WSR 07-05-071
PROPOSED RULES
OLYMPIC REGION CLEAN AIR AGENCY
[Filed February 20, 2007, 2:51 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Olympic Region Clean Air Agency (ORCAA) Regulations, Rule 3.1 Annual Registration Fees and Rule 3.3 Notice of Construction Fees. The proposal increases annual fees for registration and notice of construction activities.

Hearing Location(s): Olympic Region Clean Air Agency, 2940 B Limited Lane N.W., Olympia, WA 98502, on April 11, 2007, at 10:00 a.m.

Date of Intended Adoption: April 11, 2007.

Submit Written Comments to: Olympic Region Clean Air Agency, 2940 B Limited Lane N.W., Olympia, WA 98502, e-mail Robert@orcaa.org, fax (360) 491-6308, by April 6, 2007.

Assistance for Persons with Disabilities: Contact Dan Nelson by April 2, 2007, (360) 586-1044.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This change will enable the agency to collect additional revenue for the registration and notice of construction programs. The additional revenue is needed to more fully fund these programs. There will be an increase in the annual registration fees charged to existing businesses and industries registered with ORCAA. Fees associated with air permits for new sources of air pollution will also increase.

Reasons Supporting Proposal: Chapter 70.94 RCW provides air agencies authority to charge fees sufficient to cover costs of implementing air regulatory programs including annual registration of existing sources of air pollution and air permitting programs for new sources of air pollution. The registration and permitting programs have always been subsidized by other funding sources. The fees have been increased once (by 3.6%) in the last thirteen years.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: Chapter 70.94 RCW.

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

Name of Proponent: Olympic Region Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Moody, 2940 B Limited Lane N.W., Olympia, WA 98502, (360) 586-1044.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the Regulatory Fairness Act (chapter 19.85 RCW) because air pollution control authorities are not deemed state agencies (RCW 70.94.141).

A cost-benefit analysis is not required under RCW 34.05.328. Air pollution control authorities are not deemed to be state agencies (RCW 70.94.141).

February 16, 2007
Richard A. Stedman
Executive Director

REGULATION 3 - FEES
AMENDED SECTION
RULE 3.1 ANNUAL REGISTRATION FEES

(a) The Agency shall charge Initial and Annual registration fees pursuant to RCW 70.94.151. Annual registration fees shall be assessed according to the annual fee schedules set forth in Rule 3.1(b) below. Initial registration fees shall be assessed upon initial registration of a source subject to registration and shall equal the annual registration fee based on projected emissions and prorated for the remaining months in the fiscal year. Initial and Annual registration fees shall provide revenue to fund the Agency's ongoing Registration Program.

(b) All sources requiring registration shall be assessed an annual registration fee consisting of the sum of a "source fee," "generating equipment fee," "stack fee," "class fee," "emissions fee," and "source specific monitoring fee" according to items (1) through (8) of this rule and amounts as specified in Table 3.1a. Sources assessed annual operating permit fees under ((~~Regulation 5~~)) Rule 3.2 shall not be assessed annual fees under this rule.

(1) Source fee - All sources requiring registration shall pay an annual "source fee" of an amount as indicated in Table 3.1a; and

(2) A Generating Equipment Fee of an amount as indicated in Table 3.1a for each fee eligible generating equipment located at the source; and

(3) A Stack Fee of an amount as indicated in Table 3.1a for each fee eligible stack located at the source; and

(4) An Emissions Fee of an amount as indicated in Table 3.1a per ton of each air contaminant listed in Table 3.1b emitted by the source for air contaminants emitted in excess of ((~~10~~)) 5 tons, evaluated on a pollutant by pollutant basis, during the previous calendar year, or as contained in the file or permit; and

(5) A Class Fee of an amount as specified in Table 3.1a; and

(6) A Source Specific Monitoring Fee of an amount as specified in Table 3.1a if ambient monitoring is a requirement for the source;

(7) The Agency shall assess the emissions fee based on actual emissions from the source for the last calendar year when available;

(8) The annual registration fees required by this rule shall be based on process rates, equipment specifications, and emissions data from the previous calendar year on file with the Agency. For purposes of assessing annual registration fees, the Agency shall consider updates and revisions to any source's file, received prior to ((~~August~~)) July 1 of the current year. If process rates, equipment specifications, and emissions data from the previous calendar year is not on file with the Agency, the Agency may base the annual fee on the enforceable emissions limitations for the source and maximum capacities and production rates.

(9) For purposes of assessing annual registration fees, definitions for "fee eligible generating equipment" and "fee eligible stack" shall be consistent with the definitions in Rule 1.4, and fee eligible generating equipment and fee eligible stacks which are identical in size, capacity, function, and

emissions may be counted as one unit as approved by the Agency.

(c) The Agency shall assess annual registration fees after August 1 of each year to cover the cost of administering the program for the current fiscal year commencing July 1 and ending June 30. The agency shall assess annual registration fees based on the most recent information on file with the Agency including any updates to the source's file received prior to ((~~August~~)) July 1 of that year.

(d) Upon assessment by the Agency, annual registration fees are due and payable and shall be deemed delinquent if not fully paid within thirty (30) days. However, sources classified as RC1 or RC2 shall be given the option to pay their annual fee in quarterly installments. RC1 and RC2 sources may choose to pay their annual fees in quarterly installments by indicating so on the first invoice received and remitting payment of the first installment to the Agency along with the duplicate copy of the invoice. Quarterly installments shall be equal to 25% of the total annual registration fee and shall be due within 30 days of each quarter following initial assessment by the Agency.

(e) Any source which fails to pay, in full, ((~~does not pay~~)) their annual registration fee or annual registration installment ((~~within thirty (30) days of~~)) by the due date, as stated on the invoice, shall be assessed a late penalty in the amount of 25% of their annual registration fee. This late penalty shall be in addition to the annual registration fee.

(f) Annual registration fees may be appealed according to the procedure specified in Rule 1.8.

(g) Failure to pay annual registration fees is a violation of these Regulations and will result in the issuance of a Notice of Violation and prescribed penalties.

Table 3.1a: Annual Registration Fees

ANNUAL FEE COMPONENT	FEE COMPONENT DESCRIPTION	FEE AMOUNT
Facility Fee	Fee assessed to all sources requiring registration ((~~or an operating permit~~)).	((~~$107.00~~)) $135.00
Generating Equip. Fee	Fee assessed per each fee eligible generating equipment located at the source.	$45.00
Stack Fee	Fee assessed per each fee eligible stack located at the source.	((~~$27.00~~)) $30.00
Emissions Fee	Fee assessed per ton of particulate matter, SO_2, NOx, VOC, and toxic air contaminants emissions which exceeded ((~~10~~)) 5 tons per year for the previous calendar year based on actual emissions.	((~~$11.00~~)) $20.00
Class Fees:		
RC1	Major sources (≥100 tpy)	((~~$1345~~)) $1600.00
RC2	Major toxic sources	((~~$1138~~)) $1600.00
RC3	Criteria pollutants ≥ 30 tpy	((~~$580~~)) $800.00
RC4	Criteria pollutants ≥ 10 tpy	((~~$124~~)) $250.00
RC5	Criteria pollutant < 10 tpy	((~~$31~~)) $50.00
RC6	Toxic air contaminants < 10 tpy	((~~$124~~)) $200.00
RC7	< 100 gal/mo VOC containing materials	((~~$62~~)) $50.00
RC8	Incinerators < 30 tpy emissions	((~~$217~~)) $210.00
RC9	Potential odor sources.	((~~$62~~)) $400.00
RC10	Maj. gasoline terminals & bulk plants	((~~$155~~)) $500.00
RC11	Min. gasoline terminals & bulk plants	((~~$104~~)) $200.00
RC12	Gas stations requiring Stage II	((~~$11~~)) $20.00
RC13	Gas stations ((~~≥ 100 thousand gal/yr~~))	$ 0

Table 3.1a: Annual Registration Fees

ANNUAL FEE COMPONENT	FEE COMPONENT DESCRIPTION	FEE AMOUNT
RC14	VACANT CLASSIFICATION	
RC15	Other sources requiring registration	((~~$104~~)) $100.00
Source Specific Ambient Air Monitoring Fees	Fees charged a source for ORCAA to establish and operate a special purpose source specific monitoring station would be determined on a case-by-case basis when such monitoring is required.	Variable

Table 3.1b: Pollutants Considered For Fees

Total Particulates (TSP)
Sulfur Oxides (SOx)
Nitrogen Oxides (NOx)
Volatile Organic Compounds (VOC)
Toxic Air Pollutants

(h) On an annual basis, the Agency shall conduct a workload analysis to determine the adequacy of annual registration fees in funding the Agency's Registration Program. The workload analysis shall be based on the Agency's historical record of time and resource expenditures associated with the registration program. The workload analysis shall be made available if a request is made to the Agency. Any proposed revisions to the annual registration fee schedule shall be presented to the Board for adoption after public noticing pursuant to these Regulations public noticing requirements and opportunity for a public hearing.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Olympic Region Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDED SECTION

Rule 3.3 Notice of Construction Fees

(a) ((~~The fee~~)) Fees for processing a Notice of Construction (NOC) application shall include ((~~a~~)) Filing Fees according to Rule 3.3(b)((~~, Plan Examination and Inspection~~)) and any applicable Additional NOC Processing Fees according to Rule 3.3(c)((~~, and any applicable Additional NOC Processing Fees according to Rule 3.3(d)~~)). Other cost to the agency of work performed outside of the agency in conjunction with approving a NOC application shall be directly reimbursed to the agency according to Rule 3.3(d).

(b) Filing Fees. ((~~The Agency shall not commence processing a NOC application until it has received a filing fee of $100.00.~~)) A Filing Fee according to Table 3.3a shall be paid for each proposed piece of equipment or process, or for groups of identical equipment or processes that, if considered individually would be subject to a NOC. Filing Fees shall be assessed and paid as follows:

(1) A NOC application may not be deemed complete unless Filing Fees have been paid in full.

(2) Equipment or processes may be considered identical and subject to a single filing fee provided:

(i) They are identical in size and capacity;

(ii) Employ identical air pollution control technology;

(iii) Use the same fuel types;

(iv) Are subject to the same performance standards and air regulatory determinations; and,

(v) May be considered as a single emissions point for the purpose of determining ambient air quality impacts.

(3) Payment of NOC Filing Fees shall be due no later than thirty (30) days from the date of the invoice unless an alternative payment plan has been approved by the executive director.

