

April 20, 2005

OLYMPIA, WASHINGTON

ISSUE 05-08



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## CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: the 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

## PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located in the basement of the Pritchard Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 786-6697.

## REPUBLICATION OF OFFICIAL DOCUMENTS

All documents appearing in the Washington State Register are prepared and printed at public expense. There are no restrictions on the republication of official documents appearing in the Washington State Register. All news services are especially encouraged to give wide publicity to all documents printed in the Washington State Register.

## CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

(Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of April 2005 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%) per annum.

The interest rate required by RCW 4.56.110(3) and 4.56.115 for the month of April 2005 is 5.021%.

**NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.**

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## WASHINGTON STATE REGISTER

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### WASHINGTON STATE REGISTER

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The Washington State Register is an official publication of the state of Washington. It contains proposed, emergency, and permanently adopted administrative rules, as well as other documents filed with the code reviser's office pursuant to RCW 34.08.020 and 42.30.075. Publication of any material in the Washington State Register is deemed to be official notice of such information.

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# STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

## 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **EXPEDITED RULE MAKING**-includes the full text of the rule being proposed using the expedited rule-making process. Expedited rule makings are not consistently filed and may not appear in every issue of the register.
- (d) **PERMANENT**-includes the full text of permanently adopted rules.
- (e) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (f) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (g) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (h) **INDEX**-includes a cumulative index of Register Issues 01 through 24.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. Each filing is listed under the agency name and then describes the subject matter, type of filing and the WSR number. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

## 2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
  - (i) underlined material is new material;
  - (ii) ~~deleted material is ((lined out between double parentheses));~~
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

## 3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

## 4. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

## 5. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in [brackets].

2004-2005

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>	Expedited Rule Making <sup>4</sup>
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
For Inclusion in -	File no later than 12:00 noon -					
04 - 15	Jun 23, 04	Jul 7, 04	Jul 21, 04	Aug 4, 04	Aug 24, 04	Sep 21, 04
04 - 16	Jul 7, 04	Jul 21, 04	Aug 4, 04	Aug 18, 04	Sep 7, 04	Oct 5, 04
04 - 17	Jul 21, 04	Aug 4, 04	Aug 18, 04	Sep 1, 04	Sep 21, 04	Oct 19, 04
04 - 18	Aug 4, 04	Aug 18, 04	Sep 1, 04	Sep 15, 04	Oct 5, 04	Nov 2, 04
04 - 19	Aug 25, 04	Sep 8, 04	Sep 22, 04	Oct 6, 04	Oct 26, 04	Nov 23, 04
04 - 20	Sep 8, 04	Sep 22, 04	Oct 6, 04	Oct 20, 04	Nov 9, 04	Dec 7, 04
04 - 21	Sep 22, 04	Oct 6, 04	Oct 20, 04	Nov 3, 04	Nov 23, 04	Dec 21, 04
04 - 22	Oct 6, 04	Oct 20, 04	Nov 3, 04	Nov 17, 04	Dec 7, 04	Jan 4, 05
04 - 23	Oct 20, 04	Nov 3, 04	Nov 17, 04	Dec 1, 04	Dec 21, 04	Jan 19, 05
04 - 24	Nov 3, 04	Nov 17, 04	Dec 1, 04	Dec 15, 04	Jan 4, 05	Feb 1, 05
05 - 01	Nov 24, 04	Dec 8, 04	Dec 22, 04	Jan 5, 05	Jan 25, 05	Feb 23, 05
05 - 02	Dec 8, 04	Dec 22, 04	Jan 5, 05	Jan 19, 05	Feb 8, 05	Mar 8, 05
05 - 03	Dec 22, 04	Jan 5, 05	Jan 19, 05	Feb 2, 05	Feb 22, 05	Mar 22, 05
05 - 04	Jan 5, 05	Jan 19, 05	Feb 2, 05	Feb 16, 05	Mar 8, 05	Apr 5, 05
05 - 05	Jan 19, 05	Feb 2, 05	Feb 16, 05	Mar 2, 05	Mar 22, 05	Apr 19, 05
05 - 06	Feb 2, 05	Feb 16, 05	Mar 2, 05	Mar 16, 05	Apr 5, 05	May 3, 05
05 - 07	Feb 23, 05	Mar 9, 05	Mar 23, 05	Apr 6, 05	Apr 26, 05	May 24, 05
05 - 08	Mar 9, 05	Mar 23, 05	Apr 6, 05	Apr 20, 05	May 10, 05	Jun 7, 05
05 - 09	Mar 23, 05	Apr 6, 05	Apr 20, 05	May 4, 05	May 24, 05	Jun 21, 05
05 - 10	Apr 6, 05	Apr 20, 05	May 4, 05	May 18, 05	Jun 7, 05	Jul 6, 05
05 - 11	Apr 20, 05	May 4, 05	May 18, 05	Jun 1, 05	Jun 21, 05	Jul 19, 05
05 - 12	May 4, 05	May 18, 05	Jun 1, 05	Jun 15, 05	Jul 5, 05	Aug 2, 05
05 - 13	May 25, 05	Jun 8, 05	Jun 22, 05	Jul 6, 05	Jul 26, 05	Aug 23, 05
05 - 14	Jun 8, 05	Jun 22, 05	Jul 6, 05	Jul 20, 05	Aug 9, 05	Sep 7, 05
05 - 15	Jun 22, 05	Jul 6, 05	Jul 20, 05	Aug 3, 05	Aug 23, 05	Sep 20, 05
05 - 16	Jul 6, 05	Jul 20, 05	Aug 3, 05	Aug 17, 05	Sep 6, 05	Oct 4, 05
05 - 17	Jul 27, 05	Aug 10, 05	Aug 24, 05	Sep 7, 05	Sep 27, 05	Oct 25, 05
05 - 18	Aug 10, 05	Aug 24, 05	Sep 7, 05	Sep 21, 05	Oct 11, 05	Nov 8, 05
05 - 19	Aug 24, 05	Sep 7, 05	Sep 21, 05	Oct 5, 05	Oct 25, 05	Nov 22, 05
05 - 20	Sep 7, 05	Sep 21, 05	Oct 5, 05	Oct 19, 05	Nov 8, 05	Dec 6, 05
05 - 21	Sep 21, 05	Oct 5, 05	Oct 19, 05	Nov 2, 05	Nov 22, 05	Dec 20, 05
05 - 22	Oct 5, 05	Oct 19, 05	Nov 2, 05	Nov 16, 05	Dec 6, 05	Jan 3, 06
05 - 23	Oct 26, 05	Nov 9, 05	Nov 23, 05	Dec 7, 05	Dec 27, 05	Jan 24, 06
05 - 24	Nov 9, 05	Nov 23, 05	Dec 7, 05	Dec 21, 05	Jan 10, 06	Feb 7, 06

<sup>1</sup> All documents are due at the code reviser's office by 12:00 noon on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

<sup>2</sup> A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

<sup>3</sup> At least twenty days before the rule-making hearing, the agency shall cause notice of the hearing to be published in the Register; see RCW 34.05.320(1). These dates represent the twentieth day after the distribution date of the applicable Register.

<sup>4</sup> A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited rule making and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230 and 1.12.040.

## **REGULATORY FAIRNESS ACT**

The Regulatory Fairness Act, chapter 19.85 RCW, was enacted in 1982 to minimize the impact of state regulations on small business. Amended in 1994, the act requires a small business economic impact analysis of proposed rules that impose more than a minor cost on twenty percent of the businesses in all industries, or ten percent of the businesses in any one industry. The Regulatory Fairness Act defines industry as businesses within a four digit SIC classification, and for the purpose of this act, small business is defined by RCW 19.85.020 as "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees."

### **Small Business Economic Impact Statements (SBEIS)**

A small business economic impact statement (SBEIS) must be prepared by state agencies when a proposed rule meets the above criteria. Chapter 19.85 RCW requires the Washington State Business Assistance Center (BAC) to develop guidelines for agencies to use in determining whether the impact of a rule is more than minor and to provide technical assistance to agencies in developing a SBEIS. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, must be reviewed to determine if the requirements of the Regulatory Fairness Act apply; if an SBEIS is required it must be completed before permanent rules are filed with the Office of the Code Reviser.

### **Mitigation**

In addition to completing the economic impact analysis for proposed rules, state agencies must take reasonable, legal, and feasible steps to reduce or mitigate the impact of rules on small businesses when there is a disproportionate impact on small versus large business. State agencies are encouraged to reduce the economic impact of rules on small businesses when possible and when such steps are in keeping with the stated intent of the statute(s) being implemented by proposed rules. Since 1994, small business economic impact statements must contain a list of the mitigation steps taken, or reasonable justification for not taking steps to reduce the impact of rules on small businesses.

### **When is an SBEIS Required?**

When:

The proposed rule has more than a minor (as defined by the BAC) economic impact on businesses in more than twenty percent of all industries or more than ten percent of any one industry.

### **When is an SBEIS Not Required?**

When:

The rule is proposed only to comply or conform with a federal law or regulation, and the state has no discretion in how the rule is implemented;

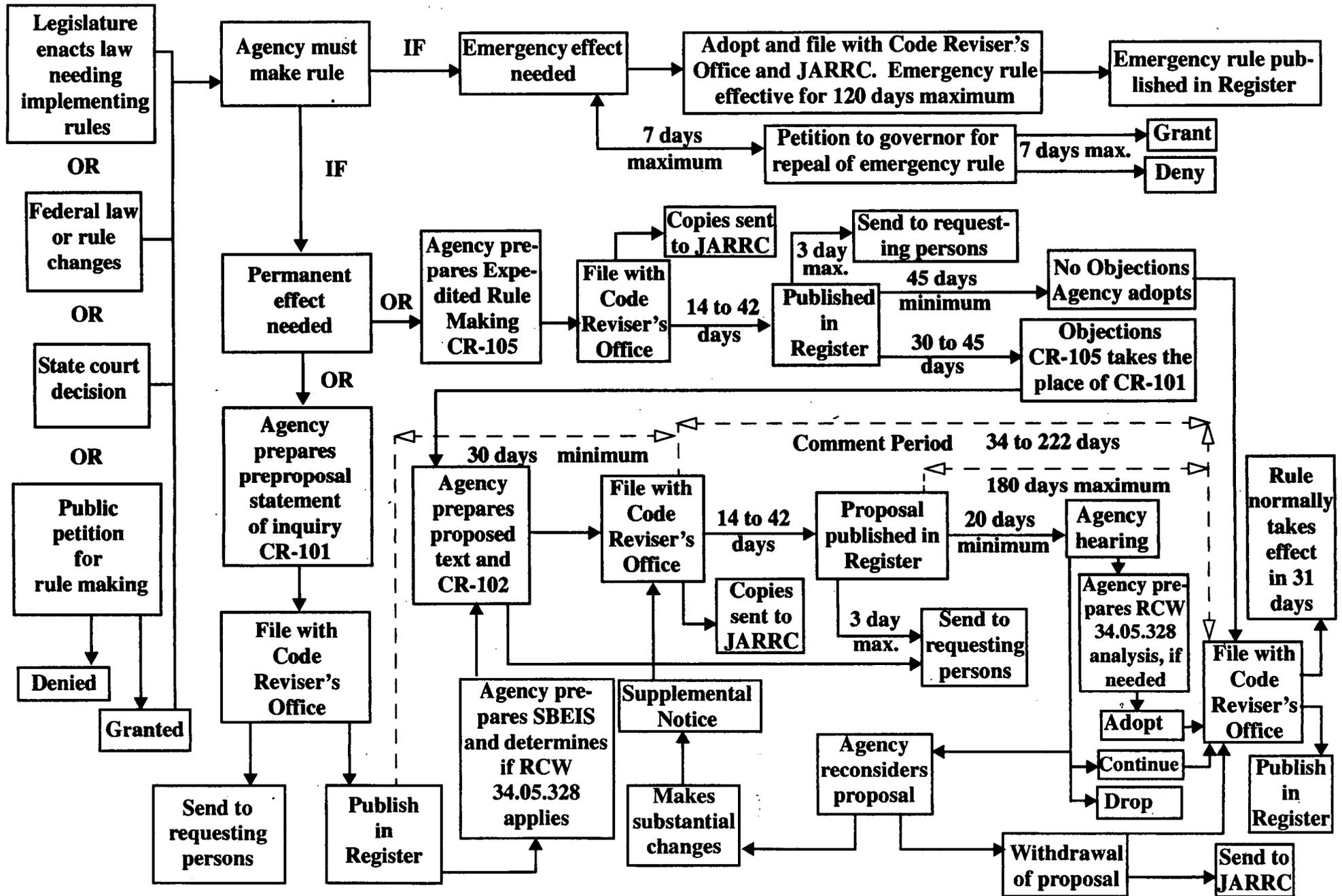
There is less than minor economic impact on business;

The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

The rule is adopted as an emergency rule, although an SBEIS may be required when an emergency rule is proposed for adoption as a permanent rule; or

The rule is pure restatement of state statute.

# RULE-MAKING PROCESS



**WSR 05-08-001****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed March 23, 2005, 3:18 p.m.]

Subject of Possible Rule Making: Chapter 308-08 WAC, Brief adjudicative proceedings (BAPs).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.05.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department may use brief adjudicative proceedings (BAPs) where their use will not violate any provisions of law, and where protection of the public interest does not require the department to give notice and an opportunity to participate to persons other than the parties.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kim Johnson, Dealer and Manufacturer Services, P.O. Box 9039, Olympia, WA 98507, voice (360) 664-6464, fax (360) 586-6703.

March 21, 2005

Daniel Devoe

Administrator

**WSR 05-08-028****PREPROPOSAL STATEMENT OF INQUIRY  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed March 30, 2005, 10:47 a.m.]

Subject of Possible Rule Making: WAC 392-123-175 Proceeds from the lease, rental or occasional use of surplus property.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.335.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Revision of WAC is needed to reflect the change made in SHB 1995 passed in 2004 regular session of RCW 28A.335.060 (1)(b) which allows the proceeds from the lease or rental of real property be deposited into the general fund.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting the rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 753-4201, TTY (360) 664-3631. For telephone assistance contact Ron Stead, Director, School Financial Services, (360) 725-6302.

March 10, 2005

Dr. Terry Bergeson

Superintendent of Public Instruction

**WSR 05-08-004****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed March 24, 2005, 2:54 p.m.]

Subject of Possible Rule Making: WAC 308-66-160 Dealer's and manufacturer's license plates.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.70.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To allow vehicle manufacturers to use their manufacturer's license plates to test vehicles.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kim Johnson, Dealer and Manufacturer Services, P.O. Box 9039, Olympia, WA 98507-9039, voice (360) 664-6464, fax (360) 586-6703.

March 3, 2005

Daniel Devoe

Administrator

**WSR 05-08-029****PREPROPOSAL STATEMENT OF INQUIRY  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed March 30, 2005, 10:48 a.m.]

Subject of Possible Rule Making: WAC 392-140-900 through 392-140-913, Finance—Special allocations—K-4 staff enhancement.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.150.290(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule changes are needed to implement provisions in the 2003-05 state biennial operating budget.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended, or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, Administrative Resources, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200,

fax (360) 753-4201, TTY (360) 664-3631. [For telephone assistance contact] Ross Bunda, (360) 725-6308.

March 15, 2005

Dr. Terry Bergeson

Superintendent of Public Instruction

**WSR 05-08-058**

**WITHDRAWAL OF**

**PREPROPOSAL STATEMENT OF INQUIRY**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

(Division of Child Care and Early Learning)

[Filed March 31, 2005, 8:29 a.m.]

The Economic Services Administration, Division of Child Care and Early Learning requests the withdrawal of preproposal statement of inquiry, filed as WSR 05-07-131 on March 22, 2005, which contained an error. The division is submitting a replacement notice.

Andy Fernando, Manager

Rules and Policies Assistance Unit

**WSR 05-08-059**

**PREPROPOSAL STATEMENT OF INQUIRY**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 31, 2005, 8:31 a.m.]

**Subject of Possible Rule Making:** The Department of Social and Health Services, Economic Services Administration, is amending forty-two sections (and other related sections) of chapter 388-295 WAC, Minimum licensing requirements for child care centers. In addition, there are seventeen new sections being added and one section being repealed. This notice replaces the CR-101 filed as WSR 05-07-131, which contained an error.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 74.15 RCW, RCW 74.08.090.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Minimum licensing requirements for child care centers are necessary to protect and promote the health, safety and well-being of children in out-of-home care. Sections of chapter 388-295 WAC are being amended to clarify or simplify existing rule language or to correct typographical errors. Changes were also made to reflect the newly adopted FDA food code requirements. In addition, new sections have been added to:

- Clarify staff qualifications and the background clearance process.
- Inform providers and the public of the overpayment process for child care subsidies.
- Provide clarification with regards to the civil penalty process.
- More clearly address outdoor play areas requirements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Health - Immunization Program; Washington State Patrol (State Fire Marshall); Division of Labor and Industries (Minor Work Laws, First Aid and CPR, Blood-borne Pathogens, Electrical); and key personnel have been identified at each agency to work with. Initial draft WAC has been sent to each agency for review and comment to ensure consistency and coordination.

**Process for Developing New Rule:** All interested parties are invited to review and provide input on draft language. Postcards will be sent to each child care center in the state of Washington announcing the draft change and location on the DCCCEL internet site for review and comment. For information about this rule making, or to be on a mailing list to receive notices about this rule, contact the person listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Liz Egge, Licensing Program Manager, Division of Child Care and Early Learning, P.O. Box 45480, Olympia, WA 98504-5480, phone (360) 725-4681, fax (360) 413-3482, e-mail Eggeeh@dshs.wa.gov, street address 1009 College Street, Lacey, WA 98503.

March 28, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

**WSR 05-08-066**

**PREPROPOSAL STATEMENT OF INQUIRY**

**WASHINGTON STATE LOTTERY**

[Filed March 31, 2005, 9:42 a.m.]

**Subject of Possible Rule Making:** Debts owed to the state, WAC 315-06-125.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 67.70 RCW.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The lottery is considering changing defined terms for clearer understanding of the debt process.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

**Process for Developing New Rule:** Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ceil Buddeke, Rules Coordinator, at (360) 664-4831, fax (360) 586-6586, TTY (360) 586-0933, e-mail Cbuddeke@walottery.com, Washington's Lottery, P.O. Box 43025, Olympia, WA 98504-3025, with any comments or questions regarding this statement of intent.

March 30, 2005

Candace Martin

for Ceil Buddeke

Rules Coordinator

**WSR 05-08-086**  
**WITHDRAWAL OF**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 [Filed April 1, 2005, 3:35 p.m.]

The Medical Assistance Administration requests the withdrawal of preproposal statement of inquiry, filed as WSR 02-06-088 on March 1, 2002.

Andy Fernando, Manager  
 Rules and Policies Assistance Unit

**WSR 05-08-087**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 [Filed April 1, 2005, 3:36 p.m.]

**Subject of Possible Rule Making:** The Division of Child Support (DCS) is amending WAC 388-14A-2160 to bring it into conformance with current federal law. DCS seeks to update and clarify its procedures re reporting to consumer reporting agencies. This will entail amendment to this section, to other sections as required, and may require the adoption of new sections in chapter 388-14A WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 26.23.120, 74.08.090, 74.20A.310.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** DCS seeks to clarify its procedures regarding consumer reporting agencies and to bring its regulations in line with federal law.

**Process for Developing New Rule:** DCS engages in modified collaborative rule making. Those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at the DSHS Division of Child Support (DCS) headquarters as soon as possible. DCS will post information regarding this rule development project and others on its website, which can be found at [www.wa.gov/dshs/dcs](http://www.wa.gov/dshs/dcs), or on the DSHS Economic Services Administration's policy review website, which can be found at <http://www1.dshs.wa.gov/esa/extpolicy/>. DSHS/DCS encourages the public to take part in developing the rules. After the rules are drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule-making, and will send a copy to everyone currently on the mailing list and to anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nancy Koptur, DCS Rules Coordinator, Division of Child Support, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone (360) 664-5065, e-mail [nkoptur@dshs.wa.gov](mailto:nkoptur@dshs.wa.gov), toll-free 1-800-457-6202, fax (360) 664-5055, TTY/TDD (360) 664-5011.

March 31, 2005  
 Andy Fernando, Manager  
 Rules and Policies Assistance Unit

**WSR 05-08-088**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 [Filed April 1, 2005, 3:38 p.m.]

**Subject of Possible Rule Making:** WAC 388-501-0165 Determination process for coverage of medical equipment and medical or dental services, and other related WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 74.04.050, 74.08.090.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** MAA is codifying its evidence-based approach to evaluating requests for medical services and equipment that require prior authorization by MAA.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kevin Sullivan, MAA Rules Coordinator, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344, fax (360) 586-9727, TTY 1-800-848-5429, e-mail [sullikm@dshs.wa.gov](mailto:sullikm@dshs.wa.gov).

March 31, 2005  
 Andy Fernando, Manager  
 Rules and Policies Assistance Unit

**WSR 05-08-089**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 [Filed April 1, 2005, 3:40 p.m.]

**Subject of Possible Rule Making:** Amending WAC 388-550-2600 Inpatient psychiatric services and possible other sections in chapter 388-550 WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 74.04.050, 74.08.090.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To ensure that Medicaid funds only be used to pay for inpatient psychiatric services provided to Medicaid clients, the department is updating and clarifying current policy; revising the payment mechanism structure for some mental health services; and redefining the fiscal relationships among the Mental Health Division (MHD), the Medical Assistance Administration (MAA), and the regional support networks (RSNs).

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agen-**

cies: MAA will coordinate with MHD and the Department of Health during the rule-making process.

**Process for Developing New Rule:** The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathy Sayre, Rules Program Manager, Medical Assistance Administration, P.O. Box 45533, Olympia, WA 98504-45533 [98504-5533], phone (360) 725-1342, fax (360) 586-9727, TTY 1-800-848-5429, e-mail sayrek@dshs.wa.gov.

March 31, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**WSR 05-08-090**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed April 1, 2005, 3:41 p.m.]

**Subject of Possible Rule Making:** The Division of Employment and Assistance Programs plans to adopt rules in order to implement a transitional food assistance (TFA) program for families leaving the temporary assistance for needy families (TANF) or state family assistance (SFA). This may include the creation of a new chapter in Title 388 WAC, creation of new rules, and amending related rules within Title 388 WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 74.08A.010.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** With passage of the Public Law 107-171, states are provided the option of providing a transitional benefit alternative to the standard food stamp program for families leaving the TANF program for reason other than sanction status. This program allows these families to have food benefits in a fixed amount for five months after leaving the TANF program regardless of the client's circumstances.

With passage of SB 6411 in the 2004 legislative session, RCW 74.08A.010 directs the department to implement the transitional food stamp option to provide five months of transitional benefits to families leaving TANF while not in sanction status.

Rules created or amended based on this preproposal are necessary for the department to establish policy necessary to implement this program.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The United States Department of Agriculture, Food and Nutrition Service (FNS) adopts federal regulations for the food stamp program under Title 7 of the U.S. Code of Federal

Regulations, Parts 271-274. Additionally, FNS provides federal policy requirements and guidance on state options through administrative notices and letters to state agency directors.

The department implements these federal program requirements and exercises state options for food assistance programs by adopting rules under Washington Administrative Code consistent with federal regulations and requirements established under the Revised Code of Washington.

**Process for Developing New Rule:** DSHS welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Camp, Policy Analyst, Division of Employment and Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 725-4616, fax (360) 413-3493, e-mail campjx@dshs.wa.gov.

March 31, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**WSR 05-08-091**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed April 1, 2005, 3:43 p.m.]

**Subject of Possible Rule Making:** The Division of Employment and Assistance Programs will amend several rules in Title 388 WAC related to eligibility policy for the Washington Basic Food program, WASHCAP, and the department's cash programs including temporary assistance for needy families (TANF), state family assistance (SFA), diversion cash assistance (DCA), refugee cash assistance (RCA), and general assistance (GA).

Amendments proposed and adopted under this preproposal will be to clarify the department's policy on how we determine eligibility for these programs and to update references to other department rules. The department may make amendments to rules in the following chapters of Title 388 WAC as well as any related rules: Chapter 388-400 WAC, Program summary; chapter 388-406 WAC, Applications; chapter 388-408 WAC, Assistance units; chapter 388-410 WAC, Benefit error; chapter 388-412 WAC, Benefit issuance; chapter 388-414 WAC, Categorical eligibility for food assistance; chapter 388-418 WAC, Change of circumstances; chapter 388-422 WAC, Child support; chapter 388-424 WAC, Citizenship/alien status; chapter 388-432 WAC, Diversion assistance; chapter 388-434 WAC, Eligibility reviews and recertifications; chapter 388-436 WAC, Emergency cash assistance; chapter 388-446 WAC, Fraud; chapter 388-448 WAC, Incapacity; chapter 388-450 WAC, Income;

chapter 388-454 WAC, Living with a relative; chapter 388-455 WAC, Lump sum income; chapter 388-458 WAC, Notices to clients; chapter 388-464 WAC, Quality assurance; chapter 388-468 WAC, Residency; chapter 388-470 WAC, Resources; chapter 388-478 WAC, Standards for payments; chapter 388-482 WAC, Student status; and chapter 388-492 WAC, Washington combined application project.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, and 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The revisions are necessary to clarify eligibility policy for the Washington Basic Food program, WASHCAP, TANF, SFA, DCA, RCA, and GA programs. Changes proposed under this preproposal will also update references to other department rules.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture, Food and Nutrition Service (FNS) adopts federal regulations for the food stamp program under Title 7 of the U.S. Code of Federal Regulations, Parts 271-274. Additionally, FNS provides federal policy requirements through administrative notices and letters to state agency directors. The department implements these federal program requirements and exercises state options for the Washington Basic Food program by adopting rules under Washington Administrative Code.

The United States Department of Health and Human Services, Office of Family Assistance and Office of Refugee Assistance adopt federal regulations for the TANF program and Refugee Programs under Title 45 of the U.S. Code of Federal Regulations, Volume 2. The department develops a state plan for these programs consistent with Title 74 RCW and adopts rules under Washington Administrative Code.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Camp, Policy Analyst, Division of Employment and Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 725-4616, fax (360) 413-3493, e-mail campjx@dshs.wa.gov.

March 31, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

### WSR 05-08-113

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed April 5, 2005, 12:17 a.m.]

Subject of Possible Rule Making: Portable ladders, chapter 296-24 WAC, Safety standards for general safety and health; chapter 296-155 WAC, Safety standards for construction; chapter 296-800 WAC, Safety and health core rules. In addition, several reference changes will need to be updated throughout the chapters.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is proposing to rewrite and clarify requirements relating to portable ladders. The department is repealing the rule in chapters 296-24, 296-155, and 296-800 WAC and proposing portable ladders as a new chapter. This rule making is part of our goal to rewrite all of WISHA's general occupational safety and health rules for clarity. References will also be updated through other WISHA rules.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state or federal agencies, other than Occupational Safety and Health Administration (OSHA), are known that regulate this subject.

