd	16,712.00	16,712.00
e.	100,000 - < 500,000 gpd	33,420.00	33,420.00
f.	500,000 gpd and greater	50,133.00	50,133.00
Noncontact Cooling Water With Additives - Individual Permit Coverage			
a.	< 1,000 gpd	1,046.00	1,046.00
b.	1,000 - < 10,000 gpd	1,459.00	1,459.00
c.	10,000 - < 50,000 gpd	3,136.00	3,136.00
d.	50,000 - < 100,000 gpd	7,314.00	7,314.00
e.	100,000 - < 500,000 gpd	12,531.00	12,531.00
f.	500,000 - < 1,000,000 gpd	17,758.00	17,758.00
g.	1,000,000 - < 2,500,000 gpd	22,982.00	22,982.00
h.	2,500,000 - < 5,000,000 gpd	28,082.00	28,082.00

INDUSTRIAL FACILITY CATEGORIES		FY ((2010)) <u>2012</u> ANNUAL PERMIT FEE	FY ((2011)) <u>2013</u> ANNUAL PERMIT FEE & <u>BEYOND</u>
i.	5,000,000 gpd and greater	33,422.00	33,422.00
Noncontact Cooling Water With Additives - General Permit Coverage			
a.	< 1,000 gpd	733.00	733.00
b.	1,000 - < 10,000 gpd	1,461.00	1,461.00
c.	10,000 - < 50,000 gpd	2,195.00	2,195.00
d.	50,000 - < 100,000 gpd	5,120.00	5,120.00
e.	100,000 - < 500,000 gpd	8,773.00	8,773.00
f.	500,000 - < 1,000,000 gpd	12,432.00	12,432.00
g.	1,000,000 - < 2,500,000 gpd	16,086.00	16,086.00
h.	2,500,000 - < 5,000,000 gpd	19,739.00	19,739.00
i.	5,000,000 gpd and greater	23,394.00	23,394.00
Noncontact Cooling Water Without Additives - Individual Permit Coverage			
a.	< 1,000 gpd	838.00	838.00
b.	1,000 - < 10,000 gpd	1,671.00	1,671.00
c.	10,000 - < 50,000 gpd	2,509.00	2,509.00
d.	50,000 - < 100,000 gpd	5,851.00	5,851.00
e.	100,000 - < 500,000 gpd	10,030.00	10,030.00
f.	500,000 - < 1,000,000 gpd	14,203.00	14,203.00
g.	1,000,000 - < 2,500,000 gpd	18,310.00	18,310.00
h.	2,500,000 - < 5,000,000 gpd	22,559.00	22,559.00
i.	5,000,000 gpd and greater	26,739.00	26,739.00
Noncontact Cooling Water Without Additives - General Permit Coverage			
a.	< 1,000 gpd	586.00	586.00
b.	1,000 - < 10,000 gpd	1,172.00	1,172.00
c.	10,000 - < 50,000 gpd	1,757.00	1,757.00
d.	50,000 - < 100,000 gpd	4,095.00	4,095.00
e.	100,000 - < 500,000 gpd	7,019.00	7,019.00
f.	500,000 - < 1,000,000 gpd	9,944.00	9,944.00
g.	1,000,000 - < 2,500,000 gpd	12,868.00	12,868.00
h.	2,500,000 - < 5,000,000 gpd	15,793.00	15,793.00
i.	5,000,000 gpd and greater	18,715.00	18,715.00
Nonferrous Metals Forming			
		16,713.00	16,713.00
Ore Mining			
a.	Ore Mining	3,342.00	3,342.00
b.	Ore mining with physical concentration processes	6,682.00	6,682.00
c.	Ore mining with physical and chemical concentration processes	26,739.00	26,739.00
Organic Chemicals Manufacturing			
a.	Fertilizer	16,713.00	16,713.00
b.	Aliphatic	33,422.00	33,422.00
c.	Aromatic	50,136.00	50,136.00
Petroleum Refining			
a.	< 10,000 bbls/d	33,422.00	33,422.00
b.	10,000 - < 50,000 bbls/d	66,266.00	66,266.00

INDUSTRIAL FACILITY CATEGORIES	FY ((2010))	FY ((2011))
	<u>2012</u> ANNUAL PERMIT FEE	<u>2013</u> ANNUAL PERMIT FEE & <u>BEYOND</u>
c. 50,000 bbls/d and greater	133,699.00	133,699.00
Photofinishers		
a. < 1,000 gpd	1,337.00	1,337.00
b. 1,000 gpd and greater	3,342.00	3,342.00
Power and/or Steam Plants		
a. Steam Generation - Nonelectric	6,680.00	6,680.00
b. Hydroelectric	6,680.00	6,680.00
c. Nonfossil Fuel	10,028.00	10,028.00
d. Fossil Fuel	26,739.00	26,739.00
Pulp, Paper and Paper Board		
a. Fiber Recyclers	16,711.00	16,711.00
b. Paper Mills	33,422.00	33,422.00
c. Groundwood Pulp Mills		
1. < 300 tons per day	50,136.00	50,136.00
2. > 300 tons per day	100,270.00	100,270.00
d. Chemical Pulp Mills w/o Chlorine Bleaching	133,692.00	133,692.00
e. Chemical Pulp Mills w/Chlorine Bleaching	150,400.00	150,400.00
Radioactive Effluents and Discharges (RED)		
a. < 3 waste streams	32,332.00	32,332.00
b. 3 - < 8 waste streams	56,147.00	56,147.00
c. 8 waste streams and greater	92,478.00	92,478.00
RCRA Corrective Action Sites		
	23,490.00	23,490.00
Seafood Processing		
a. < 1,000 gpd	1,671.00	1,671.00
b. 1,000 - < 10,000 gpd	4,259.00	4,259.00
c. 10,000 - < 50,000 gpd	7,604.00	7,604.00
d. 50,000 - < 100,000 gpd	11,948.00	11,948.00
e. 100,000 gpd and greater	16,713.00	16,713.00
Shipyards		
a. Per crane, travel lift, small boat lift	3,342.00	3,342.00
b. Per drydock under 250 ft in length	3,342.00	3,342.00
c. Per graving dock	3,342.00	3,342.00
d. Per marine way	5,012.00	5,012.00
e. Per sycrolift	5,012.00	5,012.00
f. Per drydock over 250 ft in length	6,682.00	6,682.00
g. In-water vessel maintenance	6,682.00	6,682.00
The fee for a facility in the shipyard category is the sum of the fees for the applicable units in the facility.		
Solid Waste Sites (nonstorm water)		
a. Nonputrescible	6,682.00	6,682.00
b. < 50 acres	13,367.00	13,367.00
c. 50 - < 100 acres	26,739.00	26,739.00

INDUSTRIAL FACILITY CATEGORIES	FY ((2010))	FY ((2011))
	<u>2012</u>	<u>2013</u>
	ANNUAL PERMIT FEE	ANNUAL PERMIT FEE & <u>BEYOND</u>
d. 100 - < 250 acres	33,422.00	33,422.00
e. 250 acres and greater	50,136.00	50,136.00
Textile Mills	66,846.00	66,846.00
Timber Products		
a. Log Storage	3,342.00	3,342.00
b. Veneer	6,682.00	6,682.00
c. Sawmills	13,368.00	13,368.00
d. Hardwood, Plywood	23,393.00	23,393.00
e. Wood Preserving	32,094.00	32,094.00
Vegetable/Bulb Washing Facilities		
a. < 1,000 gpd	110.00	110.00
b. 1,000 - < 5,000 gpd	224.00	224.00
c. 5,000 - < 10,000 gpd	440.00	440.00
d. 10,000 - < 20,000 gpd	887.00	887.00
e. 20,000 and greater	1,464.00	1,464.00
Vehicle Maintenance and Freight Transfer		
a. < 0.5 acre	3,342.00	3,342.00
b. 0.5 - < 1.0 acre	6,682.00	6,682.00
c. 1.0 acre and greater	10,028.00	10,028.00
Water Plants - Individual Permit Coverage	<del>((4,180.00))</del> <u>4,361.00</u>	<del>((4,180.00))</del> <u>4,562.00</u>
Water Plants - General Permit Coverage	<del>((2,925.00))</del> <u>3,052.00</u>	<del>((2,925.00))</del> <u>3,193.00</u>
Wineries		
a. < 500 gpd	341.00	341.00
b. 500 - < 750 gpd	684.00	684.00
c. 750 - < 1,000 gpd	1,367.00	1,367.00
d. 1,000 - < 2,500 gpd	2,734.00	2,734.00
e. 2,500 - < 5,000 gpd	4,362.00	4,362.00
f. 5,000 gpd and greater	5,987.00	5,987.00

(a) Facilities other than those in the aggregate production, shipyard, or RCRA categories that operate within several fee categories or subcategories, shall be charged from that category or subcategory with the highest fee.

(b) The total annual permit fee for a water treatment plant that primarily serves residential customers may not exceed three dollars per residential equivalent. The number of residential equivalents is determined by dividing the facility's annual gross revenue in the previous calendar year by the annual user charge for a single family residence that uses nine hundred cubic feet of water per month.

(c) Crop preparation and aggregate production permit holders are required to submit information to the department certifying annual production (calendar year) or unit processes. When required, the department will send the information form to the permit holder. The permit holder shall complete and return the information form to the department by

the required due date. Failure to provide this information will result in a fee determination based on the highest subcategory the facility has received permit coverage in.

(i) Information submitted shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by an authorized corporate officer;

(B) In the case of a limited partnership, by an authorized general partner;

(C) In the case of a general partnership, by an authorized partner; or

(D) In the case of a sole proprietorship, by the proprietor.

(ii) The department may verify information submitted and, if it determines that false or inaccurate statements have been made, it may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

(d) Fees for crop preparers discharging only noncontact cooling water without additives shall pay the lesser of the applicable fee in the crop preparing or noncontact cooling water without additives categories.

(e) Where no clear industrial facility category exists for placement of a permit holder, the department may elect to place the permit holder in a category with dischargers or permit holders that contain or use similar properties or processes and/or a category which contains similar permitting complexities to the department.

(f) Hazardous waste clean up sites and EPA authorized RCRA corrective action sites with whom the department has begun cost recovery through chapter 70.105D RCW shall not pay a permit fee under chapter 173-224 WAC until such time as the cost recovery under chapter 70.105D RCW ceases.

(g) Any permit holder, with the exception of nonoperating aggregate operations or a permitted portable facility, who has not been in continuous operation within a consecutive eighteen-month period or who commits to not being in operation for a consecutive eighteen-month period or longer can have their permit fee reduced to twenty-five percent of the fee that they would be otherwise assessed. This nonoperating mode must be verified by the appropriate ecology staff. Once operations resume, the permit fee will be returned to the full amount.

Facilities who commit to the minimum eighteen-month nonoperating mode but go back into operation during the same eighteen-month period will be assessed permit fees as if they were active during the entire period.

(h) Facilities with subcategories based on gallons per day (gpd) shall have their annual permit fee determined by using the maximum daily flow or maximum monthly average permitted flow in gallons per day as specified in the waste discharge permit, whichever is greater.

(i) RCRA corrective action sites requiring a waste discharge permit will be assessed a separate permit fee regardless of whether the discharge is authorized by a separate permit or by a modification to an existing permit for a discharge other than that resulting from the corrective action.

**(3) MUNICIPAL/DOMESTIC FACILITIES**

(a) The annual permit fee for a permit held by a municipality for a domestic wastewater facility issued under RCW 90.48.162 or 90.48.260 is determined as follows:

	FY ((2010))	FY ((2011))
	2012	2013
	Annual	Annual
	Permit Fee	Permit Fee & Beyond
Residential Equivalents (RE)		
< 250,000	\$((1.89))	\$((1.98))
	2.07	2.16
> 250,000	((1.32))	((1.38))
	1.44	1.51

(b) The annual permit fee under RCW 90.48.162 or 90.48.260 that is held by a municipality which:

(i) Holds more than one permit for domestic wastewater facilities; and

(ii) Treats each domestic wastewater facility as a separate accounting entity, is determined as in (a) of this subsection.

A separate accounting entity is one that maintains separate funds or accounts for each domestic wastewater facility. Revenues are received from the users to pay for the costs of operating that facility.

(c) The sum of the annual permit fees for permits held by a municipality that:

(i) Holds more than one permit for domestic wastewater facilities issued under RCW 90.48.162 or 90.48.260; and

(ii) Does not treat each domestic wastewater facility as a separate accounting entity, as described in (b) of this subsection, is determined as in (a) of this subsection.

(d) The permit fee for a privately owned and government-owned domestic wastewater facility that primarily serves residential customers is determined as in (a) of this subsection. Residential customers are those whose lot, parcel or real estate, or building is primarily used for domestic dwelling purposes.

(e) The annual permit fee for privately owned or government-owned domestic wastewater facilities must be determined by using the maximum daily flow or maximum monthly average permitted flow in million gallons per day, whichever is greater, as specified in the waste discharge permit. Permit fees for privately owned or government-owned domestic wastewater facilities that do not serve primarily residential customers and for state-owned domestic wastewater facilities are the following:

	FY ((2010))	FY ((2011))
	2012	2013
	Annual	Annual
	Permit Fee	Permit Fee & Beyond
Permitted Flows		
.1 MGD and Greater	\$((8,788.00))	\$((9,193.00))
	9,592.00	10,035.00
.05 MGD to < .1 MGD	((3,516.00))	((3,678.00))
	3,838.00	4,015.00
.0008 MGD to < .05 MGD	((1,758.00))	((1,839.00))
	1,919.00	2,008.00
< .0008 MGD	((530.00))	((554.00))
	578.00	605.00

(f) The number of residential equivalents is calculated in the following manner:

(i) If the facility serves only single-family residences, the number of residential equivalents is the number of single-family residences that it served on January 1 of the previous calendar year.

(ii) If the facility serves both single-family residences and other classes of customers, the number of residential equivalents is calculated in the following manner:

(A) Calculation of the number of residential equivalents that the facility serves in its own service area. Subtract from the previous calendar year's gross revenue:

(I) Any amounts received from other municipalities for sewage interception, treatment, collection, or disposal; and

(II) Any user charges received from customers for whom the permit holder pays amounts to other municipalities for sewage treatment or disposal services. Divide the resulting figure by the annual user charge for a single-family residence.

(B) Calculation of the number of residential equivalents that the facility serves in other municipalities which pay



amounts to the facility for sewage interception, treatment, collection, or disposal:

(I) Divide any amounts received from other municipalities during the previous calendar year by the annual user charge for a single-family residence. In this case "annual user charge for a single-family residence" means the annual user charge that the facility charges other municipalities for sewage interception, treatment, collection, or disposal services for a single-family residence. If the facility charges different municipalities different single-family residential user fees, then the charge used in these calculations must be that which applies to the largest number of single-family residential customers. Alternatively, if the facility charges different municipalities different single-family residential user fees, the permit holder may divide the amount received from each municipality by the annual user charge that it charges that municipality for a single-family residence and sum the resulting figures.

(II) If the facility does not charge the other municipality on the basis of a fee per single-family residence, the number of residential equivalents in the other municipality is calculated by dividing its previous calendar year's gross revenue by its annual user fee for a single-family residence. If the other municipality does not maintain data on its gross revenue, user fees, and/or the number of single-family residences that it serves, the number of residential equivalents is calculated as in (f)(iv) of this subsection.

(III) If the other municipality serves only single-family residences, the number of residential equivalents may be calculated as in (f)(i) of this subsection.

The sum of the resulting figures is the number of residential equivalents that the facility serves in other municipalities.

(C) The number of residential equivalents is the sum of the number of residential equivalents calculated in (f)(ii)(A) and (B) of this subsection.

(iii) The annual user fee for a single-family residence is calculated by either of the following methods, at the choice of the permit holder:

(A) The annual user fee for a single-family residence using nine hundred cubic feet of water per month. If users are billed monthly, this is calculated by multiplying by twelve the monthly user fee for a single-family residence using nine hundred cubic feet of water per month. If users are billed bimonthly, the annual user fee is calculated by multiplying by six the bimonthly user fee for a single-family residence using one thousand eight hundred cubic feet of water per two-month period. If the user fee for a single-family residence varies, depending on age, income, location, etc., then the fee used in these calculations must be that which applies to the largest number of single-family residential customers.

(B) The average annual user fee for a single-family residence. This average is calculated by dividing the previous calendar year's gross revenue from provision of sewer services to single-family residences by the number of single-family residences served on January 1 of the previous calendar year. If the user fee for a single-family residence varies, depending on age, income, location, etc., then the gross revenue and number of single-family residences used in making

this calculation must be those for all the single-family residential customers.

In either case, (f)(iii)(A) or (B) of this subsection, the permit holder must provide the department with a copy of its complete sewer rate schedule for all classes of customers.

(iv) If a permit holder does not maintain data on its gross revenue, user fees, and/or the number of single-family residences that it serves, and therefore cannot use the methods described in (f)(i) or (ii) of this subsection to calculate the number of residential equivalents that it serves, then the number of residential equivalents that it serves is calculated by dividing the average daily influent flow to its facility for the previous calendar year by two hundred fifty gallons. This average is calculated by summing all the daily flow measurements taken during the previous calendar year and then dividing the resulting sum by the number of days on which flow was measured. Data for this calculation must be taken from the permit holder's discharge monitoring reports. Permit holders using this means of calculating the number of their residential equivalents must submit with their application a complete set of copies of their discharge monitoring reports for the previous calendar year.

(g) Fee calculation procedures for holders of permits for domestic wastewater facilities.

(i) Municipalities holding permits for domestic wastewater facilities issued under RCW 90.48.162 and 90.48.260, and holders of permits for privately owned domestic wastewater facilities that primarily serve residential customers must complete a form certifying the number of residential equivalents served by their domestic wastewater system. The form must be completed and returned to the department within thirty days after it is mailed to the permit holder by the department. Failure to return the form could result in permit termination.

(ii) The form shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by an authorized corporate officer;

(B) In the case of a limited partnership, by an authorized partner;

(C) In the case of a general partnership, by an authorized partner;

(D) In the case of a sole proprietorship, by the proprietor;

or  
(E) In the case of a municipal or other public facility, by either a ranking elected official or a principal executive officer.