(c) ((~~Plan Examination and Inspection Fees. A Plan Examination and Inspection Fee shall be paid for each piece of equipment or process proposed, which emits air pollutants and requires filing a NOC, and for certain fee eligible reviews and determinations as identified in Table 3.3a. The applicant may choose to determine applicable Plan Examination and Inspection Fees based on Rule 3.3 and include payment along with the NOC application, or may elect to have the Agency determine applicable Plan Examination and Inspection Fees during the NOC completeness review, in which case the applicant would be billed. In either case, the NOC application is incomplete until the Agency has received payment of applicable Plan Examination and Inspection Fees. Plan Examination and Inspection Fees shall be determined as follows:~~

(1) ~~One Plan Examination and Inspection Fee shall be paid for each regulatory determination or review item identified in Table 3.3a which applies to the NOC;~~

(2) ~~One Plan Examination and Inspection Fee shall be paid for each piece of equipment of process which emits air pollutants and requires filing a NOC except for equipment or processes which can be considered as identical equipment or processes;~~

(3) ~~Equipment or processes may be considered identical provided that they have the same physical specifications and only one examination and/or inspection is required by the Agency;~~

(4) ~~Identical equipment or processes may be accounted for collectively as a single piece of equipment or process subject to a single Plan Examination and Inspection Fee;~~

(5) ~~The Plan Examination and Inspection Fee for a piece of equipment shall be based on the fee amount in Table 3.3a which most closely matches the equipment or process type; and,~~

(6) ~~Any fee based on actual cost to the Agency shall be determined according to Rule 3.3(c).~~))

(c) Additional NOC Processing Fees. ((~~An~~)) Additional NOC Processing Fees shall be paid ((~~by the applicant for any work identified in Table 3.3b, which has been completed by the Agency for purposes of finalizing review and approval of a NOC.~~)) at a rate of $80 per hour of direct time expended by agency technical staff in completing any of the fee-eligible

items or actions described in Table 3.3b. If required, Additional NOC Processing Fees shall be determined and paid as follows: ((~~The Agency shall not issue the Final Determination or Order of Approval for any NOC until applicable additional NOC Processing Fees have been paid. The Agency shall determine which additional NOC Processing Fees apply and shall bill an applicant after issuing a Preliminary Determination, but prior to issuing a Final Determination or Approval Order. Additional NOC Processing Fees shall be determined based on the Fee schedule contained in Table 3.3b. Any fee based on actual cost to the Agency shall be determined according to Rule 3.3(e).~~

~~Fee amounts in Table 3.3a and Table 3.3b which are based on the Agency's actual cost to complete a review or task shall be determined using the actual direct hours expended completing the specific review or task and the corresponding direct hourly salary rate of each Agency staff person directly involved. The following provisions shall apply:~~))

(1) ((~~Actual hours used in determining the amount of a fee shall be recorded on a daily basis by each Agency staff person directly involved in completing the specific task;~~)) Additional NOC Fees may be assessed periodically as work to complete the fee-eligible items in Table 3.3b incurs, but not more frequently than monthly.

(2) ((~~Time accrued for purposes of determining the amount of a fee for this rule shall be accounted for to the nearest 15 minutes;~~)) All Additional NOC Processing Fees shall be assessed and paid prior to issuing any Final Determination on a NOC application unless an alternative payment plan has been approved by the executive director.

(3) ((~~Current employee salary rates shall be used when calculating actual cost-based fees; and,~~)) Payment of any Additional NOC Processing Fee shall be due no later than thirty (30) days from the date of the invoice unless an alternative payment plan has been approved by the executive director.

(4) ((~~The bill issued for any fee based on the Agency's actual cost shall indicate the total hours expended and the hourly cost rates, which were used to determine the fee.~~)) The director may approve an alternative payment plan provided that the plan is submitted in writing by the applicant.

(5) In computing fees based on hourly rates, only hours of technical staff (Engineer and Air Quality Specialist classifications) attributed directly to completing fee-eligible tasks listed in Table 3.3b shall be used in computing fees.

(6) The total hours used in computing fees shall be based on the agency's official time accounting records.

(7) Invoices shall disclose the number of hours by employee classification that is the basis for any Additional NOC Processing Fee.

(d) Other Costs. The following other costs shall be borne by the applicant:

(1) The cost of publishing any required notice.

(2) Consulting cost incurred by the agency in conjunction with approving a NOC application.

(e) Late Payment Penalties. ((~~Payment of all NOC processing fees assessed by the Agency shall be due no later than thirty (30) days from receiving written notification of the fee assessment.~~)) Failure to pay, in full, any assessed NOC fee ((~~within thirty (30) days from the~~)) by the due date as stated on the invoice, ((~~payment is due~~)) shall incur a late payment penalty in the amount of 25% of the total amount due.

New Table

Table 3.3a Filing Fees

Fuel Burning Equipment		
Design heat input rate in MMBtu/hr (maximum)	**Filing Fee**	**Base-Fee Hours**
Less than 10	$520	7
10 or more but less than 20	$700	9
20 or more but less than 50	$940	12
50 or more but less than 100	$1,900	24
100 or more	$3,100	39
Fuel change or new fuel		
Design heat input rate in MMBtu/hr (maximum)	**Filing Fee**	**Base-Fee Hours**
Less than 10	$310	4
10 or more but less than 20	$400	5
20 or more but less than 50	$520	7
50 or more but less than 100	$1,000	13
100 or more	$1,600	20
Process and Control Equipment		
Cubic feet per minute at design capacity	**Filing Fee**	**Base-Fee Hours**
Less than 10,000	$460	6
10,000 or more but less than 20,000	$580	7
20,000 or more but less than 50,000	$760	10
50,000 or more but less than 100,000	$1,120	14
100,000 or more but less than 250,000	$2,140	27
250,000 or more	$3,100	39
Incinerators		
Pounds per day at maximum design capacity	**Filing Fee**	**Base-Fee Hours**
Less than 100	$460	**6**
100 or more but less than 500	$760	**10**
500 or more but less than 1,000	$2,080	**26**
Refuse Combustion		
Combustion rate in tons per day at design capacity	**Filing Fee**	**Base-Fee Hours**
Less than 12	$3,100	**39**
12 or more	$8,500	**106**
Storage Tanks, Reservoirs and Containers (Other than at retail gasoline dispensing facilities)		
Gallons total capacity	**Filing Fee**	**Base-Fee Hours**
6,000 or more but less than 40,000	$520	7
40,000 or more but less than 100,000	$1,060	13
100,000 or more but less than 500,000	$1,600	20
500,000 or more	$1,780	22
Miscellaneous Air Pollution Sources		
Filing fee based on # of units	**Filing Fee**	**Base-Fee Hours**
Spray Painting Operation (per booth)	$460	**6**
Dry Cleaner (per machine)	$340	**4**
New Gasoline Station	$460	**6**
Gasoline Station Upgrade or Modification	$200	**3**

Table 3.3a Filing Fees

Asphalt Plant (initial)	1300	**16**
Soil Thermal Desorbtion Unit (initial)	$3,100	**39**
Odor Source	$700.00	**9**
Soil and Groundwater remediation	$700	**9**
Autobody	$460	**6**
Control Device Replacement or Substantial Alteration	$200	**3**
Composter	$200	**3**
Rock Crusher (initial)	$200	**3**
Other	$340	**4**

New Table

Table 3.3b: Additional NOC Processing Fees

Fee-Eligible Item	Description
NOC Application Assistance	Direct technical assistance completing a NOC application, including, but not limited to calculating emissions, filling out standard forms, determining applicable requirements, completing a BACT analysis, performing an air toxics screening analysis pursuant to chapter 173-460 WAC, or selecting monitoring equipment. An NOC Application Assistance fee may only be assessed if the fee rate is disclosed to the applicant and applicant requests such assistance in writing.
Work Exceeding Base-Fee Hours	Direct work attributed to processing a NOC application in excess of the sum of applicable base-fee hours stated in Table 3.3a for each piece of equipment or process subject to a NOC.
State Environmental Policy Act (SEPA)	SEPA-related work such as reviewing Environmental Checklists, making threshold determinations, preparing Determinations of Nonsignificance (DNS) and other SEPA-related reports.
Public Noticing	Work directly associated with issuing public notice pursuant to WAC 173-400-171 and Rule 6.1(e) of ORCAA's Regulations. Associated work includes issuing a press release if warranted, copying and posting the written Preliminary Determination for public viewing, and reviewing and responding to comments.
Public Hearing	Work associated with conducting a public hearing including, but not limited to, preparation of summary materials, copying, issuing hearing notice, conducting the hearing, and responding to comments

((~~Table 3.3a: Plan Examination and Inspection Fees~~

~~Description~~	~~Fee~~
~~Fuel Burning Equipment (new installation)~~	~~Fee based on Million Btu/hr heat input at design capacity~~
~~Less than 10~~	~~$350.00~~
~~10 or more but less than 20~~	~~$500.00~~
~~20 or more but less than 50~~	~~$700.00~~
~~50 or more but less than 100~~	~~$1,500.00~~
~~100 or more~~	~~$2,500.00~~
~~Fuel change or new fuel~~	~~1/2 x new installation fee~~
~~Emissions from control equipment or from uncontrolled process equipment~~	~~Fee based on Actual cubic feet per minute at design capacity~~
~~Less than 10,000~~	~~$300.00~~
~~10,000 or more but less than 20,000~~	~~$400.00~~
~~20,000 or more but less than 50,000~~	~~$550.00~~
~~50,000 or more but less than 100,000~~	~~$850.00~~
~~100,000 or more but less than 250,000~~	~~$1,700.00~~
~~250,000 or more~~	~~$2,500.00~~
~~Incineration~~	~~Fee based on rate in pounds per hour at design capacity~~
~~Less than 100~~	~~$300.00~~
~~100 or more but less than 500~~	~~$550.00~~
~~500 or more but less than 1,000~~	~~$1,650.00~~
~~Refuse Combustion~~	~~Fee based on combustion rate in tons per day at design~~
~~Less than 12~~	~~$2,500.00~~
~~12 or more~~	~~Actual Cost~~
~~Storage tanks, reservoirs, or containers other than retail gasoline or diesel fuel dispensing facilities~~	~~Fees based on gallons total capacity~~
~~6,000 or more but less than 40,000~~	~~$350.00~~
~~40,000 or more but less than 100,000~~	~~$800.00~~
~~100,000 or more but less than 500,000~~	~~$1,250.00~~
~~500,000 or more~~	~~$1,400.00~~

((~~Table 3.3a: Plan Examination and Inspection Fees~~

~~Description~~	~~Fee~~
~~Spray Painting Operation (per booth)~~	~~$300.00~~
~~Dry Cleaner (per machine)~~	~~$200.00~~
~~New Gasoline Station~~	~~$300.00~~
~~Gasoline Station Upgrade or Modification~~	~~$200.00~~
~~Asphalt Plant (initial)~~	~~$1,000.00~~
~~Soil Thermal Desorbtion Unit (initial)~~	~~$2,500.00~~
~~Odor Source~~	~~$500.00~~
~~Soil and Groundwater remediation~~	~~$500.00~~
~~Air Toxics Screening Review (chapter 173-460 WAC) (provided by source)~~	~~$200.00~~
~~NOC Application Assistance (emission calculations, air toxics screening, etc)~~	~~$300.00~~
~~SEPA Threshold Determination~~	~~$300.00~~
~~Approval Order Modification~~	~~$100.00~~
~~Other (whichever is greater)~~	~~$200.00 or Actual Cost~~