Process for Developing New Rule: The department must adopt rules identical to or at-least-as-effective-as OSHA rules as required by the OSHA/WISHA state plan agreement. Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cindy Ireland, Safety and Health Specialist, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, (360) 902-5522, fax (360) 902-5529, e-mail Mooc235@lni.wa.gov.

April 5, 2005

Judy Schurke  
Acting Director

### WSR 05-08-114

#### PREPROPOSAL STATEMENT OF INQUIRY UTILITIES AND TRANSPORTATION COMMISSION

[Filed April 5, 2005, 1:11 p.m.]

Subject of Possible Rule Making: WUTC Docket No. UG-050369, rate and accounting methods for natural gas companies that separate, or "decouple," a utility company's recovery of fixed costs from the volume of its commodity sales in order to eliminate gas conservation and energy efficiency disincentives and other revenue variables.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040 and 80.04.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 80.28.024 and 80.28.-074 identify a state policy in favor of promoting energy conservation and efficiency. Existing natural gas rate structures rely primarily on volumetric commodity sales for recovery of utility fixed costs. This may create a disincentive for utilities to promote or engage in conservation and energy efficiency activities. This rule making will explore whether it is feasible to utilize an alternative pricing structure for fixed cost recovery that would disassociate or "decouple" such costs from commodity sales volumes and whether rules are necessary or appropriate in implementing an alternative pricing structure.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Intrastate retail natural gas rates, services, facilities, and practices, which are the subject of this proposed rule making, are exclusively within the jurisdiction of the WUTC at the agency level. There are no other agencies that regulate the process under consideration.

Process for Developing New Rule: The commission will schedule workshops with representatives of the affected constituencies in a manner designed to explore alternative approaches and develop consensus on a preferred decoupling mechanism for consideration as an administrative rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, phone (360) 664-1174, fax (360) 586-1150. Interested parties may attend the initial workshop on this rule making to be held at the above address on May 12, 2005, from 9:30 a.m. until 4:00 p.m. in Room 206.

**STAKEHOLDER WORKSHOP:** A workshop to initiate discussions among persons interested in natural gas decoupling options will be held in Room 206 of the Washington Utilities and Transportation Commission Offices, 1300 South Evergreen Park Drive S.W., Olympia, WA, on May 12, 2005, beginning at 9:30 a.m. At this workshop:

- (1) Commission staff will outline the general nature of the issues presented by this rule making,
- (2) Representatives of Cascade Natural Gas will present an overview of a possible straw man proposal that the parties may find useful as a starting point for discussion of decoupling mechanisms, and
- (3) There will be general discussion of how the parties believe it would be best to proceed with development and debate of the various issues that will need to be addressed if the parties are to reach consensus on a viable decoupling mechanism.

Additional workshops and smaller workgroup activities are anticipated and will be scheduled as needed.

**WRITTEN COMMENTS:** Opportunities to submit written comments will also be provided during the course of this rule making. Information about the schedule and other aspects of the rule making, including requests for comments, will be posted on the commission's website as it becomes available. If you wish to receive further information on this rule making

you may (1) call the commission's Records Center at (360) 664-1234, (2) e-mail the commission at <records@wutc.wa.gov>, or (3) mail written comments to the address above to the attention of Carole J. Washburn, Secretary. When contacting the commission, please refer to Docket No. UG-050369 to ensure that you are placed on the appropriate service list. Questions may be addressed to Roger Braden at (360) 664-1312 or e-mail at rbraden@wutc.wa.gov or to Mike Parvinen at (360) 664-1315 or mparvine@wutc.wa.gov.

#### NOTICE

**TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULE MAKING —** The commission wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. **ANY PERSON WHO COMMENTS** will continue to receive notices and information. If you do not submit comments but wish to remain on the mailing list for this rule making, please advise the Records Center by any one of the following methods: (1) Send a note with your name, address (or a copy of your mailing label), and telephone and fax numbers referencing Docket No. UG-050369, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. UG-050369, and the words "Please keep me on the mailing list" to <records@wutc.wa.gov>. Please note that all information in the mailings will be accessible through the commission's internet website at <<http://www.wutc.wa.gov/050369>>. **THOSE PARTIES WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.**

April 5, 2005  
Carole J. Washburn  
Executive Secretary

#### WSR 05-08-115

#### PREPROPOSAL STATEMENT OF INQUIRY WASHINGTON STATE PATROL

[Filed April 5, 2005, 2:48 p.m.]

Subject of Possible Rule Making: Chapter 204-41 WAC, Seat belt exemptions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.61.688(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Washington State Patrol, Office of Government and Media Relations, was contacted by a senator requesting a seat belt exemption for individuals driving delivery vehicles. The constituent who contacted the senator requested an exemption similar to what is currently granted to rural mail carriers, rural newspaper delivery carriers, utility meter readers, and refuse/recycling collectors. The proposed language outlines specifically when a commercially-recognized delivery vehicle operator may be exempt from wearing a seat belt system.

Process for Developing New Rule: Worked with the senator, the constituent, Office of Government and Media Relations, and solicited input from the Washington Trucking Association, United Parcel Service, and Federal Express.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Washington State Patrol, Equipment and Standards Review Unit, P.O. Box 42614, Olympia, WA 98504-2614, christine.fox@wsp.wa.gov, (360) 753-3697, or fax (360) 586-8233.

April 5, 2005  
John R. Batiste  
Chief

#### WSR 05-08-116

#### PREPROPOSAL STATEMENT OF INQUIRY WASHINGTON STATE PATROL

[Filed April 5, 2005, 2:49 p.m.]

Subject of Possible Rule Making: Chapter 204-50 WAC, Ignition interlock breath alcohol devices.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.04.215.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This WAC has not been updated since the original language was adopted in December 1998, and it is necessary to make changes to stay current with technological advances.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington State Patrol models its ignition interlock device standards from those set by the National Highway Traffic Safety Administration. The Department of Licensing will be sent a copy for review.

Process for Developing New Rule: It was a collaborated effort with seven providers authorized to use their devices in Washington state and the WSP Equipment and Standards Review Unit.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Washington State Patrol, Equipment and Standards Review Unit, P.O. Box 42614, Olympia, WA 98504-2614, christine.fox@wsp.wa.gov, (360) 753-3697, or fax (360) 586-8233.

April 5, 2005  
John R. Batiste  
Chief

#### WSR 05-08-118

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed April 5, 2005, 3:48 p.m.]

Subject of Possible Rule Making: WAC 458-20-261 (~~Exemptions and credits for ride sharing, public transportation, and nonmotorized commuting~~) Commuter trip reduction incentives.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300 and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule explains the various commute trip reduction incentives that are available. First, RCW 82.04.355 and 82.16.047 provide exemptions from business and occupation (B&O) tax and public utility tax on amounts received from providing commuter ride sharing and ride sharing for persons with special transportation needs. RCW 82.08.0287 and 82.12.0282 provide sales and use tax exemptions for sales or use of passenger motor vehicles as ride-sharing vehicles. Finally, chapter 82.70 RCW provides commute trip reduction incentives in the form of B&O tax or public utility tax credit, effective July 1, 2003, in connection with ride sharing, public transportation, car sharing, and nonmotorized commuting.

The department is considering a revision to this rule to incorporate provisions of chapter 364, Laws of 2003. These provisions were codified as chapter 82.70 RCW and provide B&O tax or public utility tax credit for ride sharing, using public transportation, car sharing, and nonmotorized commuting. A similar credit program expired December 31, 2000.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or by giving oral testimony at the schedule public meeting or a future public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to Allan C. Lau, Interpretations and Technical Advice Unit, P.O. Box 47453, Olympia, WA 98504-47453 [98504-7453], e-mail AllanL@dor.wa.gov, phone (360) 570-6134, fax (360) 586-5543.

Public Meeting Location: Capital Plaza Building, 4th Floor, Large Executive Conference Room, 1025 Union Avenue S.E., Olympia, WA, on May 12, 2005, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

April 5, 2005  
Alan R. Lynn  
Rules Coordinator

#### WSR 05-08-141

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 05-07—Filed April 6, 2005, 10:50 a.m.]

Subject of Possible Rule Making: Chapters 173-415 and 173-481 WAC, ecology contemplates amending parts of chapter 173-415 WAC by changing sections that deal with

applicability, emissions standards, monitoring and reporting (including reports of startup, shutdown, breakdown or upset conditions), and modifying some definitions. Some new sections dealing with consistency with federal regulations and data recovery may be proposed. Some duplicative sections may be eliminated. In chapter 173-481 WAC, ecology is considering amending sections that deal with applicability, definitions, forage and ambient standards, and compliance.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.94.395 and 70.94.331.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 173-415 WAC has not been amended since 1991. Chapter 173-481 WAC has not been amended since 1987. Since that time, a new federal standard has been promulgated. These rules need to be coordinated with the federal standard.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Environmental Protection Agency regulates air emissions and will be consulted prior to finalizing this rule making.

Process for Developing New Rule: Informal consultations shall occur with interested parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting W. Thomas Todd, Washington Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7528, fax (360) 407-7534, e-mail ttod461@ecy.wa.gov. At this time no meetings are scheduled. Please contact Mr. Todd to discuss the progress of this rule.

April 5, 2005  
Stuart A. Clark  
Program Manager

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Nispel, Rules Coordinator, Department of Corrections, Rules, Contracts and Public Disclosure, P.O. Box 41114, Olympia, WA 98504-1114, phone (360) 586-2160, fax (360) 664-2009.

April 6, 2005  
Patria N. Robinson-Martin  
Chief of Staff  
for Harold W. Clarke  
Secretary

### WSR 05-08-143

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF CORRECTIONS

[Filed April 6, 2005, 11:16 a.m.]

Subject of Possible Rule Making: Reimbursement of criminal justice costs of local jurisdictions impacted by the Department of Corrections institution.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 72.72.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To permanently adopt revised reimbursement rates for criminal justice costs incurred by local jurisdictions due to the placement of institutions in their community.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: The department invites interested parties to review and provide input on the proposed rules. Comments may be sent to John Nispel, rules coordinator at the address shown below.

**WSR 05-07-135**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed March 22, 2005, 4:42 p.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 04-12-093.

Title of Rule and Other Identifying Information: WAC 388-531-0150 Noncovered physician-related services, 388-531-0200 Physician-related services requiring prior authorization, 388-531-0250 Who can provide and bill for physician-related services, 388-531-0650 Hospital physician-related services not requiring authorization when provided in MAA-approved centers for excellence or hospitals authorized to provide the specific services, 388-531-1600 Bariatric surgery, 388-550-2300 Hospital and medical criteria requirements for bariatric surgery, 388-550-2800 Inpatient payment methods and limits, and 388-550-4400 Services—Exempt from DRG payment.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 10, 2005, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 11, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 10, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by May 6, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Medical Assistance Administration (MAA) is proposing to amend/add the above listed WAC sections to establish standards for selection of surgeons and hospitals performing gastric bypass surgery for MAA clients and to establish criteria and pre- and postoperative requirements for clients that would further prevent the likelihood of complications.

Recent studies of gastric bypass surgeries in Washington show an increased likelihood of complications. Specifically for MAA clients following gastric bypass surgery, recent statistics show a 2.1% in-hospital mortality rate (compared to 0.9% for all other patients in Washington state) and a 3.6% 30-day mortality rate following the surgery (compared to 1.7% in all other Washington state patients). The mortality rates for MAA clients in both instances are more than double that of other patients. The national mortality rate from peer-reviewed literature for gastric by pass surgery is between 0% and 1%.

Because evidence shows that surgeon experience and competence is one of the most important factors in predicting the likelihood of complications the establishment of these rules are necessary.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.08.090, 74.09-520.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting: Wendy L. Boedigheimer, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1306; Implementation and Enforcement: Dr. Carolyn Coyne, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1904.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Dr. Carolyn Coyne, MD, MHA Senior Medical Consultant, Division of Medical Management, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-1904, fax (360) 586-9727, e-mail coynecc@dshs.wa.gov.

March 17, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

**WAC 388-531-0150 Noncovered physician-related services—General and administrative.** (1) Except as provided in WAC 388-531-0100 and subsection (2) of this section, MAA does not cover the following:

- (a) Acupuncture, massage, or massage therapy;
- (b) Any service specifically excluded by statute;
- (c) Care, testing, or treatment of infertility, frigidity, or impotency. This includes procedures for donor ovum, sperm, womb, and reversal of vasectomy or tubal ligation;
- (d) Cosmetic treatment or surgery, except for medically necessary reconstructive surgery to correct defects attributable to trauma, birth defect, or illness;
- (e) Experimental or investigational services, procedures, treatments, devices, drugs, or application of associated services, except when the individual factors of an individual client's condition justify a determination of medical necessity under WAC 388-501-0165;
- (f) Hair transplantation;
- (g) Marital counseling or sex therapy;
- (h) More costly services when MAA determines that less costly, equally effective services are available;
- (i) Vision-related services listed as noncovered in chapter 388-544 WAC;
- (j) Payment for body parts, including organs, tissues, bones and blood, except as allowed in WAC 388-531-1750;
- (k) Physician-supplied medication, except those drugs administered by the physician in the physician's office;
- (l) Physical examinations or routine checkups, except as provided in WAC 388-531-0100;
- (m) Routine foot care. This does not include clients who have a medical condition that affects the feet, such as diabetes or arteriosclerosis obliterans. Routine foot care includes, but is not limited to:

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(i) Treatment of mycotic disease;  
 (ii) Removal of warts, corns, or calluses;  
 (iii) Trimming of nails and other hygiene care; or  
 (iv) Treatment of flat feet;  
 (n) Except as provided in WAC 388-531-1600, weight reduction and control services, procedures, treatments, devices, drugs, products, gym memberships, equipment for the purpose of weight reduction, or the application of associated services.

(o) Nonmedical equipment; and

(p) Nonemergent admissions and associated services to out-of-state hospitals or noncontracted hospitals in contract areas.

(2) MAA covers excluded services listed in (1) of this subsection if those services are mandated under and provided to a client who is eligible for one of the following:

(a) The EPSDT program;

(b) A Medicaid program for qualified Medicare beneficiaries (QMBs); or

(c) A waiver program.

**AMENDATORY SECTION** (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

**WAC 388-531-0200 Physician-related services requiring prior authorization.** (1) MAA requires prior authorization for certain services. Prior authorization includes expedited prior authorization (EPA) and limitation extension (LE). See WAC 388-501-0165.

(2) The EPA process is designed to eliminate the need for telephone prior authorization for selected admissions and procedures.

(a) The provider must create an authorization number using the process explained in MAA's physician-related billing instructions.

(b) Upon request, the provider must provide supporting clinical documentation to MAA showing how the authorization number was created.

(c) Selected nonemergent admissions to contract hospitals require EPA. These are identified in MAA billing instructions.

(d) Procedures requiring expedited prior authorization include, but are not limited to, the following:

(i) Bladder repair;

(ii) Hysterectomy for clients age forty-five and younger, except with a diagnosis of cancer(s) of the female reproductive system;

(iii) Outpatient magnetic resonance imaging (MRI) and magnetic resonance angiography (MRA);

(iv) Reduction mammoplasties/mastectomy for geynecomastia; and

(v) Strabismus surgery for clients eighteen years of age and older.

(3) MAA evaluates new technologies under the procedures in WAC 388-531-0550. These require prior authorization.

(4) Prior authorization is required for the following:

(a) Abdominoplasty;

(b) All inpatient hospital stays for **acute physical medicine and rehabilitation (PM&R)**;

(c) Cochlear implants, which also:

(i) For coverage, must be performed in an ambulatory surgery center (ASC) or an inpatient or outpatient hospital facility; and

(ii) For reimbursement, must have the invoice attached to the claim;

(d) Diagnosis and treatment of eating disorders for clients twenty-one years of age and older;

(e) Osteopathic manipulative therapy in excess of MAA's published limits;

(f) Panniculectomy;

(g) ~~(Surgical procedures related to weight loss or reduction)~~ Bariatric surgery (see WAC 388-531-1600); and

(h) Vagus nerve stimulator insertion, which also:

(i) For coverage, must be performed in an inpatient or outpatient hospital facility; and

(ii) For reimbursement, must have the invoice attached to the claim.

(5) MAA may require a second opinion and/or consultation before authorizing any elective surgical procedure.

(6) Children six year of age and younger do not require authorization for hospitalization.

**AMENDATORY SECTION** (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

**WAC 388-531-0250 Who can provide and bill for physician-related services.** (1) The following enrolled providers are eligible to provide and bill for physician-related medical services which they provide to eligible clients:

(a) Advanced registered nurse practitioners (ARNP);

(b) Federally qualified health centers (FQHCs);

(c) Health departments;

(d) Hospitals currently licensed by the department of health;

(e) Independent (outside) laboratories CLIA certified to perform tests. See WAC 388-531-0800;

(f) Licensed radiology facilities;

(g) Medicare-certified ambulatory surgery centers;

(h) Medicare-certified rural health clinics;

(i) Providers who have a signed agreement with MAA to provide screening services to eligible persons in the EPSDT program;

(j) Registered nurse first assistants (RNFA); and

(k) Persons currently licensed by the state of Washington department of health to practice any of the following:

(i) Dentistry (refer to chapter 388-535 WAC);

(ii) Medicine and osteopathy;

(iii) Nursing;

(iv) Optometry; or

(v) Podiatry.

(2) MAA does not reimburse for services performed by any of the following practitioners:

(a) Acupuncturists;

(b) Christian Science practitioners or theological healers;

(c) Counselors;

(d) Herbalists;

(e) Homeopaths;

(f) Massage therapists as licensed by the Washington state department of health;

- (g) Naturopaths;
  - (h) Sanipractors;
  - (i) Those who have a master's degree in social work (MSW), except those employed by an FQHC or who have prior authorization to evaluate a client for bariatric surgery;
  - (j) Any other licensed or unlicensed practitioners not otherwise specifically provided for in WAC 388-502-0010; or
  - (k) Any other licensed practitioners providing services which the practitioner is not:
    - (i) Licensed to provide; and
    - (ii) Trained to provide.
- (3) MAA reimburses practitioners listed in subsection (2) of this section for physician-related services if those services are mandated by, and provided to, clients who are eligible for one of the following:
- (a) The EPSDT program;
  - (b) A Medicaid program for qualified Medicare beneficiaries (QMB); or
  - (c) A waiver program.

AMENDATORY SECTION (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

**WAC 388-531-0650 Hospital physician-related services not requiring authorization when provided in MAA-approved centers of excellence or hospitals authorized to provide the specific services.** MAA covers the following services without prior authorization when provided in MAA-approved centers of excellence. MAA issues periodic publications listing centers of excellence. These services include the following:

- (1) All transplant procedures specified in WAC 388-550-1900;
- (2) Chronic pain management services, including outpatient evaluation and inpatient treatment, as described under WAC 388-550-2400. See also WAC 388-531-0700;
- (3) Sleep studies including but not limited to polysomnograms for clients one year of age and older. MAA allows sleep studies only in outpatient hospital settings as described under WAC 388-550-6350. See also WAC 388-531-1500; and
- (4) Diabetes education, in a DOH-approved facility, per WAC 388-550-6300(†and
- ~~(5) MAA approved structured weight loss programs. See also WAC 388-531-1600).~~

AMENDATORY SECTION (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

**WAC 388-531-1600 ((Structured weight loss physician-related services)) Bariatric surgery.** ((MAA covers structured outpatient weight loss only through an MAA-approved program)) (1) The medical assistance administration (MAA) covers medically necessary bariatric surgery for eligible clients.

- (2) Bariatric surgery must be performed in a hospital with a bariatric surgery program, and the hospital must be:
  - (a) Located in the state of Washington or approved border cities (see WAC 388-501-0175); and
  - (b) Meet the requirements of WAC 388-550-2301.

(3) If bariatric surgery is requested or prescribed under the EPSDT program, MAA evaluates it as a covered service under EPSDT's standard of coverage that requires the service to be:

- (a) Medically necessary;
- (b) Safe and effective; and
- (c) Not experimental.

(4) MAA authorizes payment for bariatric surgery and bariatric surgery-related services in three stages:

- (a) Stage one - initial assessment of client;
- (b) Stage two - evaluations for bariatric surgery and successful completion of a weight loss regimen; and
- (c) Stage three - bariatric surgery.

**Stage one - initial assessment**

(5) Any MAA provider who is licensed to practice medicine in the state of Washington may examine a client requesting bariatric surgery to ascertain if the client meets the criteria listed in subsection (6) of this section.

(6) The client meets the preliminary conditions of stage one when:

- (a) The client is between twenty-one and fifty-nine years of age;
- (b) The client has a body mass index (BMI) of thirty-five or greater;

(c) The client is not pregnant. (Pregnancy within the first two years following bariatric surgery is not recommended. When applicable, a Family Planning consultation is highly recommended prior to bariatric surgery.);

(d) The client is diagnosed with one of the following:

- (i) Diabetes mellitus;
- (ii) Degenerative joint disease of a major weight bearing joint(s) (the client must be a candidate for joint replacement surgery if weight loss is achieved); or

(iii) Other rare co-morbid conditions (such as pseudo tumor cerebri) in which there is medical evidence that bariatric surgery is medically necessary and that the benefits of bariatric surgery outweigh the risk of surgical mortality; and

(e) The client has an absence of other medical conditions such as multiple sclerosis (MS) that would increase the client's risk of surgical mortality or morbidity from bariatric surgery.

(7) If a client meets the criteria in subsection (6) of this section, the provider must request prior authorization from MAA before referring the client to stage two of the bariatric surgery authorization process. The provider must attach a medical report to the request for prior authorization with supporting documentation that the client meets the stage one criteria in subsections (5) and (6) of this section.

(8) MAA evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions when medically necessary, under the standards for covered services in WAC 388-501-0165.

**Stage two - evaluations for bariatric surgery and successful completion of a weight loss regimen**

(9) After receiving prior authorization from MAA to begin stage two of the bariatric surgery authorization process, the client must:

- (a) Undergo a comprehensive psychosocial evaluation performed by a psychiatrist, licensed psychiatric ARNP, or

licensed independent social worker with a minimum of two years postmasters' experience in a mental health setting. Upon completion, the results of the evaluation must be forwarded to MAA. The comprehensive psychosocial evaluation must include:

(i) An assessment of the client's mental status or illness to:

(A) Evaluate the client for the presence of substance abuse problems or psychiatric illness which would preclude the client from participating in presurgical dietary requirements or postsurgical lifestyle changes; and

(B) If applicable, document that the client has been successfully treated for psychiatric illness and has been stabilized for at least six months and/or has been rehabilitated and is free from any drug and/or alcohol abuse and has been drug and/or alcohol free for a period of at least one year.

(ii) An assessment and certification of the client's ability to comply with the postoperative requirements such as life-long required dietary changes and regular follow-up.

(b) Undergo an internal medicine evaluation performed by an internist to assess the client's preoperative condition and mortality risk. Upon completion, the internist must forward the results of the evaluation to MAA.

(c) Undergo a surgical evaluation by the surgeon who will perform the bariatric surgery (see subsection (13) of this section for surgeon requirements). Upon completion, the surgeon must forward the results of the surgical evaluation to MAA and to the licensed medical provider who is supervising the client's weight loss regimen (refer to WAC 388-531-1600 (9)(d)(ii)).

(d) Under the supervision of a licensed medical provider, the client must participate in a weight loss regimen prior to surgery. The client must, within one hundred and eighty days from the date of MAA's stage one authorization, lose at least five percent of his or her initial body weight. If the client does not meet this weight loss requirement within one hundred and eighty days from the date of MAA's initial authorization, MAA will cancel the authorization. The client or the client's provider must reapply for prior authorization from MAA to restart stage two. For the purpose of this section, "initial body weight" means the client's weight at the first evaluation appointment.

(i) The purpose of the weight loss regimen is to help the client achieve the required five percent loss of initial body weight prior to surgery and to demonstrate the client's ability to adhere to the radical and lifelong behavior changes and strict diet that are required after bariatric surgery.

(ii) The weight loss regimen must:

(A) Be supervised by a licensed medical provider who has a core provider agreement with MAA;

(B) Include monthly visits to the medical provider;

(C) Include counseling twice a month by a registered dietician referred to by the treating provider or surgeon; and

(D) Be at least six months in duration.

(iii) Documentation of the following requirements must be retained in the client's medical file. Copies of the documentation must be forwarded to MAA upon completion of stage two. MAA will evaluate the documentation and authorize the client for bariatric surgery if the stage two requirements were successfully completed.

(A) The provider must document the client's compliance in keeping scheduled appointments and the client's progress toward weight loss by serial weight recordings. Clients must lose at least five percent loss of initial body weight and must maintain the five percent weight loss until surgery;

(B) For diabetic clients, the provider must document the efforts in diabetic control or stabilization;

(C) The registered dietician must document the client's compliance (or noncompliance) in keeping scheduled appointments, and the client's weight loss progress;

(D) The client must keep a journal of active participation in the medically structured weight loss regimen including the activities under (d)(iii)(A), (d)(iii)(B) if appropriate, and (d)(iii)(C) of this subsection.

(10) If the client fails to complete all of the requirements of subsection (9) of this section, MAA will not authorize stage three - bariatric surgery.

(11) If the client is unable to meet all of the stage two criteria, the client or the client's provider must reapply for prior authorization from MAA to re-enter stage two.

#### Stage three - bariatric surgery

(12) MAA may withdraw authorization of payment for bariatric surgery at any time up to the actual surgery if MAA determines that the client is not complying with the requirements of this section.

(13) A surgeon who performs bariatric surgery for medical assistance clients must:

(a) Have a signed core provider agreement with MAA;

(b) Have a valid medical license in the state of Washington; and

(c) Be affiliated with a bariatric surgery program that meets the requirements of WAC 388-550-2301.

(14) For hospital requirements for stage three-bariatric surgery, see WAC 388-530-2301.

#### NEW SECTION

**WAC 388-550-2301 Hospital and medical criteria requirements for bariatric surgery.** (1) The medical assistance administration (MAA) pays a hospital for bariatric surgery and bariatric surgery-related services only when:

(a) The client qualifies for bariatric surgery by successfully completing all requirements under WAC 388-531-1600;

(b) The client continues to meet the criteria to qualify for bariatric surgery under WAC 388-531-1600 up to the actual surgery date; and

(c) The hospital providing the bariatric surgery and bariatric surgery-related services meets the requirements in this section and other applicable WAC.

(2) A hospital must meet the following requirements in order to be reimbursed for bariatric surgery and bariatric surgery-related services provided to an eligible medical assistance client. The hospital must:

(a) Be located in Washington state or approved bordering cities (see WAC 388-501-0175) and have a current core provider agreement with MAA.