(ii) The department may verify the information contained in the form and, if it determines that the permit holder has made false statements, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

(4) STORM WATER PERMIT COVERAGES (UNLESS SPECIFICALLY CATEGORIZED ELSEWHERE IN WAC 173-224-040(2))

	<b>FY ((2010)) 2012 Annual Permit Fee</b>	<b>FY ((2011)) 2013 Annual Permit Fee &amp; Beyond</b>
a. Individual Construction or Industrial Storm Water Permits		
1. < 50 acres	<del>\$(3,516.00)</del> <u>3,838.00</u>	<del>\$(3,678.00)</del> <u>4,015.00</u>
2. 50 -< 100 acres	<del>\$(7,027.00)</del> <u>7,670.00</u>	<del>\$(7,351.00)</del> <u>8,024.00</u>
3. 100 -< 500 acres	<del>\$(10,549.00)</del> <u>11,514.00</u>	<del>\$(11,035.00)</del> <u>12,046.00</u>
4. 500 acres and greater	<del>\$(14,063.00)</del> <u>15,349.00</u>	<del>\$(14,711.00)</del> <u>16,058.00</u>
b. Facilities Covered Under the Industrial Storm Water General Permit		
1. Municipalities and state agencies	<del>\$(1,151.00)</del> <u>1,256.00</u>	<del>\$(1,204.00)</del> <u>1,314.00</u>
2. New permit holders without historical gross revenue information	<del>\$(605.00)</del> <u>660.00</u>	<del>\$(633.00)</del> <u>690.00</u>
3. The permit fee for all other permit holders shall be based on the gross revenue of the business for the previous calendar year		
Gross Revenue		
Less than \$100,000	<del>\$(112.00)</del> <u>122.00</u>	<del>\$(117.00)</del> <u>128.00</u>
\$100,000 -< \$1,000,000	<del>\$(485.00)</del> <u>529.00</u>	<del>\$(507.00)</del> <u>553.00</u>
\$1,000,000 -< \$2,500,000	<del>\$(581.00)</del> <u>634.00</u>	<del>\$(608.00)</del> <u>663.00</u>
\$2,500,000 -< \$5,000,000	<del>\$(969.00)</del> <u>1,058.00</u>	<del>\$(1,014.00)</del> <u>1,107.00</u>
\$5,000,000 -< \$10,000,000	<del>\$(1,454.00)</del> <u>1,587.00</u>	<del>\$(1,521.00)</del> <u>1,660.00</u>
\$10,000,000 and greater	<del>\$(1,756.00)</del> <u>1,917.00</u>	<del>\$(1,837.00)</del> <u>2,006.00</u>

To be eligible for less than the maximum permit fee, the permit holder must provide documentation to substantiate the gross revenue claims. Documentation shall be provided annually in a manner prescribed by the department. The documentation shall bear a certification of correctness and be signed:

- (a) In the case of a corporation, by an authorized corporate officer;
- (b) In the case of a limited partnership, by an authorized general partner;
- (c) In the case of a general partnership, by an authorized partner; or
- (d) In the case of a sole proprietorship, by the proprietor.

The department may verify the information contained in the submitted documentation and, if it determines that the permit holder has made false statements, may deny the adjustment, revoke previously granted fee adjustments, and/or take such other actions deemed appropriate or required under state or federal law.

c. Construction Activities Covered Under the Construction Storm Water General Permit(s)		
1. Less than 5 acres disturbed area	<del>\$(454.00)</del> <u>496.00</u>	<del>\$(475.00)</del> <u>519.00</u>
2. 5 -< 7 acres of disturbed area	<del>\$(740.00)</del> <u>808.00</u>	<del>\$(774.00)</del> <u>845.00</u>
3. 7 -< 10 acres of disturbed area	<del>\$(999.00)</del> <u>1,090.00</u>	<del>\$(1,045.00)</del> <u>1,140.00</u>
4. 10 -< 20 acres of disturbed area	<del>\$(1,362.00)</del> <u>1,487.00</u>	<del>\$(1,425.00)</del> <u>1,556.00</u>
5. 20 acres and greater of disturbed area	<del>\$(1,695.00)</del> <u>1,850.00</u>	<del>\$(1,773.00)</del> <u>1,935.00</u>

(5) MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMITS

(a) Except as provided for in (d) of this subsection, the municipal storm water permit annual fee for the entities listed below will be:

Name of Entity	FY ((2010)) 2012 Annual Permit Fee	FY ((2011)) 2013 Annual Permit Fee & Beyond
King County	<del>\$(40,046.00)</del> 43,710.00	<del>\$(41,892.00)</del> 45,729.00
Snohomish County	<del>((40,046.00))</del> 43,710.00	<del>((41,892.00))</del> 45,729.00
Pierce County	<del>((40,046.00))</del> 43,710.00	<del>((41,892.00))</del> 45,729.00
Tacoma, City of	<del>((40,046.00))</del> 43,710.00	<del>((41,892.00))</del> 45,729.00
Seattle, City of	<del>((40,046.00))</del> 43,710.00	<del>((41,892.00))</del> 45,729.00
Washington Department of Transportation	<del>((40,046.00))</del> 43,710.00	<del>((41,892.00))</del> 45,729.00
Clark County	<del>((40,046.00))</del> 43,710.00	<del>((41,892.00))</del> 45,729.00

(b) Municipal storm water general permit fees for cities and counties, except as otherwise provided for in (a), (c), and (d) of this subsection, will be determined in the following manner: For fiscal year ((2010)) 2012, ecology will charge ~~\$(1.17)~~ 1.27 per housing unit inside the geographic area covered by the permit for those cities and counties whose median household income exceeds the state average. Cities and counties whose median household income is less than the state average will have their fee per housing unit reduced to ~~\$(.56)~~ .62 per housing unit inside the geographic area covered by the permit. For fiscal year ((2011)) 2013, ecology will charge ~~\$(1.22)~~ 1.33 per housing unit inside the geographic area covered by the permit for those cities and counties whose median household income exceeds the state average. Cities and counties whose median household income is less than the state average will have their fee per housing unit reduced to ~~\$(.59)~~ .65 per housing unit inside the geographic area covered by the permit. Fees will not exceed ~~\$(40,046.00)~~ 43,710.00 for fiscal year ((2010)) 2012 and ~~\$(41,892.00)~~ 45,729.00 for fiscal year ((2011)) 2013. The minimum annual fee will not be lower than ~~\$(1,666.00)~~ 1,818.00 for fiscal year ((2010)) 2012 and ~~\$(1,742.00)~~ 1,902.00 for fiscal year ((2011)) 2013 unless the permitted city or county has a median household income less than the state average. In this case, the city or county will pay a fee totaling ~~\$(.56)~~ .62 per housing unit for fiscal year ((2010)) 2012. The fee amount for FY ((2011)) 2013 will be ~~\$(.59)~~ .65 per housing unit.

(c) Other entities required to have permit coverage under a municipal storm water general permit will pay an annual fee based on the entities' previous year's annual operating budget as follows:

Annual Operating Budget	FY ((2010)) 2012 Annual Permit Fee	FY ((2011)) 2013 Annual Permit Fee & Beyond
Less than \$100,000	<del>\$(117.00)</del> 127.00	<del>\$(122.00)</del> 133.00

Annual Operating Budget	FY ((2010)) 2012 Annual Permit Fee	FY ((2011)) 2013 Annual Permit Fee & Beyond
\$100,000 <	<del>\$(469.00)</del>	<del>\$(491.00)</del>
\$1,000,000	512.00	536.00
\$1,000,000 <	<del>\$(1,172.00)</del>	<del>\$(1,226.00)</del>
\$5,000,000	1,279.00	1,338.00
\$5,000,000 <	<del>\$(1,757.00)</del>	<del>\$(1,838.00)</del>
\$10,000,000	1,918.00	2,007.00
\$10,000,000 and greater	<del>\$(2,929.00)</del> 3,197.00	<del>\$(3,064.00)</del> 3,345.00

For the purposes of determining the annual permit fee category, the annual operating budget shall be the entities' annual operating budget for the entities' previous fiscal year and shall be determined as follows:

- (i) For diking, drainage, irrigation, and flood control districts, the district's annual operating budget.
- (ii) For ports, the annual operating budget for the port district.
- (iii) For colleges, schools, and universities, the portion of the operating budget related to plant or facilities operation and maintenance for the site or sites subject to the permit.
- (iv) For state agencies, the annual operating budget for the site or sites subject to the permit.
- (v) For other entities not listed, ecology will consider annual revenue, and the noncapital operating budget for the site subject to the permit.

(d) Municipal storm water permits written specifically for a single entity, such as a single city, county, or agency, issued after the effective date of this rule will have its annual fee determined in the following manner:

- (i) For cities and counties listed in (a) of this subsection, the fee shall be five times the amount identified.
- (ii) For cities and counties whose median household income exceeds the state average, the fee shall be the higher of either five times the otherwise applicable general permit fee or \$30,000. For municipalities whose median household income is less than the state average, the fee shall be the higher of 2.5 times the otherwise applicable general permit fee or \$15,000.
- (iii) For entities that would otherwise be covered under a municipal storm water general permit as determined in (c) of this subsection, the fiscal year ((2010)) 2012 annual fee for a permit written for a specific entity shall be ~~\$(8,330.00)~~ 9,092.00. For FY ((2011)) 2013, the annual fee will be ~~\$(8,714.00)~~ 9,512.00.

(e) Ecology will assess a single permit fee for entities which apply only as co-permittees or co-applicants. The permit fee shall be equal to the highest single permit fee which would have been assessed if the co-permittees had applied separately.

AMENDATORY SECTION (Amending Order 09-06, filed 9/28/09, effective 10/29/09)

**WAC 173-224-090 Permit fee reductions.** With the exception of facilities covered under the industrial storm water general permit who are not eligible to apply for a fee reduction, any business required to pay a fee under an indus-

trial or construction fee category may receive a reduction of its permit fee.

Small business fee reduction.

(1) To qualify for the fee reduction, a business must:

(a) Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;

(b) Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company);

(c) Have annual sales of one million dollars or less of the goods or services produced using the processes regulated by the waste discharge or storm water discharge permit; and

(d) Have an original annual fee assessment totaling five hundred dollars or greater.

(2) To receive a fee reduction, the permit holder must submit an application in a manner prescribed by the department demonstrating that the conditions of subsection (1) of this section have been met. The application shall bear a certification of correctness and be signed:

(a) In the case of a corporation, by an authorized corporate officer;

(b) In the case of a limited partnership, by an authorized general partner;

(c) In the case of a general partnership, by an authorized partner; or

(d) In the case of a sole proprietorship, by the proprietor.

(3) The department may verify the information contained in the application and, if it determines that the permit holder has made false statements, may deny the fee reduction request and revoke previously granted fee reductions.

(4) The permit fee for small businesses determined to be eligible under subsection (1) of this section shall be reduced to fifty percent of the assessed annual permit fee.

Extreme hardship fee reduction. Any industrial or construction small business with annual gross revenue totaling one hundred thousand dollars or less of the goods and services produced using the processes regulated by the waste discharge or storm water discharge permit may apply for an extreme hardship fee reduction. The small business must provide sufficient evidence to support its claim of an extreme hardship. In no case will a permit fee be reduced below \$((~~112.00~~)) 122.00 for fiscal year ((~~2010~~)) 2012 and \$((~~117.00~~)) 128.00 for fiscal year ((~~2011~~)) 2013.

### WSR 11-15-081

#### PROPOSED RULES

#### OFFICE OF

#### INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2011-06—Filed July 20, 2011, 7:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-09-028.

Title of Rule and Other Identifying Information: Standards for coordination of benefits (COB), amending the definition of "allowable expense" used by secondary payers in calculating payments in COB situations. The amendment eliminates the requirement that a secondary payer must use the highest allowable expense when calculating its payment

and instead provides that it should use the same allowable expense that it would use if it were the primary payer on the claim.

Hearing Location(s): Insurance Commissioner's Office, 302 Sid Snyder Avenue, Room 200, Olympia, WA 98504, on August 23, 2011, at 10:00 a.m.

Date of Intended Adoption: August 31, 2011.

Submit Written Comments to: Pete Cutler, P.O. Box 40248, Olympia, WA 98504-0258, e-mail petec@oic.wa.gov, fax (360) 586-3109, by August 24, 2011.

Assistance for Persons with Disabilities: Contact Lorrie [Lorie] Villaflores by August 22, 2011, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Department of Health and Human Services (HHS) has mandated changes, effective January 1, 2012, to the electronic claims transaction standards adopted pursuant to the HIPAA. (Adopting the ASC X12 5010 version of the standard.) Under the new HIPAA claims transaction standard it would be much more difficult for health care providers to submit the information needed by secondary payers to calculate their payments consistent with the current definition of "allowable expense" in WAC 284-51-195(1) - i.e., using the primary payer's definition of allowable expense when it is larger than the secondary payer's allowable expense. Retaining the "highest allowable expense" standard for secondary payers may create significant new administrative costs and complexity for health care providers and health carriers as a result of the change in the HIPAA claims transaction standards.

The proposed change to the definition of "allowable expense" in WAC 284-51-195 will reduce health plan and health provider administrative costs related to COB situations and will reduce the complexity of complying with the new HIPAA transaction standards. Many consumers/patients in COB situations will have reduced costs under the proposed change.

Statutory Authority for Adoption: RCW 48.02.060, 48.44.050, and 48.46.200.

Statute Being Implemented: RCW 48.21.200.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Pete Cutler, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-9651; Implementation: Beth Berendt, P.O. Box 40257, Olympia, WA 98504-0257, (360) 725-7117; and Enforcement: Carol Sureau, P.O. Box 40257, Olympia, WA 98504-0257, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. None of the entities affected by the proposed rule qualify as small business entities.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Pete Cutler, P.O. Box 40258, Olympia, WA

98504-0258, phone (360) 725-9651, fax (360) 586-3109, e-mail petec@oic.wa.gov.

July 20, 2011  
Mike Kreidler  
Insurance Commissioner

**AMENDATORY SECTION** (Amending Matter No. R 2008-20, filed 7/30/09, effective 9/1/09)

**WAC 284-51-195 Definitions.** As used in this chapter, these words and terms have the following meanings, unless the context clearly indicates otherwise:

(1) "Allowable expense," except as outlined below means any health care expense, including coinsurance or copayments and without reduction for any applicable deductible, that is covered in full or in part by any of the plans covering the person. When coordinating benefits, any secondary plans must pay an amount which, together with the payment made by the primary plan, totals the ~~((higher of the))~~ same allowable expense(s) as the secondary plan would have paid if it was the primary plan. In no event will a secondary plan be required to pay an amount in excess of its maximum benefit plus accrued savings. When medicare, Part A and Part B or Part C are primary, medicare's allowable amount is the highest allowable expense.

(a) If an issuer is advised by a covered person that all plans covering the person are high-deductible health plans and the person intends to contribute to a health savings account established according to Section 223 of the Internal Revenue Code of 1986, the primary high-deductible health plan's deductible is not an allowable expense, except for any health care expense incurred that may not be subject to the deductible as described in Section 223 (c)(2)(C) of the Internal Revenue Code of 1986.

(b) An expense or a portion of an expense that is not covered by any of the plans is not an allowable expense.

(c) The following are examples of expenses that are not allowable expenses:

(i) If a person is confined in a private hospital room, the difference between the cost of a semiprivate room in the hospital and the private room is not an allowable expense, unless one of the plans provides coverage for private hospital room expenses.

(ii) If a person is covered by two or more plans that compute their benefit payments on the basis of usual and customary fees or relative value schedule reimbursement or other similar reimbursement method, any amount charged by the provider in excess of the highest reimbursement amount for a specified benefit is not an allowable expense.

(iii) If a person is covered by two or more plans that provide benefits or services on the basis of negotiated fees, any amount in excess of the highest of the negotiated fees is not an allowable expense.

(d) The definition of "allowable expense" may exclude certain types of coverage or benefits such as dental care, vision care, prescription drugs or hearing aids. A plan that limits the application of COB to certain coverages or benefits may limit the definition of allowable expense in its contract to expenses that are similar to the expenses that it provides. When COB is restricted to specific coverages or benefits in a

contract, the definition of allowable expense must include similar expenses to which COB applies.

(e) When a plan provides benefits in the form of services, the reasonable cash value of each service will be considered an allowable expense and a benefit paid.

(f) If a secondary plan has been informed of the payment made by the primary plan but has not been informed of the amount of the primary plan's allowable expense within the period set forth in WAC 284-51-215 (2)(c), the secondary plan may use its allowable expense as the highest allowable expense.

(2) "Birthday" refers only to the month and day in a calendar year and does not include the year in which the individual is born.

(3) "Claim" means a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of:

(a) Services (including supplies);

(b) Payment for all or a portion of the expenses incurred;

(c) A combination of (a) and (b) of this subsection; or

(d) An indemnification.

(4) "Claim determination period" means calendar year.

(5) "Closed panel plan" means a plan that provides health benefits to covered persons in the form of services primarily through a panel of providers that are employed by the plan, and that excludes benefits for services provided by other providers, except in cases of emergency or referral by a panel member.

(6) "Consolidated Omnibus Budget Reconciliation Act of 1985" or "COBRA" means coverage provided under a right of continuation according to federal law.

(7) "Coordination of benefits" or "COB" means a provision establishing the order that plans pay their claims, and permitting secondary plans to reduce their benefits so that the combined benefits of all plans do not exceed total allowable expenses.

(8) "Custodial parent" means:

(a) The parent awarded custody of a child by a court decree; or

(b) In the absence of a court decree, the parent with whom the child resides more than one-half of the calendar year without regard to any temporary visitation; or

(c) In cases where a court decree awards more than half of the calendar year's residential time to one parent without the use of "custodial" terminology, the parent to whom the greater residential time is awarded.

(9) "High-deductible health plan" has the meaning given the term under Section 223 of the Internal Revenue Code of 1986, as amended by the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

(10)(a) "Hospital indemnity benefits" or "hospital fixed payment plan" means benefits not related to expenses incurred.

(b) "Hospital indemnity benefits" or "hospital fixed payment plan" does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

(11) "Issuer" means a disability carrier, health care service contractor, health maintenance organization, and any other entity issuing a plan as defined in this chapter.

(12) "Plan" means a form of coverage with which coordination is allowed. Separate parts of a plan for members of a group that are provided through alternative contracts that are intended to be part of a coordinated package of benefits are considered one plan and there is no COB among the separate parts of the plan.

(a) If a plan coordinates benefits, its contract must state the types of coverage that will be considered in applying the COB provision of that contract. Whether the contract uses the term "plan" or some other term such as "program," the contractual definition may be no broader than the definition of "plan" in this subsection.

(b) "Plan" includes:

(i) Group, individual or blanket disability insurance contracts, and group or individual contracts marketed by issuers as defined in this chapter;

(ii) Closed panel plans or other forms of group or individual coverage;

(iii) The medical care components of long-term care contracts, such as skilled nursing care; and

(iv) Medicare or other governmental benefits, as permitted by law, except as provided in (c)(vii) of this subsection. That part of the definition of plan may be limited to the hospital, medical and surgical benefits of the governmental program.