~~**Table 3.3b: Fee Eligible Items**~~

~~Fee Eligible Item~~	~~Description~~	~~Fee~~
~~Additional NOC Processing Fees for Major Sources~~	~~Additional NOC processing fees shall equal the actual cost of processing the NOC for a Major Source less the NOC fees already paid~~	~~Actual Costs~~
~~Environmental Impact Statements~~	~~Preparing an Environmental Impact Statement (EIS) in order to comply with the State Environmental Policy Act (SEPA)~~	~~Actual Costs~~
~~NOC Assistance~~	~~Assistance in completing a NOC application including, but not limited to, assistance in calculating emissions, filling out standard forms, determining applicable requirements, completing a BACT analysis, performing an air toxics screening analysis pursuant to chapter 173-460 WAC, and selecting monitoring equipment~~	~~Actual Costs~~
~~Emission Reduction Credits~~	~~Review and approval of emission reduction credits pursuant to WAC 173-400-131~~	~~Actual Costs~~
~~Voluntary Emissions Limits (Synthetic Minors)~~	~~Review and approval of voluntary limits on emissions requests pursuant to Rule 6.1.12 of ORCAA's Regulations~~	~~Actual Costs~~
~~Alternative Opacity Limits~~	~~Review and approval of alternative opacity limit requests pursuant to RCW 70.94.331 (2)(c)~~	~~Actual Costs~~
~~Public Noticing~~	~~Work associated with issuing public notice pursuant to WAC 173-400-171 and Rule 6.1(e) of ORCAA's Regulations. Associated work includes issuing a press release if warranted, copying and posting the written Preliminary Determination for public viewing, and reviewing and responding to comments.~~	~~$350.00~~
~~Publishing~~	~~Cost of publishing any legal public notices required pursuant to WAC 173-400-171~~	~~Actual Cost of publishing~~

~~Table 3.3b: Fee Eligible Items~~

~~Fee Eligible Item~~	~~Description~~	~~Fee~~
~~Public Hearing~~	~~Work associated with conducting a public hearing including, but not limited to, preparation of summary materials, copying, issuing hearing notice, conducting the hearing, and responding to comments~~	~~$400.00~~

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Reviser's note: The typographical errors in the above material occurred in the copy filed by the Olympic Region Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 07-06-054
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed March 2, 2007, 3:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-22-099.

Title of Rule and Other Identifying Information: WAC 388-310-1600 WorkFirst—Sanctions.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling (360) 664-6097), on April 10, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 11, 2007.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on April 10, 2007.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by April 6, 2007, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule is being amended to prevent the closure of TANF cases where the only person in sanction is a dependent teen. This change will allow the family to continue to receive benefits while working to get the teen back in school.

Reasons Supporting Proposal: Without this change, the actions of a dependent teen could result in the loss of cash assistance for the entire family, including the responsible adults and other dependent children in the home. There are several families in imminent danger of having their cash assistance terminated due to the actions of older siblings under the current rule. Further, once cash assistance was terminated, the family would not be able to reinstate cash benefits until the dependent teen participated as required for four weeks in a row. This change will prevent family breakup, giving children inappropriate control over family income and prevent undue hardship for low-income parents and children in Washington state.

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

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.500, 74.04.510, 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 and Implementation: Ian Horlor, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4634; and Enforcement: Nick Espinosa, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4620.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients by outlining the rules clients must meet in order to be eligible for the department's cash assistance or food benefit programs.

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."

March 2, 2007
Jim Schnellman, Chief
Office of Administrative Resources

AMENDATORY SECTION (Amending WSR 06-10-035, filed 4/27/06, effective 6/1/06)

WAC 388-310-1600 WorkFirst—Sanctions. (1) **What WorkFirst requirements do I have to meet?**

You must do the following when you are a mandatory WorkFirst participant:

(a) Give the department the information we need to develop your individual responsibility plan (IRP) (see WAC 388-310-0500);

(b) Show that you are participating fully to meet all of the requirements listed on your individual responsibility plan;

(c) Go to scheduled appointments listed in your individual responsibility plan;

(d) Follow the participation and attendance rules of the people who provide your assigned WorkFirst services or activities; and

(e) Accept available paid employment when it meets the criteria in WAC 388-310-1500.

(2) **What happens if I don't meet WorkFirst requirements?**

(a) If you do not meet WorkFirst requirements, we will send you a letter telling you what you did not do.

(b) You will have ten days to contact us so we can talk with you about the situation. You can contact us in writing, by phone, by going to the appointment described in the letter, or by asking for an individual appointment.

(c) If you do not contact us within ten days, we will make sure you have been screened for family violence and other barriers to participation. We will use existing information to decide whether:

(i) You were unable to do what was required; or

(ii) You were able, but refused, to do what was required.

(d) If you had a good reason not to do a required activity we will work with you and may change the requirements in your individual responsibility plan if a different WorkFirst activity would help you move towards independence and employment sooner. If you have been unable to meet your WorkFirst requirements because of family violence, you and your case manager will develop an IRP to help you with your situation, including referrals to appropriate services.

(e) Before you are placed in sanction:

(i) We will have a case staffing which is a meeting with you, your case manager and other people involved in your case to review your situation and make plans. At your case staffing, we will ensure you were offered the opportunity to participate, discuss what happens if you stay in sanction, discuss how participation helps you and your family and discuss how to end your sanction. You will be notified when your case staffing is going to happen so you can attend. You can invite anyone you want to come with you to your case staffing.

(ii) Effective September 1, 2006, supervisory staff will review your case and must approve the sanction.

(f) If you are sanctioned, we will actively attempt to contact you another way so we can talk to you about the benefits of participation and how to end your sanction.

(3) **What is considered a good reason for not being able to do what WorkFirst requires?**

You have a good reason if it was not possible to do what WorkFirst requires (or get an excused absence, described in WAC 388-310-0500(5)) due to a significant problem or event outside your control. Some examples of good reasons include, but are not limited to:

(a) You had an emergent or severe physical, mental or emotional condition, confirmed by a licensed health care professional that interfered with your ability to participate;

(b) You were threatened with or subjected to family violence;

(c) You could not locate child care for your children under thirteen years that was:

(i) Affordable (did not cost you more than your co-payment would under the working connections child care program in chapter 388-290 WAC);

(ii) Appropriate (licensed, certified or approved under federal, state or tribal law and regulations for the type of care you use and you were able to choose, within locally available options, who would provide it); and

(iii) Within a reasonable distance (within reach without traveling farther than is normally expected in your community).

(iv) You could not locate other care services for an incapacitated person who lives with you and your children.

(d) You had an immediate legal problem, such as an eviction notice; or

(e) You are a person who gets necessary supplemental accommodation (NSA) services under chapter 388-472 WAC and your limitation kept you from participating. If you have a good reason because you need NSA services, we will review your accommodation plan.

(4) **What if we decide that you did not have a good reason for failing to meet WorkFirst requirements?**

If we decide that you did not have a good reason for failing to meet WorkFirst requirements, we will send you a letter that tells you:

(a) What you failed to do;

(b) That you are in sanction status;

(c) Penalties that will be applied to your grant;

(d) When the penalties will be applied;

(e) How to request a fair hearing if you disagree with this decision; and

(f) How to end the penalties and get out of sanction status.

(5) **What is sanction status?**

When you are a mandatory WorkFirst participant, you must follow WorkFirst requirements to qualify for your full grant. If you or someone else on your grant doesn't comply and you can't prove that you had a good reason, you do not qualify for your full grant. This is called being in WorkFirst sanction status.

(6) **Are there penalties when you or someone in ((~~my~~)) <u>your</u> household goes into sanction status?**

(a) When someone in your household is in sanction status, we impose penalties. The penalties last until you or the household member meet WorkFirst requirements.

(b) Your grant is reduced by the person(s) share or forty percent, whichever is more.

(7) **How do I end the penalties and get out of sanction status?**

To stop the penalties and get out of sanction status:

(a) You must provide the information we requested to develop your individual responsibility plan; and/or

(b) Start and continue to do your required WorkFirst activities for four weeks in a row (that is, twenty-eight calendar days).

(c) When you leave sanction status, your grant will be restored to the level for which you are eligible beginning the first of the month following your four weeks of participation. For example, if you finished your four weeks of participation on June 15, your grant would be restored on July 1.

(8) **What if I reapply for TANF or SFA and I was in sanction status when my case closed?**

(a) If your case closes while you are in sanction status and is reopened in six months or less, you will start out in sanction.

(b) Effective September 1, 2006, if you come back in sanction, you will start out where you left off in sanction.

(That is, if you left off in month three of sanction, you will come back on in month four of sanction.)

(c) If your case has been closed for more than six months, you will not be in sanction status if your case is reopened.

(9) **What happens effective September 1, 2006 if I stay in sanction status?** Effective September 1, 2006, if you stay in sanction status:

(a) Unless you are a dependent child age sixteen or older, your case manager will review your record after you have been in sanction for at least three months in a row to make sure:

(i) You knew what was required;

(ii) You were told how to end your sanction;

(iii) We tried to talk to you and to encourage you to participate; and

(iv) You were given a chance to tell us if you were unable to do what we required.

(b) Your case manager will invite you to a non-compliance sanction case staffing.

(i) You will be notified when your non-compliance sanction case staffing is going to happen so you can attend.

(ii) Your case manager will also invite other people who are working with your family to your non-compliance sanction case staffing, like representatives from tribes, community or technical colleges, employment security, the Children's Administration or Limited-English Proficient (LEP) Pathway providers.

(iii) You can invite anyone you want to come with you to your case staffing.

(c) At your non-compliance sanction case staffing, we will discuss with you:

(i) How you and your family benefit when you participate in WorkFirst activities;

(ii) How you can participate, and get out of sanction;

(iii) That if you continue to refuse to participate, without good cause, a sanction review panel may review your case, and decide to close your case after you have been in sanction status for six months in a row.

(iv) How you plan to care for and support your children if a sanction review panel closes your case. We will also discuss the safety of your family, as needed, using the guidelines under RCW 26.44.030; and

(v) How to reapply if a sanction review panel closes your case.

(d) If you do not come to your non-compliance sanction case staffing, we will make a decision based on the information we have. We will also attempt to visit you at your home so you have another chance to talk to us about the benefits of participation and how to end your sanction.

(e) If we decide you are refusing to participate without a good reason:

(i) We will send you information about resources you may need if a sanction review panel closes your case;

(ii) We will send information to a sanction review panel with a recommendation to close your case. We will only do this after a Community Services Office Administrator reviews your case to make sure the sanction is appropriate and we tried to re-engage you in the program; and

(iii) The sanction review panel will review your case and make the final decision.

(10) **What is a sanction review panel?**

(a) The sanction review panel is a small group of people who are independent of your local community services office and do a thorough, objective review of your sanction.

(b) The sanction review panel makes the final decision about whether to close your case after receiving a recommendation from your case manager and reviewing your case to make sure the original sanction was appropriate and we made attempts to re-engage you in the program.