(b) Have an established bariatric surgery program in operation under which at least one hundred bariatric surgery procedures have been performed. The program must have

been in operation for at least five years and be under the direction of an experienced board-certified surgeon. In addition, MAA requires the bariatric surgery program to:

- (i) Have a mortality rate of two percent or less;
- (ii) Have a morbidity rate of fifteen percent or less;
- (iii) Document patient follow-up for at least five years postsurgery;
- (iv) Have an average loss of at least fifty percent of excess body weight achieved by patients at five years postsurgery; and
- (v) Have a re-operation or revision rate of five percent or less.

(c) Submit documents to MAA's Division of Medical Management that verify the performance requirements listed in this section. The hospital must receive approval from MAA prior to performing a bariatric surgery for a medical assistance client.

(3) MAA waives the program requirements listed in subsection (2)(b) of this section if the hospital participates in a statewide bariatric surgery quality assurance program such as the Clinical Outcomes Assessment Program (COAP).

(4) See WAC 388-531-1600(13) for requirements for surgeons who perform bariatric surgery.

(5) Authorization does not guarantee payment. Authorization for bariatric surgery and bariatric surgery-related services is valid only if:

- (a) The client is eligible on the date of service; and
- (b) The provider meets the criteria in this section and other applicable WAC to perform bariatric surgery and/or to provide bariatric surgery-related services.

**AMENDATORY SECTION** (Amending WSR 04-19-113, filed 9/21/04, effective 10/22/04)

**WAC 388-550-2800 Inpatient payment methods and limits.** (1) The department reimburses hospitals for Medicaid inpatient hospital services using the rate setting methods identified in the department's approved state plan that includes:

Method	Used for
Diagnoses related group (DRG) negotiated conversion factor	Hospitals participating in the Medicaid hospital selective contracting program under waiver from the federal government
DRG cost-based conversion factor	Hospitals not participating in or exempt from the Medicaid hospital selective contracting program
Ratio of costs-to-charges (RCC)	Hospitals or services exempt from DRG payment methods
<u>Single case rate</u>	<u>Bariatric surgery</u>
Fixed per diem rate	Acute physical medicine and rehabilitation (Acute PM&R) Level B facilities and long-term acute care (LTAC) hospitals
Cost settlement	MAA-approved critical access hospitals (CAHS)

(2) The department's annual aggregate Medicaid payments to each hospital for inpatient hospital services provided to Medicaid clients will not exceed the hospital's usual and customary charges to the general public for the services (42 CFR § 447.271). The department recoups annual aggregate Medicaid payments that are in excess of the usual and customary charges.

(3) The department's annual aggregate payments for inpatient hospital services, including state-operated hospitals, will not exceed the estimated amounts that the department would have paid using Medicare payment principles.

(4) When hospital ownership changes, the department's payment to the hospital will not exceed the amount allowed under 42 U.S.C. Section 1395x (v)(1)(O).

(5) Hospitals participating in the medical assistance program must annually submit to the medical assistance administration:

(a) A copy of the hospital's HCFA 2552 Medicare Cost Report; and

(b) A disproportionate share hospital application.

(6) Reports referred to in subsection (5) of this section must be completed according to:

(a) Medicare's cost reporting requirements;

(b) The provisions of this chapter; and

(c) Instructions issued by MAA.

(7) The department requires hospitals to follow generally accepted accounting principles unless federally or state regulated.

(8) Participating hospitals must permit the department to conduct periodic audits of their financial and statistical records.

(9) The department reimburses hospitals for claims involving clients with third-party liability insurance:

(a) At the lesser of either the DRG:

(i) Billed amount minus the third-party payment amount; or

(ii) Allowed amount minus the third-party payment amount; or

(b) The RCC allowed payment minus the third-party payment amount.

**AMENDATORY SECTION** (Amending WSR 01-16-142, filed 7/31/01, effective 8/31/01)

**WAC 388-550-4400 Services—Exempt from DRG payment.** (1) Except when otherwise specified, inpatient services exempt from the diagnosis-related group (DRG) payment method are reimbursed by the RCC payment method described in WAC 388-550-4500.

(2) Subject to the restrictions and limitations in this section, the department exempts the following services for Medicaid clients from the DRG payment method:

(a) Neonatal services for DRGs 602-619, 621-628, 630, 635, and 637-641.

(b) Acquired immunodeficiency syndrome (AIDS)-related inpatient services for those cases with a reported diagnosis of AIDS-related complex and other human immunodeficiency virus infections. These services are also exempt from the DRG payment method when funded by the department through the general assistance programs(~~(-medically indi-~~

PROPOSED

gent program,)) and any other state-only administered program.

(c) Alcohol or other drug detoxification services when provided in a hospital having a detoxification provider agreement with the department to perform these services. These services are also exempt from the DRG payment method when funded by the department through the general assistance programs(~~(, medically indigent program,))~~) and any other state-only administered program.

(d) Hospital-based intensive inpatient detoxification, medical stabilization, and drug treatment services provided to chemically dependent pregnant women (CUP program) by a certified hospital. These are Medicaid program services and are not funded by the department through the general assistance programs(~~(, medically indigent program,))~~) or any other state-only administered program.

(e) Acute physical medicine and rehabilitation services provided in MAA-approved rehabilitation hospitals and hospital distinct units, and services for physical medicine and rehabilitation patients. Rehabilitation services provided to clients under the general assistance programs(~~(, medically indigent program,))~~) and any other state-only administered program are also reimbursed through the RCC payment method.

(f) Psychiatric services provided in nonstate-owned psychiatric hospitals and designated distinct psychiatric units of hospitals.

(g) Chronic pain management treatment provided in department-approved pain treatment facilities.

(h) Administrative day services. The department reimburses administrative days based on the statewide average Medicaid nursing facility per diem rate, which is adjusted annually each November 1. The department applies this rate to patient days identified as administrative days on the hospital's notice of rates. Hospitals must request an administrative day designation on a case-by-case basis.

(i) Inpatient services recorded on a claim that is grouped by MAA to a DRG for which MAA has not published an all patient DRG relative weight, except that claims grouped to DRGs 469 and 470 will be denied payment. This policy also applies to covered services paid through the general assistance programs(~~(, medically indigent program,))~~) and any other state-only administered program.

(j) Organ transplants that involve the heart, kidney, liver, lung, allogeneic bone marrow, autologous bone marrow, or simultaneous kidney/pancreas. These services are also exempt from the DRG payment method when funded by MAA through the general assistance programs(~~(, medically indigent program,))~~) and any other state-only administered program.

(k) Bariatric surgery performed in hospitals that meet the criteria in WAC 388-550-2301. MAA pays hospitals for bariatric surgery on a single case rate basis.

(3) Inpatient services provided through a managed care plan contract are reimbursed by the managed care plan.

WSR 05-08-012  
PROPOSED RULES  
STATE BOARD OF EDUCATION

[Filed March 28, 2005, 7:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-09-062.

Title of Rule and Other Identifying Information: WAC 180-51-035 Applicable standards for graduation—Amendments to this chapter.

Hearing Location(s): North Thurston School District Board Room, 305 College Street N.E., Lacey, WA 98516-5390, on June 16, 2005, at 8:30 a.m.

Date of Intended Adoption: June 17, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by June 2, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by June 2, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: All students entering a high school program in Washington state must be assigned a graduation year as required by Washington state administrative code and the federal No Child Left Behind Act. This rule change provides the addition of the graduation year to the transcript.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: Chapter 28A.230 RCW and RCW 28B.50.915.

Rule is necessary because of federal law, 115 Stat. 155.

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

A cost-benefit analysis is not required under RCW 34.05.328.

March 24, 2005

Larry Davis  
Executive Director

AMENDATORY SECTION (Amending WSR 04-20-093, filed 10/5/04, effective 11/5/04)

**WAC 180-51-035 Applicable standards for graduation for students under age twenty-one—Applicable standards for graduation for students age twenty-one or older—Amendments to this chapter.** (1) All students entering a high school program in Washington state shall be assigned an expected graduation year as required by federal law and this section. Once students are assigned a graduation year, they will be aligned to the requirements for that specific graduating class and subject to the provisions of this section.

(a) Students shall be assigned an expected graduation year based on the year they commence 9th grade, or for out-of-district and out-of-state transfer students, based on local district policy: Provided, That the expected graduation year for students receiving special education services shall be

assigned and based on an Individualized Education Program (IEP) team determination in the year in which the student turns sixteen.

(b) Students shall have the right and the obligation to meet the minimum graduation requirements in place for their expected graduation year designated at the time they enter a district high school, regardless of what year they actually graduate.

(2) A student under age twenty-one shall have the right to graduate in accordance with the standards in effect for the school of graduation for any year since such student commenced the ninth grade or the equivalent of a four-year high school program and until the student turns age twenty-one.

((2)) (3)(a) A student age twenty-one or older who earns a high school diploma through the adult high school completion option under WAC 180-51-053 shall be required to meet the state minimum graduation credit requirements under WAC 180-51-060 or 180-51-061, depending on when the student began their high school program. Such students shall not be required to meet the following state minimum graduation requirements under WAC 180-51-061: Certificate of academic achievement or certificate of individual achievement;

(b) The state board of education reserves the prerogative to determine if and when the waived requirements under (a) of this subsection shall be required to earn an adult high school completion diploma.

((3)) (4) All subsequent amendments to this chapter and all subsequent local standards shall apply prospectively to the students who enter the ninth grade or begin the equivalent of a four-year high school program subsequent to the amendments.

## WSR 05-08-016

### PROPOSED RULES

#### DEPARTMENT OF TRANSPORTATION

[Filed March 28, 2005, 10:53 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 05-05-093 [05-05-092].

Title of Rule and Other Identifying Information: Specialized mobile equipment, dealing with federal and state defined vehicles with specialized design and use.

Hearing Location(s): Transportation Building, Commission Board Room, 1D2, 310 Maple Park Avenue S.E., Olympia, WA 98504, on May 13, 2005, at 8:45 a.m.

Date of Intended Adoption: May 13, 2005.

Submit Written Comments to: Barry Diseth, P.O. Box 47367, Olympia, WA 98504-7367, e-mail disethb@wsdot.wa.gov, fax (360) 705-6836, by May 9, 2005.

Assistance for Persons with Disabilities: Contact Jessica Alexander by May 9, 2005, TTY (360) 705-7760 or fax (360) 705-6808.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This is a proposal to amend WAC 468-38-270 "Construction equipment" to a more expansive rule titled "Specialized mobile equipment." The amended rule will cover all specialized equipment as

defined by the Federal Highway Administration and the Washington State Department of Transportation. The new rule adopts federal rule for specialized equipment used on the interstate, and also adopts current policy for those vehicles that, due to their unique design and use, exceed legal weight and/or dimension and must have a state oversize/overweight permit for intrastate operation.

The process for public involvement will consist of public notification in the Washington State Register with contact information for comments. In addition, the draft has been provided to various industry and regulatory entities for comment. The proposed rule has been discussed, and concurred in, with the Washington State Patrol and the Washington Trucking Associations.

To date there have been no negative comments or concerns that would otherwise require a response.

Reasons Supporting Proposal: The proposed rule change will dramatically aid in the administration and enforcement of movements of specialized mobile equipment. It will help ensure a consistent approach to interpreting what qualifies as "specialized" and the requirements that must be met to move these unique vehicles on state highways.

Statutory Authority for Adoption: RCW 46.44.090.

Statute Being Implemented: HB 1180.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WSDOT Traffic Division, Commercial Vehicle Services, governmental.

Name of Agency Personnel Responsible for Drafting: Barry Diseth, 921 Lakeridge Way S.W., Olympia, WA, (360) 705-7805; Implementation: Tim Erickson, 921 Lakeridge Way S.W., Olympia, WA, (360) 705-7343; and Enforcement: Captain Coral Estes, General Administration Building, 210 11th Street, Olympia, WA, (360) 753-0350.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The new rule adopts federal rule and current state policy on the movement of specialized equipment, without material change as referenced in RCW 34.05.310 (4)(c).

A cost-benefit analysis is not required under RCW 34.05.328. There are no new costs or revenues associated with this proposal. The rule will assist administrative, enforcement and stakeholder interpretations to be more consistent.

March 21, 2005

John F. Conrad, Assistant Secretary  
Engineering and Regional Operations

AMENDATORY SECTION (Amending Order 31, Resolution No. 156, filed 8/20/82)

**WAC 468-38-270 ((Construction)) Specialized mobile equipment.** ((Pursuant to RCW 46.44.091(3), permits may be issued to move equipment on approved highways whose single axle weight is not more than 45,000 pounds if operating on single pneumatic tires having a rim width of 20 inches or more and a rim diameter of 24 inches or more. If the vehicle has dual pneumatic tires, the rim width shall be at least 16 inches and the rim diameter shall be at least 24 inches.)) (1) **Why are certain vehicles designated**

as specialized mobile equipment? Certain vehicles are designed and built for very unique functions other than transporting persons. The federal highway administration has classified some of these vehicles as specialized mobile equipment and set minimum and/or maximum parameters for the vehicle to operate legally. The department has adopted these specialized classifications and accepted or further defined the legal parameters for operation on state highways. In addition to federal rule, the department has also recognized certain specially designed vehicles that, by necessity, exceed one or more of the vehicle size and weight parameters. The department has also classified these over-legal vehicles as specialized mobile equipment in order to address their needs, via special permit, and provide a consistent administrative and enforcement treatment. This rule is not intended to encourage the development of vehicles that exceed the legal requirements of chapter 46.44 RCW. All vehicles exceeding legal requirements are subject to restricted access to the state highway network.

**(2) What specialized equipment, including size parameters, can operate legally without a special permit?** Listed in alphabetical order:

**Automobile transporter:** To be considered an automobile transporter, the power unit and the trailing unit must be modified to carry assembled automobiles. If the combination consists of a truck and stinger-steered trailing unit, the overall dimension for length can be up to seventy-five feet, plus a front overhang of three feet and rear overhang of four feet. A combination of tractor semi-trailer (traditional high mount) may have an overall dimension for length of sixty-five feet, plus three-foot front overhang and four-foot rear overhang.

**Boat transporter:** See automobile transporter.

**Munitions carriers with dromedary equipment:** A truck tractor equipped with a dromedary unit operating in combination with a semi-trailer transporting Class 1 explosives and/or any munitions related security material, as specified by the U.S. Department of Defense in compliance with 49 CFR 177.835, may have an overall dimension for length up to seventy-five feet.

**(3) What specialized equipment, including size and weight parameters, can operate with special permit?** Listed in alphabetical order:

**Concrete pumper trucks:** As a single unit fixed load vehicle, may exceed the legal weight limits up to the maximums established in RCW 46.44.091. Tire loading for the movement is limited to the lesser of six hundred pounds per inch width of tire or the tire manufacturer's rating with proper inflation, as determined by the nomenclature imprinted on the tire. Included with the fixed load are pumper hose extensions and a necessary volume of water to flush the system at the job site when the pumping process is complete.

**Construction equipment:** Equipment used primarily for off-road heavy construction activity may be permitted for use on designated highway segments up to the maximums established in RCW 46.44.091 when properly equipped for highway operation per chapter 46.37 RCW. Equipment delivered to a construction site may operate without permit on highway segments designated as part of the construction zone.

**Cranes:** As a single unit fixed load vehicle, may exceed the legal weight limits up to the maximums established in RCW 46.44.091. Tire loading for the movement is limited to the lesser of six hundred pounds per inch width of tire or the tire manufacturer's rating with proper inflation, as determined by the nomenclature imprinted on the tire. Cranes may be permitted with standard working components that are included within the rated capacity of the crane. A boom trailer or boom dolly will be permitted only when the boom is attached to the crane upper works, for the purpose of transferring load to meet weight requirements. A crane may be permitted with counterweights, outrigger assemblies, load block, hook and cable tension ball assembly also loaded on the boom trailer or boom dolly, as long as those components are included in the rated capacity of the crane and do not cause the vehicle to exceed permitted weight limits.

**Well drilling trucks:** As a single unit fixed load vehicle, may exceed the legal weight limits up to the maximums established in RCW 46.44.091. Tire loading for the movement is limited to the lesser of six hundred pounds per inch width of tire or the tire manufacturer's rating with proper inflation, as determined by the nomenclature imprinted on the tire. In addition to the fixed load, the vehicle may carry drill extensions.

**(4) Can specialized mobile equipment tow a licensed vehicle used for commute purposes?** A specialized self-propelled single unit vehicle registered as a fixed load, operating under a fixed load permit, and/or cranes operating under an oversize/overweight permit (exclusive of boom dollies or trailers), may be permitted to tow a vehicle with a gross vehicle weight rating not to exceed eight thousand pounds. The overall length of the combination must not exceed seventy-five feet. The towed vehicle must be used for the sole purpose of commuting to and from the job site where the specialized mobile equipment is in service.

**(5) Does a specialized mobile vehicle operating under an overweight or fixed load permit receive any exemption from postings or restrictions placed on highway infrastructure?** No. Specialized mobile equipment must not cross load-restricted infrastructure when the equipment, either as a result of gross weight, axle weight or tire loadings, exceeds the stated capacity of the posting or restriction.

WSR 05-08-019

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed March 29, 2005, 11:27 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Radiation protection—Air emissions, WAC 246-247-035 Adoption of national standards for sources of radionuclide air emissions.

Hearing Location(s): Washington State Department of Health, Town Center East, Room 363, 101 Israel Road S.E., Tumwater, WA 98501, on May 10, 2005, at 10:00.

Date of Intended Adoption: May 15, 2005.

Submit Written Comments to: A. W. Conklin, Washington Department of Health, Office of Radiation Protection, P.O. Box 47827, Olympia, WA 98504-7827, e-mail [http://www3.doh.wa.gov/policy\\_review/](http://www3.doh.wa.gov/policy_review/), fax (360) 236-2255, by May 10, 2005.

Assistance for Persons with Disabilities: Contact Joy Redman at (360) 236-3260, TTY (888) 833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This revision is to add a new section (WAC 246-247-035) which adopts by reference, without material change, the federal standards for radionuclide emissions contained in 40 C.F.R. 61 Subparts A, B, H, I, K, Q, R, T, and W. The effect from this action makes Washington state regulations equivalent to the federal rules and allows delegation of the Environmental Protection Agency's authority over airborne emissions of radionuclides to the Department of Health.

Reasons Supporting Proposal: Delegation of National Emissions Standards for Hazardous Air Pollutants (NES-HAPs) authority from the EPA to the Department of Health reduces the potential for dual regulation of federal and private facilities that are currently under applicable state and federal rules.

Statutory Authority for Adoption: RCW 70.98.050.

Statute Being Implemented: RCW 70.98.050.

Rule is necessary because of federal law, 40 C.F.R. 63 Subpart E.

Name of Proponent: Washington State Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting: John Schmidt, Richland, (509) 946-3874; Implementation and Enforcement: Allen Conklin, Olympia, (360) 236-3261.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is exempt from the requirements of chapter 19.85 RCW pursuant to RCW 19.85.25(3) [19.85.025(3)]. Further, there are no small businesses within the regulated industry required to comply with the proposed rule and thus there is no disproportionate impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. This rule meets the exception provided in RCW 34.05.328 (5)(b)(iii) in that it adopts federal regulations without material change. However, adoption by reference will allow delegation of the applicable subparts to the state for administration and enforcement reducing dual regulation cost.

March 29, 2005

M. C. Selecky  
Secretary

## NEW SECTION

**WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions.** (1) The following federal standards, as in effect on July 1, 2004, are adopted by reference except as provided in subsections (2) and (3) of this section.

These standards apply in addition to other requirements of this chapter.

(a) For federal facilities:

(i) 40 CFR Part 61, Subpart A - General Provisions.

(ii) 40 CFR Part 61, Subpart H - National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.

(iii) 40 CFR Part 61, Subpart I - National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.

(iv) 40 CFR Part 61, Subpart Q - National Emission Standards for Radon Emissions From Department of Energy Facilities.

(b) For nonfederal facilities:

(i) 40 CFR Part 61, Subpart A - General Provisions.

(ii) 40 CFR Part 61, Subpart B - National Emission Standards for Radon Emissions From Underground Uranium Mines.

(iii) 40 CFR Part 61, Subpart K - National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants.

(iv) 40 CFR Part 61, Subpart R - National Emissions Standards for Radon from Phosphogypsum Stacks.

(v) 40 CFR Part 61, Subpart T - National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings.

(vi) 40 CFR Part 61, Subpart W - National Emission Standards for Radon Emissions From Operating Mill Tailings.

(2) References to "Administrator" or "EPA" in 40 CFR Part 61 include the department of health except in any section of 40 CFR Part 61 for which a federal rule or delegation indicates that the authority will not be delegated to the state.

(3) Any change or alternative to standards, emission monitoring and test procedures, compliance and reporting requirements, or recordkeeping requirements must be approved by EPA.

**WSR 05-08-022**

**PROPOSED RULES**

**ENVIRONMENTAL HEARINGS OFFICE**

(Pollution Control Hearings Board)

[Filed March 30, 2005, 9:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-15-009.

Title of Rule and Other Identifying Information: Procedural rules for hearings before the Pollution Control Hearings Board.

Hearing Location(s): Environmental Hearings Office Hearing Room, 4224 6th Avenue S.E., Building 2, Lacey, WA 98504-0903, on May 17, 2005, at 2:00 p.m.

Date of Intended Adoption: June 14, 2005.

Submit Written Comments to: Bill Clarke, Environmental Hearings Office, 4224 6th Avenue S.E., Building 2, Lacey, WA 98504-0903, e-mail [eho@eho.wa.gov](mailto:eho@eho.wa.gov), fax (360) 438-7699, by June 1, 2005.

Assistance for Persons with Disabilities: Contact Phyllis Macleod by phone at (360) 459-6327.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The 2004 legislature passed SSB 5590, amending chapter 43.21B RCW (chapter 204, Laws of 2004). The legislation modified the basis for calculating the time period for appeals to the Pollution Control Hearings Board (PCHB). Rule making is necessary so the PCHB's procedural rules, chapter 371-08 WAC, are consistent with the 2004 legislation. The rule making triggered by SSB 5590 provided an opportunity to revise other provisions in the PCHB procedural rules. The PCHB identified a number of topics for procedural rule revisions and sought stakeholder input on these and additional topics. The proposed rule includes procedural rule revisions with stakeholder support. These rule topics are: Authorizing electronic filing of documents, deleting provision requiring proposed order to be filed with all motions, deleting provision requiring moving party to originate phone call for telephonic hearings, and modifying the time periods for responses and replies to motions. The proposed rules will eliminate unnecessary filings with the board and conform the board's rules to the existing standards of practice.

Statutory Authority for Adoption: RCW 43.21B.170 (PCHB rule-making authority), 34.05.360.

Statute Being Implemented: Chapter 43.21B RCW.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The passage of SSB 5590 requires the Environmental Hearings Office to modify the procedural rules of the PCHB so that implementing rules are consistent with the legislation. Other rule amendments increase the efficiency of the PCHB hearings process.

Name of Proponent: Environmental Hearings Office, governmental.

Name of Agency Personnel Responsible for Drafting: Bill Clarke, 4224 6th Avenue S.E., Building 2, Lacey, WA 98504-0903, (360) 459-6327; Implementation and Enforcement: Robyn Bryant, 4224 6th Avenue S.E., Building 2, Lacey, WA 98504-0903, (360) 459-6327.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is procedural in nature and does not place requirements on those it may affect.

A cost-benefit analysis is not required under RCW 34.05.328. The Environmental Hearings Office is not a named agency in RCW 34.05.328.

March 25, 2005

William H. Lynch

Director

**AMENDATORY SECTION** (Amending WSR 96-15-003, filed 7/3/96, effective 8/3/96)

**WAC 371-08-305 Definitions.** As used in this chapter the following terms shall have the following meaning:

(1) "Adjudicative proceeding" means a proceeding involving an opportunity for hearing before the board as defined in RCW 34.05.010. The term "adjudicative proceed-

ing" is used interchangeably with the terms "case" and "appeal" in this chapter.

(2) "Agency" means any state governmental entity, air pollution control authority, local health department or other agency whose decisions are subject to the board's jurisdiction.

(3) "Board" means the pollution control hearings board, a quasi-judicial board created pursuant to chapter 43.21B RCW and described in WAC 371-08-315. Where appropriate, the term "board" also refers to the designated agents of the pollution control hearings board.

(4) "Business days" means Monday through Friday exclusive of any state or federal holidays.

(5) "Department" refers to and means the department of ecology.

~~((5))~~ (6) "Filing" of a document means actual receipt by the board during regular office hours. Any document filed with the board shall contain an affirmation that copies were served on the appropriate agency and parties. Filing by facsimile is permitted of documents ten pages or less if the original document is concurrently mailed or submitted to a commercial delivery service. Electronic filing of documents may be authorized by the presiding officer after consultation with the parties regarding format and authentication.

~~((6))~~ (7) "Party" means:

(a) A person to whom any agency decision is specifically directed; or

(b) A person named as a party to the adjudicative proceeding, allowed to intervene or joined as a party by the board.

~~((7))~~ (8) "Person" means any individual, partnership, corporation, association, organization, governmental subdivision, agency or entity of any character.

~~((8))~~ (9) "Presiding officer" means a member of the board or an administrative appeals judge who is assigned to conduct a conference or hearing by the chairperson or vice-chairperson.

~~((9))~~ (10) "Service" of a document means delivery of the document to the other parties to the appeal. Service may be made in any of the following ways:

(a) Personally, in accordance with the laws of the state, with a return of service or affidavit of service completed.

(b) First-class, registered or certified mail. Service is complete upon deposit in the United States mail properly stamped and addressed.

(c) Facsimile transmission with mailing or submission to commercial delivery service of copies on the same day. Service by facsimile is regarded as complete by production of the confirmation of transmission and evidence of mailing or submission to delivery service of the copies.

(d) Commercial parcel delivery service. Service by commercial parcel delivery service is regarded as complete upon delivery to the parcel delivery company with charges prepaid.

**AMENDATORY SECTION** (Amending WSR 97-19-064, filed 9/15/97, effective 10/16/97)

**WAC 371-08-335 Filing a timely appeal with the board.** (1) An appeal before the board shall be begun by filing a notice of appeal with the board at the environmental

hearings office and by serving a copy of the appeal notice on the agency whose decision is being appealed. For the board to acquire jurisdiction both such filing and such service must be timely accomplished.

(2) The notice of appeal shall be filed with the board within thirty days of the date ~~((that a copy))~~ of receipt of the order or decision ~~((is posted in the United States mail, properly addressed, postage prepaid, to the appealing party))~~. The board's rule governing the computation of time (WAC 371-08-310) shall determine how the thirty-day appeal period is calculated. The "date of receipt" of an order or decision means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.

