

WSR 15-02-014
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed December 29, 2014, 11:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-14-055.

Title of Rule and Other Identifying Information: Amends WAC 181-01-002, clarifying exceptions to the WEST-B requirements.

Hearing Location(s): Radisson Hotel, SeaTac Airport, 18118 International Boulevard, Seattle, WA 98188, on March 19, 2015, at 8:30 a.m.

Date of Intended Adoption: March 19, 2015.

Submit Written Comments to: David Brenna, Legislative and Policy Coordinator, P.O. Box 47236, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by March 12, 2015.

Assistance for Persons with Disabilities: Contact David Brenna by March 12, 2015, TTY (360) 664-3631 or (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Exceptions to WEST-B are clarified.

Statutory Authority for Adoption: RCW 28A.410.210.

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

Name of Proponent: Professional educator standards board, governmental.

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

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-3631, e-mail david.brenna@k12.wa.us.

December 29, 2014
David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 13-23-078, filed 11/19/13, effective 12/20/13)

WAC 181-01-002 WEST-B exemptions. (1) Candidates who are prepared and/or certified out-of-state applying for a Washington state residency teaching certificate under WAC 181-79A-257 (1)(b) or 181-79A-260, or out-of-state candidates applying to (~~masters-degree-level~~) masters level/post baccalaureate teacher preparation programs (~~residing outside of~~) in the state of Washington (~~at time of application~~), in lieu of passing the WEST-B, may present evidence of passing an alternative assessment per WAC 181-01-0025,

or may provide official documentation of scores on (~~the Praxis I or the California basic educational skills test (CBEST[™]) or the NES[™] Essential Academic Skills test which meet the minimum passing scores adopted~~) equivalent skills tests as approved and published by the professional educator standards board. A candidate may substitute a passing score on one or more sections of (~~the Praxis I, CBEST[™] or NES[™] EAS for the~~) skills tests approved by the board as equivalent passing score on the WEST-B.

(2) Candidates applying for a Washington state residency or professional teaching certificate under WAC 181-79A-257 (1)(b) who hold a certificate through the National Board for Professional Teaching Standards or other equivalent second tier educator certifications from other states as approved and published by the professional educator standards board, are exempt from the WEST-B requirement.

WSR 15-02-016
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed December 29, 2014, 11:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-17-062.

Title of Rule and Other Identifying Information: Adds new section to chapter 181-78A WAC setting a time frame for programs voluntarily rescinding their approval.

Hearing Location(s): Radisson Hotel, SeaTac Airport, 18118 International Boulevard, Seattle, WA 98188, on March 19, 2014, at 8:30.

Date of Intended Adoption: March 19, 2015.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by March 12, 2015.

Assistance for Persons with Disabilities: Contact David Brenna by March 12, 2015, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Programs that voluntarily rescind their state approval to offer educator preparation program(s) may complete a cohort of students enrolled prior to the voluntary rescind notice and for thirty months following the submission. Programs are required to notify students.

Reasons Supporting Proposal: Clarifies policy for rescinding approval.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore

does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

December 29, 2014
David Brenna
Senior Policy Analyst

NEW SECTION

WAC 181-78A-112 Programs voluntarily rescinding state approval. Approved preparation programs that voluntarily rescind their approval shall be permitted to continue to prepare and recommend for certification candidates who have been previously admitted to the program, provided that no recommendations for certifications will be accepted later than thirty months following receipt of the formal letter to rescind program approval. The program shall notify all currently enrolled candidates of the program's change in status and notify candidates of the thirty-month timeline to apply for certification.

WSR 15-02-022
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(By the Code Reviser's Office)
[Filed December 30, 2014, 9:10 a.m.]

WAC 388-418-0005, proposed by the department of social and health services in WSR 14-12-076, appearing in issue 14-13 of the Washington State Register, which was distributed on July 2, 2014, is withdrawn by the office of the code reviser 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 15-02-023
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
(By the Code Reviser's Office)
[Filed December 30, 2014, 9:11 a.m.]

WAC 296-17A-5201, proposed by the department of labor and industries in WSR 14-13-088, appearing in issue 14-13 of the Washington State Register, which was distributed on July 2, 2014, is withdrawn by the office of the code reviser 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 15-02-042
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed January 2, 2015, 10:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-20-107.

Title of Rule and Other Identifying Information: The community services division is proposing to amend WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants and 388-310-1450 Pregnancy to employment, to clarify WorkFirst participation requirements for WorkFirst infant exemption and the pregnancy to employment pathway.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on February 10, 2015, at 10:00 a.m.

Date of Intended Adoption: Not earlier than February 11, 2015.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., February 10, 2015.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by TTY (360) 664-6178 or (360) 664-6092 or e-mail Kildaja@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to include parenting education or parenting skills training as an activity that may be required if indicated while WorkFirst participants are in the pregnancy to employment pathway or under the infant exemption. RCW 74.08A.270 Good cause, establishes activities participants may be required to participate in while claiming a good cause exemption. The proposed WAC changes support RCW 74.08A.270.

Reasons Supporting Proposal: This change supports activities related to the WorkFirst/TANF home visiting pilot providing parenting education or parenting skills training to WorkFirst participants.

Statutory Authority for Adoption: RCW 74.08A.270, 74.04.050, 74.08.090, and 74.04.055.

Statute Being Implemented: RCW 74.08A.270, 74.04.-050, 74.08.090, and 74.04.055.

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: Louisa Erickson, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4559.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by disregarding more income in the child-only TANF means-testing process.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "This section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

December 30, 2014
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-02-055, filed 12/28/07, effective 2/1/08)

WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants. (1) When can I be exempted from participating in WorkFirst activities if I am a mandatory participant?

Either you or the other parent (living in the household) can claim an infant exemption from participating in WorkFirst activities provided you:

- (a) Have a child under one year of age;
- (b) Choose to not fully participate in the WorkFirst program (see WAC 388-310-0400); and
- (c) Have not used up your lifetime twelve-month infant exemption.

(2) If I choose my infant exemption, can I still be required to participate in the WorkFirst program?

You are required to participate up to twenty hours per week in parenting education or parent skills training, mental health and/or chemical dependency treatment if:

- (a) The comprehensive evaluation or assessment indicates a need; and
- (b) Services are available in your community.

(3) Can I volunteer to participate in WorkFirst while I have a child under one?

You may choose to fully participate in WorkFirst (see WAC 388-310-0400) while you have a child under one year of age. If you decide later to stop participating and you still qualify for an exemption, you will be put back into exempt status with no financial penalty provided you meet conditions (1) and (2) above.

(4) Does an infant exemption from participation affect my sixty-month time limit for receiving TANF or SFA benefits?

Even if you are exempt from participation, each month you receive a TANF/SFA grant counts toward your sixty-month limit (see WAC 388-484-0005).

AMENDATORY SECTION (Amending WSR 08-02-055, filed 12/28/07, effective 2/1/08)

WAC 388-310-1450 Pregnancy to employment. (1) How do I know if I am eligible to participate in pregnancy to employment?

If you are on TANF/SFA and are pregnant or have a child under the age of one year, you are a participant in the pregnancy to employment pathway.

(2) What services are provided to the pregnancy to employment pathway?

(a) The pregnancy to employment pathway provides you with services, when available in your community, to help you learn how to work, look for work, or prepare for work while still meeting your child's needs. You and your case manager or social worker will decide which variety of services you need such as:

- (i) Parenting education or parenting skills training;
- (ii) Safe and appropriate child care;
- (iii) Mental health treatment;
- (iv) Chemical dependency treatment;
- (v) Domestic violence services; or
- (vi) Employment services.

(b) The case manager or social worker will contact you every three months to offer you services if you are not required to participate and choose to claim the infant exemption.

(3) What am I required to do while I am in the pregnancy to employment pathway?

You must participate in an assessment with a DSHS social worker and based on the results you will:

(a) Work with your case manager/social worker to decide which required activities best meet your needs. These activities will depend on where you are in the pregnancy or the age of your child and will be added to your individual responsibility plan (IRP).

(b) Be required to participate in the activities identified in your IRP.

(4) What am I required to do while I am pregnant?

Based upon the results of your assessment, your participation:

(a) During your first and second trimester of pregnancy will be full-time work, looking for work, or preparing for work unless you have a good reason to participate fewer hours (see WAC 388-310-1600).

(b) During your third trimester of pregnancy will be up to twenty hours per week in parenting education or parenting skills training, mental health and/or chemical dependency treatment if:

- (i) The comprehensive evaluation or assessment indicates a need; and
- (ii) Services are available in your community.

(5) What am I required to do after my child is born?

After the birth of your child, you may choose to take the infant exemption (See WAC 388-310-0300) or volunteer to participate in WorkFirst activities to the fullest of your abilities (see WAC 388-310-0400).

(6) What if I have used my twelve-month lifetime infant exemption?