(c) "Plan" does not include:

(i) Hospital indemnity or fixed payment coverage benefits or other fixed indemnity or payment coverage;

(ii) Accident only coverage;

(iii) Specified disease or specified accident coverage;

(iv) Limited benefit health coverage, as defined in WAC 284-50-370;

(v) School accident and similar coverages that cover students for accidents only, including athletic injuries, either on a twenty-four-hour basis or on a "to and from school" basis;

(vi) Benefits provided in long-term care insurance policies for nonmedical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;

(vii) Medicare supplement policies;

(viii) A state plan under medicaid;

(ix) A governmental plan, which, by law, provides benefits that are in excess of those of any private insurance plan or other nongovernmental plan;

(x) Automobile insurance policies required by statute to provide medical benefits;

(xi) Benefits provided as part of a direct agreement with a direct patient-provider primary care practice as defined at section 3, chapter 267, Laws of 2007.

(13) "Policyholder" means the primary insured named in a nongroup insurance policy.

(14) "Primary plan" means a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration. A plan subject to this chapter is a primary plan if:

(a) The plan either has no order of benefit determination rules, or its rules differ from those permitted by this chapter; or

(b) All plans that cover the person use the order of benefit determination rules required by this chapter, and under those rules the plan determines its benefits first.

(15) "Secondary plan" means a plan that is not a primary plan.

## WSR 11-15-082

### PROPOSED RULES

#### OFFICE OF

#### INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2011-08—Filed July 20, 2011, 8:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-10-069.

Title of Rule and Other Identifying Information: Long-term care partnership.

Hearing Location(s): OIC Tumwater Office, Training Room 120, 5000 Capitol Boulevard, Tumwater, WA, <http://www.insurance.wa.gov/about/directions.shtml>, on September 8, 2011, at 10:00 a.m.

Date of Intended Adoption: September 15, 2011.

Submit Written Comments to: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, e-mail [kacys@oic.wa.gov](mailto:kacys@oic.wa.gov), fax (360) 586-0139, by September 5, 2011.

Assistance for Persons with Disabilities: Contact Lorrie [Lorie] Villaflores by September 5, 2011, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 48.85.030 was amended during the 2011 legislative session to allow long-term care partnership policies to be marketed in Washington state. These proposed rules amend necessary WACs to align with the amended statute.

Reasons Supporting Proposal: These proposed rules make necessary changes to allow long-term care partnership policies to be issued in Washington state.

Statutory Authority for Adoption: RCW 48.02.060 and 48.85.030.

Statute Being Implemented: RCW 48.85.030.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0248 [98504-0258], (360) 725-7041; Implementation: Beth Berendt, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7117; and Enforcement: Carol Sureau, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The only businesses affected by this proposed rule are long-term care product insurers. None of the active, licensed long-term care product insurers in Washington state are domestic small businesses. Therefore a small business economic impact statement is not required for this proposed rule.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kacy Scott, P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 725-7041, fax (360) 586-3109, e-mail kacys@oic.wa.gov.

July 20, 2011  
Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2008-09, filed 11/24/08, effective 12/25/08)

**WAC 284-83-140 Qualified long-term care insurance policies—Additional standards for benefit triggers.** (1) For purposes of this section the following definitions apply:

(a) "Qualified long-term care services" means services that meet the requirements of Section 7702B (c)(1) of the Internal Revenue Code of 1986, as amended, including: Necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation and rehabilitative services, and maintenance or personal care services which are required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(b)(i) "Chronically ill individual" has the meaning of Section 7702B (c)(2) of the Internal Revenue Code of 1986, as amended. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as:

(A) Being unable to perform (without substantial assistance from another individual) at least two activities of daily living for a period of at least ninety days due to a loss of functional capacity; or

(B) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

(ii) The term "chronically ill individual" does not include an individual otherwise meeting these requirements unless within the preceding twelve-month period a licensed health care practitioner certified that the individual meets these requirements.

(c) "Licensed health care practitioner" means a physician, as defined in Section 1861 (r)(1) of the Social Security Act, a registered professional nurse, licensed social worker or other individual who meets requirements prescribed by the federal Secretary of the Treasury.

(d) "Maintenance or personal care services" means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

(2) A qualified long-term care insurance policy must pay only for qualified long-term care services received by a chronically ill individual provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(3) A qualified long-term care insurance policy must condition the payment of benefits on a determination of the insured's inability to perform activities of daily living for an expected period of at least ninety days due to a loss of functional capacity or to severe cognitive impairment.

(4) Certifications regarding activities of daily living and cognitive impairment required pursuant to subsection (3) of this section must be performed by a licensed or certified physician, registered professional nurse, licensed social worker, or other individual who meet requirements prescribed by the federal Secretary of the Treasury.

(5) Certifications required pursuant to subsection (3) of this section may be performed by a licensed health care professional at the direction of the issuer as is reasonably necessary with respect to a specific claim; except that when a licensed health care practitioner has certified that the insured is unable to perform activities of daily living for an expected period of at least ninety days due to a loss of functional capacity and the insured is in claim status, the certification may not be rescinded and additional certifications may not be performed until after the expiration of the ninety-day period.

(6) Qualified long-term care insurance policies must include a clear description of the process for appealing and resolving disputes with respect to benefit determinations.

## LONG-TERM CARE PARTNERSHIP PROGRAM

### NEW SECTION

**WAC 284-83-400 Purpose and authority.** WAC 284-83-400 through 284-83-420 is adopted pursuant to RCW 48.85.030 and 48.85.040. The purpose of these sections is to effectuate chapter 48.85 RCW, the Washington Long-Term Care Partnership Act. Pursuant to RCW 48.85.030, these sections establish minimum standards and disclosure requirements to be met by insurers, health care service contractors, health maintenance organizations, and fraternal benefit societies with respect to long-term care partnership insurance policies to include: Contracts, certificates, riders, and endorsements.

### NEW SECTION

**WAC 284-83-405 Applicability and scope.** (1) WAC 284-83-400 through 284-83-420 applies to any qualified long-term care insurance partnership policy, as defined by federal law and this chapter.

(2) These sections do not apply to medicare supplement policies regulated under chapters 48.66 RCW and 284-55 or 284-66 WAC; policies or contracts between a continuing care retirement community and its residents; or to long-term care insurance policies that are not intended to provide asset protection under chapter 48.85 RCW.

(3) Policies that do not meet the requirements of the Washington Long-Term Care Partnership Act and the requirements of this chapter may not be advertised, issued or delivered in this state as partnership policies.

### NEW SECTION

**WAC 284-83-410 Minimum standards for long-term care partnership policies.** Every long-term care partnership policy must meet the standards for long-term care policies or contracts in chapters 48.83 and 48.85 RCW and this chapter, unless specifically provided otherwise.

(1) As used in WAC 284-83-400 through 284-83-420, "qualified long-term care partnership policy" or "partnership policy" means a long-term care policy that meets all of the following additional requirements:

(a) The policy was issued on or after January 1, 2012, or exchanged as provided in WAC 284-83-415 on or after January 1, 2012, and covers an insured who was a resident of this state or of another state that has entered into a reciprocal agreement with this state when coverage first became effective under the policy.

(b) The policy is a tax qualified long-term care insurance policy as defined in Section 7702B(b) of the Internal Revenue Code of 1986 (26 U.S.C. 7702B(b)).

(c) The policy provides the following inflation protection:

(i) If the policy is sold to an individual who has not attained age sixty-one as of the date of purchase, the policy must provide automatic annual compounded inflation increases at a rate based on changes in the consumer price index, not to be less than zero percent nor greater than five percent.

(ii) If the policy is sold to an individual who has attained age sixty-one but has not attained age seventy-six as of the date of purchase, the policy must provide automatic simple, noncompounded inflation increases at a rate based on changes in the consumer price index, not to be less than zero percent nor greater than five percent.

(iii) If the policy is sold to an individual who has attained age seventy-six as of the date of purchase, the policy may, but is not required to, provide automatic simple, noncompounded inflation increases at a rate based on changes in the consumer price index, not to be less than zero percent nor greater than five percent.

(iv) For purposes of this section, "consumer price index" means the consumer price index for all urban consumers, U.S. city average, all items, as determined by the Bureau of Labor Statistics of the United States Department of Labor.

(2) Issuers must file a long-term care insurance policy for approval for use as a partnership policy. The long-term care Partnership Policy Certification Form must be completed and accompany the request for approval. The form is available on the commissioner's web site: [www.insurance.wa.gov](http://www.insurance.wa.gov).

(3) Issuers requesting to make use of a previously approved policy form as a qualified state long-term care partnership policy must:

(a) Submit to the commissioner a Partnership Policy Certification Form signed by an officer of the company; and

(b) File for approval an amendatory rider or endorsement indicating the policy is partnership qualified.

(4) An issuer or its agent, soliciting or offering to sell a policy that is intended to qualify as a partnership policy, must provide to each prospective applicant a Partnership Program Notice found on the commissioner's web site: [www.insurance.wa.gov](http://www.insurance.wa.gov), outlining the requirements and benefits of a partnership policy. The Partnership Program Notice must be provided with the required outline of coverage.

(5) A partnership policy issued for delivery in Washington must be accompanied by a Partnership Status Disclosure Notice found on the commissioner's web site: [\[ance.wa.gov\]\(http://www.insurance.wa.gov\), explaining the benefits associated with a partnership policy and indicating that at the time issued, the policy is a qualified Washington state long-term care insurance partnership policy. The Partnership Disclosure Notice must also include a statement indicating that by purchasing this partnership policy, the insured does not automatically qualify for medicaid.](http://www.insur-</a></p>
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#### NEW SECTION

**WAC 284-83-415 Long-term care partnership policy exchange or replacement.** (1) Within one year of the date that an issuer begins to advertise, market, offer, or sell policies that qualify under the Washington state long-term care partnership program, the issuer must offer to all of its current policyholders and certificate holders the opportunity to exchange their existing long-term policy for a policy that is intended to qualify under the state's long-term care partnership program provided that:

(a) The existing long-term care policy was issued on or after February 8, 2006; and

(b) The existing long-term care policy is the type certified by the issuer for purposes of the state long-term care partnership program.

(2) In making an offer to exchange, an issuer must comply with the following requirements:

(a) The offer must be made on a nondiscriminatory basis without regard to the age or health status of the insured; and

(b) The offer must remain open for a minimum of ninety days from the date of mailing by the issuer.

(3) An exchange occurs when an issuer offers a policyholder or certificate holder (hereinafter "insured") the option to replace an existing long-term care insurance policy with a policy that qualifies as a long-term care partnership policy, and the insured accepts the offer to terminate the existing policy and accepts the new policy.

(4) Notwithstanding subsections (1), (2), and (3) of this section:

(a) An offer to exchange may be deferred for any insured who is currently eligible for benefits under an existing policy or who is subject to an elimination period on a claim, but such deferral shall continue only as long as such eligibility or elimination period exists; and

(b) An offer to exchange does not have to be made if the insured would be required to purchase additional benefits to qualify for the state long-term care partnership program and the insured is not eligible to purchase the additional benefits under the issuer's long-term care underwriting guidelines.

(5) If the partnership policy has an actuarial value of benefits equal to or lesser than the actuarial value of benefits of the existing policy, then the following requirements apply:

(a) The partnership policy must not be underwritten; and

(b) The rate charged for the partnership policy shall be determined using the original issue age and risk class of the insured that was used to determine the rate of the existing policy.

(6) If the partnership policy has an actuarial value of benefits exceeding the actuarial value of the benefits of the existing policy, then the following requirements apply:



(a) The issuer must apply its long-term care underwriting guidelines to the increased benefits only; and

(b) The rate charged for the partnership policy must be determined using the method set forth in subsection (5)(b) of this section for the existing benefits, increased by the rate for the increased benefits using the then current attained age and risk class of the insured for the increased benefits only.

(7) The partnership policy offered in an exchange must be on a form that is currently offered for sale by the issuer in the general market.

(8) In the event of an exchange, the insured must not lose any rights, benefits, or built-up value that has accrued under the original policy with respect to the benefits provided under the original policy including, but not limited to, rights established because of the lapse of time related to preexisting condition exclusions, elimination periods, or incontestability clauses.

(9) Issuers may complete an exchange by either issuing a new policy or by amending an existing policy with an endorsement or rider. An issuer must file such endorsement or rider for approval prior to issue.

(10) For those insureds with long-term care policies issued before February 8, 2006, an issuer may offer an insured the option to exchange an existing policy for a policy that qualifies as a Washington state long-term partnership policy. The requirements set forth in subsections (2) through (9) of this section apply to any such exchange.

(11) Policies issued pursuant to this section shall be considered exchanges and not replacements and are not subject to WAC 284-83-060 through 284-83-070.

NEW SECTION

**WAC 284-83-420 Reporting.** All issuers of qualified long-term care partnership policies must provide regular reports to the United States Secretary of Health and Human Services in accordance with regulations of the secretary. These reports include notification regarding when benefits provided under the policy have been paid and the amount of such benefits paid, notification regarding when the policy otherwise terminates, and such other information as the secretary determines may be appropriate to the administration of partnership policies.

NEW SECTION

**WAC 284-83-425 Producer education.** Prior to selling, soliciting, or negotiating, or continuing to sell, solicit, or negotiate long-term care partnership policies in this state, all licensed producers must meet the education requirements in RCW 48.83.130(2).

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 284-85-005 Purpose and authority.
- WAC 284-85-010 Applicability and scope.

- WAC 284-85-015 Standards for definitions used in this chapter and chapter 48.85 RCW.
- WAC 284-85-030 Minimum standards for long-term care partnership policies.
- WAC 284-85-040 Standards related to rates.
- WAC 284-85-045 Conversion from group to individual coverage or replacement of coverage.
- WAC 284-85-050 Disclosure and suitability standards.
- WAC 284-85-055 Termination of participation in the Washington long-term care partnership program.
- WAC 284-85-060 Applications for long-term care partnership coverage.
- WAC 284-85-070 Advertising standards.
- WAC 284-85-075 Summary of insurance benefits.
- WAC 284-85-080 Consumer education program.
- WAC 284-85-085 Standards for education of licensees soliciting long-term care partnership contracts.
- WAC 284-85-090 Standards for case management services.
- WAC 284-85-100 Recordkeeping.
- WAC 284-85-110 Records retention.
- WAC 284-85-900 Chapter not exclusive.

**WSR 11-15-087**

**PROPOSED RULES**

**TRANSPORTATION COMMISSION**

[Filed July 20, 2011, 9:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-01-198 and 11-10-011.

Title of Rule and Other Identifying Information: State ferries and toll bridges, WAC 468-300-010, 468-300-020, 468-300-040, 468-300-220, and 468-300-080.

As required by law, the transportation commission is reviewing the need to adjust ferry fares in October 2011 and May 2012. Proposed revisions to WAC 468-300-010, 468-300-020, 468-300-040 and 468-300-220 increase passenger tolls, vehicle tolls and ferry charter rates effective October 1, 2011, and May 1, 2012. Proposed new WAC 468-300-080 provides the methodology to add a fuel surcharge if the actual fuel costs exceed the budgeted amount established by the legislature, effective October 1, 2011.

Hearing Location(s): Puget Sound Regional Council, 1011 Western Avenue, 5th Floor, Seattle, WA 98104, on August 24, 2011, at 1:00 p.m. - 4:00 p.m.

Date of Intended Adoption: August 24, 2011.

Submit Written Comments to: Reema Griffith, Executive Director, Transportation Commission, 2404 Chandler Court S.W., Suite 270, Olympia, WA 98501, e-mail griffir@wstc.wa.gov, fax (360) 705-6802, by August 24, 2011.

Assistance for Persons with Disabilities: Contact transportation commission office by August 24, 2011, TTY (360) 705-7070.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule is to: (i) Increase ferry tolls and ferry charter rates; (ii) modify certain fare categories, and (iii) establish a capital surcharge and a ferry fuel surcharge methodology, all within the specified WACs. The revisions follow the annual review of Washington state ferry's (WSF) fares and policies.

The anticipated effects of this proposal are that general ferry fares will increase, some fare categories will be modified, and a capital surcharge will be added to every ferry fare (one way or round trip). Also a fuel surcharge may be assessed if actual fuel prices exceed what is budgeted for in the state transportation budget.

Reasons Supporting Proposal: The fare changes are aimed at meeting requirements in state law that include fares

be set to meet the fare revenue target established in the two-year transportation budget.

Statutory Authority for Adoption: RCW 47.56.030 and 47.60.315.

Statute Being Implemented: RCW 47.56.030 and 47.60.315.

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

Name of Proponent: Washington state department of transportation ferries division, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Raymond G. Deardorf, 2901 Third Avenue, Suite 500, Seattle, WA 98121-3014, (206) 515-3491.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The commission has considered this rule and determined that it does not affect more than ten percent of one industry or twenty percent of all industry.

A cost-benefit analysis is not required under RCW 34.05.328. WSF is anticipated to take in more farebox revenue from the proposed fare increase which is estimated to generate approximately \$13 million for fiscal years 2012 and 2013 combined.

July 20, 2011  
Reema Griffith  
Executive Director

AMENDATORY SECTION (Amending WSR 10-24-028, filed 11/19/10, effective 1/1/11)

**WAC 468-300-010 Ferry passenger tolls.**

**EFFECTIVE 03:00 A.M. (~~January~~) October 1, 2011**

ROUTES	Full Fare <sup>10</sup>	Senior/ Disabled <sup>10</sup>	Youth Fare 18 and under <sup>10</sup>	Multiride Media 20 Rides <sup>1, 10</sup>	Monthly Pass <sup>5,-</sup>	Bicycle Surcharge <sup>2((6))</sup>
Via Auto Ferry	<del>((5.50))</del>	<del>((2.75))</del>	<del>((4.40))</del>	<del>((44.00))</del>	<del>((70.40))</del>	
*Fauntleroy-Southworth	<u>5.60</u>	<u>2.65</u>	<u>4.50</u>	<u>44.80</u>	<u>71.70</u>	1.00
*Seattle-Bremerton						
*Seattle-Bainbridge Island	<del>((7.10))</del>	<del>((3.55))</del>	<del>((5.70))</del>	<del>((56.80))</del>	<del>((90.90))</del>	
*Edmonds-Kingston	<u>7.25</u>	<u>3.50</u>	<u>5.80</u>	<u>58.00</u>	<u>92.80</u>	1.00
Port Townsend- <del>((Keystone))</del>	<del>((2.75))</del>	<del>((1.35))</del>	<del>((2.20))</del>	<del>((44.00))</del>	<del>((70.40))</del>	
Coupeville	<u>2.80</u>	<u>1.25</u>	<u>2.25</u>	<u>44.80</u>	<u>71.70</u>	0.50
*Fauntleroy-Vashon						
*Southworth-Vashon	<del>((4.55))</del>	<del>((2.25))</del>	<del>((3.65))</del>	<del>((36.40))</del>	<del>((58.25))</del>	
*Pt. Defiance-Tahlequah	<u>4.65</u>	<u>2.20</u>	<u>3.70</u>	<u>37.20</u>	<u>59.55</u>	1.00
	<del>((4.20))</del>	<del>((2.10))</del>		<del>((33.60))</del>	<del>((53.80))</del>	
*Mukilteo-Clinton	<u>4.25</u>	<u>2.00</u>	3.40	<u>34.00</u>	<u>54.40</u>	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	<del>((11.50))</del>		<del>((9.20))</del>	<del>((74.75))</del>		2.00 <sup>(7)</sup> <u>6</u>
	<u>11.80</u>	5.75	<u>9.45</u>	<u>76.70</u>	N/A	
Between Lopez, Shaw, Orcas and Friday Harbor <sup>4</sup>	N/C	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	<del>((16.85))</del>	<del>((8.40))</del>	<del>((13.50))</del>			4.00 <sup>(8)</sup> <u>7</u>
	<u>17.25</u>	<u>8.50</u>	<u>13.80</u>	N/A	N/A	
From Lopez, Shaw, Orcas and Fri- day Harbor to Sidney	<del>((6.30))</del>	<del>((3.15))</del>	<del>((5.05))</del>			1.00 <sup>(9)</sup> <u>8</u>
	<u>6.45</u>	<u>3.10</u>	<u>5.15</u>	N/A	N/A	
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>3</sup>	<del>((23.15))</del>	<del>((11.55))</del>	<del>((18.55))</del>			5.00 <sup>(10)</sup> <u>9</u>
	<u>23.70</u>	<u>11.60</u>	<u>18.95</u>	N/A	N/A	

All fares rounded to the next multiple of \$0.05.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days to allow for delivery times.