(3) An appeal may be filed with the board by personal delivery, commercial delivery, facsimile, or first-class, registered or certified mail. An appeal is filed with the board on the date the board actually receives the notice of the appeal, not the date that the notice is mailed. Upon receiving the notice of appeal, the board will acknowledge receipt. The date stamped on the appeal notice shall be prima facie evidence of the filing date. The board may thereafter require that additional copies be filed.

AMENDATORY SECTION (Amending WSR 96-17-016, filed 8/12/96, effective 9/12/96)

**WAC 371-08-345 Service of the notice of appeal on the agency and other interested parties.** (1) Within thirty days of the date ~~((that a copy))~~ of receipt of the agency's order or decision ~~((is mailed to the appellant))~~, the appellant shall also serve a copy of the notice of appeal on the agency whose order or decision is being appealed. Proof of service may be made by certificate or affidavit filed with the board.

(2) A copy of the notice of appeal shall also be served on all other persons named as parties to the appeal. There is no time limit on when such service must be made.

AMENDATORY SECTION (Amending WSR 96-15-003, filed 7/3/96, effective 8/3/96)

**WAC 371-08-445 Use of telephone conferences, motion hearings and hearings.** Upon the motion of any party or independently, the presiding officer may decide to conduct any conference, motion hearing or hearing by telephone call to promote the fair, speedy and economical processing of a matter. ~~((If the presiding officer grants a party's request for a telephone conference, the requesting party shall initiate and pay for the call.))~~

AMENDATORY SECTION (Amending WSR 02-06-012, filed 2/22/02, effective 3/25/02)

**WAC 371-08-450 Motions.** (1) An application to the board for an order shall be by motion which, unless made

during a hearing, shall be in writing, state with particularity the grounds therefor and set forth the relief sought. ~~((Each written motion shall have appended to it the order which the motion seeks.))~~ A proposed order shall be submitted with a motion only at the request of the presiding officer.

(2) For motions for continuance or for schedule changes, or other motions that are likely to be uncontested, the moving party shall affirmatively seek the stipulation of all parties and present a stipulated order wherever possible.

(3) If the motion is contested, any party may request that the board hold a motion hearing. The presiding officer will decide whether or not a motion hearing will be held and notify the parties accordingly. At a motion hearing, the board will consider the arguments of the parties but will not take evidence. Unless a motion hearing is requested by one or more parties, or the board independently sets a motion hearing date, the board will normally decide the motion exclusively on the parties' written submissions. ~~((If a motion hearing is set by the presiding officer and is to be held by phone, the moving party shall originate the telephonic hearing conference call.))~~

(4) Unless a scheduling letter or order provides otherwise, the following schedule governs all written motions (including any supporting affidavits, memoranda of law, or other documentation):

(a) All responses to any motion dispositive of all or part of an appeal shall be filed and served ~~((ten))~~ fourteen days from the ~~((date the motion is received))~~ receipt of the motion by the nonmoving party. The moving party shall then have ~~((seven))~~ ten days from receipt of the response to file and serve a reply.

(b) ~~((In cases where the moving party requests a motion hearing, all dispositive motions shall be filed and served not later than twenty-eight days before the motion hearing.))~~ All responses to any nondispositive motion shall be filed and served five days from receipt of the motion by the nonmoving party. The moving party shall then have three days from receipt of the response to file and serve a reply.

(c) All dispositive motions shall be filed and served not later than ~~((forty-five))~~ sixty days before the secondary hearing date, or, if no secondary date applies, the primary hearing date, unless the presiding officer by order allows otherwise.

(d) In exigent or exceptional circumstances, a party may at any time request the board to modify the above schedules by requesting a scheduling conference (which may be telephonic) with the presiding officer.

(5) The board will decide a motion on the written record unless the presiding officer orders a motion hearing.

WSR 05-08-030  
PROPOSED RULES  
DEPARTMENT OF  
RETIREMENT SYSTEMS  
[Filed March 30, 2005, 11:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-23-005 and 04-17-001.

**Title of Rule and Other Identifying Information:** WAC 415-103-275 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?, 415-104-450 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?, 415-108-315 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?, 415-110-315 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?, and 415-112-705 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?

**Hearing Location(s):** Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on May 12, 2005, at 9:30 a.m.

**Date of Intended Adoption:** May 13, 2005.

**Submit Written Comments to:** Leslie L. Saeger, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail [leslies@drs.wa.gov](mailto:leslies@drs.wa.gov), fax (360) 753-3166, by 5:00 p.m. on May 12, 2005.

**Assistance for Persons with Disabilities:** Contact Leslie Saeger, Rules Coordinator, by May 2, 2005, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** These rules clarify the requirements and process for an active member to name a beneficiary or beneficiaries. A provision is also being added to address situations in which a surviving spouse is eligible to receive a benefit, but dies before requesting a distribution.

These rules affect members of the Washington State Patrol Retirement System, Law Enforcement Officers' and Fire Fighters' Retirement System, Public Employees' Retirement System, School Employees' Retirement System and the Teachers' Retirement System.

**Statutory Authority for Adoption:** RCW 41.50.050(5).

Rule is not necessitated by federal law, federal or state court decision.

**Name of Proponent:** Department of Retirement Systems, governmental.

**Name of Agency Personnel Responsible for Drafting:** Leslie Saeger, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; **Implementation and Enforcement:** Dorothy Bailey, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Retirement Systems is not one of the named departments in this section (RCW 34.05.328).

March 30, 2005

Leslie Saeger

Rules and Contracts Coordinator

(1) You may designate or change a beneficiary by submitting a Beneficiary Designation form to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifically designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.

(b) Your estate.

(c) An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust, the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number.

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by RCW 43.43.295.

(7) If your surviving spouse is eligible to receive a benefit under RCW 43.43.295(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children will receive the benefit, share and share alike, until each child reaches the age of majority. See example four.

#### EXAMPLE ONE.

##### Facts

John, a member, completes a Beneficiary Designation form. In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

##### Result

At John's death, Ann and the Barbara Trust are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 43.43.295.

#### NEW SECTION

**WAC 415-103-275 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?** This section applies to members commissioned on or after January 1, 2003.

**EXAMPLE TWO.****Facts**

John, a member, completes a Beneficiary Designation form. In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

**Result**

Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

**EXAMPLE THREE.****Facts**

When she became a WSPRS member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

**Result**

Unless required to do otherwise by court order, the department will comply with RCW 43.43.295(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

**EXAMPLE FOUR.****Facts**

John is a member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 43.43.295(2). However, Mary died the following week before requesting a distribution from the department.

**Result**

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible to receive a monthly benefit, share and share alike.

**AMENDATORY SECTION** (Amending WSR 00-10-017, filed 4/21/00, effective 5/22/00)

**WAC 415-104-450** (~~Designation of beneficiaries — Death benefit if a member dies before retirement.~~) How do I designate a beneficiary, and who will receive a distribution if I die before retirement? This section applies to Plan 2 members.

(1) (~~As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of your death while you are an active member. You may change your beneficiary designation at any time by filing a change of~~

~~beneficiary form with the department.~~) You may designate or change a beneficiary by submitting a *beneficiary designation form* to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) (~~As a member~~) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including (~~your~~) unborn or later adopted children. However, unborn or later adopted children (~~will not be included unless you~~) must be specifically (~~designate them~~) designated as beneficiaries on the form. You must (~~state~~) indicate the date of birth for any living person you name as a beneficiary(~~s~~).

(b) Your estate(~~s~~).

(c) (~~A trust in existence at the time of death.~~) An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to (~~the~~) any trust the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number(~~s~~);

(~~d) A trust to be established under your last will.~~)

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by RCW 41.26.510.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.26.510(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children will receive the benefit, share and share alike, until each child reaches the age of majority. See example four.

**Examples:****EXAMPLE ONE.****Facts**

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

**Result**

(~~Subject to applicable statute,~~) At John's death, (~~the department will consider both~~) Ann and the Barbara Trust (~~and daughter Ann as~~) are the primary beneficiaries. The department will require the name of the trustee, the tax iden-

tification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.26.510.

#### EXAMPLE TWO.

##### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally ((~~;~~); i.e., no trust name is provided(~~;~~)). (~~He checks the box labeled "primary beneficiary." John misunderstands the form and rather than provide the names of the trustee or trust administrator, John writes the word "both" in the blank provided.~~) John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

##### Result

~~((At John's death, the department learns that John has created no trusts. Subject to existing statute, if the department receives no notice of competing claims to John's death benefit, the department will distribute the death benefit to Ann. If the department receives notice of competing claims, a court resolution may be required.))~~ Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

#### EXAMPLE THREE.

##### Facts

When she became a LEOFF Plan 2 member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

##### Result

Unless required to do otherwise by court order, the department will comply with RCW 41.26.510(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

#### EXAMPLE FOUR.

##### Facts

John is a LEOFF 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.26.510(2). However, Mary died the following week before requesting a distribution from the department.

##### Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible to receive a monthly benefit, share and share alike.

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-108-315 ((~~Can I specify who can receive my benefits if I die in service?~~) **How do I designate a beneficiary, and who will receive a distribution if I die before retirement?** This section applies to the designation of beneficiaries for Plan 1 and Plan 2 members' defined benefit and Plan 3 members' defined contribution accounts.

~~(1) ((You have the right to designate a beneficiary or beneficiaries to receive a benefit if you die while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.))~~ You may designate or change a beneficiary by submitting a *beneficiary designation form* to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

~~(2) ((As a member))~~ You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including ~~((your))~~ unborn or later adopted children. However, unborn or later adopted children ((will not be included unless you)) must be specifically ((designate them)) designated as beneficiaries on the form. You must ((state)) indicate the date of birth for any living person you name as a beneficiary(~~;~~).

(b) Your estate(~~;~~ and/or).

(c) ~~((A trust.))~~ An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making a distribution to any trust the department must receive:

- (i) A copy of the entire trust document;
- (ii) The name, address, and telephone number of the current trustee; and
- (iii) The tax identification number.

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

~~(4) ((If you are a member of Plan 3, you may name the same or different beneficiaries for your defined benefit and defined contribution accounts.))~~ You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by:

- (a) RCW 41.40.270 for Plan 1 members;
- (b) RCW 41.40.700 for Plan 2 members; and
- (c) RCW 41.34.070 for Plan 3 members.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.40.270(2) or 41.40.700(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children will receive the benefit, share and share alike, until each child reaches the age of majority. See example four.

**Examples:****EXAMPLE ONE.****Facts**

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

**Result**

~~((Subject to applicable statute,))~~ At John's death, ((the department will consider both)) Ann and the Barbara Trust ((and daughter Ann as)) are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.40.270 for Plan 1 members, RCW 41.40.700 for Plan 2 members, and RCW 41.34.070 for Plan 3 members.

**EXAMPLE TWO.****Facts**

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

**Result**

Because John has created no trust, the designation ~~((in the trust/organizational location on the form is void. Subject to existing law, the department will issue the death benefit to Ann unless it receives a notice of a competing claim. If the department receives notice of competing claims, a court resolution may be required))~~ of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

**EXAMPLE THREE.****Facts**

When she became a PERS 1 member, Joan was unmarried and named her mother as her beneficiary. Joan later married, but did not complete a new beneficiary form before she died with four years of service.

**Result**

Unless required to do otherwise by court order, the department will comply with RCW 41.40.270 (1)(b) and pay Joan's surviving spouse the accumulated contributions in her retirement account. In this case, Joan's mother will not receive a distribution.

**EXAMPLE FOUR.****Facts**

John is a PERS Plan 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.40.700(2). However, Mary died the following week before requesting a distribution from the department.

**Result**

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible to receive a monthly benefit, share and share alike.

**AMENDATORY SECTION** (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

**WAC 415-110-315** ~~((Designation of beneficiaries—Death benefit if a member dies before retirement,))~~ How do I designate a beneficiary, and who will receive a distribution if I die before retirement? This section applies to the designation of beneficiaries for Plan 2 members' defined benefit ~~((or))~~ and Plan 3 members' defined contribution ~~((distribution))~~ accounts.

(1) ~~((As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of your death while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.))~~ You may designate or change a beneficiary by submitting a beneficiary designation form to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including ~~((your))~~ unborn or later adopted children. However, unborn or later adopted children ((will not be included unless you)) must be specifically ((designate them)) designated as beneficiaries on the form. You must ((state)) indicate the date of birth for any living person you name as a beneficiary((;)).

(b) Your estate((;)).

(c) ~~((A trust in existence at the time of death.))~~ An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust, the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number((;)

~~((A trust to be established under your last will)).~~

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by:

(a) RCW 41.35.460 for Plan 2 members; and

(b) RCW 41.34.070 for Plan 3 members.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.35.460(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children will receive the benefit, share and share alike, until each child reaches the age of majority. See example four.

#### Examples:

##### EXAMPLE ONE.

##### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

##### Result

~~((Subject to applicable statute.))~~ At John's death, ((the department will consider both)) Ann and the Barbara Trust ((and daughter Ann as)) are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.35.460 for Plan 2 members, and RCW 41.34.070 for Plan 3 members.

##### EXAMPLE TWO.

##### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

~~In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally ((;)), i.e., no trust name is provided((;)). ((He checks the box labeled "primary beneficiary." John misunderstands the form and rather than provide the names of the trustee or trust administrator, John writes the word "both" in the blank provided.))~~ John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

##### Result

~~((At John's death, the department learns that John has created no trusts. Subject to existing statute, if the department receives no notice of competing claims to John's death benefit, the department will distribute the death benefit to Ann. If~~

~~the department receives notice of competing claims, a court resolution may be required.))~~ Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

##### EXAMPLE THREE.

##### Facts

When she became a SERS Plan 2 member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

##### Result

Unless required to do otherwise by a court order, the department will comply with RCW 41.35.460(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

##### EXAMPLE FOUR.

##### Facts

John is a SERS Plan 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.35.460(2). However, Mary died the following week before requesting a distribution from the department.

##### Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible to receive a monthly benefit, share and share alike.

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-705 ((Designation of beneficiaries—Death benefit if a member dies before retirement.)) **How do I designate a beneficiary, and who will receive a distribution if I die before retirement?** This section applies to the designation of beneficiaries for Plan 1 and Plan 2 members' defined benefit and Plan 3 members' defined contribution accounts.

(1) ((As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of your death while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.)) You may designate or change a beneficiary by submitting a beneficiary designation form to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) ((As a member)) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including ((your)) unborn or later adopted children. However, unborn or later adopted children ((will not be included unless you)) must be specifically ((designate them)) designated as beneficiaries on the

form. You must ~~((state))~~ indicate the date of birth for any living person you name as a beneficiary~~((s))~~.

(b) Your estate~~((s))~~.

~~((A trust in existence at the time of death.))~~ An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number~~((s))~~;

~~((A trust to be established under your last will)).~~

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by:

(a) RCW 41.32.520 for Plan 1 members;

(b) RCW 41.32.805 for Plan 2 members; and

(c) RCW 41.34.070 for Plan 3 members.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.32.520 or 41.32.805(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children will receive the benefit, share and share alike, until each child reaches the age of majority. See example four.

#### Examples:

##### EXAMPLE ONE.

#### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

#### Result

~~((Subject to applicable statute.))~~ At John's death, ((the department will consider both)) Ann and the Barbara Trust ((and daughter Ann as)) are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.32.520 for Plan 1 members, RCW 41.32.805 for Plan 2 members, and RCW 41.34.070 for Plan 3 members.

##### EXAMPLE TWO.

#### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally ~~((s))~~; ~~i.e., no trust name is provided((s)). ((He checks the box labeled "primary beneficiary." John misunderstands the form and rather than provide the names of the trustee or trust administrator, John writes the word "both" in the blank provided.))~~ John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

#### Result

~~((At John's death, the department learns that John has created no trusts. Subject to existing statute, if the department receives no notice of competing claims to John's death benefit, the department will distribute the death benefit to Ann. If the department receives notice of competing claims, a court resolution may be required.))~~ Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

##### EXAMPLE THREE.

#### Facts

When she became a TRS 1 member, Joan was unmarried and named her mother as her beneficiary. Joan later married, but did not complete a new beneficiary form before she died with four years of service.

#### Result

Unless required to do otherwise by a court order, the department will comply with RCW 41.32.520(1) and pay Joan's surviving spouse the accumulated contributions in her retirement account. In this case, Joan's mother will not receive a distribution.

##### EXAMPLE FOUR.

#### Facts

John is a TRS Plan 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.32.805(2). However, Mary died the following week before requesting a distribution from the department.

#### Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible to receive a monthly benefit, share and share alike.

**WSR 05-08-031**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed March 30, 2005, 11:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-15-037.

Title of Rule and Other Identifying Information: Chapter 415-112 WAC, Teachers' retirement system, this is Phase 1 of a 3-phase effort. This phase includes those rules from WAC 415-112-015 through 415-112-412 that require updating or clarification.

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on May 12, 2005, at 9:30.

Date of Intended Adoption: May 13, 2005.

Submit Written Comments to: Leslie L. Saeger, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail [leslies@drs.wa.gov](mailto:leslies@drs.wa.gov), fax (360) 753-3166, by 5:00 p.m. on May 12, 2005.

Assistance for Persons with Disabilities: Contact Leslie L. Saeger, Rules Coordinator, by May 2, 2005, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department has been reviewing and rewriting the teachers' retirement system rules to reflect current policy and clear writing standards. This is the first of three phases. Phase 2 will include the second portion of the chapter. Phase 3 will include topics, identified by staff in Phases 1 and 2, that they would like addressed or expanded upon in rule.

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: For WAC 415-112-015 is RCW 41.32.010 and chapter 41.32 RCW; for WAC 415-112-119, 415-112-300 and 415-112-401 is chapter 41.32 RCW; for WAC 415-112-120 is RCW 41.32.010(29); for WAC 415-112-122 is RCW 41.32.032; for WAC 415-112-125 is RCW 41.32.240, 41.32.780, 41.32.835, 41.32.013; for WAC 415-112-130 is RCW 41.32.240, 41.32.780, 41.32.835; for WAC 415-112-145 is RCW 41.32.500, 41.32.820, 41.32.837, chapter 41.32 RCW; for WAC 415-112-240 is RCW 41.32.010(26); for WAC 415-112-250 is RCW 41.32.267, 41.32.810, 41.32.865; for WAC 415-112-260 is RCW 41.32.270, 41.32.010(26); for WAC 415-112-270 and 415-112-290 is RCW 41.32.330; and for WAC 415-112-402 and 415-112-412 is RCW 41.32.010(10).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of Retirement Systems, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Dorothy Bailey, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Retirement Systems is not one of the named departments in RCW 34.05.328.

March 30, 2005

Leslie L. Saeger

Rules and Contracts Coordinator

AMENDATORY SECTION (Amending WSR 04-21-080, filed 10/20/04, effective 11/20/04)

**WAC 415-112-015 Definitions.** ~~((+))~~ All definitions in RCW 41.32.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.32 RCW are defined in this chapter.

(1) Accrual date means the first date from which a member's or beneficiary's benefit is calculated. See WAC 415-112-520, RCW 41.32.795 and 41.32.855.

(2) ~~((=))~~ Annual leave ~~((=))~~ means leave provided by an employer for the purpose of taking regularly scheduled work time off with pay. Annual leave does not usually include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work. However, if an employer authorizes only one type of leave, covering paid leave for vacation, illness, and any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

(3) Dual member means a person who:

(a) Is or becomes a member of a retirement system, as defined in RCW 41.50.030 or 41.54.010(6), on or after July 1, 1988;

(b) Has been a member of one or more other systems; and

(c) Has never been retired for service from a retirement system and is not receiving a disability retirement or disability leave benefit from any retirement system listed in RCW 41.50.030 or 41.54.010(6). See WAC 415-113-041.

(4) Ineligible position means a position ~~((which))~~ that does not ~~((qualify as))~~ meet the requirements of an eligible position ((under)) as stated in RCW 41.32.010(37).

~~((4))~~ (5) Pension benefit means that portion of a retiree's monthly retirement allowance that is funded by the state of Washington and the retiree's former employer or employers.

~~((5))~~ (6) Public educational institution means a school district, the state school for the deaf, the state school for the blind, educational service districts, institutions of higher education, or community or technical colleges.

~~((6))~~ (7)(a) Public school as defined in RCW 41.32.010 includes school districts, educational service districts, the state school for the deaf, and the state school for the blind but does not include the office of the superintendent of public instruction.

(b) As applied to ~~((other))~~ TRS employers other than those listed in (a) of this subsection, "public school" means an institution, fifty percent or more of whose employees are "qualified to teach," whose primary function is to educate students. See subsection (8) of this section.

~~((7))~~ (8) Qualified to teach as used under RCW 41.32.010(29) means ~~((either))~~:

PROPOSED

~~(a) Having ((the authority to provide instruction at a common school as defined under RCW 28A.150.020 pursuant to:~~

~~((i)) a valid ((teaching)) certificate issued by the office of the superintendent of public instruction ((under WAC 180-75-055; or~~

~~((ii) A)) pursuant to WAC 180-79A-140;~~

~~(b) Having a valid permit to teach issued by a lawful authority of this state ((under RCW 28A.405.010)) pursuant to WAC 180-79A-128; or~~

~~((b)) (c) Being employed under a contract to teach with an institution of higher education as defined in RCW ((28A.150.020)) 28B.10.016.~~

~~((8) Reportable compensation means earnable compensation as that term is defined in RCW 41.32.010(10).))~~

~~(9) Service in an administrative or supervisory capacity as used under RCW 41.32.010 and in this chapter:~~

~~(a) Means:~~

~~(i) Service in a managerial role relating to the administration of a public school; or~~

~~(ii) Service involving the exercise of direction over employees of the public school.~~

~~(b) Includes, but is not limited to, service as: Principal, assistant principal, superintendent, assistant superintendent, personnel manager and business manager.~~

~~(10) ((Service in an instructional capacity means a qualified teacher performing services as a classroom teacher.~~

~~((11)) Spousal consent requires written evidence that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on the retirement application, duly executed and filed with the department, constitutes "written evidence."~~

~~((12)) (11) System acronyms used in this chapter are defined as follows:~~

- ~~• "PERS" means the public employees' retirement system.~~
- ~~• "SERS" means the school employees' retirement system.~~
- ~~• "TRS" means the teachers' retirement system.~~

**AMENDATORY SECTION** (Amending WSR 95-16-053, filed 7/25/95, effective 8/25/95)

**WAC 415-112-119 Purpose and scope of eligibility rules.** WAC 415-112-120 through ~~((415-112-155))~~ 415-112-156 codifies the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in TRS Plans ~~((I and Plan H))~~ 1, 2 and 3. The department has applied and will apply these rules to determine eligibility for ~~((service))~~ membership occurring prior to the effective dates of these sections.

**AMENDATORY SECTION** (Amending WSR 95-16-053, filed 7/25/95, effective 8/25/95)

~~WAC 415-112-120 ((Am I eligible to establish membership?)) **What is the definition of a "teacher"?** ((1) You must be a teacher. You are eligible to establish membership as provided under WAC 415-112-125 only if you work as a teacher. You are a teacher if you are qualified to teach~~

~~and work for a public school in an instructional, administrative or supervisory capacity:~~

~~(2) Nonteaching positions. Positions which do not require service in an instructional, administrative or supervisory capacity include, but are not limited to, the following: Custodian, groundskeeper, bus driver, cafeteria worker, library technician, administrative assistant, and payroll clerk.) Only teachers are eligible to establish membership in TRS.~~

~~(1) A teacher is a person who:~~

~~(a) Is qualified to teach under WAC 415-112-015(8); and is employed by a public school in an instructional, administrative, or supervisory capacity; or~~

~~(b) Otherwise meets the criteria in RCW 41.32.010(29).~~

~~(2) For example, persons employed in the following positions are included in the definition of teacher:~~

- ~~(a) Classroom teacher;~~
- ~~(b) Superintendent and assistant superintendent;~~
- ~~(c) Principal and assistant principal;~~
- ~~(d) Educational staff associate (see WAC 415-112-122);~~
- ~~(e) School librarian;~~
- ~~(f) Program administrator;~~
- ~~(g) School doctor.~~

~~(3) For example, persons employed in the following positions are not included in the definition of teacher:~~

- ~~(a) Custodian, bus driver, or cafeteria worker;~~
- ~~(b) Library technician;~~
- ~~(c) Administrative assistant or payroll clerk.~~

**NEW SECTION**

**WAC 415-112-122 Am I eligible for TRS membership if I am an educational staff associate?** (1) For the purposes of this chapter, you are considered a teacher and are eligible for TRS membership if you:

(a) Possess a valid educational staff associate certificate issued by the office of the superintendent of public instruction under chapter 180-79A WAC; and

(b) Serve in an educational staff associate position in a public school consistent with subsection (2) of this section.

(2) Educational staff associate positions include, but are not limited to: Communications disorder specialist, occupational therapist, physical therapist, reading resource technician, school counselor, school nurse, school psychologist, school social worker and school librarian. Educational staff associate positions do not include positions such as custodian, groundskeeper, bus driver, cafeteria worker, library technician, administrative assistant, payroll clerk or any other position that does not require service in an instructional, administrative or supervisory capacity.

(3) If you established service credit in PERS prior to June 7, 1984, in an educational staff associate position, and were employed as such on or after June 7, 1984, you may transfer your membership to TRS within the time limits established in RCW 41.32.032.

(4) If you were enrolled in PERS prior to June 7, 1984, based on employment as an educational staff associate, and were converted to SERS membership under RCW 41.40.750, you may transfer your membership to TRS within the time limits established in RCW 41.32.032.

**AMENDATORY SECTION** (Amending WSR 04-21-080, filed 10/20/04, effective 11/20/04)

**WAC 415-112-125** If I am eligible, how can I establish membership? ((1+)) If you ((met)) are a teacher as

defined in WAC 415-112-120 and meet the conditions in the following table, you established TRS membership. Your plan status depends upon the date you established membership, as indicated in the following table:

PROPOSED

((Period of Service	Type of Employment	Plan
Prior to 10/01/77 <sup>1/</sup>	If you were contracted to teach full-time you were mandated into membership. If you were employed under a less than full-time contract and you exercised your option to establish membership prior to 10/01/77, you had the option to apply for membership under RCW 41.32.240, if you worked 90 or more full-time days <sup>2/</sup> during a fiscal year.	Plan 1
10/01/77 through 06/06/90	If you were contracted to teach full-time you were required to be a member. If you were employed as a substitute teacher or under a less than full-time contract, you have the option to apply for membership under RCW 41.32.240 if you worked a minimum of 90 full-time days <sup>2/</sup> during a fiscal year, provided 1 month had at least 90 hours.	Plan 2
6/07/90 through 08/31/91	You must have been employed in an eligible position as defined in Section 2, Chapter 274, Laws of 1990, (requiring two or more consecutive months of at least 90 hours of compensated employment each month during an annual period September through August).  For substitute teachers: If you met the above criteria, you may apply for membership and service credit under RCW 41.32.013 and WAC 415-112-140.	Plan 2
9/01/91 forward	You must be employed in an eligible position (requiring at least 5 months of 70 hours or more of compensated employment each month during an annual period September through August).  For substitute teachers: If you meet the above criteria, you may apply for membership/service credit under RCW 41.32.013 and WAC 415-112-140.	Plan 2
7/01/96	You must be employed in an eligible position (requiring at least 5 months of 70 hours or more of compensated employment each month during an annual period September through August).  For substitute teachers: If you meet the above criteria, you may apply for membership/service credit under RCW 41.32.013 and WAC 415-112-140.	Plan 3

<sup>1/</sup> If you previously established Plan 1 membership as detailed above, you may reestablish Plan 1 membership after October 1, 1977.  
<sup>2/</sup> "Ninety days of employment," under RCW 41.32.240 and this section means either:

- (a) Ninety full-time calendar days, or the equivalent, during a fiscal year if you were employed as a teacher under a contract;
- or
- (b) Ninety full-time days of actual, compensated service, or the equivalent, during a fiscal year if you were employed as a substitute teacher.
- (c) The "equivalent" of a full-time day of employment under (a) and (b) of this subsection is the sum of partial days which, when added together, equals one full-time day.

