



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Retirement Systems

Permanent Rule Only

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: Law Enforcement Officers' and Fire Fighters' (LEOFF) Plan 1 Flexible Survivor Options – This amendment implements [ESB 5873](#), which provided a new window of time for qualified LEOFF Plan 1 retirees to select a survivor option for a postretirement spouse or registered domestic partner. The amendment also corrects [WAC 415-104-202](#) to reflect that more than one postretirement survivor option may be permitted.

Citation of existing rules affected by this order:

Repealed:
 Amended: WAC 415-104-202
 Suspended:

Statutory authority for adoption: 41.50.050 (5)

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as [WSR 16-23-070](#) on November 15, 2016 (date).
 Describe any changes other than editing from proposed to adopted version: No changes. The text being adopted is identical to the text as proposed.

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

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

Date adopted:

December 28, 2016

NAME (TYPE OR PRINT)

Tracy Guerin

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 28, 2016

TIME: 1:48 PM

WSR 17-02-033

**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	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>0</u>

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

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

WAC 415-104-202 Survivor benefit options—LEOFF Plan 1. (1) **To whom does this section apply?** This section applies to you if you are a retiree of LEOFF Plan 1.

(2) **What are flexible survivor benefit options?** RCW 41.26.164 allows a retiree to provide a survivor option for a spouse who is not eligible for survivor benefits under RCW 41.26.160 or 41.26.161. The survivor option will provide a lifetime benefit for the spouse after the retiree's death.

(3) **How will my monthly retirement ((allowance)) benefit be affected by selecting a flexible survivor option?** Your monthly retirement ((allowance)) benefit will be actuarially reduced beginning the first month following the month in which the department receives the completed form.

(4) **What are the flexible survivor option choices?**

(a) **Joint and whole ((allowance)) benefit option.** The department will pay you a reduced monthly retirement ((allowance)) benefit throughout your lifetime. After your death, the department will pay your surviving spouse a monthly ((allowance)) benefit equal to the gross monthly retirement ((allowance)) benefit you were receiving.

(b) **Joint and one-half ((allowance)) benefit option.** The department will pay you a reduced monthly retirement ((allowance)) benefit throughout your lifetime. After your death, the department will pay your surviving spouse a monthly ((allowance)) benefit equal to one-half of the gross monthly retirement ((allowance)) benefit you were receiving.

(c) **Joint and two-thirds ((allowance)) benefit option.** The department will pay you a reduced monthly retirement ((allowance)) benefit throughout your lifetime. After your death, the department will pay your surviving spouse a monthly ((allowance)) benefit equal to two-thirds (66.667%) of the gross monthly retirement ((allowance)) benefit you were receiving.

(5) **Do I qualify to add a flexible survivor option?** You may select a flexible survivor option if:

(a) Your current spouse is not eligible for survivor benefits under RCW 41.26.160 or 41.26.161;

(b) Some portion of your monthly retirement ((allowance)) benefit is payable to you, after any reduction pursuant to a property division obligation under RCW 41.50.670; and

~~(c) ((You have not previously selected a flexible survivor option; and~~

~~(d))~~ You meet the deadline and application requirements in subsection (6) of this section.

(6) **How do I add a flexible survivor option?** You may select a flexible survivor option and name your current spouse as your survivor beneficiary, provided that:

(a) The selection is made((+)

~~(i))~~ during a one-year window, on or after the date of the first anniversary and before the second anniversary of the marriage((+ or

~~(ii) No later than June 30, 2006, if you cannot comply with (a)(i) of this subsection because you were married prior to July 1, 2005)), or as otherwise authorized by law;~~

(b) You provide a copy of your certified marriage certificate to the department;

(c) You provide proof, satisfactory to the department, of your current spouse's birth date; and

(d) You file the properly completed forms with the department in a timely manner.

(7) **May I remove the flexible survivor option in the future?** Your choice of a flexible survivor option is irrevocable with the following exceptions:

(a) Your spouse dies before you; or

(b) You and your spouse divorce.

See subsection (8) of this section.

(8) **What happens if my spouse dies before me, or if we divorce?** If your spouse dies before you, or if you divorce, your monthly retirement ((allowance)) benefit will increase, effective the first day of the following month. Your increased monthly ((allowance)) benefit will be the amount you would have received had you not chosen a flexible survivor option plus any cost-of-living adjustments (COLA) you received prior to your spouse's death.

(9) **What happens to my eligible surviving children's share if I select a flexible survivor option?** There is **no** impact to the benefit provided under RCW 41.26.160 or 41.26.161 to surviving children if you select a flexible survivor option.

(10) **Actuarial information.** See chapter 415-02 WAC starting with WAC 415-02-300 for information on how the department uses actuarial factors and schedules to calculate retirement ((allowances)) benefits.

Terms used in this section:

(a) Child or children - RCW 41.26.030(7).

(b) Eligible surviving child - RCW 41.26.160 and 41.26.161.

(c) Eligible surviving spouse - RCW 41.26.161 and 41.26.162.

(d) Surviving spouse - RCW 41.26.030(6).