<sup>2</sup>BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare. Customers using multiride media and monthly passes are exempt from the bicycle surcharge. On all routes except Anacortes/San Juan Island/Sidney, B.C., customers paying with the ePurse or the ORCA card are exempt from the bicycle surcharge.

<sup>3</sup>ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the Islands served.

<sup>4</sup>INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

<sup>5</sup>PASSES - Passenger passes are available for all routes except Anacortes/San Juan Island/Sidney. Passes are valid for the period printed on the pass and will be presented to Washington state ferries staff or scanned through an automated turnstile whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass.

A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a 20% discount.

The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through the regional SmartCard program are also nontransferable and intended for a single user, but allow for unlimited usage.

~~(<sup>6</sup>BICYCLE PERMIT - A bicycle pass is available on all routes except Anacortes/San Juan Island/Sidney for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.)~~

~~(<sup>7</sup>)<sup>6</sup>BICYCLE SURCHARGE - This becomes \$4.00 during peak season (May 1 through September 30).~~

~~(<sup>8</sup>)<sup>7</sup>BICYCLE SURCHARGE - This becomes \$6.00 during peak season.~~

~~(<sup>9</sup>)<sup>8</sup>BICYCLE SURCHARGE - This becomes \$2.00 during peak season.~~

~~(<sup>14</sup>)<sup>9</sup>BICYCLE SURCHARGE - This becomes \$8.00 during peak season.~~

<sup>10</sup>CAPITAL SURCHARGE - There will be an additional \$0.25 capital surcharge on each single passenger fare collected. On all multiride cards except for Port Townsend/Coupeville, there will be an additional capital surcharge of \$2.50. For Port Townsend/Coupeville, the additional capital surcharge will be \$5.00 on multiride cards. On all monthly passes except Port Townsend/Coupeville, there will be an additional \$4.00 capital surcharge. For Port Townsend/Coupeville, the additional capital surcharge will be \$8.00 on monthly passes.

CHILDREN/YOUTH - Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths six through eighteen years of age will be charged the youth fare, which will be 80% of full fare rounded to the next multiple of \$ 0.05.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or

design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates. Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximately based on the discount rates offered to multiride media users applicable on the date of travel.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount in order to enhance total revenue and effective only at designated times on designated routes.

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount not to exceed fifty percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. All school groups require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiride media as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days for delivery times.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or

fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call. WSF may implement such ferry passage on a pilot project basis to assess the operational, financial and administrative impact on WSF. By June 30, 2011, WSF shall submit a written report to the Transportation Commission identifying such impacts with a recommendation whether to make such passage authorization a permanent component of the WSF ferry toll schedule.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

**AMENDATORY SECTION** (Amending WSR 10-24-028, filed 11/19/10, effective 1/1/11)

**WAC 468-300-020 Vehicle under ((20)) 22', motorcycle, and stowage ferry tolls.**

**EFFECTIVE 03:00 A.M. ((January)) October 1, 2011**

ROUTES	Vehicle Under ((20)) 14'	Vehicle Under ((20)) 14'	Vehicle Under ((20)) 14'	Vehicle under 14' Multiride
	Incl. Driver One Way <sup>2</sup>	w/Sr Citizen or Disabled Driver <sup>4,7</sup>	Over Height Charge <sup>1</sup>	Media 20 Rides <sup>2,7</sup>
Fauntleroy-Southworth Port	((9.35))	((7.95))	((9.35))	((149.60))
Townsend/((Keystone)) Coupeville	8.65	7.15	8.65	138.25
Seattle-Bainbridge Island Seattle-Bremerton	((12.15))	((10.35))	((12.15))	((194.40))
Edmonds-Kingston	11.25	9.35	11.25	180.00
*Fauntleroy-Vashon *Southworth-Vashon				
*Pt. Defiance-Tahlequah	((15.55))	((13.25))	((15.55))	((124.40))
	14.40	11.95	14.40	115.20
Mukilteo-Clinton	((7.20))	((6.15))	((7.20))	((115.20))
	6.60	5.45	6.60	105.85
10 Rides - 5 Round Trips				
*Anacortes to Lopez	((27.95))	((22.20))	((27.95))	((104.85))
	25.90	19.85	25.90	97.00
*Shaw, Orcas	((33.55))	((27.80))	((33.55))	((125.85))
	31.05	25.00	31.05	116.45
*Friday Harbor	((39.85))	((34.10))	((39.85))	((149.45))
	36.90	30.85	36.90	138.40
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	((18.75))	((18.75))	((18.75))	((75.00))
	17.30	17.30	17.30	69.30
<i>International Travel</i>				
Anacortes to Sidney and Sidney to all destinations	((45.15))	((36.70))	((45.15))	N/A
	41.65	32.90	41.65	
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((13.50))	((10.35))	((13.50))	N/A
	12.45	9.10	12.45	
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>5</sup>	((58.65))	((47.05))	((58.65))	N/A
	54.10	42.00	54.10	

ROUTES	Vehicle 14' to Under 22'	Vehicle 14' to Under 22'	Vehicle 14' to Under 22'	Vehicle 14' to Under 22' Mul-
	Incl. Driver One Way <sup>2</sup>	w/Sr Citizen or Disabled Driver <sup>4,7</sup>	Over Height Charge <sup>1</sup>	tiride Media 20 Rides <sup>2,7</sup>
Fauntleroy-Southworth Port				
Townsend/Coupeville	9.60	8.10	9.60	153.60
Seattle-Bainbridge Island Seattle-Bremerton				
Edmonds-Kingston	12.50	10.60	12.50	200.00
*Fauntleroy-Vashon *Southworth-Vashon				
*Pt. Defiance-Tahlequah	16.00	13.55	16.00	128.00
Mukilteo-Clinton	7.35	6.20	7.35	117.60
10 Rides - 5 Round Trips				
*Anacortes to Lopez	28.75	22.70	28.75	107.85
*Shaw, Orcas	34.50	28.45	34.50	129.40

ROUTES	Vehicle 14' to Under 22'	Vehicle 14' to Under 22'	Vehicle 14' to Under 22'	Vehicle 14' to Under 22' Mul-
	Incl. Driver One Way <sup>2</sup>	w/Sr Citizen or Disabled Driver <sup>4,7</sup>	Over Height Charge <sup>1</sup>	tiride Media 20 Rides <sup>2,7</sup>
*Friday Harbor	41.00	34.95	41.00	153.75
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	19.25	19.25	19.25	77.00
<i>International Travel</i>				
Anacortes to Sidney and Sidney to all destinations	46.25	37.50	46.25	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	13.85	10.50	13.85	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>5</sup>	60.10	48.00	60.10	N/A

EFFECTIVE 03:00 A.M. ((January)) October 1, 2011

ROUTES	Motorcycle <sup>5</sup> Incl. Driver Stowage <sup>1,7</sup>	Motorcycle w/Sr Citizen or Disabled Driver Stowage <sup>1,7</sup>	Motorcycle Oversize Charge <sup>1</sup>	Motorcycle Frequent User Commuter 20 Rides <sup>2,7</sup>
	One Way	One Way		
Fauntleroy-Southworth Port	((4.10))		((1.35))	((65.60))
Townsend/((Keystone)) Coupeville	4.20	2.70	1.80	67.20
Seattle-Bainbridge Island Seattle-Bremerton	((5.30))		((4.75))	((84.80))
Edmonds-Kingston	5.40	3.50	2.30	86.40
*Fauntleroy-Vashon *Southworth-Vashon	((6.75))	((4.45))	((2.20))	((54.00))
*Pt. Defiance-Tahlequah	6.95	4.50	2.95	55.60
Mukilteo-Clinton	((3.15))	((2.10))	((1.05))	((50.40))
	3.20	2.05	1.40	51.20
*Anacortes to Lopez	((14.80))	((9.05))	((3.30))	((111.00))
	15.20	9.15	4.55	114.00
*Shaw, Orcas	((15.95))	((10.20))	((4.45))	((119.65))
	16.35	10.30	5.95	122.65
*Friday Harbor	((17.20))	((11.45))	((5.70))	((129.00))
	17.65	11.60	7.50	132.40
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	((5.35))	((5.35))	((5.35))	N/A
	5.45	5.45	6.25	N/A
Anacortes to Sidney and Sidney to all destinations	((22.55))	((14.10))	((5.70))	N/A
	23.05	14.30	7.65	N/A
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations <sup>6</sup>	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((7.75))		((1.45))	N/A
	7.95	4.60	2.05	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>6</sup>	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>5</sup>	((30.30))	((18.70))	((7.15))	N/A
	31.00	18.90	9.70	N/A

All fares rounded to the next multiple of \$0.05.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>SIZE - ((All)) Vehicles up to ((20)) 14' in length and under 7'6" in height shall pay the vehicle under ((20)) 14' toll. All vehicles from 14' to under 22' in length and under 7'6" in height shall pay the 14' to 22' toll. All vehicles up to ((20)) 22' but over 7'6" in height shall pay an overheight charge of 100% of the vehicle full fare. Motorcycles with trailers, sidecars, or any vehicle licensed as a motorcycle with three or more wheels will pay an oversize motorcycle charge ((of 100% of the motorcycle full fare)). Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

<sup>2</sup>MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the media shall not be accepted for passage. Remaining value will not be eligible for refund. For mail order deliveries, WSF may add additional days to allow for delivery time.

<sup>3</sup>INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

<sup>5</sup>ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

<sup>6</sup>VEHICLE RESERVATION DEPOSIT - Nonrefundable deposits for advance vehicle reservations may be established at a level of from 25 to 100 percent of the applicable fare. This is a deposit toward the fare and not an additional fee, and applies only to those routes where the legislature has approved the use of a reservation system. Refunds may be available under certain circumstances.

<sup>7</sup>CAPITAL SURCHARGE - There will be an additional \$0.25 capital surcharge on each single vehicle/driver fare collected. On all multiride cards except for routes serving Vashon Island and the San Juan Islands, there will be an additional capital surcharge of \$5.00. For Vashon Island routes, the additional capital surcharge will be \$2.50 on multiride cards. For motorcycles in the San Juan Islands, the capital surcharge on multiride cards will be \$2.50. For vehicles under 22' in the San Juan Islands, the capital surcharge on multiride cards will be \$1.25.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare. Carpools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from May 1 through September 30 except those using multiride media. A 35% surcharge shall be applied on vehicle fares from Anacortes to Lopez, Shaw, Orcas and Friday Harbor, except those using multiride media. A 114% surcharge shall be applied to the San Juan Islands to Sidney route. The resulting fare is rounded up to the next \$0.05 if required.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call. WSF may implement such ferry passage on a pilot project basis to assess the operational, financial and administrative impact on WSF. By June 30, 2011, WSF shall submit a written report to the Transportation Commission identifying such

impacts with a recommendation whether to make such passage authorization a permanent component of the WSF ferry toll schedule.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates (20% off base season rates, except for Anacortes to San Juan Islands where it is 35% off base season end of week rates). Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximate based on the discount rates offered to multiride media users applicable on the date of travel.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specified discount in order to enhance total revenue and effective only at designated times on designated routes.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

BUNDLED SINGLE FARE MEDIA - WSF may bundle single fare types into multiple trip books as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days to allow for delivery time. ~~((Anacortes to San Juan Islands senior/disabled fares will be bundled at the applicable early week price.))~~

AMENDATORY SECTION (Amending WSR 10-24-028, filed 11/19/10, effective 1/1/11)

WAC 468-300-040 Oversize vehicle ferry tolls.

EFFECTIVE 03:00 A.M. (~~January~~) October 1, 2011

ROUTES	Oversize Vehicle Ferry Tolls <sup>1</sup>							
	Overall Unit Length - Including Driver							
	( <del>20</del> ) 22' To Under 30' Under 7'6" High <sup>5</sup>	( <del>20</del> ) 22' To Under 30' Over 7'6" High <sup>5</sup>	30' To Under 40' <sup>5</sup>	40' To Under 50' <sup>5</sup>	50' To Under 60' <sup>5</sup>	60' To under 70' <sup>5</sup>	70' To and include 80' <sup>5</sup>	Cost Per Ft. Over 80' @
Fauntleroy-Southworth								
Port Townsend/(( <del>Keystone</del> )) Coupe-ville	((14.05)) <u>14.65</u>	((28.05)) <u>29.30</u>	((37.40)) <u>39.35</u>	((46.75)) <u>49.45</u>	((56.10)) <u>59.50</u>	((65.45)) <u>69.60</u>	((74.80)) <u>79.70</u>	((0.95)) <u>1.00</u>
Seattle-Bainbridge Island								
Seattle/Bremerton	((18.25))	((36.45))	((48.60))	((60.75))	((72.90))	((85.05))	((97.20))	((1.20))
Edmonds-Kingston	<u>19.05</u>	<u>38.15</u>	<u>51.25</u>	<u>64.40</u>	<u>77.50</u>	<u>90.65</u>	<u>103.75</u>	<u>1.30</u>
*Fauntleroy-Vashon								
*Southworth-Vashon	((23.35))	((46.65))	((62.20))	((77.75))	((93.30))	((108.85))	((124.40))	((1.55))
*Pt. Defiance-Tahlequah	<u>24.40</u>	<u>48.80</u>	<u>65.60</u>	<u>82.40</u>	<u>99.20</u>	<u>116.00</u>	<u>132.80</u>	<u>1.70</u>
Mukilteo-Clinton	((10.80)) <u>11.20</u>	((21.60)) <u>22.40</u>	((28.80)) <u>30.15</u>	((36.00)) <u>37.85</u>	((43.20)) <u>45.55</u>	((50.40)) <u>53.30</u>	((57.60)) <u>61.00</u>	((0.70)) <u>0.75</u>
*Anacortes to Lopez <sup>2</sup>	((41.95)) <u>43.85</u>	((83.85)) <u>87.70</u>	((111.80)) <u>117.85</u>	((139.75)) <u>148.05</u>	((167.70)) <u>178.25</u>	((195.65)) <u>208.45</u>	((223.60)) <u>238.65</u>	((2.80)) <u>3.00</u>
*Anacortes to Shaw, Orcas <sup>2</sup>	((50.35)) <u>52.60</u>	((100.65)) <u>105.20</u>	((134.20)) <u>141.45</u>	((167.75)) <u>177.70</u>	((201.30)) <u>213.90</u>	((234.85)) <u>250.15</u>	((268.40)) <u>286.35</u>	((3.35)) <u>3.60</u>
*Anacortes to Friday Harbor	((59.80)) <u>62.55</u>	((119.55)) <u>125.05</u>	((159.40)) <u>168.10</u>	((199.25)) <u>211.15</u>	((239.10)) <u>254.20</u>	((278.95)) <u>297.25</u>	((318.80)) <u>340.30</u>	((4.00)) <u>4.30</u>
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	((28.15)) <u>29.35</u>	((56.25)) <u>58.70</u>	((75.00)) <u>78.90</u>	((93.75)) <u>99.15</u>	((112.50)) <u>119.35</u>	((131.25)) <u>139.55</u>	((150.00)) <u>159.80</u>	N/A
<i>International Travel</i>								
Anacortes to Sidney to all destinations - Recreational Vehicles and Buses	((67.75)) <u>70.55</u>	((67.75)) <u>70.55</u>	((90.30)) <u>94.80</u>	((112.90)) <u>119.10</u>	((135.45)) <u>143.40</u>	((158.05)) <u>167.65</u>	((180.60)) <u>191.95</u>	((2.25)) <u>2.45</u>
Anacortes to Sidney and Sidney to all destinations - Commercial Vehicles	((67.75)) <u>70.55</u>	((135.45)) <u>141.05</u>	((180.60)) <u>189.60</u>	((225.75)) <u>238.20</u>	((270.90)) <u>286.75</u>	((316.05)) <u>335.30</u>	((361.20)) <u>383.90</u>	((4.50)) <u>4.85</u>
Lopez, Shaw, Orcas and Friday Harbor to Sidney - Recreational Vehicles and Buses	((20.25)) <u>21.15</u>	((20.25)) <u>21.15</u>	((27.00)) <u>28.40</u>	((33.75)) <u>35.70</u>	((40.50)) <u>42.95</u>	((47.25)) <u>50.20</u>	((54.00)) <u>57.50</u>	((0.70)) <u>0.75</u>
Lopez, Shaw, Orcas and Friday Harbor to Sidney - Commercial Vehicles	((20.25)) <u>21.15</u>	((40.50)) <u>42.25</u>	((54.00)) <u>56.80</u>	((67.50)) <u>71.35</u>	((81.00)) <u>85.85</u>	((94.50)) <u>100.40</u>	((108.00)) <u>114.95</u>	((1.35)) <u>1.45</u>
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>4</sup> - Recreational Vehicles and Buses	((88.00)) <u>91.70</u>	((88.00)) <u>91.70</u>	((117.30)) <u>123.20</u>	((146.65)) <u>154.80</u>	((175.95)) <u>186.35</u>	((205.30)) <u>217.85</u>	((234.60)) <u>249.45</u>	((2.95)) <u>3.20</u>
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>4</sup> - Commercial Vehicles	((88.00)) <u>91.70</u>	((175.95)) <u>183.30</u>	((234.60)) <u>246.40</u>	((293.25)) <u>309.55</u>	((351.90)) <u>372.60</u>	((410.55)) <u>435.70</u>	((469.20)) <u>498.85</u>	((5.85)) <u>6.30</u>

<sup>1</sup>OVERSIZE VEHICLES - Includes all vehicles (~~20~~) 22 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under (~~20~~) 22' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles wider than 8'6" pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, vehicles (~~20~~) 22-30 feet in length and over 7'6" in height shall be charged the (~~20~~) 22-30 foot length and under 7'6" in height fare for vehicles equipped with wheelchair lift or other mechanism designed to accommodate the person with the disability.

