

**WSR 11-20-099**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Division of Child Support)  
[Filed October 5, 2011, 8:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-15-093.

Title of Rule and Other Identifying Information: The division of child support (DCS) proposes to adopt changes to chapter 388-14A WAC to implement E2SHB 1267 (chapter 283, Laws of 2011), effective date July 22, 2011.

DCS is amending WAC 388-14A-1020, 388-14A-3100, 388-14A-3102, and 388-14A-3115.

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 November 22, 2011, at 10:00 a.m.

Date of Intended Adoption: November 22, 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 November 22, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by November 8, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [johnsj14@dshs.wa.gov](mailto:johnsj14@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DCS is amending existing sections in chapter 388-14A WAC to implement E2SHB 1267 (chapter 283, Laws of 2011), which made changes to chapter 26.26 RCW, the Uniform Parentage Act.

DCS has adopted emergency rules under WSR 11-16-007, effective July 22, 2011.

Reasons Supporting Proposal: Implementation of changes in chapter 26.26 RCW from the 2011 legislative session.

Statutory Authority for Adoption: E2SHB 1267 (chapter 283, Laws of 2011), effective date July 22, 2011; RCW 34.05.220, 43.20A.550, 74.04.055, 74.04.057, 74.08.090, 74.20A.055, 74.20A.056, 74.20A.310.

Statute Being Implemented: E2SHB 1267 (chapter 283, Laws of 2011).

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

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

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have an economic impact on small businesses. It only affects indi-

viduals who have support obligations or individuals who are owed child support.

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

September 29, 2011

Katherine I. Vasquez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

**WAC 388-14A-1020 What definitions apply to the rules regarding child support enforcement?** For purposes of this chapter, the following definitions apply:

**"Absence of a court order"** means that there is no court order setting a support obligation for the noncustodial parent (NCP), or specifically relieving the NCP of a support obligation, for a particular child.

**"Absent parent"** is a term used for a noncustodial parent.

**"Accessible coverage"** means health insurance coverage which provides primary care services to the children with reasonable effort by the custodian.

**"Accrued debt"** means past-due child support which has not been paid.

**"Acknowledged father"** means a man who has established a father-child relationship under RCW 26.26.300 through 26.26.375.

**"Adjudicated parent"** means a person who has been adjudicated by a court of competent jurisdiction to be the parent of a child.

**"Administrative order"** means a determination, finding, decree or order for support issued under RCW 74.20A.-055, 74.20A.056, or 74.20A.059 or by another state's agency under an administrative process, establishing the existence of a support obligation (including medical support) and ordering the payment of a set or determinable amount of money for current support and/or a support debt. Administrative orders include:

- (1) An order entered under chapter 34.05 RCW;
- (2) An agreed settlement or consent order entered under WAC 388-14A-3600; and
- (3) A support establishment notice which has become final by operation of law.

**"Agency"** means the Title IV-D provider of a state. In Washington, this is the division of child support (DCS) within the department of social and health services (DSHS).

**"Agreed settlement"** is an administrative order that reflects the agreement of the noncustodial parent, the custodial parent and the division of child support. An agreed settlement does not require the approval of an administrative law judge.

**"Aid"** or **"public assistance"** means cash assistance under the temporary assistance for needy families (TANF) program, the aid to families with dependent children (AFDC) program, federally funded or state-funded foster care, and

includes day care benefits and medical benefits provided to families as an alternative or supplement to TANF.

**"Alternate recipient"** means a child of the employee or retiree named within a support order as being entitled to coverage under an employer's group health plan.

**"Annual fee"** means the twenty-five dollar annual fee charged between October 1 and September 30 each year, required by the federal deficit reduction act of 2005 and RCW 74.20.040.

**"Applicant/custodian"** means a person who applies for nonassistance support enforcement services on behalf of a child or children residing in their household.

**"Applicant/recipient," "applicant," and "recipient"** means a person who receives public assistance on behalf of a child or children residing in their household.

**"Arrears"** means the debt amount owed for a period of time before the current month.

**"Assistance"** means cash assistance under the state program funded under Title IV-A of the federal Social Security Act.

**"Assistance unit"** means a cash assistance unit as defined in WAC 388-408-0005. An assistance unit is the group of people who live together and whose income or resources the department counts to decide eligibility for benefits and the amount of benefits.

**"Birth costs"** means medical expenses incurred by the custodial parent or the state for the birth of a child.

**"Cash medical support"** is a term used in RCW 26.09.-105 and certain federal regulations to refer to amounts paid by an obligated parent to the other parent or to the state in order to comply with the medical support obligation stated in a child support order.

**"Conditionally assigned arrears"** means those temporarily assigned arrears remaining on a case after the period of public assistance ends.

**"Conference board"** means a method used by the division of child support for resolving complaints regarding DCS cases and for granting exceptional or extraordinary relief from debt.

**"Consent order"** means a support order that reflects the agreement of the noncustodial parent, the custodial parent and the division of child support. A consent order requires the approval of an administrative law judge.

**"Court order"** means a judgment, decree or order of a Washington state superior court, another state's court of comparable jurisdiction, or a tribal court.

**"Current support" or "current and future support"** means the amount of child support which is owed for each month.

**"Custodial parent or CP"** means the person, whether a parent or not, with whom a dependent child resides the majority of the time period for which the division of child support seeks to establish or enforce a support obligation.

**"Date the state assumes responsibility for the support of a dependent child on whose behalf support is sought"** means the date that the TANF or AFDC program grant is effective. For purposes of this chapter, the state remains responsible for the support of a dependent child until public assistance terminates, or support enforcement services end, whichever occurs later.

**"Delinquency"** means failure to pay current child support when due.

**"Department"** means the Washington state department of social and health services (DSHS).

**"Dependent child"** means a person:

(1) Seventeen years of age or younger who is not self-supporting, married, or a member of the United States armed forces;

(2) Eighteen years of age or older for whom a court order requires support payments past age eighteen;

(3) Eighteen years of age or older, but under nineteen years of age, for whom an administrative support order exists if the child is participating full-time in a secondary school program or the same level of vocational or technical training.

**"Determination of parentage"** means the establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under RCW 26.26.300 through 26.26.375 or adjudication by the court.

**"Differentiated support amount"** means an amount of child support that represents a parent's support obligation for more than one child and may justifiably be divided into "per child" amounts for each child covered by the support order, based on information contained in the support order.

**"Differentiated support order"** means a child support order which provides a monthly amount of child support for two or more children, and either provides a specific support obligation for each child or provides enough information in the order so that the monthly amount may justifiably be divided into a "per child" amount for each child covered by the support order.

**"Disbursement"** means the amount of child support distributed to a case that is paid to the family, state, other child support enforcement agency in another state or foreign country, Indian tribe, or person or entity making the payment.

**"Disposable earnings"** means the amount of earnings remaining after the deduction of amounts required by law to be withheld.

**"Distribution"** means how a collection is allocated or split within a case or among multiple cases.

**"Domestic partner"** means a state registered domestic partner as defined in chapter 26.60 RCW.

**"Earnings"** means compensation paid or payable for personal service. Earnings include:

- (1) Wages or salary;
- (2) Commissions and bonuses;
- (3) Periodic payments under pension plans, retirement programs, and insurance policies of any type;
- (4) Disability payments under Title 51 RCW;
- (5) Unemployment compensation under RCW 50.40.-020, 50.40.050 and Title 74 RCW;
- (6) Gains from capital, labor, or a combination of the two; and
- (7) The fair value of nonmonetary compensation received in exchange for personal services.

**"Employee"** means a person to whom an employer is paying, owes, or anticipates paying earnings in exchange for services performed for the employer.

**"Employer"** means any person or organization having an employment relationship with any person. This includes:

- (1) Partnerships and associations;

- (2) Trusts and estates;
- (3) Joint stock companies and insurance companies;
- (4) Domestic and foreign corporations;
- (5) The receiver or trustee in bankruptcy; and
- (6) The trustee or legal representative of a deceased person.

**"Employment"** means personal services of whatever nature, including service in interstate commerce, performed for earnings or under any contract for personal services. Such a contract may be written or oral, express or implied.

**"Family"** means the person or persons on whose behalf support is sought, which may include a custodial parent and one or more children, or a child or children in foster care placement. The family is sometimes called the assistance unit.

**"Family arrears"** means the amount of past-due support owed to the family, which has not been conditionally, temporarily or permanently assigned to a state. Also called "nonassistance arrears."

**"Family member"** means the caretaker relative, the child(ren), and any other person whose needs are considered in determining eligibility for assistance.

**"Foreign order"** means a court or administrative order entered by a tribunal other than one in the state of Washington.

**"Foster care case"** means a case referred to the Title IV-D agency by the Title IV-E agency, which is the state division of child and family services (DCFS).

**"Fraud,"** for the purposes of vacating an agreed settlement or consent order, means:

- (1) The representation of the existence or the nonexistence of a fact;
- (2) The representation's materiality;
- (3) The representation's falsity;
- (4) The speaker's knowledge that the representation is false;
- (5) The speaker's intent that the representation should be acted on by the person to whom it is made;
- (6) Ignorance of the falsity on the part of the person to whom it is made;
- (7) The latter's:
  - (a) Reliance on the truth of the representation;
  - (b) Right to rely on it; and
  - (c) Subsequent damage.

**"Full support enforcement services"** means the entire range of services available in a Title IV-D case.

**"Good cause"** for the purposes of late hearing requests and petitions to vacate orders on default means a substantial reason or legal justification for delay, including but not limited to the grounds listed in civil rule 60. The time periods used in civil rule 60 apply to good cause determinations in this chapter.

**"Head of household"** means the parent or parents with whom the dependent child or children were residing at the time of placement in foster care.

**"Health care costs"** means medical expenses. Certain statutes in chapter 26.19 RCW refer to medical expenses as health care costs.

**"Health insurance"** means insurance coverage for all medical services related to an individual's general health and

well being. These services include, but are not limited to: Medical/surgical (inpatient, outpatient, physician) care, medical equipment (crutches, wheel chairs, prosthesis, etc.), pharmacy products, optometric care, dental care, orthodontic care, preventive care, mental health care, and physical therapy. Health insurance coverage does not include medical assistance provided under chapter 74.09 RCW.

**"Hearing"** means an adjudicative proceeding authorized by this chapter, or chapters 26.23, 74.20 and 74.20A RCW, conducted under chapter 388-02 WAC and chapter 34.05 RCW.

**"I/me"** means the person asking the question which appears as the title of a rule.

**"Income"** includes:

- (1) All gains in real or personal property;
- (2) Net proceeds from the sale or exchange of real or personal property;
- (3) Earnings;
- (4) Interest and dividends;
- (5) Proceeds of insurance policies;
- (6) Other periodic entitlement to money from any source; and
- (7) Any other property subject to withholding for support under the laws of this state.

**"Income withholding action"** includes all withholding actions which DCS is authorized to take, and includes but is not limited to the following actions:

- (1) Asserting liens under RCW 74.20A.060;
- (2) Serving and enforcing liens under chapter 74.20A RCW;
- (3) Issuing orders to withhold and deliver under chapter 74.20A RCW;
- (4) Issuing notices of payroll deduction under chapter 26.23 RCW; and
- (5) Obtaining wage assignment orders under RCW 26.18.080.

**"Locate"** can mean efforts to obtain service of a support establishment notice in the manner prescribed by WAC 388-14A-3105.

**"Medical assistance"** means medical benefits under Title XIX of the federal Social Security Act provided to families as an alternative or supplement to TANF.

**"Medical expenses"** for the purpose of establishing support obligations under RCW 26.09.105, 74.20A.055 and 74.20A.056, or for the purpose of enforcement action under chapters 26.23, 74.20 and 74.20A RCW, including the notice of support debt and the notice of support owed, means medical costs incurred on behalf of a child, which include:

- Medical services related to an individual's general health and well-being, including but not limited to, medical/surgical care, preventive care, mental health care and physical therapy; and
- Prescribed medical equipment and prescribed pharmacy products;
- Health care coverage, such as coverage under a health insurance plan, including the cost of premiums for coverage of a child;
- Dental and optometrical costs incurred on behalf of a child; and

- Copayments and/or deductibles incurred on behalf of a child.

Medical expenses are sometimes also called health care costs or medical costs.

**"Medical support"** means any combination of the following:

- (1) Health insurance coverage for a dependent child;
- (2) Amounts owed by one parent to the other parent as a monthly payment toward the premium paid by the other parent for health insurance coverage for a dependent child;
- (3) Amounts owed by a noncustodial parent to the state as a monthly payment toward the cost of managed care coverage for the child by the state, if the child receives state-financed medical coverage through the department under chapter 74.09 RCW for which there is an assignment; and
- (4) Amounts owed by one parent to the other parent as his or her proportionate share of uninsured medical expenses for a dependent child.

**"Monthly payment toward the premium"** means a parent's contribution toward:

- Premiums paid by the other parent for insurance coverage for the child; or
- Amounts paid for managed care coverage for the child by the state, if the child receives state-financed medical coverage through the department under chapter 74.09 RCW for which there is an assignment.

This contribution is based on the obligated parent's proportionate share of the premium paid, but may not exceed twenty-five percent of the obligated parent's basic support obligation.

**"National Medical Support Notice"** or **"NMSN"** is a federally mandated form that DCS uses to enforce a health insurance support obligation; the NMSN is a notice of enrollment as described in RCW 26.18.170.

**"Noncustodial parent or NCP"** means the natural or biological parent, adoptive parent, adjudicated parent, presumed parent, responsible stepparent or person who signed and filed an affidavit acknowledging paternity, from whom the state seeks support for a dependent child. A parent is considered to be an NCP when for the majority of the time during the period for which support is sought, the dependent child resided somewhere other than with that parent.

**"Nonmedical expenses"** means amounts incurred on behalf of a child which are not medical expenses as defined in this chapter. Nonmedical expenses include, but are not limited to, day care or other special childrearing expenses such as tuition and long-distance transportation costs to and from the parents for visitation purposes.

**"Obligated parent"** means a parent who is required under a child support order to provide health insurance coverage or to reimburse the other parent for his or her share of medical expenses for a dependent child. The obligated parent could be either the NCP or the CP.

**"Other ordinary expense"** means an expense incurred by a parent which:

- (1) Directly benefits the dependent child; and
- (2) Relates to the parent's residential time or visitation with the child.

**"Parent"** means an individual who has established a parent-child relationship under RCW 26.26.101.

**"Parent-child relationship"** means the legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.

**"Participant"** means an employee or retiree who is eligible for coverage under an employer group health plan.

**"Pass-through"** means the portion of a support collection distributed to assigned support that the state pays to a family currently receiving TANF.

**"Past support"** means support arrears.

**"Paternity testing"** means blood testing or genetic tests of blood, tissue or bodily fluids. This is also called genetic testing.

**"Payment services only"** or **"PSO"** means a case on which the division of child support's activities are limited to recording and distributing child support payments, and maintaining case records. A PSO case is not a IV-D case.

**"Permanently assigned arrears"** means those arrears which the state may collect and retain up to the amount of unreimbursed assistance.

**"Physical custodian"** means custodial parent (CP).

**"Plan administrator"** means the person or entity which performs those duties specified under 29 USC 1002 (16)(A) for a health plan. If no plan administrator is specifically so designated by the plan's organizational documents, the plan's sponsor is the administrator of the plan. Sometimes an employer acts as its own plan administrator.

**"Presumed parent"** means a person who, by operation of law under RCW 26.26.116, is recognized as the parent of a child until that status is rebutted or confirmed in a judicial proceeding.

**"Private insurance"** means accessible health insurance for a child provided by a parent without the need for service of a national medical support notice, and does not include health insurance provided by the state without a contribution from either parent.

**"Proportionate share"** or **"proportional share"** means an amount equal to a parent's percentage share of the combined monthly net income of both parents as computed on the worksheets when determining a parent's child support obligation under chapter 26.19 RCW.

**"Putative father"** includes all men who may possibly be the father of the child or children on whose behalf the application for assistance or support enforcement services is made.

**"Reasonable efforts to locate"** means any of the following actions performed by the division of child support:

- (1) Mailing a support establishment notice to the noncustodial parent in the manner described in WAC 388-14A-3105;
- (2) Referral to a sheriff or other server of process, or to a locate service or department employee for locate activities;
- (3) Tracing activity such as:
  - (a) Checking local telephone directories and attempts by telephone or mail to contact the custodial parent, relatives of the noncustodial parent, past or present employers, or the post office;
  - (b) Contacting state agencies, unions, financial institutions or fraternal organizations;

(c) Searching periodically for identification information recorded by other state agencies, federal agencies, credit bureaus, or other record-keeping agencies or entities; or

(d) Maintaining a case in the division of child support's automated locate program, which is a continuous search process.

(4) Referral to the state or federal parent locator service;

(5) Referral to the attorney general, prosecuting attorney, the IV-D agency of another state, or the Department of the Treasury for specific legal or collection action;

(6) Attempting to confirm the existence of and to obtain a copy of a paternity acknowledgment; or

(7) Conducting other actions reasonably calculated to produce information regarding the NCP's whereabouts.

**"Required support obligation for the current month"** means the amount set by a superior court order, tribal court order, or administrative order for support which is due in the month in question.

**"Resident"** means a person physically present in the state of Washington who intends to make their home in this state. A temporary absence from the state does not destroy residency once it is established.

**"Residential care"** means foster care, either state or federally funded.

**"Residential parent"** means the custodial parent (CP), or the person with whom the child resides that majority of the time.

**"Responsible parent"** is a term sometimes used for a noncustodial parent.

**"Responsible stepparent"** means a stepparent who has established an in loco parentis relationship with the dependent child.

**"Retained support"** means a debt owed to the division of child support by anyone other than a noncustodial parent.

**"Satisfaction of judgment"** means payment in full of a court-ordered support obligation, or a determination that such an obligation is no longer enforceable.

**"Secretary"** means the secretary of the department of social and health services or the secretary's designee.

**"Self-support reserve"** or **"self support reserve"** means an amount equal to one hundred twenty-five percent of the federal poverty guideline for a one-person family.

**"State"** means a state or political subdivision, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a federally recognized Indian tribe or a foreign country.

**"Superior court order"** means a judgment, decree or order of a Washington state superior court, or of another state's court of comparable jurisdiction.

**"Support debt"** means support which was due under a support order but has not been paid. This includes:

(1) Delinquent support;

(2) A debt for the payment of expenses for the reasonable or necessary care, support and maintenance including medical expenses, birth costs, child care costs, and special child rearing expenses of a dependent child or other person;

(3) A debt under RCW 74.20A.100 or 74.20A.270; or

(4) Accrued interest, fees, or penalties charged on a support debt, and attorney's fees and other litigation costs

awarded in an action under Title IV-D to establish or enforce a support obligation.

**"Support enforcement services"** means all actions the Title IV-D agency is required to perform under Title IV-D of the Social Security Act and state law.

**"Support establishment notice"** means a notice and finding of financial responsibility under WAC 388-14A-3115, a notice and finding of parental responsibility under WAC 388-14A-3120, or a notice and finding of medical responsibility under WAC 388-14A-3125.

**"Support money"** means money paid to satisfy a support obligation, whether it is called child support, spousal support, alimony, maintenance, enforcement of medical expenses, health insurance, or birth costs.

**"Support obligation"** means the obligation to provide for the necessary care, support and maintenance of a dependent child or other person as required by law, including health insurance coverage, medical expenses, birth costs, and child care or special child rearing expenses.

**"Support order"** means a court order, administrative order or tribal court order which contains a determination, finding, decree or order that sets a child support obligation (including medical support) and orders either the payment of a set or determinable amount of money for current support and/or a support debt, or the provision of medical support, or both.

**"Temporarily assigned arrears"** means those arrears which accrue prior to the family receiving assistance, for assistance applications dated on or after October 1, 1997, but before October 1, 2008. After the family terminates assistance, temporarily assigned arrears become conditionally assigned arrears.

**"Temporary assistance for needy families,"** or **"TANF"** means cash assistance under the temporary assistance for needy families (TANF) program under Title IV-A of the Social Security Act.

**"Title IV-A"** means Title IV-A of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 USC.

**"Title IV-A agency"** means the part of the department of social and health services which carries out the state's responsibilities under the temporary assistance for needy families (TANF) program (and the aid for dependent children (AFDC) program when it existed).

**"Title IV-D"** means Title IV-D of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 USC.

**"Title IV-D agency"** or **"IV-D agency"** means the division of child support, which is the agency responsible for carrying out the Title IV-D plan in the state of Washington. Also refers to the Washington state support registry (WSSR).

**"Title IV-D case"** is a case in which the division of child support provides services which qualifies for funding under the Title IV-D plan.

**"Title IV-D plan"** means the plan established under the conditions of Title IV-D and approved by the secretary, Department of Health and Human Services.

**"Title IV-E"** means Title IV-E of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 U.S.C.

"**Title IV-E case**" means a foster care case.

"**Tribal TANF**" means a temporary assistance for needy families (TANF) program run by a tribe.

"**Tribunal**" means a state court, tribal court, administrative agency, or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage.

"**Underlying order**" means an existing child support order for which DCS serves a notice of support owed under RCW 26.23.110 to determine a sum certain support obligation.

"**Undifferentiated support amount**" means an amount of child support that represents a parent's support obligation for more than one child which cannot justifiably be divided into "per child" amounts for each child covered by the support order.

"**Undifferentiated support order**" means a child support order which provides a monthly amount of child support for two or more children, but does not provide a specific support obligation for each child or does not contain enough information in either the order or the worksheets associated with the order to justify dividing the monthly amount into "per child" amounts for each child covered by the support order.

"**Uninsured medical expenses**":

For the purpose of establishing or enforcing support obligations means:

(1) Medical expenses not paid by insurance for medical, dental, prescription and optometrical costs incurred on behalf of a child; and

(2) Premiums, copayments, or deductibles incurred on behalf of a child.

"**Unreimbursed assistance**" means the cumulative amount of assistance which was paid to the family and which has not been reimbursed by assigned support collections.

"**Unreimbursed medical expenses**" means any amounts paid by one parent for uninsured medical expenses, which that parent claims the obligated parent owes under a child support order, which percentage share is stated in the child support order itself, not just in the worksheets.

