



PROPOSED RULE MAKING

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

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STATE OF WASHINGTON
FILED

DATE: January 15, 2019

TIME: 9:10 AM

WSR 19-03-093

Agency: Washington State Arts Commission

Original Notice

Supplemental Notice to WSR ____

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 18-23-055 ; 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 30-01-055 Responsibilities; WAC 30-02-010 Definitions; WAC 30-12-015 Grants and WAC 30-12-030 Panels.

Hearing location(s):

Date: **Time:** **Location:** (be specific) **Comment:**

March 6, 2019 11:30 am 711 Capitol Way S., Suite 600,
01 m ia, WA 98504

Date of intended adoption: 3/6/19 (Note: This is NOT the effective date)

Submit written comments to:

Name: Terry J. West

Address: 711 Capitol Way South, Suite 600, Olympia, WA 98504

Email: terry.west@arts.wa.gov

Fax: 360 586-5351

Other:

By (date) March 5, 2019 by Noon.

Assistance for persons with disabilities:

Contact Terry J. West

Phone: (360) 586-5350

Fax: (360) 586-5351

TTY:

Email: terry.west@arts.wa.gov

Other:

By (date) March 5, 2019 by Noon.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Update grant rules and definitions to reflect current processes and ensure the rules are easy to understand and follow.

Reasons supporting proposal: A public rules writing workshop was held January 10, 2019. No public comment was received.

Statutory authority for adoption: RCW 43.46.040

Statute being implemented: RCW 43.46.040

Is rule necessary because of a:

Federal Law?	D Yes	fZI No
Federal Court Decision?	D Yes	No
State Court Decision?	D Yes	No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: Minor amendments imposing no additional cost to businesses and clarifying language making these rules easier to understand.

Name of proponent: (person or organization) Washington State Arts Commission

D Private
D Public
Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Terry J. West	711 Capitol Way S, Suite 600, Olympia, 98504	(360) 586-5350
Implementation:	Terry J. West	711 Capitol Way S, Suite 600, Olympia, 98504	(360) 586-5350
Enforcement:	Terry J. West	711 Capitol Way S, Suite 600, Olympia, 98504	(360) 586-5350

Is a school district fiscal impact statement required under RCW 28A.305.135? D Yes 181 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?

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

Name:
Address:
Phone:
Fax:
TTY:
E mail:
Other:

No: Please explain: A cost-benefit analysis is not required under RCW 34.05.328 as the Washington State Arts Commission is not listed under the statute as required to prepare a cost-benefit analysis. The rules being amended are not considered significant rule changes.

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 19.85.030.

Explanation of exemptions, if necessary: A small business economic impact statement is not required under chapter 19.85.030 RCW because there are not more than minor costs to businesses in order to comply with these minor amendments.

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?

No Briefly summarize the agency's analysis showing how costs were calculated. ____

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: January 15, 2019	Signature: 
Name: Karen Hanan	
Title: Executive Director	

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-01-055 Responsibilities. (1) Board responsibilities.

(a) Approves the commission budget each fiscal year and biennium;
(b) Approves the commission's strategic plan and goals each biennium;

(c) Approves all grants, except when ((such authority is specifically delegated to)) the executive director has been delegated approval authority;

(d) Approves changes to rosters, as specified in these rules;

(e) Fulfills other responsibilities as established in Title 30 WAC; and

(f) May delegate specific responsibilities to the executive director.

(g) Officers of the board serve as specified in WAC 30-08-080 (Board officers and committees).

(2) Executive director responsibilities.

(a) Manages the agency;

(b) Approves and signs contracts;

(c) Acts as official spokesperson for the commission;

(d) Fulfills other responsibilities as established in Title 30 WAC and as otherwise determined by the board; and

(e) May delegate specific responsibilities to staff.

(3) Staff responsibilities.

Under the direction of the executive director, staff develop and implement the commission's strategic plan, budget, and programs. Staff have the authority to:

(a) Manage and develop programs, and pilot programs, including development of application forms, guidelines, and review criteria, and convene and manage panels to review applications ((7)) and nominations (, and staff recommendations);

(b) Define and publish definitions in addition to those in chapter 30-02 WAC (Definitions), as necessary to implement commission programs;

(c) Negotiate, prepare, and administer contracts; and

(d) Fulfill other responsibilities as established in Title 30 WAC and otherwise as determined by the executive director

WAC 30-12-015 Grants. (1) The commission provides grants through a competitive process to organizations or individuals for the purpose of developing, sponsoring, and promoting the growth and development of the arts and arts education in the state of Washington.

(2) ((Application cycles, forms, guidelines, eligibility requirements, and review criteria are established and published by staff.

(3) The application process is managed pursuant to)) Staff create and publish applications, application cycles, forms and documents, guidelines, eligibility requirements, review criteria, and select review panelists.