If you have another child after using all twelve months of the infant exemption, you will be:

(a) Eligible for a twelve-week postpartum deferral period to personally take care of an infant less than twelve weeks of age. During the twelve-week postpartum deferral period, you will be required to participate up to twenty hours per week in mental health and/or chemical dependency treat-

ment if the comprehensive evaluation or assessment indicates a need and services are available in your community.

(b) Required (unless otherwise exempt or you have good reason to participate fewer hours) to participate full-time, once your child turns twelve-weeks old. Activities in which you are required to participate include one or more of the following:

- (i) Work;
- (ii) Looking for work; or
- (iii) Preparing for work by participating in a combination of activities based upon the results of your assessment.

(7) Will I be sanctioned if I refuse to participate?

(a) You are required to participate in the WorkFirst program (see WAC 388-310-0200) subject to sanction (see WAC 388-310-1600) unless you have good reason and you:

- (i) Are in your third trimester of pregnancy; or
- (ii) Have not used up your twelve-month lifetime infant exemption and have a child under the age of one year; or
- (iii) Have used up your twelve-month lifetime infant exemption and have a child under twelve weeks.

(b) You may be sanctioned if you stop participating in required parenting education or parenting skills training, mental health and/or chemical dependency treatment even if you are in your third trimester, claiming the infant exemption, or using a twelve-week postpartum deferral period.

WSR 15-02-047

PROPOSED RULES

BOARD OF

PILOTAGE COMMISSIONERS

[Filed January 5, 2015, 9:48 a.m.]

Continuance of WSR 14-16-087.

Title of Rule and Other Identifying Information: WAC 363-116-082 Limitations on new pilots.

Hearing Location(s): 2901 Third Avenue, 4th Floor, Rainier Conference Room, Seattle, WA 98121, on January 15, 2015, at 9:30 a.m.

Date of Intended Adoption: January 15, 2015.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2901 Third Avenue, Suite 500, Seattle, WA 98121, e-mail larsonp@wsdot.wa.gov, fax (206) 515-3906, by January 12, 2015.

Assistance for Persons with Disabilities: Contact Shawna Erickson by January 12, 2015, (206) 515-3647.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this filing is to continue the September 18, 2014, public hearing from December 16, 2014, to January 15, 2015.

The deadline to receive public comments is extended through the end of business on January 12, 2015.

Reasons Supporting Proposal: Stakeholder comments are welcome and will continue to be considered.

December 31, 2014
Peggy Larson
Executive Director

WSR 15-02-057

PROPOSED RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed January 5, 2015, 3:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-23-007.

Title of Rule and Other Identifying Information: WAC 182-505-0300 Hospital presumptive eligibility.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106B, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000, on February 10, 2015, at 10:00 a.m.

Date of Intended Adoption: Not sooner than February 11, 2015.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on February 10, 2015.

Assistance for Persons with Disabilities: Contact Kelly Richters by February 2, 2015, TTY (800) 848-5429 or (360) 725-1307 or e-mail kelly.richters@hca.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules are necessary to provide temporary Washington apple health coverage to individuals who are determined eligible for hospital presumptive eligibility coverage by a qualified hospital.

Reasons Supporting Proposal: See Purpose statement above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: Patient Protection and Affordable Care Act established under Public Law 111-148.

Rule is necessary because of federal law, Patient Protection and Affordable Care Act established under Public Law 111-148.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1842; Implementation and Enforcement: Mick Pettersen, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-0913.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative [rules] review committee has not requested the filing of a small business economic impact statement, and these rules do not impose a disproportionate cost impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

January 5, 2015
Jason R. P. Crabbe
Rules Coordinator

NEW SECTION

WAC 182-505-0300 Washington apple health—Hospital presumptive eligibility. (1) **Generally.** The hospital presumptive eligibility (HPE) program provides temporary Washington apple health (WAH) coverage to HPE-eligible persons who enroll through an HPE-qualified hospital.

(2) **HPE-eligible persons.** To be HPE-eligible, a person must:

- (a) Be younger than age sixty-five;
- (b) Not be a WAH beneficiary;
- (c) Not be a supplemental security income beneficiary;
- (d) Not have received HPE coverage within the preceding twenty-four months; and

(e) Meet the eligibility requirements for one or more of the following programs:

- (i) WAH for pregnant women (chapter 182-505 WAC);
- (ii) WAH for kids (chapter 182-505 WAC);
- (iii) WAH for foster care (chapter 182-505 WAC);
- (iv) WAH for parents and caretaker relatives (chapter 182-505 WAC);
- (v) WAH for adults (chapter 182-505 WAC);
- (vi) TAKE CHARGE for family planning services (chapter 182-532 WAC).

(3) **HPE-qualified hospitals.** To be HPE-qualified, a hospital must:

- (a) Operate in Washington state;
- (b) Submit a signed core provider agreement (CPA);
- (c) Submit a signed HPE agreement;
- (d) Comply with the terms of the CPA and HPE agreement;
- (e) Determine HPE eligibility using only those employees who have successfully completed the agency's HPE training;

(f) Agree to provide HPE-application assistance to anyone who requests it; and

(g) Agree to be listed on the agency's web site as an HPE-application assistance provider.

(4) **Limitations.**

(a) An HPE-qualified hospital must attempt to help the person complete a regular WAH application before filing an HPE application. If the person cannot indicate whether he or she expects to file a federal tax return or be claimed as a tax dependent, the HPE-qualified hospital may treat the person as a nonfiler under WAC 182-506-0010 (5)(c) for HPE purposes.

(b) HPE coverage begins on the earlier of:

(i) The day the HPE-qualified hospital determines the person is eligible; or

(ii) The day the HPE-qualified hospital provides a covered medical service to the person, but only if the hospital determines the person is eligible and submits the decision to the agency no later than five calendar days after the date of service.

(c) HPE coverage ends on the earlier of:

(i) The last day of the month following the month in which HPE coverage began; or

(ii) The day the agency determines the person is eligible for other WAH coverage.

(d) HPE coverage does not qualify a person for continuous eligibility under WAC 182-504-0015.

(e) If HPE coverage is based on pregnancy, the pregnant woman is eligible for HPE coverage only once for that pregnancy.

(f) The HPE program covers only those services included in the programs listed in subsection (2)(e) of this section except that pregnancy-related services are limited to ambulatory prenatal care.

(g) A child born to a woman with HPE coverage is ineligible for WAH under WAC 182-505-0210(2). An HPE-qualified hospital must complete a separate HPE determination for the newborn child.

WSR 15-02-059**PROPOSED RULES****OFFICE OF****INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2014-07—Filed January 6, 2015, 8:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-14-132.

Title of Rule and Other Identifying Information: Designation of a designated responsible licensed person (DRLP) by an insurance producer business entity.

Hearing Location(s): Insurance Commissioner's Office, TR 120, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, on February 11, 2015, at 10:00 a.m.

Date of Intended Adoption: February 12, 2015.

Submit Written Comments to: Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109, by February 10, 2015.

Assistance for Persons with Disabilities: Contact Lori [Lorie] Villaflores by February 10, 2015, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commissioner will consider rules to ensure that the DRLP of an insurance producer business entity has sufficient authority and information to act in the capacity of a DRLP.

Reasons Supporting Proposal: The commissioner's producer licensing and oversight has encountered incidents where the person named as the DRLP was not in a position of authority to influence compliance issues, had not been given sufficient access to information relevant to compliance, or had not been notified by the business entity that they had been name[d] the DRLP.

Statutory Authority for Adoption: RCW 48.02.060 and 48.17.005.

Statute Being Implemented: RCW 48.17.090 (3)(b).

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7036; Implementation: Jeff Baughman, P.O. Box 40257, Olympia, WA 98504-0257, (360) 725-7156; and

Enforcement: John Hamje, P.O. Box 40257, Olympia, WA 98504-0257, (360) 725-7262.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule makes a small clarification to the definition of DRLP as specified in WAC 284-17-603. The proposed rule will not cause producers to incur any noteworthy new costs.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7036, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

January 6, 2015
Mike Kreidler
Insurance Commissioner

NEW SECTION

WAC 284-17-603 Designated responsible licensed person. The designated responsible licensed person (DRLP) must be given the necessary authority and information by the business entity that reasonably assures that the DRLP can cause or influence the entity's compliance with all applicable insurance laws or rules, or both of this state.

WSR 15-02-068
PROPOSED RULES
SEATTLE COLLEGES
[Filed January 6, 2015, 12:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-21-093.

Title of Rule and Other Identifying Information: Repeal of affirmative action rules.

Hearing Location(s): Seattle Central College, Broadway Performance Hall, 1625 Broadway, Seattle, WA 98122, on March 9, 2015, at 2:30-3:30.

Date of Intended Adoption: April 9, 2015.