"**We**" means the division of child support, part of the department of social and health services of the state of Washington.

"**WSSR**" is the Washington state support registry.

"**You**" means the reader of the rules, a member of the public, or a recipient of support enforcement services.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

**WAC 388-14A-3100 How does the division of child support establish a child support obligation when there is no child support order?** (1) When there is no order setting the amount of child support a noncustodial parent (NCP) should pay, the division of child support (DCS) serves a support establishment notice on the NCP and the custodial parent (CP). A support establishment notice is an administrative notice that can become an enforceable order for support if nobody requests a hearing on the notice.

(2) DCS may serve a support establishment notice when there is no order that:

(a) Establishes the NCP's support obligation for the child(ren) named in the notice; or

(b) Specifically relieves the NCP of a support obligation for the child(ren) named in the notice.

(3) Whether support is based upon an administrative order or a court order, DCS may serve a support establishment notice when the parties to a paternity order subsequently marry each other and then separate, or parties to a decree of dissolution remarry each other and then separate. The remaining provisions of the paternity order or the decree of dissolution, including provisions establishing paternity, remain in effect.

(4) Depending on the legal relationship between the NCP and the child for whom support is being set and on the type of child support obligation which is being established, DCS serves one of the ~~((following))~~ support establishment notices ~~((:))~~ listed in subsections (5), (6) or (7). WAC 388-14A-3102 describes which notice DCS uses to set the support obligation of a father who has signed a paternity acknowledgment or an affidavit of paternity.

~~((a) Notice))~~ (5) DCS may serve a notice and finding of financial responsibility (NFFR)((-see)) under WAC 388-14A-3115. ((This notice is used)) DCS uses this notice when the ((NCP is either the mother or the legal father of)) NCP's parentage of the child is based on:

(a) The presumption arising from the existence of a marriage or a registered domestic partnership;

(b) The entry of a court order adjudicating the parent-child relationship;

(c) The entry of an adoption order;

(d) The man's having signed and filed a paternity acknowledgment under RCW 26.26.300 through 26.26.375, unless the acknowledgment has been rescinded or successfully challenged; or

(e) The woman's being the biological mother of, and having given birth to, the child. ((WAC 388-14A-3102 describes when DCS uses a NFFR to set the support obligation of a father who has signed an acknowledgment or affidavit of paternity.

~~((b))~~ (6) DCS may serve a notice and finding of parental responsibility (NFPR)((-see)) under WAC 388-14A-3120. ((This notice is used)) DCS uses this notice when the NCP was not married to the mother but has filed an affidavit or acknowledgment of paternity which did not become a conclusive presumption of paternity. ((WAC 388-14A-3102 describes when DCS uses a NFPR to set the support obligation of a father who has signed an acknowledgment or affidavit of paternity.

~~((c))~~ (7) DCS may serve a "Medical support only" NFFR or NFPR((- which as of October 1, 2009, replaced the notice and finding of medical responsibility (NFMR), see)) under WAC 388-14A-3125.

(a) Until October 1, 2009, DCS used the notice and finding of medical responsibility (NFMR) for this purpose.

(b) A medical support only NFFR or NFPR, whichever is appropriate, is used when DCS seeks to set only a medical support obligation instead of a monetary child support obligation.

AMENDATORY SECTION (Amending WSR 05-12-136, filed 6/1/05, effective 7/2/05)

**WAC 388-14A-3102** ~~When the parents have signed ((an acknowledgment or affidavit of)) a paternity acknowledgment, which support establishment notice does the division of child support serve on the noncustodial parent?~~ (1) When the parents of a child are not married, they may sign a paternity acknowledgment, which may also be called an affidavit of paternity~~((also called an acknowledgment of paternity))~~. The legal effect of the acknowledgment or affidavit~~((or acknowledgment))~~ depends on when it is filed, in what state it is filed, and whether both parents were over age eighteen when the ~~((affidavit))~~ acknowledgment was signed.

(2) For acknowledgments or affidavits~~((or acknowledgments))~~ filed on or before July 1, 1997 with the center for health statistics in the state of Washington, the division of child support (DCS) serves a notice and finding of parental responsibility (NFFR)~~((See))~~ under WAC 388-14A-3120.

(3) For acknowledgments or affidavits~~((or acknowledgments))~~ filed after July 1, 1997 with the center for health statistics in the state of Washington, DCS serves a notice and finding of financial responsibility (NFFR) under WAC 388-14A-3115, because the acknowledgment or affidavit~~((or acknowledgment))~~ has become a conclusive presumption of paternity under RCW 26.26.320.

(4) For acknowledgments or affidavits filed with the vital records agency of another state, DCS determines whether to serve a NFFR or NFFR depending on the laws of the state where the ~~((affidavit))~~ acknowledgment is filed.

(5) DCS relies on the acknowledgment~~((or affidavit))~~, even if the mother or father were not yet eighteen years of age at the time they signed or filed the acknowledgment~~((or affidavit))~~, as provided in RCW 26.26.315(4).

(6) If, at the time of the child's birth, the mother was married ((at the time of the child's birth, but not to)) or in a state registered domestic partnership and the man acknowledging paternity ((the man to whom she was married must also have signed and filed a denial of paternity within ten days of the child's birth)) was not the mother's husband or domestic partner, DCS may not serve an administrative support establishment notice on the acknowledged father unless:

(a) The man to whom the mother was married also signed and filed a denial of paternity; or

(b) The mother's domestic partner also signed and filed a denial of paternity.

(7) If the acknowledgment or affidavit is legally deficient in any way, DCS may refer the case for paternity establishment in the superior court.

(8) If the mother is the noncustodial parent, DCS serves a NFFR.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

**WAC 388-14A-3115** The notice and finding of financial responsibility is used to set child support when paternity is not an issue. (1) A notice and finding of financial responsibility (NFFR) is an administrative notice served by

the division of child support (DCS) that can become an enforceable order for support, pursuant to RCW 74.20A.055.

(2) DCS may serve a NFFR when the noncustodial parent (NCP) is a legal parent of the child, based on:

(a) The presumption arising from the existence of a marriage or registered domestic partnership;

(b) The entry of a court order adjudicating the parent-child relationship;

(c) The entry of an adoption order;

(d) The man's having signed and filed a paternity acknowledgment under RCW 26.26.300 through 26.26.375, unless the acknowledgment has been rescinded or successfully challenged; or

(e) The woman's being the biological mother of, and having given birth to, the child.

(3) DCS serves a NFFR in the situations listed in this section and in WAC 388-14A-3100. There may be other bases on which a court can determine parentage and/or establish a child support obligation.

(4) The NFFR:

(a) Advises the ((noncustodial parent)) NCP and the custodial parent ((who can be either a parent or the physical custodian of the child)) (CP) of the support obligation for the child or children named in the notice. The NFFR fully and fairly advises the parents of their rights and responsibilities under the NFFR.

(b) Includes the information required by RCW 26.23.050 and 74.20A.055.

(c) Includes a provision that both parents are obligated to provide medical support, as required by RCW 26.09.105, 26.18.170 and 26.23.050. This requirement does not apply to the ((custodial parent)) CP when the ((custodial parent)) CP is not one of the parents of the child covered by the order.

(d) Includes a provision that apportions the share of uninsured medical expenses to both the mother and the father, pursuant to RCW 26.09.105, 26.18.170 and 26.23.050.

(e) May include an obligation for the ((noncustodial parent)) NCP to contribute his or her proportionate share of the cost of day care or childcare, which may be stated either as a sum certain amount per month, or as a proportion of the expenses incurred by the ((custodial parent)) CP.

(f) Warns the ((noncustodial parent (NCP))) NCP and the ((custodial parent (CP))) CP that at an administrative hearing, the administrative law judge (ALJ) may set the support obligation in an amount higher or lower than, or different from, the amount stated in the NFFR, if necessary for an accurate support order.

~~((3))~~ (5) As provided in WAC 388-14A-3125, DCS may serve a notice and finding of financial responsibility that can become an enforceable order for support to establish and enforce a health insurance obligation. This type of NFFR is called "medical support only" NFFR.

~~((4))~~ (6) DCS uses a medical support only NFFR when the ((custodial parent)) CP has requested medical support enforcement services only and has asked DCS in writing not to collect monetary child support.

~~((5))~~ (7) A medical support only NFFR does not include a monthly financial support obligation, but may include:

(a) An obligation to pay a monthly payment toward the premium paid by the CP or the state for health insurance coverage for the child(ren); and

(b) An obligation to pay a proportionate share of the child(ren)'s uninsured medical expenses.

~~((6))~~ (8) An administrative order resulting from a medical support only NFFR may later be modified to include a monthly financial support obligation, as provided in WAC ~~((388-14A-3925(2)))~~ 388-14A-3127.

~~((7))~~ (9) After service of the NFFR, the NCP and the CP must notify DCS of any change of address, or of any changes that may affect the support obligation.

~~((8))~~ (10) The NCP must make all support payments to the Washington state support registry after service of the NFFR. DCS does not give the NCP credit for payments made to any other party after service of a NFFR, except as provided by WAC 388-14A-3375.

~~((9))~~ (11) DCS may take immediate wage withholding action and enforcement action without further notice under chapters 26.18, 26.23, and 74.20A RCW when the NFFR is a final order. WAC 388-14A-3110 describes when the notice becomes a final order.

~~((10))~~ (12) In most cases, a child support obligation continues until the child reaches the age of eighteen. WAC 388-14A-3810 describes when the obligation under the NFFR can end sooner or later than age eighteen.

~~((11))~~ (13) If paternity has been established by a paternity acknowledgment or an affidavit ~~((or acknowledgment))~~ of paternity, DCS attaches a copy of the acknowledgment, affidavit, or certificate of birth record information to the notice. A party wishing to challenge the acknowledgment or denial of paternity may only bring an action in court to rescind or challenge the acknowledgment or denial of paternity under RCW 26.26.330 and 26.26.335.

~~((12))~~ (14) If the parents filed a paternity ~~((affidavit or))~~ acknowledgment or affidavit of paternity in another state, and by that state's law paternity is therefore conclusively established, DCS may serve a NFFR to establish a support obligation.

~~((13))~~ (15) A hearing on a NFFR is for the limited purpose of resolving the NCP's accrued support debt and current support obligation. The hearing is not for the purpose of setting a payment schedule on the support debt. The NCP has the burden of proving any defenses to liability.

1108 East Marina Way, Hood River, OR 97031, on February 14, 2012, at 9:00 a.m.

Date of Intended Adoption: February 14, 2012.

Submit Written Comments to: Jill Arens, Executive Director, P.O. Box 730, White Salmon, WA 98672, e-mail [crge@gorgecommission.org](mailto:crge@gorgecommission.org), fax (509) 493-2229, by January 30, 2012.

Assistance for Persons with Disabilities: Contact Nancy Andring by January 30, 2012.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule modifies the due date for development review decisions from the executive director of the Gorge Commission. The proposed rule does not propose new hard time periods, but rather sets the current fourteen day and seventy-two day time periods as goals. The executive director anticipates meeting these time periods in most cases, but needs the flexibility of surpassing them to manage overall workload and staff resources. The proposed rule also eliminates the requirement that the commission publish notices of development review applications in the local newspaper and send a notice to the local library. Finally, the proposed rule incorporates changes to the management plan for the special management areas that the forest service provided to the commission in 2011 and the commission adopted without change.

Reasons Supporting Proposal: The commission's 2011-2013 budget has forced the commission to reduce staff. As a result, the executive director can no longer assure that she can review applications for completeness within fourteen days or issue standard development review decisions within seventy-two days or expedited review applications within thirty days, which the commission's rules specify. The change to the development review notice requirements saves money, and the changes to the SMA provisions are required by federal law, 16 U.S.C. §§ 544d (c)(5)(A), 544f(1).

Statutory Authority for Adoption: ORS 196.150.

Statute Being Implemented: ORS 196.150; 16 U.S.C. § 544e (c)(1); RCW 43.97.015.

Rule is necessary because of federal law, 16 U.S.C. §§ 544d (c)(5)(A), 544f(1).

Name of Proponent: Columbia River Gorge Commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jill Arens, Executive Director, P.O. Box 730, White Salmon, WA, (509) 493-3323.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed amendments do not add substantive regulations. Most of the proposed amendments govern commission procedures and will not have any effect on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed amendments govern only commission procedures and are exempt pursuant to RCW 34.05.328 (5)(b)(ii).

October 5, 2011

Nancy A. Andring  
Administrative Assistant

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 11-23 issue of the Register.

**WSR 11-21-002**  
**PROPOSED RULES**  
**COLUMBIA RIVER**  
**GORGE COMMISSION**  
[Filed October 5, 2011, 3:07 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Proposed rule revising dates and notice requirements for development review decisions and incorporating SMA changes.

Hearing Location(s): Hood River Best Western Inn,



**WSR 11-21-019****PROPOSED RULES****OLYMPIC COLLEGE**

[Filed October 11, 2011, 8:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-17-001.

Title of Rule and Other Identifying Information: Distribution of printed material on campus, WAC 132C-10-010.

Hearing Location(s): Olympic College Board Room, Humanities and Student Services Building Room, 1600 Chester Avenue, Bremerton, WA 98337, on January 17, 2012, at 5:00 p.m.

Date of Intended Adoption: January 17, 2012.

Submit Written Comments to: Thomas Oliver, Olympic College, CSC 210, 1600 Chester Avenue, Bremerton, WA 98337, e-mail [toliver@olympic.edu](mailto:toliver@olympic.edu), fax (360) 475-7505, by January 6, 2012.

Assistance for Persons with Disabilities: Contact Access Services by January 6, 2012, TTY (360) 475-7543 or (360) 475-7540.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This policy adopted in 1968, is redundant to the newly adopted first amendment policy (WAC 132C-10-009). The college is therefore moving to rescind WAC 132C-10-010.

Reasons Supporting Proposal: Olympic College wishes to avoid confusion on this issue.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Statute Being Implemented: Chapter 28B.50 RCW.

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

Name of Proponent: Joan Hanten, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joan Hanten, CSC5, 1600 Chester Avenue, Bremerton, WA 98337, (360) 475-7121.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There will be no impact on any entity other than Olympic College.

A cost-benefit analysis is not required under RCW 34.05.328. There is no significant economic impact.

October 11, 2011

Thomas Oliver  
Rules Coordinator

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 132C-10-010	Distribution of printed material on campus.
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**WSR 11-21-023****PROPOSED RULES****CRIMINAL JUSTICE  
TRAINING COMMISSION**

[Filed October 11, 2011, 10:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-17-057.

Title of Rule and Other Identifying Information: WAC 139-05-100 Basic law enforcement training program for first term sheriffs.

Hearing Location(s): Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Room E-154, Burien, WA 98148, on Wednesday, December 14, 2011, at 10 a.m.

Date of Intended Adoption: March 14, 2012.

Submit Written Comments to: Sonja Hirsch, Rules Coordinator, 19010 1st Avenue South, Burien, WA 98148, e-mail [shirsch@cjtc.state.wa.us](mailto:shirsch@cjtc.state.wa.us), fax (206) 835-7928, by December 13, 2011.

Assistance for Persons with Disabilities: Contact Sonja Hirsch, rules coordinator, by December 13, 2011, TTY (206) 835-7300 or (206) 835-7372.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 436.28.025 [36.28.025] states, "A person who files a declaration of candidacy for the office of sheriff after September 1, 1979, shall have, within twelve months of assuming office, a certificate of completion of a basic law enforcement training program which complies with standards adopted by the criminal justice training commission pursuant to RCW 43.10.080 and \*43.101.160." This new rule will establish a standard for basic law enforcement training for newly elected sheriffs.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

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

Name of Proponent: WSCJTC staff, governmental.

Name of Agency Personnel Responsible for Drafting and Enforcement: Tisha Ehret, Burien, Washington, (206) 835-7332; and Implementation: Debbie Mealy, Burien, Washington, (206) 835-7352.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025.

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

October 11, 2011

Sonja Hirsch  
Rules Coordinator

**NEW SECTION**

**WAC 139-05-100 Basic law enforcement training program for first term sheriffs.** (1) All persons who assume their initial term of office of sheriff and are not currently certified as Washington peace officers shall complete the basic law enforcement equivalency academy and a forty hour basic law enforcement training program for first term sheriffs

within twelve months of assuming office, unless otherwise waived or extended by the commission.

(2) All persons who assume their initial term of the office of sheriff and are currently certified as Washington peace officers shall complete a forty hour basic law enforcement training program for first term sheriffs within twelve months of assuming office, unless otherwise waived or extended by the commission.

(3) This requirement does not apply to persons holding the office of sheriff in any county on September 1, 1979.

**WSR 11-21-026**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed October 11, 2011, 11:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-08-069.

Title of Rule and Other Identifying Information: The department is proposing changes to WAC 388-470-0005 How do resources affect my eligibility for cash assistance, medical assistance, and Basic Food?

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 November 22, 2011, at 10:00 a.m.

Date of Intended Adoption: November 23, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 22, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by November 8, 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: The proposed amendment increases the countable resources from \$3,000 to \$3,250 for household with an elderly or disabled person.

Reasons Supporting Proposal: The proposed amendments update Basic Food standards for federal fiscal year (FY) 2012 in order to comply with requirements of the United States Department of Agriculture, Food and Nutrition Service (FNS), per SNAP Administrative Notice 11-37 "Supplemental Nutrition Assistance Program FY 2012 Asset Limit Increase for Household with an Elderly or Disabled Member."

These standards must be adjusted annually in order to determine a client's eligibility and benefit level for the Washington Basic Food program.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090.

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

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

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

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

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this 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."

October 7, 2011

Katherine I. Vasquez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-05-015, filed 2/7/03, effective 3/1/03)

**WAC 388-470-0005 How do resources affect my eligibility for cash assistance, medical assistance, and Basic Food?** (1) The following definitions apply to this chapter:

(a) **"We"** means the department of social and health services.

(b) **"You"** means a person applying for or getting benefits from the department.

(c) **"Fair market value (FMV)"** means the price at which you could reasonably sell the resource.

(d) **"Equity value"** means the FMV minus any amount you owe on the resource.

(e) **"Community property"** means a resource in the name of the husband, wife, or both.

(f) **"Separate property"** means a resource of a married person that one of the spouses:

(i) Had possession of and paid for before they were married;

(ii) Acquired and paid for entirely out of income from separate property; or

(iii) Received as a gift or inheritance.

(2) We count a resource to decide if your assistance unit (AU) is eligible for cash assistance, family medical programs, or Basic Food when:

(a) It is a resource we must count under WAC 388-470-0045 and 388-470-0055;

(b) You own the resource. We consider you to own a resource if:

(i) Your name is on the title to the property; or

(ii) You have property that doesn't have a title; and

(c) You have control over the resource, which means the resource is actually available to you; and

(d) You could legally sell the resource or convert it into cash within twenty days.

(3) For cash assistance and family medical programs, you must try to make your resources available even if it will take you more than twenty days to do so, unless:

- (a) There is a legal barrier; or
- (b) You must petition the court to release part or all of a resource.
- (4) When you apply for assistance, we count your resources as of:
  - (a) The date of your interview, if you are required to have an interview; or
  - (b) The date of your application, if you are not required to have an interview; or
  - (c) The first day of the month of application, for medical assistance.
- (5) If your total countable resources are over the resource limit in subsection (6) through (13) of this section, you are not eligible for benefits.
- (6) For cash assistance and applicants for family medical programs, we use the equity value as the value of your resources.
  - (a) Applicants can have countable resources up to one thousand dollars.
  - (b) Recipients of cash assistance can have an additional three thousand dollars in a savings account.
- (7) Recipients of family medical programs do not have a resource limit.
- (8) We do not count your resources for children's medical or pregnancy medical benefits.
- (9) For SSI-related medical assistance, see chapter 388-475 WAC.
- (10) For clients receiving institutional or wavered services, see chapters 388-513 and 388-515 WAC.
- (11) If your household consists of more than one medical assistance unit (MAU), as described in WAC 388-408-0055, we look at the resources for each MAU separately.
- (12) If your AU is categorically eligible (CE) as described in WAC 388-414-0001, you do not have a resource limit for Basic Food.
- (13) If your AU is not CE under WAC 388-414-0001, your AU may have countable resources up to the following amount and be eligible for Basic Food:
  - (a) Three thousand two hundred fifty dollars if your AU has either an elderly or disabled individual; or
  - (b) Two thousand dollars for all other AUs.
- (14) If you own a countable resource with someone who is not in your AU, we count the portion of the resource that you own. If we cannot determine how much of the resource is yours:
  - (a) For cash assistance, we count an equal portion of the resource that belongs to each person who owns it.
  - (b) For medical assistance and Basic Food, we count the entire amount unless you can prove that the entire amount is not available to you.
- (15) We assume that you have control of community property and you can legally sell the property or convert it to cash unless you can show that you do not.
- (16) We may not consider an item to be separate property if you used both separate and community funds to buy or improve it.
- (17) We do not count the resources of victims of family violence when:
  - (a) The resource is owned jointly with members of the former household; or

- (b) Availability of the resource depends on an agreement of the joint owner; or
- (c) Making the resource available would place the client at risk of harm.
- (18) You may give us proof about a resource anytime, including when we ask for it or if you disagree with a decision we made, about:
  - (a) Who owns a resource;
  - (b) Who has legal control of the resource;
  - (c) The value of a resource;
  - (d) The availability of a resource; or
  - (e) The portion of a property you or another person owns.

**WSR 11-21-027**  
**PROPOSED RULES**  
**CRIMINAL JUSTICE**  
**TRAINING COMMISSION**  
 [Filed October 11, 2011, 11:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-17-063.

Title of Rule and Other Identifying Information: Chapter 139-07 WAC, Conditions of employment.

Hearing Location(s): Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Room E-154, Burien, WA 98148, on Wednesday, December 14, 2011, at 10 a.m.

Date of Intended Adoption: March 14, 2012.

Submit Written Comments to: Sonja Hirsch, Rules Coordinator, 19010 1st Avenue South, Burien, WA 98148, e-mail [shirsch@cjtc.state.wa.us](mailto:shirsch@cjtc.state.wa.us), fax (206) 835-7928, by December 13, 2011.