<sup>2</sup>TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate transfer when first purchasing the appropriate fare. The transfer is valid for a 24-hour period and is priced as follows: \$((59.50)) 61.00 base season, \$((80.25)) 82.25 peak season.

<sup>3</sup>INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

<sup>5</sup>CAPITAL SURCHARGE - There will be an additional \$0.25 capital surcharge on each single vehicle/driver fare collected.

VEHICLE RESERVATION DEPOSIT - Nonrefundable deposits for advanced reservations may be established at a level of from 25 to 100 percent of the applicable fare. This is a deposit toward the fare and not an additional fee, and applies only to those routes where the legislature has approved the use of a reservation system. Refunds may be available under certain special circumstances.

COMMERCIAL VEHICLE RESERVATION FEES - For commercial vehicles traveling with reservations a participation fee (\$200 for summer schedule season, \$100 for each of the other schedule seasons) will be charged. Fees will be collected when reservations are confirmed.

PEAK SEASON SURCHARGE - A peak season surcharge shall apply to all oversize vehicles from May 1 through September 30. The oversize fare shall be determined based on the peak-season car-and-driver fare and the analogous oversize vehicle fare, calculated with the same factor as the oversize base seasons fares are to the base season under 20 foot fare. The senior citizen discount shall apply to the driver of an oversize vehicle. The resulting fare is rounded up to the next \$0.05 if required.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate. The senior citizen discount shall apply to the driver of an oversize vehicle.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

DISCOUNT FROM REGULAR TOLL - Effective June 1, 2005, through fall of 2005, oversize vehicles making 12 or more, one-way crossings per week (Sunday through Saturday) will qualify for a 10% discount from the regular ferry tolls. With the implementation of EFS in spring 2006, WSF will provide a commercial account program that will be prepaid and offer access to volume discounts based on travel, revenue or other criteria in accordance with WSF business rules. On an annual basis, commercial accounts will pay a \$50 nonrefundable account maintenance fee.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes

for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call. WSF may implement such ferry passage on a pilot project basis to assess the operational, financial and administrative impact on WSF. By June 30, 2011, WSF shall submit a written report to the Transportation Commission identifying such impacts with a recommendation whether to make such passage authorization a permanent component of the WSF ferry toll schedule.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

**AMENDATORY SECTION** (Amending WSR 10-24-028, filed 11/19/10, effective 1/1/11)

**WAC 468-300-010 Ferry passenger tolls.**

**EFFECTIVE 03:00 A.M. (~~January~~) May 1, (2011) 2012**

ROUTES	Full Fare <sup>10</sup>	Senior/ Disabled <sup>10</sup>	Youth Fare 18 and under <sup>10</sup>	Multiride Media 20 Rides <sup>1,10</sup>	Monthly Pass <sup>5,-</sup>	Bicycle Surcharge <sup>2,(6)</sup>
Via Auto Ferry	<del>((5.50))</del>	<del>((2.75))</del>	<del>((4.40))</del>	<del>((44.00))</del>	<del>((70.40))</del>	
*Fautleroy-Southworth	<u>5.70</u>	<u>2.70</u>	<u>4.55</u>	<u>45.60</u>	<u>73.00</u>	1.00
*Seattle-Bremerton						
*Seattle-Bainbridge Island	<del>((7.10))</del>	<del>((3.55))</del>	<del>((5.70))</del>	<del>((56.80))</del>	<del>((90.90))</del>	
*Edmonds-Kingston	<u>7.45</u>	<u>3.60</u>	<u>5.95</u>	<u>59.60</u>	<u>95.40</u>	1.00
Port Townsend- <del>((Keystone))</del>	<del>((2.75))</del>	<del>((1.35))</del>	<del>((2.20))</del>	<del>((44.00))</del>	<del>((70.40))</del>	
Coupeville	<u>2.85</u>	<u>1.30</u>	<u>2.30</u>	<u>45.60</u>	<u>73.00</u>	0.50
*Fautleroy-Vashon						
*Southworth-Vashon	<del>((4.55))</del>		<del>((3.65))</del>	<del>((36.40))</del>	<del>((58.25))</del>	
*Pt. Defiance-Tahlequah	<u>4.75</u>	2.25	<u>3.80</u>	<u>38.00</u>	<u>60.80</u>	1.00
	<del>((4.20))</del>	<del>((2.10))</del>	<del>((3.40))</del>	<del>((33.60))</del>	<del>((53.80))</del>	
*Mukilteo-Clinton	<u>4.40</u>	<u>2.05</u>	<u>3.50</u>	<u>35.20</u>	<u>56.35</u>	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	<del>((11.50))</del>	<del>((5.75))</del>	<del>((9.20))</del>	<del>((74.75))</del>	N/A	2.00 <sup>(7)</sup> <sup>6</sup>



ROUTES	Full Fare <sup>10</sup>	Senior/ Disabled <sup>10</sup>	Youth Fare 18 and under <sup>10</sup>	Multiride Media 20 Rides <sup>1,10</sup>	Monthly Pass <sup>5,-</sup>	Bicycle Surcharge <sup>2((6))</sup>
Between Lopez, Shaw, Orcas and Friday Harbor <sup>4</sup>	N/C	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	((16.85)) <u>17.75</u>	((8.40)) <u>8.75</u>	((13.50)) <u>14.20</u>	N/A	N/A	4.00 <sup>((8))</sup> <sup>1</sup>
From Lopez, Shaw, Orcas and Friday Harbor to Sidney	((6.30)) <u>6.65</u>	((3.15)) <u>3.20</u>	((5.05)) <u>5.30</u>	N/A	N/A	1.00 <sup>((9))</sup> <sup>8</sup>
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>3</sup>	((23.15)) <u>24.40</u>	((11.55)) <u>11.95</u>	((18.55)) <u>19.50</u>	N/A	N/A	5.00 <sup>((49))</sup> <sup>2</sup>

All fares rounded to the next multiple of \$0.05.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days to allow for delivery times.

<sup>2</sup>BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare. Customers using multiride media and monthly passes are exempt from the bicycle surcharge. On all routes except Anacortes/San Juan Islands/Sidney, B.C., customers paying with the ePurse on the ORCA card are exempt from the bicycle surcharge.

<sup>3</sup>ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the Islands served.

<sup>4</sup>INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

<sup>5</sup>PASSES - Passenger passes are available for all routes except Anacortes/San Juan Island/Sidney. Passes are valid for the period printed on the pass and will be presented to Washington state ferries staff or scanned through an automated turnstile whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass.

A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a 20% discount.

The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through the regional Smart-Card program are also nontransferable and intended for a single user, but allow for unlimited usage.

~~((<sup>6</sup>BICYCLE PERMIT - A bicycle pass is available on all routes except Anacortes/San Juan Island/Sidney for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.))~~

~~((<sup>7</sup>)<sup>6</sup>BICYCLE SURCHARGE - This becomes \$4.00 during peak season (May 1 through September 30).))~~

~~((<sup>8</sup>)<sup>7</sup>BICYCLE SURCHARGE - This becomes \$6.00 during peak season.))~~

~~((<sup>9</sup>)<sup>8</sup>BICYCLE SURCHARGE - This becomes \$2.00 during peak season.))~~

~~((<sup>49</sup>)<sup>9</sup>BICYCLE SURCHARGE - This becomes \$8.00 during peak season.))~~

<sup>10</sup>CAPITAL SURCHARGE - There will be an additional \$0.25 capital surcharge on each single passenger fare collected. On all multiride cards except for Port Townsend/Coupeville, there will be an additional capital surcharge of \$2.50. For Port Townsend/Coupeville, the additional capital surcharge will be \$5.00 on multiride

cards. On all monthly passes except Port Townsend/Coupeville, there will be an additional \$4.00 capital surcharge. For Port Townsend/Coupeville, the additional capital surcharge will be \$8.00 on monthly passes.

CHILDREN/YOUTH - Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths six through eighteen years of age will be charged the youth fare, which will be 80% of full fare rounded to the next multiple of \$ 0.05.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates. Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximately based on the discount rates offered to multiride media users applicable on the date of travel.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount in order to enhance total revenue and effective only at designated times on designated routes.

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare

Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount not to exceed fifty percent of full fare.

**SCHOOL GROUPS** - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. All school groups require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect.

**BUNDLED SINGLE FARE BOOKS** - WSF may bundle single fare types into multiride media as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days for delivery times.

**FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION** - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department

and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call. WSF may implement such ferry passage on a pilot project basis to assess the operational, financial and administrative impact on WSF. By June 30, 2011, WSF shall submit a written report to the Transportation Commission identifying such impacts with a recommendation whether to make such passage authorization a permanent component of the WSF ferry toll schedule.

**GROUP OR VOLUME SALES** - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

**SPECIAL EVENTS** - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

**AMENDATORY SECTION** (Amending WSR 10-24-028, filed 11/19/10, effective 1/1/11)

**WAC 468-300-020 Vehicle under ((20')) 22', motorcycle, and stowage ferry tolls.**

**EFFECTIVE 03:00 A.M. ((January)) May 1, ((2011)) 2012**

ROUTES	Vehicle Under ((20')) 14' Incl. Driver One Way <sup>2</sup>	Vehicle Under ((20')) 14' w/Sr Citizen or Disabled Driver <sup>4,7</sup>	Vehicle Under ((20')) 14' Over Height Charge <sup>1,7</sup>	Vehicle Under 14' Multiride Media 20 Rides <sup>2,7</sup>
Fauntleroy-Southworth Port	((9.35))	((7.95))	((9.35))	((149.60))
Townsend/((Keystone)) Coupeville	7.95	6.45	7.95	127.35
Seattle-Bainbridge Island Seattle-Bremerton	((12.15))	((10.35))	((12.15))	((194.40))
Edmonds-Kingston	10.30	8.35	10.30	165.10
*Fauntleroy-Vashon *Southworth-Vashon				
*Pt. Defiance-Tahlequah	((15.55))	((13.25))	((15.55))	((124.40))
	13.20	10.70	13.20	105.60
Mukilteo-Clinton	((7.20))	((6.15))	((7.20))	((115.20))
	6.10	4.90	6.10	97.30
10 Rides - 5 Round Trips				
*Anacortes to Lopez	((27.95))	((22.20))	((27.95))	((104.85))
	23.70	17.45	23.70	88.95
*Shaw, Orcas	((33.55))	((27.80))	((33.55))	((125.85))
	28.50	22.25	28.50	106.80
*Friday Harbor	((39.85))	((34.10))	((39.85))	((149.45))
	33.85	27.60	33.85	126.90
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	((18.75))	((18.75))	((18.75))	((75.00))
	15.90	15.90	15.90	63.50
<i>International Travel</i>				
Anacortes to Sidney and Sidney to all destinations	((45.15))	((36.70))	((45.15))	N/A
	38.10	29.10	38.10	
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((13.50))	((10.35))	((13.50))	N/A
	11.40	7.95	11.40	
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>5</sup>	((58.65))	((47.05))	((58.65))	N/A
	49.50	37.05	49.50	

**EFFECTIVE 03:00 A.M. May 1, 2012**

ROUTES	Vehicle 14' to Under 22' Incl. Driver One Way <sup>2</sup>	Vehicle 14' to Under 22' w/Sr Citizen or Disabled Driver <sup>4,7</sup>	Vehicle 14' to Under 22' Over Height Charge <sup>1,7</sup>	Vehicle 14' to Under 22' Mul- titude Media 20 Rides <sup>2,7</sup>
Fauntleroy-Southworth Port Townsend/Coupeville	9.95	8.45	9.95	159.20
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	12.90	10.95	12.90	206.40
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	16.50	14.00	16.50	132.00
Mukilteo-Clinton	7.60	6.40	7.60	121.60
<b>10 Rides - 5 Round Trips</b>				
*Anacortes to Lopez	29.65	23.40	29.65	111.20
*Shaw, Orcas	35.60	29.35	35.60	133.50
*Friday Harbor	42.30	36.05	42.30	158.65
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	19.85	19.85	19.85	79.40
<i>International Travel</i>				
Anacortes to Sidney and Sidney to all desti- nations	47.65	38.65	47.65	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	14.25	10.80	14.25	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>5</sup>	61.90	49.45	61.90	N/A

**EFFECTIVE 03:00 A.M. ((January)) May 1, ((2011)) 2012**

ROUTES	Motorcycle <sup>5</sup> Incl. Driver Stowage <sup>1,7</sup> One Way	Motorcycle w/Sr Citizen or Disabled Driver Stowage <sup>1,7</sup> One Way	Motorcycle Oversize Charge <sup>1</sup>	Motorcycle Frequent User Commuter 20 Rides <sup>2,7</sup>
Fauntleroy-Southworth Port Townsend/((Keystone)) Coupeville	((4.10)) 4.30	((2.70)) 2.80	((1.35)) 2.20	((65.60)) 68.80
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((5.30)) 5.60	((3.50)) 3.65	((1.75)) 2.90	((84.80)) 89.60
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	((6.75)) 7.10	((4.45)) 4.60	((2.20)) 3.65	((54.00)) 56.80
Mukilteo-Clinton	((3.15)) 3.30	2.10	((1.05)) 1.70	((50.40)) 52.80
*Anacortes to Lopez	((14.80)) 15.70	((9.05)) 9.45	((3.30)) 5.80	((111.00)) 117.75
*Shaw, Orcas	((15.95)) 16.90	((10.20)) 10.65	((4.45)) 7.45	((119.65)) 126.75
*Friday Harbor	((17.20)) 18.25	((11.45)) 12.00	((5.70)) 9.35	((129.00)) 136.90
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	((5.35)) 5.65	((5.35)) 5.65	((5.35)) 7.20	N/A
Anacortes to Sidney and Sidney to all desti- nations	((22.55)) 23.75	((14.10)) 14.75	((5.70)) 9.70	N/A
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations <sup>6</sup>	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((7.75)) 8.20	((4.60)) 4.75	((1.45)) 2.65	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>6</sup>	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>5</sup>	((30.30)) 31.95	((18.70)) 19.50	((7.15)) 12.35	N/A

All fares rounded to the next multiple of \$0.05.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>SIZE - ((A#)) Vehicles up to ((2#)) 14' in length and under 7'6" in height shall pay the vehicle under ((2#)) 14' toll. Vehicles from 14' to under 22' and under 7'6" in height shall pay the 14' to 22' toll. All vehicles up to ((2#)) 22' but over 7'6" in height shall pay an overheight charge of 100% of the vehicle full fare. Motorcycles with trailers, sidecars, or any vehicle licensed as a motorcycle with three or more wheels will pay an oversize motorcycle charge ((of 100% of the motorcycle full fare)). Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

<sup>2</sup>MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the media shall not be accepted for passage. Remaining value will not be eligible for refund. For mail order deliveries, WSF may add additional days to allow for delivery time.

<sup>3</sup>INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

<sup>5</sup>ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

<sup>6</sup>VEHICLE RESERVATION DEPOSIT - Nonrefundable deposits for advance vehicle reservations may be established at a level of from 25 to 100 percent of the applicable fare. This is a deposit toward the fare and not an additional fee, and applies only to those routes where the legislature has approved the use of a reservation system. Refunds may be available under certain circumstances.

<sup>7</sup>CAPITAL SURCHARGE - There will be an additional \$0.25 capital surcharge on each single vehicle/driver fare collected. On all multiride cards except for routes serving Vashon Island and the San Juan Islands, there will be an additional capital surcharge of \$5.00. For Vashon Island routes, the additional capital surcharge will be \$2.50 on multiride cards. For motorcycles in the San Juan Islands, the capital surcharge on multiride cards will be \$2.50. For vehicles under 22' in the San Juan Islands, the capital surcharge on multiride cards will be \$1.25.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare. Carpools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate.

This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from May 1 through September 30 except those using multiride media. A 35% surcharge shall be applied on vehicle fares from Anacortes to Lopez, Shaw, Orcas and Friday Harbor, except those using multiride media. A 114% surcharge shall be applied to the San Juan Islands to Sidney route. The resulting fare is rounded up to the next \$0.05 if required.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call. WSF may implement such ferry passage on a pilot project basis to assess the operational, financial and administrative impact on WSF. By June 30, 2011, WSF shall submit a written report to the Transportation Commission identifying such impacts with a recommendation whether to make such passage authorization a permanent component of the WSF ferry toll schedule.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates (20% off base season rates, except for Anacortes to San Juan Islands where it is 35% off base season end of week rates). Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximate based on the discount rates offered to multiride media users applicable on the date of travel.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specified discount in order to enhance total revenue and effective only at designated times on designated routes.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

BUNDLED SINGLE FARE MEDIA - WSF may bundle single fare types into multiple trip books as a customer convenience. Remaining value will not be eligible for refund or exchange. For

mail order deliveries, WSF may add additional days to allow for delivery time. ((Anacortes to San Juan Islands senior/disabled fares will be bundled at the applicable early week price:))