Submit Written Comments to: Amanda Davis Simpfend-erfer, 1500 Harvard Avenue, Seattle, WA 98122, e-mail wacinput@seattlecolleges.edu, fax (206) 934-3894, by March 9, 2015, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact wacinput@seattlecolleges.edu by February 27, 2015, (206) 934-3873.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Repeal the exist- ing affirmative action rule in preparation for a new workplace diversity rule.

Reasons Supporting Proposal: The current rule is out-of- date and the district is in the process of creating a new work- place diversity rule.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Statute Being Implemented: RCW 28B.50.140(13).

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Charles Sims, Seattle College District Office.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules are not predicted to impose any costs on businesses or an industry.

A cost-benefit analysis is not required under RCW 34.05.328. Seattle Colleges are not required to provide a cost-benefit analysis under RCW 34.05.328 (5)(a).

January 9 [6], 2015
Jill Wakefield
Chancellor

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132F-148-010 Policy statement.

WAC 132F-148-020 Action plan.

WAC 132F-148-030 Responsibility for program implemen- tation.

WAC 132F-148-040 Recruitment plan.

WAC 132F-148-050 Goals and procedure for implementa- tion.

WAC 132F-148-060 Personnel policies relative to affirma- tive action.

WAC 132F-148-070 Formal complaint procedure.

WSR 15-02-069
PROPOSED RULES
SEATTLE COLLEGES
[Filed January 6, 2015, 12:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-08-079.

Title of Rule and Other Identifying Information: Parking special exemption to update rule to comply with current prac- tices.

Hearing Location(s): Seattle Central College, Broadway Performance Hall, 1625 Broadway, Seattle, WA 98122, on March 9, 2015, at 2:30-3:30.

Date of Intended Adoption: April 9, 2015.

Submit Written Comments to: Amanda Davis Simpfend-erfer, 1500 Harvard Avenue, Seattle, WA 98122, e-mail wacinput@seattlecolleges.edu, fax (206) 934-3894, by March 9, 2015, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact wacinput@seattlecolleges.edu by February 27, 2015, (206) 934-3873.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This change is being made to be in compliance with our current practices.

We do not give out parking permits, but we do extend free parking for the individual on the day(s) requested.

Reasons Supporting Proposal: The current rule is out-of-date and not in compliance with how the district is currently operating.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Statute Being Implemented: RCW 28B.50.140(13).

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kurt Buttleman, Seattle College District Office.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules are not predicted to impose any costs on businesses or an industry.

A cost-benefit analysis is not required under RCW 34.05.328. Seattle Colleges are not required to provide a cost-benefit analysis under RCW 34.05.328 (5)(a).

January 9 [6], 2015

Jill Wakefield
Chancellor

AMENDATORY SECTION (Amending Order 29, filed 10/10/75)

WAC 132F-116-100 Parking—Special exemptions.

(1) Consideration shall be given to provide parking for the following (on a space available basis):

(a) Members of the press, television and radio on official business.

(b) (~~(Vehicles)~~) Vehicles owned by contractors and their employees working on campus construction.

(2) Members of the college board of trustees and retired employees of the Seattle Community College District will be given complimentary (~~(annual permits)~~) parking for college functions upon request.

(3) Federal, state, county, city and school district personnel on official business and in vehicles with tax exempt licenses.

WSR 15-02-076

PROPOSED RULES

DEPARTMENT OF COMMERCE

[Filed January 7, 2015, 8:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-17-117.

Title of Rule and Other Identifying Information: Chapter 194-37 WAC, Energy Independence Act, requires electric utilities with more than twenty-five thousand customers to meet renewable energy targets and acquire cost-effective energy conservation resources.

Hearing Location(s): Washington Department of Commerce, 1011 Plum Street S.E., Olympia, WA 98504, on February 10, 2015, at 1:30 p.m.

Date of Intended Adoption: February 11, 2015.

Submit Written Comments to: Glenn Blackmon, Energy Office, P.O. Box 42525, Olympia, WA 98504-2525, e-mail EIA@commerce.wa.gov, by 8:00 a.m., on January 30, 2015.

Assistance for Persons with Disabilities: Contact Carolee Sharp by January 30, 2015, TTY (360) 586-0772 or (360) 725-3118.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments update rules relating to process, timelines and documentation for consumer-owned electric utilities subject to the Washington renewable portfolio and energy efficiency standard, chapter 19.285 RCW. Amendments strengthen and clarify documentation requirements, increase transparency of utility performance, improve consistency with comparable rules of the utilities and transportation commission and provide additional flexibility for compliance. Unnecessary sections are repealed.

Reasons Supporting Proposal: The experience during the initial rounds of compliance with the Energy Independence Act revealed that some provisions of the statute required interpretation and that some existing rule provisions were vague, overly prescriptive, or incomplete. The proposed amendments will make the Energy Independence Act more effective in achieving its stated objectives.

Statutory Authority for Adoption: RCW 19.285.080.

Statute Being Implemented: Chapter 19.285 RCW.

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

Name of Proponent: Washington state department of commerce, governmental.

Name of Agency Personnel Responsible for Drafting: Glenn Blackmon, Department of Commerce, 1011 Plum Street S.E., Olympia, WA 98504-2525, (360) 725-3115; Implementation and Enforcement: Washington State Department of Commerce, 1011 Plum Street S.E., Olympia, WA 98504-2525, (360) 407-6000.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required for this rule making as none of the affected entities are small businesses. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Subsection (5)(a)(i) of RCW 34.05.328 does not require commerce to provide a cost-benefit analysis. Not applicable.

January 7, 2015

Nick Demerice

Director of External Relations

AMENDATORY SECTION (Amending WSR 14-04-015, filed 1/24/14, effective 2/24/14)

WAC 194-37-040 Definitions. The definitions in chapter 19.285 RCW apply throughout this chapter.

(1) "Annual revenue requirement" and "total annual revenue requirement" mean((s)) that portion of a utility's annual budget approved by its governing body for the target year that is intended to be recovered through retail electricity sales in

the state of Washington in the target year, or as otherwise documented by the utility pursuant to WAC 194-37-150.

~~(2) ("Average water generation" means the average megawatt-hours of generation from a hydroelectric project over a period of ten consecutive years or more, taking into account differences in water flows from year to year.~~

~~(3)) "Biennial target" means a utility's biennial conservation target.~~

~~((4)) (3) "BPA" means the Bonneville Power Administration.~~

~~((5) "Distributed generation" means an eligible renewable resource where the facility or any integrated cluster of generating units has a generating capacity of not more than five megawatts. If several five megawatt or smaller projects are located in the same immediate area but are owned or controlled by different developers, each qualifies as a separate, independent distributed generation project. For the purposes of this rule, an eligible renewable resource or group of similar eligible renewable resources cannot be subdivided into amounts less than five megawatts solely to be considered distributed generation.~~

~~(6) "Incremental hydropower" means the incremental amount of kilowatt-hours of electricity generated from a base or constant amount of water.~~

~~(7) "Integrated cluster" of eligible renewable resources means collocated projects owned or controlled by the same entity that feed into the same substation.~~

~~(8)) (4) "Measurement protocol" means a procedure or method used, consistent with industry standards, to establish with reasonable certainty the amount of energy savings that will result from the installation of a conservation measure. Industry standards include a range of appropriate protocols reflecting a balancing of cost and accuracy, such as the application of a deemed savings value established through industry processes for a measure that has broad application and uniform characteristics and the use of engineering calculations, metering, utility billing analysis, and computer simulation for a measure installed as part of a customer-specific project.~~

~~(5) "Multifuel generating facility" means a generating facility that is capable of producing energy from more than one nonrenewable fuel, renewable fuel, or nonfuel energy source, either simultaneously or as alternatives, provided that at least one fuel source (energy source) is a renewable resource and the relative quantities of electricity production can be measured or calculated, and verified.~~

~~((9)) (6) "NWPCC" means Pacific Northwest Electric Power and Conservation Planning Council also known as the Northwest Power and Conservation Council. Its calculation of avoided costs and publications are available at www.nwccouncil.org.~~

~~((10) "Qualified incremental hydropower efficiency improvements" means the installation or modification of equipment and structures, or operating protocols that increase the amount of electricity generated from the same amount of water. These may include rewinding of existing generators, replacing turbines with more efficient units and changing control systems to optimize electricity generation, and improvements to hydraulic conveyance systems that decrease head loss. They do not include additions to capacity by~~

~~increasing pondage or elevation head, or diverting additional water into the project.~~

~~((11)) (7) "REC" means renewable energy credit.~~

~~(8) "Regional technical forum" or "RTF" means a voluntary advisory committee that reports to the executive director of the NWPCC and whose members are appointed by the NWPCC's chair.~~

~~((12)) (9) "Renewable energy target" means the amount of electricity in megawatt-hours necessary for a utility to satisfy the requirements of RCW 19.285.040 (2)(a) in a specific target year.~~