(3) Staff manage the application process. Panelists evaluate and score applications and offer recommendations to the board. See also WAC 30-12-017 (Applications) and ((applications are reviewed by a panel pursuant to)) WAC 30-12-030 (Panels).

(4) The board reviews panel recommendations and approves grants, except as noted below.

(a) The executive director may approve grants ((which)) that do not exceed three thousand dollars. ((Such actions are reviewed and ratified)) Grants approved by the executive director are subject to ratification by the board at the next board meeting ((of the board)).

(b) The board may delegate to the executive director approval of grants ((which)) that exceed three thousand dollars. ((Such actions are reviewed and ratified at the next meeting of the board.)) Grants approved by the executive director are subject to ratification by the board at the next board meeting.

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-12-030 Panels. (1) ((Panels are convened by staff and are authorized to serve by the executive director.)) Staff convenes panels. The executive director authorizes panels to serve.

(2) Panels may include members of the public, commissioners, and staff and will be three to seven members.

(a) ((Panelists are selected in order to achieve a balance of relevant expertise, and representation of diverse geographic and cultural communities, as appropriate to the program and review criteria.

(b) Panel members may be reimbursed for their services and/or their travel expenses. Commissioners and staff are not reimbursed for their panel services, but may be reimbursed for their travel expenses. Selected panelists will represent a balance of expertise, demographic composition, and diverse cultural communities.

(b) Reimbursement for members of the public who serve as panelists may include a stipend and/or travel and lodging expenses. Reimbursement for commissioners who serve as panelists may include travel and lodging expenses. Staff are not compensated for panel service.

(3) Staff provide panel members an orientation ((, including)) that includes conflict of interest rules pursuant to WAC 30-12-035 (Conflict of interest in panels and program committees).

(4) Panel members (are instructed to apply their critical judgment and expertise to) evaluate applications (of nominations, or staff) and nominations objectively, using critical judgment and expertise, and making final recommendations based on the published review criteria.

(5) The record of the panel process includes (a) the names and qualifications of the panel members; panel orientation materials; declared conflicts of interest or recusals; scoring (sheets) records; and the panel's recommendations (to the board).

(6) Panels may refrain from scoring an application (or nomination, or staff reoffitment) if they find there is insufficient information (in the material under review) to make a fair and objective recommendation.

(7) All panel recommendations are subject to the review and approval or ratification of the board.

AMENDATORY SECTION (Amending WSR 18-08-043, filed 3/28/18, effective 4/28/18)

WAC 30-02-010 Definitions. The following definitions shall apply throughout Title 30 WAC:

"Accession" means to formally acquire a work of art for the state art collection, including the action of assigning an accession or control number to the work of art.

"Appeal procedure" means the procedure as established in WAC 30-12-036 (Request for review of denied applications) whereby an applicant may request a review of a denied application.

"Application form" means (~~(-t-fl-e)~~) printed, electronic, or web-based forms created and published by staff ((to be used in)) and used by the public to apply to commission program applications.

"Application guidelines" means the published document that provides the public with information on how to apply for commission programs, including eligibility requirements, review criteria used to evaluate and score applications, deadlines, timelines, and information on the appeal procedure. ((Application guidelines may be)) published in ((a printed format)) print and/or ((t-a)) electronic format, guidelines are accessible through the commission's web site.

"Art advisory committee" means a committee formed by staff and a partner agency to develop plans and overall project specifications, and to make funding allocation decisions related to the state art collection.

"Art in public places program" means the visual art program of the commission established by the legislature in RCW 43.46.090 to acquire works of art and to develop, administer, and manage the state art collection.

"Art selection committee" means a committee formed by a partner agency, and approved by staff, to review and select artists to create works of art for the state art collection, or to review and select works of art for or from the state art collection, through a process facilitated by staff.

"Artistic disciplines" means dance, design, folk and traditional arts, media arts, music, literature, theater, visual arts, and interdisciplinary arts.

"Artistic excellence" means evidence of some or all of the following: Mastery of skills and techniques, communication of unique vision or perspective, professional approaches to process and presentation. Additionally, for groups and organizations, includes the contribution the artistic work(s) make to the development of the artists involved, the art form and the arts generally; or for services delivered, the contribution the services make to the development of a vibrant arts and cultural community in the state.

"Arts professional" means an individual who has professional work experience in the arts or an arts-related field.

"Board" means the board of commissioners, consisting of nineteen members appointed by the governor and four members of the legislature appointed to the Washington state arts commission pursuant to RCW 43.46.015.

"Chair" means the chair of the board, elected pursuant to WAC 30-08-050 and fulfilling duties as established in Title 30 WAC.

"Collections management" means the ongoing care, preservation, and maintenance of the state art collection, including activities such

as the management of conservation, restoration, deaccession, documentation, inventory, labeling, loans, and resiting of works of art.