**AMENDATORY SECTION** (Amending WSR 10-24-028, filed 11/19/10, effective 1/1/11)

**WAC 468-300-040 Oversize vehicle ferry tolls.**

**EFFECTIVE 03:00 A.M. ((January)) May 1, ((2011)) 2012**

ROUTES	Oversize Vehicle Ferry Tolls <sup>1</sup>							
	Overall Unit Length - Including Driver							
	( <del>20'</del> ) 22' To Under 30' Under 7'6" High <sup>2</sup>	( <del>20'</del> ) 22' To Under 30' Over 7'6" High <sup>2</sup>	30' To Under 40' <sup>2</sup>	40' To Under 50' <sup>2</sup>	50' To Under 60' <sup>2</sup>	60' To under 70' <sup>2</sup>	70' To and include 80' <sup>2</sup>	Cost Per Ft. Over 80' @
Fauntleroy-Southworth								
Port Townsend/((Keystone)) Coupe-ville	((14.05)) 15.45	((28.05)) 30.85	((37.40)) 41.30	((46.75)) 51.75	((56.10)) 62.20	((65.45)) 72.65	((74.80)) 83.10	((0.95)) 1.05
Seattle-Bainbridge Island								
Seattle/Bremerton	((18.25))	((36.45))	((48.60))	((60.75))	((72.90))	((85.05))	((97.20))	((1.20))
Edmonds-Kingston	20.00	40.00	53.55	67.10	80.65	94.15	107.70	1.35
*Fauntleroy-Vashon								
*Southworth-Vashon	((23.35))	((46.65))	((62.20))	((77.75))	((93.30))	((108.85))	((124.40))	((1.55))
*Pt. Defiance-Tahlequah	25.60	51.15	68.50	85.80	103.15	120.45	137.80	1.75
Mukilteo-Clinton	((10.80)) 11.80	((21.60)) 23.55	((28.80)) 31.55	((36.00)) 39.50	((43.20)) 47.50	((50.40)) 55.50	((57.60)) 63.45	((0.70)) 0.80
*Anacortes to Lopez <sup>2</sup>	((41.95)) 45.95	((83.85)) 91.90	((111.80)) 123.05	((139.75)) 154.20	((167.70)) 185.30	((195.65)) 216.45	((223.60)) 247.60	((2.80)) 3.10
*Anacortes to Shaw, Orcas <sup>2</sup>	((50.35)) 55.20	((100.65)) 110.35	((134.20)) 147.75	((167.75)) 185.10	((201.30)) 222.50	((234.85)) 259.90	((268.40)) 297.25	((3.35)) 3.75
*Anacortes to Friday Harbor	((59.80)) 65.60	((119.55)) 131.15	((159.40)) 175.55	((199.25)) 219.95	((239.10)) 264.40	((278.95)) 308.80	((318.80)) 353.20	((4.00)) 4.45
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	((28.15)) 30.80	((56.25)) 61.55	((75.00)) 82.40	((93.75)) 103.20	((112.50)) 124.05	((131.25)) 144.90	((150.00)) 165.75	N/A
<i>International Travel</i>								
Anacortes to Sidney to all destinations - Recreational Vehicles and Buses	((67.75)) 73.85	((67.75)) 73.85	((90.30)) 98.90	((112.90)) 123.90	((135.45)) 148.90	((158.05)) 173.95	((180.60)) 198.95	((2.25)) 2.50
Anacortes to Sidney and Sidney to all destinations - Commercial Vehicles	((67.75)) 73.85	((135.45)) 147.70	((180.60)) 197.75	((225.75)) 247.80	((270.90)) 297.80	((316.05)) 347.85	((361.20)) 397.90	((4.50)) 5.00
Lopez, Shaw, Orcas and Friday Harbor to Sidney - Recreational Vehicles and Buses	((20.25)) 22.10	((20.25)) 22.10	((27.00)) 29.60	((33.75)) 37.05	((40.50)) 44.55	((47.25)) 52.00	((54.00)) 59.50	((0.70)) 0.75
Lopez, Shaw, Orcas and Friday Harbor to Sidney - Commercial Vehicles	((88.00)) 95.95	((88.00)) 95.95	((117.30)) 128.50	((146.65)) 160.95	((175.95)) 193.45	((205.30)) 225.95	((234.60)) 258.45	((2.95)) 3.25
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>4</sup> - Recreational Vehicles and Buses	((88.00))	((175.95))	((234.60))	((293.25))	((351.90))	((410.55))	((469.20))	((5.85))
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>4</sup> - Commercial Vehicles	95.95	191.90	256.90	321.90	386.85	451.85	516.90	6.50

<sup>1</sup>OVERSIZE VEHICLES - Includes all vehicles ((20)) 22 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under ((20')) 22' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles wider than 8'6" pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, vehicles ((20)) 22-30 feet in length and over 7'6" in height shall be charged the ((20)) 22-30 foot length and under

7'6" in height fare for vehicles equipped with wheelchair lift or other mechanism designed to accommodate the person with the disability.

<sup>2</sup>TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate transfer when first purchasing the appropriate fare. The transfer is valid for a 24-hour period and is priced as follows: \$((59.50)) 62.85 base season, \$((80.25)) 84.70 peak season.

<sup>3</sup>INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-

island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

<sup>5</sup>CAPITAL SURCHARGE - There will be an additional \$0.25 capital surcharge on each single vehicle/driver fare collected.

VEHICLE RESERVATION DEPOSIT - Nonrefundable deposits for advanced reservations may be established at a level of from 25 to 100 percent of the applicable fare. This is a deposit toward the fare and not an additional fee, and applies only to those routes where the legislature has approved the use of a reservation system. Refunds may be available under certain special circumstances.

COMMERCIAL VEHICLE RESERVATION FEES - For commercial vehicles traveling with reservations a participation fee (\$200 for summer schedule season, \$100 for each of the other schedule seasons) will be charged. Fees will be collected when reservations are confirmed.

PEAK SEASON SURCHARGE - A peak season surcharge shall apply to all oversize vehicles from May 1 through September 30. The oversize fare shall be determined based on the peak-season car-and-driver fare and the analogous oversize vehicle fare, calculated with the same factor as the oversize base seasons fares are to the base season under 20 foot fare. The senior citizen discount shall apply to the driver of an oversize vehicle. The resulting fare is rounded up to the next \$0.05 if required.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate. The senior citizen discount shall apply to the driver of an oversize vehicle.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

DISCOUNT FROM REGULAR TOLL - Effective June 1, 2005, through fall of 2005, oversize vehicles making 12 or more, one-way crossings per week (Sunday through Saturday) will qualify for a 10% discount from the regular ferry tolls. With the implementation of EFS in spring 2006, WSF will provide a commercial account program that will be prepaid and offer access to volume discounts based on travel, revenue or other criteria in accordance with WSF business rules. On an annual basis, commercial accounts will pay a \$50 nonrefundable account maintenance fee.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or

fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call. WSF may implement such ferry passage on a pilot project basis to assess the operational, financial and administrative impact on WSF. By June 30, 2011, WSF shall submit a written report to the Transportation Commission identifying such impacts with a recommendation whether to make such passage authorization a permanent component of the WSF ferry toll schedule.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

## NEW SECTION

**WAC 468-300-080 Fuel surcharge.** (1) In order to manage the financial risk associated with fuel price volatility, it is hereby declared to be the policy of the Washington state transportation commission to implement a fuel surcharge as an added component to the regular posted fares for passage on vessels operated by Washington state ferries (WSF) to mitigate the financial impacts associated with unexpected increases in fuel prices which exceed those incorporated in WSF's fuel budget. The total ferry fare charged will consist of the base fare plus an automatic, incremental, additional surcharge as calculated according to the formula set forth in this rule.

(2) The method for calculating the fuel surcharge amount shall be as follows:

(a) Determine excess fuel costs for current quarter by subtracting budgeted fuel costs from actual fuel costs for the quarter. For the purposes of this rule, quarters shall be consistent with the state fiscal year definition of quarters.

(b) To minimize lags in the application of this rule, the quarter will be closed one week prior to the actual end of the quarter, and an estimate of actual costs will be prepared to account for the missing consumption days and any lags in accounting for actual purchases.

(c) The estimate of actual costs for missing consumption days shall be developed as follows:

(i) Estimated actual fuel costs will be based on the Oil Price Information Service (OPIS) daily contract average rack prices for ultra low-sulfur dyed diesel fuel as reported by the Washington state department of general administration's office of state procurement for Tacoma and Anacortes fuel price data as of the cutoff date.

(ii) Applicable taxes and fees are added to the Anacortes and Tacoma rack prices to derive total estimated cost per gallon for purchases at Anacortes and Tacoma on the missing days.

(iii) Total price per gallon is multiplied by budgeted gallons of fuel for the missing days in the quarter, where gallons are split into estimated purchases at Anacortes and Tacoma prices based on the year-to-date shares of gallons purchased at Tacoma and Anacortes rack prices.

(d) Net excess fuel costs for the quarter shall be determined on the basis of the current estimate of the excess fuel costs for the quarter plus an accounting for the following:

(i) Any necessary reconciliation from the previous quarter's estimate of actual costs once full accounting of actual costs is complete.

(ii) Any necessary adjustments to ensure actual costs reflect budget assumptions regarding the appropriate share of biodiesel fuel or total diesel gallons to be purchased. Where actual gallons purchased or share of biodiesel vary from the assumptions used to develop the budget, the actual costs shall be reduced by the amount that these variations may have increased costs beyond the amounts assumed in the budget appropriation.

(iii) Subtracting any fuel surcharge revenues collected in the current quarter.

(iv) Adding net excess fuel costs from the previous quarter.

(e) Calculate an excess fuel cost percentage by dividing adjusted excess fuel costs by the current quarter's budgeted fuel costs.

(f) A fuel surcharge amount is then calculated as follows:

(i) Multiply the excess fuel cost percentage by the share of budgeted fuel costs to total operating costs for the current biennium (defined as the specific fuel appropriation divided by the total appropriation made to "Program X - Marine" as provided in the current transportation budget and supporting financial plan); then

(ii) Divide the result by the farebox recovery rate for the current biennium (defined as the fare revenue target divided by total appropriation to "Program X - Marine" as provided in the current transportation budget and supporting financial plan).

(3) A fuel surcharge shall be determined based on the calculation of the surcharge amount (as defined in subsection (2)(f) of this section) and applied to applicable fares as follows:

(a) If the surcharge amount is less than 2.5%, then a fuel surcharge shall not be applied.

(b) If the surcharge amount is equal to or greater than 2.5%, then the surcharge shall be determined as follows:

(i) Surcharge amount is equal to or greater than 2.5% and less than 5% then the surcharge shall be 2.5% of the applicable fare.

(ii) Surcharge amount is equal to or greater than 5% and less than 7.5% then the surcharge shall be 5% of the applicable fare.

(iii) Surcharge amount is equal to or greater than 7.5% and less than 10% then the surcharge shall be 7.5% of the applicable fare.

(iv) Surcharge amount is 10% or greater, the surcharge shall be 10% of the applicable fare.

(c) The surcharge shall be applied to all fares, with resulting fares rounded to the nearest nickel.

(4) WSF shall estimate the need for a fuel surcharge on a quarterly basis, based upon the formula prescribed in this rule, and if a surcharge is to be added or modified, then the department shall:

(a) Notify ORCA partners and customers of the pending surcharge changes at least thirty days prior to implementation of said changes.

(b) Make all surcharge changes effective on the first of the month.

(5) Excess fuel costs shall be reset to zero at the beginning of the biennium.

(6) The amount of any fuel surcharge shall be shown separately on customer receipts.

(7) WSF shall provide an annual report to the legislature, OFM, and the Washington state transportation commission summarizing its fuel cost mitigation activities, including how the department has managed its costs as well as the application, performance and impact of fuel surcharges pursuant to this authority.

(8) To facilitate understanding on the part of WSF customers and to ensure a transparent process, an explanation of how the surcharge is applied, including a summary of the actual calculation of the surcharge percentage, shall be described on the WSF web site.

(9) This rule goes into effect on October 1, 2011.

AMENDATORY SECTION (Amending WSR 10-24-028, filed 11/19/10, effective 1/1/11)

**WAC 468-300-220 Calculation of charter rates for vessels owned by the Washington state ferry system.** Pursuant to chapter 323, Laws of 1997, vessels owned by the Washington state ferry system may be made available for charter subject to operational availability. Execution of a charter agreement as set forth in the statute must precede a commitment to charter. The following actual hourly vessel operating costs have been calculated for establishing the rates to be charged for vessel charters from July 1, (~~2010~~) 2011, through June 30, (~~2011~~) 2012:

Vessel Class	Deck Crew On Overtime	Deck Crew On Straight Time
Jumbo Mark II	<del>\$(1,911.00)</del> <u>1,851.00</u>	<del>\$((1,615.00))</del> <u>1,877.00</u>
Jumbo	<del>((1,862.00))</del> <u>1,739.00</u>	<del>((1,580.00))</del> <u>1,762.00</u>
Super	<del>((1,755.00))</del> <u>1,664.00</u>	<del>((1,483.00))</del> <u>1,690.00</u>
Evergreen	<del>((1,189.00))</del> <u>1,057.00</u>	<del>((972.00))</del> <u>1,075.00</u>
Issaquah	<del>((1,313.00))</del> <u>1,204.00</u>	<del>((1,086.00))</del> <u>1,222.00</u>
Rhododendron	<del>((885.00))</del> <u>760.00</u>	<del>((713.00))</del> <u>771.00</u>
Hiyu	<del>((657.00))</del> <u>626.00</u>	<del>((541.00))</del> <u>629.00</u>

The rate for an individual charter will be calculated by:

(1) Multiplying the actual operating cost set forth above for the vessel that is chartered by the number of hours, or fraction thereof, for which the vessel is chartered;

(2) Adding labor costs, mileage and per diem expenses to determine the total actual costs if the particular charter requires a crew callout; and

(3) Increasing the total actual costs calculated pursuant to subsections (1) and (2) of this section by an appropriate profit margin based on market conditions, and rounding to the nearest fifty dollars.

In the case of charters for the transport of hazardous materials, the transporter is required to pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of the Washington state ferry system.

### WSR 11-15-092

#### PROPOSED RULES

#### DEPARTMENT OF TRANSPORTATION

[Filed July 20, 2011, 9:17 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 11-12-049.

Title of Rule and Other Identifying Information: WAC 468-38-071 to reflect 2011 legislative revisions to gross weight and road segment length to the United States heavy haul corridor and add conditions to a divisible load permit for tarping system equipped vehicles.

WAC 468-38-050 to coincide with the revisions to WAC 468-38-071 as it pertains to divisible load permits for tarping system equipped vehicles.

WAC 468-38-270 Specialized equipment due to SB 5260 being passed and removing the saddlemount vehicle type from RCW 46.44.037 to be referenced in WAC 468-38-270.

Hearing Location(s): Transportation Building, Commission Board Room, 1D2, 310 Maple Park Avenue S.E., Olympia, WA 98504, on August 23, 2011, at 1:30 p.m.

Date of Intended Adoption: August 23, 2011.

Submit Written Comments to: James L. Wright, P.O. Box 47367, Olympia, WA 98504-7367, e-mail [wrightji@wsdot.wa.gov](mailto:wrightji@wsdot.wa.gov), fax (360) 704-6350, by August 23, 2011.

Assistance for Persons with Disabilities: Contact Grant Heap by August 23, 2011, TTY (360) 705-7760 or (360) 705-6808.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 468-38-071, rules further define the requirements for the heavy haul corridor vehicles on US 97. Legislation revised the gross weight and increased the road segment length of the corridor.

WAC 468-38-093 [468-38-050], rules will establish conditions for compliance for overwidth tarping systems. RCW 46.44.092(3) authorizes a permit for tarping system equipped vehicles but did not establish conditions in which to do so.

WAC 468-38-101 [468-38-270], SB 5260 removes reference to saddlemount vehicle from statute to be referenced in administrative rule. Placing the saddlemount vehicle in rule allows for timely revisions at the state level when federal law revises the limits to the saddlemount vehicle type.

Reasons Supporting Proposal: Adoption of proposal will comply with statute and better define the administration and enforcement of the statutes on the US 97 heavy haul corridor, tarping system permits, and the saddlemount vehicle combination.

Statutory Authority for Adoption: RCW 46.44.090, 46.44.0915, 46.44.101.

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

Name of Proponent: WSDOT traffic office, commercial vehicle services, governmental.

Name of Agency Personnel Responsible for Drafting: Jim Wright, 7345 Linderson Way S.W., Tumwater, WA, (360) 704-6345; Implementation: Anne Ford, 7345 Linderson Way S.W., Tumwater, WA, (360) 705-7341; and Enforcement: Captain Darrin Grondel, 210 11th Street, GA Building, Olympia, WA, (360) 753-0350.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The new rules adopt current state requirements of farm implements and vehicles using heavy haul corridors without material change as referenced in RCW 34.05.310 (4)(c).

A cost-benefit analysis is not required under RCW 34.05.328. There is no additional cost related to these proposals. The proposals identify the conditions for vehicles transporting loads when vehicles are issued permits pursuant to RCW 46.44.0915 and 46.44.290.

July 20, 2011

Stephen T. Reinmuth

Chief of Staff

AMENDATORY SECTION (Amending WSR 05-04-053, filed 1/28/05, effective 2/28/05)

**WAC 468-38-050 Special permits for extra-legal loads. (1) When can the department or its agents issue a permit for an extra-legal move?** The following general conditions must be met:

(a) Application has been made in written or electronic format to the department or its agents (oral application is acceptable in face-to-face over-the-counter transactions) and the applicant has shown there is good cause for the move.

(b) The applicant has shown the configuration is eligible for a permit.

(c) The vehicle, vehicle combination and/or load has been thoroughly described and identified.

(d) The points of origin and destination and the route of travel have been stated and approved.

(e) The move has been determined to be consistent with public safety. The permit applicant has indicated that appropriate safety precautions will be taken as required by state law, administrative rule or specific permit instruction.

**(2) How must a vehicle(s), including load, be configured to be eligible for a special permit to move on the state highways?** A vehicle(s), including load, that can be readily or reasonably dismantled must be reduced to a minimum practical size and weight. Portions of a load may be detached and reloaded on the same hauling unit when the separate pieces are necessary to the operation of the machine or equipment which is being hauled: Provided, That the arrangement



does not exceed special permit limits. Detached and reloaded pieces must be identified on the special permit. Permit requests for specific divisible loads are authorized under WAC 468-38-071.

(3) **Are there any exceptions to dismantling the configuration?** Yes. A vehicle, vehicle combination or load may stay assembled if by separating it into smaller loads or vehicles the intended use of the vehicle or load would be compromised (i.e., removing the boom from a self-propelled crane), the value of the load or vehicle would be destroyed (i.e., removing protective packaging), and/or it would require more than eight work hours to dismantle using appropriate equipment. The permit applicant has the burden of proof in seeking an exception. Configurations that fall under the exception must not exceed special permit limits.

(4) **What does the applicant affirm when he/she signs the permit?** The permit applicant affirms:

(a) The vehicle or vehicle combination and operator(s) are properly licensed to operate and carry the load described in accordance with appropriate Washington law and administrative code.

(b) They will comply with all applicable requirements stipulated in the permit to move the extra-legal configuration.

(c) The move (vehicle and operator) is covered by a minimum of seven hundred and fifty thousand dollars liability insurance: Provided, That a noncommercial move (vehicle and operator) shall have at minimum three hundred thousand dollars liability insurance for the stated purpose.

(d) Except as provided in RCW 46.44.140, the ~~((original))~~ official department special permit ~~((permit with original signature) or certified copy will))~~ signed by the permittee, or a copy of the signed permit, must be carried on the power unit at all times while the permit is in effect. Moves made by designated emergency vehicles, receiving departmental permit authorization telephonically, are exempt from this requirement.

(5) **What specific responsibility and liability does the state assign to the permit applicant through the special permit?** Permits are granted with the specific understanding that the permit applicant shall be responsible and liable for accidents, damage or injury to any person or property resulting from the operation of the vehicle covered by the permit upon public highways of the state. The permit applicant shall hold blameless and harmless and shall indemnify the state of Washington, department of transportation, its officers, agents, and employees against any and all claims, demands, loss, injury, damage, actions and costs of actions whatsoever, that any of them may sustain by reason of unlawful acts, conduct or operations of the permit applicant in connection with the operations covered by the permit.

(6) **When and where can a special permit be acquired?** The following options are available:

(a) Special permits may be purchased at any authorized department of transportation office or ~~((agency))~~ agent Monday through Friday during normal business hours.