(11) **What happens when a sanction review panel decides to close my case?**

When a sanction review panel decides to close your case, we will send you a letter to tell you:

(a) What you failed to do;

(b) When your case will be closed;

(c) How to request a fair hearing if you disagree with this decision;

(d) How to end your penalties and keep your case open (if you are able to participate for four weeks in a row before we close your case); and

(e) How your participation before your case is closed can be used to meet the participation requirement in subsection (12).

(12) **What if I reapply for TANF or SFA after a sanction review panel closed my case?**

(a) If a sanction review panel closes your WorkFirst cash assistance (TANF) case and you apply within six months, you must participate for four weeks in a row before you can receive cash. Once you have met your four week participation requirement, your cash benefits will start, going back to the date we had all the other information we needed to make an eligibility decision.

(b) You will not be required to participate for four weeks in a row before you receive cash if you apply after your case has been closed for six months or longer.

(13) **What if my TANF or SFA is closed by a sanction review panel, reopened and I go into sanction again?**

(a) When a sanction review panel closes your case, and we reopen your case, we will follow all steps in subsection (9) of this section (like the case review and the non-compliance case staffing) during your second month of sanction.

(b) The sanction review panel may close your case after you are in sanction status for three months in a row.

(c) If you case is closed, and you reapply, we will follow the rules in subsection (12) of this section to reopen your case.

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

WSR 07-06-058

PROPOSED RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed March 5, 2007, 11:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-11-102.

Title of Rule and Other Identifying Information: WAC 388-408-0055 Medical assistance units.

Hearing Location(s): Blake Office Park East, Rose Room,

4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling (360) 664-6097), on April 10, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 11, 2007.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on April 10, 2007.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by April 6, 2007, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The passage of SHB 2376 (chapter 24, Laws of 2006) eliminated the possibility of premiums for Medicaid children. This WAC is amended to allow families to be considered as one medical assistance unit when family members are found to be eligible as such.

Other information is amended to clarify the intent of the department.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530.

Statute Being Implemented: RCW 74.09.055 as amended by chapter 24, Laws of 2006.

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: Joanie Scotson, P.O. Box 45531, Olympia, WA 98504-5531, (360) 725-1542.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not affect small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Client eligibility rules for medical assistance programs are exempt from this requirement under RCW 34.05.328 (5)[(b)](vii).

March 1, 2007
Jim Schnellman, Chief
Office of Administrative Resources

AMENDATORY SECTION (Amending WSR 06-04-021, filed 1/23/06, effective 2/23/06)

WAC 388-408-0055 Medical assistance units. (1) One or more medical assistance units (MAU) is established for individuals living in the same household based on the type of medical program, each individual's relationship to other family members, and the individual's financial responsibility for the other family members.

(2) Financial responsibility applies only to spouses and to parents, as follows:

(a) Married persons, living together are financially responsible for each other; and

(b) Persons who meet the definition of a natural, adoptive, or step-parent described in WAC 388-454-0010 are financially responsible for their unmarried, minor children living in the same household((~~; and~~)).

(((~~c~~))) (3) Minor children are not financially responsible for their parents or for their siblings.

(((~~(3)~~))) (4) When determining eligibility for family, pregnancy, or children's medical programs, follow the income rules as described in WAC 388-450-0106 (1) through (7). Only one MAU is required when all family members are eligible for CN medical coverage.

(5) If a family is not eligible as one MAU for a CN program, separate MAUs are required for family members living in the same household in the following situations:

(a) A pregnant minor, regardless of whether she lives with her parent(s);

(b) A child with earned or unearned income;

(c) A child with resources which make another family member ineligible for medical assistance;

(d) A child of unmarried parents when both parents reside with the child;

(e) Each unmarried parent of a child in common, plus any of their children who are not in separate MAUs;

(f) A caretaker relative that is not financially responsible for the support of the child;

(((~~(4)~~))) (6) For a family with multiple MAUs established based on the criteria described in subsection (((~~(3)~~))) (5) of this section, a parent's:

(a) Income up to one hundred percent of the Federal Poverty Level (FPL) is allocated to the parent and other members of the parent's MAU. The excess is allocated to their children in separate MAUs.

(b) Resources are allocated equally to the parent and all persons in the parent's household for whom the parent is financially responsible. This includes family members in separate MAUs.

(((~~(5)~~))) (7) The exceptions to the income allocations described in subsection (((~~(4)~~))) (6) of this section are as follows:

(a) Only the parent's income actually contributed to a pregnant minor is considered income to the minor.

(b) A parent's financial responsibility is limited when the minor child is receiving inpatient chemical dependency or mental health treatment. Only the income a parent chooses to contribute to the child is considered available when:

(i) The treatment is expected to last ninety days or more;

(ii) The child is in court-ordered, out-of-home care in accordance with chapter 13.34 RCW; or

(iii) The department determines the parents are not exercising responsibility for the care and control of the child.

(((~~(6)~~))) (8) When determining eligibility for an SSI-related medical program, a separate MAU is required for:

(a) SSI recipients;

(b) An SSI-related person who has not been found eligible for family medical under this chapter; or

(c) The purpose of applying medical income standards for an:

(i) SSI-related applicant whose spouse is not relatable to SSI or is not applying for SSI-related medical; and

(ii) Ineligible spouse of an SSI recipient.

(((~~(7)~~))) (9) For a person in a separate MAU, based on the criteria described in subsection (((~~(6)~~))) (8) of this section, the income and resource allocations described in subsection (((~~(4)~~))) (6) of this section are not used. The SSI-related individual's eligibility is determined using the allocations or deeming rules in chapter 388-475 WAC.

(((~~(8)~~))) (10) Countable income for medical programs:

(a) For SSI individuals is described in chapter 388-475 WAC; or

(b) For family medical, pregnancy medical, and children's medical is described in WAC 388-450-0210.

WSR 07-06-059
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed March 5, 2007, 11:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-23-098.

Title of Rule and Other Identifying Information: WAC 308-93-010 Definitions, 308-93-087 Disclosure of names and addresses of individual vessel owners, 308-93-088 Disclosure violations, penalties, 308-56A-090 Disclosure of individual vehicle owner information, and 308-56A-500 Definitions.

Hearing Location(s): Department of Licensing, Conference Room 108, 1125 Washington Street S.E., Olympia, WA 98507, on April 24, 2007, at 10 a.m.

Date of Intended Adoption: May 22, 2007.

Submit Written Comments to: Dale R. Brown, P.O. Box 2957, Mailstop 48205, 1125 Washington Street S.E., Olympia, WA 98507-2957, e-mail dbrown@dol.wa.gov, fax (360) 902-7821 or 902-7822, by April 23, 2007.

Assistance for Persons with Disabilities: Contact Dale R. Brown by April 23, 2007, TTY (360) 664-8885.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule making is required to reflect changes to state law that restrict disclosure of vehicle/vessel information.

Reasons Supporting Proposal: Changes make the rules more user friendly, reflect legislative intent.

Statutory Authority for Adoption: RCW 88.02.070 and 88.02.100.

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

Name of Agency Personnel Responsible for Drafting: Dale Brown, 1125 Washington Street S.E., Olympia, WA, (360) 902-4020; Implementation: Hanna Fultz, 1125 Washington Street S.E., Olympia, WA, (360) 902-3625; and Enforcement: Eileen Boman, 1125 Washington Street S.E., Olympia, WA, (360) 902-3668.

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

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

March 2, 2007
Mykel D. Gable
Assistant Director
Vehicle Services

AMENDATORY SECTION (Amending WSR 06-23-038, filed 11/7/06, effective 12/8/06)

WAC 308-56A-500 Definitions. The following definitions apply to terms used in chapters 46.12 and 46.16 RCW and chapter 308-56A WAC:

(1) "Affidavit in lieu of title" is a written declaration confirming the certificate of ownership, registration certificate, validation tab are unavailable, lost, stolen, destroyed or mutilated. The affidavit in lieu of title may be used to release interest in the vehicle. The signature of the owner completing the affidavit in lieu of title must be notarized or certified as described in WAC 308-56A-270.

(2) "Affidavit of loss" is a written statement confirming the certificate of ownership, registration certificate, validation tab or decal has been lost, stolen, destroyed or mutilated. The affidavit of loss release of interest form may be used to release interest in the vehicle and transfer gross weight license for that vehicle to a new owner. The signature of the owner completing the affidavit of loss release of interest must be notarized or certified as described in WAC 308-56A-270.

(3) "Affixed" means attached.

(4) "Brands" means a permanent notation on the certificate of ownership and vehicle registration certificate that records a circumstance or condition involving a vehicle.

(5) "Brands incident date" is the date that a brand was first applied to a vehicle. For states/jurisdictions participating in the National Motor Vehicle Title Information System (NMVTIS), it's the date the brand was first reported. For all other states/jurisdictions, it is established by using the date the current title was issued. Brands on Washington records prior to the effective date of this rule will reflect a brand incident date equal to the date the last Washington certificate of ownership was issued.

(6) "Certificate of ownership" (also referred to as "certificate of title" or "title") is a legal document indicating proof of ownership and will establish a fact or sustain a judgment unless contradictory evidence is produced. A certificate of ownership may be a document other than a title when a title document is not issued by a jurisdiction. For example, for Canadian vehicles, the certificate of ownership is the registration.

(7) "Comment" means an indication on the certificate of ownership, vehicle title/registration application or vehicle registration certificate that relates to tax liability, type of ownership, title transaction type or a previous condition of the vehicle.

(8) "Commercial parking company" means any business directly engaged in providing vehicle parking upon property owned or controlled by the business and approved for public parking of vehicles.

(9) "Current license plate registration" means the current registration or one that has been expired less than one year.

(10) "Declaration in lieu of title" is a written statement confirming the certificate of ownership, registration certificate, validation tab is unavailable, lost, stolen, destroyed, or mutilated. The declaration in lieu of title may be used to release interest in the vehicle. The signature of the owner completing the declaration in lieu of title must be signed under penalty of perjury, as described in WAC 308-56A-270.

(11) "Declaration of loss" is a written statement confirming the certificate of ownership, registration certificate, validation tab or decal has been lost, stolen, destroyed, or mutilated. The declaration of loss release of interest form may be used to release interest in the vehicle and transfer gross weight license for that vehicle to a new owner. The signature of the owner completing the declaration of loss release of interest must be signed under penalty of perjury, as described in WAC 308-56A-270.

(12) "Department" means the same as described in RCW 46.04.162.

(13) "Department temporary permit" is a permit issued temporarily in lieu of permanent registration and license plates when required documentation is unavailable.

(14) "Electronic filing" is the use of an electronic method to transmit information to the department that may include, but is not limited to, the use of the internet and facsimile.

(15) "Involuntary divestiture" means a change in vehicle ownership without the registered owner's involvement.

(16) "Joint tenancy with rights of survivorship" (JTWROS) means two or more people who own a vehicle in joint tenancy with the right to own individually if one of them dies.

(17) "Jurisdiction code" means an abbreviation assigned by the department generally based on the U.S. Postal Service designation that indicates state, province, district, or country.

(18) "Legal owner" means the same as described in RCW 46.04.270.