~~(10) "Substitute resource" means reasonably available electricity or generating facilities, of the same contract length or facility life as the eligible renewable resource the utility invested in to comply with chapter 19.285 RCW requirements, that otherwise would have been used to serve a utility's retail load in the absence of chapter 19.285 RCW requirements to serve that retail load with eligible renewable resources.~~

~~((13)) (11) "Target year" means ((the)) a specific year ((for which a renewable energy target must be met)) in which a utility must comply with the renewable energy requirements of chapter 19.285 RCW.~~

~~((14)) (12) "Ten-year potential" means the ten-year cost effective conservation resource potential.~~

~~((15)) (13) "Utility" and "qualifying utility" mean((s)) a consumer-owned electric utility, as the term consumer-owned utility is defined in RCW 19.29A.010, that serves more than twenty-five thousand retail customers in the state of Washington. The number of customers served shall be based on data reported by a utility in Form EIA - 861, "Annual Electric Power Industry Report," filed with the Energy Information Administration, United States Department of Energy.~~

~~((A consumer-owned electric utility whose number of retail customers grows beyond twenty five thousand over the course of a year shall be subject to the requirements of this chapter, or per chapter 19.285 RCW shall become a qualifying utility, starting January 1 of the following year. All applicable target dates, per chapter 19.285 RCW will be delayed by the same number of years as there are between January 1, 2007, and the year in which the utility becomes a qualifying utility.~~

~~((16)) (14) "Verification protocol" means a procedure or method used, consistent with industry standards, to establish with reasonable certainty that a conservation measure was installed and is in service. Industry standards include a range of appropriate protocols reflecting a balance of cost and accuracy, such as tracking installation of measures through incentive payments and the use of on-site inspection of measures installed as part of a customer-specific project.~~

~~(15) "Weather-adjusted load" means load calculated after variations in peak and average temperatures from year to year are taken into account.~~

~~((17)) (16) "WREGIS" means the Western Renewable Energy Generation Information System. WREGIS is an independent, renewable energy registry and tracking system for the region covered by the Western Interconnection. WREGIS creates renewable energy certificates, WREGIS certificates,~~

for verifiable renewable generation from units that register in the registry and tracking system.

AMENDATORY SECTION (Amending WSR 14-04-015, filed 1/24/14, effective 2/24/14)

WAC 194-37-050 Documentation and ~~((auditing))~~ timelines. (1) Each utility must maintain all records necessary to document its compliance with the Energy Independence Act, as described in this chapter. All current and historical reports required by this chapter shall be available to a utility's customers and may be provided in conjunction with the utility's requirements under RCW 19.29A.050.

(2) Each utility that is not under the jurisdiction of the Washington state auditor must be audited for compliance with the Energy Independence Act by an independent auditor at least every twenty-four months and must submit a copy of the audit report to the department.

(3) A consumer-owned utility that becomes subject to this chapter and chapter 19.285 RCW after December 31, 2006, pursuant to RCW 19.285.040(3), must notify the department of its status as a qualifying utility by June 1st of the year after it becomes a qualifying utility and must submit the reports required by WAC 194-37-060 and 194-37-110 starting five years after the notice to the department is due.

AMENDATORY SECTION (Amending WSR 14-04-015, filed 1/24/14, effective 2/24/14)

WAC 194-37-060 Conservation reporting requirements. Each utility shall submit an annual conservation report to the department by June 1st using a form provided by the department. The conservation report ~~((shall document))~~ must show the utility's progress in the preceding year in meeting the conservation targets established in RCW 19.285.040 and ~~((shall))~~ must include the following:

(1) ~~The total electricity savings ((by customer sector—Residential, commercial, industrial, and agricultural, by production efficiencies, and by distribution efficiencies)) and expenditures for conservation by the following sectors: Residential, commercial, industrial, agricultural, distribution system, and production system. A utility may report results achieved through nonutility programs, as identified in WAC 194-37-080(5), by program, if the results are not included in the reported results by customer sector. Reports submitted in odd-numbered years must include an estimate of savings and expenditures in the prior year. Reports submitted in even-numbered years must include the amount of savings and expenditures in the prior two years. All savings must be documented pursuant to WAC 194-37-080.~~

~~(2) ((If the utility counts towards its biennial target any electricity savings from local, regional, state, or federal market transformation programs, or local, state or federal codes or standards, the utility shall include copies of reports of the annual electricity savings for the utility's service territory as estimated and recorded by entities such as the department, the NWPC, regional market transformation organizations, or the utility.~~

~~(3))~~ A brief description of the methodology used to establish the utility's ten-year potential and biennial target to capture cost-effective conservation ~~((including the share of~~

~~this target to be captured by efficiency improvements in customer measures, and, if any, in distribution measures and production measures.~~

~~(4) The utility's total expenditures for conservation broken down by residential sector, commercial sector, industrial sector, and agricultural sector, and, if any, production efficiency and distribution efficiency.~~

~~(5) The most recent final audit report(s), if any, that evaluate(s) the utility's compliance with chapter 19.285 RCW and the information the utility reported per this chapter.~~

~~(6) In even years this report must include the following information categorized by customer conservation savings, and if any, total distribution efficiency savings, and total production efficiency savings:~~

~~(a) The utility's achievement in meeting its preceding biennial target; and~~

~~(b) The utility's current ten-year potential and biennial target).~~

~~(3) In even-numbered years the report must include the utility's ten-year conservation potential and biennial targets established pursuant to WAC 194-37-070.~~

AMENDATORY SECTION (Amending WSR 14-04-015, filed 1/24/14, effective 2/24/14)

WAC 194-37-070 Development of conservation potential and biennial conservation targets. (1) Ten-year potential. By January 1st of each even-numbered year, each utility shall identify its achievable cost-effective conservation potential for the upcoming ten years.

(2) Biennial target. By January 1st of each even-numbered year, each utility shall establish and make public a biennial conservation target. The utility's biennial target shall be no less than its pro rata share of the ten-year potential identified pursuant to subsection (1) of this section.

(3) Each utility must document the methodologies and inputs used in the development of its ten-year potential and biennial target and must document that its ten-year potential and biennial target are consistent with the requirements of RCW 19.285.040(1).

(4) Each utility must establish its ten-year potential and biennial target by action of the utility's governing board, after public notice and opportunity for public comment.

(5) The methodologies used by the NWPC in its most recently published regional power plan ~~((consist of the following elements))~~ are summarized in (a) through (o) of this subsection:

(a) Analyze a broad range of energy efficiency measures considered technically feasible;

(b) Perform a life-cycle cost analysis of measures or programs, including the incremental savings and incremental costs of measures and replacement measures where resources or measures have different measure lifetimes;

(c) Set avoided costs equal to a forecast of regional market prices, which represents the cost of the next increment of available and reliable power supply available to the utility for the life of the energy efficiency measures to which it is compared;

(d) Calculate the value of the energy saved based on when it is saved. In performing this calculation, use time dif-

ferentiated avoided costs to conduct the analysis that determines the financial value of energy saved through conservation;

(e) Conduct a total resource cost analysis that assesses all costs and all benefits of conservation measures regardless of who pays the costs or receives the benefits. The NWPCC identifies conservation measures that pass the total resource cost test as economically achievable;

(f) Identify conservation measures that pass the total resource cost test, by having a benefit/cost ratio of one or greater as economically achievable;

(g) Include the increase or decrease in annual or periodic operations and maintenance costs due to conservation measures;

(h) Include deferred capacity expansion benefits for transmission and distribution systems in its cost-effectiveness analysis;

(i) Include all nonpower benefits that a resource or measure may provide that can be quantified and monetized;

(j) Include an estimate of program administrative costs;

(k) Discount future costs and benefits at a discount rate based on a weighted, after-tax, cost of capital for utilities and their customers for the measure lifetime;

(l) Include estimates of the achievable ~~((customer))~~ conservation penetration rates for ~~((retrofit))~~ conservation measures ~~((and for lost opportunity (long lived) measures. The NWPCC's twenty-year achievable penetration rates, for use when a utility assesses its twenty-year potential, are eighty-five percent for retrofit measures and sixty-five percent for lost opportunity measures achieved through a mix of utility programs and local, state and federal codes and standards. The NWPCC's ten-year achievable penetration rates, for use when a utility assesses its ten-year potential, are sixty-four percent for nonlost opportunity measures and twenty-three percent for lost opportunity measures; the weighted average of the two is a forty-six percent ten-year achievable penetration rate))~~);

(m) Include a ten percent bonus for conservation measures as defined in 16 U.S.C. § 839a of the Pacific Northwest Electric Power Planning and Conservation Act;

(n) Analyze the results of multiple scenarios. This includes testing scenarios that accelerate the rate of conservation acquisition in the earlier years; and

(o) Analyze the costs of estimated future environmental externalities in the multiple scenarios that estimate costs and risks.