"Commission" means the collective entity of the Washington state arts commission, including the board, executive director, and staff.

"Commissioner" means an individual appointed to the board of the Washington state arts commission.

"Conservation" means treatment of malfunctioning or damaged works of art for the purpose of bringing them to a stable condition so that future routine and special maintenance can be effective. Conservation-related activities may also include examination and documentation.

"Creative district" means a land area designated by a local government in accordance with RCW 43.46.1U that contains either a hub of cultural facilities, creative industries, or arts-related businesses, or multiple vacant properties in close proximity that would be suitable for redevelopment as a creative district.

"Curator" means a qualified visual arts professional with past curatorial experience selected to recommend works of art for acquisition to the state art collection.

"Deaccession" means board action to remove an accessioned work of art from the state art collection.

"Disability" is defined in RCW 49.60.040(7)

"Eligibility requirements" means published standards (by which applications are reviewed to determine if they meet the minimum required qualifications to apply for a commission program) and/or minimum required qualifications which applicants and/or applications must meet in order for their application to be considered by the panel.

"Executive director" means that person employed pursuant to RCW 43.46.045 to carry out the functions of that chapter and Title 30 WAC.

"Grant" means a contract (for arts or cultural services) between the commission and an organization or individual, for arts or cultural services, awarded through a competitive application process and approved or ratified by the board.

"Inventory" means a periodic survey of the physical state and current location of works of art in the state art collection.

"Local government" means a city, county, tribal government, or other entity as approved.

"Nonprofit" means incorporation under the nonprofit laws of the state of Washington or another state, and determination by the Internal Revenue Service (IRS) that the incorporated entity is exempt from taxation under Section 501 (c) (3) of the IRS code.

"Panel" means a group of individuals convened by staff to review applications (TI) or nominations (or staff recommendations based on err) using published review criteria, (in order to) and make recommendations to the board or executive director.

"Partner agency" means a state agency, K-12 public school, university, college, community or technical college, or other public entity working with the art in public places program.

"Pilot program" means a limited scale, flexible program that evaluates administrative needs and costs, adverse and favorable events, and improves upon the design prior to launch of a full program or integration of pilot into an existing program.

"Professional artist" means an individual who has a history of paid work as an artist.

"Public artist roster" means the board approved list of professional artists eligible to create visual works of art for the state art collection.

"Public benefit" means ((evidence of)) project outcomes that have an impact on a community, including some or all of the following: ((Potential impact on the)) Broadening access to the arts or expanding and diversifying audiences for the arts; improving artistic, cultural, ((professional)) educational, or economic development ((*))within a community ((or individuals; and/or potential to broaden access to, expand and diversify the audiences for, and/or strengthen a community's ties through the arts)); and/or supporting specific community goals such as health and wellness, public safety, civic discourse, or other quality of life measures.

"Resiting" means the relocation of a work of art in the state art collection within the jurisdiction of a partner agency or between partner agencies.

"Restoration" means treatment that returns a malfunctioning or damaged work of art to a known or assumed state, often through the addition of nonoriginal material.

"Review criteria" means the standards used by panels to evaluate and score applications((,)) or nominations((, or staff recommendations)).

"Roster" means a list of approved arts professionals who have the skills and experience to address the needs of a specific commission program.

"Routine maintenance" means a regular procedure to preserve a work of art in the state art collection in proper condition: Clean, presentable, and in working order.

"Site responsive" means created, planned, or intended for a particular site. A site responsive work of art addresses both the physical characteristics of its location and the context of the community in which it is situated.

"Special maintenance" means anticipated but infrequent activities required to maintain aesthetic and/or structural aspects of the works of art in the state art collection, including integrity of the overall surface and/or individual elements.

"Staff" means employees of the Washington state arts commission, under the direction of the executive director, pursuant to RCW 43.46.045, employed to carry out the functions of that chapter, and Title 30 WAC.

"State art collection" means all works of art and select design models commissioned or purchased under RCW 43.17.200, 28A.58.055, 28A.335.210, 43.46.090, and 43.19.455.

"State-certified creative district" means a creative district whose application for certification has been approved by the commission.

"Teaching artist" means a professional artist who is dedicated to arts education as an integral part of ((his/her)) their professional practice, and who has cultivated skills as an educator in concert with skills as an artist.

"Underserved" means populations whose opportunities to experience the arts are limited by geography, historical exclusion and marginalization due to race, ethnicity, sexual orientation, gender identity, economics, disability, or other social or institutionally imposed barriers.

"Under-resourced" means a lack of access to specialized, professional, financial, or institutional expertise and communal knowledge, and/or working with neglected or dated infrastructures and limited or absent assets and resources resulting in lack of recognition, competitiveness, and cyclical absent or diminished funding.

"Washington state arts commission" means the collective entity of the Washington state arts commission, including the board and staff.