(b) An application for a permit may be submitted by facsimile, including charge card information to an authorized location. The special permit will be issued and returned by facsimile subject to normal business hours.

(c) Companies that would like to self-issue permits for their own vehicles may apply to the department for this privilege. Department representatives will work with the company to determine if self-issuing is appropriate.

(d) The department will maintain and publish a list of authorized permit offices and ~~((agencies))~~ agents.

AMENDATORY SECTION (Amending WSR 08-13-042, filed 6/12/08, effective 6/12/08)

**WAC 468-38-071 Maximums and other criteria for special permits—Divisible.** (1) **Can a vehicle, or vehicle combination, acquire a permit to exceed the dimensions for legal vehicles in regular operation when moving items of a divisible nature?** Yes. There are ~~((some very))~~ specific configurations that ~~((can))~~ receive extra length, extra width, or extra height when carrying a divisible load.

(2) **What configurations can be issued a permit, and how are they measured?** The configurations and measurement criteria are:

(a) An overlength permit may be issued to a truck-tractor to pull a single trailer or semi-trailer, with a trailer length not to exceed fifty-six feet. The measurement for the single trailing unit will be from the front of the trailer (including draw bar when used), or load, to the rear of the trailer, or load, whichever provides the greater distance up to fifty-six feet. Rear overhang may not exceed fifteen feet.

(b) An overlength permit may be issued to a truck-tractor to pull a set of double trailers, composed of a semi-trailer and full trailer or second semi-trailer, with a combined trailer length not to exceed sixty-eight feet. The measurement for double trailers will be from the front of the first trailer, or load, to the end of the second trailer or load, whichever provides the greatest distance up to sixty-eight feet. Note: If the truck-tractor is carrying an allowable small freight compartment (dromedary box), the total combined length of the combination, combined trailer length notwithstanding, is limited to seventy-five feet.

(c) An overlength permit may be issued to a log truck pulling a pole-trailer, trailer combination, carrying two distinct and separate loads, as if it was a truck-tractor pulling a set of double trailers. Measurement for the log truck, pole-trailer, trailer combination will be from the front of the first bunk on the truck to the rear of the second trailer, or load, whichever provides the greatest distance up to sixty-eight feet.

(d) An overheight permit may be issued to a vehicle or vehicle combination, hauling empty apple bins, not to exceed fifteen feet high. Measurement is taken from a level roadbed. This permit may be used in conjunction with either of the overlength permits in (a) or (b) of this subsection. The permit may also provide an exemption from a front pilot/escort vehicle as required by WAC 468-38-100 (1)(h). The exemption does not limit the liability assumed by the permit applicant.

(e) An overheight permit may be issued to a vehicle or vehicle combination owned by a rancher and used to haul ~~((his))~~ the rancher's own hay from ~~((his))~~ the rancher's own fields to feed ~~((his))~~ the rancher's own livestock, not to exceed fifteen feet high, measured from a level roadbed. This permit may be used in conjunction with either of the over-

length permits in (a) or (b) of this subsection. The permit may also provide an exemption from a front pilot/escort vehicle as required by WAC 468-38-100 (1)(h). The exemption does not limit the liability assumed by the permit applicant.

(f) An overwidth permit, termed a tarping system permit, may be issued to a vehicle or vehicle combination for a divisible load when such vehicle is equipped with a tarping system as defined in WAC 468-38-073 (5)(n) and under the following conditions:

(i) The divisible load must be authorized by a tarping system permit in order to display the special conditions on the permit;

(ii) A tarping system permit is required for any divisible load exceeding one hundred and two inches (eight feet six inches) in width but not exceeding nine feet in width, all of which must be within the confines of the tarping system dimensions. For example, bulging of the tarping material, to accommodate the load, is not authorized;

(iii) A tarping system permit is authorized to be used in conjunction with either of the overlength permits authorized under (a) or (b) of this subsection; and

(iv) Vehicles operating with a tarping system permit are exempt from the requirements and restrictions listed in WAC 468-38-075(1).

**(3) Are there any measurement exclusive devices related to these permits?** Measurements should not include nonload-carrying devices designed for the safe and/or efficient operation of the vehicle, or vehicle combination components, for example: An external refrigeration unit, a resilient bumper, an aerodynamic shell, etc. Safety and efficiency appurtenances, such as, but not limited to, tarp rails and splash suppression devices, may not extend more than three inches beyond the width of a vehicle. The examples are not all inclusive.

**(4) Are overweight permits available for divisible loads?** Yes. There are specific criteria authorizing overweight permits to divisible loads.

(a) The secretary of transportation, or designee, may issue permits to department vehicles used for the emergent preservation of public safety and/or the infrastructure (i.e., snow removal, sanding highways during emergency winter conditions, emergent debris removal or retainment, etc.). The permits will also be valid for the vehicles in transit to or from the emergent worksite. The special permits may allow:

(i) Weight on axles in excess of what is allowed in RCW 46.44.041;

(ii) Movement during hours of the day, or days of the week, that may be restricted in WAC 468-38-175;

Number of Axles	2	3	4	5	6	7	8
Truck	36,000 (16,350)	53,000 (24,250)					
Truck and Full Trailer			74,000 (33,500)	91,000 (41,250)	106,500 (48,250)	118,000 (53,500)	<u>139,994</u> <u>(63,500)</u>
Truck and Pup		56,200 (25,450)	74,000 (33,550)	91,000 (41,250)	99,800 (45,250)		

(ii) Exemption from the sign requirements of WAC 468-38-155(7) if weather conditions render such signs ineffectual; and

(iv) Movement at night, that may be restricted by WAC 468-38-175(3), by vehicles with lights that meet the standards for emergency maintenance vehicles established by the commission on equipment.

(b) Additional weight allowances are authorized through special permit for a segment of US-97 from the Canadian border to milepost (~~(331.22)~~) 331.12 designated as a heavy haul industrial corridor. The permits will authorize vehicles to haul divisible loads weighing up to the Canadian inter-provincial weight limits and must comply with the following requirements:

(i) Vehicles applying for the Canadian weight special permit must be licensed to their maximum legal weight limit in Washington state.

(ii) Displaying the US-97 heavy haul industrial corridor permit does not waive registration fees, fuel taxes, operating authority requirements, future legislative or regulatory changes. Except as provided in the provisions for the heavy weight industrial corridor on US-97, all Washington state and federal laws must be complied with.

(iii) Routes of travel are strictly limited: Both directions of US-97 from the Canadian border at milepost 336.48 to milepost (~~(331.22)~~) 331.12.

(iv) A Washington state axle spacing report is required for Canadian weight verification.

(v) The following descriptions indicate the maximum weight limits that will be permitted:

(A) Primary steering axle - 600 lbs. (272 kg) per inch (25.4 mm) of width of tire\* with a maximum limit of 12,100 lbs.

(B) Other axles - 500 lbs. (227 kg) per inch of width of tire\*.

(C) Single axles - 20,000 lbs. (9,100 kg) maximum.

(D) Tandem axles - 37,500 lbs. (17,000 kg) maximum.

\*Width of tire is determined by tire side-wall nomenclature.

(E) Tridem axles.

Axle Spread	Pounds	Kilograms
94" (2.4m) to < 118" (3.0m)	46,300	21,000
118" (3.0m) to < 141" (3.6m)	50,700	23,000
141" (3.6m) to < 146" (3.7m)	52,900	24,000

Note: When computing allowable weights, the most conservative figure (whether weight per width of tire, axle weights, or gross weights) will govern.

(F) Maximum gross weight - pounds (kilograms).

Number of Axles	2	3	4	5	6	7	8
Tractor and Semi		52,300 (23,700)	69,700 (31,600)	87,100 (39,500)	95,900 - 102,500*		
A-Train**				92,500 (41,900)	109,800 (49,800)	118,000 (53,500)	118,000 (53,500)
B-Train**				90,000 (40,700)	107,200 (48,600)	124,600 (56,500)	<del>((137,800- (62,500)))</del> 139,994 <del>(63,500)</del>
C-Train**				92,500 (41,900)	109,800 (49,800)	120,500 (54,600)	130,000 (58,500)

\*Semi tridem axle spacing and weight limits:  
 94" to < 118" (2.4m to < 3.0m) spread - 95,900 lbs. (43,500 kg).  
 118" to < 141" (3.0m to < 3.6m) spread - 100,310 lbs. (45,500 kg).  
 141" to < 146" (3.6m to < 3.7m) spread - 102,500 lbs. (46,500 kg).  
 \*\*Double trailer vehicles definition for this section:  
 A-Train: Double trailers coupled by a single drawbar.  
 B-Train: Two semi-trailers coupled by a fifth wheel mounted to rear of first trailer.  
 C-Train: Double trailers coupled by double drawbars with self-steering dolly axle(s).

**AMENDATORY SECTION** (Amending WSR 05-12-001, filed 5/18/05, effective 6/18/05)

**WAC 468-38-270 Specialized (~~(mobile)~~) equipment.**  
**(1) Why are certain vehicles designated as specialized (~~(mobile)~~) equipment?** Certain vehicles are designed and built for very unique functions other than transporting persons. The federal highway administration (~~(has classified)~~) classifies and references some of these vehicles as specialized (~~(mobile)~~) equipment in Title 23 CFR Part 658.13(e) and sets minimum and/or maximum parameters for the vehicle to operate (~~(legally)~~). The department (~~(has)~~) adopted these specialized classifications and accepted or further defined the legal parameters for operation on state highways. In addition to federal rule, the department has also recognized certain specially designed vehicles that, by necessity, exceed one or more of the vehicle size and weight parameters in chapter 46.44 RCW. The department has also classified these over-legal vehicles as specialized (~~(mobile)~~) equipment in order to (~~(address their needs, via)~~) authorized their movement on state highways, using a special motor vehicle permit, and provide a consistent administrative and enforcement treatment. ((This rule is not intended to encourage the development of vehicles that exceed the legal requirements of chapter 46.44 RCW.)) All vehicles exceeding legal requirements are subject to (~~(restricted access to the state highway network)~~) the requirements of this section and the requirements of chapter 46.44 RCW.

**(2) What vehicle types are classified by Title 23 Code of Federal Regulations (CFR) 658.13(e) as specialized equipment, including size (~~(parameters, can)~~) limits, and authorized to operate (~~(legally)~~) on the state highways without a special permit?** Listed in alphabetical order:

**Automobile transporter:** To be considered an automobile transporter, the power unit and the trailing unit must be modified to carry assembled automobiles. If the combination consists of a truck and stinger-steered trailing unit, the overall

dimension for length (~~(can be up to)~~) must not exceed seventy-five feet, plus a front overhang of three feet and rear overhang of four feet. (~~((A))~~) If the combination consists of a tractor and semi-trailer (traditional high mount) (~~(may have an)~~), overall dimension for length (~~((F))~~) will not exceed sixty-five feet, plus three-foot front overhang and four-foot rear overhang.

**Boat transporter:** See automobile transporter.

**Driveaway saddlemount vehicles:** A combination consisting of a maximum of four trucks or truck tractors used in driveaway service where three of the vehicles are towed by the fourth in triple saddlemount position. The overall dimension for the length of the saddlemount combination will not exceed ninety-seven feet. Such combinations may include all axles of one vehicle loaded upon another, known as a full-mount.

**Munitions carriers with dromedary equipment:** A truck tractor equipped with a dromedary unit operating in combination with a semi-trailer transporting Class 1 explosives and/or any munitions related security material, as specified by the U.S. Department of Defense in compliance with 49 CFR 177.835, (~~(may have an)~~) overall dimension for length (~~(up to)~~) not to exceed seventy-five feet.

**(3) What (~~(specialized equipment)~~) other vehicle types does the department recognize as specialized equipment for the purpose of oversize and overweight permitting?** The following specialized equipment, including size and weight parameters, can operate with special permit(~~(?)~~). Listed in alphabetical order:

**Concrete pumper trucks:** As a single unit fixed load vehicle, may exceed the legal weight limits (~~(up to the maximums established)~~) in RCW 46.44.041 and 46.44.042 with a special motor vehicle permit, but must comply with the requirements in RCW 46.44.091. Tire loading for the movement is limited to the lesser of six hundred pounds per inch width of tire or the tire manufacturer's rating with proper inflation, as determined by the nomenclature imprinted on the tire. (~~(Included with the fixed load are)~~) Pumper hose extensions and a (~~(necessary)~~) volume of water to flush the system (~~(at the job site)~~), when the pumping process is complete.

**Construction equipment:** Equipment used primarily for off-road heavy construction activity may be permitted for use on designated highway segments (~~(up to the maximums established)~~) identified in RCW 46.16.010 (5)(h)(i)(B) and (C) and must comply with the weight limits in RCW 46.44.091 (~~(when properly equipped for highway operation~~

per chapter 46.37 RCW)). Equipment ((delivered to a construction site)) may operate without permit on highway segments designated as part of the construction zone.

**Cranes:** As a single unit fixed load vehicle, may exceed the legal weight limits ((up to the maximums established)) in RCW 46.44.041 and 46.44.042 with a special motor vehicle permit but must comply with the requirements in RCW 46.44.091. Tire loading for the movement is limited to the lesser of six hundred pounds per inch width of tire or the tire manufacturer's rating with proper inflation, as determined by the nomenclature imprinted on the tire. Cranes may be permitted with standard working components that are included within the rated capacity of the crane. A boom trailer or boom dolly will be permitted only when the boom is attached to the crane upper works, for the purpose of transferring load to meet weight requirements. A crane may be permitted with counterweights, outrigger assemblies, load block, hook and cable tension ball assembly also loaded on the boom trailer or boom dolly, as long as those components are included in the rated capacity of the crane and do not cause the vehicle to exceed permitted weight limits.

**Well drilling trucks:** As a single unit fixed load vehicle, may exceed the legal weight limits ((up to the maximums established)) in RCW 46.44.041 and 46.44.042 with a special motor vehicle permit but must comply with the requirements in RCW 46.44.091. Tire loading for the movement is limited to the lesser of six hundred pounds per inch width of tire or the tire manufacturer's rating with proper inflation, as determined by the nomenclature imprinted on the tire. ((In addition to the fixed load,)) The vehicle may carry drill extensions as part of the fixed load.

(4) **Can specialized ((mobile)) equipment tow a licensed vehicle used for commute purposes?** A specialized self-propelled single unit vehicle registered as a fixed load, operating under a fixed load permit, and/or cranes operating under an oversize/overweight permit (exclusive of boom dollies or trailers), may be permitted to tow a vehicle with a gross vehicle weight rating not to exceed eight thousand pounds. The overall length of the combination must not exceed seventy-five feet. The towed vehicle must be used for the sole purpose of commuting to and from the job site where the specialized ((mobile)) equipment is in service.

(5) **Does a specialized ((mobile)) vehicle operating under an overweight or fixed load permit receive any exemption from weight postings or weight restrictions placed on highway infrastructure?** No. Specialized mobile equipment must not cross load-restricted infrastructure when the equipment, either as a result of gross weight, axle weight or tire loadings, exceeds the stated capacity of the posting or restriction. However, exemptions to specific requirements, in WAC 468-38-075, may apply to specific fixed loads as identified in WAC 468-38-075.

**WSR 11-15-098**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed July 20, 2011, 11:16 a.m.]

Supplemental Notice to WSR 11-14-100.

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 and repeal of chapter 220-88B WAC, Coastal spot shrimp.

Hearing Location(s): Washington Department of Fish and Wildlife (WDFW), Region Six Office, 48 Devonshire Road, Montesano, WA 98563, on Tuesday, August 30, 2011, at 9:30 a.m.

Date of Intended Adoption: On or after August 30, 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 August 20, 2011.

Assistance for Persons with Disabilities: Contact Susan Galloway by August 20, 2011, at (360) 902-2267 or by TTY at 1-800-833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This supplemental CR-102 is needed to repeal chapter 220-88B WAC, which is being replaced by the new section, WAC 220-52-052. The original CR-102 filing failed to include the repealer for chapter 220-88B WAC.

SHB 1148 (2011) establishes a coastal spot shrimp license limitation program. These rules are needed to implement the program and largely replicate rules used to manage this fishery over the past decade under the Emerging Commercial Fisheries Act (ECFA [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, Record-Keeping, and Other Compliance Requirements of the Proposed Rule:** WDFW has managed the coastal spot shrimp fishery under 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 one hundred fifty-three inch bottom perimeter and a maximum twenty-four 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 five hundred 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 Businesses 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 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](mailto:Lori.preuss@dfw.wa.gov).

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

July 20, 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 subsection 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:

**WSR 11-15-100**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**

[Filed July 20, 2011, 11:35 a.m.]

(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.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 220-88B-010	Emerging commercial fishery—Coastal—Purpose.
WAC 220-88B-020	Designation of the coastal spot shrimp pot fishery as an emerging commercial fishery.
WAC 220-88B-030	Emerging commercial fishery—Eligibility for coastal experimental fishery permits—Terms and conditions of use—Renewal—Vessel restriction—Incidental catch.
WAC 220-88B-040	Coastal spot shrimp pot experimental fishery—Season and gear—Species restriction.

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-020.

Title of Rule and Other Identifying Information: WAC 230-05-020, fees-bona fide charitable/nonprofit organizations and WAC 230-05-030 Fees for other businesses.

Hearing Location(s): Great Wolf Lodge, 20500 Old Highway 99 S.W., Grand Mound, WA 98531, on September 8 or 9, 2011, at 9:00 a.m. or 1:00 p.m. NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Date of Intended Adoption: September 8 or 9, 2011. NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Submit Written Comments to: Susan Arland, P.O. Box 42400, Olympia, WA 98504-2400, e-mail SusanA@wsgc.wa.gov, fax (360) 486-3625, by September 1, 2011.

Assistance for Persons with Disabilities: Contact Gail Grate, executive assistant, by September 1, 2011, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: We have received a petition for rule change from Mr. Bearden, representing various charitable and nonprofit organizations, some of which have a gambling license and others do not. The proposed change would reduce licensing fees and I.D. stamp fees for charitable and nonprofit organizations (C/NP's) by fifty percent. This would be a reduction of license fees to the commission of approximately \$460,000 per year. For I.D. stamp fees, the estimated reduction per year would be approximately \$50,000. Therefore, the total reduction in fees to the commission per year would be over \$500,000.

Reasons Supporting Proposal: In their petition, the petitioners stated "The 50% request should not be considered a discount, but an exchange for services provided. Charities are required to return 40% - 60% of their profits to the community and needy. The returns are in cash, services, supplies, and/or volunteer labor. These materials and services provide maximum return on the donation as all are voluntary, therefore no costs (i.e., government employee pay and allowances, travel, administration) is withdrawn from the contribution."