AMENDATORY SECTION (Amending WSR 14-04-015, filed 1/24/14, effective 2/24/14)

WAC 194-37-080 Documentation of conservation savings. ~~((1))~~ The utility shall document:

~~(a) That it achieved its biennial conservation target;~~

~~(b) The total savings in customer efficiency measures; and~~

~~(c) If included in the target, the savings in the production and distribution sectors.~~

~~(2) A conservation measure or program counts towards a utility biennial target if it meets the following criteria:~~

~~(a) The conservation has a measure life of at least two years, or, if the measure life is less than two years the utility can verify that it has acquired the conservation for the entire biennium;~~

~~(b) It meets the definitions of conservation and cost effective as contained in WAC 194-37-040; and~~

~~(c) The NWPCC includes the measure or program in its power plan, or the measure or program is not identified by the NWPCC but it meets the definition of cost effective in RCW 19.285.030.~~

~~(3) The utility shall count the total first year savings of a conservation measure in the year during which either the measure was installed or the utility paid for it.~~

~~(4)) (1) Each utility must document its acquisition of conservation savings relative to its biennial target.~~

~~(2) Each utility must record conservation savings as the total first-year electricity savings in megawatt-hours or kilowatt-hours.~~

~~(3)(a) Each utility must maintain and apply measurement and verification protocols to determine the amount of energy savings resulting from conservation measures and to verify the acquisition or installation of the conservation measures being recorded or claimed.~~

~~(b) A utility may comply with this requirement using the measurement and verification protocols adopted by the RTF or by BPA in its energy efficiency implementation manual. If a utility uses other measurement and verification protocols, the measurement and verification protocols must be consistent with recognized industry practices, and the utility must document the methodologies, assumptions, and factual inputs used in its measurement and verification of energy savings.~~

~~(4) A utility may count the conservation savings from a conservation measure toward its biennial target if the measure, or a project or program consisting of more than one measure, meets the following criteria:~~

~~(a) The utility has established that the measure, or a program or project consisting of more than one measure, was cost-effective;~~

~~(b) The utility has documented that the measure was installed within its retail service area during the biennial period, or in the case of programs described in subsection (5) of this section, that the savings were attributed to the utility using a reasonable and consistent method;~~

~~(c) The utility used a reasonable and consistent method of assigning conservation savings to biennial periods such as, by the date the conservation measure was installed, by the date an incentive was paid to a customer, or by the date the conservation measure was reported to an external funding agency such as BPA; and~~

~~(d) The utility applied a reasonable and consistent policy of incorporating changes in unit energy savings values subsequent to the adoption of a biennial conservation target. Such a policy may either count savings using the unit energy savings values in effect at the time the biennial target is established or update all unit energy savings values as they are changed by the entity responsible for establishing the values.~~

~~(5) Subject to the requirements of subsection (4) of this section, each utility may count toward((s)) its biennial conservation target((s)) the proportionate share of savings resulting in its service territory from the ((following conservation~~

efforts during the one biennium in which either the measure or program was placed in service or the utility paid for the measure:

(a) End-use savings from region-wide conservation projects that are centrally funded by BPA and for which the utility shared in the funding through its BPA rates.

(b) Savings from regional market transformation efforts if the NWPCC includes the program measures in its most recently published *Power Plan's* conservation resource potential or, as a newly emerging technology, the measure has yet to be included in the NWPCC's resource potential. Each utility will report a proportion of savings from these programs using established distribution methods, based on each utility's relative share of funding the regional market transformation effort through both direct funding and indirect funding through their BPA rates.

(c) Savings from improved federal minimum energy efficiency standards or Washington state building energy code improvements or improved state appliance codes and standards in the biennium in which they become effective, as proportionate to the utility's service territory. After that biennium, a utility may no longer include savings from those specific codes and/or standards in its next ten-year potential.

(5) Utilities may count savings from more stringent local building and/or local equipment codes and standards, including utility new service or connection standards, towards meeting their biennial conservation target in the biennium in which they become effective and in each biennium the local standards continue to be enforced and achieve incremental savings above minimum state energy codes or minimum federal energy standards)) implementation of regional or multi-state conservation programs, market transformation programs, appliance standards, building energy codes, utility connection standards, and nonprogrammatic savings including, but not limited to, the Northwest Energy Efficiency Alliance and BPA.

(6) A utility ((cannot count the loss of load due to curtailments or matters outside of the utility's control (such as a facility shut down) as achievement towards its conservation targets. However, such losses of load may change the level of current and future targets to the extent that they reduce the conservation potential available to the utility.

(7) The energy savings from an increase in distribution efficiencies are described, documented and counted under WAC 194-37-090. The energy savings from an increase in production efficiencies are described, documented and counted under WAC 194-37-100.

(8) Conservation savings from utility programs for measures for which the NWPCC and the regional technical forum have established per unit energy savings values will be based on the per unit savings set by the NWPCC's regional technical forum unless the utility documents its variations in electricity saving estimates from the regional technical forum.

(9) Conservation savings from utility programs for custom measures shall be developed pursuant to the NWPCC's custom requirements or through a similar analytical framework.

(10) A utility may document shortfalls in meeting its biennial conservation target due to lack of customer partici-

pation. Documentation of such shortfalls shall include a demonstration that:

(a) A broad array of marketing and program options were provided to customers throughout the biennium; and

(b)) must not count as conservation a reduction in electricity consumption due to curtailment of a customer's process or service, such as the shutdown of a manufacturing facility. A change in the operating practices of a customer that reduces electricity consumption without reducing the level of output or other benefits of electricity consumption is not curtailment.

(7) A utility that does not acquire conservation savings during a biennial period sufficient to meet its biennial conservation target may document its level of effort at conservation acquisition. The documentation should include:

(a) A description of the utility's marketing programs, education programs, custom project proposals, monetary incentives, financing offers, and other efforts during the biennial period to motivate customers to install conservation measures;

(b) A detailed report of the utility's budget and actual expenditures for the activities in (a) of this subsection;

(c) An identification of all conservation measures, programs, or projects for which the utility offered ((throughout the biennium)) to pay customers an incentive in an amount equal to the utility's full avoided cost over the lifetime of measures((, up to one hundred percent of the incremental cost of measures. Any such shortfall cannot be automatically deducted from the utility's conservation potential assessment for the subsequent biennium)); and

(d) An identification of all conservation measures that were included in the biennial target and became unavailable to the utility due to the shutdown or curtailment of operations of a retail customer.

AMENDATORY SECTION (Amending WSR 14-04-015, filed 1/24/14, effective 2/24/14)

WAC 194-37-110 Renewable resource energy reporting. Each utility ((shall)) must submit a renewable resource energy report to the department by June 1st of each year((-Reporting requirements vary, as follows, depending upon how the utility elects to comply with chapter 19.285 RCW-

(1) Universal renewable energy reporting requirements. The renewable resource energy report shall include)) using a form provided by the department. The report must reflect the actions that the utility took by the previous January 1st to meet the renewable requirements of chapter 19.285 RCW for that year. For example, a utility must report by June 1, 2015, the actions it took by January 1, 2015, to meet requirements applicable to the 2015 target year.

(1) Reporting requirements applicable to all utilities. Each utility must report the following information:

(a) The compliance method:

(i) Renewable energy target using renewable resources and RECs – RCW 19.285.040 (2)(a);

(ii) Incremental cost – RCW 19.285.050; or

(iii) No-growth cost – RCW 19.285.040 (2)(d).

~~(b) The utility's ((annual)) load for the two years preceding ((each renewable energy)) the target year and the average load for those two years.~~

~~((b) The amount of megawatt-hours needed to meet the utility's annual renewable energy targets identified in RCW 19.285.040. These annual targets are established as a percentage of the utility's average retail load for the two years prior to the renewable energy target year: Three percent of each year 2012 through 2015; nine percent of each year 2016 through 2019; and fifteen percent for year 2020 and each year thereafter.~~

~~(e) The names of the eligible renewable resource facilities and/or the vintage (year in which associated power was generated) of renewable energy credits by generator that the utility owns or with which the utility has a contract dated no later than January 1 of the target year; and the estimated annual quantity (megawatt hours) of eligible renewable resources or RECs that will be produced, or has been produced, through these resources or contracts to meet its annual targets.~~

~~(i) The list of resources will identify any resource that both commenced operations after December 31, 2005, and meets the apprenticeship construction practice standards as adopted by the council per WAC 194-37-120(1), thereby earning a 1.2 multiplier credit on its electricity output.~~

~~(ii) The list of resources will identify any resource that meets the definition of distributed generation and that the utility owns or contracts for the associated REC, thereby earning a 2.0 multiplier credit on the electricity output.~~

~~((d)) (c) The utility's renewable energy target for the target year.~~

~~(d) The amount of eligible renewable resources, RECs, and multiplier credits applied toward the utility's renewable energy target for the target year. The report must identify, by generating facility or hydroelectric project, including the WREGIS generating unit identification where applicable, and, in the case of RECs, by vintage year:~~

~~(i) The eligible renewable resources in megawatt-hours applied toward the renewable energy target for the target year.~~