Assistance for Persons with Disabilities: Contact Sonja Hirsch, rules coordinator, by December 13, 2011, TTY (206) 835-7300 or (206) 835-7372.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SHB 1567 authorizes the WSCJTC to established [establish] standards for conditions of employment by requiring county, city, or state law enforcement agencies, that make a conditional offer of employment to an applicant as a fully commissioned peace officer or a reserve officer, to administer a background investigation including a check of criminal history, a psychological examination, and a polygraph test or similar assessment to each applicant in compliance with the standards established by the WSCJTC.

Reasons Supporting Proposal: These changes are a result of SHB 1567, which was passed into law in the 2011 session.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

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

Name of Proponent: WSCJTC staff, governmental.

Name of Agency Personnel Responsible for Drafting and Enforcement: Tisha Ehret, Burien, Washington, (206)

835-7332; and Implementation: Debbie Mealy, Burien, Washington, (206) 835-7352.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025.

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

October 11, 2011  
Sonja Hirsch  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-07-037, filed 3/10/10, effective 4/10/10)

**WAC 139-07-010 ((Psychological examination.) Conditions of employment.** ~~((+))~~ As a condition of continuing employment for any applicant who has been offered a conditional offer of employment as a fully commissioned peace officer or a reserve officer, including any person whose certification has lapsed as a result of a break in service of ~~((more than))~~ twenty-four consecutive months in the officer's service as a fully commissioned peace officer or reserve officer, the applicant shall ~~((successfully pass))~~ submit to a background investigation including a check of criminal history, a psychological examination, and a polygraph or similar assessment as administered by the county, city, or state law enforcement agency that ((complies)) comply with the requirements of this chapter.

~~((2))~~ The psychological examination shall be administered by a "qualified professional," which means a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW.

(a) The qualified professionals who administer the examinations should be trained and experienced in psychological testing, test interpretation, psychological assessment techniques and the administration of psychological examinations specific to peace officer applicants of law enforcement agencies.

(b) The examination should be based upon attributes considered most important for effective performance as a peace officer as obtained from a job analysis and data provided by the law enforcement agency making the conditional offer of employment. The data may include interviews, surveys or other appropriate sources where job performance information was obtained.

(c) Psychological examination reports older than six months shall not be considered valid for the purpose of RCW 43.101.080(19) and 43.101.095(2).

(d) The examination report, including all testing materials and documentation used to complete the examination report, should be maintained in a manner consistent with applicable confidentiality, records retention and public disclosure laws and rules.)

AMENDATORY SECTION (Amending WSR 10-07-037, filed 3/10/10, effective 4/10/10)

**WAC 139-07-020 ((Psychological examination requirements.)) Background information.** ~~((+))~~ Through

the examination, the qualified professional shall determine the psychological suitability of the peace officer applicant by an assessment of whether he or she is free from job-relevant mental and emotional impairments including, but not limited to, psychopathology, personality disorders and inappropriate behavior patterns.

~~(2)~~ The sole purpose of the psychological examination under this chapter is compliance with RCW 43.101.080(19) and 43.101.095(2)(a) and shall not be used for any other purpose by the law enforcement agency or any party.

~~(3)~~ Prior to the administration of the examination, the applicant must sign an informed consent to the conditions of the evaluation. The informed consent should clearly state the law enforcement agency is the client so that the applicant is informed that the entire examination would be shared with the agency.

~~(4)~~ The examination shall include the following:

(a) A minimum of two written psychological tests:

(i) The tests should be objective, job-related psychological instruments validated for use in evaluating law enforcement officers. For the purpose of this section, a validated test is defined as a test that has a substantial research base for interpretation with normal range populations in general and public safety applications in particular;

(ii) If mail-order, internet-based, or computerized tests are employed, the examiner should verify and interpret individual results;

(b) A comprehensive, face-to-face, clinical interview with the applicant conducted after a complete review of the psychological test results;

(c) An interpretation of the psychological test results by the qualified professional;

(d) An opinion on psychological suitability by the qualified professional; and

(e) A list and summary of the information relied upon for the assessment.) (1) Requirements for the applicant.

(a) Personal history statement. The applicant shall complete and submit to the employing agency a personal history statement on a form prescribed by the employer before the start of a background investigation. The personal history statement form shall contain questions and answers which aid in determining whether the person is suitable for employment as a certified peace officer or a reserve officer. The questions shall address whether the applicant meets the minimum requirements for employment, has engaged in conduct or a pattern of conduct which would jeopardize the public trust in the law enforcement profession, and is of good moral character.

(b) Information requirements. To assist with the background investigation, the applicant shall provide the following:

(i) Proof of United States citizenship. A copy of a birth certificate, United States passport, or United States naturalization papers is acceptable proof.

(ii) Proof of education. A certified copy of a diploma, certificate, or transcript is acceptable proof.

(iii) Record of any military discharge. A certified copy of the Military Service Record (DD Form 214, Member 4) is acceptable proof.

(iv) Personal references. The names and addresses of at least three people who can provide information as personal references.

(v) Previous employers or school attendees. The names and addresses of all employers and schools attended within a minimum of the previous ten years.

(vi) Residence history. A listing of the complete residential addresses for the last ten years.

(2) Requirements of the agency. At a minimum, the agency shall include the following in its collection and assessment of an applicant's background information, which also includes determining if the information provided by the applicant is accurate and truthful. The agency shall:

(a) Query all the law enforcement agency records in jurisdictions listed in subsection (1)(b)(v) and (vi) of this section;

(b) Query the motor vehicle division driving records from any state listed in subsection (1)(b)(v) and (vi) of this section;

(c) Complete and submit a fingerprint card inventory sheet to the Federal Bureau of Investigation and Washington state patrol records division for query;

(d) Query the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Washington Criminal Information Center (WACIC), or the equivalent for each state listed in subsection (1)(b)(v) and (iv) of this section;

(e) Contact all personal references and employers listed in subsection (1)(b)(iv) and (v) of this section and document the answers to inquiries concerning whether the person meets the standards of this section; and

(f) At the conclusion of all of the requirements of the collection and assessment of an applicant's background information, the agency shall complete a report that attests to all the requirements.

AMENDATORY SECTION (Amending WSR 10-07-037, filed 3/10/10, effective 4/10/10)

**WAC 139-07-030 ((~~Report of~~) ~~Psychological examinations~~(~~—Requirements~~)).** ~~((1) Findings of the psychological examination shall be reported in writing to the law enforcement agency requesting the examination.~~

~~(2) The written report shall include the following:~~

~~(a) The date of completion and a signature of the qualified professional who conducted the examination;~~

~~(b) Name and date of birth of applicant, position applied for, and agency which made the conditional offer of employment;~~

~~(c) A list and summary of the information relied upon for the assessment;~~

~~(d) All the components of the examination, as defined in this chapter;~~

~~(e) Factors which could affect the reliability and validity of the assessment; and~~

~~(f) An assessment of the psychological suitability of the applicant to be a peace officer or reserve officer for the particular law enforcement agency.)~~ (1) The psychological examination shall be administered by a "qualified professional," which means a psychiatrist licensed in the state of

Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW.

(a) The qualified professional who administers the examinations should be trained and experienced in psychological testing, test interpretation, psychological assessment techniques, and the administration of psychological examinations specific to peace officer applicants of law enforcement agencies.

(b) The examination should be based upon attributes considered most important for effective performance as a peace officer as obtained from a job analysis and data provided by the law enforcement agency making the conditional offer of employment. The data may include interviews, surveys, or other appropriate sources where job performance information was obtained.

(c) Psychological examination reports older than six months shall not be considered valid for the purpose of RCW 43.101.080(19) and 43.101.095(2).

(d) The examination report, including all testing materials and documentation used to complete the examination report, should be maintained in a manner consistent with applicable confidentiality, records retention, and public disclosure laws and rules.

(2) Through the examination, the qualified professional shall determine the psychological suitability of the peace officer applicant by an assessment of whether he or she is free from job-relevant mental and emotional impairments including, but not limited to, psychopathology, personality disorders, and inappropriate behavior patterns.

(3) The sole purpose of the psychological examination under this chapter is compliance with RCW 43.101.080(19) and 43.101.095(2)(a) and shall not be used for any other purpose by the law enforcement agency or any party.

(4) Prior to the administration of the examination, the applicant must sign an informed consent to the conditions of the evaluation. The informed consent should clearly state the law enforcement agency is the client so that the applicant is informed that the entire examination would be shared with the agency.

(5) The examination shall include the following:

(a) A minimum of two written psychological tests:

(i) The tests should be objective, job-related, psychological instruments validated for use in evaluating law enforcement officers. For the purpose of this section, a validated test is defined as a test that has a substantial research base for interpretation with normal range populations in general and public safety applications in particular;

(ii) If mail-order, internet based, or computerized tests are employed, the examiner should verify and interpret individual results;

(b) A comprehensive, face-to-face, clinical interview with the applicant conducted after a complete review of the psychological test results;

(c) An interpretation of the psychological test results by the qualified professional;

(d) An opinion on psychological suitability by the qualified professional; and

(e) A list and summary of the information relied upon for the assessment.

(6) Findings of the psychological examination shall be reported in writing to the law enforcement agency requesting the examination.

(7) The written report shall include the following:

(a) The date of completion and a signature of the qualified professional who conducted the examination;

(b) Name and date of birth of applicant, position applied for, and agency which made the conditional offer of employment;

(c) A list and summary of the information relied upon for the assessment;

(d) All the components of the examination, as defined in this chapter;

(e) Factors which could affect the reliability and validity of the assessment; and

(f) An assessment of the psychological suitability of the applicant to be a peace officer or reserve officer for the particular law enforcement agency.

(8) A peace officer applicant may be offered employment by more than one law enforcement agency that is conditional on the results of a psychological examination.

(9) The peace officer applicant may be required to pay all or a portion of the cost of the examination under RCW 43.101.080(19) and 43.101.095(2).

(10) One psychological examination may be shared with more than one law enforcement agency under the following circumstances:

(a) The agency which initiated the psychological examination and the qualified professional conducting the examination agreed to share the psychological examination report and recommendations with the other law enforcement agency;

(b) The applicant signed a release permitting the other agency to have the psychological examination report;

(c) The psychological examination was completed within six months of the request by the other law enforcement agency; and

(d) The job analyses of the initiating and other law enforcement agencies must be substantially similar.

AMENDATORY SECTION (Amending WSR 10-07-037, filed 3/10/10, effective 4/10/10)

**WAC 139-07-040 ((Report of psychological examination—Use by more than one agency:)) Polygraph examination.** ~~(((1) A peace officer applicant may be offered employment by more than one law enforcement agency that is conditional on the results of a psychological examination.~~

~~(2) The peace officer applicant may be required to pay all or a portion of the cost of the examination under RCW 43.101.080(19) and 43.101.095(2).~~

~~(3) One psychological examination may be shared with more than one law enforcement agency under the following circumstances:~~

~~(a) The agency which initiated the psychological examination and the qualified professional conducting the examination agreed to share the psychological examination report and recommendations with the other law enforcement agency;~~

~~(b) The applicant signed a release permitting the other agency to have the psychological examination report;~~

~~(c) The psychological examination was completed within six months of the request by the other law enforcement agency; and~~

~~(d) The job analyses of the initiating and other law enforcement agencies must be substantially similar.)) (1) An experienced polygraph examiner who is a graduate of a polygraph school accredited by the American Polygraph Association (APA) shall conduct the polygraph test. The examiner must also show that he/she is in compliance with completion of a minimum of thirty hours of APA-approved continuing education every two calendar years. The examiner must comply with all applicable federal and state laws including, but not limited to, the Employee Polygraph Protection Act, Equal Employment Opportunity Commission, Americans with Disabilities Act, and Washington state law against discrimination.~~

~~(a) Polygraph tests administered under this chapter shall be based on data from existing research pertaining to screening and diagnostic polygraph testing, risk assessment, risk management, and field investigation principles.~~

~~(b) Polygraph tests under this chapter are intended as one of the tools for incremental validity to risk assessment and risk management efforts surrounding the evaluation and selection of peace officer and reserve officer applicants.~~

~~(c) Preemployment tests are considered screening tests and are conducted in the absence of a known incident, allegation, or particular reason to suspect someone's involvement. The polygraph test questions should be simple, direct, and easily understood by the applicant. Test information and results should be considered confidential within the screening process to be used exclusively by the county, city, or state law enforcement agency to assist with the selection of their applicant.~~

~~(2) The polygraph examiner shall assure that the polygraph equipment is properly functioning, maintained, and calibrated in compliance with the manufacturer's recommendation.~~

~~(a) The polygraph examiner shall record a chart semiannually to demonstrate correct functioning and shall be maintained by the examiner for a period of one year.~~

~~(b) At a minimum, a polygraph instrument shall continuously record the following components during the testing process:~~

~~(i) Two pneumograph components to document thoracic and abdominal movement patterns associated with respiration;~~

~~(ii) A component to record electro dermal activity reflecting relative changes in the conductance or resistance of current by epidermal tissues;~~

~~(iii) A cardiograph component to report pulse rate, pulse amplitude, and relative blood pressure changes; and~~

~~(iv) A motion sensor.~~

~~(3) The county, city, or state law enforcement agency which administered the polygraph test shall maintain all documentation of the test for a minimum of three years from the date of the test unless otherwise required by law.~~

NEW SECTION

**WAC 139-07-050 Similar assessments.** (1) Examination of an applicant by a computer voice stress analysis must be conducted by an experienced computer voice stress analyst certified by the National Association of Computer Voice Stress Analysts.

(a) Computer voice stress analysts must attend a recertification course approved by the National Association of Computer Voice Stress Analysts at least every two years.

(b) The analyst must comply with all applicable federal and state laws including, but not limited to, the Employee Polygraph Protection Act, Equal Employment Opportunity Commission, Americans with Disabilities Act, and Washington state law against discrimination.

(c) The test and interview questions should be simple, direct, and easy to understand by the applicant.

(2) The analyst conducting the computer voice stress analysis of the applicant must assure that the equipment is properly functioning, maintained, and calibrated in compliance with the manufacturer's recommendations.

**WSR 11-21-034**

**WITHDRAWAL OF PROPOSED RULES  
PROFESSIONAL EDUCATOR  
STANDARDS BOARD**

[Filed October 11, 2011, 2:48 p.m.]

Please withdraw proposed rule CR-102, WSR 11-20-093 filed October 4, 2011. The proposal as filed did not edit all the necessary sections and the agency has determined that all of these sections must be addressed at the same time.

David Brenna  
Senior Policy Analyst

**WSR 11-21-044**

**PROPOSED RULES  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed October 12, 2011, 11:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-11-005.

Title of Rule and Other Identifying Information: Chapter 392-143 WAC, Transportation—Specifications for school buses.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Brouillet Conference Room, 600 South Washington Street, Olympia, WA 98504-7200, on December 6, 2011, at 10:00 a.m.

Date of Intended Adoption: December 9, 2011.

Submit Written Comments to: Allan J. Jones, OSPI, Student Transportation, P.O. Box 47200, Olympia, WA 98504-7200, e-mail allan.jones@k12.wa.us, fax (360) 586-6124, by December 2, 2011.

Assistance for Persons with Disabilities: Contact Wanda Griffin by December 2, 2011, TTY (360) 664-3631 or (360) 725-6132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed revisions will eliminate the requirement of a weight slip and copy of the warrant being provided to OSPI prior to issuance of operation permits. These amendments will be a cost-savings benefit to all school district[s], educational service districts, and OSPI.

A change is proposed that would require providing a copy of the initial school bus inspection to the licensing office for issuance of an exempt plate, instead of the current requirement for a copy of the school bus operation permit.

Other changes are made to allow the flexibility of migrating to electronic submission of acquisition paperwork.

Statutory Authority for Adoption: RCW 46.61.380.

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

Name of Proponent: [OSPI], governmental.

Name of Agency Personnel Responsible for Drafting: Catherine Slagle, OSPI, (360) 725-6136; Implementation: Shawn Lewis, OSPI, (360) 725-6292; and Enforcement: Allan J. Jones, OSPI, (360) 725-6123.

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

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

October 11, 2011

Randy Dorn  
State Superintendent  
of Public Instruction

AMENDATORY SECTION (Amending Order 84-39, filed 10/2/84)

**WAC 392-143-001 Authority and purpose.** The authority for this chapter is RCW 46.61.380 which authorizes the superintendent of public instruction to adopt and enforce regulations to govern the design, marking, and mode of operation of all school buses transporting ~~((common))~~ public school students. The purpose of this chapter is to establish the specifications governing the design and marking of all school buses owned and operated by any school district and all school buses which are privately owned and operated under contract with any school district for the transportation of students. The provisions of this chapter shall be incorporated by express reference into all school district contracts for the transportation of public school students in privately owned and operated school buses.

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "School bus" means every vehicle with a seating capacity of more than ten persons including the driver regu-

larly used to transport students to and from school or in connection with school activities.

(2) "School bus specifications manual" means that manual published ~~((and distributed to each school district))~~ by the superintendent of public instruction.

(3) "School district" means either a school district or an educational service district.

(4) "School bus operation permit" means that form issued by the superintendent of public instruction to ~~((an individual))~~ a school district ~~((or educational service district))~~, which is required prior to the use of any school bus for the transportation of ~~((any common school))~~ students. No school bus operation permit is valid for any school bus which does not meet the Federal Motor Vehicle Safety Standards implemented April 1, 1977.

~~((4))~~ (5) "Inspection officer" means an employee of the Washington state patrol ~~((trained and))~~ designated by the chief of the Washington state patrol to inspect school buses.

~~((5))~~ (6) "SPI Form 1028" means that form ~~((prepared and))~~ distributed by the superintendent of public instruction upon which the inspection officer indicates that the school bus has been inspected and approved, for used buses previously inspected by the Washington state patrol.

~~((6))~~ (7) "SPI Form 1029" means that form ~~((prepared and))~~ distributed by the superintendent of public instruction upon which the inspection officer indicates that the school bus has been inspected and approved upon initial purchase, used buses not previously inspected by the Washington state patrol, and buses which have ~~((been repowered or which have))~~ undergone rehabilitation or modification ~~((repair))~~.

(8) "Major repairs" means repairs to or rebuilding of the frame, steering, suspension, or braking systems. Major repairs to braking systems does not include routine maintenance such as replacing brake shoes, pads or drums.

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-015 School bus specifications manual.** ~~((The school bus specifications manual shall incorporate all specifications required by the federal department of transportation motor vehicle safety standards and govern the specifications for all school buses.))~~ The Washington state school bus specifications manual is hereby incorporated into this chapter by reference. Prior to any revision of the school bus specification manual, the superintendent of public instruction shall serve notice to interested parties and shall hold at least one public ~~((hearing))~~ meeting.

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-030 School buses—School bus operating permit and license.** If a ~~((school bus is approved in compliance with WAC 392-143-031 and the))~~ school district has met requirements of WAC 392-143-032 for a newly acquired school bus, the superintendent of public instruction shall send ~~((three copies of the))~~ a school bus operation permit to the appropriate school district. ~~((The original))~~ A copy of the operation permit shall be retained by the school district; ~~((one))~~ a copy shall be placed in the permit holder in the

school bus; and ~~((one))~~ a copy shall be presented to the county auditor, along with the operator's application for an exempt state license for the bus if applicable. County auditors shall not issue an exempt license for the bus unless a school bus operation permit and a copy of SPI Form 1029 indicating the school bus has been inspected and approved by the Washington state patrol accompanies the application for a license.

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-031 School bus inspection—School bus operation permit.** All school buses must be inspected and approved by a Washington state patrol inspection officer prior to initial issue or reissue of a school bus operation permit. ~~((Effective December 31, 2004, no school bus operation permit shall be valid for any school bus which does not meet Federal Motor Vehicle Safety Standards adopted April 1, 1977.))~~

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-032 School bus operation permit.** The superintendent of public instruction shall issue school bus operation permits as follows:

(1) School buses owned or operated by a ~~((public))~~ school district or owned by a private contractor under contract to a school district shall be issued a school bus operation permit on receipt of the following ~~((properly executed))~~ electronic files or documents for each new school bus or used school bus not previously issued a school bus operation permit in Washington state:

- (a) ~~((Original))~~ SPI Form 1020A, School Bus Acquisition ~~((Disposition))~~ Report~~(;~~
- (b) ~~Copy of the sellers invoice or bill of sale;~~
- (c) ~~Copy of complete set of the successful vendor's bid specifications;~~
- (d) ~~Copy of each warrant issued in full payment of the bus or each warrant issued in part payment of the bus, if any, and, copy of the conditional sales contract, lease purchase agreement, or other evidence of contractual liability;~~
- (e) ~~Original weight slip for the vehicle); and~~
- ~~((f-Original))~~ (b) SPI Form 1029, Initial School Bus Inspection.

(2) ~~((School buses owned by a private contractor and operated under contract to a public school shall be issued a school bus operation permit on receipt of the following properly executed documents for each new school bus or used school bus not previously issued a school bus operation permit in Washington state:~~

- (a) ~~Original SPI Form 1020A, School Bus Acquisition Report;~~
- (b) ~~Original weight slip for the vehicle; and~~
- (c) ~~Original SPI Form 1029, Initial School Bus Inspection.~~

~~((3))~~ A school bus operation permit shall be reissued on receipt of the following ~~((properly executed))~~ electronic files or documents for school buses previously licensed in Washington state~~(- Provided, That no school bus operation permit~~



shall be reissued to any school bus which does not meet Federal Motor Vehicle Safety Standards adopted April 1, 1977):

(a) ~~((Original))~~ SPI Form 1020A, School Bus Acquisition Report, from the school district acquiring the school bus; and

(b) ~~((Original SPI Form 1020B, School Bus Disposition Report, from the school district disposing of the school bus, with existing school bus operating permit attached;~~

(c) ~~Copy of SPI Form 1028, Routine School Bus Inspection, properly authenticated as the inspection report from the most recent annual one hundred percent fleet inspection, which inspection was made within twelve months prior to the date of acquisition;~~

(d) ~~For school district owned or operated buses, a seller invoice or bill of sale; and~~

(e) ~~A copy of the warrant issued in payment of the purchase of the bus))~~ SPI Form 1029, Initial School Bus Inspection, if the most recent school bus inspection was more than twelve months prior to the date of acquisition.