(2) Defined terms used: Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Member" RCW 41.32.010.
- (b) "Eligible position" RCW 41.32.010.
- (c) "Employer" RCW 41.32.010.
- (d) "Full-time" RCW 41.32.240
- (e) "Service" RCW 41.32.010.
- (f) "Substitute teacher" RCW 41.32.010.
- (g) "Teacher" RCW 41.32.010.)

Period of Service	Type of Employment	Plan
Prior to 10/01/77 <sup>1/</sup>	(1) You were mandated into membership, if: (a) You were contracted to teach full time, as defined in RCW 41.32.240; and (b) You were employed for ninety calendar days.	Plan 1

Period of Service	Type of Employment	Plan
	(2) If you were employed less than full time, you were a member if you: (a) Worked the equivalent of ninety or more full-time days <sup>u</sup> during a fiscal year; and (b) Established membership under RCW 41.32.240 prior to 10/01/77.	
<u>10/01/77 through 06/06/90</u>	(1) If you were contracted to teach full time, you were required to be a member. (2) If you were employed as a substitute teacher or less than full time, you were a member if you: (a) Worked the equivalent of ninety or more full-time days <sup>u</sup> during a fiscal year; (b) Worked at least ninety hours during one month; and (c) Established membership under RCW 41.32.240.	Plan 2
<u>06/07/90 through 08/31/91</u>	(1) You were a member if you: (a) Were employed in an eligible position as defined in RCW 41.32.010 (37)(a); (b) Worked two consecutive months of ninety hours or more of compensated employment each month during an annual period September through August. (2) If you were a substitute teacher, you were a member if you: (a) Worked two consecutive months of ninety hours or more of compensated employment each month during an annual period September through August; and (b) Established membership under RCW 41.32.013.	Plan 2
<u>09/01/91 through 06/30/96</u>	(1) If you were employed in an eligible position as defined in RCW 41.32.010 (37)(b), you were required to be a member. (2) If you were employed as a substitute teacher, you were a member if you: (a) Worked at least five months of seventy hours or more of compensated employment during an annual period September through August; and (b) Established membership under RCW 41.32.013.	Plan 2
<u>07/01/96</u>	(1) If you were employed in an eligible position as defined in RCW 41.32.010 (37)(b), you were required to be a member. (2) If you were employed as a substitute teacher, you were a member if you: (a) Worked at least five months of seventy hours or more of compensated employment during an annual period September through August; and (b) Established membership under RCW 41.32.013.	Plan 3

<sup>u</sup> If you previously established Plan 1 membership as detailed above, you may reestablish Plan 1 membership after October 1, 1977.

<sup>u</sup> The equivalent of a full-time day is the sum of partial days, which, when added together, equal one full-time day.

**AMENDATORY SECTION** (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

**WAC 415-112-130** If I separate from, and then reen-  
employment, ~~((can))~~ **do** I continue to participate in  
TRS? ~~((1))~~ If you are a TRS Plan 1 member, you will partic-  
ipate in TRS Plan 1 if you become reemployed with a TRS  
employer. If you are a Plan 1 member and have separated))  
This section applies to Plan 1, 2 and 3 members who separate  
employment without retiring.

**(1) As a Plan 1 member:**

(a) If you separate from service without withdrawing  
contributions, you will participate in ~~((the system))~~ Plan 1  
again if you become reemployed with a TRS employer, even  
if you are not working as a teacher as defined in WAC 415-  
112-120.

~~((2))~~ If you terminate TRS Plan 1 membership, you will  
not reenter TRS Plan 1 unless you requalify for membership  
or repay withdrawn contributions as a dual member. If you

were a Plan 1 member and have terminated your member-  
ship, you can reestablish your membership and be eligible to  
participate in the system again only if you:

(a) Become reemployed as a teacher in a position or  
positions meeting the membership eligibility criteria under  
RCW 41.32.240 and WAC 415-112-125(1); or

(b) Repaid withdrawn contributions as a dual member  
under portability. See RCW 41.54.020(2).

(3) If you have service credit in TRS Plan 2, you will  
only reestablish membership if you work as a teacher in an  
eligible position. If you were a Plan 2 member who separated  
from service, you will reestablish membership and be eligible  
to participate in the system again only if you:

(a) Become reemployed as a teacher; and

(b) Render service in a position or positions meeting the  
membership eligibility criteria under WAC 415-112-125(1)  
or 415-112-140(1).

(4) If you have service credit in TRS Plan 3, you will  
only reestablish membership if you work as a teacher in an

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eligible position. If you were a Plan 3 member who separated from service, you will reestablish membership and be eligible to participate in the system again only if you:

- (a) Become reemployed as a teacher; and
- (b) Render service in a position or positions meeting the membership eligibility criteria under WAC 415-112-125(1) or 415-112-140(1).

(5) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed:

- (a) "Dual member" RCW 41.54.010 and WAC 415-113-041.
- (b) "Eligible position" RCW 41.32.010.
- (c) "Employer" RCW 41.32.010.
- (d) "Member" RCW 41.32.010.
- (e) "Service" RCW 41.32.010.
- (f) "Service in an administrative or supervisory capacity" WAC 415-112-015.
- (g) "Service in an instructional capacity" WAC 415-112-0163.

(h) "Teacher" RCW 41.32.010.) (b) If you separate from service and withdraw your contributions, you will reestablish Plan 1 membership only if:

- (i) You are a teacher, as defined in WAC 415-112-120, and meet the eligibility requirements in RCW 41.32.240; or
- (ii) You are a member of another retirement system and repay your withdrawn contributions as a dual member under portability. See RCW 41.54.020(2).

(2) As a Plan 2 member: If you separate from service, you will participate in Plan 2 again if you become reemployed in an eligible TRS position with a TRS employer.

(3) As a Plan 3 member: If you separate from service, you will participate in Plan 3 again if you become reemployed in an eligible TRS position with a TRS employer.

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-145 (~~Can I terminate~~) When does my status as a TRS member terminate? (1) ~~(If you are a TRS Plan 1 member, you will remain a member until you:~~

- (a) Die;
- (b) Retire for service or disability; or
- (c) Withdraw your accumulated contributions.

(2) ~~If you are a TRS Plan 2 member, you will remain a member until you:~~

- (a) Die;
- (b) Retire for service or disability; or
- (c) Separate from service as a teacher in an eligible position.

(3) ~~If you are a TRS Plan 3 member, you will remain a member until you:~~

- (a) Die; or
- (b) Retire for service or disability.

(4) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed:

- (a) "Eligible position" RCW 41.32.010.
- (b) "Member" RCW 41.32.010.
- (c) "Service" RCW 41.32.010.
- (d) "Teacher" RCW 41.32.010.)

Your TRS Plan 1 membership terminates:

- (a) When you retire for service or disability;
  - (b) When you separate from service and withdraw your accumulated contributions; or
  - (c) Upon your death.
- (2) Your TRS Plan 2 membership terminates:
- (a) When you retire for service or disability;
  - (b) When you separate from service and withdraw your accumulated contributions; or
  - (c) Upon your death.
- (3) Your TRS Plan 3 membership terminates:
- (a) When you retire for service or disability;
  - (b) When you separate from service, withdraw your accumulated contributions, and irrevocably waive your one percent defined benefit according to the provisions of WAC 415-112-150; or
  - (c) Upon your death.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-240 (~~Service credit to be retroactive~~) In TRS Plan 1, do I receive service credit for my first ninety days of service? In TRS Plan 1, the service ~~(rendered)~~ you provide during the ninety days of ~~(employment or the ninety days of)~~ service required to establish membership after July 1, 1964, ~~(shall qualify)~~ qualifies as creditable service after you establish membership ~~(has been established, except as to Plan II members)~~.

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-112-250 (~~Can~~) Will I receive service credit for leave with pay? (1) Plan 1 members: If you are otherwise eligible, you will receive service credit for any time ~~(on or after July 1, 1960, during which)~~ you were on official leave from your position on or after July 1, 1960, provided that:

- (a) You were listed as employed by your employer; and
- (b) You were receiving compensation from your employer for the time of your leave.

(2) Plan 2 members: You may receive service credit in accordance with RCW 41.32.810~~((+))~~.

(3) Plan 3 members: You may receive service credit in accordance with RCW 41.32.865~~((+))~~.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-260 (~~Credit~~) How is service credit evaluated for service in higher institutions? Service credit for teaching in public higher educational institutions ~~(shall be)~~ is evaluated ~~(under the same rules and regulations as apply to service credit in public common schools)~~ according to RCW 41.32.270 (Plan 1) and RCW 41.32.010 (2)(b) (Plans 2 and 3).

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

**WAC 415-112-270 ((Evaluating)) In TRS Plan 1, may I receive service credit for professional preparation((:))?** ((F)) As a TRS Plan 1 member ((is otherwise eligible, professional preparation credit may be allowed)), you may be eligible for service credit for additional study at an institution of higher learning((:)) or ((at)) a commercial or technical school where the courses supplement ((the member's)) your professional preparation.

The department considers thirty-six quarter hours or twenty-four semester hours of credit, or the equivalent, ((shall be considered a year's work. Any less credits shall be evaluated as a fractional part of a year)) as one year of service credit. Fewer academic credits may be converted into a fraction of a year of service credit.

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

**WAC 415-112-290 May I purchase service credit for out-of-state ((service)) teaching?** (1) ((A TRS Plan 1 member who leaves Washington public school service and terminates his membership in the teachers' retirement system by lapsation or withdrawal and who subsequently returns to service and membership may establish or reestablish only such credit for out of state service as may be credited under the laws in effect at the time when he reestablishes membership.

(2) Effective July 1, 1964, a new or former TRS Plan 1 member who returns to membership after his former membership was cancelled by lapsation or withdrawal may not establish or reestablish out of state prior service credit for any kind, including out of state prior service credit for teaching, professional preparation, or military service.

(3) Out of state membership service credit, regardless of when the service was rendered, may be established or reestablished after July 1, 1964, within the limitations of existing law, only if the out of state service was rendered while the member was on official leave of absence granted by a state of Washington employer.)) **Do I qualify to purchase service credit for out-of-state teaching?**

(a) **Plan 1.** If you are a Plan 1 member, you may establish service credit for teaching out-of-state, which includes teaching out of the country, only if:

(i) You were on an official leave of absence granted by your employer when you provided the service; and

(ii) You returned to public school service in Washington state.

(b) **Plans 2 and 3.** If you are a Plan 2 or 3 member, you may not purchase service credit for out-of-state teaching.

(2) **As a Plan 1 member, how do I apply to purchase service credit for out-of-state teaching?** To establish such service credit, you must submit the following to the department within the time limits set in RCW 41.32.310:

(a) Proof of your out-of-state service;

(b) Proof of your official leave of absence; and

(c) Payment of contributions.

(3) **What is the maximum amount of service credit I may purchase?** If you meet the requirements in this section, you may establish a maximum of four years of service credit

for teaching out-of-state. Except that, at the time of retirement, you may not have more years of service credit for out-of-state teaching than for Washington state service, unless you established the out-of-state service credit prior to July 2, 1947.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

**WAC 415-112-300 ((Red Cross service)) What types of service do not qualify for TRS service credit?** Service credit ((shall not be allowed)) is not earned for service:

(1) With the National Red Cross organization;

(2) As a teacher or educational advisor in the Civilian Conservation Corps camps; or

(3) As a Peace Corps volunteer.

NEW SECTION

**WAC 415-112-401 What types of payments are considered earnable compensation?** The following table indicates whether certain types of payments are earnable compensation under TRS Plan 1, 2 or 3 and provides a cross-reference to the specific WAC.

Type of Payment	TRS 1 Earnable Compensation?	TRS 2/3 Earnable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-112-415	No - WAC 415-112-415
Base Contract	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Car Allowances	No - WAC 415-112-41301 <sup>1</sup>	No - WAC 415-112-41301
Cafeteria Plans	Yes - WAC 415-112-4604	Yes - WAC 415-112-4604
Deferred Wages	Yes - WAC 415-112-4609	Yes - WAC 415-112-4609
Disability Payments	No - WAC 415-112-482	No - WAC 415-112-482
Employer Provided Vehicle	No - WAC 415-112-413 <sup>2</sup>	No - WAC 415-112-413
Employer Taxes/Contributions	No - WAC 415-112-4609	No - WAC 415-112-4609
Evening/Summer School	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Extracurricular Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Fringe Benefits, including insurance	No - WAC 415-112-480	No - WAC 415-112-480
Illegal Payments	No - WAC 415-112-485	No - WAC 415-112-485
Legislative Leave	Yes - WAC 415-112-471	Yes - WAC 415-112-471
Longevity/Education Attainment Pay	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
National Board of Professional Teaching Standards Certification Bonus	No - WAC 415-112-4602	No - WAC 415-112-4602
Nonmoney Maintenance	Yes - WAC 415-112-412 <sup>3</sup>	No - WAC 415-112-412
Optional Payments	No - WAC 415-112-487	No - WAC 415-112-487

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Type of Payment	TRS 1 Earnable Compensation?	TRS 2/3 Earnable Compensation?
Performance Bonuses	Yes - WAC 415-112-4603	Yes - WAC 415-112-4603
Retroactive Salary Increase	Yes - WAC 415-112-4607	Yes - WAC 415-112-4607
Reimbursements	No - WAC 415-112-489	No - WAC 415-112-489
Reinstatement Payments	Yes - WAC 415-112-477	Yes - WAC 415-112-477
Retirement or Termination Bonuses	No - WAC 415-112-490	No - WAC 415-112-490
Severance Pay - Earned Over Time	Yes - WAC 415-112-4608	No - WAC 415-112-4608
Severance Pay - Not Earned Over Time	No - WAC 415-112-491	No - WAC 415-112-491
Sick Leave Cash Outs	No - WAC 415-112-417	No - WAC 415-112-417
Supplemental Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Time Off with Pay	Yes - WAC 415-112-473	Yes - WAC 415-112-473
Union Leave <sup>4</sup>	Yes - WAC 415-112-475	Yes - WAC 415-112-475
Workers' Compensation	No - WAC 415-112-482	No - WAC 415-112-482

report compensation for the month in which it was earned. Compensation is earned when the service is provided, rather than when payment is made.

**Example:** A member is paid in July for work performed during June. The employer must report the compensation to the department as "June earnings."

**AMENDATORY SECTION** (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

**WAC 415-112-412 Are nonmoney payments from my employer (~~considered compensation~~) earnable compensation?** (1) ((TRS Plan 1 members:

(a) ~~If your employer provides you with materials in lieu of reimbursement for your business expenses, the value of the materials is not earnable compensation.~~

(i) ~~The value of employer-provided materials is not earnable compensation if you use the materials solely in connection with your employer's business.~~

(ii) ~~"Materials" includes, but is not limited to, living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities.~~

**Example:** ~~An employer provides an employee with uniforms which the employee must wear in performing services for his employer. Because the uniforms are to be used solely in connection with the employer's business, they do not qualify as nonmoney maintenance compensation. Therefore, the value of the uniforms is not earnable compensation.~~

(b) ~~The department presumes that your employer provides you materials solely in lieu of reimbursement for business expenses. Unless you or your employer can show by corroborating evidence that your employer provided you materials in whole or in part as payment for your personal expenses, as opposed to business expenses, the value of the materials is not earnable compensation.~~

(c) ~~If your employer provides you with materials for your personal use, the value of that use is nonmoney maintenance compensation and is included in your earnable compensation.~~

(i) ~~"Nonmoney maintenance compensation" means the fair market value of materials legally provided by your employer to you or your dependents for personal use.~~

(ii) ~~Nonmoney maintenance compensation does not include any form of compensation other than cash that is excludable from taxation under provisions of the Internal Revenue Code. This applies regardless of whether you or your employer reported the compensation to the Internal Revenue Service as taxable income.~~

(d) ~~Your use of employer-provided materials will qualify as nonmoney maintenance compensation if your employer substantiates that they were provided to you as payment for personal services. In order for employer-provided materials to qualify as nonmoney maintenance compensation, your employer must:~~

(i) ~~Establish and regularly update a written schedule reflecting the monthly fair market value of each item of~~

<sup>1</sup>A portion of the value of an employer car allowance may be reportable in Plan 1 only. See WAC 415-112-41301.

<sup>2</sup>A portion of the value of an employer provided vehicle may be reportable in Plan 1 only. See WAC 415-112-413.

<sup>3</sup>A portion of the value of nonmoney maintenance provided may be reportable in Plan 1 only. See WAC 415-112-412.

<sup>4</sup>Only specific types of union leave are reportable. See WAC 415-112-475.

**NEW SECTION**

**WAC 415-112-402 What is earnable compensation?**

(1) The department determines whether payments to an employee are earnable compensation based on the nature of the payment, not the name of the payment. The department considers the reason for the payment and whether the reason brings the payment within the statutory definition of earnable compensation.

(2) Earnable compensation must meet the definition in RCW 41.32.010(10). It must:

(a) Be paid by a TRS employer to an employee as salary or wages for services provided; or

(b) Qualify as earnable compensation under WAC 415-112-471 through 415-112-477, even though it was not paid for services provided. See RCW 41.32.010(10), 41.32.267, 41.32.810 and 41.32.865.

(3) In certain cases you may establish service credit for out-of-state teaching, military service, and professional preparation. However, any compensation you may have received for these periods is excluded from earnable compensation because it is not salary or wages from a TRS employer.

(4) Some types of compensation are defined as earnable compensation in one plan and not in another.

(5) An employer must report all of an employee's earnable compensation to the department. An employer must

employer-provided materials claimed as nonmoney maintenance compensation. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction;

(ii) Report the fair market value of employer-provided materials as nonmoney maintenance compensation to the department as earnable compensation. If you pay any amount to your employer in order to own or use the materials, your employer must report as earnable compensation the amount by which the fair market value of the materials exceeds the amount of your payment;

(iii) Substantiate by adequate records, or by other sufficient corroborating evidence the following:

(A) That the fair market value of each item of nonmoney maintenance compensation as reported to the department is accurate;

(B) That each item of nonmoney maintenance compensation is provided to you for your personal use as payment for your services to the employer; and

(C) That each item of nonmoney maintenance compensation is includable in your taxable income for federal income tax purposes.

**Example:** An employer leases an apartment for \$700.00 per month. The employer charges an employee \$300.00 per month to use the apartment for temporary living quarters. Because the employee uses the apartment for personal, rather than business, purposes, the amount by which the lease value exceeds the employee's payment is nonmoney maintenance compensation. The employer must report \$400.00 per month to the department as earnable compensation for the employee.

(e) How to corroborate that your use of employer-provided materials qualifies as nonmoney maintenance compensation. In addition to the records required under (d) of this subsection, you may provide the department with any evidence which you or your employer believe confirms that your use of employer-provided materials qualifies as earnable compensation. However, verbal evidence alone has considerably less value than written evidence. Written evidence prepared at or near the time your employer provides you with the item of compensation is generally much stronger than verbal evidence or written evidence created years later.

(2) TRS Plan 2 and Plan 3 members. If you are a TRS Plan 2 or Plan 3 member, you are not entitled to count the value of any nonmoney maintenance compensation you receive from your employer as earnable compensation.) Nonmoney maintenance compensation, as defined in this section:

(a) Is earnable compensation to the extent authorized by this section, for Plan 1 members; and

(b) Is not earnable compensation for Plan 2 and 3 members.

(2) Nonmoney maintenance compensation is compensation legally provided to you in a form other than money. For example, nonmoney maintenance compensation may include the provision of materials such as living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and

utilities. To be considered nonmoney maintenance compensation, the materials must be provided for your personal use and/or the personal use of your dependents, not for a business use. The materials are not nonmoney maintenance compensation if:

(a) You use them solely in connection with your employer's business; or

(b) They are provided in lieu of reimbursement for your business expenses.

(3) To prove that the provision of materials constitutes nonmoney maintenance compensation:

(a) Your employer must substantiate by adequate records or other sufficient corroborating evidence that the materials were provided to you for your personal use as payment for your services to the employer.

(b) Your employer must substantiate that the fair market value of the materials provided is includable in your taxable income for federal income tax purposes.

(c) You may provide corroborating evidence to the department. Written documentation prepared at or near the time the materials were provided is generally preferred.

(d) In the absence of clear proof, the department will presume that employer-provided materials were not nonmoney maintenance compensation.

(4) If you are a member of TRS Plan 1, your employer must report nonmoney maintenance compensation to the department as earnable compensation. The amount reported as earnable compensation is the fair market value of materials legally provided by your employer. To substantiate the value of nonmoney maintenance compensation:

(a) Your employer must establish and regularly update a written schedule reflecting the monthly fair market value of the materials provided. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction. Your employer must be able to substantiate the accuracy of this schedule with adequate records.

(b) If you pay any amount to your employer in order to own or use the materials, your employer must report as earnable compensation the amount by which the fair market value exceeds the amount of your payment.

## REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 415-112-020	Public records.
WAC 415-112-100	Minimum requirement for membership.
WAC 415-112-135	Can I be a member if I work as an educational staff associate?
WAC 415-112-310	Civilian Conservation Corps service.
WAC 415-112-320	Service as a Peace Corps volunteer.
WAC 415-112-444	Purpose and scope of earnable compensation rules.

WAC 415-112-445	TRS reportable compensation table.
WAC 415-112-450	What compensation can be reported?
WAC 415-112-460	Payments for services rendered.
WAC 415-112-470	Payments not for services rendered.

**WSR 05-08-032**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed March 30, 2005, 11:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-20-058.

Title of Rule and Other Identifying Information: WAC 415-108-436 PERS Plans 2 and 3 disability benefits.

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on May 24, 2005, at 9:00.

Date of Intended Adoption: May 25, 2005.

Submit Written Comments to: Leslie L. Saeger, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail [leslies@drs.wa.gov](mailto:leslies@drs.wa.gov), fax (360) 753-3166, by 5:00 p.m. on May 24, 2005.

Assistance for Persons with Disabilities: Contact Leslie L. Saeger, Rules Coordinator, by May 12, 2005, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The new rule explains the benefits, eligibility requirements, and application process for public employees' retirement system disability benefits.

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: RCW 41.40.670 and 41.40.825.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of Retirement Systems, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Dorothy Bailey, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Retirement Systems is not one of the named departments in RCW 34.05.328.

March 30, 2005  
 Leslie L. Saeger  
 Rules and Contracts Coordinator

NEW SECTION

**WAC 415-108-436 PERS Plans 2 and 3 disability benefits.** This section covers disability benefits provided for in RCW 41.40.670 and 41.40.825 for members of PERS Plans 2 and 3. Disability provisions are designed primarily to provide an income to members who have been forced to leave the workforce because of an incapacitating disability. This section applies equally to on- or off-the-job injuries and/or illnesses.

Members may also be eligible for benefits from the Washington state departments of labor and industries (workers' compensation benefits) and social and health services, the U.S. Social Security Administration, employers, disability insurers, and others. Please contact these organizations directly for more information.

(1) **Am I eligible for disability benefits?** You are eligible for a disability allowance if, at the time of your separation from employment, you are totally incapacitated to perform the duties of your job or any other position for a PERS employer for which you are qualified by training or experience. Objective medical evidence is required to establish total incapacitation. Vocational and/or occupational evidence may be required at the discretion of the department.

(2) **If eligible, what will I receive as my monthly disability benefits under the standard option?**

(a) If you are a Plan 2 member, you will receive two percent times average final compensation (AFC) times service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age sixty-five. See WAC 415-02-320 for early retirement factors and examples.

(b) If you are a Plan 3 member, you will receive a defined benefit of one percent times average final compensation times service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age sixty-five. See WAC 415-02-320 for early retirement factors and examples.

(c) The degree of your disability or impairment will not impact the amount of your disability benefit.

(3) **May I choose a benefit option that provides a monthly allowance to my survivor beneficiary?** You may choose to have your benefit paid according to any of the benefit options described in WAC 415-108-326. If you choose an option with a survivor feature, your monthly benefit will be actuarially reduced to offset the cost.

(4) **How do I apply?**

(a) You or your representative must contact the department to request an application. The three-part application must be completed by the proper persons and returned to the department.

(i) **Part 1:** Disability retirement application. You must complete, sign and have notarized. If you are married, your spouse must sign consent of the benefit option you choose.

(ii) **Part 2:** Employer's statement and report. Your employer must complete, sign and return directly to the department.

(iii) **Part 3:** Medical report. You must complete section one. Your physician must complete the remainder of the form, attach supporting documentation, sign and return

directly to the department. You are responsible for all medical expenses related to your application for benefits.

(b) When the department receives Part 1 of your application, you are considered to be an applicant for disability benefits. However, your eligibility will not be determined until the department receives all three parts of the application.

(5) **What is the time limit for filing an application for disability benefits?** There is no time limit for applying for benefits. However, if you have separated from employment, your application must be based on your condition at the time of separation.

(6) **If I am eligible to retire, may I still apply for disability benefits?** Yes, however, there will be no difference in the dollar amount of your benefit.

(7) **Once my application is approved, when will my benefit begin?**

(a) You will start accruing disability benefits the first day of the calendar month immediately following your separation from employment. If you are continuing to earn service credit while on paid leave or through programs such as shared leave, you are not considered to be separated from employment.

(b) Your first benefit payment will include all retroactive benefits to which you are entitled.

(c) Department approval will expire ninety days after the approval date if you have not officially separated from PERS employment.

(i) If you are continuing to perform the duties of your position or another PERS position, you may reapply for disability benefits according to subsection (4) of this section if your condition worsens.

(ii) If you are on leave, the department may reinstate approval upon your request and your employer's verification of your leave status.

