



# PROPOSED RULE MAKING

**CR-102 (July 2022)**  
**(Implements RCW 34.05.320)**  
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: April 18, 2023

TIME: 12:22 PM

WSR 23-09-060

**Agency:** Washington Horse Racing Commission

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

- Preproposal Statement of Inquiry was filed as WSR 23-01-002 ; 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:
May 23, 2023	9:30 a.m.	Via Zoom teleconference	Link will be available at <a href="http://www.whrc.wa.gov">www.whrc.wa.gov</a> prior to hearing

**Date of intended adoption:** May 23, 2023 (Note: This is **NOT** the effective date)

**Submit written comments to:**

Name: Amanda Benton  
 Address: 6326 Martin Way, Suite 209, Olympia, WA 98516  
 Email: [Amanda.benton@whrc.wa.gov](mailto:Amanda.benton@whrc.wa.gov)  
 Fax: 360-459-6461  
 Other:  
 By (date) May 10, 2023

**Assistance for persons with disabilities:**

Contact Melanie Bowdish  
 Phone: 360-459-6462  
 Fax: 360-459-6461  
 TTY:  
 Email: [melanie.bowdish@whrc.wa.gov](mailto:melanie.bowdish@whrc.wa.gov)  
 Other:  
 By (date) May 10, 2023

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The WHRC may need to adjust the SMF distribution to reflect a change in duties performed by commission employees if a voluntary agreement with the Horseracing Industry Safety Authority (HISA) and/or the Horseracing Industry Welfare Unit (HIWU) is not signed.

**Reasons supporting proposal:** If the WHRC does not sign a voluntary agreement with HISA/HIWU some duties previously carried out by employees of the commission will be performed by employees of HISA/HIWU and the commission cannot collect fees for duties no longer performed by the WHRC.

**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:**

**Type of proponent:**  Private  Public  Governmental

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

Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Amanda Benton	6326 Martin Way, Suite 209, Olympia, WA 98516	360-459-6462
Implementation:	Amanda Benton	6326 Martin Way, Suite 209, Olympia, WA 98516	360-459-6462
Enforcement:	Amanda Benton	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 and Small Business Economic Impact Statement**  
 Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

**(1) Identification of exemptions:**  
 This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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:

<input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(b) (Internal government operations)	<input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e) (Dictated by statute)
<input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c) (Incorporation by reference)	<input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f) (Set or adjust fees)
<input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d) (Correct or clarify language)	<input type="checkbox"/> <a href="#">RCW 34.05.310</a> (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 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_\_.

Explanation of how the above exemption(s) applies to the proposed rule:

**(2) Scope of exemptions:** *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

**(3) Small business economic impact statement:** *Complete this section if any portion is not exempt.*

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

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. 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 the required small business economic impact 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:** April 18, 2023

**Name:** Amanda Benton

**Title:** Executive Secretary

**Signature:**



AMENDATORY SECTION (Amending WSR 22-24-110, filed 12/7/22, effective 1/7/23)

**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) One hundred percent of the total source market fee directly to the class 1 racing association.

(b) The class 1 racing association shall submit monthly (~~(12.5)~~) 2.5 percent of the total source market fee to the commission of which (~~(two and one-half)~~) 2.5 percent to be deposited into the Washington bred owners' bonus fund and (~~(10)~~) zero percent to be deposited into the commission's operating account.

(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.

(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.

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