AMENDATORY SECTION (Amending Order 84-39, filed 10/2/84)

**WAC 392-143-035 Routine inspection of school buses.** All school buses shall be inspected annually by the Washington state patrol. Inspection dates ~~((and centers))~~ shall be determined by ~~((the superintendent of public instruction and))~~ the chief of the state patrol. School districts shall be notified by the chief of the state patrol prior to each annual inspection of the time and place of inspection. School buses not presented for inspection at the time and place scheduled by the chief of the state patrol shall not be operated as a school bus unless the requirement is temporarily waived in writing by the chief of the state patrol or until the school bus has passed a required inspection. A second inspection of at least twenty-five percent of each school district's fleet shall be conducted annually by the Washington state patrol. This second inspection shall be unannounced and the inspection team shall select which buses in the fleet it will inspect. These unannounced inspections shall be scheduled so that they do not disrupt the regular transportation program.

AMENDATORY SECTION (Amending Order 84-39, filed 10/2/84)

**WAC 392-143-040 Other required inspections of school buses.** All school buses which have been rebuilt, have received a major modification, have received a major repair, or have received an interior renovation or refurbishment shall be inspected prior to transporting students in accordance with the following criteria:

(1) A rebuilt school bus: For the purpose of this section, a rebuilt school bus shall fully comply with all current Washington specifications at the time the school bus is rebuilt ~~((and shall be inspected in accordance with WAC 392-143-030)).~~

(2) A school bus receiving a major modification ~~((= For the purpose of this section, school bus modifications))~~ (e.g., hydraulic lift and/or ramp for wheelchairs) shall meet all current state of Washington specifications at the time the major

modification is made ~~((and shall be inspected in accordance with WAC 392-143-030)).~~

(3) A school bus receiving a major repair ~~((not routine maintenance): For the purpose of this section, a school bus that has received repairs to or rebuilding of the frame, steering, suspension, or braking systems or has been repowered shall be identified as needing inspection. Any repairs made))~~ shall meet or exceed Washington specifications in effect at the time of the original manufacturing date of the bus and shall be inspected in the same manner as a new school bus with emphasis on mechanical safety items.

(4) A school bus receiving an interior renovation or refurbishment ~~((not routine seat repair): For the purpose of this section, a school bus that has received an interior renovation or refurbishment shall be identified as needing inspection. Renovation or refurbishment of interiors shall meet the Federal Motor Vehicle Safety Standard (FMVSS) 222 and))~~ shall be inspected in the same manner as a new school bus with respect to ~~((FMVSS))~~ Federal Motor Vehicle Safety Standard 222.

AMENDATORY SECTION (Amending Order 84-39, filed 10/2/84)

**WAC 392-143-060 School bus specifications continued compliance.** School districts shall maintain all school buses in such condition that they shall continue to meet or exceed Washington state specifications in effect when the bus was manufactured, except as such standards or specifications are subsequently repealed or ~~((reduced))~~ modified.

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-070 Other vehicles used to transport students.** All vehicles with a seating capacity including the driver of ten persons or less shall not be required to meet school bus specifications. Such vehicles regularly used to transport students to and from school or in connection with school activities shall carry the approved school bus first-aid kit, fire extinguisher, and highway warning kit. These vehicles also shall pass a safety inspection routinely conducted at the intervals outlined in WAC 392-143-035.

~~((Students, while being transported in any vehicle not required to meet school bus specifications but used for to and from school transportation and to and from school activities transportation, shall share the same compartment and shall be provided the same general safety and comfort as the driver.))~~

All vehicles used to transport students with a manufacturer rated seating capacity including the driver greater than ten persons shall be required to meet school bus specifications.

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-080 Signs and markings for school buses—Exterior—Interior.** Signs and markings on the exterior of any school bus shall be limited to ~~((the requirements of RCW 46.61.380,))~~ the requirements of the school bus specifications manual ~~((for school buses addressing~~

"identification" and "color," the minimum requirements of "Highway Safety Program Standard No. 17," and any applicable Federal Motor Vehicle Safety Standard (FMVSS)).

Signs and markings on the interior of any bus shall be limited to necessary and/or required manufacturers' equipment and/or component identification and instruction, and the requirements of the school bus specifications manual.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-143-005 Purpose.
- WAC 392-143-025 Additional local specifications.

**WSR 11-21-045**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed October 12, 2011, 11:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-10-018.

Title of Rule and Other Identifying Information: Chapter 392-151 WAC, School safety patrol.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Brouillet Conference Room, 600 South Washington Street, Olympia, WA 98504-7200, on December 6, 2011, at 10:30 a.m.

Date of Intended Adoption: December 9, 2011.

Submit Written Comments to: Allan J. Jones, OSPI, Student Transportation, P.O. Box 47200, Olympia, WA 98504-7200, e-mail allan.jones@k12.wa.us, fax (360) 586-6124, by December 2, 2011.

Assistance for Persons with Disabilities: Contact Wanda Griffin by December 2, 2011, TTY (360) 664-3631 or (360) 725-6132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These revisions will update the regulations to the current standards. In addition, some technical and grammatical corrections were made.

Statutory Authority for Adoption: RCW 46.61.385.

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

Name of Proponent: [OSPI], governmental.

Name of Agency Personnel Responsible for Drafting: Catherine Slagle, OSPI, (360) 725-6136; Implementation: Shawn Lewis, OSPI, (360) 725-6292; and Enforcement: Allan J. Jones, OSPI, (360) 725-6123.

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

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

October 12, 2011

Randy Dorn  
State Superintendent  
of Public Instruction

AMENDATORY SECTION (Amending WSR 91-15-016, filed 7/10/91, effective 8/10/91)

**WAC 392-151-003 Authority and purpose.** The authority for this chapter is RCW 46.61.385 which authorizes the appointment and operation of school patrols by any public or private school subject to the conditions, procedures, and considerations required by ~~((this chapter))~~ the superintendent of public instruction and ~~((such supplemental conditions, procedures, and considerations as any such school may impose which are in the best interest of student safety))~~ RCW 28A.160.160(5), which requires walking routes for elementary schools.

AMENDATORY SECTION (Amending WSR 91-15-016, filed 7/10/91, effective 8/10/91)

**WAC 392-151-010 Function of a school patrol.** The ~~((purpose and))~~ function of a school patrol ~~((are))~~ is to assist and aid members of the student body in the safe and proper crossing of streets, highways, and roads adjacent to the school ~~((and other crossing areas approved by the local safety advisory committee)).~~

Student school patrol members assigned to work at a location with an adult school patrol member shall assist and act at the direction of such adult member of the patrol. A school patrol is to look for and utilize natural gaps in traffic as much as possible when allowing students to cross a street, highway, or road.

AMENDATORY SECTION (Amending WSR 91-15-016, filed 7/10/91, effective 8/10/91)

**WAC 392-151-015 Administration and support.** The superintendent or chief administrative officer of the school district shall ~~((assume the leadership and))~~ be ultimately responsible for determining school patrol policy and operations. ~~((The principal of each school shall provide leadership in developing good relationships among teachers, student body, and members of the school patrol in matters of selecting, instructing, and giving immediate supervision to school patrol members and carrying out administrative details.))~~ Administration of the actual operation of a school patrol may be delegated to a school employee or a safety committee. ~~((The approval, understanding, support, and encouragement of school administrators, local traffic control agencies, teachers, parents, and students is essential in providing an effective school safety patrol.))~~

AMENDATORY SECTION (Amending WSR 91-15-016, filed 7/10/91, effective 8/10/91)

**WAC 392-151-020 Liability.** ~~((The fear of potential liability for injuries sustained by pupils, employees, or~~

patrols is present in the minds of school board members and school administrators. Both a school district and its individual employees or agents are potentially liable for damages sustained by students or others as the result of negligence. Examples of actions or inactions possibly giving rise to an award of damages by a court include: The failure to properly supervise students while they are in the custody of school employees or agents; the failure to properly instruct students in the procedures necessary to safeguard themselves while participating in school activities which may otherwise cause them injury; the failure to select and assign competent employees or agents to safeguard students where necessary; and, in general, the failure to take reasonable precautions to safeguard students in the custody of the school against foreseeable dangers.

The following suggested procedures may assist schools and employees or agents reduce the potential liability in connection with the operation of a school patrol: Any school district operating a school patrol shall adopt policies and procedures to reduce the potential liability and ensure student safety, including:

(1) ~~((Establish reasonable rules and regulations))~~ Policies and procedures regarding the supervision and control of the school patrols.

(2) ~~((Establish a policy which limits the selection of student patrol members to students who are preferably ages ten or older and who possess appropriate physical and mental abilities:~~

(3) Establish a policy which authorizes any parent to have his or her child excluded from service on the safety patrol.

(4) Establish a policy which requires school boards to provide) Providing insurance for members of the school patrol and for all supervisory officials involved in the program.

~~((5) Establish a policy which sets forth specific physical and other))~~ (3) Establishing criteria for selecting school patrol members and providing adequate training.

In addition, schools should periodically conduct a complete review of the entire school patrol program, including ~~((the following)):~~

(a) The selection of supervisors and patrol members, equipment and schedules.

(b) ~~((The selection of student and adult members of the patrol~~

(c) The training of both supervisors and patrol members

(d) The determination of the streets which are to be used and those which are not to be used

(e) The equipment needed

(f) The time schedule when the patrol will be on duty

(g) ~~The))~~ Special precautions ~~((to))~~ should be ~~((observed))~~ developed for patrol duty in inclement weather and during hours of semidarkness.

AMENDATORY SECTION (Amending Order 96-17, filed 11/1/96, effective 12/2/96)

**WAC 392-151-025 Route plans.** Suggested route plans shall be developed for each elementary school that has students who walk to and from school. It shall recommend

~~((school))~~ walking routes based on considerations of traffic patterns, existing traffic controls, and other crossing protection aids such as school patrols. These route plans shall limit the number of school crossings so that students move through the crossings in groups, allowing only one entrance-exit from each block to and from school. ~~((The))~~ Information about the walking route ~~((to school))~~ plan shall be distributed to all students ~~((with instructions that it be taken home and discussed with the parents))~~.

AMENDATORY SECTION (Amending Order 96-17, filed 11/1/96, effective 12/2/96)

**WAC 392-151-030 Controlled crossings.** ~~((“School patrol controlled” crosswalks are defined as any crosswalk which is attended by a student or adult guard, and which is not controlled by a traffic signal or stop sign.))~~ School patrol controlled crossings shall not be operated unless proper traffic control devices are in place ~~((as depicted in))~~ that meet the standards determined by the Washington state department of transportation ~~((“Sign Fabrication Manual and Manual on Uniform Traffic Control Devices, as now or hereafter amended. As a minimum, these shall consist of:~~

(1) School crossing warning signs S1-1 and S2-1

(2) Marked crosswalks

(3) School speed limit sign

~~“School patrol assisted” crosswalks are defined as any crosswalk which is attended by a student or adult crossing guard and controlled by a stop sign, traffic signal or law enforcement officer. When crossings are controlled by stop signs, the S2-1 may be omitted. When crossings are controlled by a traffic signal or by a stop sign, the use of the school speed limit sign may be necessary following an engineering study.~~

~~Contact shall be made by school authorities with the governmental agency having jurisdiction over the street or highway in question in order to secure the necessary signs. The state department of transportation shall be contacted concerning all state highways outside of incorporated towns and cities and on those state highways within the incorporated limits of towns and cities with a population of 22,500 or less. On state highways within the incorporated limits of cities with a population of 22,500 or more, the city public works department shall be contacted.~~

~~The county highway department shall be contacted regarding all county roads. On city and town streets, which are not state highways, within the incorporated limits of cities and towns, the city or town street or public works department shall be contacted.~~

~~When school officials and/or the safety advisory committee determines that vehicular traffic volumes are such that adequate safe gaps in the traffic flow do not occur in reasonable frequent intervals to allow safe crossings by students, this condition, as well as any other related traffic issues, shall be evaluated cooperatively with the traffic engineering authorities having jurisdiction in order that necessary studies can be conducted for the purpose of developing possible alternative measures.))~~

Where conditions are such that a patrol member cannot be seen at least as far away as the safe stopping distance for

the legal speed at the location, one of the following procedures shall be carried out:

- (1) Select a safer location for the crossing at which the patrol is to serve.
- (2) Cooperatively evaluate the condition with traffic authorities having jurisdiction for the purpose of developing possible alternative measures.

AMENDATORY SECTION (Amending WSR 91-15-016, filed 7/10/91, effective 8/10/91)

**WAC 392-151-055 Utilization of adult patrol members.** Schools ~~((possess the authority to))~~ may appoint adults as members of a school patrol~~((The following criteria may be used to determine at which locations adult patrol members shall be stationed:~~

- ~~(1) When there is a lack of adequate gaps due to a high volume of traffic.~~
- ~~(2) When 85 percent of the traffic speed exceeds the speed limit by 5 miles an hour.~~
- ~~(3) When there is a restricted sight distance.~~
- ~~(4) When the location or distance from the school building is such that poor supervision of students would otherwise result.~~
- ~~(5) When there is a high volume of turning traffic over a crosswalk.~~
- ~~(6) When the location has been determined by either school or law enforcement authorities to be beyond the capability of a student to make rational decisions concerning safety.~~
- ~~(7) When there is an excessive volume of pedestrian traffic over a highway.~~
- ~~(8) When any of the above criteria exists and there is a lack of an alternate school route plan));~~ however, such adults are subject to all the background checks and other requirements of volunteers in the school.

AMENDATORY SECTION (Amending Order 7-75, filed 12/22/75)

**WAC 392-151-075 Hours on duty.** ~~((The hours that patrol members are on duty shall be determined by the needs of the school area from an accident prevention standpoint and the time schedule of the school being served. The schedule of each student patrol member shall be so planned as to make it unnecessary for the student to miss regular school work for lengthy periods.))~~ Parents or guardians shall be informed of the amount of time students are scheduled to serve on patrols and how much class time may be missed due to patrol duty.

~~((When a patrol member has been assigned to a particular crossing, the member shall be on duty at all times students are normally crossing streets or highways in going to and from school. Members shall be at their posts 10 to 15 minutes before the first class in the morning and 10 to 15 minutes before school begins in the afternoon.~~

~~At dismissal times, arrangements shall be made for student patrol members to leave their classes 2 or 3 minutes before the dismissal bell. Patrol members shall remain on duty until the patrol captain or patrol supervisor gives the dismissal signal.))~~

AMENDATORY SECTION (Amending Order 80-22, filed 7/9/80)

**WAC 392-151-090 Standard uniforms.** The standard uniform for school patrol members shall ~~((be))~~ include a badge, vest, ~~((and/or raincoat))~~ and ~~((shall be worn only during a patrol function.~~ A helmet may be used as part of the standard uniform.

~~The helmet when used shall be fluorescent orange, white, red, or yellow. For additional visibility during hours of darkness, reflective tape may be added to the uniform.~~

~~The school patrol vest shall be fluorescent orange with reflective white bands.~~

~~The raincoat shall be fluorescent orange, red, or yellow)~~ flag of the type recommended by the Washington traffic safety commission for school patrol use.

AMENDATORY SECTION (Amending WSR 91-15-016, filed 7/10/91, effective 8/10/91)

**WAC 392-151-105 Instruction of patrol members.** Each school patrol member shall be thoroughly trained in his or her duties before being permitted to take assigned posts. Instruction shall include the fundamentals of patrol operation — where and how to stand when on duty, how to handle the patrol flag, and what constitutes a sufficient gap in vehicular traffic to permit safe crossing by students. Emphasis shall be placed on special hazards and the need for constant alertness. ~~((Types of training which shall be given members are:~~

- ~~(1) On the job training for at least one week under the direction of an experienced patrol member or for a longer period to learn their duties.~~
- ~~(2) Personal instruction by the patrol supervisor, a police officer, or a designated school district safety official.~~
- ~~(3) Reading and understanding written instructions which the school has compiled for the specific purpose of instructing new members.))~~

AMENDATORY SECTION (Amending WSR 91-15-016, filed 7/10/91, effective 8/10/91)

**WAC 392-151-135 Operation at an intersection with traffic signal.** At an intersection with a traffic signal, the light shall govern school patrol operation and the movement of students.

~~((When the light turns green in the direction the students are to cross, the patrol members shall be certain that all approaching cars are stopping for their red light. When the patrol members are sure that traffic does not constitute a hazard, the patrol members shall follow the basic crossing procedure.~~

~~Before the red signal comes back on, patrol members shall stop all stragglers. Patrol members shall know the length of time the green is on and be able to estimate the correct moment to stop the flow of pedestrians.~~

~~When the signal is a pedestrian-actuated light, it shall be controlled by the "sender" patrol member. The "WALK" phase of this type of light is shorter than the green phase of the regular traffic light so that small compact groups of pedestrians may be allowed to cross at one time.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-151-005	Purpose.
WAC 392-151-017	Safety advisory committee—Selection.
WAC 392-151-035	School crossing warning and speed limit signs.
WAC 392-151-040	Organization, instruction, and supervision.
WAC 392-151-045	Duties of patrol supervisor.
WAC 392-151-050	Selection, appointment and suspension of patrol members.
WAC 392-151-060	Good character references for adult patrol members.
WAC 392-151-065	Adult patrol members—Knowledge—Training of students—Introduction.
WAC 392-151-070	Size of patrol and officers needed.
WAC 392-151-080	The patrol captain.
WAC 392-151-085	General duties of patrol members.
WAC 392-151-095	Equipment.
WAC 392-151-100	Care of equipment—Dismissal.
WAC 392-151-110	Installing school patrol members.
WAC 392-151-115	Patrol operation—Assignment and inspection.
WAC 392-151-120	Basic crossing position and flag operation.
WAC 392-151-125	Operation with school patrol members.
WAC 392-151-130	Operation with an adult patrol member or police officer or traffic signal.
WAC 392-151-140	Violation reports and accidents.

**WSR 11-21-047**

**PROPOSED RULES**

**LIQUOR CONTROL BOARD**

[Filed October 12, 2011, 12:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-16-035.

Title of Rule and Other Identifying Information: WAC 314-44-005 Agent's license required—Eligible employers defined—Certain classes limited—Bona fide entity defined—Prohibited practices.

Hearing Location(s): Washington State Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA 98504, on November 30, 2011, at 10:00 a.m.

Date of Intended Adoption: December 7, 2011.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504, e-mail rules@liq.wa.gov, fax (360) 664-9869, by November 27, 2011

Assistance for Persons with Disabilities: Contact Karen McCall by November 27, 2011, (360) 664-1631

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Revisions were needed to WAC 314-44-005 to implement SSB 5788 from the 2011 legislative session.

Reasons Supporting Proposal: Implement legislation from the 2011 legislative session for WAC 314-44-005.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.310.

Statute Being Implemented: RCW 66.24.310.

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

Name of Proponent: Washington state liquor control board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; Implementation: Alan Rathbun, Director of Licensing, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1615; and Enforcement: Justin Nordhorn, Enforcement Chief, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal has a positive impact [on] wineries.

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

October 12, 2100 [2011]

Sharon Foster

Chairman

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

**WAC 314-44-005 Agent's license required—Eligible employers defined—Certain classes limited—Bona fide entity defined—Prohibited practices.** (1) No person shall canvass for, solicit, receive or take orders for the purchase or sale of any liquor, or act as the agent for the purchase or sale of liquor, nor contact any licensees of the board in goodwill activities, unless such person is holder of an agent's license as provided in RCW 66.24.310, and this regulation.

(2) An agent's license may be issued to the accredited representative of a person, firm, or corporation holding a certificate of approval issued pursuant to RCW 66.24.270 or 66.24.206, a beer distributor's license, a brewer's license, a beer importer's license, a domestic winery license, a wine

importer's license, or a wine distributor's license within the state of Washington, or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor, or foreign produced beer or wine. A person, firm, or corporation so qualified, is herein defined to be an eligible employer. Such employer shall apply to the board for such an agent's license for his accredited representatives on application forms prescribed and furnished by the board. This subsection shall not apply to drivers who deliver beer or wine to domestic wineries or their employees. Employees of a domestic winery must have identification on them that indicates they work for the winery. Identification may be in the form of a winery's business card, employee badge, or similar identification.

(3) Any person acting as an independent contractor for a winery must have an agent's license. An independent contractor is defined as an independent business person who runs his or her own business that provides services to another individual or business. The independent contractor is a separate business entity. The earnings of a person who is working as an independent contractor are subject to self-employment tax.

((3)) (4) Every firm which applies for an agent's license under the provisions of this section shall furnish the board with satisfactory proof that such firm is in fact a bona fide business entity.

((4)) (5) Only the licensed agent of a distiller, manufacturer, importer, or distributor of spirituous liquor may contact retail licensees in goodwill activities when such contacts pertain to spirituous liquor products.

((5)) (6) No distiller, manufacturer, importer, distributor of liquor, or agent thereof, shall solicit either in person, by mail or otherwise, any liquor vendor or employee of the board, except the purchasing agent thereof, for the purpose or with the intent of furthering the sale of a particular brand or brands of merchandise as against another brand or brands of merchandise.

((6)) (7) No distiller, manufacturer, importer, distributor of liquor, or agent thereof, shall visit any state liquor store or agency for the purpose of exerting influence on employees for sales promotion or to secure information regarding inventory or any other matter relating to sales. They may deliver, or have delivered, and assemble where required, consumer offers and display material that have been approved by the board or its designee. Violation of this section will result in a penalty against all company items, which in appropriate cases could mean a partial or total delisting of those items.

((7)) (8) No distiller, manufacturer, importer, or distributor of liquor, or agent thereof, shall give or offer to any employee of the board any entertainment, gratuity or other consideration for the purpose of inducing or promoting the sale of merchandise.