(8) **What are my options if my application is denied?**

(a) You may submit additional information that shows you were totally incapacitated at the time of your separation from employment.

(b) If you continue to work in a PERS position, you may reapply for disability benefits at a later time if your condition worsens.

(c) You may petition for review of the department's decision according to the provisions of chapter 415-04 WAC.

(9) **What information must be provided to the department if I am receiving disability benefits?**

(a) You and your doctor must report any improvement in your condition; and

(b) You must report the name of your employer and monthly salary if you resume employment, regardless of the number of hours you work.

(10) **How long will my disability benefits last?** You may receive benefits throughout your lifetime, subject to the provisions of subsection (15) of this section.

(11) **Are my disability benefits taxable?** You should consult with your tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department. The department does not:

(a) Guarantee that payments should or should not be designated as exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

(12) **Are disability benefits subject to court or administrative orders?** Your benefits may be subject to orders for spousal maintenance, child support, property division, or any other administrative or court order expressly authorized by federal law. For more information, see RCW 41.40.052(3) or contact the department.

(13) **Am I eligible for disability benefits if my disability is the result of my criminal conduct committed after April 21, 1997?** No. For more information, see RCW 41.40.054.

(14) **How is my disability benefit affected if I am a member of more than one retirement system?** If you are a member of more than one retirement system, your benefit is governed by portability law (see chapters 41.54 RCW and 415-113 WAC). You may apply for disability only from your active system. However, if you qualify for a disability benefit from your active system, you will also be eligible for a service retirement calculated under the laws governing the inactive system.

(15) **Is it possible to lose my disability benefits after I begin receiving them?**

(a) The department may, at its expense, require comprehensive medical examinations to reevaluate your eligibility for disability benefits. You will no longer be eligible to receive disability benefits if both of the following apply:

(i) Medical evidence indicates you have recovered from the disability for which the department granted your disability benefits; and

(ii) You have been offered reemployment by an employer, as defined in RCW 41.40.010 (4)(b), at a comparable compensation.

(b) If you return to employment and reenter PERS membership, your benefits will cease.

(16) **If I take my disability benefit in a lump sum and return to work, may I restore my service credit?** Yes, you may restore your service credit if you take a lump sum benefit and return to PERS membership at a later date.

(a) You may restore your service credit within two years of reentering membership or prior to retirement, whichever comes first. You must pay back the lump sum amount you received, minus the monthly amount for which you were eligible, plus interest as determined by the director.

(b) If you restore your service after two years, you will have to pay the actuarial value of the resulting increase in your future retirement benefit. See RCW 41.50.165.

(c) The provisions for restoring service credit vary according to retirement plan.

(i) If you are a member of PERS Plan 2, see RCW 41.40.625.

(ii) If you are a member of PERS Plan 3, see RCW 41.40.815.

**WSR 05-08-033**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**  
 [Filed March 30, 2005, 11:45 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 04-20-010.

Title of Rule and Other Identifying Information: WAC 415-104-111 How does the department calculate the retirement allowance of LEOFF Plan 2 member who retires, reenters employment, and then either retires or separates employment again?, 415-108-830 How does the department calculate the retirement allowance of a PERS Plan 2 or Plan 3 member who retires, reenters PERS membership, and then retires again?, 415-112-544 How does the department calculate the retirement allowance of a TRS Plan 2 or Plan 3 member who retires, reenters TRS membership, and then retires again?, and WAC 415-110-830 How does the department calculate the retirement allowance of a SERS Plan 2 or Plan 3 member who retires, reenters SERS membership, and then retires again?, and repealing WAC 415-112-840 Actuarial recomputation of retirement allowance upon retirement following reemployment.

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on May 12, 2005, at 9:30.

Date of Intended Adoption: May 13, 2005.

Submit Written Comments to: Leslie L. Saeger, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail leslies@drs.wa.gov, fax (360) 753-3166, by 5:00 p.m. on May 12, 2005.

Assistance for Persons with Disabilities: Contact Leslie L. Saeger, Rules Coordinator, by May 2, 2005, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules are being amended to delete obsolete provisions, correct statutory citations, and rewrite in approved style.

WAC 415-112-840 is being repealed and the amended version will be adopted as WAC 415-112-544. This is being done to improve the organization and accessibility of rules in the teachers' retirement system chapter.

Statutory Authority for Adoption: For WAC 415-104-111 is RCW 41.50.050(5), 41.26.500; for WAC 415-108-830 is RCW 41.50.050(5), 41.40.690, 41.40.850; for WAC 415-110-830 is RCW 41.50.050(5), 41.35.230; and for WAC 415-112-544 is RCW 41.50.050(5), 41.32.800, 41.32.860.

Statute Being Implemented: For WAC 415-104-111 is RCW 41.26.500; for WAC 415-108-830 is RCW 41.40.690, 41.40.850, 41.40.037; for WAC 415-110-830 is RCW 41.35.230, 41.35.060; and for WAC 415-112-544 is RCW 41.32.800, 41.32.802, 41.32.860, 41.32.862.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of Retirement Systems, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Dorothy

Bailey, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Retirement Systems is not one of the named departments in RCW 34.05.328.

March 30, 2005

Leslie L. Saeger

Rules and Contracts Coordinator

AMENDATORY SECTION (Amending WSR 02-14-072, filed 6/28/02, effective 7/29/02)

WAC 415-104-111 (~~Actuarial recomputation of retirement allowance upon retirement following reemployment.~~) How does the department calculate the retirement allowance of a LEOFF Plan 2 member who retires, reenters employment, and then either retires or separates employment again? (~~((1) The purpose of this rule is to establish)) This rule establishes a method to actuarially recompute ((the)) your retirement allowance ((of)) if you are a Plan 2 member who retires, reenters employment causing ((his or her)) your retirement allowance to be suspended, and then either retires or separates employment again. ((The actuarially recomputed retirement allowance shall:~~

~~(a) Include service credit the member earned following reestablishment of membership if any; and~~

~~(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age fifty-three.~~

~~(2) If a Plan 2 retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.26.500 as follows:)) (1) If you return to employment in a LEOFF eligible position, you must reenter membership.~~

~~(a) If ((the member first)) you previously retired before age fifty-three, the department ((shall)) will:~~

~~(i) Calculate ((the)) your retirement allowance pursuant to RCW 41.26.420 using ((the retiree's));~~

~~(A) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and~~

~~(B) Any increase in your final average salary resulting from your reentry into membership; and~~

~~(ii) Actuarially reduce ((the member's)) your retirement allowance;~~

~~(A) Based on the present value of the retirement allowance payments ((the individual)) you received during ((the)) your initial retirement; ((and~~

~~((iii) Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.)) (B) To reflect the difference in the number of years between your current age and the attainment of age fifty-three, if applicable; and~~

~~(C) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-104-215.~~

(b) If ~~((the member initially))~~ you previously retired at or after age fifty-three, the department ~~((shall))~~ will recompute ~~((the member's))~~ your retirement allowance pursuant to RCW ~~((41.26.500))~~ 41.26.420 and include any additional service credit you earned and any ~~((applicable))~~ increase in ~~((the member's))~~ your final average ~~((final compensation))~~ salary resulting from ~~((the member's))~~ your reentry into membership. The department will actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-104-215.

(c) Under no circumstances ~~((shall a retiree))~~ will you receive a retirement allowance creditable to a month during which ~~((that individual))~~ you earned service credit.

~~((3))~~ If a retiree's retirement allowance is suspended under RCW 41.26.500 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

(a) The amount of the monthly suspended retirement allowance; plus

(b) An actuarially computed increase based upon the retirement allowance payment the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:

(i) An amount amortized over the expected term of the recomputed retirement allowance; or

(ii) A lump sum payment equal to the suspended retirement allowance plus interest.) (2) If you enter employment in a PERS, TRS or SERS eligible position, whether or not you enter PERS, TRS or SERS membership, your LEOFF retirement allowance will be suspended under RCW 41.26.500. Upon separation from such employment, your suspended retirement allowance will be reinstated. In addition, you may choose to have the total monthly retirement payments you would have received had you not reentered employment, plus interest, either:

(a) In a lump sum; or

(b) Actuarially computed in your retirement allowance.

**AMENDATORY SECTION** (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

**WAC 415-108-830 ((Actuarial recomputation of a Plan 2 or Plan 3 retirement allowance upon retirement following reemployment.))** **How does the department calculate the retirement allowance of a PERS Plan 2 or Plan 3 member who retires, reenters PERS membership, and then retires again?** ~~((1))~~ This rule establishes a method to actuarially recompute ~~((the))~~ your defined benefit retirement allowance ~~((of))~~ if you are a Plan 2 or Plan 3 member who retires, reenters ~~((employment))~~ PERS membership causing ~~((the))~~ your retirement allowance to ~~((be suspended))~~ stop, and then retires again. ~~((The actuarially recomputed retirement allowance shall:~~

(a) Include service credit the member earned following reestablishment of membership if any; and

(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age sixty-five.

~~((2))~~ If a Plan 2 or Plan 3 retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.40.690 as follows:

(a)) (1) If ~~((the member first))~~ you previously retired before age sixty-five, the department ~~((shall))~~ will:

~~((i))~~ Calculate ~~((the))~~ (a) Recompute your retirement allowance pursuant to RCW 41.40.620 (Plan 2) or 41.40.790 (Plan 3) using ~~((the retiree's))~~:

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your average final compensation resulting from your reentry into membership; and

(b) Actuarially reduce ~~((the member's))~~ your retirement allowance;

(i) Based on the present value of the retirement allowance payments ~~((the individual))~~ you received during ~~((the))~~ your initial retirement; ~~((and))~~

(ii) To reflect the difference in the number of years between your current age and the attainment of age sixty-five, if applicable; and

(iii) ~~((Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.~~

(b)) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-108-326.

(2) If ~~((the member initially))~~ you previously retired at or after age sixty-five, the department ~~((shall))~~ will recompute ~~((the member's))~~ your retirement allowance pursuant to RCW 41.40.620 (Plan 2) or 41.40.790 (Plan 3) and include any additional service credit you earned and any ~~((applicable))~~ increase in ~~((the member's))~~ your average final compensation resulting from ~~((the member's))~~ your reentry into membership. The department will actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-108-326.

(3) Under no circumstances ~~((shall a retiree))~~ will you receive a retirement allowance creditable to a month during which ~~((that individual))~~ you earned service credit.

~~((3))~~ If a Plan 2 or Plan 3 retiree's retirement allowance is suspended under RCW 41.40.690 or 41.40.850 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

(a) The amount of the monthly suspended retirement allowance; plus

(b) An actuarially computed increase based upon the retirement allowance payments the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:

(i) An amount amortized over the expected term of the recomputed retirement allowance; or

(ii) A lump sum payment equal to the suspended retirement allowance plus interest.)

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

PROPOSED

~~WAC 415-110-830 ((Actuarial recomputation of retirement allowance upon retirement following reemployment.))~~ How does the department calculate the retirement allowance of a SERS Plan 2 or Plan 3 member who retires, reenters SERS membership, and then retires again? ~~((1) The purpose of)~~ This rule ((is to establish)) establishes a method to actuarially recompute ((the)) your defined benefit retirement allowance ((of)) if you are a Plan 2 or Plan 3 member ((or the defined benefit retirement allowance of a Plan 3 member)) who retires, reenters ((employment causing his or her)) SERS membership causing your retirement allowance to ((be suspended)) stop, and then retires again. ((The actuarially recomputed retirement allowance shall:

(a) Include service credit the member earned following reestablishment of membership if any; and

(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age sixty-five.

(2) If a Plan 2 or Plan 3 retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.35.230 (Plan 2) or RCW 41.35.640 (Plan 3) as follows:

(a)) (1) If ((the member first)) you previously retired before age sixty-five, the department ((shall)) will:

((i) Calculate the) (a) Recompute your retirement allowance pursuant to RCW 41.35.400 (Plan 2) or RCW 41.35.620 (Plan 3) using ((the retiree's));

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your average final compensation resulting from your reentry into membership; and

(b) Actuarially reduce ((the member's)) your retirement allowance;

(i) Based on the present value of the retirement allowance payments ((the individual)) you received during ((the)) your initial retirement; ((and))

(ii) To reflect the difference in the number of years between your current age and the attainment of age sixty-five, if applicable; and

(iii) ((Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.

(b)) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-110-326.

(2) If ((the member initially)) you previously retired at or after age sixty-five, the department ((shall)) will recompute ((the member's)) your retirement allowance pursuant to RCW 41.35.400 (Plan 2) or RCW 41.35.620 (Plan 3) and include any additional service credit you earned and any ((applicable)) increase in ((the member's)) your average final compensation resulting from ((the member's)) your reentry into membership. The department will actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-110-326.

(3) Under no circumstances ((shall a retiree)) will you receive a retirement allowance creditable to a month during which ((that individual)) you earned service credit.

~~((3) If a retiree's retirement allowance is suspended under RCW 41.35.450 or 41.35.640 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:~~

~~(a) The amount of the monthly suspended retirement allowance; plus~~

~~(b) An actuarially computed increase based upon the retirement allowance payments the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:~~

~~(i) An amount amortized over the expected term of the recomputed retirement allowance; or~~

~~(ii) A lump sum payment equal to the suspended retirement allowance plus interest.)~~

NEW SECTION

WAC 415-112-544 How does the department calculate the retirement allowance of a TRS Plan 2 or Plan 3 member who retires, reenters TRS membership, and then retires again? This rule establishes a method to actuarially recompute your defined benefit retirement allowance if you are a Plan 2 or Plan 3 member who retires, reenters TRS membership causing your retirement allowance to stop, and then retires again.

(1) If you previously retired before age sixty-five, the department will:

(a) Recompute your retirement allowance pursuant to RCW 41.32.760 (Plan 2) or 41.32.840 (Plan 3) using:

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your average final compensation resulting from your reentry into membership; and

(b) Actuarially reduce your retirement allowance:

(i) Based on the present value of the retirement allowance payments you received during your initial retirement;

(ii) To reflect the difference in the number of years between your current age and the attainment of age sixty-five, if applicable; and

(iii) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-112-493.

(2) If you previously retired at or after age sixty-five, the department will recompute your retirement allowance pursuant to RCW 41.32.760 (Plan 2) or 41.32.840 (Plan 3) and include any additional service credit you earned and any increase in your average final compensation resulting from your reentry into membership. The department will actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-112-493.

(3) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 415-112-840 Actuarial recomputation of retirement allowance upon retirement following reemployment.

**WSR 05-08-034**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed March 30, 2005, 1:33 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 03-16-050.

Title of Rule and Other Identifying Information: WAC 415-02-140 What is excess compensation and how is the employer's excess compensation billing calculated?

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on May 24, 2005, at 9:00 a.m..

Date of Intended Adoption: May 25, 2005.

Submit Written Comments to: Leslie L. Saeger, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail [leslies@drs.wa.gov](mailto:leslies@drs.wa.gov), fax (360) 753-3166, by 5:00 p.m. on May 24, 2005.

Assistance for Persons with Disabilities: Contact Leslie L. Saeger, Rules Coordinator, by May 12, 2005, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments clarify department policy, correct errors in the examples, and expand the rule to address billing for excess compensation when two or more employers are involved.

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: RCW 41.50.150.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of Retirement Systems, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Dorothy Bailey, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Retirement Systems is not one of the named departments in RCW 34.05.328.

March 30, 2005

Leslie Saeger  
 Rules and Contracts Coordinator

**AMENDATORY SECTION** (Amending WSR 03-06-043, filed 2/27/03, effective 4/1/03)

**WAC 415-02-140 What is excess compensation and how is ((#)) the employer's excess compensation billing calculated?** (1) **What is excess compensation?** Excess compensation refers to certain payments from an employer to an employee((,-if)) when the payment is used in the calculation of the employee's retirement allowance. ((If used in the calculation of an employee's retirement allowance.)) The following payments are excess compensation when they are reportable compensation and used in the calculation of the employee's retirement allowance:

(a) A cash out of unused annual leave in excess of two hundred forty hours;

(b) A cash out of other forms of leave, including sick leave and holiday leave;

(c) A payment for a personal expense, if the payment qualifies as reportable compensation in the employee's own retirement system;

(d) That portion of any payment, such as an overtime or incentive payment, that exceeds twice the employee's regular rate of pay for the period of time that the overtime or incentive payment applies; and

(e) ((Any)) A termination or severance payment.

(2) ((How is the amount of excess compensation calculated? The department:

(a) ~~Determines the increased amount of retirement benefits related to the excess compensation;~~

(b) ~~Obtains the actuarial factor based on age for the monthly benefit per one dollar of accumulation to defined benefit plan (see WAC 415-02-340);~~

(c) ~~Divides the benefit increase due to excess compensation by the actuarial factor; and~~

(d) ~~Uses the result for the excess compensation billing.~~

(3) How does the payment of excess compensation affect employers? The department will bill an employer for any increase in an employee's retirement benefit resulting from the excess compensation. The employer must pay the present value of the amount by which the employee's pension is increased.)) **How does the payment of excess compensation affect employers?** The department determines how much an employee's retirement benefit will increase as a result of the excess compensation, and bills the employer or employers for the present value of that increase.

(a) If an employee cashes out annual leave while working concurrently for two or more employers and the total cash-outs result in excess compensation, each employer's billing will be based on:

(i) The number of hours cashed out by that employer in relation to the total number of hours cashed out by all employers; and

(ii) The hourly rate paid by that employer.

**Example:** Brian, a PERS 1 member, separated from employment at Agency A and Agency B at the same time. He cashed out 75 hours of annual leave from Agency A and 225 hours from Agency B, resulting in a total of 300 hours that will be used in the calculation of his average final compensation (AFC). A cash-out of unused annual leave in excess of two hundred forty hours is excess compensation (see subsection (1)(a) of this section). Therefore, sixty hours

PROPOSED

of the cash-out is excess compensation. (300 hours - 240 hours = 60 hours of excess compensation.)

Employer	Total hours cashed out	Percentage of total hours cashed out	Excess compensation billing will be based on:
Agency A	75 hours	25% (75/300)	15 hours (60 hours of excess compensation hours x 25% = 15 hours) at the hourly rate paid by Agency A.
Agency B	225 hours	75% (225/300)	45 hours (60 hours of excess compensation hours x 75% = 45 hours) at the hourly rate paid by Agency B.

School District	Annual Leave Cash-out	Rationale and Determination
B 7/1/04 - 2/28/05	96	The cumulative total of the annual leave cashed out by School District A and School District B exceeds 240 hours, and results in 12 hours of excess compensation <sup>1</sup> . School District B's excess compensation billing will be based on 12 hours at the hourly rate paid by School District B.
C 3/1/05 - 6/30/05	48	Since the cumulative total exceeded 240 hours prior to Deborah's employment with School District C, all of the leave cashed out by Agency C is excess compensation. School District C's excess compensation billing will be based on 48 hours at the hourly rate paid by School District C.

PROPOSED

(b) If an employee cashes out annual leave from two or more successive employers during his/her AFC period and the total cash-outs result in excess compensation, the department will:

(i) Determine the hours cashed out sequentially (employer by employer);

(ii) Identify the employer at the time the cumulative total cashed out exceeded two hundred forty hours, resulting in excess compensation; and

(iii) Bill the employer, identified in (b)(ii) of this subsection, and any subsequent employers during the AFC period, for the number of excess compensation hours each cashed out.

**Example:** Deborah is a TRS 1 member who changed employment three times during her AFC period.

1. When Deborah separated employment from School District A, she cashed out 156 hours of annual leave;

2. When she separated employment from School District B, she cashed out 96 hours of annual leave; and

3. When she separated from School District C, she cashed out an additional 48 hours of annual leave.

School District	Annual Leave Cash-out	Rationale and Determination
A 7/1/03 - 6/30/04	156	The department will not bill School District A because excess compensation did not result from the 156 hours of annual leave Deborah cashed out at School District A.

<sup>1</sup> 156 hours (cashed out by School District A) plus 96 hours (cashed out by Agency B) = 252 hours. A cash-out of unused annual leave in excess of two hundred forty hours is excess compensation (subsection (1)(a) of this section). 252 hours - 240 hours = 12 hours of excess compensation.

(3) **How is the excess compensation billing calculated?** To determine the amount of each employer's excess compensation billing, the department:

(a) Determines the increased amount of the employee's monthly retirement allowance that will result from the increase in the AFC, based on a standard benefit allowance (benefit option one);

(b) Determines the actuarial factor, based on the employee's age and retirement plan, from WAC 415-02-340; and

(c) Divides the amount of the monthly benefit increase in (a) of this subsection by the actuarial factor in (b) of this subsection.

If two or more employers are responsible for an employee's excess compensation, the department will calculate the bill for each employer individually, based solely on the excess compensation attributed to that employer. See subsection (2)(a) and (b) of this section.

(4) **Examples:**

(a) **Example 1: Excess compensation arising from cash out of sick leave (PERS Plan 1):**

Denise is a 59 year-old ((public employees' retirement system)) PERS Plan 1 member ((and retires)) working for a public utility district. She will retire with thirty years of service((-She will be cashing)), and will cash out \$8,000 in sick leave. Denise earned her two highest years of pay during her last two years of employment; therefore, the department will use these years to compute her ((average final compensation(-)AFC(??))).

PROPOSED

- Year 1 - \$59,000 Salary
- Year 2 - \$61,000 Salary + \$8,000 sick leave cash out

Q: Did Denise receive excess compensation?

A: Yes. Under subsection (1)(b) of this section, the \$8,000 sick leave cash out is excess compensation.

Q: ((Does)) Will the excess compensation increase Denise's retirement allowance?

A: Yes. Denise's retirement allowance will increase((s)) by \$200/month as shown:

**Without the excess compensation (cash out):**

$$\begin{aligned} \text{AFC} &= (((\$59,000 + \$61,000)/2 - \$60,000)) \\ &\quad \underline{\$59,000 + \$61,000 = \$120,000} \\ &\quad \underline{\$120,000/24 = \$5,000/month} \end{aligned}$$

$$\begin{aligned} \text{Retirement} &= ((2\% \times \$60,000 \times 30 \text{ years} - \$36,000/\text{year} \\ &\quad \text{allowance} \quad (\$3,000/\text{month}))) \\ &\quad \underline{2\% \times 30 \text{ years} \times \$5,000 = \$3,000/month} \end{aligned}$$

**With the excess compensation (cash out):**

$$\begin{aligned} \text{AFC} &= (((\$59,000 + \$61,000 + \$8,000)/2 - \$64,000)) \\ &\quad \underline{\$59,000 + \$61,000 + \$8,000 = \$128,000} \\ &\quad \underline{\$128,000/24 = \$5,333.33/month} \end{aligned}$$

$$\begin{aligned} \text{Retirement} &= ((2\% \times \$64,000 \times 30 \text{ years} - \$38,400/\text{year} \\ &\quad \text{allowance} \quad (\$3,200/\text{month}))) \\ &\quad \underline{2\% \times 30 \text{ years} \times \$5,333.33 = \$3,200/month} \end{aligned}$$

**Difference in retirement allowances:**

$$\$3,200/\text{month} - \$3,000/\text{month} = \$200/\text{month}$$

Q: ((How much must the employer pay to fund the additional retirement costs?)) What is the employer's excess compensation billing?

A: The employer must pay \$24,565.50, as shown:

Using an annuity factor of 0.0081415<sup>1</sup>:

$$\frac{\$200/\text{month}}{0.0081415} = \$24,565.50$$

<sup>1</sup>Based on Denise's age of 59. The factor can be found in the table in WAC 415-02-340.

**(b) Example 2: Excess compensation arising from cash out of leave (TRS Plan 1):**

George is a ((teachers' retirement system)) TRS Plan 1 member who has 28 years of service and is retiring at age 55 from a school district. The collective bargaining agreement provides two days of personal holiday leave per year and allows for the cash out at retirement of any unused balance of personal holiday leave. Personal leave days are defined as "other forms of leave" under subsection (1)(b) of this section. The following example shows the computation of excess compensation:

- Year 1 - \$52,500 Salary
- Year 2 - \$54,000 Salary + \$900 for four days of personal leave cash out

Q: Did George receive excess compensation?

A: Yes. Under subsection (1)(b) of this section, the \$900 leave cash out is excess compensation.

Q: ((Does)) Will the excess compensation increase George's retirement allowance?

A: Yes. George's retirement allowance will increase((s)) by \$21/month as shown:

**Without the excess compensation (cash out):**

$$\begin{aligned} \text{AFC} &= (((\$52,500 + \$54,000)/2 - \$53,250)) \\ &\quad \underline{\$52,500 + \$54,000 = \$106,500} \\ &\quad \underline{\$106,500/24 = \$4,437.50/month} \end{aligned}$$

$$\begin{aligned} \text{Retirement} &= ((2\% \times \$53,250 \times 28 \text{ years} - \$29,820 \\ &\quad \text{allowance} \quad (\$2,485/\text{month}))) \\ &\quad \underline{2\% \times 28 \text{ years} \times \$4,437.50 = \$2,485/month} \end{aligned}$$

**With the excess compensation (cash out):**

$$\begin{aligned} \text{AFC} &= (((\$52,500 + \$54,000 + \$900)/2 - \$53,700)) \\ &\quad \underline{\$52,500 + \$54,000 + \$900 = \$107,400} \\ &\quad \underline{\$107,400/24 = \$4,475/month} \end{aligned}$$

$$\begin{aligned} \text{Retirement} &= ((2\% \times \$53,700 \times 28 \text{ years} - \$30,072 \\ &\quad \text{allowance} \quad (\$2,506/\text{month}))) \\ &\quad \underline{2\% \times 28 \text{ years} \times \$4,475 = \$2,506/month} \end{aligned}$$

**Difference in retirement allowances:**

$$\$2,506/\text{month} - \$2,485/\text{month} = \$21/\text{month}$$

Q: ((How much must the employer pay to fund the additional retirement costs?)) What is the employer's excess compensation billing?

A: The employer must pay \$2,802.28, as shown:

Using an annuity factor of 0.0074939<sup>2</sup>:

$$\frac{\$21/\text{month}}{0.0074939} = \$2,802.28$$

<sup>2</sup>Based on George's age of 55. The factor can be found in the table in WAC 415-02-340.

**(c) Example 3: Excess compensation from bonus.**

Susan is retiring at age 65 in PERS Plan 2. ((She worked on a special project in February. Her employer awarded Susan with a bonus for February of \$15,083.33.)) Susan's employer awarded her a \$15,083.33 bonus for work she did on a special project in February. The department will compute Susan's excess compensation as follows:

- Year 1 - \$59,000 Salary
- ~~Year 2 - \$61,000 Salary + \$15,083.33 bonus for services provided in the month of February.)~~
- Year 2** = \$59,000 Salary
- Year 3** = \$59,000 Salary
- Year 4** = \$59,000 Salary
- Year 5** = \$76,083.33 (includes a \$15,083.33 bonus for services provided in the month of February).