(19) "Lien holder" means a person or entity that has a legal right or interest in another's property until a debt or duty that it secures is satisfied.

(20) "Natural person" means a human being.

(21) "Normal course of business" means for use in the normal course of business by a legitimate business or its agent, employees, or contractors, but only:

(a) To verify the accuracy of personal information submitted by the individual to the business or its agencies, employees, or contractors; and

(b) If such information is not correct or is no longer correct, to obtain correct information, but only for the purposes of preventing fraud by, pursing legal remedies against, or recovering on a debt or security interest against the individual. If acting as agent of lien holder, requestor must submit proof of contract with lien holder.

(22) "Not eligible for road use" (NEFRU) means a vehicle that does not meet Federal Motor Vehicle Safety standards, other federal and/or state standards for public road use as adopted, applied, and enforced by the Washington state patrol described in RCW 46.37.005.

(((~~(22)~~))) (23) "A declaration under penalty of perjury" means a statement signed by the applicant to the effect - "I declare under penalty of perjury under the laws of the state of Washington that the information I have provided on this form is true and correct. Anyone who knowingly makes a false statement may be guilty of a crime under state law.

(((~~(23)~~))) (24) "Person" means the same as described in RCW 46.04.405.

(((~~(24)~~))) (25) "Personal representative" means:

(a) An individual appointed by the court; or

(b) An individual named in the last will and testament and confirmed by the court to manage the estate of a deceased person.

Personal representative may also include executor, administrator, special administrator, and guardian or limited guardian and special representative as defined in RCW 11.02.005(1).

(((~~(25)~~))) (26) "Private investigator" means a person who is licensed under chapter 18.165 RCW, and is employed by a private investigator agency for the purpose of investigation, escort or bodyguard services, or property loss prevention activities.

(27) "Registered owner" means the same as described in RCW 46.04.460.

(((~~(26)~~))) (28) "Security interest" means a property interest created by agreement or by operation of law to secure performance of an obligation (repayment of a debt).

(((~~(27)~~))) (29) "Security interest holders" means in this instance, the same as "lien holder" as defined in subsection (16) of this section.

(((~~(28)~~))) (30) "Secured party" means in this instance the same as "lien holder" as defined in subsection (16) of this section.

(((~~(29)~~))) (31) "Standard brand" is a brand found on the brands list maintained by the National Motor Vehicle Title Information System (NMVTIS) program.

(((~~(30)~~))) (32) "Transferee" means a person to whom a vehicle is transferred, by purchase, gift, or any means other than by creation of a security interest, and any person who, as agent, signs an odometer disclosure statement for the transferee, when applicable.

(((~~(31)~~))) (33) "Transferor" means a person who transfers ownership in a vehicle by sale, gift, or any means other than

by creation of a security interest and any person who, as agent, signs an odometer disclosure statement for the transferor, when applicable.

(((~~(32)~~))) (34) "Unique brand" means a brand issued by a state that is not participating in the National Motor Vehicle Title Information System (NMVTIS) program and does not appear on the brands list maintained by NMVTIS.

(((~~(33)~~))) (35) "Unsolicited business contact" means (for public disclosure rules) a contact that is intended to result in or promote the sale of any goods or services to a person named in the disclosure information. The term does not apply to situations where the requesting party and such person have been involved in a business transaction prior to the date of the disclosure request and where the request is made in connection with the transaction.

(36) "Vehicle seller's report of sale" is a document or electronic record transaction that protects the seller of a vehicle from certain criminal and civil liabilities arising from use of the vehicle by another person after the vehicle has been sold or a change of ownership has occurred.

(((~~(34)~~))) (37) A "vehicle" is a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

(((~~(35)~~))) (38) "Washington vehicle licensing office" means an office that is operated by the department or an agent or subagent appointed under RCW 46.01.140 for the purpose of carrying out the vehicle titling and registration provisions in Title 46 RCW.

AMENDATORY SECTION (Amending WSR 01-16-105, filed 7/30/01, effective 8/30/01)

WAC 308-93-087 Disclosure of names and addresses of individual vessel owners. (1) **What vessel record information is protected from disclosure?**

Vessel information protected from disclosure is the same as under chapters ((~~42.17~~)) 42.56 and 46.12 RCW ((~~which~~)) that includes((~~:~~

~~(a) Name and address information;~~

~~(b) Social Security numbers;~~

~~(c) Uniform Business Identifier; and~~

~~(d) Telephone numbers~~)) name and addresses.

(2) **Who may receive disclosure of individual vessel owner names and addresses?** Under the provisions of chapters 42.56 and 42.12 RCW, the department may disclose the names and addresses of vessel owners to:

(a) Government agencies;

(b) ((~~Any business entity~~)) Business entities that ((~~uses the name and address~~)) require the information in their normal course of business ((~~in accordance with these rules~~));

(c) Vessel manufacturers who require vessel ownership information for recall of their own products;

(d) A vessel owner for their own vessel; or

(e) Individuals who meet the criteria listed in subsection (((~~6~~))) (7) of this section.

(3) **What documentation does the department require to disclose vessel owner names and addresses to authorized businesses or entities?**

The department requires:

(a) The requestor to legibly complete and sign a records disclosure request form provided by the department ((~~and completed by the applicant~~)); and

(b) Contains the full legal name and address of the requesting party and/or business specifying the purpose for which the information will be used; and

(c) State the specific "nature of the business" that requires the need for the disclosure of information (example: The exact purpose of the business and main business function); and

(d) Acceptable business entity verification.

(4) **What is acceptable business verification?**

For purposes of this section acceptable business verification includes:

(((~~(a) If a licensed Washington business, a copy of its current unexpired master business license;~~

~~(b) If a business not required to be licensed in this state, its federal employer identification number/federal tax number (or Uniform Business Identifier) on its official letterhead with a notarized signature of the owner or an authorized representative;~~

~~(c) If an attorney, a copy of the current bar card; or~~

~~(d) If a private investigator, a copy of the current private investigator's license; or~~

~~(e) If an out-of-state business not licensed in Washington:~~

~~(i) If the business is required to be licensed, a copy of its current business license issued by the governmental authority with jurisdiction over the license; or~~

~~(ii) If the business is not required to be licensed, its federal employer identification number/federal tax number on its official letterhead with a notarized signature of the owner or an authorized representative.~~))

If requestor is:	Then requestor must provide:
A licensed Washington business	A legible copy of current unexpired master business license
A business not required to be licensed in this state	Its federal employer identification number/federal tax number (FEIN or Uniform Business Identifier UBI) on official letterhead with a notarized signature of the owner or an authorized representative; or Letter showing exemption from business licensing and applicable law
An attorney	A (legible) copy of the bar card; and A copy of current business license for working as an attorney; and/or

If requestor is:	Then requestor must provide:
	Official letterhead with a notarized signature of the owner or an authorized representative of the law firm the requestor is employed by
A private investigator	A (legible) copy of the current private investigator's license; and Business license for working as a private investigator; and/or Official letterhead with a notarized signature of the owner or an authorized representative of the private investigator firm the requestor is employed by
An out-of-state business not licensed in Washington	(i) If the business is required to be licensed, a (legible) copy of its current business license issued by the governmental authority with jurisdiction over the license; or (ii) If the business is not required to be licensed, its federal employer identification number/federal tax number (FEIN) on its official letterhead with a notarized signature of the owner or an authorized representative. Letter showing exemption from business licensing and applicable law

(5) **If a business entity has entered into an agreement with the department, is a separate request for each inquiry ((~~required~~)) needed?**

No. If a business entity has entered into a written agreement with the department, a separate request for each inquiry is not ((~~required~~)) needed.

(6) **When may an individual be provided vessel owner name and address information?**

(a) When the owner of record is requesting the information; or

(b) When the requester presents a bill of sale or other evidence of ownership and needs the ownership information of record to obtain a release of interest.

(7) **For what purpose may the department disclose the names and addresses of vessel owners?** Under the provisions of chapters 42.56 and 46.12 RCW, the department may disclose the names and addresses of vessel owners when:

(a) The requesting party is a business entity that requires the information to function in their normal course of business;

(b) The request is in writing, signed by the person requesting disclosure, contains the full legal name and address of the requesting party and/or business, and specifies the lawful purpose for which the information will be used;

(c) The requesting party enters into a disclosure agreement with the department in which the party:

(i) Agrees they will use the information only for the purpose stated in the request for the information; and

(ii) Will not use, or facilitate the use of the information for the purpose of making any unsolicited business contact with a person named in the disclosure information;

(d) Individuals who meet the criteria listed in subsection (4) of this section and have provided accurate verifiable supporting documentation.

(8) **Who may release the vessel owner name and address information?**

(a) The department of licensing; or

(b) Agents and subagents, only when disclosing information for purposes described in subsection (6)(b) of this section.

(((8) ~~**When may the department disclose the names and addresses of vessel owners?**~~

~~Notwithstanding the provisions of chapter 42.17 RCW, the department may disclose the names and addresses of vessel owners when:~~

~~(a) The requesting party is a business entity that requests the information for use in their normal course of business;~~

~~(b) The request is in writing, signed by the person requesting disclosure, contains the full legal name and address of the requesting party and/or their business, and specifies the purpose for which the information will be used;~~

~~(c) The requesting party enters into a disclosure agreement with the department in which the party:~~

~~(i) Agrees they will use the information only for the purpose stated in the request for the information; and~~

~~(ii) Will not use, or facilitate the use of, the information for the purpose of making any unsolicited business contact with a person named in the disclosed information; and~~

~~(d) Individuals who meet the criteria listed in subsection (6) of this section.~~

~~(9) **What does the term "unsolicited business contact" mean?**~~

~~The term "unsolicited business contact" means a contact that is intended to result in or promote the sale of any goods or services to a person named in the disclosure information. The term does not apply to situations where the requesting party and such person have been involved in a business transaction prior to the date of the disclosure request and where the request is made in connection with the transaction.~~

~~(10) **Is**~~)) (9) **Will the department ((~~required to~~)) notify the vessel owner when ownership information is disclosed?**

((~~When the department grants a request from~~)) Yes, the notice will contain the name and address of the requesting party if an attorney or private investigator((~~, for information under this section, the department will provide notice to the vessel owner that the request has been granted. In addition,~~

~~the notice will contain the name and address of the requesting party~~)). Additionally, if a contract holder releases owner information to a private investigator or attorney, they must notify the vessel owner that a request has been granted and include the name and address of the requesting party.

(((~~(11)~~))) (10) **How long will the department retain the request for disclosure of vessel owner information?**

The department will retain the request for disclosure for three years.

(((~~(12)~~))) (11) **Who is responsible for assuring that the information is used appropriately?**

((~~Any person, business, entity or association~~)) It is the joint responsibility of citizens, businesses and the public sector that receives vessel owner information under this section ((~~is responsible for assuring~~)) to assure that the information received is not used for ((~~a~~)) any purpose contrary to the agreement between the person, business, entity or association and the department.