((8)) (9) No distiller, manufacturer, importer, or distributor, or agent thereof, shall allow, pay or rebate, directly or indirectly, any cash or merchandise to any retail licensee to induce or promote the sale of liquor, including the payment of tips to such licensees or their employees and the purchasing of drinks "for the house." Such persons, firms and licensees must operate in conformity with WAC 314-12-140, RCW 66.28.010, 66.28.040, and other applicable laws and rules.

((9)) (10) Upon the infraction of any law or regulation by any distiller, manufacturer, importer, distributor, or agent, the board may, in addition to imposing other penalties as prescribed by law, remove such firm's products from the sales list of the board, and/or prohibit the sale of any brand or brands of beer or wine involved as provided in RCW 66.28.030.

((10)) (11) Upon the termination of the employment of a licensed agent, his employer shall immediately notify the board and with such notice return to the board the agent's license issued to such person.

**WSR 11-21-052**  
**PROPOSED RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**

[Filed October 13, 2011, 10:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-23-110.

Title of Rule and Other Identifying Information: Amends WAC 181-01-002 adding Oregon basic skill test, essential academic skills test, to tests accepted in Washington state.

Hearing Location(s): Phoenix Inn, 415 Capitol Way North, Olympia, WA 98501, on January 19, 2012, at 8:30 a.m.

Date of Intended Adoption: January 19, 2012.

Submit Written Comments to: David Brenna, Legislative and Policy Coordinator, P.O. Box 47236, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by January 10, 2012.

Assistance for Persons with Disabilities: Contact David Brenna by January 10, 2012, TTY (360) 664-3631 or (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Oregon has developed a new basic skills test. Bordering states[] basic tests are accepted in Washington state for the WEST-B.

Reasons Supporting Proposal: Responds to new testing requirements in Oregon effecting Washington teacher candidates.

Statutory Authority for Adoption: RCW 28A.410.210.

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

Name of Proponent: Professional educators [educator] standards board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by

contacting David Brenna, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-3631, e-mail david.brenna@k12.wa.us.

October 13, 2011  
David Brenna  
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 06-24-084, filed 12/5/06, effective 1/5/07)

**WAC 181-01-002 WEST-B exemptions.** (1) Candidates who are prepared and/or certified out-of-state applying for a Washington state residency teaching certificate under WAC 181-79A-257 (1)(b) or 181-79A-260, or out-of-state candidates applying to masters-degree level teacher preparation programs residing outside of the state of Washington at time of application, in lieu of passing the WEST-B, may provide official documentation of scores on the Praxis I of 177 for the reading subtest, 176 for the mathematics subtest and 174 for the writing subtest, or scores on the Praxis I CBT computer-administered test of 325 for the reading subtest, 321 for the mathematics subtest, and 321 for the writing subtest, or passing scores from California or Oregon on the CBEST or Essential Academic Skills test.

(2) Candidates applying for a Washington state residency or professional teaching certificate under WAC 181-79A-257 (1)(b) who hold a certificate through the National Board for Professional Teaching Standards are exempt from the WEST-B requirement.

**WSR 11-21-069**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed October 17, 2011, 2:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-17-086.

Title of Rule and Other Identifying Information: WAC 392-123-132 Finance—School district budgeting—Reconciliation of monthly county treasurers' statement to district records.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Wanamaker Conference Room, 600 Washington Street, Olympia, WA 98504, on November 22, 2011, at 10:00 a.m.

Date of Intended Adoption: November 22, 2011.

Submit Written Comments to: Michael J. (Mike) Dooley, P.O. Box 47200, Olympia, WA 98504-7200, e-mail mike.dooley@k12.wa.us, fax (360) 725-6305, by November 21, 2011.

Assistance for Persons with Disabilities: Contact Wanda Griffin by November 18, 2011, TTY (360) 664-3631 or (360) 725-6132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amended rule provides relief to districts.

Reasons Supporting Proposal: Amended rule provides relief to districts.

Statutory Authority for Adoption: Order 8-76, § 392-123-132, filed 7/23/76.

Statute Being Implemented: WAC 392-123-132.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Amended rule provides relief to districts.

Name of Proponent: [OSPI], public.

Name of Agency Personnel Responsible for Drafting: Michael J. (Mike) Dooley, OSPI, Olympia, Washington, (360) 725-6305; Implementation: JoLynn Berge, OSPI, Olympia, Washington, (360) 725-6307; and Enforcement: Shawn Lewis, OSPI, Olympia, Washington, (360) 725-6292.

No small business economic impact statement has been prepared under chapter 19.85 RCW. It has minimal to no impact on state funding.

A cost-benefit analysis is not required under RCW 34.05.328. It has minimal to no impact on state funding.

October 17, 2011

Randy Dorn  
State Superintendent

AMENDATORY SECTION (Amending Order 8-76, filed 7/23/76)

**WAC 392-123-132 Reconciliation of monthly county treasurers' statements to district records.** Every school district shall reconcile ending net cash and investments (~~(revenues and expenditures)~~) reported by the county treasurer with the district records for all funds. Any differences shall be noted and adjustments to school district records shall be made if necessary.

**WSR 11-21-075**  
**PROPOSED RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**  
[Filed October 18, 2011, 8:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-17-035.

Title of Rule and Other Identifying Information: Amends WAC 181-78A-270 to specify qualifications for school administrator preparation program standards. Set skills and knowledge expectations. Deletes sections related to social worker preparation programs that have been deregulated.

Hearing Location(s): Phoenix Inn, 415 Capitol Way North, Olympia, WA 98501, on January 19, 2012, at 8:30 a.m.

Date of Intended Adoption: January 19, 2012.

Submit Written Comments to: David Brenna, Legislative and Policy Coordinator, P.O. Box 47236, Olympia, WA

98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by January 10, 2012.

Assistance for Persons with Disabilities: Contact David Brenna by January 10, 2012, TTY (360) 664-3631 or (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Clarifies requirements programs providing preparation to candidates for school administrator certificates.

Reasons Supporting Proposal: Clarifies requirements.

Statutory Authority for Adoption: RCW 28A.410.210.

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

Name of Proponent: Professional educators [educator] standards board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-3631, e-mail david.brenna@k12.wa.us.

October 14, 2011

David Brenna

Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 11-15-049, filed 7/15/11, effective 8/15/11)

**WAC 181-78A-270 Approval standard—Knowledge and skills.** Building on the mission to prepare educators who demonstrate a positive impact on student learning based on the Improvement of Student Achievement Act of 1993 (1209), the following evidence shall be evaluated to determine whether each preparation program is in compliance with the program approval standards of WAC 181-78A-220(5):

(1) **TEACHER RESIDENCY CERTIFICATION.**

(a) **EFFECTIVE TEACHING.**

(i) Using multiple instructional strategies, including the principles of second language acquisition, to address student academic language ability levels and cultural and linguistic backgrounds;

(ii) Applying principles of differentiated instruction, including theories of language acquisition, stages of language, and academic language development, in the integration of subject matter across the content areas of reading, mathematical, scientific, and aesthetic reasoning;

(iii) Using standards-based assessment that is systematically analyzed using multiple formative, summative, and self-assessment strategies to monitor and improve instruction;

(iv) Implementing classroom/school centered instruction, including sheltered instruction that is connected to com-

munities within the classroom and the school, and includes knowledge and skills for working with other;

(v) Planning and/or adapting standards-based curricula that are personalized to the diverse needs of each student;

(vi) Aligning instruction to the learning standards and outcomes so all students know the learning targets and their progress toward meeting them;

(vii) Planning and/or adapting curricula that are standards driven so students develop understanding and problem-solving expertise in the content area(s) using reading, written and oral communication, and technology;

(viii) Preparing students to be responsible citizens for an environmentally sustainable, globally interconnected, and diverse society;

(ix) Planning and/or adapting learner centered curricula that engage students in a variety of culturally responsive, developmentally, and age appropriate strategies;

(x) Using technology that is effectively integrated to create technologically proficient learners; and

(xi) Informing, involving, and collaborating with families/neighborhoods, and communities in each student's educational process, including using information about student cultural identity, achievement and performance.

(b) **PROFESSIONAL DEVELOPMENT.** Developing reflective, collaborative, professional growth-centered practices through regularly evaluating the effects of his/her teaching through feedback and reflection.

(c) **TEACHING AS A PROFESSION.**

(i) Participating collaboratively and professionally in school activities and using appropriate and respectful verbal and written communication.

(ii) Demonstrating knowledge of professional, legal, and ethical responsibilities and policies.

(d) **PERFORMANCE ASSESSMENT.** An approved preparation program for teachers shall require that each candidate engage in an assessment process approved by the professional educator standards board. The assessment will verify that the candidate for a residency teacher certificate can meet the teacher standards in (a), (b) and (c) of this subsection and understands teacher impact on student learning. All candidates shall exit the residency certificate program with a draft professional growth plan oriented toward the expectations for the professional certificate.

~~(2) **PRINCIPAL AND PROGRAM ADMINISTRATOR.** ((a) Effective August 31, 1997, through August 31, 2004, principal and program administrator candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in an approved preparation program which shall include:~~

~~(i) **Specific performance domains.** An approved preparation program shall require the candidate to demonstrate in course work and the internship the following:~~

~~(A) **Leadership:** Formulating goals with individuals or groups; initiating and maintaining direction with groups and guiding them to the accomplishment of tasks; setting priorities for one's school in the context of community and district priorities and student and staff needs; integrating own and others' ideas for task accomplishment; initiating and planning organizational change.~~



**(B) Information collection:** Gathering data, facts, and impressions from a variety of sources about students, parents, staff members, administrators, and community members; seeking knowledge about policies, rules, laws, precedents, or practices; managing the data flow; classifying and organizing information for use in decision making and monitoring.

**(C) Problem analysis:** Identifying the important elements of a problem situation by analyzing relevant information; framing problems; identifying possible causes; identifying additional needed information; framing and reframing possible solutions; exhibiting conceptual flexibility; assisting others to form reasoned opinions about problems and issues.

**(D) Judgment:** Reaching logical conclusions and making high quality, timely decisions given the best available information.

**(E) Organizational oversight:** Planning and scheduling one's own and others' work so that resources are used appropriately, and short-term and long-term priorities and goals are met; monitoring projects to meet deadlines.

**(F) Implementation:** Making things happen; putting programs and plans into action; applying management technologies; applying methods of organizational change including collaborative processes; facilitating tasks; establishing progress checkpoints; considering alternative approaches; providing "mid-course" corrections when actual outcomes start to diverge from intended outcomes; adapting to new conditions.

**(G) Delegation:** Assigning projects or tasks together with clear authority to accomplish them and responsibility for their timely and acceptable completion.

**(H) Instructional program:** Envisioning and enabling instructional and auxiliary programs for the improvement of teaching and learning; recognizing the developmental needs of students; insuring appropriate instructional methods that address students' gender and cultural differences; designing positive learning experiences; accommodating differences in cognition and achievement; mobilizing the participation of appropriate people or groups to develop these programs and to establish a positive learning environment.

**(I) Curriculum design:** Interpreting school district curricula; planning and implementing with staff a framework for instruction that shall include the implementation of the state learning goals and essential academic learning requirements; initiating needs analyses and monitoring social and technological developments as they affect curriculum; responding to international content levels; adjusting content as needs and conditions change.

**(J) Student guidance and development:** Providing for student guidance, counseling, and auxiliary services; utilizing community organizations; responding to family needs; enlisting the participation of appropriate people and groups to design and conduct these programs and to connect schooling with plans for adult life; planning for a comprehensive program of student activities.

**(K) Staff development:** Identifying with participants the professional needs of individuals and groups; planning and organizing programs to improve staff effectiveness; supervising individuals and groups; engaging staff and others to plan and participate in recruitment and development; initiating self-development.

**(L) Measurement and evaluation:** Determining what diagnostic information is needed about students, staff, and the school environment; examining the extent to which outcomes meet or exceed previously defined standards, goals, or priorities for individuals or groups; drawing inferences for program revisions; interpreting measurements or evaluations for others; relating programs to desired outcomes; developing equivalent measures of competence.

**(M) Resource allocation:** Planning and developing the budget with appropriate staff; seeking, allocating, and adjusting fiscal, human, and material resources; utilizing the physical plant; monitoring resource use and reporting results.

**(N) Motivating others:** Building commitment to a course of action; creating and channeling the energy of self and others; planning and encouraging participation; supporting innovation; recognizing and rewarding effective performance; providing coaching, guidance, or correction for performance that needs improvement; serving as a role model.

**(O) Sensitivity:** Perceiving the needs and concerns of others; dealing with others tactfully; working with others in emotionally stressful situations or in conflict; managing conflict; obtaining feedback; recognizing multicultural sensitivities.

**(P) Oral expression:** Making oral presentations that are clear and easy to understand; clarifying and restating questions; responding, reviewing, and summarizing for groups; utilizing appropriate communicative aids; adapting for audiences.

**(Q) Written expression:** Expressing ideas clearly in writing; writing appropriately for different audiences such as students, teachers, and parents; preparing brief memoranda.

**(R) Philosophical and cultural values:** Acting with a reasoned understanding of the role of education in a democratic society and in accord with accepted ethical standards; recognizing philosophical and historical influences in education; reflecting an understanding of American culture, including current social and economic issues related to education; recognizing global influences on students and society.

**(S) Legal and regulatory applications:** Acting in accordance with relevant federal and Washington state laws, rules, and policies; recognizing governmental influences on education; working within local rules, procedures, and directives; administering contracts.

**(T) Policy and political influences:** Identifying relationships between public policy and education; recognizing policy issues; examining and affecting policies individually and through professional and public groups; relating policy initiatives to the welfare of students; addressing ethical issues.

**(U) Public and media relationships:** Developing common perceptions about school issues; interacting with parental and community opinion leaders; understanding and responding skillfully to the electronic and printed news media; initiating and reporting news through appropriate channels; enlisting public participation; recognizing and providing for market segments.

(ii) Performance assessment. An approved preparation program for principals shall require that prior to the internship each candidate shall engage in a performance assessment through a process determined by each preparation pro-

gram. The results of this assessment shall be utilized by the college/university supervisor, the cooperating principal, and the principal candidate to cooperatively design the internship plan.

~~((b))~~ Effective September 1, 2004, principal and program administrator candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

~~((+))~~ (a) Successful demonstration of standards.

~~((A))~~ (i) A school administrator is an educational leader who ~~((promotes))~~ has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by school and community stakeholders;

~~((B))~~ (ii) A school administrator is an educational leader who ~~((promotes))~~ has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading through advocating, nurturing, and sustaining district/school cultures and coherent instructional programs that are conducive to student learning and staff professional growth;

~~((C))~~ (iii) A school administrator is an educational leader who ~~((promotes))~~ has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

~~((D))~~ (iv) A school administrator is an educational leader who ~~((promotes))~~ has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

~~((E))~~ (v) A school administrator is an educational leader who ~~((promotes))~~ has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by acting with integrity, fairness, and in an ethical manner; and

~~((F))~~ (vi) A school administrator is an educational leader who ~~((promotes))~~ has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by understanding, responding to, and influencing the larger political, social, economic, legal and cultural context.

~~((+))~~ (b) Performance assessment. An approved preparation program for principals shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board ~~((and published by the office of the superintendent of public instruction))~~. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan.

(3) SUPERINTENDENT. An approved preparation program for superintendents shall require the candidate to dem-

onstrate in course work and the internship the following standards:

(a) A school administrator is an educational leader who promotes the success of each student by leading the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by school and community stakeholders;

(b) A school administrator is an educational leader who promotes the success of each student by leading through advocating, nurturing, and sustaining district/school cultures and coherent instructional programs that are conducive to student learning and staff professional growth;

(c) A school administrator is an educational leader who promotes the success of each student by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

(d) A school administrator is an educational leader who promotes the success of each student by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(e) A school administrator is an educational leader who promotes the success of each student by acting with integrity, fairness, and in an ethical manner; and

(f) A school administrator is an educational leader who promotes the success of each student by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context.

(4) SCHOOL COUNSELOR. Effective August 31, 1997 through August 31, 2005, school counselor candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:

(a) Human growth and development (studies that provide an understanding of the nature and needs of individuals at all developmental levels).

(b) Social and cultural foundations (studies that provide an understanding of issues and trends in a multicultural and diverse society).

(c) Helping relationships (studies that provide an understanding of counseling and consultation processes).

(d) Group work (studies that provide an understanding of group development, dynamics, counseling theories, group counseling methods and skills, and other group work approaches).

(e) Career and lifestyle development (studies that provide an understanding of career development and related life factors).

(f) Appraisal (studies that provide an understanding of individual and group approaches to assessment and evaluation), including assessment of the state learning goals and essential academic learning requirements.

(g) Research and program evaluation (studies that provide an understanding of types of research methods, basic statistics, and ethical and legal considerations in research).

(h) Professional orientation (studies that provide an understanding of all aspects of professional functioning including history, roles, organizational structures, ethics, standards, and credentialing).

- (i) Foundations of school counseling including:
  - (i) History, philosophy, and trends in school counseling;
  - (ii) Role and function of the school counselor in conjunction with the roles of the professional and support personnel in the school;
  - (iii) Knowledge of the school setting and curriculum including the state learning goals and essential academic learning requirements;
  - (iv) Ethical standards and guidelines of the American School Counselor Association (ASCA);
  - (v) State and federal policies, laws, and legislation relevant to school counseling; and
  - (vi) Implications of sociocultural, demographic, and lifestyle diversity relevant to school counseling.
- (j) Studies that provide an understanding of the coordination of counseling program components as they relate to the total school community including:
  - (i) Referral of children and adolescents for specialized help;
  - (ii) Coordination efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives;
  - (iii) Methods of integration of guidance curriculum in the total school curriculum;
  - (iv) Promotion of the use of counseling and guidance activities and programs by the total school community to enhance a positive school climate; and
  - (v) Methods of planning and presenting guidance-related educational programs for school personnel and parents.
- (k) Theory, knowledge and skills for the practice of school counseling including:
  - (i) Program development, implementation and evaluation. Studies in this area include:
    - (A) Use of surveys, interviews, and needs assessments;
    - (B) Design, implementation and evaluation of a comprehensive, developmental school program;
    - (C) Implementation and evaluation of specific strategies designed to meet program goals and objectives;
    - (D) Preparation of a counseling schedule reflecting appropriate time commitments and priorities in a developmental school counseling program; and
    - (E) Use of appropriate technology and information systems.
  - (ii) Counseling and guidance. Studies in this area include:
    - (A) Individual and group counseling and guidance approaches appropriate for the developmental stage and needs of children and adolescents;
    - (B) Group guidance approaches that are systematically designed to assist children and adolescents with developmental tasks;
    - (C) Approaches to peer helper programs;
    - (D) Issues which may affect the development and function of children and adolescents (e.g., abuse, eating disorders, attention deficit hyperactivity disorder, exceptionality, substance abuse, violence, suicide, dropout);
    - (E) Developmental approaches to assist students and parents at points of educational transition (e.g., postsecondary education, career and technical education, and career options);

- (F) Crisis intervention and referral; and
- (G) System dynamics, including family, school, community, etc.
  - (iii) Consultation. Studies in this area shall include:
    - (A) Methods of enhancing teamwork within the school community; and
    - (B) Methods of involving parents, teachers, administrators, support staff and community agency personnel.
- (5) **SCHOOL COUNSELOR.** Effective September 1, 2005, school counselor candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:
  - (a) **Successful demonstration of standards:**
    - (i) **Foundations of the school counseling profession:** Certified school counselors design, deliver, and evaluate student-centered, data-driven school counseling programs that advance the mission of the school in light of recognized theory, research, exemplary models, community context, and professional standards.
    - (ii) **School counseling and student competencies:** Certified school counselors integrate academic, career, and personal/social student competencies, including Washington state learning goals and essential academic learning requirements, into the school counseling program; teach counseling and guidance related material by using effective curriculum, instructional strategies, and instructional management; support teachers and parents in helping students develop knowledge and skill for learning, living, and working; and provide information about best practices to a school community.
    - (iii) **Human growth and development:** Certified school counselors apply comprehensive, in-depth knowledge of human growth and development to improve student learning, well-being, and to enhance resiliency; provide guidance to parents and teachers about developmentally appropriate practices that support students throughout their schooling experience.
    - (iv) **Counseling theories and technique:** Certified school counselors demonstrate an understanding of established and emerging counseling theories through effective use of individual and group techniques for working with a diverse population.
    - (v) **Equity, fairness, and diversity:** Certified school counselors value and show respect for all members of the community; demonstrate fairness, equity, and sensitivity to every student, and advocate for equitable access to instructional programs and activities; use data for designing and implementing plans that remove barriers to learning; and help to close achievement gaps among subgroups of students.
    - (vi) **School climate:** Certified school counselors establish and foster a safe, inclusive, and nurturing learning environment for students, staff, and families and use strategies designed to prevent or resolve problems that could limit or diminish the capacity of students to learn and achieve at their highest levels.
    - (vii) **Collaboration with school staff, family, and community:** Certified school counselors work collaboratively with school staff, families and community members to achieve common goals for the education of students,

improvement of schools, and advancement of the larger community; know appropriate behavior management strategies and can team with staff and families to improve student achievement; and use their knowledge of community resources to make appropriate referrals based on the needs of students.

(viii) **Information resources and technology:** Certified school counselors select and use informational resources and technology to facilitate delivery of a comprehensive school counseling program that meets student needs; and skillfully use technology to enhance communication.

(ix) **Student assessment and program evaluation:** Certified school counselors understand the basic principles and purposes of assessment; collection and use of data; regularly monitor student progress and are able to communicate the purposes, design, and results of assessments to various audiences; know basic principles of research design, action research, and program evaluation for purposes of program improvement and accountability.

(x) **Leadership and advocacy:** Certified school counselors support practices and policies that promote academic rigor-skills for learning, living, and working; provide leadership that enhances student academic, career, and personal/social development and advocate for guidance as an integral part of a school's educational system; model practices that help students, parents, teachers, and policy makers understand how curriculum, instruction and assessment can help students see the relationship between effort, performance, and success beyond high school. Certified school counselors help promote understanding of graduation requirements, WASL scores, and development of the high school and beyond plan.

