



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

**Agency:** Washington Horse Racing Commission

- Preproposal Statement of Inquiry was filed as WSR 12-17-062 ; or
- Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

**Title of rule and other identifying information:** (Describe Subject) WAC 260-70-545 Prohibited practices and WAC 260-84-130 Penalties for prohibited practices.

**Hearing location(s):**  
Auburn City Council Chambers  
25 W. Main  
Auburn, WA 98002

Date: January 11, 2013 Time: 9:30 a.m.

**Submit written comments to:**  
Name: Douglas L Moore  
Address: 6326 Martin Way Suite 209  
Olympia, WA 98516-5578  
e-mail [doug.moore@whrc.state.wa.us](mailto:doug.moore@whrc.state.wa.us)  
fax (360) 459-6461 by (date) January 8, 2013

**Assistance for persons with disabilities:** Contact  
Patty Sorby by January 8, 2013  
TTY (360) 459-6462 or ( ) \_\_\_\_\_

**Date of intended adoption:** January 11, 2013  
(Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Adopts recommended language regarding the use and reporting of any practicing veterinarian and training when using shock wave therapy on a race horse.

**Reasons supporting proposal:** Strengthens the reporting and posting on any race horse in which shock wave therapy has been applied, restricting the time following use when a horse may be entered and changing the penalties associated with violations.

**Statutory authority for adoption:** RCW 67.16.020

**Statute being implemented:**

- Is rule necessary because of a:**
- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:

**DATE**  
11/28/2012

**NAME** (type or print)  
Douglas L Moore

**SIGNATURE** *Douglas L Moore*

**TITLE**  
Deputy Secretary

### CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** November 28, 2012  
**TIME:** 9:25 AM

**WSR 12-24-024**

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization)

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Douglas L Moore	6326 Martin Way Suite 209 Olympia, WA 98516-5578	(360) 459-6462
Implementation.... Robert J Lopez	6326 Martin Way Suite 209 Olympia, WA 98516-5578	(360) 459-6462
Enforcement..... Robert J Lopez	6326 Martin Way Suite 209 Olympia, WA 98516-5578	(360) 459-6462

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No. Explain why no statement was prepared. Not applicable

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No: Please explain: Not applicable

AMENDATORY SECTION (Amending WSR 07-07-036, filed 3/12/07, effective 4/12/07)

**WAC 260-70-545 Prohibited practices.** The following are prohibited practices:

(1) The possession or use of any drug, substance, or medication if the use may endanger the health or welfare of the horse or endanger the safety of the rider, or which may adversely affect the integrity of racing; or

(2) The possession or use of a drug or medication on the premises of a facility under the jurisdiction of the commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in human or animal, or any substance forbidden by an official veterinarian.

(3) The possession and/or use of blood doping agents(~~(7)~~) including, but not limited to, those listed below, on the premises of a facility under the jurisdiction of the commission:

- (a) Erythropoietin;
- (b) (~~Erythropoietin~~) Darbepoetin;
- (c) Oxyglobin; and
- (d) Hemopure.

(4) Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy unless the following conditions are met:

(a) Any treated horse may not race or train for a minimum of ten days following treatment;

(b) Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines may only be used by veterinarians licensed by the commission and only approved machines at a previously disclosed location may be used;

(c) The practicing veterinarian has filed a report with an official veterinarian notifying the commission that an Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machine is on association grounds;

(d) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments are reported to an official veterinarian on the prescribed form not later than twenty-four hours after treatment.

The horse will be added to a list of ineligible horses. This list will be kept in the race office and be posted in an accessible location.

(5) The use of a (~~naso-gastric~~) nasogastric tube (a tube longer than six inches) for the administration of any substance within twenty-four hours prior to the post time of the race in which the horse is entered and without the prior approval of an official veterinarian.

AMENDATORY SECTION (Amending WSR 11-03-053, filed 1/14/11, effective 2/14/11)

**WAC 260-84-130 Penalties for prohibited practices.** For a person or persons found to be responsible for violation of WAC 260-70-545, including the treating veterinarian, the following penalties will be assessed:

- (1) For violations of WAC 260-70-545, except WAC 260-70-545 (4) (b) ~~((7))~~.
  - (a) For first offense - Thirty day suspension and \$1,000 fine;
  - (b) For second offense - Sixty day suspension and \$2,000 fine;
  - (c) For third offense - One year suspension, \$2,500 fine; and
  - (d) For subsequent offense(s) - Revocation of license and a \$2500 fine.
- (2) For violations of WAC 260-70-545 (4) (a), the person or persons found to be responsible for the violation, including the treating veterinarian a \$2,500 fine and ~~((revocation of license))~~ a minimum of a one-year suspension.