AMENDATORY SECTION (Amending WSR 01-16-105, filed 7/30/01, effective 8/30/01)

WAC 308-93-088 Disclosure violations, penalties. (1) **What are violations of chapter ((~~42.17~~)) 42.56 and 46.12 RCW, this chapter, or a disclosure agreement with the department?**

(a) ((~~The unauthorized disclosure of information from a department vessel record;~~)) The use of information obtained from the department vessel records for a purpose other than what is specifically stated in the request for information or in the disclosure agreement executed with the department;

(b) The use of a false representation to obtain information from the department's vessel records; or

(c) ((~~The use of information obtained from the department vessel records for a purpose other than what is stated in the request for information or in the disclosure agreement executed with the department; or~~

~~(d)~~)) The sale or other distribution of any vessel owner name or address to another person not disclosed in the request or disclosure agreement.

(2) **What are the penalties associated with these violations?**

The department ((~~may~~)) must immediately suspend or revoke for up to five years the privilege of obtaining vessel record information.

The sale or other distribution of any vessel owner name or address to another person not disclosed in the request or disclosure agreement is a gross misdemeanor punishable by a fine not to exceed ten thousand dollars, or by imprisonment in a county jail not to exceed one year, or both such fine and imprisonment for each violation.

In addition:

(a) The unauthorized disclosure of information from a department vessel record; or

(b) The use of a false representation to obtain information from the department's vessel records; or

(c) The use of information obtained from the department vessel records for a purpose other than what is stated in the request for information or in the disclosure agreement executed with the department((~~; or~~

~~(d) The sale or other distribution of any vessel owner name or address to another person not disclosed in the request or disclosure agreement is a gross misdemeanor punishable by a fine not to exceed ten thousand dollars, or by imprisonment in a county jail not to exceed one year, or both such fine and imprisonment for each violation~~)).

AMENDATORY SECTION (Amending WSR 06-15-059, filed 7/12/06, effective 8/12/06)

WAC 308-56A-090 Disclosure of individual vehicle owner information. (1) **What vehicle record owner information is protected from disclosure?** Vehicle information protected from disclosure is the same as under chapters 42.56 and 46.12 RCW which includes((~~:~~

~~(a)~~)) name and address information((~~;~~

~~(b) Social Security numbers;~~

~~(c) Medical or disability information; and~~

~~(d) Telephone numbers~~)).

(2) **Who may receive disclosure of individual vehicle owner names and addresses?** Under the provisions of chapters 42.56 and 46.12 RCW, the department may disclose the names and addresses of vehicle owners to:

(a) Government agencies ((~~that require use of name and address information in their normal course of business~~));

(b) ((~~Any business entity~~)) Business entities that require((~~s use of name and address~~)) the information in their normal course of business ((~~in accordance with these rules~~));

(c) Vehicle manufacturers who require vehicle ownership information for recall of their product;

(d) Individuals that provide proof of personal identification:

(i) For vehicles currently registered in their name; or

(ii) For vehicles they can provide a bill of sale or acceptable documents indicating that they purchased the vehicle.

(e) Please see subsection (3) of this section for additional restrictions.

Business and government entities requesting disclosure of individual vehicle owner names and addresses must enter into a disclosure agreement with the department.

(3) **When both a mailing and residence address are recorded on the vehicle record, which address will be disclosed?** Where both a mailing address and residence address are recorded on the vehicle record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

(4) **What documentation does the department require to disclose vehicle owner name(s) and address(es) to authorized businesses?** The department requires:

(a) A ((~~signed and notarized vehicle/vessel~~)) record disclosure request ((~~application~~)) form provided by the department ((~~and~~)) legibly completed and signed by the ((~~applicant indicating the specific purpose for which the information will be used~~)) requestor; and

(b) ((~~A disclosure agreement with the department as required by RCW 46.12.380.~~)) Contains the full legal name and address of the requesting party and/or their business.

Specify the purpose for which the information will be used; and

(c) ((~~Acceptable business entity verification; or~~)) State the specific "nature of the business" that required the need for the disclosure of information (example: The exact purpose of the business and main business function.); and

(d) ((~~A contract with the department.~~)) Acceptable business entity verification.

(5) **What is acceptable business verification?** For purposes of this section acceptable business verification includes:

(((~~(a) If the requester is a licensed Washington business, a copy of its current master business license;~~

~~(b) If the requester is a business that is not required to be licensed in this state, its federal employer identification number/federal tax number (or Uniform Business Identifier) on official letterhead with a notarized signature of the owner or an authorized representative;~~

~~(c) If an attorney, a copy of the current bar card; or~~

~~(d) If a private investigator, a copy of the current private investigator's license.~~))

If requestor is:	**Then requestor must provide:**
A licensed Washington business	A legible copy of current unexpired master business license
A business not required to be licensed in this state	Its federal employer identification number/federal tax number (FEIN or Uniform Business Identifier UBI) on official letterhead with a notarized signature of the owner or an authorized representative; or Letter showing exemption from business licensing and applicable law
An attorney	A (legible) copy of the bar card; and A copy of current business license for working as an attorney; and/or Official letterhead with a notarized signature of the owner or an authorized representative of the law firm the requestor is employed by
A private investigator	A (legible) copy of the current private investigator's license; and Business license for working as a private investigator; and/or Official letterhead with a notarized signature of the owner or an authorized representative of the private investigator firm the requestor is employed by
An out-of-state business not licensed in Washington	(i) If the business is required to be licensed, a (legible) copy of its current business license issued by the governmental authority with jurisdiction over the license; or (ii) If the business is not required to be licensed, its federal employer identification number/federal tax number (FEIN) on its official letterhead with a notarized signature of the owner or an authorized representative. Letter showing exemption from business licensing and applicable law

(6) **Does a business need to supply a new form and copy of the business license each time vehicle information is requested?** Yes, each time a request is made for vehicle information a new form and copy of the business license is needed, unless a contract exists between the business and the department.

(7) **If a business entity has entered into a contract or agreement with the department, is a separate request for each inquiry ((~~required~~)) needed?** No. If a business entity has entered into a signed contract between the business and the department, a separate request for each inquiry is not ((~~required~~)) needed.

(8) **Are businesses allowed individual owner information on vehicle records?** Yes, if a business requires individual owner information to conduct its regular business and qualifies under RCW 46.12.380 and 18 U.S.C. 27.21 (commonly known as Driver Privacy Protection Act), it may receive individual vehicle owner information.

(9) **Who may release the vehicle owner name and address information?**

(a) The public disclosure unit of the vehicle services division of the department of licensing; or

(b) Agents and subagents, but only when disclosing information for purposes described in subsection (2)(d) of this section.

(10) **When may the department disclose the individual name(s) and address(es) of vehicle owners?** ((~~Notwithstanding~~)) Under the provisions of chapters 42.56 and 46.12

RCW, the department may disclose names and addresses of vehicle owners when:

(a) The requesting party is a business entity that requests the information for use in their normal course of business;

(b) The request is in writing, signed by the person requesting disclosure, contains the full legal name and address of the requesting party and/or their business, and specifies the purpose for which the information will be used; and

(c) The requesting party enters into a disclosure agreement with the department in which the party:

(i) Agrees they will use the information only for the purpose stated in the request for the information; and

(ii) Will not use, or facilitate the use of the information for the purpose of making unnecessary inquiries or any unsolicited business contact with a person named in the disclosed information.

(11) ((**~~What does the term "unsolicited business contact" mean?~~** ~~The term "unsolicited business contact" means a contact that is intended to result in or promote the sale of any goods or services to a person named in the disclosure information. The term does not apply to situations where the requesting party and such person have been involved in a business transaction prior to the date of the disclosure request and where the request is made in connection with the transaction.~~)) **When may an individual be provided vehicle owner name and address information?**

(a) When the owner of record is requesting the information; or

(b) When the requestor presents a bill of sale or other evidence of ownership and needs the ownership information of record to obtain a release of interest.

(12) **For what purpose may the department disclose the names and addresses of vehicle owners?** Under the provisions of chapters 42.56 and 46.12 RCW, the department may disclose the names and addresses of vehicle owners when:

(a) The requesting party is a business entity that requires the information for use in their normal course of business;

(b) The request is in writing, signed by the person requesting disclosure, contains the full legal name and address of the requesting party and/or their business, and specifies the lawful purpose for which the information will be used;

The requesting party enters into a disclosure agreement with the department which the party:

(i) Agrees they will use the information only for the purpose stated in the request for the information; and

(ii) Will not use or facilitate the use of the information for the purpose of making any unnecessary inquiries or unsolicited business contact with a person named in the disclosed information.

(c) Individuals who meet the criteria listed in subsection (9) of this section and have provided accurate verifiable supporting documentation.

((~~Is~~)) Will the department ((~~required to~~)) notify the vehicle owner when ownership information is disclosed? ((~~When the department grants a request from~~)) Yes, the notice to the vehicle owner will contain the name and address of the requesting party if an attorney or private investigator ((~~for~~)) is granted information under this section((~~, the department will provide notice to the vehicle owner that the request has been granted. The notice will provide the name and address of the requesting party~~)). Additionally, if a contract holder releases owner information to a private investigator or attorney, they must notify the vehicle owner that a request has been granted, and include the name and address of the requesting party.

(((~~13~~))) (14) **How long will the department retain the request for disclosure of vehicle owner information?** The department will retain the request for disclosure for ((~~three~~)) six years.

(((~~14~~))) (15) **Who is responsible for assuring that the information obtained in disclosure is used appropriately?** ((~~Any person, business, entity or association~~)) It is the joint responsibility of citizens, businesses and the public sector that receives vehicle owner information under this section ((~~is responsible for assuring~~)) to assure that the information received is not used for ((~~a~~)) any purpose contrary to the agreement between the person, business, entity or association and the department.

AMENDATORY SECTION (Amending WSR 06-21-025, filed 10/9/06, effective 11/9/06)

WAC 308-93-010 Definitions. The following definitions apply to the rules in this chapter:

(1) "Bare boat" means a vessel rented without a captain or crew.

(2) "Carpenter certificate" means a certificate issued by a manufacturer describing the vessel and certifying the first conveyance of the vessel after its manufacture.

(3) "Certificate of ownership" means the ownership document issued by the department or other jurisdiction, sometimes referred to as a title.

(4) "Charter vessel" means a vessel rented with a crew.

(5) "Commercial fishing vessel" means a vessel primarily used for commercial or charter fishing.

(6) "Commercial passenger vessels" are vessels with a crew that carry passengers.

(7) "Conveyance" means transfer of title of a vessel from one person to another.

(((~~7~~))) (8) "Declaration of value form" means the department of licensing form used to declare the value for purposes of assessing excise tax when a vessel is acquired by lease, trade, gift, is homemade, or the most recent purchase price is not known.

(((~~8~~))) (9) "Director" means the director of the department of licensing.

(((~~9~~))) (10) "Display permit" means the document issued by the department, its agents or subagents, for display on the vessel for which it was issued under the authority of WAC 308-93-055 or 308-93-056.

(((~~10~~))) (11) "Docking hull" means vessels that are powered by one or more personal watercrafts and are designed for use with personal watercraft.