(xi) **Professionalism, ethics, and legal mandates:** Certified school counselors develop a professional identity congruent with knowledge of all aspects of professional functions, professional development, and state and national school counselor organizations. They adhere strictly to the profession's codes of ethics, especially those that have been established by the American Counseling Association (ACA), the American School Counselor Association (ASCA), the National Board for Certified Counselors (NBCC), and other relevant codes of ethics. They are familiar with state and federal policies, laws, and legislation relevant to school counseling.

(xii) **Reflective practice:** Certified school counselors integrate knowledge, skills, and life experiences to respond effectively to new or unexpected critical events and situations; serve as change agents by using their understanding of schools as social, cultural and political systems within a larger organizational context; monitor practice with continuous, in-depth reflection; and make adjustments as needed.

(b) **Performance assessment.** An approved preparation program for school counselors shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan.

(6) **SCHOOL PSYCHOLOGIST.** Effective August 31, 1997, through August 31, 2005, school psychologist candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:

(a) Knowledge of the field. The candidate has knowledge and skill in relevant fields of study, including:

- (i) Learning theory.
- (ii) Personality theory and development.
- (iii) Individual and group testing and assessment.
- (iv) Individual and group counseling and interviewing theory and techniques.
- (v) Basic statistics.
- (vi) Child development.
- (vii) Exceptional children.
- (viii) Social and cultural factors.
- (ix) Deviant personality.
- (x) Curriculum, including the state learning goals and essential academic learning requirements.
- (xi) Research design.
- (xii) Physiological and biological factors.

(b) Assessment and diagnosis. The candidate has knowledge and skill necessary to select, administer, score, and interpret instruments and techniques in the following areas:

- (i) Intellectual and cognitive assessment.
- (ii) Individual and group academic skills: Standardized norm-referenced and criteria-referenced measurements and curriculum-based measurements.
- (iii) Personality assessment.
- (iv) Assessment of perceptual skills.
- (v) Assessment of adaptive behavior; assessment of language skills.

(c) Behavioral observation and analysis. The candidate has knowledge and skill in behavior observation, including:

- (i) Data taking.
- (ii) Frequency measures.
- (iii) Qualitative and quantitative analysis of classroom behavior.

(iv) Developmental and personality analysis, including perceptual, cognitive, social, and affective and language development in children.

(d) Counseling and interviewing. The candidate has the knowledge and skill necessary to:

- (i) Provide individual and group counseling to students and parents.
- (ii) Conduct interviews essential to information collecting from parents, teachers, and other professionals.

(e) Program development. The candidate has the knowledge and skill to make educational prescriptions, including specification of remedial environmental changes, both curricular and behavioral, for a particular student.

(f) Consultation. The candidate has the knowledge and skill to:

- (i) Function on multidisciplinary teams in evaluating and placing students.
- (ii) Confer with and make recommendations to parents, specialists, teachers, referral personnel, and others relative to

student's characteristics and needs in the educational and home environments.

(g) Program evaluation and recordkeeping. The candidate has the knowledge and skill necessary to develop and implement program evaluation and maintain required records.

(h) Professionalism. The candidate has knowledge of professional standards regarding ethical and legal practices relevant to the practice of school psychology. The candidate demonstrates knowledge and skill in written and oral reporting of assessment and remedial recommendations which will meet ethical and legal standards.

(i) Research. The candidate has knowledge and skill to:

(i) Evaluate and perform research.

(ii) Apply school-oriented research.

(iii) Construct criterion-referenced instruments with reference to such educational decisions as:

(A) Retention in grade.

(B) Acceleration and early entrance.

(C) Early entrance.

(7) **SCHOOL PSYCHOLOGIST.** Effective September 1, 2005, school psychologist candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

(a) **Successful demonstration of standards:**

(i) **Data-based decision making and accountability:**

Certified school psychologists have knowledge of varied models and methods of assessment that yield information useful in identifying strengths and needs, in understanding problems, and in measuring progress and accomplishments; use such models and methods as part of a systematic process to collect data and other information, translate assessment results into empirically based decisions about service delivery, evaluate the outcomes of services; and data-based decision making permeates every aspect of professional practice.

(ii) **Consultation and collaboration:** Certified school psychologists have knowledge of behavioral, mental health, collaborative, and/or other consultation models and methods and of their application to particular situations; collaborate effectively with others in planning and decision-making processes at the individual, group, and system levels.

(iii) **Effective instruction and development of cognitive/academic skills:** Certified school psychologists have knowledge of human learning processes, techniques to assess these processes, and direct and indirect services applicable to the development of cognitive and academic skills; collaborate with others, develop appropriate cognitive and academic goals for students with different abilities, disabilities, strengths, and needs; implement interventions to achieve those goals; and evaluate the effectiveness of interventions, including, but not limited to, instructional interventions and consultation.

(iv) **Socialization and development of life skills:** Certified school psychologists have knowledge of human developmental processes, techniques to assess these processes, and direct and indirect services applicable to the development of behavioral, affective, adaptive, and social skills; collaborate with others, develop appropriate behavioral, affective, adap-

tive, and social goals for students of varying abilities, disabilities, strengths, and needs; implement interventions to achieve those goals; and evaluate the effectiveness of interventions, including, but not limited to, consultation, behavioral assessment/intervention, and counseling.

(v) **Student diversity in development and learning:** Certified school psychologists have knowledge of individual differences, abilities, and disabilities and of the potential influence of biological, social, cultural, ethnic, experiential, socioeconomic, gender-related, and linguistic factors in development and learning; demonstrate the sensitivity and skills needed to work with individuals of diverse characteristics and to implement strategies selected and/or adapted based on individual characteristics, strengths, and needs.

(vi) **School and systems organization, policy development, and climate:** Certified school psychologists have knowledge of general education, special education, and other educational and related services; understanding of schools and other settings as systems; work with individuals and groups to facilitate policies and practices that create and maintain safe, supportive, and effective learning environments for children and others.

(vii) **Prevention, crisis intervention, and mental health:** Certified school psychologists have knowledge of human development and psychopathology and of associated biological, cultural, and social influences on human behavior; provide or contribute to prevention and intervention programs that promote the mental health and physical well-being of students.

(viii) **Home/school/community collaboration:** Certified school psychologists have knowledge of family systems, including family strengths and influences on student development, learning, and behavior, and of methods to involve families in education and service delivery; work effectively with families, educators, and others in the community to promote and provide comprehensive services to children and families.

(ix) **Research and program evaluation:** Certified school psychologists have knowledge of research, statistics, and evaluation methods; evaluate research, translate research into practice, and understand research design and statistics in sufficient depth to plan and conduct investigations and program evaluations for improvement of services.

(x) **School psychology practice and development:** Certified school psychologists have knowledge of the history and foundations of their profession; of various service models and methods; of public policy development applicable to services to children and families; and of ethical, professional, and legal standards, including the Washington Administrative Code; practice in ways that are consistent with applicable standards, are involved in their profession, and have the knowledge and skills needed to acquire career-long professional development.

(xi) **Information technology:** Certified school psychologists have knowledge of information sources and technology relevant to their work; access, evaluate, and utilize information sources and technology in ways that safeguard or enhance the quality of services.

(b) **Performance assessment.** An approved preparation program for school psychologists shall require that each candidate engage in an assessment process using the standards-

based benchmarks approved by the professional educator standards board and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan.

~~((8) SCHOOL SOCIAL WORKER. Effective August 31, 1997, through August 31, 2005, school social worker candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:~~

~~(a) Knowledge for social work practice. The candidate has knowledge and skills in relevant fields of study including:~~

~~(i) Values.~~

~~(A) Knowledge of profession including values, skills, and ethics; and~~

~~(B) National Association of Social Workers (NASW) Code of Ethics and school social work guidelines for practice.~~

~~(ii) Human behavior and the social environment.~~

~~(A) Community theory and community change (e.g., community organization and development, social planning, networking, and case management);~~

~~(B) Systems and organizational theory (e.g., school as a bureaucracy);~~

~~(C) Social disorganization (e.g., poverty, family and community violence, unemployment, addictions, multiple losses), and context of family in a changing society;~~

~~(D) Family dynamics and theories of family therapy;~~

~~(E) Human/child growth and development;~~

~~(F) Diverse populations of: Race, culture, social class, life style, age, gender and the disabled;~~

~~(G) Theories of personality; and~~

~~(H) Use of computer technology for social work practice.~~

~~(b) Service delivery and program development. The candidate will have knowledge and skills in the following activities:~~

~~(i) Direct practice.~~

~~(A) Referring, developing, and coordinating resources and services in the local education agency and community;~~

~~(B) Knowledge and skills related to families;~~

~~(C) Case management;~~

~~(D) Working with vulnerable and "hard to reach" individuals and families, including those from diverse populations;~~

~~(E) Crisis intervention, conflict resolution, stress management and decision-making skills;~~

~~(F) Individual and group counseling to improve students' self-knowledge and interactional skills for personal empowerment;~~

~~(G) Interviewing and counseling students in relation to social-personal problems adjudged to be impairing student's ability to learn;~~

~~(H) Family interventions including parent education; referral to resources; family counseling;~~

~~(I) Teaching children communication and interpersonal relationship skills through individual/group/classroom interventions;~~

~~(J) Collaborating and consulting with parents and community to assure readiness to learn for all students;~~

~~(K) Multidimensional assessment of student's social-emotional adjustment, adaptive behaviors, individual strengths, and environmental assets;~~

~~(L) Intervention case planning processes; and~~

~~(M) Career and academic guidance to students in their school to work transitions.~~

~~(ii) Indirect practice.~~

~~(A) Liaison and facilitator between and among home, school and community;~~

~~(B) Collaborate and consult with other educational staff to assure student progress;~~

~~(C) Use computer technology for practice and efficiency;~~

~~(D) Develop strategies for increased parental and community involvement with the school;~~

~~(E) Develop programs of remediation for students and their families;~~

~~(F) Design, coordinate and facilitate programs such as suicide prevention, truancy and drop-out prevention, and prevention of teenage pregnancy;~~

~~(G) Provide staff development programs;~~

~~(H) Work collaboratively with educational staff to develop programs to address school-community identified needs; and~~

~~(I) Function as change agents.~~

~~(e) Research and evaluation. The candidate will have necessary skills and knowledge to:~~

~~(i) Collect and interpret data in order to evaluate student, school, and community needs;~~

~~(ii) Evaluate own practice;~~

~~(iii) Become consumer of research findings;~~

~~(iv) Understand use of program evaluation methods; and~~  
~~(v) Utilize computer technology for research and evaluation.~~

~~(d) Context for educational system. The candidate will have necessary knowledge and skills to apply the following:~~

~~(i) State learning goals and essential academic learning requirements;~~

~~(ii) Theories of learning;~~

~~(iii) School law and professional ethics;~~

~~(iv) Computer technology in the workplace; and~~

~~(v) Understanding of policies, laws, and procedures.~~

~~(9) SCHOOL SOCIAL WORKERS. Effective September 1, 2005, school social worker candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:~~

~~(a) Successful demonstration of standards:~~

~~(i) Core concepts and professional practice foundations: The certified school social worker understands and applies the core concepts, tools of inquiry, theories, and skills and values of the general field of social work to the educational system; relates these core concepts to the Washington state learning goals, essential academic learning requirement~~

(EALRS), Revised Code of Washington (RCW), Washington Administrative Code (WAC) and the Individuals With Disabilities Education Act (IDEA); and utilizes these constructs to facilitate the educational, social and emotional development of students by working towards reducing the impact of nonacademic barriers to academic success.

**(ii) ~~Planning, ecological assessment and evaluation:~~**

The certified school social worker understands and knows how to apply various formal and informal assessment tools to identify student, family, school and community needs using a strengths and systems perspective; engage students (individually or in groups), families, school staff and/or the larger community in designing interventions and developing programs, which bolsters the strengths and meets the needs identified; uses best practices in evaluation criteria to monitor the success of the intervention; revisions to the intervention plan are based on systematic data collection; and to utilize the principles of research design and program evaluation to improve student learning outcomes.

**(iii) ~~Prevention/intervention services:~~**

The certified school social worker has knowledge of and ability to provide prevention education and skill building in such areas as violence, mediation, bullying, substance misuse and abuse, conflict resolution/management, and stress management; provide direct intervention services to students through crisis management, case management, counseling, skill building, behavior management, teaching of psycho-educational curricula, personal development skills and classroom presentations; and provide both prevention and intervention services to students individually, in small group or classroom settings as well as with students' families.

**(iv) ~~Home, school and community consultation and collaboration:~~**

The certified school social worker understands and has the ability to develop consultative and collaborative relationships both individually and on a systemic level with students, colleagues, families and the community to support students' learning and social/emotional development; assist students and their families in networking with various social support systems in order to benefit student learning; and use their extensive knowledge of community resources to appropriately refer students and families to various community services.

**(v) ~~Advocacy and facilitation:~~**

The certified school social worker understands and has the ability to advocate and facilitate changes that empower students, families, educators and others to gain access to and effectively use school and community resources.

**(vi) ~~Diversity and school climate:~~**

The certified school social worker understands how a student's learning is influenced and impacted by culture, family dynamics, community values, individual learning styles, talents, gender, sexual orientation, language, prior learning, economics and disabilities; utilize this knowledge to design, implement and evaluate programs that enhance student learning and social interaction in school, family and community settings; and how to create and support a safe, nurturing and secure learning environment by designing and using strategies to prevent or resolve ecological barriers that could limit or diminish the capacity of students to learn and achieve at their highest levels.

**(vii) ~~Professional development:~~** The certified school social worker understands and values the need for professional development and is able to use supervision, consultation, collaboration, continuing education and professional research to evaluate and enhance their practice.

**(viii) ~~Information resources and technology:~~** The certified school social worker uses informational resources and technology to communicate, monitor student progress and evaluate programs; and access, appraise and utilize information sources and technology in ways that safeguard and enhance their quality of services.

**(ix) ~~Professional code of conduct and ethics:~~** The certified school social worker understands, maintains and applies the professional codes of conduct and ethical practice guidelines embodied in the National Association of Social Work (NASW) code of ethics and School Social Work standards developed for the field of education; and are familiar with district, state and federal laws and policies relevant to the educational setting.

**(b) ~~Performance assessment:~~** An approved preparation program for school social workers shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan.))

**WSR 11-21-076**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed October 18, 2011, 8:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-16-105.

Title of Rule and Other Identifying Information: The community services division is proposing to amend WAC 388-478-0015 Need standards for cash assistance.

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 November 22, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 23, 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 November 22, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by November 8, 2011,

TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-478-0015 in order to revise the basic need standards for cash assistance. The department is required by RCW 74.04.770 to establish standards of need for cash assistance programs on an annual basis.

The CR-101 was filed August 3, 2011, as WSR 11-16-105.

Reasons Supporting Proposal: DSHS is required by RCW 74.04.770 to establish standards of need for cash assistance programs on an annual basis.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.770, and 74.08.090.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Aurea Figueroa-Rogers, P.O. Box 45440, Olympia, WA 98504, (360) 725-4623.

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 amendments only affect DSHS clients by revising the need standards for cash assistance.

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." These rules affect the need standards for cash assistance as outlined in WAC 388-478-0015.

October 13, 2011  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-01-121, filed 12/20/10, effective 1/1/11)

**WAC 388-478-0015 Need standards for cash assistance.** The need standards for cash assistance units are:

(1) For assistance units with obligation to pay shelter costs:

Assistance Unit Size	Need Standard
1	\$ <del>((1,128))</del> <u>1,154</u>
2	<del>((1,428))</del> <u>1,460</u>
3	<del>((1,763))</del> <u>1,803</u>
4	<del>((2,080))</del> <u>2,128</u>
5	<del>((2,397))</del> <u>2,452</u>
6	<del>((2,715))</del> <u>2,777</u>
7	<del>((3,138))</del> <u>3,209</u>
8	<del>((3,472))</del> <u>3,552</u>

Assistance Unit Size	Need Standard
9	<del>((3,807))</del> <u>3,894</u>
10 or more	<del>((4,142))</del> <u>4,237</u>

(2) For assistance units with shelter provided at no cost:

Assistance Unit Size	Need Standard
1	\$ <del>((583))</del> <u>607</u>
2	<del>((737))</del> <u>768</u>
3	<del>((910))</del> <u>948</u>
4	<del>((1,074))</del> <u>1,119</u>
5	<del>((1,238))</del> <u>1,290</u>
6	<del>((1,402))</del> <u>1,460</u>
7	<del>((1,621))</del> <u>1,688</u>
8	<del>((1,794))</del> <u>1,868</u>
9	<del>((1,967))</del> <u>2,048</u>
10 or more	<del>((2,139))</del> <u>2,228</u>

**WSR 11-21-077**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
(By the Code Reviser's Office)  
[Filed October 18, 2011, 9:12 a.m.]

WAC 296-17-31021, 296-17-895, 296-17A-6707, 296-17A-6809 and 296-17A-7102, proposed by the department of labor and industries in WSR 11-08-043 appearing in issue 11-08 of the State Register, which was distributed on April 20, 2011, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 11-21-079**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed October 18, 2011, 9:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-15-063.

Title of Rule and Other Identifying Information: Chapter 296-900 WAC, Administrative rules (abatement).

Hearing Location(s): DoubleTree by Hilton, Spokane City Center, 322 North Spokane Falls Court, Spokane, WA 99201, on November 30, 2011, at 1 p.m.; and at the Department of Labor and Industries, S117 and S118, 7273 Linder-son Way S.W., Tumwater, WA 98501, on December 2, 2011, at 9 a.m.

Date of Intended Adoption: January 3, 2012.



Submit Written Comments to: Devin Proctor, P.O. Box 44620, Olympia, WA 98504, e-mail [devin.proctor@lni.wa.gov](mailto:devin.proctor@lni.wa.gov), fax (360) 902-5619, by 5 p.m. on December 7, 2011.

Assistance for Persons with Disabilities: Contact Beverly Clark by November 16, 2011, (360) 902-5516 or [beverly.clark@lni.wa.gov](mailto:beverly.clark@lni.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: During the 2011 session, the legislature updated state law regarding abatement of serious safety and health violations during appeal of a Washington Industrial Safety and Health Act citation. ESSB 5068 directs the department to write these rules. The rules will establish that an appeal of any violation classified and cited as serious, willful, repeated serious violation or failure to abate a serious violation does not stay abatement dates and requirements. The rules will allow an employer to request a stay of abatement through submission of a notice of appeal. The rules also include administrative updates to comply with ESSB 5068.

NEW SECTION:

**WAC 296-900-17006 Stay of abatement date request.**

- The process employers would use to request a stay of abatement is located in this section.

AMENDED SECTIONS:

**WAC 296-900-170 Appeals.**

- Added new WAC 296-900-17006 Stay of abatement date request.

**WAC 296-900-17005 Appealing a citation and notice (C&N).**

- Added language relating to requests for stay of abatement. Made administrative changes to language for clarity and consistency.

**WAC 296-900-17010 Appealing a corrective notice of redetermination (CNR).**

- Added language that requires employers to request a stay of abatement. Made administrative change to language for clarity and consistency.

**WAC 296-900-17015 Posting appeals.**

- Added language "or stay of abatement date request."
- Changed WISHA to DOSH.

Reasons Supporting Proposal: The Washington state legislature mandates that the division of occupational safety and health enact these rules.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Statute Being Implemented: RCW 49.17.040.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, Washington, (360) 902-5530; Implementation and Enforcement: Michael Silverstein, Tumwater, Washington, (360) 902-4805.

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

omic impact statement is required because this rule is enacting ESSB 5068 in which the Washington state legislature directed the department to complete this rule making. The department's proposed rules are subject to the Regulatory Fairness Act, but they do not require a small business economic impact statement because the proposed changes are exempt by law (see RCW 19.85.025 referencing RCW 34.05.310(4)).

A cost-benefit analysis is not required under RCW 34.05.328. No cost-benefit analysis is required because this rule is enacting ESSB 5068 in which the Washington state legislature directed the department to complete this rule making. The department's proposed rules are subject to the Regulatory Fairness Act, but they do not require a cost-benefit analysis because the proposed changes are exempt by law.

October 18, 2011

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 06-06-020, filed 2/21/06, effective 6/1/06)

**WAC 296-900-170 Appeals.**

**Summary:**

**Employer responsibility:**

**To post information regarding appeals in a conspicuous area where notices to employees are normally posted:**

Appealing a citation and notice (C&N)

WAC 296-900-17005.

Stay of abatement date request

WAC 296-900-17006.

Appealing a corrective notice of redetermination (CNR)

WAC 296-900-17010.

Posting appeals

WAC 296-900-17015.

AMENDATORY SECTION (Amending WSR 06-06-020, filed 2/21/06, effective 6/1/06)

**WAC 296-900-17005 Appealing a citation and notice (C&N). IMPORTANT:**

- Employers may appeal C&Ns.
- Employees of the cited employer, or their designated representatives, may only appeal (~~(C&N)~~) abatement dates.

• The filing of an appeal does not stay the abatement date for violations classified as serious, willful, repeat serious, or failure to abate serious. Employers may request a stay of abatement date for these classifications of violations when they appeal a C&N.

**You must:**

• When appealing, submit a written appeal to ((WISHA)) DOSH within fifteen working days after receiving the C&N. Include the following information:

– Business name, address, and telephone number.

– Name, address, and telephone number of any employer representative.

– C&N number.

– What you believe is wrong with the C&N and any related facts.

- What you believe should be changed, and why.
- Requests for stay of abatement date according to WAC 296-900-17006.

- A signature and date.
- Send appeals in any of the following ways:
  - Mail to:
    - Assistant Director for ((WISHA)) DOSH Services
    - Attn: ((WISHA)) DOSH Appeals
    - P.O. Box 44604
    - Olympia, WA 98504-4604
  - Fax to: 360-902-5581
  - Take to any department service location.

**Reference:** See the resources section of the Safety and health core rules, chapter 296-800 WAC, for a list of the local offices.

**Note:** The postmark is considered the submission date of a mailed request.

**Employees or their designated representatives must:**

- When appealing C&N ((~~correction~~)) abatement dates, submit a written request to ((WISHA)) DOSH within fifteen working days after the C&N is received. Include the following information:
  - Name of employee, address, telephone number.
  - Name, address, and telephone number of any designated representative.
  - C&N number.
  - What is believed to be wrong with the ((~~correction~~)) abatement date.