~~(ii) The RECs applied toward the renewable energy target for the target year.~~

~~(iii) Any additional credit for eligible renewable resources or RECs from generating facilities eligible for the apprentice labor provision in RCW 19.285.040 (2)(h), applied toward the renewable energy target for the target year.~~

~~(iv) Any additional credit for RECs from generating facilities eligible for the distributed generation in RCW 19.285.040 (2)(b), applied toward the renewable energy target for the target year.~~

~~(e) The percent of its total annual retail revenue requirement invested in the incremental cost of eligible renewable resources and the cost of renewable energy credits. Each utility must include in its report documentation of the calculations and inputs to this amount.~~

~~((e) The most recent final audit report(s), if any, that evaluate(s) the utility's compliance with chapter 19.285 RCW and the information reported per this chapter.~~

~~(2) A utility that does not meet the renewable energy requirements in RCW 19.285.040(2), the financial requirements in RCW 19.285.050, or the financial requirements in RCW 19.285.040 (2)(d) shall include the following information in its June 1 report of each year beginning in 2014:~~

~~(a) The quantity of eligible renewable resources acquired by December 31 of the target year;~~

~~(b) The quantity of RECs acquired from the target year, the year prior or the year subsequent to the target year; or~~

~~(c) The combination of (a) and (b) of this subsection.~~

~~(3) Renewable energy target reporting.~~

~~(a) A utility that meets the renewable energy requirements in RCW 19.285.040 (2)(a) shall include the following in its June 1 report of each year beginning in 2014.~~

~~(i) Demonstration that it acquired:~~

~~(A) By January 1 of the target year, megawatt-hours of eligible renewable resources and that those megawatt-hours were actually generated by December 31 of the target year.~~

~~(B) By January 1 of the target year, RECs produced during the target year, the year prior or the year subsequent to the target year; or~~

~~(C) Any combination of (a)(i)(A) and (B) of this subsection, in amounts sufficient to meet the percent of load target for the calendar year two years prior. Utilities may report shortfalls in expected generation from resources documented in (a)(i)(A) of this subsection and production of RECs documented in (a)(i)(B) of this subsection and may document that the shortfalls were offset by additional purchases of RECs or eligible renewable resources.~~

~~(ii) Documentation of the amount of megawatt-hours purchased or generated, the amount of RECs purchased and the names of the respective eligible renewable facilities that produced the associated power, specified by the year it was generated.~~

~~(b) The utility may, in addition, submit a copy of its fuel mix report, per chapter 19.29A RCW, for each target year.~~

~~(4) Resource cost reporting.~~

~~Each year that a utility does not meet the renewable energy target requirements in RCW 19.285.040, but meets the financial requirements in RCW 19.285.050, the utility shall include the following information in its June 1 report of that year:~~

~~(a) Its)) (2) **Incremental cost compliance method report.** Each utility reporting pursuant to subsection (1)(a) of this section its use of the incremental cost compliance method for the target year must include the following information in its report:~~

~~(a) Annual revenue requirement for the target year;~~

~~(b) The annual levelized delivered cost of its eligible renewable resource(s) reported separately for each resource;~~

~~(c) The annual levelized delivered cost of its substitute resources and the eligible renewable resource with which it is being compared;~~

~~(d) The total cost of renewable energy credits to be applied in the reporting year;~~

~~(e) The percentage of its annual revenue requirement invested in the incremental cost of eligible renewable resources and the cost of RECs; and~~

~~(f) The most current information required by WAC 194-37-160 used for this financial demonstration.~~

~~((5) Nonload growing utility reporting.~~

Each year that a utility does not meet the renewable energy target requirements in RCW 19.285.040 (2)(a), but meets the financial requirements in RCW 19.285.040 (2)(d), the utility shall report to the department each June 1 its:))

(3) No-growth cost compliance method report. Each utility reporting pursuant to subsection (1)(a) of this section its use of the no-growth cost compliance method for the target year must include the following information in its report:

(a) Annual revenue requirement for the target year;

(b) Actual and weather-adjusted load for each ((of the three years immediately prior to the target)) year used in determining that the utility's load did not increase;

(c) Delivered cost of its eligible renewable resource(s), RECs or a combination of both for the target year to be applied to the one percent of annual revenue requirement, reported separately for each resource;

(d) ~~((Quantity of megawatt-hours for each target year for which the utility:~~

(i) Commenced or renewed ownership of nonrenewable resources after December 7, 2006; or

(ii) ~~Made electricity purchases from nonrenewable energy resources, incremental to its annual electricity purchases made or contracted for prior to December 7, 2006. Sources of power for daily spot market purchases are not counted; and~~

(e) List of RECs that the utility acquired, in addition to any RECs purchased in (c) of this subsection, to offset nonrenewable purchases listed in (d) of this subsection.

~~(6) Reporting of uncontrollable events.)) Generating facility identification, vintage, quantity and cost of any RECs to be retired as an offset for nonrenewable resource purchases pursuant to RCW 19.285.040 (2)(d).~~

(4) Final compliance report. A utility must submit a final renewable compliance report by the later of (a) two years after the filing of the report required in subsections (1) through (3) of this section; or (b) ninety days after the issuance of the auditor's report for the target year. The final renewable compliance report must provide an update of any revisions to the information previously reported pursuant to this section or, if no revisions were made, notify the department that the initial report should be considered the final report. For any target year that a utility demonstrates to the auditor that it did not meet the annual renewable resource requirements in chapter 19.285 RCW due to events beyond the reasonable control of the utility per RCW 19.285.040 (2)(i), the utility ~~((shall))~~ must summarize these events in ~~((its June 1 report to the department immediately following the target year))~~ the final compliance report.

AMENDATORY SECTION (Amending WSR 14-04-015, filed 1/24/14, effective 2/24/14)

WAC 194-37-120 Documentation of ~~((renewable energy achievement))~~ use of eligible renewable resources and RECs for compliance. ~~((Each utility shall provide the auditor access to contracts indicating purchases of or documentation indicating ownership of RECs and/or megawatt-hours from eligible renewable/resources equal to or exceeding the annual percentage standard for the target year. The~~

megawatt-hours from owned eligible renewable resources count towards the percentage annual renewable energy target as long as the associated nonpower attributes, or RECs, if any have been created, are not owned by a separate entity or have not been used in an optional pricing program. A utility's power purchase contract, for eligible renewable resources, provides documentation for this section if the contract specifies that the nonpower attributes, or RECs if any have been created, associated with the power from the eligible renewable resources have been acquired by the utility. A utility using RECs to meet any of the requirements of chapter 19.285 RCW must document that the RECs have been retired pursuant to WREGIS procedures indicating the target year as the compliance period and Washington as the state program.

(1) Each utility that claims a 1.2 multiplier credit for the electricity output from an eligible renewable resource per RCW 19.285.040 (2)(h)(i) shall provide a copy of written documentation from the council that the facility met the apprenticeship labor standard of fifteen percent of the total labor hours used in its construction.

(2) A utility may provide a copy of documentation from the BPA indicating a quantity of power that BPA sold to the utility for the target year that was supplied by an eligible renewable resource.

(3) Each utility that claims a 2.0 multiplier credit for the electricity output from an eligible renewable resource per RCW 19.285.040 (2)(b) shall provide documentation that the REC applied in that year, associated with the distributed generation resource, is owned by the utility.

(4) To document the annual amount of power supplied by BPA from eligible renewable resources, the utility may rely on BPA's determination of the portion of its power supply provided by eligible renewable resources during a calendar year for which no RECs have been created, or if RECs have been created, that the RECs have been or will be retired. A utility may count any purchase of:

(a) Electricity from BPA that is generated by eligible renewable resources for which no RECs have been created, or if RECs have been created, for which the RECs have been or will be retired; or

(b) RECs from BPA generated by eligible renewable resources to meet all or any portion of its annual eligible renewable resource targets.)) A utility using an eligible renewable resource or REC for compliance with a requirement of chapter 19.285 RCW must document that use by following the procedures in this section.

(1) Documentation of energy from eligible renewable resources. Each utility using an eligible renewable resource for compliance must document the following for each resource:

(a) The electricity was generated by a generating facility that is an eligible renewable resource;

(b) The electricity was generated during the target year;

(c) If the utility sold, exchanged, or otherwise transferred the electricity to any person other than its retail customer, the utility retained ownership of the nonpower attributes; and

(d) The utility retired, consistent with the requirements of subsection (2) of this section, any RECs representing the nonpower attributes associated with the electricity or, if no RECs have been created, the utility has committed to use the

nonpower attributes exclusively for the compliance purpose stated in its documentation.

(2) **Documentation of renewable energy certificates.** Each utility using a REC for compliance must document the following:

(a) The REC represents the output of an eligible renewable resource;

(b) The vintage of the REC is the year immediately prior to the target year, the year of the target year, or the year immediately after the target year; and

(c) The utility has removed the REC from circulation by transferring the REC to a retirement subaccount of the utility within WREGIS using the following values in the certificate transfer:

(i) Retirement type: Used by the account holder for a state-regulated renewable portfolio standard/provincial utility portfolio standard;

(ii) State/province: Washington; and

(iii) Compliance year: Applicable target year.