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Robert Bearden, representing various charitable and nonprofit organizations, some of which have a gambling license and others do not, private.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because the proposed rule change does not impose more than minor costs, as defined in chapter 19.85 RCW, to licensees.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

July 20, 2011  
 Susan Arland  
 Rules Coordinator

**AMENDATORY SECTION** (Amending Order 621, filed 11/20/07, effective 1/1/08)

**WAC 230-05-020 Charitable or nonprofit organization fees.** Bona fide charitable and nonprofit organizations must pay the following fees to us when applying for gambling licenses, permits, miscellaneous changes, or inspection services:

**1. Amusement games**

License	Annual Gross Gambling Receipts	Fee
Class A	Premises only	\$((58)) 29
Class B	Up to \$10,000	\$((58)) 29
Class C	Up to \$25,000	\$((319)) 160
Class D	Up to \$50,000	\$((513)) 257
Class E	Over \$50,000	\$((894)) 447

**2. Bingo**

License	Annual Gross Gambling Receipts	Fee	One Time Variance*
Class A	Up to \$25,000	\$((58)) 29	\$1,000
Class B	Up to \$75,000	\$((185)) 93	\$1,000
Class C	Up to \$150,000	\$((380)) 190	\$2,000
Class D	Up to \$350,000	\$((1,026)) 513	\$4,000
Class E	Up to \$650,000	\$((1,732)) 866	\$8,000
Class F	Up to \$1,500,000	\$((3,486)) 1,743	\$15,000
Class G	Up to \$2,000,000	\$((5,028)) 2,514	
Class H	Up to \$3,000,000	\$((6,722)) 3,361	\$30,000
Class I	Up to \$4,000,000	\$((8,400)) 4,200	\$38,000
Class J	Up to \$5,000,000	\$((10,078)) 5,039	\$45,000
Class K	Up to \$6,000,000	\$((11,306)) 5,653	\$53,000

License	Annual Gross Gambling Receipts	Fee	One Time Variance*
Class L	Up to \$7,000,000	\$((12,922)) 6,461	\$60,000
Class M	Up to \$8,000,000	\$((14,542)) 7,271	\$65,000
Class N	Up to \$9,000,000	\$((15,818)) 7,909	\$70,000
Class O	Up to \$10,000,000	\$((17,454)) 8,727	\$75,000
Class P	Up to \$11,000,000	\$((19,090)) 9,545	\$80,000
Class Q	Up to \$12,000,000	\$((22,908)) 11,454	\$85,000
Class R	Up to \$13,000,000	\$((26,180)) 13,090	\$90,000
Class S	Up to \$14,000,000	\$((29,454)) 14,727	\$95,000

\*See chapter 230-06 WAC, Exceeding license class.

**3. Card games**

License	Description	Fee
Class A	Nonhouse-banked - fee to play	\$((641)) 321
Class B	Limited card games - hearts, rummy, pitch, pinochle, and cribbage - fee to play	\$((185)) 93
Class C	Tournament only - no more than thirty consecutive days per tournament	\$((58)) 29
Class D	Nonhouse-banked - no fee to play	\$((58)) 29

**4. Fund-raising event**

License	Description	Fee
Class A	One event - not more than 24 consecutive hours	
	First time applicant	\$((380)) 190
	Previously licensed applicant	\$((223)) 112
Class B	One event - not more than 72 consecutive hours	
	First time applicant	\$((641)) 321
	Previously licensed applicant	\$((393)) 197
Class C	Additional participant in joint event - not lead organization	\$((185)) 93
Class D	Limited fund-raising event - one event - not more than six consecutive hours	
	First time applicant	\$((167)) 84
	Previously licensed applicant	\$((111)) 56
Class E	Fund-raising event equipment distributor - rents or leases equipment no more than ten times per year	\$((253)) 127
Class F	Fund-raising event equipment distributor - rents or leases equipment more than ten times per year	\$((641)) 321



5. Punch boards/pull-tabs

License	Annual Gross Gambling Receipts	Fee	One Time Variance*
Class A	Up to \$50,000	\$((614)) 306	\$5,000
Class B	Up to \$100,000	\$((1,090)) 545	\$5,000
Class C	Up to \$200,000	\$((2,062)) 1,031	\$10,000
Class D	Up to \$300,000	\$((2,998)) 1,499	\$10,000
Class E	Up to \$400,000	\$((3,874)) 1,937	\$10,000
Class F	Up to \$500,000	\$((4,676)) 2,338	\$10,000
Class G	Up to \$600,000	\$((5,420)) 2,710	\$10,000
Class H	Up to \$700,000	\$((6,100)) 3,050	\$10,000
Class I	Up to \$800,000	\$((6,722)) 3,361	\$10,000
Class J	Up to \$1,000,000	\$((7,620)) 3,810	\$20,000
Class K	Up to \$1,250,000	\$((8,460)) 4,230	\$25,000
Class L	Up to \$1,500,000	\$((9,240)) 4,620	\$25,000
Class M	Up to \$1,750,000	\$((9,880)) 4,940	\$25,000
Class N	Up to \$2,000,000	\$((10,466)) 5,233	\$25,000
Class O	Up to \$2,500,000	\$((11,500)) 5,750	\$30,000
Class P	Up to \$3,000,000	\$((12,218)) 6,109	\$35,000
Class Q	Up to \$4,000,000	\$((14,400)) 7,200	\$40,000
Class R	Up to \$5,000,000	\$((16,362)) 8,181	\$50,000
Class S	Up to \$6,000,000	\$((18,544)) 9,272	\$60,000
Class T	Up to \$7,000,000	\$((20,728)) 10,364	\$70,000
Class U	Up to \$8,000,000	\$((22,908)) 11,454	\$80,000
Class V	Over \$8,000,000	\$((25,090)) 12,545	\$80,000

\*See chapter 230-06 WAC, Exceeding license class.

6. Raffles

License	Annual Gross Gambling Receipts	Fee
Class A	Up to \$5,000	\$((58)) 29
Class B	Up to \$10,000	\$((185)) 93
Class C	Up to \$25,000	\$((380)) 190
Class D	Up to \$50,000	\$((641)) 321
Class E	Up to \$75,000	\$((1,026)) 513

License	Annual Gross Gambling Receipts	Fee
Class F	Over \$75,000	\$((1,540)) 770

7. Combination license

License	Description	Fee
Class A	Allows gross gambling receipts of up to \$25,000 from bingo, \$7,500 from raffles, and \$7,500 from amusement games, not to exceed \$30,000 combined gross gambling receipts from all such activities. Allows Class D card games.	\$((115)) 58
Class B	Allows gross gambling receipts of up to \$60,000 from bingo, \$15,000 from raffles, and \$15,000 from amusement games, not to exceed \$75,000 combined gross gambling receipts from all such activities. Allows Class D card games.	\$((300)) 150
Class C	Allows gross gambling receipts of up to \$125,000 from bingo, \$30,000 from raffles, and \$30,000 from amusement games, not to exceed \$150,000 combined gross gambling receipts from all such activities. Allows Class D card games.	\$((696)) 348

8. Special property bingo

Once annually	\$((27)) 14
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9. Permits

Recreational gaming activity	\$((58)) 29
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10. Changes

Type	Fee
Name	\$((27)) 14
Location	\$((27)) 14
Fund-raising event date or time	\$((27)) 14
License class	\$((27)) 14
Duplicate license	\$((27)) 14

11. Other fees

Type	Fee
Replacement identification stamps	\$((27)) 14
Failing to apply for license class upgrade	Up to fifty percent of the difference between our fees for the licensee's present license class and the new license class or one thousand dollars, whichever is less, plus \$((26)) 13
Review, inspection and/or evaluation of equipment, paraphernalia, services, or schemes	Deposit and fees as required

**12. Two part payment plan participation charitable or nonprofit organizations**

Annual participation	\$((27)) 14
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AMENDATORY SECTION (Amending Order 657, filed 8/14/09, effective 1/1/10)

**WAC 230-05-030 Fees for other businesses.** All other business license applicants must pay the following fees to us when applying for gambling licenses, miscellaneous changes, or inspection services:

**1. Commercial amusement games**

License	Annual Gross Gambling Receipts	Fee
Class A	Premises only	*\$327/\$150
Class B	Up to \$50,000	\$460
Class C	Up to \$100,000	\$1,184
Class D	Up to \$250,000	\$2,644
Class E	Up to \$500,000	\$4,640
Class F	Up to \$1,000,000	\$7,968
Class G	Over \$1,000,000	\$9,970

\*We reduce the license fee by \$177 when you apply for additional licenses at the same business premises, apply for multiple licenses at the same business premises, or a licensee is renewing an annual license.

**2. Distributor**

License	Annual Gross Sales	Fee
Class A	Nonpunch board/pull-tab only	\$659
Class B	Up to \$250,000	\$1,318
Class C	Up to \$500,000	\$1,980
Class D	Up to \$1,000,000	\$2,644
Class E	Up to \$2,500,000	\$3,446
Class F	Over \$2,500,000	\$4,242

**3. Fund-raising event equipment distributor**

License	Description	Fee
Class A	Rents or leases equipment for fund-raising event or recreational gaming activity up to 10 times per year.	\$260
Class B	Rents or leases equipment for fund-raising event or recreational gaming activity more than 10 times per year.	\$659

**4. Gambling service supplier**

License	Fee
Annual	\$687
Financing, consulting, and management contract review	\$143

**5. Linked bingo prize provider**

License	Fee
Annual	\$((4,414)) 2,207

**6. Manufacturer**

License	Annual Gross Sales	Fee
Class A	Pull-tab dispensing devices only	\$659
Class B	Up to \$250,000	\$1,318

License	Annual Gross Sales	Fee
Class C	Up to \$500,000	\$1,980
Class D	Up to \$1,000,000	\$2,644
Class E	Up to \$2,500,000	\$3,446
Class F	Over \$2,500,000	\$4,242

**7. Permits**

Type	Description	Fee
Agricultural fair	One location and event only	\$27
Agricultural fair annual permit	Annual permit for specified different events and locations	\$189
Recreational gaming activity		\$59
Manufacturer's special sales permit		\$211
Punch board and pull-tab service business permit	Initial application fee	\$236
Punch board and pull-tab service business permit	Renewal	\$56

**8. Changes**

Application	Description	Fee
Name		\$27
Location		\$27
Business classification	Same owners	\$59
Exceeding license class	New class fee, less previous fee paid, plus	\$27
Duplicate license		\$27
Corporate stock/limited liability company shares/units		\$59
License transfers		\$59

**9. Other fees**

Type	Fee
Defective punch board/pull-tab cost recovery fees	Up to \$100
Failing to apply for license class upgrade	Up to fifty percent of the difference between our fees for the licensee's present license class and the new license class or one thousand dollars, whichever is less, plus \$27
Review of gambling equipment, supplies, services, or games	Cost reimbursement

**10. Identification stamps for commercial operators**

Type	Fee	
<b>(a) Punch boards and pull-tabs</b>		
(i) Standard	Wagers fifty cents and below	\$ .28
	Wagers over fifty cents	\$1.11
(ii) Progressive jackpot pull-tab series	Per series	\$11.19
(iii) Pull-tab series with carry-over jackpots and cumulative prize pool pull-tab series	Per series	\$1.11
<b>(b) Pull-tab dispensing devices</b>		
(i) Mechanical and electro-mechanical		\$ .28

Type		Fee
(ii) Electronic	Dispensing devices that require initial and ongoing evaluation of electronic components or functions, such as reading encoded data on pull-tabs, accounting for income or prizes	\$112.04 annually
Replacement of identification stamps		\$26
<b>((e) Disposable bingo cards</b>		
(i) Single game sets of individual cards or sheets of cards		\$.28
(ii) Multigame card packets		\$1.22
(iii) Cards used to play for linked bingo prizes	Fee per 250 cards	\$.44
(iv) Cards used to play for linked bingo prizes	Fee per 5,000 cards	\$8.96
<b>(d)) (c) Coin or token-activated amusement games</b>		
Annually - operated at any Class A amusement game license location		\$((28.00)) 28
<b>((e) Electronic bingo card daubers</b>		
Annual		\$11.19
<b>(f)) (d) Electronic card facsimile table</b>		
Annual		\$381.50

**11. Identification stamps charitable/nonprofit operators**

Type		Fee
<b>(a) Punch boards and pull-tabs</b>		
(i) Standard	Wagers fifty cents and below	\$.14
	Wagers over fifty cents	\$.56
(ii) Progressive jackpot pull-tab series	Per series	\$5.60
(iii) Pull-tab series with carry-over jackpots and cumulative prize pool pull-tab series	Per series	\$.56
<b>(b) Pull-tab dispensing devices</b>		
(i) Mechanical and electro-mechanical		\$.14
(ii) Electronic	Dispensing devices that require initial and ongoing evaluation of electronic components or functions, such as reading encoded data on pull-tabs, accounting for income or prizes	\$56.02 annually
Replacement of identification stamps		\$13
<b>(c) Disposable bingo cards</b>		
(i) Single game sets of individual cards or sheets of cards		\$.14
(ii) Multigame card packets		\$.61
(iii) Cards used to play for linked bingo prizes	Fee per 250 cards	\$.22
(iv) Cards used to play for linked bingo prizes	Fee per 5,000 cards	\$4.48

Type	Fee
<b>(d) Coin or token-activated amusement games</b>	
Annually - operated at any Class A amusement game license location	\$14
<b>(e) Electronic bingo card daubers</b>	
Annual	\$11.19

**12. Two-part payment plan participation for commercial operators**

Annual participation	\$27
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**WSR 11-15-101  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Economic Services Administration)  
[Filed July 20, 2011, 11:39 a.m.]**

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-12-089.

Title of Rule and Other Identifying Information: The community services division (CSD) is proposing to amend WAC 388-444-0030 Do I have to work to be eligible for Basic Food benefits if I am an able-bodied adult without dependents (ABAWD)?

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 98503, 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 9, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend its rules to extend the suspension of eligibility time limits and work requirements ABAWD applying for or receiving food assistance under Basic Food or state-funded food assistance program (FAP). The current ABAWD waiver is due to expire September 30, 2011.

Reasons Supporting Proposal: Washington state received notification from the USDA Food and Nutrition Service (FNS) it is one of forty-six states that met criteria for extended unemployment benefits as determined by the United States Department of Labor's Unemployment Insurance Service. As a result, FNS has approved a statewide waiver of the supplemental nutrition assistance program ABAWD time-limits and work requirements through at least

September 30, 2012. This rule filing is needed to reflect the new expiration date in state code.

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

Statute Being Implemented: RCW 74.04.005, 74.04.-050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Rule is necessary because of federal law, 7 C.F.R. § 273.24.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Thibodeau, 712 Pear Street S.E., Olympia, WA 98504, (360) 725-4634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendment only affects certain DSHS clients who receive food assistance under Basic Food and FAP by extending the suspension of eligibility time limits and work requirements.

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 18, 2011

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-23-112, filed 11/17/10, effective 12/18/10)

**WAC 388-444-0030 Do I have to work to be eligible for Basic Food benefits if I am an able-bodied adult without dependents (ABAWD)?** (1) An able-bodied adult without dependents (ABAWD) is a person who:

- (a) Is physically and mentally able to work;
- (b) Is age eighteen through forty-nine; and
- (c) Has no child in the household.

(2) If you are an ABAWD, you must participate in employment and training activities under subsection (4) unless you are exempt from ABAWD requirements under WAC 388-444-0035.

(3) Nonexempt ABAWDs who fail to participate may continue to receive food assistance until September 30, ~~((2011))~~ 2012.

(4) Beginning October 1, ~~((2011))~~ 2012, an ABAWD is not eligible to receive food assistance for more than three full months in a thirty-six month period, except as provided in WAC 388-444-0035, unless that person:

- (a) Is exempt from ABAWD requirements under WAC 388-444-0035;
- (b) Works at least twenty hours a week averaged monthly;
- (c) Participates in on the job training (OJT), which may include paid work and classroom training time, for at least twenty hours a week;

(d) Participates in an unpaid work program as provided in WAC 388-444-0040; or

(e) Participates in and meets the requirements of one of the following work programs:

- (i) The Job Training Partnership Act (JTPA);
- (ii) Section 236 of the Trade Act of 1974; or
- (iii) A state-approved employment and training program.

## WSR 11-15-103

### PROPOSED RULES

#### GAMBLING COMMISSION

[Filed July 20, 2011, 11:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-020.

Title of Rule and Other Identifying Information: WAC 230-10-185 Electronic bingo card daubers restrictions.

Hearing Location(s): Great Wolf Lodge, 20500 Old Highway 99 S.W., Grand Mound, WA 98531, on September 8 or 9, 2011, at 9:00 a.m. or 1:00 p.m. NOTE: Meeting dates and times are tentative. Visit our web site at [www.wsgc.wa.gov](http://www.wsgc.wa.gov) and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Date of Intended Adoption: September 8 or 9, 2011. NOTE: Meeting dates and times are tentative. Visit our web site at [www.wsgc.wa.gov](http://www.wsgc.wa.gov) and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Submit Written Comments to: Susan Arland, P.O. Box 42400, Olympia, WA 98504-2400, e-mail [SusanA@wsgc.wa.gov](mailto:SusanA@wsgc.wa.gov), fax (360) 486-3625, by September 1, 2011.

Assistance for Persons with Disabilities: Contact Gail Grate, executive assistant, by September 1, 2011, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: We have received a petition for rule change from Mr. Bearden, representing various charitable and nonprofit organizations, some of which have a gambling license and others do not. The petitioners are requesting that the maximum number of bingo cards allowed for play in an electronic bingo dauber be increased from sixty-six to one hundred forty-four.

Reasons Supporting Proposal:

- Mr. Bearden states in the petition that "By granting charitable Bingo establishments the right to play/sell up to 144 cards, this would give charities an opportunity to draw additional revenue for both the organizations and Washington State."
- The petitioners' charitable/nonprofit group meeting minutes, dated May 26, 2011, state that "Although most players would not be interested in such a purchase, there may be a couple that may be. We are asking the Commission to allow those few to purchase the cards for their electronic dauber, thus *potentially* becoming more competitive with non-regulated facilities and increasing the amount of revenue for the charity."

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Robert Bearden, representing various charitable and nonprofit organizations, some of which have a gambling license and others do not, private.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because the proposed rule change does not impose more than minor costs, as defined in chapter 19.85 RCW, to licensees.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

July 20, 2011  
Susan Arland  
Rules Coordinator

AMENDATORY SECTION [(Amending Order 610, filed 4/24/07)]

**WAC 230-10-185 Electronic bingo card daubers restrictions.** (1) Electronic bingo card daubers must not allow a player to play more than ~~((sixty-six))~~ one hundred and forty four cards on the dauber at one time; and

(2) Players must:

(a) Input each number the operator calls into the memory of the dauber separately. Automatic or global marking of numbers is prohibited; and

(b) Call the bingo without using the dauber or the associated system; and

(c) Identify the winning card and display the card to the operator; and

(d) Not play more than one dauber at any point in time. However, a player may play one dauber and an unlimited number of bingo cards at the same time.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.