



PROPOSED RULE MAKING

CR-102 (December 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 23, 2020

TIME: 8:33 AM

WSR 20-16-014

Agency: Washington Horse Racing Commission

X Original Notice

☐ Supplemental Notice to WSR _____

☐ Continuance of WSR _____

X Preproposal Statement of Inquiry was filed as WSR 20-11-023 ; 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); or

☐ Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) WAC 260-49-070 Distribution of Source Market Fees

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 11, 2020	9:30 a.m.	Video Conference via Zoom or Auburn City Council Chambers 25 West Main, Auburn, WA 98002	Dependent on gathering limits, method of meeting will be determined at a later date and posted on www.whrc.wa.gov

Date of intended adoption: September 11, 2020 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Douglas L Moore

Address: 6326 Martin Way Suite 209 Olympia, WA 98516

Email: doug.moore@whrc.state.wa.us

Fax: 360-549-6461

Other:

By (date) September 4, 2020

Assistance for persons with disabilities:

Contact Melanie Bowdish

Phone: 360-459-6462

Fax: 360-459-6461

TTY:

Email: melanie.bowdish@whrc.state.wa.us

Other:

By (date) September 4, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To stabilize the WHRC operating account by increasing the percentage of the SMF received until other funding is obtained..

Reasons supporting proposal: With the COVID-19 pandemic and the closure of OTB's and Emerald Downs for live in-State wagering from March to June, WHRC revenue has decreased substantially, while expenses remain consistent. On-line wagering thorough the Advance Deposit Wagering firms has increased greatly but the WHRC does not receive any revenue from out of State residents who wager on Emerald Downs. In order to maintain a fund balance required by OFM, the WHRC must increase in revenue to protect its ability to remain in operation therefore allowing live racing and simulcasting to continue.

Statutory authority for adoption: 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:

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	360-459-6462
Implementation:	Douglas L Moore	6326 Martin Way Suite 209 Olympia WA 98516	360-459-6462
Enforcement:	Douglas L Moore	6326 Martin Way Suite 209 Olympia WA 98516	360-459-6462

Is a school district fiscal impact statement required under RCW 28A.305.135?

☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

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:

TTY:

Email:

Other:

☒ No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

☐ RCW 34.05.310 (4)(b)
(Internal government operations)

☐ RCW 34.05.310 (4)(c)
(Incorporation by reference)

☐ RCW 34.05.310 (4)(d)
(Correct or clarify language)

☐ RCW 34.05.310 (4)(e)
(Dictated by statute)

☐ RCW 34.05.310 (4)(f)
(Set or adjust fees)

☐ RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☐ This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

X No Briefly summarize the agency's analysis showing how costs were calculated. Not business related

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Date: July 23, 2020

Name: Douglas L Moore

Title: Executive Secretary

Signature:



WAC 260-49-070 Distribution of source market fee. (1) A source market fee shall be paid monthly, unless otherwise directed by the commission, for the source market fee area on all accounts that have Washington as the principal residence address.

(2) The authorized advance deposit wagering service provider shall, at least monthly, unless otherwise directed by the commission, distribute the total source market fee as follows:

(a) Ninety percent of the total source market fee directly to the class 1 racing association and the remaining ten percent directly to the commission.

(b) The class 1 racing association shall ~~((distribute))~~ submit monthly two and one-half percent of the total source market fee to the commission to be deposited into the Washington bred owners' bonus fund ~~((and)).~~

(c) The class 1 racing association shall distribute two and one-half percent of the total source market fee to the Washington bred breeder award account as provided in RCW 67.16.175.

~~((e)))~~ (d) The class 1 racing association and the recognized horsemen's organization shall negotiate a separate agreement for contributions to the purse account from the source market fee and submit the agreement for review and approval by the commission. The class 1 racing association shall distribute the horsemen's share of the source market fee in accordance with the horseman's agreement.

~~((d) The commission shall distribute two and one-half percent of the total source market fee to the Washington bred owners' bonus fund and breeder award account and seven and one-half percent of the total source market fee to the commission's operating account.))~~

(3) The commission shall annually review the distribution of the source market fee. Any changes to the distribution shall be adopted by rule.