AMENDATORY SECTION (Amending WSR 08-07-079, filed 3/18/08, effective 4/18/08)

WAC 194-37-130 Documentation of incremental hydropower. ~~((1) Utilities may count toward their annual renewable resource targets incremental power acquired from qualified incremental hydropower efficiency improvements made at the following facilities since 1999:~~

~~(a) Hydropower facilities in the Pacific Northwest owned by a qualifying utility where the new generation does not result in new water diversions or impoundments.~~

~~(b) Hydroelectric generation facilities in irrigation pipes and canals located in the Pacific Northwest, where the additional generation does not result in new water diversions or impoundments.~~

~~(2) The utility shall calculate renewable resource power from incremental hydropower as the increase in annual megawatt-hours of generation attributable to the qualified incremental hydropower efficiency improvements under average water generation.~~

~~(3) The increase in annual megawatt-hours of generation attributable to the qualified incremental hydropower efficiency improvements shall be documented by engineering studies or with before and after generation data. The documentation shall clearly explain:~~

~~(a) Where the facility is located;~~

~~(b) When the improvements were made;~~

~~(c) How the amount of generation in "average water generation" was calculated;~~

~~(d) What other factors may have caused an increase in electricity production and how the amount "attributable to the qualified improvements" was extracted from the total increase;~~

~~(e) How and why the "qualified improvements" increased hydropower production; and~~

~~(f) How the utility came to acquire the incremental output associated with the qualified improvements.)~~ (1) Each utility using electricity produced as a result of a hydropower efficiency improvement, as defined in RCW 19.285.030

(12)(b), to meet a renewable energy target must provide documentation that:

(a) The hydroelectric generation project is owned by a qualifying utility and is located in the Pacific Northwest;

(b) The hydropower efficiency improvement was completed after March 31, 1999; and

(c) The additional generation does not result in new water diversions or impoundments.

(2) If the amount of electricity generated as a result of the hydropower efficiency improvement is directly measurable, the utility must use the measured output of the hydropower efficiency improvement as documentation of the amount of additional generation.

(3)(a) If the amount of electricity generated as a result of the hydropower efficiency improvements is not directly measurable, the utility must document the amount of electricity generated as a result of the hydropower efficiency improvement using an engineering analysis comparing the output in megawatt-hours of the hydroelectric generation project with the efficiency improvement to the output in megawatt-hours of the hydroelectric generation project without the efficiency improvement. Multiple efficiency improvements to a single hydroelectric generation project may be combined for purposes of the engineering analysis.

(b) The engineering analysis required by (a) of this subsection must be performed using an engineering model of the hydroelectric generation project that quantifies the relationship of stream flows, reservoir elevation, and other relevant factors to the electric output of the generating facility. The engineering model must accurately reflect the physical characteristics and operating requirements of the hydroelectric generation project during the target year and must accurately estimate the electric generation of the hydroelectric generation project without and with the hydropower efficiency improvement.

(c) A utility using the engineering analysis method to determine incremental generation must adopt and consistently apply in each target year one of the following methods:

(i) **Method one - Actual incremental generation.** A utility using this method must prepare an analysis using actual stream flows and the engineering model described in (b) of this subsection during each target year to determine incremental generation in the target year. A utility using this method must perform an updated calculation each year to determine the incremental generation amount for that target year.

(ii) **Method two - Percentage generation.**

(A) A utility using method two must prepare an analysis establishing the expected amount of incremental generation based on stream flows available to the hydroelectric generation project, adjusted for any known and measurable changes to stream flows due to environmental regulations or other factors, during a historical study period.

(B) The historical study period used in method two must be reasonably representative of the stream flows that would have been available to the hydroelectric project over the period of time for which stream flow records are readily available. A historical study period meets the requirements of this subsection if it includes the most recent readily available

stream flow records and consists of a consecutive record of stream flow records at least five years in length.

(C) The amount of incremental generation using method two is calculated by multiplying the actual generation in megawatt-hours in the target year by a percentage amount equal to the difference between the calculated average generation over the historical study period with the hydropower efficiency improvement and the calculated average generation over the historical study period without the hydropower efficiency improvement, divided by the calculated average generation over the historical study period without the hydropower efficiency improvement.

(iii) Method three - Fixed amount of generation.

(A) A utility using method three must prepare an analysis establishing the expected amount of incremental generation based on stream flows available to the hydroelectric generation project, adjusted for any known and measurable changes to stream flows due to environmental regulations or other factors during a historical study period.

(B) The historical study period used in method three must be reasonably representative of the stream flows that would have been available to the hydroelectric project over the period of time for which stream flow records are readily available. A historical study period meets the requirements of this subsection if it includes the most recent readily available stream flow records and consists of a consecutive record of stream flow records at least ten years in length.

(C) The amount of incremental generation using method three is calculated as an amount in megawatt-hours equal to the difference between the calculated average generation over the historical study period with the hydropower efficiency improvement and the calculated average generation over the historical study period without the hydropower efficiency improvement. The amount must be adjusted in each target year for any reduction in availability of the hydroelectric generation project's generating capacity during the target year that is not accounted for in the analysis used to calculate the incremental generation amount.

(4) The requirements of this section are in addition to the documentation requirements specified in WAC 194-37-120(1).

NEW SECTION

WAC 194-37-136 Documentation of apprentice labor and distributed generation multipliers. (1) **Apprentice labor credit.** A utility claiming an additional credit for the electricity output from an eligible renewable resource per RCW 19.285.040 (2)(h)(i) must document that the facility commenced operation after December 31, 2005, and must provide written documentation from the Washington state apprenticeship and training council within the department of labor and industries that the facility qualified for the apprentice labor credit.

(2) **Distributed generation credit.** A utility claiming an additional credit for distributed generation pursuant to RCW 19.285.040 (2)(b) must meet the following requirements:

(a) The utility may claim a distributed generation credit only if the generating facility is registered in WREGIS and

the utility retires all RECs associated with its distributed generation claim.

(b) In determining whether a generating facility has a generating capacity of not more than five megawatts, the capacity of the generating facility will be based on its nameplate rating measured in alternating current.

(c) In determining whether a generating facility is eligible for the distributed generation credit, the generating capacity of the generating facility will be based on the aggregate generating capacity of the generating facility and all other generating facilities in the same integrated cluster. An integrated cluster of generating facilities consists of all generating facilities that:

(i) Are located on the same or contiguous property. In determining whether properties are contiguous, interruptions in contiguity caused by easements, public thoroughfares, transportation rights of way, or utility rights of way must be disregarded; and

(ii) Have any of the following elements in common:

(A) Ownership. Each person with more than five percent beneficial ownership, other than tax equity owners, will be considered an owner for purposes of determining common ownership of generating facilities;

(B) Operational control; or

(C) Interconnection. Generating facilities have common interconnection if they have the same point of common coupling with the area electric power system.

AMENDATORY SECTION (Amending WSR 14-04-015, filed 1/24/14, effective 2/24/14)

WAC 194-37-210 Renewable energy credit tracking system. (1) WREGIS is the renewable energy credit tracking system for purposes of verification of RECs under chapter 19.285 RCW.

(2) Upon request by a utility, the department may approve a special purpose renewable energy credit tracking system for the generation of any specific generating facility acquired through ownership or contract by a utility prior to January 1, 2015, if the utility certifies that it would be impractical or financially burdensome to track the generation of the facility using WREGIS. The approval of a special purpose tracking system may include limitations or conditions on the transfer of RECs. All references to WREGIS in this chapter include such approved special purpose tracking systems.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 194-37-090 Additional documentation of efficiency from distribution system loss reduction improvements, including peak demand management and voltage regulation.

WAC 194-37-100 Additional documentation of improved efficiency from production facilities.

WSR 15-02-077
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed January 7, 2015, 9:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-23-066.

Title of Rule and Other Identifying Information: Chapter 308-20 WAC, Cosmetology, barber, manicurist, esthetician rules.

Hearing Location(s): Department of Licensing, Business and Professions Division, Building 2, Conference Room 2105, 405 Black Lake Boulevard S.W., Olympia, WA 98502, on February 10, 2015, at 10:30 a.m.

Date of Intended Adoption: February 11, 2015.

Submit Written Comments to: Cameron Dalmas, Department of Licensing, Cosmetology Program, P.O. Box 9026, Olympia, WA 98507, e-mail plessunit@dol.wa.gov, fax (360) 664-6643, by February 9, 2015.

Assistance for Persons with Disabilities: Contact Cameron Dalmas by February 9, 2015, TTY (360) 664-0116 or (360) 664-6643.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department will amend chapter 308-20 WAC to add language from Interpretive Statement-COS1, regarding the practice of natural hair braiding. This will define that natural hair braiding does not meet the requirements as set forth in chapter 18.16 RCW.