(((~~11~~))) (12) "Documented vessel" means a vessel that is documented by the United States Coast Guard and is issued a valid marine certificate.

(((~~(12)~~))) (13) "Exclusively" means solely and without exception.

(((~~(13)~~))) (14) "Foreign vessel" means a vessel registered in accordance with the laws of another state or jurisdiction. Also referred to as "out-of-country."

(((~~(14)~~))) (15) "Houseboat" means any vessel as defined in RCW 88.02.010(1). For registration and certificate of ownership purposes, a houseboat does not include any building on a float used in whole or in part for human habitation as a single-family dwelling which is not powered by self-propulsion by mechanical means or wind.

(((~~(15)~~))) (16) "Identification documents" means the vessel registration receipt and display permit issued under the authority of WAC 308-93-055 or 308-93-056.

(((~~(16)~~))) (17) "Issuing authority" means the number system has not been approved by the Coast Guard or it is a state or other jurisdiction that has a vessel identification numbering system approved by the Coast Guard. (Also see definition for out of country vessel.)

(((~~(17)~~))) (18) "Legal owner/secured party" means a person, business, or institution having a security interest in a vessel perfected in accordance with RCW 88.02.070.

(((~~(18)~~))) (19) "Lifeboat" means watercraft used exclusively for lifesaving purposes.

(((~~(19)~~))) (20) "Manufacturer's certificate of origin" (MCO) or "Manufacturer's statement of origin" (MSO) means a certificate issued by a manufacturer describing the vessel and certifying the first conveyance of the vessel after manufacture.

(((~~(20)~~))) (21) "Natural person" means a human being.

(22) "Normal course of business" means for use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:

(a) To verify the accuracy of personal information submitted by the individual to the business or its agencies, employees, or contractors; and

(b) If such information submitted is not correct or is no longer correct, to obtain correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against the individual. If acting as agent of lien holder, requestor must submit proof of contract with lien holder.

(23) "Out-of-country vessel" means a vessel registered or numbered by the laws of another country or has a valid United States Customs Service Cruising License.

(((~~(21)~~))) (24) "Overall length" means a straight-line measurement of the overall distance from the foremost point of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bowsprits, bumpkins or boomkins, rudders, outboard motor brackets, outdrive units, propellers, and similar fittings or attachments are not included in the measurement.

(((~~(22)~~))) (25) "Paperless title" means electronic ownership record.

(((~~(23)~~))) (26) "Person" includes every natural person, firm, copartnership, corporation, association or organization.

(((~~(24)~~))) (27) "Personal watercraft" for the purpose of this rule has the same meaning as in RCW 79A.60.010, such as Jet Ski or Wet Bike.

(((~~(25)~~))) (28) "Primarily" means the principal purpose for which a vessel is used when considered in conjunction with all of its uses.

(((~~(26)~~))) (29) "Principal use" means when a vessel is used on waters of this state for one hundred eighty-three days or more.

(((~~(27)~~))) (30) "Private investigator" means a person who is licensed under chapter 18.165 RCW and is employed by a private investigator agency for the purpose of investigation, escort or bodyguard services, or property loss prevention activities.

(31) "Propulsion machinery/mechanical power" means any device providing motion to a vessel through such means as combustion, steam, or electric machinery.

(((~~(28)~~))) (32) "Racing vessel" is a vessel used exclusively in racing events.

(((~~(29)~~))) (33) "Release of interest" means the act of signing over any ownership in a vessel. A notarized or certified release of interest is also a document relinquishing interest in a vessel.

(((~~(30)~~))) (34) "Renewal notice" and "special mailer" means the notice to renew a vessel registration mailed by the department to the owner.

(((~~(31)~~))) (35) "Tender" means watercraft used exclusively to furnish transportation from a larger vessel to shore and return.

(((~~(32)~~))) (36) "Time share charters" means leased vessels where none of the parties leasing the vessel under a "time share" option agreement is acquiring an equity in the vessel and there is no option to buy.

(((~~(33)~~))) (37) "United States Customs Service Cruising License" means an annual certificate issued by U.S. Customs Service under 19 C.F.R. Sec. 4.94, which exempts pleasure boats from certain countries from formal entry and clearance procedures, from payment of tonnage tax and clearance fees at all but the first port of entry.

(((~~(34)~~))) (38) "Use of waters" means to navigate, operate, employ, or moor any vessel upon the waters.

(((~~(35)~~))) (39) "Unsolicited business contact" means (for public disclosure rules) a contact that is intended to result in or promote the sale of any goods or services to a person named in the disclosure information. The term does not apply to situations where the requesting party and such person have been involved in a business transaction prior to the date of the disclosure request and where the request is made in connection with the transaction.

(40) "Valid marine document" means a document issued by the Coast Guard which declares it to be a United States documented vessel.

(((~~(36)~~))) (41) "Vessel data form" means the form, approved by the department, completed by the applicant describing the vessel.

(((~~(37)~~))) (42) "Vessel seller's report of sale." A vessel seller's report of sale is a document that protects the seller from certain criminal and civil liabilities arising from use of the vessel by another person after the vessel has been sold or a change in ownership has occurred.

(((~~(38)~~))) (43) "Waters of this state" means any waters within the territorial limits of this state as defined in U.S. Code: Title 43, Section 1312.

WSR 07-06-061
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed March 5, 2007, 12:36 p.m.]

The department of licensing hereby withdraws proposed rules WAC 308-20-110, 308-20-550, 308-20-600, and 308-20-610 filed with your office on December 19, 2006, as part of WSR 07-01-088.

Trudie Touchette
Administrator

WSR 07-06-069
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 6, 2007, 9:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-24-115.

Title of Rule and Other Identifying Information: WAC 388-473-0040 Food for service animals as an ongoing additional requirement.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling (360) 664-6097), on April 10, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 11, 2007.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on April 10, 2007.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by April 6, 2007, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-473-0040 in order to change the definition of service animal within ongoing additional requirements to match the definition of service animal provided within the Washington law against discrimination.

Reasons Supporting Proposal: To make the definition of service animal within ongoing additional requirements consistent with the definition in the Washington law against discrimination.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 49.60.040.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.08.090, and 49.60.040.

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: Logan MacGregor, 1009 College S.E., Lacey, WA 98504, (360) 725-4605.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients by outlining the rules clients must meet in order to be eligible for the department's cash assistance or food benefit programs.

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."

March 1, 2007
Jim Schnellman, Chief
Office of Administrative Resources

AMENDATORY SECTION (Amending WSR 00-15-053, filed 7/17/00, effective 9/1/00)

WAC 388-473-0040 Food for service animals as an ongoing additional requirement. (1) A "service animal" is ((~~one that has been trained at a recognized school or training facility to provide you with assistance that is necessary for your health and safety, and that supports your ability to continue to live independently~~)) an animal that is trained for the purpose of assisting or accommodating a person with a disability's sensory, mental, or physical disability.

(2) We authorize benefits for food for a service animal if we decide the animal ((~~assists you in your daily living as described in WAC 388-473-0040(1)~~)) is necessary for your health and safety and supports your ability to continue to live independently.

WSR 07-06-070
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 6, 2007, 9:51 a.m.]

The economic services administration requests the withdrawal of the proposed rule-making notice filed as WSR 07-06-054 on March 2, 2007 (WAC 388-310-1600).

The department inadvertently filed improper text with this rule-making notice and would like to withdraw this version from consideration. The department will immediately refile the proposed rule-making notice with the proper text.

Jim Schnellman, Chief
Office of Administrative Resources

WSR 07-06-071
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 6, 2007, 9:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-22-099.

Title of Rule and Other Identifying Information: WAC 388-310-1600 WorkFirst—Sanctions.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling (360) 664-6097), on April 10, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 11, 2007.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on April 10, 2007.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by April 6, 2007, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule is being amended to prevent the closure of TANF cases where the only person in sanction is a dependent teen. This change will allow the family to continue to receive benefits while working to get the teen back in school.

Reasons Supporting Proposal: Without this change, the actions of a dependent teen could result in the loss of cash assistance for the entire family, including the responsible adults and other dependent children in the home. There are several families in imminent danger of having their cash assistance terminated due to the actions of older siblings under the current rule. Further, once cash assistance was terminated, the family would not be able to reinstate cash benefits until the dependent teen participated as required for four weeks in a row. This change will prevent family breakup, giving children inappropriate control over family income and prevent undue hardship for low-income parents and children in Washington state.

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

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.500, 74.04.510, 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 and Implementation: Ian Horlor, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4634; and Enforcement: Nick Espinosa, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4620.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients by outlining the rules clients must meet in order to be eligible for the department's cash assistance or food benefit programs.

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."

March 2, 2007
Jim Schnellman, Chief
Office of Administrative Resources

AMENDATORY SECTION (Amending WSR 06-10-035, filed 4/27/06, effective 6/1/06)

WAC 388-310-1600 WorkFirst—Sanctions. (1) **What WorkFirst requirements do I have to meet?**

You must do the following when you are a mandatory WorkFirst participant:

(a) Give the department the information we need to develop your individual responsibility plan (IRP) (see WAC 388-310-0500);

(b) Show that you are participating fully to meet all of the requirements listed on your individual responsibility plan;

(c) Go to scheduled appointments listed in your individual responsibility plan;

(d) Follow the participation and attendance rules of the people who provide your assigned WorkFirst services or activities; and

(e) Accept available paid employment when it meets the criteria in WAC 388-310-1500.

(2) **What happens if I don't meet WorkFirst requirements?**

(a) If you do not meet WorkFirst requirements, we will send you a letter telling you what you did not do.

(b) You will have ten days to contact us so we can talk with you about the situation. You can contact us in writing, by phone, by going to the appointment described in the letter, or by asking for an individual appointment.

(c) If you do not contact us within ten days, we will make sure you have been screened for family violence and other barriers to participation. We will use existing information to decide whether:

(i) You were unable to do what was required; or

(ii) You were able, but refused, to do what was required.

(d) If you had a good reason not to do a required activity we will work with you and may change the requirements in your individual responsibility plan if a different WorkFirst activity would help you move towards independence and employment sooner. If you have been unable to meet your WorkFirst requirements because of family violence, you and your case manager will develop an IRP to help you with your situation, including referrals to appropriate services.

(e) Before you are placed in sanction:

(i) We will have a case staffing which is a meeting with you, your case manager and other people involved in your

case to review your situation and make plans. At your case staffing, we will ensure you were offered the opportunity to participate, discuss what happens if you stay in sanction, discuss how participation helps you and your family and discuss how to end your sanction. You will be notified when your case staffing is going to happen so you can attend. You can invite anyone you want to come with you to your case staffing.

(ii) Effective September 1, 2006, supervisory staff will review your case and must approve the sanction.

(f) If you are sanctioned, we will actively attempt to contact you another way so we can talk to you about the benefits of participation and how to end your sanction.