- A signature and date.
- Send appeals in any of the following ways:
  - Mail to:
    - Assistant Director for ((WISHA)) DOSH Services
    - Attn: ((WISHA)) DOSH Appeals
    - P.O. Box 44604
    - Olympia, WA 98504-4604
  - Fax to: 360-902-5581
  - Take to any L&I service location.

**Reference:** See the resources section of the Safety and health core rules, chapter 296-800 WAC, for a list of the local offices.

**Note:** The postmark is considered the submission date of a mailed request.

**What to expect from ((WISHA)) DOSH:**

- After receiving an appeal, ((WISHA)) DOSH will do one of the following:
  - Reassume jurisdiction over the C&N, and notify the person who submitted the appeal.
  - Forward the appeal to the board of industrial insurance appeals. The board will send the person submitting the appeal a notice with the time and location of any board proceedings.

**Definition:**

Reassume jurisdiction means that ((WISHA)) DOSH has decided to provide the employer with an informal conference to discuss their appeal.

- When reassuming jurisdiction over a C&N, ((WISHA)) DOSH has thirty working days after receiving the appeal to review it, gather more information, and decide whether to make changes to the C&N. The review period:
  - Begins the first working day after the appeal is received. For example, if an appeal is received on Friday, the thirty days will begin on the following Monday unless ((~~it is~~)) it's a state holiday.

- May be extended fifteen additional working days, if everyone involved agrees and signs an extension agreement within the initial thirty-day period.

- Will include an informal conference about the appeal that is an opportunity for interested parties to:

- Briefly explain their positions.
- Provide any additional information they would like ((WISHA)) DOSH to consider when reviewing the C&N.
- Provide any additional information they would like DOSH to consider when reviewing stay of abatement date requests.

**Note:** ((WISHA)) DOSH might reassume jurisdiction over a C&N to do any of the following:

- Provide an employer and affected employees an opportunity to present relevant information, facts, and opinions during an informal conference.
- Give an employer, affected employees, and the department an opportunity to resolve appeals rapidly and without further contest, especially in routine compliance cases.
- Educate employers about the C&N, the ((WISHA)) DOSH appeals process, and ((WISHA)) DOSH compliance.
- Review citations, penalties, and ((~~correction~~)) abatement dates. Although informal, the conference is an official meeting and it may be either partially or totally recorded. Participants will be told if the conference is recorded.
- Review requests to stay abatement dates.

- On or before the end of the thirty working day review period, ((WISHA)) or forty-five working days if everyone involved agrees to the fifteen additional working day extension, DOSH will issue a corrective notice of redetermination that:

- Reflects any changes made to the C&N.

– Grants or denies requests to stay abatement dates and includes the basis of the decision.

- Is sent to the employer, employees, and employee representatives participating in the appeal process.

**NEW SECTION**

**WAC 296-900-17006 Stay of abatement date request.**

(1) Employers may request stay of abatement dates for any violation classified as serious, willful, repeat serious, or failure to abate serious. Stay requests must be made in the notice of appeal under WAC 296-900-17005.

(2) Stay requests must include:

(a) Each violation and item number for which a stay is requested.

(b) The reason for the stay request.

(3) DOSH will review requests for stay of abatement dates for each violation requested. DOSH will stay the abatement date when an appeal is filed for any serious, willful, repeat serious, or failure to abate serious violation where DOSH cannot determine that the preliminary evidence shows a substantial probability of death or serious physical harm to workers. DOSH will make its determination based on what a reasonable person would conclude based on the same circumstances.

(4) The basis for decisions on stay requests will be in the CNR.

(5) If a stay of abatement date is granted in the CNR and the employer appeals the CNR, the stay will remain in place until there is a final order on the appeal.

(6) If a stay of abatement date is denied in the CNR and the employer appeals the CNR further, the request for a stay of violation date must be renewed according to WAC 296-900-17010. (7) There is no requirement to abate a violation for which a stay request is pending.

**AMENDATORY SECTION** (Amending WSR 06-06-020, filed 2/21/06, effective 6/1/06)

**WAC 296-900-17010 Appealing a corrective notice of redetermination (CNR).**

**IMPORTANT:**

- Employers may appeal CNRs.
- Employees who could be affected by a CNR, or their designated representatives, may appeal ~~((correction))~~ abatement dates.

Employers must renew requests to stay abatement dates if a stay request was denied when they appeal CNRs.

**Employees or their representatives must:**

- Appeal a CNR, if desired, in writing within fifteen working days after it was received to the:

Board of Industrial Insurance Appeals

2430 Chandler Court S.W.

P.O. Box 42401

Olympia, WA 98504-2401

- Send a copy of the appeal to the CNR to the:

Assistant Director for ~~((WISHA))~~ DOSH Services

Attn: ~~((WISHA))~~ DOSH Appeals

P.O. Box 44604

Olympia, WA 98504-4604

– Fax to: 360-902-5581

– Take to any department service location.

**AMENDATORY SECTION** (Amending WSR 06-06-020, filed 2/21/06, effective 6/1/06)

**WAC 296-900-17015 Posting appeals.**

**You must:**

- Immediately post notices and information related to any appeal or stay of abatement date request in the same place where ~~((WISHA))~~ DOSH citation and notices (C&Ns) are posted. These notices and information include:

- The notice of appeal, until the appeal is resolved.

- Notices about ~~((WISHA))~~ DOSH reassuming jurisdiction, and any extension of the review period until the end of review period.

- A notice of an informal conference until after the conference is held.

- A corrective notice of redetermination for as long as C&Ns are to be posted.

**Reference:** For C&N posting requirements, see Posting citation and notices, WAC 296-900-13015.

**WSR 11-21-080  
PROPOSED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed October 18, 2011, 9:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-15-064.

Title of Rule and Other Identifying Information: Chapter 296-62 WAC, General occupational health standards (hazardous drugs).

Hearing Location(s): Department of Labor and Industries, Tumwater Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98501, on November 28, 2011, at 9 a.m.; and at the DoubleTree by Hilton, Spokane City Center, 322 North Spokane Falls Court, Spokane, WA 99201, on December 1, 2011, at 1 p.m.

Date of Intended Adoption: January 3, 2012.

Submit Written Comments to: Beverly Clark, P.O. Box 44620, Olympia, WA 98504, e-mail [beverly.clark@lni.wa.gov](mailto:beverly.clark@lni.wa.gov), fax (360) 902-5516, by 5 p.m. on December 7, 2011.

Assistance for Persons with Disabilities: Contact Beverly Clark by November 14, 2011, (360) 902-5516 or [beverly.clark@lni.wa.gov](mailto:beverly.clark@lni.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The 2011 legislature passed ESSB 5594 which requires the department to adopt rules implementing the 2004 National Institute for Occupational Safety and Health (NIOSH) Alert on safe handling of hazardous drugs. The legislation requires the rules be consistent with the recommendations set forth in NIOSH's alert and states that the rules may not exceed these recommendations. The department may incorporate Centers for Disease Control and Prevention (CDC) updates and changes to the alert.

**NEW SECTIONS:**

**WAC 296-62-500 Hazardous drugs.**

- There are no requirements in this section.
- Statement that hazardous drugs are also covered under WAC 296-800-170 and the most protective requirement will take precedent.

**WAC 296-62-50005 Scope.**

- Requirements relating to occupational exposure are located in this section. These requirements are state-initiated and derived from the 2004 National Institute for Occupational Safety and Health (NIOSH) Alert on safe handling of hazardous drugs.

**WAC 296-62-50010 Definitions.**

- There are no requirements in this section.

**WAC 296-62-50015 Hazardous drugs control program.**

- Requirements relating to hazardous drugs control program are located in this section. These requirements are state-initiated and derived from the 2004 National Institute for Occupational Safety and Health (NIOSH) Alert on safe handling of hazardous drugs.

**WAC 296-62-50020 Hazard assessment.**

- Requirements relating to hazard assessment are located in this section. These requirements are state-initiated and derived from the 2004 National Institute for Occupational Safety and Health (NIOSH) Alert on safe handling of hazardous drugs.

**WAC 296-62-50025 Personal protective equipment (PPE).**

- Requirements relating to personal protective equipment are located in this section. These requirements are state-initiated and derived from the 2004 National Institute for Occupational Safety and Health (NIOSH) Alert on safe handling of hazardous drugs.

**WAC 296-62-50030 Engineering controls.**

- Requirements relating to engineering controls are located in this section. These requirements are state-initiated and derived from the 2004 National Institute for Occupational Safety and Health (NIOSH) Alert on safe handling of hazardous drugs.

**WAC 296-62-50035 Safe handling practices.**

- Requirements relating to safe handling practices are located in this section. These requirements are state-initiated and derived from the 2004 National Institute for Occupational Safety and Health (NIOSH) Alert on safe handling of hazardous drugs.

**WAC 296-62-50040 Cleaning, housekeeping, and waste handling.**

- Requirement relating to cleaning, housekeeping, and waste handling are located in this section. These requirements are state-initiated and derived from the 2004 National Institute for Occupational Safety and Health (NIOSH) Alert on safe handling of hazardous drugs.

**WAC 296-62-50045 Spill control.**

- Requirements relating to spill control are located in this section. These requirements are state-initiated and derived from the 2004 National Institute for Occupational Safety and Health (NIOSH) Alert on safe handling of hazardous drugs.

**WAC 296-62-50050 Medical surveillance.**

- Requirements relating to medical surveillance are located in this section. These requirements are state-initiated and derived from the 2004 National Institute for Occupational Safety and Health (NIOSH) Alert on safe handling of hazardous drugs.

**WAC 296-62-50055 Training.**

- Requirements relating to training are located in this section. These requirements are state-initiated and derived from the 2004 National Institute for Occupational Safety and Health (NIOSH) Alert on safe handling of hazardous drugs.

**WAC 296-62-50060 Recordkeeping.**

- Requirements relating to recordkeeping are located in this section. These requirements are state-initiated and derived from the 2004 National Institute for Occupational Safety and Health (NIOSH) Alert on safe handling of hazardous drugs.

Reasons Supporting Proposal: This proposal was developed with the assistance of a stakeholder group from the industry representing business and labor.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and chapter 39, Laws of 2011.

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, Washington, (360) 902-5530; Implementation and Enforcement: Michael Silverstein, Tumwater, Washington, (360) 902-4805.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business economic impact statement is required because this rule is enacting ESSB 5594 in which the Washington state legislature directed the department to complete this rule making. The department's proposed rules are subject to the Regulatory Fairness Act, but they do not require a small business economic impact statement because the proposed changes are exempt by law (see RCW 19.85.025 referencing RCW 34.05.310(4)).

A cost-benefit analysis is not required under RCW 34.05.328. No cost-benefit analysis is required because this rule is enacting ESSB 5594 in which the Washington state legislature directed the department to complete this rule making. The department's proposed rules are subject to the Regulatory Fairness Act, but they do not require a cost-benefit analysis because the proposed changes are exempt by law.

October 18, 2011

Judy Schurke

Director

**PART R—HAZARDOUS DRUGS****NEW SECTION**

**WAC 296-62-500 Hazardous drugs.** This rule provides minimum requirements for developing a hazardous drugs control program; enabling employers to provide effective, assessment-based precautions designed to minimize or eliminate occupational exposure.

**IMPORTANT:**

Hazardous drugs are covered under WAC 296-800-170, Employer chemical hazard communication—Introduction. In addition the employer must follow the requirements in WAC 296-800-160 and chapter 296-842 WAC as related to the provision of personal protective equipment and respiratory protection. Whenever there is a conflict between rule

requirements the most protective requirement will take precedent.

#### NEW SECTION

**WAC 296-62-50005 Scope.** (1) This chapter applies to all health care settings that have employees with occupational exposure to hazardous drugs.

(2) The following lists jobs that may involve occupational exposure to hazardous drugs. This is not an exhaustive list and there may be other jobs that fall within the scope of this chapter:

- Physicians and physician assistants;
- Nurses (ARNPs, RNs, LPNs, nurses aids);
- Patient care assistive personnel (nurses aides or technicians);
- Operating room personnel;
- Employees in research laboratories;
- Home health care workers;
- Veterinarians and veterinary technicians;
- Pharmacists and pharmacy technicians;
- Environmental services employees (e.g., housekeeping, laundry, and waste disposal) in health care settings;
- Employees who ship, or receive hazardous drugs from the manufacturer or distributor.

**Exemption:** This chapter does not apply to the drug manufacturing sector.

#### NEW SECTION

**WAC 296-62-50010 Definitions. Biological safety cabinet** means a ventilated cabinet for compounding pharmaceutical ingredients, personnel, product, and environmental protection having an open front with inward airflow for personnel protection, downward high-efficiency air (HEPA)-filtered laminar airflow for product protection, and HEPA-filtered exhausted air for environmental protection. For a complete description of the different types of biologic safety cabinets see the Centers for Disease Control and Prevention (CDC)/National Institutes of Health (NIH) document *Primary Containment for Biohazards: Selection, Installation and Use of Biological Safety Cabinets*.

**Chemotherapy glove** means a medical glove that has been approved by the Food and Drug Administration (FDA) and that meets the permeability standards of the American Society for Testing Materials (ASTM) Standard D6978 - 05.

**Closed system drug-transfer device** means a drug-transfer device that mechanically prohibits the transfer of environmental contaminants into the system and the escape of hazardous drug or vapor concentrations outside of the system.

**Compounding aseptic containment isolator** means a compounding aseptic isolator designed to provide worker protection from exposure to undesirable levels of airborne drug throughout the compounding and material transfer processes and to provide an aseptic environment for compounding sterile preparations. Air exchange with the surrounding environment should not occur unless the air is first passed through a microbial retentive filter (HEPA at a minimum) system capable of containing airborne concentrations of the physical size and state of the drug being compounded.

Where volatile hazardous drugs are prepared, the exhaust air from the isolator should be appropriately removed by properly designed building ventilation.

**Compounding aseptic isolator** means a form of isolator specifically designed for compounding pharmaceutical ingredients or preparations. It is designed to maintain an aseptic compounding environment within the isolator throughout the compounding and material transfer processes. Air exchange into the isolator from the surrounding environment should not occur unless the air has first passed through a microbial retentive filter (HEPA minimum).

**Contaminated** means materials or surfaces that have been in direct contact with a hazardous drug. Urine, fecal matter, vomit, blood, or bodily fluids from patients receiving certain hazardous drugs are considered contaminated for a minimum of forty-eight hours after administration. Containers that have held contaminated urine, fecal matter, vomit, blood, or other bodily fluids are considered contaminated until cleaned and decontaminated.

**Deactivation** means treating a chemical agent (such as a hazardous drug) with another chemical, heat, ultraviolet light, or other agent to create a less hazardous agent.

**Decontamination** means inactivation, neutralization, or removal of toxic agents, usually by chemical means.

**Engineering controls** means devices designed to eliminate or reduce worker exposure to hazards. Examples include biological safety cabinets, containment isolators, safer sharps devices, and safety interlocks.

**Hazardous drugs** means any drug identified as hazardous by the National Institute for Occupational Safety and Health (NIOSH) at the Centers for Disease Control or any drug that meets at least one of the following six criteria:

- Carcinogenicity;
- Teratogenicity or developmental toxicity;
- Reproductive toxicity in humans;
- Organ toxicity at low doses in humans or animals;
- Genotoxicity;
- New drugs that mimic existing hazardous drugs in structure and toxicity.

**Health care settings** means all hospitals, medical clinics, outpatient facilities, physicians' offices, retail pharmacies, home health care, veterinary clinics, and similar settings dedicated to the care of patients.

**HEPA filter** means a high-efficiency particulate air filter rated ninety-nine and ninety-seven percent efficient in capturing 0.3-micron-diameter particles.

**Material safety data sheet (MSDS)** means a summary provided by the manufacturer to describe the chemical properties and hazards of specific chemicals and ways in which workers can protect themselves from exposure to these chemicals.

**Occupational exposure** means reasonably anticipated inhalation, skin, ingestion, or injection contact with hazardous drugs as a result of the performance of an employee's duties.

Factors that affect worker exposure include:

- Drug handling circumstances (preparation, administration, or disposal);
- Amount of drug prepared;
- Frequency and duration of drug handling;

- Potential for absorption;
- Use of ventilated cabinets;
- Personal protective equipment;
- Work practices.

The likelihood that a worker will experience adverse effects from hazardous drugs increases with the amount and frequency of exposure and the lack of proper work practices.

Ventilated cabinet means a type of engineering control designed for purposes of worker protection. These devices are designed to minimize worker exposures by controlling emissions of airborne contaminants through the following:

- The full or partial enclosure of a potential contaminant source;
  - The use of airflow capture velocities to capture and remove airborne contaminants near their point of generation;
  - The use of air pressure relationships that define the direction of airflow into the cabinet.

Examples of ventilated cabinets include biological safety cabinets and containment isolators.

#### NEW SECTION

**WAC 296-62-50015 Hazardous drugs control program.** (1) By July 1, 2012 each health care setting shall develop and implement a written hazardous drugs control program specific to the workplace. The hazardous drugs control program must, at a minimum, include the following:

- (a) A current hazard assessment;
- (b) A written inventory of hazardous drugs in the workplace;
- (c) A description of the hazardous drugs training program;
- (d) Hazardous drugs policies and procedures including, but not limited to:
  - (i) Personal protective equipment;
  - (ii) Engineering controls (equipment use and maintenance);
  - (iii) Safe handling practices (receiving and storage, labeling, preparing, administering, and disposing of hazardous drugs);
  - (iv) Cleaning, housekeeping, and waste handling;
  - (v) Spill control;
  - (vi) Medical surveillance;
  - (vii) Personnel issues (such as exposure of pregnant workers);
  - (viii) Training;
  - (ix) Recordkeeping.

**Note:** Elements of the hazardous drugs control program may be located in other documents such as the employer's accident prevention program or other policies and procedures as long as they are referenced in the program.

**Reference:** Refer to the most current **NIOSH list of antineoplastic and other hazardous drugs in healthcare settings** for guidance on developing and maintaining a hazardous drugs list.

(2) Review and update the written hazardous drugs control program on at least an annual basis and whenever changes that affect occupational exposure occur, such as introduction of a new hazardous drug, or a change in handling practices.

(3) Seek input from employees who handle hazardous drugs and from other employees who may be exposed to hazardous drugs as a result of the performance of their duties regarding the quality and effectiveness of the hazardous drugs control program.

#### NEW SECTION

**WAC 296-62-50020 Hazard assessment.** (1) Each health care setting must conduct initial and at least annual hazard assessments in order to determine the appropriate protective actions to be taken.

(2) The assessment must include, but is not limited to, the following:

- (a) Total working environment;
- (b) Equipment (i.e., ventilated cabinets, closed-system drug transfer devices, glovebags, needleless systems, and personal protective equipment);
- (c) Physical layout of work areas;
- (d) Types of drugs being handled;
- (e) Volume, frequency, and form of drugs handled (tablets, coated versus uncoated, powder versus liquid);
- (f) Equipment maintenance;
- (g) Decontamination and cleaning;
- (h) Waste handling;
- (i) Potential exposures during work, including hazardous drugs, bloodborne pathogens, and chemicals used to deactivate hazardous drugs or to clean drug-contaminated surfaces;
- (j) Routine operations;
- (k) Spill response;
- (l) Waste segregation, containment, and disposal.

#### NEW SECTION

**WAC 296-62-50025 Personal protective equipment (PPE).** (1) Conduct a PPE hazard assessment and provide appropriate PPE at no cost to employees.

(2) Gloves.

(a) Wear appropriate gloves when handling hazardous drugs or when there is potential contact with hazardous drug contaminated materials or surfaces.

(b) Use powder-free chemotherapy gloves when handling chemotherapy drugs or when there is potential contact with chemotherapy contaminated items or surfaces.

**Note:** Consider using chemotherapy gloves for hazardous drugs that are not chemotherapy drugs or for which no information is available.

(c) Provide latex-free gloves to employees with latex sensitivities.

(d) Wear two pairs of gloves whenever there is a risk of exposure to hazardous drugs, e.g., during compounding, administering, handling contaminated bodily fluids and linens, and cleaning up hazardous drug spills.

(e) Make sure that the outer glove extends over the cuff of the gown.

(f) Instruct all employees to inspect gloves for physical defects before use.

(g) Change gloves every thirty minutes or when torn, punctured, or contaminated.

**Note:** Glove thickness cannot be relied upon as the sole determination of protection. It is important to evaluate test information provided by the glove manufacturer and other research that demonstrates permeation resistance to the specific hazardous drug being handled.

(3) Protective clothing.

(a) Wear gowns whenever there is the possibility of a splash or spill, or contact with contaminated materials or surfaces, including opening drug packages, handling vials or finished products, labeling hazardous drug containers, disposal of waste and all activities associated with drug administration.

(b) Wear gowns made of polyethylene-coated polypropylene or other protective material as determined by the PPE hazard assessment. Make sure the gown has a closed front, long sleeves, and elastic or knit cuffs.

(c) Remove and dispose of gowns at the end of drug handling activities, when leaving the drug handling area and as soon as possible when damaged or contaminated.

(d) If no permeation information is available, change gowns every two to three hours.

(4) Face protection. Wear a full-face shield when splashes to the eyes, nose, or mouth may occur. Examples include cleaning a spill or performing a procedure such as bladder instillation.

(5) Respiratory protection.

(a) Use N95 or equivalent respiratory protection during spill clean up and whenever there is risk of exposure to hazardous drug particulates.

(b) Use an appropriate full-facepiece chemical cartridge-type respirator whenever there is a significant risk of exposure to hazardous drug vapors or gases (e.g., for events such as large spills when an intravenous (IV) bag breaks or a line disconnects and leaks).

(6) Dispose of PPE immediately after use or whenever contaminated.