See New Section below.

Reasons Supporting Proposal: The department will formally adopt the definition as identified in Interpretive Statement-COS1 to clarify natural hair braiding does not meet the requirements as set forth in chapter 18.16 RCW. The department has worked with stakeholders who support adopting Interpretive Statement-COS1 into rule.

Statutory Authority for Adoption: RCW 18.145.050, 43.24.023.

Statute Being Implemented: Chapter 18.16 RCW.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Susan Colard, Administrator, 405 Black Lake Boulevard S.W., Olympia, WA 98502, (360) 664-6647.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules are exempt under RCW 34.05.310 (4)(g)(ii).

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this proposed rule under the provisions of RCW 34.05.328 (5)(a)(i).

January 7, 2015
 Damon Monroe
 Rules Coordinator

NEW SECTION

WAC 308-20-025 Natural hair braiding—Exemption. Nothing in chapter 18.16 RCW or 308-20 WAC prohibits or restricts the practice of natural hair braiding. Natural hair braiding does not include hair cutting, application of dyes, reactive chemicals or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair. Natural hair braiding may involve the use of hair extensions when the extensions are attached only by natural means.

WSR 15-02-080
PROPOSED RULES
LIQUOR CONTROL BOARD

[Filed January 7, 2015, 11:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-11-104.

Title of Rule and Other Identifying Information: WAC 314-02-130 What types of changes to a licensed premises require board approval?

Hearing Location(s): Washington State Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA 98504, on February 11, 2015, at 10:00 a.m.

Date of Intended Adoption: February 18, 2015.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504, e-mail rules@liq.wa.gov, fax (360) 664-9689, by February 11, 2015.

Assistance for Persons with Disabilities: Contact Karen McCall by February 11, 2015, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is a result of a stakeholder petition for rule making. This rule making would allow an exception with specific requirements to the forty-two inch barrier required to enclose outside service areas at liquor licensed premises.

Reasons Supporting Proposal: The proposed rule will provide clarity to local jurisdictions and liquor licensees on requirements that must be followed if an exception to barriers enclosing outside service areas is requested.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.010.

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

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

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; Implementation: Randy Simmons, Deputy Director, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1671; and Enforcement: Justin Nordhorn, Chief Enforcement, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not required.

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

January 7, 2015
Sharon Foster
Chairman

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

WAC 314-02-130 What types of changes to a licensed premises require board approval? The following changes to a licensed premises require prior board approval, by submitting a form provided by the board's licensing and regulation division:

Type of alteration	Approval process and timeline
<p>(1)</p> <ul style="list-style-type: none"> • <u>Excluding</u> persons under twenty-one years of age from a spirits, beer, and wine restaurant or a spirits, beer, and wine nightclub; • <u>Excluding</u> persons under twenty-one years of age from the dining area of a beer and/or wine restaurant; • <u>Reclassifying</u> a lounge as open to persons under twenty-one years of age; • <u>Extending</u> the location of alcohol service, such as a beer garden or patio/deck service (areas must be enclosed with a barrier a minimum of forty-two inches in height); • <u>Initiating</u> room service in a hotel or motel when the restaurant is not connected to the hotel or motel; 	<p>(a) The board's licensing and regulation division will make initial contact on the request for alteration within five business days.</p> <p>(b) The licensee may begin liquor service in conjunction with the alteration as soon as approval is received.</p> <p>(c) Board approval will be based on the alteration meeting the requirements outlined in this title.</p>
<p>(2)</p> <ul style="list-style-type: none"> • <u>Any</u> alteration that affects the size of a premises' customer service area. 	<p>(a) The board's licensing and regulation division will make an initial response on the licensee's request for alteration within five business days.</p> <p>(b) The licensee must contact their local liquor control agent when the alteration is completed.</p>

Type of alteration	Approval process and timeline
	<p>(c) The licensee may begin liquor service in conjunction with the alteration after the completed alteration is inspected by the liquor control agent.</p> <p>(d) Board approval will be based on the alteration meeting the requirements outlined in this title.</p>

(3) For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a forty-two inch barrier or permanent demarcation of the designated alcohol serving areas for continued enforcement of the boundaries.

(a) The permanent demarcation must be at all boundaries of the outside service area:

(b) The permanent demarcation must be at least six inches in diameter:

(c) The permanent demarcation must be placed at a minimum of ten feet apart.

(4) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.

(5) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point.

(6) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.

WSR 15-02-081
PROPOSED RULES
LIQUOR CONTROL BOARD

[Filed January 7, 2015, 11:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-21-183.

Title of Rule and Other Identifying Information: WAC 314-02-106 What is a spirits retailer license?

Hearing Location(s): Washington State Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA 98504, on February 11, 2015, at 10:00 a.m.

Date of Intended Adoption: February 18, 2015.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504, e-mail rules@liq.wa.gov, fax (360) 664-9689, by February 11, 2015.

Assistance for Persons with Disabilities: Contact Karen McCall by February 11, 2015, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making

is a result of a stakeholder request to revise the rule on spirits sampling to allow spirits to be altered with mixers.

Reasons Supporting Proposal: There is no public safety risk by allowing spirits samples to be altered with mixers in addition to ice and/or water.

Statutory Authority for Adoption: RCW 66.24.670, 66.08.030.

Statute Being Implemented: RCW 66.24.670.

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

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

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; Implementation: Randy Simmons, Deputy Director, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1671; and Enforcement: Justin Nordhorn, Chief Enforcement, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not required.

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

January 7, 2015
Sharon Foster
Chairman

AMENDATORY SECTION (Amending WSR 14-02-001, filed 12/18/13, effective 1/18/14)

WAC 314-02-106 What is a spirits retailer license?

(1) A spirits retailer licensee may not sell spirits under this license until June 1, 2012. A spirits retailer is a retail license. The holder of a spirits retailer license is allowed to:

- (a) Sell spirits in original containers to consumers for off-premises consumption;
- (b) Sell spirits in original containers to permit holders (see chapter 66.20 RCW);
- (c) Sell spirits in original containers to on-premises liquor retailers, for resale at their licensed premises, although no single sale may exceed twenty-four liters, and single sales to an on-premises licensee are limited to one per day; and
- (d) Export spirits in original containers.

(2) A spirits retailer licensee that intends to sell to another retailer must possess a basic permit under the Federal Alcohol Administration Act. This permit must provide for purchasing distilled spirits for resale at wholesale. A copy of the federal basic permit must be submitted to the board. A federal basic permit is required for each location from which the spirits retailer licensee plans to sell to another retailer.

(3) A sale by a spirits retailer licensee is a retail sale only if not for resale to an on-premises spirits retailer. On-premises retail licensees that purchase spirits from a spirits retailer licensee must abide by RCW 66.24.630.

(4) A spirits retail licensee must pay to the board seventeen percent of all spirits sales. The first payment is due to the board October 1, 2012, for sales from June 1, 2012, to June 30, 2012 (see WAC 314-02-109 for quarterly reporting requirements).

Reporting of spirits sales and payment of fees must be submitted on forms provided by the board.

(5) A spirits retail licensee may apply for a spirits sampling endorsement to conduct spirits sampling if they meet the following criteria:

- (a) Be a participant in the responsible vendor program;
- (b) Advertising:

(i) For spirits retail licensees that also hold a grocery store license, signs advertising spirits samplings may not be placed in the windows or outside of the premises that can be viewed from the public right of way;

(ii) For spirits retail licensees that also hold a beer/wine specialty store license, advertising of spirits sampling may be advertised but not state that sampling is free of charge.

(c) Spirits samplings are to be conducted in the following manner:

(i) Spirits samplings service area and facilities must be located within the licensee's fully enclosed retail area and must be of a size and design that the licensee can observe and control persons in the area.

(ii) The licensee must provide a sketch of the sampling area. Fixed or moveable barriers are required around the sampling area to ensure that persons under twenty-one years of age and apparently intoxicated persons cannot possess or consume alcohol. The sketch is to be included with the application for the spirits sampling endorsement.

(iii) Each sample may be no more than one-half ounce of spirits, and no more than a total of one and one-half ounces of spirits samples per person during any one visit to the premises. Spirits samples (~~must be unaltered~~) may be altered with mixers, water, and/or ice.

(iv) The licensee must have food available for the sampling participants.

(v) Customers must remain in the service area while consuming samples.

(vi) All employees serving spirits during sampling events must hold a class 12 server permit.

(vii) There must be at least two employees on duty when conducting spirits sampling events.

(viii) Spirits sampling activities are subject to RCW 66.28.305 and 66.28.040.

(d) Licensees are required to send a list of scheduled spirits samplings to their regional enforcement office at the beginning of each month. The date and time for each sampling must be included.

(6) The annual fee for a spirits retail license is one hundred sixty-six dollars.