



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: October 09, 2018

TIME: 10:02 AM

WSR 18-21-055

**Agency:** Department of Enterprise Services

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes  No If Yes, explain:

**Purpose:** In 2015, the Washington State Legislature amended Washington’s procurement code to provide Enterprise Services additional authority, within the context of debarment, to correct behavior through fines in lieu of debarment. See 2015 c 44 (SHB 1447 amends RCW 39.26.200, which passed the House 96-1 and passed the Senate 49-0). The Legislature, however, required Enterprise Services to establish the fining process by rule.

These rules are necessary to implement the rule making requirements of RCW 39.26.200 (2015) [Chap 44, Laws of 2015 as amended by SHB 1447. SHB 1447 allows DES to debar or impose civil fines. Civil fines must use debarment process..

**Citation of rules affected by this order:**

New: WAC 200-305-005 Purpose, WAC 200-305-025 Causes for fine in lieu of debarment,  
 Repealed: none  
 Amended: WAC 200-305-010 Definitions, WAC 200-305-020 Causes for debarment, WAC 200-305-030 Aggravating and mitigating factors, WAC 200-305-040 Referring a person for debarment or fine in lieu of debarment, WAC 200-305-050 Investigation, WAC 200-305-060 Notice of recommended debarment or fine in lieu of debarment, WAC 200-305-070 Request for a hearing on recommended debarment or fine in lieu of debarment, WAC 200-305-080 Hearing on recommended debarment or recommended fine in lieu of debarment, WAC 200-305-090 Final decision, WAC 200-305-100 Effect of a debarment order on the contractor and affiliate, WAC 200-305-110 Effect of a debarment order on state agencies, WAC 200-305-130 Service and delivery  
 Suspended: none

**Statutory authority for adoption:** RCW 43.19.011 Director – Powers and duties

**Other authority:** RCW 39.26.200 (2015) [Chap 44, Laws of 2015 as amended by SHB 1447

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 18-08-019 on March 23, 2018 (date).  
Describe any changes other than editing from proposed to adopted version: no changes

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Web site:
- Other:

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>2</u>	Amended	<u>11</u>	Repealed	___

**The number of sections adopted at the request of a nongovernmental entity:**

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

**The number of sections adopted on the agency's own initiative:**

New	___	Amended	<u>1</u>	Repealed	___
-----	-----	---------	----------	----------	-----

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	<u>1</u>	Repealed	___
-----	-----	---------	----------	----------	-----

**The number of sections adopted using:**

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

**Date Adopted:** 10-3-18

**Name:** Jack Zeigler

**Title:** Policy and Rules Manager

**Signature:**