### NEW SECTION

**WAC 296-62-50030 Engineering controls.** (1) Use engineering controls to eliminate or minimize employee exposure to hazardous drugs. Examples of engineering controls include, but are not limited to:

- (a) Biologic safety cabinets;
- (b) Containment isolators;
- (c) Closed system transfer devices;
- (d) Safer sharps devices;
- (e) Safety interlocks.

(2) Develop a written safety plan for all routine maintenance activities performed on equipment that could be contaminated with hazardous drugs.

(3) General ventilation. Make sure that storage areas have sufficient general exhaust ventilation to dilute and remove airborne contaminants.

**Note:** Depending on the physical nature and quantity of the stored drugs, consider installing a dedicated emergency exhaust fan that is large enough to quickly purge airborne contaminants from the storage room in the event of a spill and prevent contamination in adjacent areas.

(4) Ventilated cabinets.

(a) Prepare (mix, compound, crush, pour liquid) hazardous drugs inside an appropriate ventilated cabinet designed to prevent release into the work environment.

(b) When selecting ventilated cabinets based on the need for aseptic processing make sure to use ventilated cabinets designed for both hazardous drug containment and aseptic processing. When asepsis is not required, a Class I biosafety cabinet or isolator intended for containment applications may be sufficient.

(c) Do not use supplemental engineering or process controls (such as needleless systems, glovebags, and closed system drug transfer devices) as a substitution for ventilated cabinets.

(d) Equip ventilated cabinets with a continuous monitoring device to confirm adequate airflow before each use.

(e) Use a high-efficiency particulate air filter (HEPA filter) for exhaust, and where feasible, exhaust one hundred percent of the filtered air to the outside.

(f) Install the outside exhaust so that the exhausted air is not pulled back into the building by the heating, ventilating, and air conditioning systems or by the windows, doors, or other points of entry.

(g) Place fans downstream of the HEPA filter so that contaminated ducts are maintained under negative pressure.

(h) Do not use a ventilated cabinet that recirculates air inside the cabinet or exhausts air back into the room environment unless the hazardous drug(s) in use will not volatilize while they are being handled or after they are captured by the HEPA filter.

(i) Develop and implement maintenance and cleaning procedures that ensure the effectiveness and safety of the ventilated cabinet.

(i) Field-certify biosafety cabinet performance, in accordance with National Sanitation Foundation/American National Standards Institute Standard 49, after installation, relocation, maintenance, repairs to internal components, HEPA filter replacement, and every six months thereafter.

(ii) Select appropriate performance and test methods for containment isolators, at a minimum, conduct leak and containment integrity tests in accordance with current American Glovebox Society guidelines. In addition perform a HEPA filter leak test for those containment isolators that utilize HEPA filtration.

(iii) Prominently display a current field-certification label on the ventilated cabinet.

(iv) Make sure that workers performing maintenance are familiar with applicable safety procedures, warned about hazards, and trained in appropriate work techniques and PPE needed to minimize exposure.

(v) Remove all hazardous drugs and chemicals, and decontaminate the ventilated cabinet before beginning maintenance activities.

(vi) Notify occupants in the affected areas immediately before the maintenance activity begins, and place warning signs on all affected equipment.

(vii) Deenergize the ventilated cabinet in accordance with chapter 296-803 WAC, Lockout/Tagout (control of hazardous energy).

(viii) Decontaminate and bag equipment parts removed for replacement or repair before they are taken outside the facility.

(ix) Seal used filtration media in plastic immediately upon removal, and dispose as contaminated waste.

(5) Institution of effective ventilation controls must be accomplished by December 1, 2012.

**Note:** Consult the following documents for performance test methods and selection criteria for ventilated cabinets:  
 (a) *Primary Containment for Biohazards: Selection, Installation and Use of Biological Safety Cabinets (CDC/NIH)*.  
 (b) *NSF/ANSI 49, Class II (laminar flow) Biosafety Cabinetry*.

## NEW SECTION

**WAC 296-62-50035 Safe handling practices.** (1) Receiving and storage.

(a) Make sure that all hazardous drug containers received from the manufacturer, distributor, another pharmacy, or medical clinic are labeled.

(b) At a minimum wear appropriate gloves when opening and unpacking shipping containers, and transporting hazardous drugs.

(c) Store hazardous drugs separately from other drugs, and in a manner that minimizes the potential for spills.

(d) Prohibit the use of unventilated areas for drug storage.

(e) Transport hazardous drugs in closed containers that minimize the risk of breakage.

(2) Labeling.

(a) Label hazardous drug containers in accordance with WAC 296-800-170, Employer chemical hazard communication.

(b) Label pharmaceutical waste containers in accordance with WAC 173-303-200, Accumulating dangerous waste on-site. See the Washington state department of ecology pharmaceutical waste web site for more information.

(3) Preparing.

(a) Provide work areas that are devoted solely to preparing hazardous drugs and limited to authorized personnel.

(b) Coordinate tasks associated with preparing and administering hazardous drugs to minimize exposure risks.

(c) Use engineering controls such as closed-system transfer devices, glovebags, and needleless systems when transferring hazardous drugs from primary packaging (such as vials) to dosing equipment (such as infusion bags, bottles, or pumps).

(d) Spike and prime the IV tubing and syringes inside an appropriate ventilated cabinet, never in the patient's room.

(e) When drug preparation is complete, seal the final product in a clear plastic bag or other sealable container for transport before removing it from the ventilated cabinet.

(f) Seal and decontaminate all waste containers inside the ventilated cabinet before removing them from the ventilated cabinet.

(g) Remove outer gloves and sleeve covers (if used) and bag them for disposal while inside the ventilated cabinet.

(4) Administering.

(a) Ensure that staff has been trained and follow policies and procedures regarding the safe administration of hazard-

ous drugs and related patient care. Examples include, but are not limited to; oral, intravenous, intramuscular or subcutaneous injections, topical, intracavitary, and aerosol administration.

(b) Use engineering controls to transfer and administer hazardous drugs.

(c) Wear appropriate personal protective equipment when administering hazardous drugs.

(d) Spike and prime administration sets prior to adding the drug to the bag.

(e) Do not remove tubing from an IV bag containing a hazardous drug.

(f) Do not disconnect tubing at other points in the system until the tubing has been thoroughly flushed.

(g) Place contaminated waste and other disposable items directly into a designated waste container.

(h) Personal hygiene. Prohibit eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses in work areas where hazardous drugs may be found.

(5) Handwashing. Wash hands with soap and water before donning gloves, immediately after removal, and whenever hands become contaminated.

(6) Laundry. Place contaminated laundry in leakproof, labeled or color-coded containers.

## NEW SECTION

**WAC 296-62-50040 Cleaning, housekeeping, and waste handling.** (1) Establish procedures for cleaning and decontamination of areas and equipment where hazardous drugs are present.

(2) Perform cleaning and decontamination work in areas that are sufficiently ventilated to prevent buildup of hazardous airborne concentrations.

(3) Clean work surfaces with an appropriate deactivation agent and cleaning agent before and after each continuous activity and at the end of the work shift.

(4) Wear appropriate gloves for cleaning and decontamination work.

(5) Wear a gown and face protection whenever splashing or contact with contaminated materials or surfaces is possible.

(6) Wear appropriate gloves and gown when handling linens, feces, or urine from patients who have received hazardous drugs within the last forty-eight hours that may be excreted in the urine or feces. In some cases handling precautions may need to be extended beyond forty-eight hours; e.g., Cisplatin may be excreted in urine for up to seven days.

(7) Place hazardous drug contaminated waste in designated pharmaceutical waste containers and dispose of in accordance with Washington state department of ecology dangerous waste requirements, chapter 173-303 WAC.

(8) Waste containers must be:

(a) Leakproof and appropriate for intended use, e.g., containers holding sharps must be puncture resistant;

(b) Color-coded or labeled;

(c) Located as close as feasible to the immediate area where contaminated waste is generated or can be anticipated to be found;

(d) Maintained upright throughout use;



- (e) Not allowed to overfill;
- (f) Closed except when in use, and prior to removal or replacement.

NEW SECTION

**WAC 296-62-50045 Spill control.** (1) Develop written spill response procedures based on the hazardous drugs present and potential spill or release conditions.

- (2) Spill procedures must include, at a minimum:
  - (a) Description of who is authorized to respond and under what circumstances;
  - (b) PPE (including respiratory protection) for various drugs and spill sizes;
  - (c) Location and use of spill kits or clean-up materials, and personal protective equipment;
  - (d) Possible spreading of material, and area containment and signage;
  - (e) Reporting and evaluating the circumstances surrounding spills and releases;
  - (f) Restricted access to hazardous drug spills.
- (3) Provide spill kits or clean-up materials near all potential spill sources.
- (4) Dispose of all clean-up materials in an appropriate pharmaceutical waste container.

**Note:** See chapter 296-824 WAC, Emergency response for requirements regarding response to spills that create significant safety and health risks. See the scope of chapter 296-824 WAC for further guidance.  
See WAC 296-800-150, first aid for emergency washing requirements.

NEW SECTION

**WAC 296-62-50050 Medical surveillance.** (1) Make confidential medical evaluations available to employees who directly handle hazardous drugs, and others who may come directly into contact with patient wastes within forty-eight hours after receiving a hazardous drug (e.g., nurses aides, laundry workers) under the following schedule:

- (a) Upon hire and on a scheduled basis thereafter;
- (b) Following acute exposures;
- (c) At the time of job termination or transfer (exit evaluation).
- (2) Ensure that all medical evaluations are performed by or under the supervision of a licensed health care provider (LHCP), and are provided at no cost to the employee and at a reasonable time and place.
- (3) The medical evaluations must include:
  - (a) A health questionnaire that includes reproductive and occupational information.
  - (b) Baseline and periodic laboratory work as indicated based on the health hazards of the hazardous drugs the employee is exposed to or reasonably likely to be exposed to.
  - (c) A physical examination at the time of hire and as indicated based on the health questionnaire, changes in health status or laboratory work findings.
  - (d) Additional testing and examinations as recommended by the LHCP.

**Note:** Many hazardous drugs may affect the production of blood cells and may cause bladder damage. Because of this many authoritative bodies (e.g., NIOSH, the Occupational Health

and Safety Administration, and the Oncology Nursing Society) recommend a complete blood count with differential, and examination for blood in the urine. Additional laboratory work, such as liver function testing, may be indicated.

- (4) Provide the LHCP the following information:
  - (a) A description of the employee's duties as they relate to the employee's exposure;
  - (b) The employee's exposure levels or anticipated exposure levels;
  - (c) A description of the personal protective equipment and respiratory protection used or to be used;
  - (d) Information available from previous medical examinations of the employee, which is not readily available to the LHCP.

NEW SECTION

**WAC 296-62-50055 Training.** (1) Provide hazardous drugs training to all employees with occupational exposure at the time of their initial job assignment, on a regular basis, and whenever changes in the workplace occur that may affect occupational exposure.

(2) Employee training includes, but is not limited to, the following elements:

- (a) A review of the hazardous drugs control program and how to access a copy of the program;
- (b) An explanation of and how to access material safety data sheets (MSDSs);
- (c) Sources of exposure to hazardous drugs;
- (d) Health hazards of the hazardous drugs in the work area, including the possible physical symptoms or effects of exposure;
- (e) Steps employees can take to protect themselves from exposure to hazardous drugs in the workplace, including specific procedures to protect employees from exposure to hazardous chemicals. Specific procedures may include:
  - (i) Personal protective equipment;
  - (ii) Engineering controls;
  - (iii) Safe handling practices;
  - (iv) Cleaning, housekeeping, and waste disposal;
  - (v) Spill control;
  - (vi) System for reporting exposure incidents and hazardous conditions.
- (f) Medical surveillance.
- (3) Initial and periodic assessments of preparation and administration technique.
- (4) The training must be conducted in a manner which the employees are able to understand.

**Note:** This training will suffice for the training on hazardous drugs required under WAC 296-800-170, Employer chemical hazard communication—Introduction.

NEW SECTION

**WAC 296-62-50060 Recordkeeping.** (1) Training records.

- (a) Maintain current training records for each employee.
- (b) Training records must include the following:
  - (i) Dates of training sessions;
  - (ii) Contents or a summary of the training sessions;

(iii) Names and job titles of employees taking the training.

(2) Medical and exposure records. Establish and maintain employee medical and exposure records in accordance with chapter 296-802 WAC, Employee medical and exposure records.

(3) Spill records. Maintain spill records and evaluation findings for at least one year from the date of the spill or release.

**WSR 11-21-094**  
**PROPOSED RULES**  
**OFFICE OF**

**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2011-19—Filed October 19, 2011, 7:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-17-127.

Title of Rule and Other Identifying Information: Biographical affidavits, adding a new section to chapter 284-07 WAC.

Hearing Location(s): Insurance Commissioner's Office, Room TR 120, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, <http://www.insurance.wa.gov/about/directions.shtml>, on November 30, at 10:00 a.m.

Date of Intended Adoption: December 5, 2011.

Submit Written Comments to: Donna Dorris, P.O. Box 40258, Olympia, WA 98504-0258, e-mail [donnad@oic.wa.gov](mailto:donnad@oic.wa.gov), fax (360) 586-3109, by November 29, 2011.

Assistance for Persons with Disabilities: Contact Lori [Lorie] Villaflores by November 28, 2011, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule defines the requirements of filing a biographical affidavit for foreign, alien, and domestic insurers. It further outlines additional circumstances requiring domestic insurers to file a new biographical affidavit.

Reasons Supporting Proposal: This proposed rule standardizes time frames and circumstances for filing additional biographical affidavits for domestic insurers.

Statutory Authority for Adoption: RCW 48.02.060, 48.36A.290, 48.44.050, 48.46.030, and 48.46.200.

Statute Being Implemented: Chapters 48.05, 48.36A, 48.44, 48.46, and 48.125 RCW.

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: Donna Dorris, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7040; Implementation: Jim Odiorne, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7214; 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 domestic insurers and alien (port of entry) insurers. The increased cost of meeting this proposed new requirement is less than 0.3 percent of the average Washington revenue of the smallest domestic insurers. 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 Donna Dorris, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7040, fax (360) 586-3109, e-mail [donnad@oic.wa.gov](mailto:donnad@oic.wa.gov).

October 17, 2011

Mike Kreidler

Insurance Commissioner

**BIOGRAPHICAL AFFIDAVITS**

NEW SECTION

**WAC 284-07-600 Definitions.** For the purposes of this regulation, WAC 284-07-610 and 284-07-620, called the biographical affidavits regulation, the following definitions apply:

(1) A "biographical affidavit" means the current National Association of Insurance Commissioners (NAIC) Biographical Affidavit, Form 11, available on the NAIC's web site at [www.naic.org](http://www.naic.org).

(2) A "domestic insurer" includes an entity organized under the laws of this state, domiciled in this state or using this state as its state of entry including:

(a) An insurer authorized under chapter 48.05 RCW.

(b) A fraternal benefit society as defined in RCW 48.36A.010 and authorized under chapter 48.36A RCW.

(c) A health care service contractor defined in RCW 48.44.010 and registered under chapter 48.44 RCW.

(d) A health maintenance organization defined in RCW 48.46.020 and registered under chapter 48.46 RCW.

(e) A self-funded multiple employer welfare arrangement defined in RCW 48.125.010 and authorized under chapter 48.125 RCW.

(f) An alien insurer authorized under chapter 48.05 RCW and subject to the requirements under chapter 48.35 RCW.

(3) A "foreign insurer" or an "alien insurer" are as defined in RCW 48.05.010 and authorized under chapter 48.05 RCW.

(4) An "officer" or "director" includes:

(a) A controlling individual as defined in RCW 48.31B.005(2) and 48.31C.010(3);

(b) An executive officer as defined in WAC 284-18-340 and 284-18A-340; and

(c) Key management personnel who control the operations of a domestic, foreign or alien insurer.

NEW SECTION

**WAC 284-07-610 Filing requirements for foreign and alien insurers.** (1) Foreign and alien insurers must file a biographical affidavit for each officer or director as specified by the NAIC Uniform Certificate of Authority Application

(UCAA) as part of an application for certificate of authority or certificate of registration.

(2) Alien insurers authorized under chapter 48.35 RCW must meet the requirements of WAC 284-07-620.

(3) Biographical affidavits must be investigated and verified by a vendor authorized by the NAIC to perform a state, national, or international history background check. Verification reports must be submitted directly to the commissioner by the background investigation agency.

#### NEW SECTION

**WAC 284-07-620 Filing requirements for domestic insurers.** (1) Domestic insurers must file a biographical affidavit:

(a) For each officer or director as part of an application for a solicitation permit, certificate of authority, or certificate of registration.

(b) Within thirty business days after:

(i) An individual becomes an officer or director;

(ii) A material change of filed information required in the biographical affidavit; or

(iii) At the request of the commissioner.

(c) Within fifteen business days, of any information concerning the conviction of an officer or director of a felony or the naming of an officer or director, other than as a party plaintiff or complainant, in a criminal or civil action in which fraud is an issue.

(d) Every thirty-six months after the last biographical affidavit filed.

(2) An officer or director may choose to list all affiliate insurers and insurers under common control on one biographical affidavit in lieu of filing a separate form for each affiliated insurer.

(3) Biographical affidavits must be investigated and verified by a vendor authorized by the NAIC to perform a state, national, or international history background check. Verification reports must be submitted directly to the commissioner by the background investigation agency.

#### **WSR 11-21-095**

#### **PROPOSED RULES**

#### **OFFICE OF**

#### **INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2011-20—Filed October 19, 2011, 7:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-17-128.

Title of Rule and Other Identifying Information: Licensure of life settlement providers.

Hearing Location(s): OIC Tumwater Office, Training Room 120, 5000 Capitol Boulevard, Tumwater, WA, <http://www.insurance.wa.gov/about/directions.shtml>, on November 22, 2011, at 10:00 a.m.

Date of Intended Adoption: November 29, 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 November 21, 2011.

Assistance for Persons with Disabilities: Contact Lorrie [Lorie] Villaflores by November 21, 2011, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule replaces the requirement for submission of fingerprint cards of the directors, officers, and significant shareholders of domestic life settlement applicants with a requirement to provide third party verification reports from an acceptable vendor.

Reasons Supporting Proposal: Based upon the use of these verifications with foreign insurer expansion applications, we believe the change will provide for more thorough and quicker verifications. The proposed rules also coordinate the life settlement provider requirements with those for insurers, resulting in administrative savings.

Statutory Authority for Adoption: RCW 48.02.060 and 48.102.170.

Statute Being Implemented: Chapter 48.102 RCW.

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: Jim Odiorne, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7214; 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 domestic applicants to be licensed as life settlement providers; there are currently no domestic applicants for these licenses. In addition, the increased cost of meeting this proposed new licensing requirement is less than 0.3 percent of the average Washington revenue of the smallest companies in this line of business. 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 40258, Olympia, WA 98504-0258, phone (360) 725-7041, fax (360) 586-3109.

October 19, 2011

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2009-14, filed 1/27/10, effective 2/27/10)

**WAC 284-97-020 Licensing requirements for life settlement providers.** (1) The application form and instructions for obtaining a license as a life settlement provider are on the commissioner's web site at [www.insurance.wa.gov](http://www.insurance.wa.gov).

(2) The application for a license as a life settlement provider shall furnish all of the applicable following information:

(a) The name of the applicant, its address, and organizational structure.

(b) Copies of its organizational documents, including but not limited to its: Articles of incorporation and any amendments thereto, certificate of incorporation and any amendments thereto, bylaws and any amendments thereto, partnership agreement and any amendments thereto, articles of association and any amendments thereto, certificate of formation of a limited liability company and any amendments thereto, and limited liability company agreement and any amendments thereto.

(c) The identity of all: Stockholders holding ten percent or more of the voting securities; investors holding a ten percent or greater interest; partners; corporate officers; trustees; if an association, all of the members; all of the members of a limited liability company; and parent and affiliate entities, together with a chart showing the relationship of the applicant to any parent, affiliated or subsidiary entities.

(d) A list of all stockholders holding ten percent or more of the voting securities, investors holding a ten percent or greater interest, partners, and officers of any parent or affiliate entities.

(e) Biographical affidavits of all its officers, directors, investors holding a ten percent or greater interest, partners, members of a limited liability company, and members (if an association).

(f) For domestic life settlement providers, ~~((fingerprint cards of))~~ third-party verification reports from an acceptable vendor for all its officers, directors, trustees, investors holding a ten percent or greater interest, partners, members of a limited liability company, and members (if an association). A vendor is acceptable if registered with the National Association of Insurance Commissioners' Uniform Certificate of Authority Application (NAIC UCAA) registry.

(g) A list of states in which the life settlement provider is licensed on the date of application, a copy of each effective license, and a list of the states in which it is or was doing business.

(h) A list of all business licenses from the federal and any state government, which has been issued to the applicant, together with a certificate of incorporation from the Washington secretary of state, and a statement showing the current status of any such licenses, such as whether it has been revoked or suspended.

(i) A report stating whether any regulatory action, by any level of state or federal government, is pending or has been taken against the applicant or its officers, directors, trustees, investors holding a ten percent or greater interest, partners, members of a limited liability company, or members (if an association).

(j) A report stating whether any criminal action or civil action has been taken, or is pending, against the applicant or its officers, directors, trustees, investors holding a ten percent or greater interest, partners, members of a limited liability company, or members (if an association).

(k) A copy of its most recent financial and operating reports, audited and unaudited.

(l) Copies of documents filed with the federal Securities and Exchange Commission.

(m) A detailed plan of operations for the applicant's business, including but not limited to information regarding or identification of the following items in connection with the applicant's life settlement business:

(i) Escrow accounts and banks;

(ii) Advertising, brokerage, or distribution system to be used;

(iii) Marketing techniques to be used;

(iv) Marketing training program; and

(v) Contract offering and servicing facilities.

(n) For a nonresident provider, an appointment of the commissioner to receive service of process and a designation of the person to whom the commissioner shall forward legal process.

(o) A copy of the applicant's antifraud plan that meets the requirements of RCW 48.102.140.

(p) Such other information as the commissioner may reasonably require.

(3) To qualify for authority to transact business as a life settlement provider the applicant must possess unimpaired capital, and thereafter maintain unimpaired capital, in the amount of not less than one hundred fifty thousand dollars.