Q: (~~Is there~~) Did Susan receive excess compensation?

A: Yes. (~~There is \$4,916.67 in~~) Under subsection (1)(d) of this section, the portion of the bonus that exceeds twice the employee's regular rate of pay for that period (\$4,916.67) is excess compensation, as shown:

Regular monthly rate:  $\$61,000/12 = \$5,083.33/\text{month}$   
 Twice February's monthly rate:  $2 \times \$5,083.33 = \$10,166.66$   
 Excess compensation:  $\$15,083.33 - \$10,166.66 = \$4,916.67$

Q: (~~Does~~) Will the excess compensation increase Susan's retirement allowance?

A: Yes. It increases by (~~(\$122.91)~~) \$49.16/month, as shown:

**Without excess compensation (portion of bonus):**

AFC = (~~(((\$59,000 + \$61,000 + \$15,083.33 - \$4,916.67)/2 = \$65,083.33))~~  
 $\$59,000 + \$59,000 + \$59,000 + \$59,000$   
 $+ \$76,083.33 - \$4,916.67 = \$307,166.66$   
 $\$307,166.66/60 = \$5,119.44/\text{month}$

Retirement allowance = (~~(2% x \$65,083.33 x 30 years = \$39,050/year (\$3,254.17/month))~~)  
 $2\% \times 30 \text{ years} \times \$5,119.44 = \$3,071.67/\text{month}$

**With the excess compensation (portion of bonus):**

AFC = (~~(((\$59,000 + \$61,000 + \$15,083.33)/2 = \$67,541.67))~~  
 $\$59,000 + \$59,000 + \$59,000 + \$59,000$   
 $+ \$76,083.33 = \$312,083.33$   
 $\$312,083.33/60 = \$5,201.39/\text{month}$

Retirement allowance = (~~(2% x \$67,541.67 x 30 years = \$40,525/year (\$3,377.08/month))~~)  
 $2\% \times 30 \text{ years} \times \$5,201.39 = \$3,120.83/\text{month}$

**Difference in retirement allowances:**

(~~(\$3,377.08/month - \$3,254.17/month = \$122.91/month)~~)  
 $\$3,120.83/\text{month} - \$3,071.67/\text{month} = \$49.16/\text{month}$

Q: (~~How much must the employer pay to fund the additional retirement costs?~~) What is the employer's excess compensation billing?

A: The employer must pay (~~(\$16,962.93)~~) \$6,784.62, as shown:

Using an annuity factor of 0.0072458:

$\frac{(\$49.16/\text{month})}{0.0072458} = (\$6,784.62)$

Preproposal statement of inquiry was filed as WSR 04-08-056.

Title of Rule and Other Identifying Information: WAC 180-79A-130 Fee for certification.

Hearing Location(s): Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendment to WAC 180-79A-130 increases the fee for the residency certificate from twenty-five to thirty-five dollars.

Statutory Authority for Adoption: RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 02-04-018, filed 1/24/02, effective 2/24/02)

**WAC 180-79A-130 Fee for certification.** (1) In accordance with provisions of RCW 28A.410.060 and 28A.415.010, the fee for certificates which are valid for more than one year, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be as follows:

(a) The first issue of the residency certificate, thirty-five dollars;

(b) The continuing certificate, seventy dollars;

(~~(b)~~) (c) The reinstatement, additional endorsement on the teaching certificate, duplicate certificates, substitute certificates, and certificates issued for the purpose of showing a name change, fifteen dollars; and

(~~(c)~~) (d) Any other certificate or credential or any renewal thereof, five dollars for each year of validity;

(~~(d)~~) (e) Provided, That the fee for all career and technical education certificates shall be one dollar;

(f) Provided, That a one-time late fee for a renewed initial or continuing certificate issued under the provisions of WAC 180-79A-123(7) for those whose initial certificate had already expired shall be one hundred dollars.

(2) The fee for any other certificate/credential, or for any renewal thereof, issued by the authority of the state of Wash-

WSR 05-08-035

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed March 30, 2005, 1:44 p.m.]

Original Notice.

ington and authorizing the holder to serve in the common schools of the state, shall be five dollars.

(3) Officials authorized to collect certification fees are educational service district superintendents, local school district superintendents, deans and directors of education at colleges and universities, or their designees. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.410.060. The fee shall not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issuance) by the superintendent of public instruction or his or her designee. Fees not refunded shall apply as credit toward certificate fees if such applicant reapplies within twenty-four months of the date of denial. Moneys accrued from certification fees within the boundaries of an educational service district shall be divided in the following manner:

(a) Local school districts employing more than one hundred teachers and other professional staff and collecting certification fees may retain one dollar of each fee in order to hold a professional training institute. If such district does not hold an institute, all such moneys shall be placed to the credit of the educational service district.

(b) No less than fifty percent of the funds accruing within the boundaries of an educational service district shall be used to support program activities related to statewide pre-certification professional preparation and evaluation.

(c) The remaining funds shall be used to support professional in-service training programs and evaluations thereof.

### WSR 05-08-036

#### PROPOSED RULES

#### STATE BOARD OF EDUCATION

[Filed March 30, 2005, 1:46 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-056.

Title of Rule and Other Identifying Information: WAC 180-79A-250 Initial residency and continuing professional certificates—Renewal, reinstatement, and continuing education requirements.

Hearing Location(s): Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments to this rule allow an individual to obtain a two-year renewal of the residency certificate with verification that

the individual is enrolled in a professional certificate program and provides some technical editorial changes.

Statutory Authority for Adoption: RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 04-21-040, filed 10/15/04, effective 11/15/04)

**WAC 180-79A-250 Initial/residency and continuing/professional certificates—Renewal, reinstatement, and continuing education requirements.** The following shall apply to initial/residency and continuing/professional certificates issued pursuant to this chapter:

(1) Initial certificate.

An initial teacher certificate may be renewed for an additional three-year period on application and verification that the individual has completed all course work requirements from a regionally accredited institution of higher education as defined in WAC 180-78A-010(6) for continuing certification or has completed at least fifteen quarter credit hours (ten semester credit hours) since the certificate was issued or renewed. After August 31, 2000, provisions of WAC 180-79A-123 will apply.

(2) Residency certificate. Residency certificates shall be renewed under one of the following options:

(a) Teachers.

(i) Individuals who hold, or have held, a residency certificate and who qualify for ~~((admission to))~~ enrollment in a professional certificate program pursuant to WAC 180-78A-535 (1)(a) may have the certificate renewed for one additional two-year period upon verification by the professional certificate administrator that the candidate is enrolled in ~~((and is making satisfactory progress in))~~ a state approved professional certificate program.

(ii) Individuals who hold, or have held, residency certificates who do not qualify for ~~((admission to))~~ enrollment in a professional certificate program pursuant to WAC 180-78A-535 (1)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work (normally one hundred level or higher) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(iii) An individual who completes a national board certification assessment but does not earn national board certification, may use that completed assessment to renew the residency certificate for two years.

(iv) Individuals who complete the requirements in their school district professional growth plan may use that completed plan to maintain the continuing certificate or renew the professional certificate.

(b) Principals/program administrators.

(i) Individuals who hold, or have held, a residency certificate and who qualify for ~~((admission to))~~ enrollment in a professional certificate program pursuant to WAC 180-78A-535 (2)(a) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator ~~((in which))~~ that the candidate is enrolled ~~((, that the candidate is making satisfactory progress))~~ in a state approved professional certificate program.

(ii) Individuals who hold, or have held, residency certificates who do not qualify for ~~((admission to))~~ enrollment in a professional certificate program under WAC 180-78A-535 (2)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work, directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the residency certificate. Renewal beyond one time requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) plus an internship approved by a college or university with a state board approved residency certificate program and taken since the issuance of the last residency certificate.

(c) School counselors, school psychologists, or school social workers.

(i) Individuals who hold a residency certificate and who qualify for ~~((admission to))~~ enrollment in a professional certificate program pursuant to WAC 180-78A-535(3) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator ~~((in which))~~ that the candidate is enrolled ~~((, that the candidate is making satisfactory progress))~~ in a state approved professional certificate program.

(ii) Individuals who hold, or have held, a residency certificate who do not qualify for admission to a professional certificate program under WAC 180-78A-535 (3)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work, directly related to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the residency certificate. Renewal for an additional five-year period requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9) completed since the issuance of the most recent residency certificate plus an internship approved by a college or university with a state board approved residency certificate program and taken since the issuance of the last residency certificate.

(d) Renewals based on conditions other than those described in WAC 180-79A-250 (2)(a) and (b) may be appealed to the state board of education, or its designated appeals committee. The following conditions apply to such appeals:

(i) Individuals who appeal shall present a rationale and evidence to support their request to have their residency certificates renewed.

(ii) The state board of education, or its designated appeals committee, in making its decision shall determine the length of the renewal and may establish specific conditions (such as course work requirements) as prerequisites for the reissuance of the residency certificate.

(3) Continuing certificate.

(a) The continuing certificates of holders who were eligible for such certificates prior to August 31, 1987, and who applied for such certificates prior to July 1, 1988, or who would have been eligible for such certificates prior to August 31, 1987, but for one of the three-year experience requirement and who complete such requirement and apply for such certificate prior to August 31, 1988, will be valid for life. Holders of valid continuing certificates affected by this subsection shall be entitled to have such certificate reissued and subject to the terms and conditions applicable to certification at the time of reissuance including the continuing education requirements of chapter 180-85 WAC.

(b) All continuing certificates not affected by the exception stated in (a) of this subsection shall lapse if the holder does not complete the continuing education requirement, to include the filing requirement specified in chapter 180-85 WAC. To reinstate such a lapsed continuing certificate the individual must complete the requirements for reinstatement stated within chapter 180-85 WAC and must meet the conditions stated in WAC 180-79A-253.

(4) Professional certificate.

(a) Teachers.

(i) A valid professional certificate may be renewed for additional five year periods by the completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 WAC since the certificate was issued. An expired professional certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application. All continuing education credit hours shall relate to either (a)(i)(A) or (B) of this subsection: Provided, That both categories (a)(i)(A) and (B) of this subsection must be represented in the one hundred fifty continuing education credit hours required for renewal:

(A) One or more of the following three standards outlined in WAC 180-78A-540:

(I) Effective instruction.

(II) ~~((Leadership))~~ Professional contributions.

(III) Professional development.

(B) One of the salary criteria specified in RCW 28A.415.023.

(i) Is consistent with a school-based plan for mastery of student learning goals as referenced in RCW 28A.320.205, the annual school performance report, for the school in which the individual is assigned;

(II) Pertains to the individual's current assignment or expected assignment for the subsequent school year;

(III) Is necessary to obtain an endorsement as prescribed by the state board of education;

(IV) Is specifically required to obtain advanced levels of certification; or

(V) Is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certified instructional staff.

(ii) Provided, That a professional certificate may be renewed based on the possession of a valid teaching certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(b) Principals/program administrators.

(i) A professional certificate may be renewed for additional five year periods for individuals employed as a principal, assistant principal or program administrator in a public school or state board approved private school by:

(A) Completion of a professional growth plan that is developed and approved with the superintendent, superintendent designee, or appointed representative (e.g., educational service district personnel, professional association or organization staff, or peer from another district), and that documents formalized learning opportunities and professional development activities that:

(I) Emphasize continuous learning;

(II) Positively impact student learning;

(III) Relate to the six standards and "career level" benchmarks defined in WAC 180-78A-270 (2)(b);

(IV) Explicitly connect to the evaluation process;

(V) Reflect contributions to the school, district, and greater professional community; and

(VI) Identify areas in which knowledge and skills need to be enhanced.

(B) Verification of satisfactory performance evaluations for the five year periods; and

(C) Documented evidence of results of the professional growth plan on student learning.

(ii) Individuals not employed as a principal, assistant principal, or program administrator in a public school or state board approved private school may have their professional certificate renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the professional certificate. Renewal beyond one time requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) plus an internship approved by a college or university with a state board approved professional certificate program, and taken since the issuance of the last professional certificate.

(c) School counselors, school psychologists, or school social workers.

(i) A professional certificate may be renewed for additional five-year periods for individuals employed as a school counselor, school psychologist, or school social worker in a public school, state board approved private school, or in a state agency which provides educational services to students by:

(A) Completion of a professional growth plan that is developed and approved with the principal or principal designee, and that documents formalized learning opportunities and professional development activities that:

(I) Emphasize continuous learning;

(II) Positively impact student learning; and

(III) Reflect contributions to the school, district, and greater professional community; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9).

(ii) Individuals not employed as a school counselor, school psychologist, or a school social worker in a public school or state board approved private school may have their professional certificate renewed for an additional five-year period by:

(A) Completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9).

**WSR 05-08-037**

**PROPOSED RULES**

**STATE BOARD OF EDUCATION**

[Filed March 30, 2005, 1:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-056.

Title of Rule and Other Identifying Information: WAC 180-78A-100 Existing approved programs.

Hearing Location(s): Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments to this provide clarification related to the type of

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certificate an individual will receive when the person completes a program at the time program standards/requirements are changing.

Statutory Authority for Adoption: RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 05-04-056, filed 1/28/05, effective 2/28/05)

**WAC 180-78A-100 Existing approved programs.** Chapter 180-78A WAC rules shall govern all policies related to programs upon adoption by the state board of education, which shall provide assistance to colleges and universities in the revision of their existing programs.

(1) All professional education programs shall be reviewed for approval under the 1997 program approval standards of chapter 180-78A WAC by August 31, 2000. Colleges and universities may permit individuals accepted into teacher preparation programs on or before August 31, 2000, to obtain certification by meeting requirements of programs approved under approval standards described in chapter 180-78 WAC if the individuals complete the program on or before August 31, 2003, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2003: Provided, That the state board of education or its designee may waive this deadline on a case-by-case basis.

(2) All principal/program administrator programs shall be reviewed for approval under the 2002 program approval standards of chapter 180-78A WAC by August 31, 2004. Colleges and universities may permit individuals accepted into principal/program administrator programs on or before August 31, 2004, to obtain ~~((certification))~~ a residency certificate by meeting requirements of programs approved under 1997 approval standards described in chapter 180-78A WAC if the individuals complete the program on or before August 31, 2006, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2006. Provided, That the state board of education or its designee may waive this deadline on a case-by-case basis.

(3) All school counselor, school psychologist, or school social worker programs shall be approved under the 2004 program approval standards of chapter 180-78A WAC by August 31, 2005. Colleges and universities may permit individuals accepted into the school counselor, school psychologist, or school social worker programs on or before August

31, 2005, to obtain ~~((certification))~~ a residency certificate by meeting requirements of programs approved under the 1997 approval standards described in chapter 180-78A WAC if the individuals complete the program on or before August 31, 2007, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2007. Provided that the state board of education or its designee may waive this deadline on a case-by-case basis.

(4) Individuals who completed a principal/program administrator program on or before August 31, 2004, shall be granted an initial certificate if the preparing college or university verifies completion by December 31, 2004. Individuals who complete an educational staff associate program on or before August 31, 2005, shall be granted an initial certificate if the preparing college or university verifies completion by December 31, 2005.

~~(5)~~ Institutions shall be given at least one year notification prior to a state board of education review for compliance with these standards: Provided, That if an institution requests a visit with less than a year's notice, the state board of education shall consider that request.

~~((5))~~ (6) The state board of education shall determine the schedule for such approval reviews and whether an on-site visit or other forms of documentation and validation shall be used for the purposes of granting approval under the 1997 program approval standards. In determining the schedule for site visits, the board shall take into consideration the partnership agreement between the state and the National Council for the Accreditation of Teacher Education (NCATE) as such agreement relates to the NCATE accreditation cycle and allow NCATE accredited colleges/universities to follow the NCATE schedule for their state site visit. Non-NCATE accredited colleges/universities shall have a state approval site visit every five years. The state board of education may require more frequent site visits at their discretion pursuant to WAC 180-78A-110(2).

~~((6))~~ (7) Each institution shall submit its program for review when requested by the state board of education to ensure that the program meets the state's program approval standards and to provide assessment data relative to the performance standards to the state board of education for the year prior to the site visit.

~~((7))~~ (8) Institutions seeking National Council for the Accreditation of Teacher Education, Council for Accreditation of Counseling and Related Education Programs, and National Association of School Psychologist accreditation may request from the state board of education approval for concurrent site visits which would utilize the same documentation with the exception of material submitted by the institution to the state for the professional education advisory boards and the accountability standards.

~~((8))~~ (9) In submitting a request for approval under these standards, the approved program shall provide a description of the criteria that the program will use to assess, in multiple ways, over time, its certification candidates' knowledge and skills, including, where appropriate, evidence related to positive impact on student learning. Based on the documentation submitted and/or an on-site visit, the state board of education shall grant approval or request specific

revisions that need to be made in order to obtain state board of education approval.

**WSR 05-08-038**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**

[Filed March 30, 2005, 1:48 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-08-056.

Title of Rule and Other Identifying Information: WAC 180-78A-319 Program approval requirement—Field experience for school social workers.

Hearing Location(s): Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments to this rule will revise and clarify the field experience requirements for school social workers.

Statutory Authority for Adoption: RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis  
 Executive Director

**AMENDATORY SECTION** (Amending WSR 04-21-038, filed 10/15/04, effective 11/15/04)

**WAC 180-78A-319 Program approval requirement—Field experience for school social workers.** Approved school social worker preparation programs shall require all ~~((students))~~ candidates to complete a supervised, advanced level internship that ~~((includes 600 hours;))~~ is in compliance with the most current accreditation standards of the Council of Social Work Education, with a minimum of 300 of ((which must be)) the required hours in ((the)) a school((s)) setting, ((of)) providing on-the-job professional service ((and one hour per week of individual)). Supervision shall be provided by a site supervisor((-Site)) or faculty field

supervisor((s must be fully certified)) who holds current Washington state certification as a school social worker((s)) and ((have)) has a minimum of three years of professional experience in ((the)) this role ((of school social worker. Faculty)). Supervision ~~((including)), which may include on-site visits, will be provided ((on an ongoing basis. Prior to the internship, the student will complete a faculty-supervised practicum (a distinctly defined clinical experience intended to enable the student to develop basic school social work skills and integrate professional knowledge)))~~ for a minimum of one hour per week until the internship is completed.

**WSR 05-08-039**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**

[Filed March 30, 2005, 1:50 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-08-056.

Title of Rule and Other Identifying Information: WAC 180-78A-505 Overview—Teacher professional certificate program.

Hearing Location(s): Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments provide technical editing to WAC 180-78A-505 changing the name of the third standard for the professional certificate from "leadership" to "professional contributions" and reducing the required criteria from seventeen to twelve.

Statutory Authority for Adoption: RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis  
 Executive Director

AMENDATORY SECTION (Amending WSR 03-23-037, filed 11/12/03, effective 12/13/03)

**WAC 180-78A-505 Overview—Teacher professional certificate program.** (1) By September 1, 2001, all colleges and universities offering a professional certificate program must be in compliance with the new program standards.

(2) To obtain a professional certificate, the residency teacher will need to complete a state board of education approved professional certificate program collaboratively developed by a college/university and the professional educational advisory board (PEAB).

(3)(a) Prior to full admission to a professional certificate program, excluding the preassessment seminar, the candidate shall complete provisional status with a school district under RCW 28A.405.220, or the equivalent with a state board-approved private school or state agency providing educational services for students.

(b) The candidate may be fully admitted to the professional certificate program, prior to completion of provisional status, if the candidate provides to the program a letter from the candidate's employing school district, private school, or state agency providing educational services for students, documenting the employer's support for the candidate's full admission to the professional certificate program.

(4) The professional certificate requires successful demonstration of three standards (effective teaching, professional development, and ((leadership)) professional contributions) and ((17)) 12 criteria, pursuant to WAC 180-78A-540, related to these standards. Wherever appropriate, the residency teacher will need to provide evidence that his/her teaching has had a positive impact on student learning as defined in WAC 180-78A-010(8).

(5)(a) The candidate and college or university shall develop an individual professional growth plan to be reviewed and agreed upon after input from and consultation and collaboration (WAC 180-78A-010(9)) with his/her professional growth team.

(b) The individual professional growth plan will be based on an analysis of the student/learning context in that teacher's assignment and a preassessment of that teacher's ability to demonstrate the standards and criteria set forth in WAC 180-78A-540.

(c) The individual professional growth plan shall include instruction and assistance components for each residency teacher. The instruction and assistance components will be designed to give the residency teacher the necessary knowledge and skills needed to demonstrate successfully the standards and criteria set forth in WAC 180-78A-540.

(6) The final component of the program will be a culminating assessment seminar in which the residency teacher's ability to demonstrate the standards and criteria cited above will be evaluated. These assessments shall include multiple forms of data collected over time, including evidence of positive impact on student learning, where appropriate.

(7) As part of the program development, the college/university and the PEAB shall establish criteria and procedures for determining when the residency teacher has successfully completed the program. When the program administrator has verified to the superintendent of public instruction that the

candidate has completed the approved program, the state will issue the residency teacher a professional certificate.

## WSR 05-08-040

### PROPOSED RULES

## STATE BOARD OF EDUCATION

[Filed March 30, 2005, 1:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-056.

Title of Rule and Other Identifying Information: WAC 180-78A-535 Approval standard—Program design.

Hearing Location(s): Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments to this rule will eliminate the reference to "performance indicators" which are no longer required for the professional teacher certificate and replace them with "descriptions of practice." They will also change the name of the third standard for the professional certificate to "professional contributions."

Statutory Authority for Adoption: RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 04-21-038, filed 10/15/04, effective 11/15/04)

**WAC 180-78A-535 Approval standard—Program design.** The following requirements shall govern the design of the professional certificate program:

#### (1) Teacher.

(a) To be eligible to apply for admission to a professional certificate program, a candidate shall hold a contract as a teacher in a public or a state board of education approved private school or state agency providing educational services for

students and shall have completed provisional status with a school district under RCW 28A.405.220 or the equivalent with a state board of education-approved private school or state agency providing educational services for students or the candidate provides to the program a letter from the candidate's employing district, state board of education-approved private school, or state agency providing educational services for students, documenting the employer's support for the candidate's full admission to the professional certificate program: Provided, That a candidate for the professional teacher's certificate may enroll in and complete the preassessment seminar described in subsection (4)(a) of this section prior to admission to a professional certificate program.

(b) The professional certificate program must be available to all qualified candidates.

(c) Using the ~~((set of common performance indicators))~~ descriptions of practice related to the criteria for the professional certificate, as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without prior state board approval, the professional certificate program shall be developed by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar which considers input from the candidate's "professional growth team" (WAC 180-78A-505), the candidate's past experience, the context in which he/she teaches, information from past annual evaluations if the individual chooses, the candidate's personal and professional goals, his/her self-evaluation, and evidences of the candidate's impact on student learning.

The seminar will culminate in preparation and approval of the candidate's individual professional growth plan designed to provide the candidate with the knowledge and skills needed to demonstrate successfully the standards and criteria required by WAC 180-78A-540.

A representative of the college/university and the candidate shall develop the professional growth plan to be reviewed and agreed upon after input from and consultation and "collaboration" (WAC 180-78A-010(9)) with his/her "professional growth team" (WAC 180-78A-010(10)).

The individual professional growth plan shall be based on:

(A) An analysis of the instructional context and teaching assignment(s) to determine strategies which the teacher should use to achieve a positive impact on student learning.

(B) An assessment of the candidate's ability to demonstrate successfully the professional certificate standards and criteria.

(C) Specifications of assistance and instructional components needed and any required course work.

(ii) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to "effective teaching" as defined in WAC 180-78A-540(1).

(iii) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to "professional development" as defined in WAC 180-78A-540(2).

(iv) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to ~~((leadership))~~ professional contributions as defined in WAC 180-78A-540(3).

(v) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance; positive impact on student learning; identification of future goals and professional/career interests; and specification of areas for continuing education and development. The candidate must provide multiple forms of evidence which shall include, but are not limited to, the ~~((set of common performance indicators))~~ descriptions of practice related to the criteria for the professional certificate as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without prior state board approval.

(vi) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for appropriate assistance and instruction.

(vii) No limits shall be placed on the number of times a candidate with a valid residency certificate may participate in the culminating seminar.

(2) **Principal/program administrator.**

(a) To be eligible to apply for ~~((admission to))~~ enrollment in a professional certificate program, a candidate shall hold a contract as an administrator for which the credential is required in a public school or state board of education approved private school.

(b) The professional certificate program must be available to all qualified candidates.

(c) Using the six knowledge and skills standards, and the standards-based benchmarks as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without state board approval, the professional certificate program shall be developed by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar during which the professional growth plan shall be developed. The plan will be agreed upon after input from and consultation with his/her professional growth team (WAC 180-78A-010 (10)(b)). The individual professional growth plan shall be based on an assessment of the candidate's ability to demonstrate six standards at the professional certificate benchmark level (WAC 180-78A-270 (2)(b)), performance evaluation data, and an analysis of the administrative context and assignment.

(ii) Formalized learning opportunities, past and current experience, professional development opportunities, and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill, and performance at the professional certificate benchmark level, or above, on all standards as defined in WAC 180-78A-270 (2)(b).

(iii) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance; positive impact on student learning; development of a professional growth plan that includes the identification of future goals and professional/career interests as well as a five-year plan for professional development designed to meet the requirements for certificate renewal.

(e) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for assistance.

(f) No limit shall be placed on the number of times a candidate with a valid residency certificate may enroll in the culminating seminar.

**(3) Educational staff associate (ESA) - school counselor, school psychologist, school social worker.**

(a) To be eligible for (~~(admission to)~~) enrollment in a professional certificate program, a candidate shall be employed in his/her ESA role in a public school, a state board approved private school, or state agency providing educational services for students.

(b) The professional certificate must be available to all qualified candidates.

(c) Using the knowledge and skills standards in WAC 180-78A-270 (5), (7), and (9), and the standards-based benchmarks as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without state board approval, the professional certificate program shall be developed by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar during which the professional growth plan shall be developed. The plan will be agreed upon after input from and consultation with the ESA candidate's professional growth team (WAC 180-78A-010 (10)(c)). The individual's professional growth plan shall be based on an assessment of the candidate's ability to demonstrate the standards at the professional certificate benchmark level in the specific ESA role pursuant to WAC 180-78A-270 (5), (7), or (9).

(ii) Formalized learning opportunities, and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill, and performance at the professional certificate benchmark level, or above, on all standards in the specific ESA role as defined in WAC 180-78A-270 (5), (7), or (9).

(iii) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill, and performance;

positive impact on student learning; and specification of areas for continuing education and development.

(e) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for assistance.

(f) No limit shall be placed on the number of times a candidate with a valid residency certificate may enroll in the culminating seminar.

## WSR 05-08-041

### PROPOSED RULES

#### STATE BOARD OF EDUCATION

[Filed March 30, 2005, 1:52 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-056.