(3) **What is considered a good reason for not being able to do what WorkFirst requires?**

You have a good reason if it was not possible to do what WorkFirst requires (or get an excused absence, described in WAC 388-310-0500(5)) due to a significant problem or event outside your control. Some examples of good reasons include, but are not limited to:

(a) You had an emergent or severe physical, mental or emotional condition, confirmed by a licensed health care professional that interfered with your ability to participate;

(b) You were threatened with or subjected to family violence;

(c) You could not locate child care for your children under thirteen years that was:

(i) Affordable (did not cost you more than your co-payment would under the working connections child care program in chapter 388-290 WAC);

(ii) Appropriate (licensed, certified or approved under federal, state or tribal law and regulations for the type of care you use and you were able to choose, within locally available options, who would provide it); and

(iii) Within a reasonable distance (within reach without traveling farther than is normally expected in your community).

(iv) You could not locate other care services for an incapacitated person who lives with you and your children.

(d) You had an immediate legal problem, such as an eviction notice; or

(e) You are a person who gets necessary supplemental accommodation (NSA) services under chapter 388-472 WAC and your limitation kept you from participating. If you have a good reason because you need NSA services, we will review your accommodation plan.

(4) **What if we decide that you did not have a good reason for failing to meet WorkFirst requirements?**

If we decide that you did not have a good reason for failing to meet WorkFirst requirements, we will send you a letter that tells you:

(a) What you failed to do;

(b) That you are in sanction status;

(c) Penalties that will be applied to your grant;

(d) When the penalties will be applied;

(e) How to request a fair hearing if you disagree with this decision; and

(f) How to end the penalties and get out of sanction status.

(5) **What is sanction status?**

When you are a mandatory WorkFirst participant, you must follow WorkFirst requirements to qualify for your full grant. If you or someone else on your grant doesn't comply and you can't prove that you had a good reason, you do not qualify for your full grant. This is called being in WorkFirst sanction status.

(6) **Are there penalties when you or someone in my household goes into sanction status?**

(a) When someone in your household is in sanction status, we impose penalties. The penalties last until you or the household member meet WorkFirst requirements.

(b) Your grant is reduced by the person(s) share or forty percent, whichever is more.

(7) **How do I end the penalties and get out of sanction status?**

To stop the penalties and get out of sanction status:

(a) You must provide the information we requested to develop your individual responsibility plan; and/or

(b) Start and continue to do your required WorkFirst activities for four weeks in a row (that is, twenty-eight calendar days).

(c) When you leave sanction status, your grant will be restored to the level for which you are eligible beginning the first of the month following your four weeks of participation. For example, if you finished your four weeks of participation on June 15, your grant would be restored on July 1.

(8) **What if I reapply for TANF or SFA and I was in sanction status when my case closed?**

(a) If your case closes while you are in sanction status and is reopened in six months or less, you will start out in sanction.

(b) Effective September 1, 2006, if you come back in sanction, you will start out where you left off in sanction. (That is, if you left off in month three of sanction, you will come back on in month four of sanction.)

(c) If your case has been closed for more than six months, you will not be in sanction status if your case is reopened.

(9) **What happens effective September 1, 2006 if I stay in sanction status?** Effective September 1, 2006, if you stay in sanction status:

(a) Unless you are a dependent child age sixteen or older, your case manager will review your record after you have been in sanction for at least three months in a row to make sure:

(i) You knew what was required;

(ii) You were told how to end your sanction;

(iii) We tried to talk to you and to encourage you to participate; and

(iv) You were given a chance to tell us if you were unable to do what we required.

(b) Your case manager will invite you to a non-compliance sanction case staffing.

(i) You will be notified when your non-compliance sanction case staffing is going to happen so you can attend.

(ii) Your case manager will also invite other people who are working with your family to your non-compliance sanction case staffing, like representatives from tribes, community or technical colleges, employment security, the Chil-

dren's Administration or Limited-English Proficient (LEP) Pathway providers.

(iii) You can invite anyone you want to come with you to your case staffing.

(c) At your non-compliance sanction case staffing, we will discuss with you:

(i) How you and your family benefit when you participate in WorkFirst activities;

(ii) How you can participate, and get out of sanction;

(iii) That if you continue to refuse to participate, without good cause, a sanction review panel may review your case, and decide to close your case after you have been in sanction status for six months in a row.

(iv) How you plan to care for and support your children if a sanction review panel closes your case. We will also discuss the safety of your family, as needed, using the guidelines under RCW 26.44.030; and

(v) How to reapply if a sanction review panel closes your case.

(d) If you do not come to your non-compliance sanction case staffing, we will make a decision based on the information we have. We will also attempt to visit you at your home so you have another chance to talk to us about the benefits of participation and how to end your sanction.

(e) If we decide you are refusing to participate without a good reason:

(i) We will send you information about resources you may need if a sanction review panel closes your case;

(ii) We will send information to a sanction review panel with a recommendation to close your case. We will only do this after a Community Services Office Administrator reviews your case to make sure the sanction is appropriate and we tried to re-engage you in the program; and

(iii) The sanction review panel will review your case and make the final decision.

(10) **What is a sanction review panel?**

(a) The sanction review panel is a small group of people who are independent of your local community services office and do a thorough, objective review of your sanction.

(b) The sanction review panel makes the final decision about whether to close your case after receiving a recommendation from your case manager and reviewing your case to make sure the original sanction was appropriate and we made attempts to re-engage you in the program.

(11) **What happens when a sanction review panel decides to close my case?**

When a sanction review panel decides to close your case, we will send you a letter to tell you:

(a) What you failed to do;

(b) When your case will be closed;

(c) How to request a fair hearing if you disagree with this decision;

(d) How to end your penalties and keep your case open (if you are able to participate for four weeks in a row before we close your case); and

(e) How your participation before your case is closed can be used to meet the participation requirement in subsection (12).

(12) **What if I reapply for TANF or SFA after a sanction review panel closed my case?**

(a) If a sanction review panel closes your case and you apply within six months, you must participate for four weeks in a row before you can receive cash. Once you have met your four week participation requirement, your cash benefits will start, going back to the date we had all the other information we needed to make an eligibility decision.

(b) You will not be required to participate for four weeks in a row before you receive cash if you apply after your case has been closed for six months or longer.

(13) **What if my TANF or SFA is closed by a sanction review panel, reopened and I go into sanction again?**

(a) When a sanction review panel closes your case, and we reopen your case, we will follow all steps in subsection (9) of this section (like the case review and the non-compliance case staffing) during your second month of sanction.

(b) The sanction review panel may close your case after you are in sanction status for three months in a row.

(c) If you case is closed, and you reapply, we will follow the rules in subsection (12) of this section to reopen your case.

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

WSR 07-06-073
WITHDRAWAL OF PROPOSED RULES
GAMBLING COMMISSION
(By the Code Reviser's Office)

[Filed March 6, 2007, 10:37 a.m.]

WAC 230-20-244, proposed by the gambling commission in WSR 06-17-083 appearing in issue 06-17 of the State Register, which was distributed on September 6, 2006, 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 07-06-084
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Psychology)

[Filed March 7, 2007, 8:47 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: New section WAC 246-924-485 Delegation of authority to initiate investigations. The proposed rule delegates authority to the department of health (DOH), DOH staff and one clinical member of the examining board of psychology to initiate investigations.

Hearing Location(s): Department of Health, 310 Israel Road S.E., Room 152, Olympia, WA 98504-7869, on April 20, 2007, at 9:00 a.m.

Date of Intended Adoption: April 20, 2007.

Submit Written Comments to: Betty Moe, P.O. Box 47869, Olympia, WA 98504-7869, web site http://www3.doh.wa.gov/policyreview/, fax (360) 236-4909, by April 6, 2007.

Assistance for Persons with Disabilities: Contact Betty Moe by April 6, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A recent appellate court decision *Client A & B v. Yoshinaka,* 128 Wn. App. 833, 116 P.3d 1801 (2005) reinforced not only the authority but also the responsibility of disciplinary boards and commissions to direct investigations activities in disciplinary cases. The decision also stated that boards and commissions may choose to delegate the authority to staff, but the authority must delegate that responsibility in a rule. The examinating board of psychology has decided to propose a rule to delegate this activity to a case management team comprised of DOH staff and a clinical member of the board.

Reasons Supporting Proposal: The current procedure for authorizing an investigation requires a board member to present each complaint to a panel of three or more board members. Difficulties of assembling the panel results in delay of the decision to investigate and ultimately delays the entire case. The case management team will be able to meet regularly which will eliminate the delay.

Statutory Authority for Adoption: RCW 18.83.050 and 18.130.050.

Statute Being Implemented: RCW 18.130.080.

Rule is necessary because of state court decision, *Client A & B v. Yoshinaka,* 128 Wn. App. 833, 116 P.3d 1081 (2005).

Name of Proponent: Department of health, examining board of psychology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Betty Moe, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4912.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has determined that the proposed rule relate to internal governmental operations that are not subject to violation by a nongovernmental party. Therefore, according to RCW 19.85.-025 and 34.05.310(4) no small business economic [impact] statement needs to be prepared.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328 (5)(b)(ii) exempts rules that relate only to internal governmental operations that are not subject to violation by a nongovernmental party.

March 6, 2007
Betty Moe
Program Manager

NEW SECTION

WAC 246-924-485 Delegation of authority to initiate investigations. The board delegates to a case management team the authority to initiate an investigation when the board or the department receives information, by means of a complaint or otherwise, that a licensee may have engaged in unprofessional conduct or may be unable to practice with reasonable skill and safety by reason of a mental or physical condition. The case management team must include a board member licensed under chapter 18.83 RCW, the executive or his or her designee, and a staff attorney. A majority of the team must agree to initiate an investigation. The majority must include the board member representative.

WSR 07-06-085
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Order 05-16—Filed March 7, 2007, 9:02 a.m.]

Continuance of WSR 07-05-078.

Preproposal statement of inquiry was filed as WSR 05-19-151.

Title of Rule and Other Identifying Information: Chapter 173-98 WAC, Uses and limitations of the water pollution control revolving fund and chapter 173-95A WAC, Uses and limitations of the Centennial clean water fund.

Hearing Location(s): Thurston County Fairgrounds, Expo Center, 3054 Carpenter Road S.E., Lacey, WA 98503, on March 28, 2007, at 1:00 p.m.; and at the Ramada Inn Spokane Airport, 8909 West Airport Drive, Spokane, WA 99219, on March 29, 2007, at 1:00 p.m.

Date of Intended Adoption: June 28, 2007.

Submit Written Comments to: Cindy Price, Department of Ecology, Water Quality Financial Management Section, P.O. Box 47600, Olympia, WA 98504-7600, e-mail cpri461@ecy.wa.gov, phone (360) 407-7132, fax (360) 407-7151, by April 6, 2007.

Assistance for Persons with Disabilities: Contact Shawna Beers at (360) 407-6502, by at least seven days prior to hearing, TTY 711 or persons with speech disability call (877) 833-6341.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The hearing on March 28, 2007, has changed and will now be held at the Thurston County Fairgrounds in Lacey, Washington. The location was changed because the previous building was deemed unacceptable due to debris in the room that could not be cleaned up in time for the hearing.

March 7, 2007
Polly Zehm
Deputy Director