



RULE MAKING ORDER
(RCW 34.05.360)

CR-103 (07/10/97)

Agency: Department of Corrections

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of Adoption:
2/4/1998

(2) Purpose:

To clarify and confirm that offenders may be subject to criminal prosecution for persistent prison misbehavior under RCW 9.94.070.

(3) Citation of Rules Affected by this order:

Repealed:
Amended: WAC 137-28
Suspended:

(4) Statutory authority for adoption: RCW 72.09.130; RCW 72.01.090; RCW 9.94.070
Other Authority:

PERMANENT RULE ONLY (including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 98-01-152 on 12/22/1998 (date). *1997 MW*

Describe any changes other than editing from proposed to adopted version:
None.

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date).

(5.3) Any other findings required by other provisions of law as precondition to adoption of effectiveness of rule?

Yes No If Yes, explain:

(6) Effective date of rule:

- | | |
|--|--|
| Permanent Rules | Emergency Rules |
| or Expedited Repeal | |
| <input checked="" type="checkbox"/> 31 days after filing | <input type="checkbox"/> Immediately |
| <input type="checkbox"/> Other (specify) _____* | <input type="checkbox"/> Later (specify) _____ |

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

NAME (TYPE OR PRINT)

Joseph D. Lehman

SIGNATURE

TITLE

Secretary

DATE

2/4/98

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

FEB 4 1998

TIME 11:45 AM

WSR 98-04-086 PM

(COMPLETE REVERSE SIDE)

**Note: if any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New _____	Amended _____	Repealed _____
Federal rules or standards:	New _____	Amended _____	Repealed _____
Recently enacted state statutes:	New _____	Amended _____	Repealed _____

*(current calendar year)

The number of sections adopted at the request of a nongovernmental entity:

New _____ Amended _____ Repealed _____

The number of sections adopted on the agency's own initiative:

New _____ Amended 2 Repealed _____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New _____ Amended _____ Repealed _____

The number of sections adopted using:

Negotiated rule making:	New _____	Amended _____	Repealed _____
Pilot rule making:	New _____	Amended _____	Repealed _____
Other alternative rule making:	New _____	Amended _____	Repealed _____

Amended Rules

AMENDATORY SECTION (Amending WSR 95-15-044, filed 7/13/95, effective 8/15/95)

WAC 137-28-150 Authority. The authority for this chapter is RCW 72.01.090, RCW 72.09.130, and RCW 9.94.070.

AMENDATORY SECTION (Amending WSR 95-15-044, filed 7/13/95, effective 8/15/95)

WAC 137-28-190 Reporting to law enforcement authorities. (1) The superintendent shall report any felony under state or federal law to law enforcement authorities.

(2) When an offender knowingly commits an additional serious infraction after losing all potential earned early release time credits, the Superintendent will report that offender to local law enforcement authorities for possible felony prosecution under RCW 9.94.070.

~~((2))~~ (3) If a violation has been reported to law enforcement authorities, inmates who have been charged with an infraction shall not be questioned about the incident outside of a formal disciplinary hearing or an administrative segregation hearing until after it has been determined that no prosecution will occur or until a finding of guilty is made.

~~((3))~~ (4) No provisions of these rules shall prevent the administrative segregation of any inmate.