Title of Rule and Other Identifying Information: WAC 180-79A-145 Levels of certificates, initial/residency and continuing/professional.

Hearing Location(s): Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments provide that the five year validity period of the residency certificate will begin when the individual has completed provisional status employment in a public school or two years of successfully experience in an approved private school or state institution providing educational services to students.

Statutory Authority for Adoption: RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis  
Executive Director

**AMENDATORY SECTION** (Amending WSR 04-21-040, filed 10/15/04, effective 11/15/04)

**WAC 180-79A-145 Levels of certificates, initial/residency and continuing/professional.** Two levels of certification may be issued.

(1) Through August 31, 2000, for teachers, through August 31, 2004, for administrators, and through August 31, 2005, for educational staff associates, the following levels of certificates will be issued: Provided, That after August 31, 2000, initial and continuing teachers' certificates, after August 31, 2004, initial and continuing principal and program administrator certificates, and after August 31, 2005, initial and continuing educational staff associate certificates will be issued only to previous Washington certificate holders, pursuant to WAC 180-79A-123:

(a) Initial certificate. The initial teacher certificate is valid for four years and the initial administrator and educational staff associate certificates are valid for seven years. Initial teacher certificates shall be subject to renewal pursuant to WAC 180-79A-250(1) and 180-79A-123. Initial administrator and educational staff associate certificates shall not be subject to renewal.

(b) Continuing certificate. The continuing certificate is valid on a continuing basis as specified in WAC 180-79A-250(3).

(2) The following levels of certificates will be issued to teachers, administrators, and educational staff associates commencing with the dates indicated below:

(a) Residency certificate. The residency certificate will be issued beginning September 1, 2000, to teachers, beginning September 1, 2004, to principal/program administrators, and no later than September 1, 2005, to educational staff associate school counselors, school psychologists, and school social workers.

(b) The residency certificate for principals, program administrators, and educational staff associates is valid for five years and shall be subject to renewal pursuant to WAC 180-79A-250 (2)(b) and (c).

((b)) (c) The first issue of a residency certificate for teachers employed in a school district or state agency that provides educational services for students shall be valid until the holder is no longer on provisional status. When the teacher for the first time in their career completes provisional status, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the teacher must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 (2)(a).

(d) The first issue of a residency certificate for teachers employed in a state approved private school shall be valid until the holder has completed two years of successful teaching. When the teacher for the first time in their career completes two years of successful teaching, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the teacher must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 (2)(a).

(e) The first issue of a residency certificate for principals, program administrators, and educational staff associates shall be valid until the holder has completed two successful years of service in the role. When the principal, program adminis-

trator, or educational staff associate for the first time in their career completes two years of successful service in a school district, state approved private school, or state agency, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the candidate must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 (2)(b) and (c).

(f) Professional certificate. The professional certificate will be issued beginning September 1, 2001, to teachers, beginning September 1, 2006, to principal/program administrators, and beginning September 1, 2007, to educational staff associate school counselors, school psychologists, and school social workers. The professional certificate is valid for five years and shall be subject to renewal pursuant to WAC 180-79A-250. Provided, That a professional teacher's certificate based on the possession of a valid teacher's certificate issued by the National Board for Professional Teaching Standards National Board Certification pursuant to WAC 180-79A-257 (3)(b) or 180-79A-206 (3)(a) shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

#### WSR 05-08-042

#### PROPOSED RULES

#### STATE BOARD OF EDUCATION

[Filed March 30, 2005, 1:53 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-056.

Title of Rule and Other Identifying Information: WAC 180-79A-123 Certificates—Previous standards.

Hearing Location(s): Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendment to WAC 180-79A-123 provides an opportunity for an individual whose initial certificate expired after August 31, 2000, and who met requirements for renewal of the initial certificate or the continuing certificate prior to the expiration date of the certificate, but who did not apply for renewal or the continuing certificate prior to the expiration date, to apply once for a renewed initial or a continuing certificate by paying a \$100 late fee in addition to the renewal or continuing certificate fee.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State Board of Education, governmental.

PROPOSED

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 00-09-048, filed 4/14/00, effective 5/15/00)

**WAC 180-79A-123 Certificates—Previous standards.** (1) Certificates issued under previous standards which were issued for a specific term shall continue to be effective for that term.

(2) Certificates issued under previous standards which were issued for an indefinite period shall continue to be in effect.

(3) All persons who hold any standard teacher, administrator, or specialized personnel certificate issued under previous standards of the state board of education shall be issued a continuing certificate at such time as it is necessary for them to reissue a standard certificate or on application and payment of the fee as specified in WAC 180-79A-130.

(4) Any person who holds a provisional principal's or provisional superintendent's certificate under previous standards of the state board of education shall be issued upon application, including payment of applicable fees, continuing administrative for the appropriate role and such certificates shall be subject to the continuing education requirements of chapter 180-85 WAC.

(5) Any person holding a provisional certificate as a school nurse under provisions of chapter 180-84 WAC shall be granted a continuing certificate.

(6) All persons who hold a valid initial certificate granted under previous standards of the state board of education shall be authorized to meet requirements for continuing certification as set forth in the relevant previous standards except as noted below in subsection (7) of this section.

(7) Any person with a valid initial teacher's certificate granted under previous standards of the state board of education may renew that certificate once after August 31, 2000. The individual shall meet requirements for and apply for the continuing certificate by the expiration date on the renewed certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for initial renewal or continuing certificate under the provisions of WAC 180-79A-250(1) prior to their expiration date, but whose initial certificate expired after August 31, 2000, because they applied for certification too late, may apply once for such renewal or continuing certificate and will be issued such certificate.

WSR 05-08-043

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed March 30, 2005, 1:54 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-056.

Title of Rule and Other Identifying Information: WAC 180-79A-011 Knowledge and skill requirements of the performance-based certification system—Teachers.

Hearing Location(s): Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments provide technical editing to WAC 180-79A-011, changing the name of the third standard for the professional certificate from "leadership" to "professional contributions."

Statutory Authority for Adoption: RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-79A-011 Knowledge and skill requirements of the performance-based certification system—Teachers.** Each of the knowledge and skills required for the preparation and certification of teachers shall relate to one or more of the following three standards that all teachers will be required to demonstrate: Effective teaching, professional development, and ((leadership)) professional contributions. The emphasis in the preservice preparation programs shall be on effective teaching; the emphasis in the program for the professional certificate shall be divided among each of the three categories; during the remainder of the teacher's career, the emphasis should be on professional development and ((leadership)) professional contributions.

**WSR 05-08-044**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**

[Filed March 30, 2005, 1:56 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-08-056.

**Title of Rule and Other Identifying Information:** WAC 180-85-034 Continuing education credit hours—Definition—Professional development system. This is a proposed new section to the Washington Administrative Code.

**Hearing Location(s):** Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

**Date of Intended Adoption:** May 12, 2005.

**Submit Written Comments to:** Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

**Assistance for Persons with Disabilities:** Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** This new section in the Washington Administrative Code will allow educators to earn continuing education credit hours (clock hours) through a professional growth plan and use those continuing education credit hours for certification purposes.

**Statutory Authority for Adoption:** RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

**Name of Proponent:** State Board of Education, governmental.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis  
 Executive Director

**NEW SECTION**

**WAC 180-85-034 Continuing education credit hour—Definition—Professional development system—Professional growth plan.** (1) Beginning September 1, 2005, on an optional basis, districts or approved private schools may offer educators the opportunity to earn up to thirty continuing education credit hours in a school year through use of a professional growth plan. Districts/private schools electing to participate must verify as a prerequisite that the following minimum elements of a professional development system are in place:

(a) A plan that has been approved by the board of directors of the local district or approved private school, describing the use of professional growth plans (for continuing education purposes) and the accompanying support structure which will be made available to participants.

(i) The support structure must include the establishment of a professional development committee consisting of, at a minimum, an educator and administrator representing the building level and a representative of the district or approved private school.

(ii) A plan approved by a school district board of directors must include a letter of support from the applicable local educational association.

(b) A template of an individual professional growth plan, showing how the process described in subsection (3) of this section will be documented, as well as how the plan is tailored to the individual's professional growth needs and aligned with district/school improvement plans.

(2) The district/private school professional development system may be selectively audited by the superintendent of public instruction for compliance with the provisions of this subsection. Such audit, when conducted, shall include review of the district's/private school's plan and review of random samples of the current year's professional growth planning documents.

(3) The office of superintendent of public instruction shall publish professional development guidelines on its website to assist districts/private schools to implement this subsection. Such guidelines shall include the following minimum essential elements:

(a) A needs assessment, including a written reflective analysis.

(b) A written individual professional growth plan, with input from the educator's supervisor, that is approved by the professional development committee.

(c) Activities to both implement the plan and gather evidence of its completion.

(d) Verification of completion, including review of evidence and determination of the number of continuing education credit hours awarded.

(4) In making its determination, the professional development committee shall not count continuing education credit hours that can be awarded pursuant to WAC 180-85-025 (1) through (4).

(a) If documentation/evidence presented is determined to be incomplete or insufficient, the professional development committee shall provide feedback on the documentation/evidence presented, citing reasons for the decision.

(b) An educator may resubmit the completed report/portfolio of evidence and request review of additional documentation and evidence submitted as a result of feedback received from the previous review.

**WSR 05-08-045**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**

[Filed March 30, 2005, 1:57 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-08-056.

**Title of Rule and Other Identifying Information:** WAC 180-85-075 Continuing education requirement.

PROPOSED

Hearing Location(s): Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendment to this rule simply changes a WAC reference from WAC 180-85-030 to 180-85-025.

Statutory Authority for Adoption: RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis  
Executive Director

sional growth team consultation and collaboration—School accreditation site visit team participation—National board for professional teaching standards assessment—Supervisors.

Hearing Location(s): Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendment to this rule allows an individual to use continuing education credit hours (clock hours) earned through a professional growth plan for certification purposes.

Statutory Authority for Adoption: RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis  
Executive Director

**AMENDATORY SECTION** (Amending WSR 02-14-112, filed 7/2/02, effective 8/2/02)

**WAC 180-85-075 Continuing education requirement.** Continuing education requirements are as follows:

(1) Each holder of a continuing or a standard certificate affected by this chapter shall be required to complete during a five-year period one hundred fifty continuing education credit hours, as defined in WAC (~~(180-85-030)~~) 180-85-025, prior to his or her first lapse date and during each five-year period between subsequent lapse dates as calculated in WAC 180-85-100.

(2) Provided, That each holder of a continuing or a standard certificate affected by this chapter may present a copy of a valid certificate issued by the National Board for Professional Teaching Standards in lieu of the completion of the continuing education credit hours required by this chapter.

**WSR 05-08-046**

**PROPOSED RULES**

**STATE BOARD OF EDUCATION**

[Filed March 30, 2005, 1:58 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-056.

Title of Rule and Other Identifying Information: WAC 180-85-033 Continuing education—Definition—Profes-

**AMENDATORY SECTION** (Amending WSR 04-20-094, filed 10/5/04, effective 11/5/04)

**WAC 180-85-033 Continuing education credit hour—Definition—Professional growth team consultation and collaboration—School accreditation site visit team participation—National Board for Professional Teaching Standards assessment—Supervisors.** (1) Notwithstanding any provisions of this chapter to the contrary, for consultation and collaboration as a member of an approved professional growth team, as defined by WAC 180-78A-010 and 180-78A-505, members of a professional growth team, excluding the candidate, shall receive the equivalent of ten continuing education credit hours. The team member may not receive more than the equivalent of twenty continuing education credit hours, as defined by this section, during a calendar year period.

(2) A person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of ten continuing education credit hours for serving on a school accreditation site visit team. The person may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period.

(3)(a) Notwithstanding any provisions of this chapter to the contrary, individuals officially designated as a supervisor

by a college/university, school district, educational service district, an approved private school, a state agency providing educational services to students or the superintendent of public instruction, a person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of ten continuing education credit hours for service as a supervisor. The person may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period.

(b) The term "supervisor" shall mean individuals officially designated as a supervisor by a college/university, school district, educational service district, an approved private school, a state agency providing educational services to students, or the office of superintendent of public instruction for supervising the training of teacher interns, administrative interns, educational staff associate interns, and paraprofessionals.

(4) A person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of forty-five continuing education credit hours for completion of an assessment process as part of the National Board for Professional Teaching Standards certificate application. Upon achieving National Board certification, the individual shall receive the equivalent of an additional forty-five continuing education credit hours for a total of ninety continuing education credit hours per National Board certificate.

(5) Notwithstanding any provisions of this chapter to the contrary, for designing and completing a professional growth plan under the provisions of WAC 180-85-034, participants shall receive the equivalent of up to thirty continuing education credit hours, as defined by this section, during a school year.

**WSR 05-08-047**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**  
[Filed March 30, 2005, 1:59 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-056.

Title of Rule and Other Identifying Information: WAC 180-85-025 Continuing education—Definition.

Hearing Location(s): Hyak Lodge, Snoqualmie Pass, Washington, on May 11, 2005, at 8:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by April 27, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the amendment to this rule is to clarify that all continuing education credit hours (clock hours) will be awarded in conformance with WAC 180-85-034.

Reasons Supporting Proposal: WAC 180-85-034 is a proposed new section in chapter 180-85 WAC.

Statutory Authority for Adoption: RCW 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

March 25, 2005

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 04-20-094, filed 10/5/04, effective 11/5/04)

**WAC 180-85-025 Continuing education—Definition.** As used in this chapter, the term "continuing education" shall mean:

(1) All college and/or university credit, normally 100 level or higher, awarded by a regionally accredited institution of higher education, pursuant to WAC 180-78-010(6).

(2) All continuing education credit hours awarded by a vocational-technical college pursuant to WAC 180-85-030(3) and all continuing education credit hours awarded in conformance with the in-service education procedures and standards specified in this chapter by an approved in-service education agency.

(3) All continuing education credit hours awarded through a business, industry, or government internship that meets the requirements of chapter 180-83 WAC.

(4) All continuing education credit hours awarded in conformance with WAC 180-85-033.

(5) All continuing education credit hours awarded in conformance with WAC 180-85-034.

**WSR 05-08-054**  
**PROPOSED RULES**  
**WASHINGTON STATE LOTTERY**  
[Filed March 30, 2005, 2:10 p.m.]

Supplemental Notice to WSR 05-04-079.

Title of Rule and Other Identifying Information: Chapter 315-10 WAC, Instant games—General rules, changes to the instant game rules allow the lottery to offer nontraditional types of instant games.

Hearing Location(s): Red Lion at the Park, West 303 North River Drive, Spokane, WA 98201, on May 12, 2005, at 10:00 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Ceil Buddeke, 814 East 4th Avenue, Olympia, WA 98506, e-mail Cbuddeke@walottery.com, fax (360) 586-6586, by May 6, 2005.

Assistance for Persons with Disabilities: Contact Joan Reuell by May 10, 2005, TTY (360) 586-0933.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Traditionally, the lottery's instant games have been "Scratch" games (involving paper tickets with a scratch-off coating). These rule amendments allow the lottery to offer other types of instant games (that do not involve a scratch-off coating).

Reasons Supporting Proposal: These amendments will offer our players a new way to play the lottery's instant games.

Statutory Authority for Adoption: Chapter 67.70 RCW.  
Statute Being Implemented: RCW 67.70.040.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington's Lottery, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ceil Buddeke, 814 East 4th Avenue, Olympia, WA 98506, (360) 664-4833.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose costs on industry businesses, and the lottery has not been asked to prepare a small business economic impact statement. See RCW 19.85.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Ceil Buddeke, 814 East 4th Avenue, Olympia, WA 98506, phone (360) 664-4833, fax (360) 586-6586, e-mail Cbuddeke@walottery.com.

March 30, 2005

Ceil Buddeke  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-08-067, filed 3/30/98, effective 4/30/98)

**WAC 315-10-010 Instant games—Authorized—Director's authority.** It is the commission's intent to provide the director broad authority in carrying out the following duties:

(1) The commission hereby authorizes the director to select, operate, and contract relating to and for the operation of instant games meeting the criteria set forth in this chapter.

(2) The director shall establish final instant game specifications, including the determination of winning tickets, in executed working papers or software requirement specifications. The director shall keep ~~((executed working papers on file at the headquarters office location and make them))~~ the portions of these documents that are subject to public disclosure available for one hundred eighty days after the end of each game for public review during normal business hours.

(3) The director or designee shall inform commission members of instant game development.

AMENDATORY SECTION (Amending WSR 98-08-067, filed 3/30/98, effective 4/30/98)

**WAC 315-10-020 Definitions.** (1) Ticket. The ticket purchased for participation in an instant game and any ticket

used in media promotions and retailer incentive programs authorized by the director for an instant game.

(2) Instant game. A game in which a ticket is purchased and ~~((upon removal of a latex covering on the front of the ticket,))~~ the ticket bearer determines his or her winnings, if any.

(3) Ticket bearer. The person who has signed the ticket or has possession of the unsigned ticket.

(4) Play symbols. The numbers or symbols appearing in the designated areas ~~((under the removable covering))~~ on the front of the ticket. Play symbols were formerly called play numbers. Both terms shall have the same meaning.

(5) Your(s). The ticket bearer's play area or areas (for example, "your hand(s)," "your card(s)," or "your roll(s)").

(6) Their(s). The opponent's play area or areas (for example, "their card(s)," or "their roll(s)").

(7) Validation number. The multidigit number found on the ticket and on any ticket stub. There must be a validation number on the ticket or any stub.

(8) Working papers or software requirement specifications. The documents providing production and winning ticket specifications for each instant ticket game. ~~((Executed working papers (including amendments, if any) are signed and dated by the lottery director.))~~

(9) Scratch game. ~~((Instant game as defined in subsection (1) of this section.))~~ An instant game in which a ticket is purchased and, upon removal of a scratch-off coating on the front of the ticket, the ticket bearer determines his or her winning, if any.

AMENDATORY SECTION (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

**WAC 315-10-022 What are the essential elements of instant game tickets?** The director shall establish in executed working papers or software requirement specifications for each instant game the specific form and location in which the following essential elements shall appear on each instant game ticket:

(1) **Play field** is generally the area ~~((under the latex covering that players scratch off to reveal))~~ that may contain play symbols, play symbol captions, prize symbols, prize symbol captions, and validation numbers;

(2) **Play spots** are the specific areas ~~((under the latex covering))~~ where play symbols are located;

(3) **Play symbols** are symbols, letters, or numbers appearing in each play spot of a ticket;

(4) **Play symbol captions** are small printed characters generally associated with each play symbol ~~((appearing))~~ which may appear on the play field ~~((which))~~ and correspond with and verify that play symbol. These captions spell out, in full or abbreviated form, the play symbol. There is only one play symbol caption for each play symbol, and each play symbol caption is associated with the three-digit ticket number;

(5) **Prize symbols** ~~((are))~~ may be numeric or symbolic representations, printed either in a display printed prize legend or on the play field, which indicate the amount of money a player may win;

(6) **Prize symbol captions** ~~((are))~~ may be small printed characters generally associated with each prize symbol appearing on the play field which correspond to and verify that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol;

(7) **Validation number** is a unique multidigit number on the ~~((front of the))~~ ticket ~~((that appears under the removable latex covering and is identified as "val. no."))~~;

(8) **Pack-ticket number** is a ~~((thirteen-digit number of the form XXXXXXXXXX X XXX printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number constitute the "pack number," which starts at XXX000001; the last three digits constitute the "ticket number," which starts at 000 and indicates the ticket's position within each pack of tickets))~~ number that may include the game, pack and ticket identifier;

(9) **Retailer verification code** ~~((consists of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. A retailer verification code for a winning ticket of a particular game is a unique multiple letter code which corresponds to the prize value of the ticket for that game. Each letter of the code appears in varying locations beneath the removable latex covering on the front of the ticket))~~ is the code on the ticket that the lottery retailer uses to verify instant winners; and

(10) **Odds of winning** shall always appear on the back of the ticket.

**AMENDATORY SECTION** (Amending WSR 98-08-067, filed 3/30/98, effective 4/30/98)

**WAC 315-10-023 What are the prizes available for instant games?** Prizes available are as set forth on the instant game ticket. ~~((Prizes may range from one dollar up to and including one million dollars.))~~ Prizes may also include Win for Life prizes. Win for Life prizes will be paid in accordance with WAC 315-06-120(14) and may include prizes exceeding one million dollars.

**AMENDATORY SECTION** (Amending WSR 98-08-067, filed 3/30/98, effective 4/30/98)

**WAC 315-10-024 What are the methods of selecting winning tickets?** (1) Methods for selecting winning tickets shall be as set forth on the instant game ticket and in the executed working papers ~~((on file at lottery headquarters in Olympia, Washington))~~ or software requirement specifications. Methods for selecting winning tickets include:

(a) Higher number. Your (the player's) number is greater than their number.

(b) Match one or more. Match your play symbols to the winning play symbol(s).

(c) Bonus play. ~~((Uncover))~~ Find a bonus symbol to win a bonus prize instantly.

(d) Match two or more consecutive. Match two or more consecutive "Game Cards" within a game to the "Draw Cards" to win the corresponding amount shown on the ticket.

(e) Match two or more. Match two or more "Game Cards" within a game to the "Draw Cards" to win the corresponding amount shown on the legend on the ticket.

(f) Three like cards. Get three like cards with one hand to win the corresponding amount shown on the ticket.

(g) Grand prize drawing. ~~((Uncover))~~ Find a bonus symbol that qualifies you to enter a grand prize drawing or submit one or more nonwinning tickets to enter a grand prize drawing.

(h) Match symbols. ~~((Uncover))~~ Match a specified number of identical play symbols on a play area.

(i) Add up "yours." Add up the play symbols designated as "yours" and the total is greater than, less than or equal to the symbol or symbols designated as "theirs."

(j) Add up. Add up the play symbols and the amount is greater than or equal to the designated symbols on the ticket.

(k) Tic tac toe. ~~((Uncover))~~ Match three identical play symbols, in a row, column, or diagonal, on a ~~((9-symbol))~~ grid ~~((on))~~ in the play area.

(l) Sequence. ~~((Uncover))~~ Find the designated play symbols in the specified sequential order.

(m) Spellout. ~~((Uncover))~~ Find the play symbols to form the designated word or words.

(n) In between. ~~((Uncover))~~ Find the play symbol or symbols designated as "yours" with a value less than the play symbol or symbols designated as "their high ~~((and))~~ value" and greater than the play symbol or symbols designated as "their low ~~((and))~~ value."

(2) Each of the methods described in subsection (1) of this section may include a special variant such as "automatic win feature," "doubler," "wild card," or "free space" that provides added or alternative methods of winning.

**AMENDATORY SECTION** (Amending WSR 98-08-067, filed 3/30/98, effective 4/30/98)

**WAC 315-10-030 Instant games criteria.** (1) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.

(2) There is no required frequency of drawing or method of selection of a winner in an instant game.

(3) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:

(a) Finalists for a grand prize drawing shall be selected in an elimination drawing(s) from ~~((redeemed))~~ tickets meeting the criteria stated on the ticket and in executed working papers ~~((on file at lottery headquarters))~~ or software requirement specifications or stated in lottery promotional materials, at the discretion of the director. Participation in the elimination drawing(s) shall be limited to such tickets ~~((which))~~ that are actually received or ticket information is actually received and validated by the director on or before a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent instant game, and the determination of the director shall be final.

(b) The number of prizes and the amount of each prize in the grand prize drawing(s) shall be determined by the director

to correspond with the size and length of the instant game and to comply with subsection (1) of this section.

(c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.

**AMENDATORY SECTION** (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

**WAC 315-10-035 How do I know if I have a winning instant game ticket?** Each instant ticket shall be printed with instructions clearly indicating what constitutes a winning ticket. In addition, written descriptions of winning play and prize symbol combinations shall be included in the executed working papers or software requirement specifications for the production of each game. ~~((In general, winners of an instant game are determined by the matching or specified alignment of the play symbols on the ticket.))~~ The ticket bearer must submit the winning ticket to the lottery as specified by the director. The winning ticket must be validated by the lottery through use of the validation number or any other means as specified in this chapter or by the director.

**AMENDATORY SECTION** (Amending Order 83, filed 12/16/85)

**WAC 315-10-040 Confidentiality of tickets.** No lottery retailer or its employees or agents shall attempt to ascertain the ~~((numbers or symbols appearing in the designated areas under the removable latex coverings))~~ retailer verification code or otherwise attempt to identify unsold winning tickets.

**AMENDATORY SECTION** (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

**WAC 315-10-055 How much time does a player have to redeem winning and/or grand prize drawing instant game tickets?** (1) A player may submit a winning ticket for prize payment up to one hundred eighty days after the official end of game or one hundred eighty days from date of purchase of a computer generated ticket.

(2) In order to participate in a grand prize drawing in which the entry is the submittal of one or more winning or nonwinning tickets, a player must redeem and submit such a ticket or tickets or ticket information within the time limits set forth in chapter ~~((315-11))~~ 315-06 WAC governing the conduct of that specific game.

**AMENDATORY SECTION** (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

**WAC 315-10-070 Ticket validation requirements.** (1) To be a valid Washington state lottery instant game ticket, a ticket must meet all of the following validation requirements.

(a) The ticket must have been issued by the director in an authorized manner.

(b) The ticket must not be altered, unreadable, or tampered with in any manner.

(c) The ticket must not be counterfeit in whole or in part.

(d) The ticket must not be stolen nor appear on any list of omitted tickets on file with the lottery.

(e) The ticket must be complete and not blank or partially blank, miscut, misregistered, defective, or printed or produced in error.

(f) If play symbol and play symbol captions are present in the playfield, the ticket must have at least one play symbol and at least one play symbol caption under each play spot. ~~((These elements))~~ Play symbols must be present in their entirety, legible, right-side up, and not reversed in any manner.

(g) The ticket must have at least one pack-ticket number or serial number, exactly one retailer verification code, and exactly one validation number. These elements must be present in their entirety, legible, ~~((right-side up,))~~ and not reversed in any manner.

(h) The validation number of an apparent winning ticket shall appear on the lottery's official list of validation numbers of winning tickets; and a ticket with that validation number shall not have been previously paid.

(i) The ticket must pass all additional confidential validation requirements, if any, established by the director.

(2) The director may authorize reconstruction of an alleged winning ticket which was not received and/or cannot be located by the lottery; provided, that the person requesting reconstruction submits to the lottery sufficient evidence to enable reconstruction and that they have submitted a claim for the prize, if any, for that ticket. If the reconstructed ticket is a winning ticket and meets the validation requirements contained in subsection (1) of this section and the specific validation requirements contained in the rules for its specific game, the director may authorize payment of the prize; provided, that the ticket shall not be validated nor the prize paid prior to ~~((the))~~ one hundred ~~((eighty first))~~ eighty days following the official end of that instant game. A ticket(s) validated pursuant to this subsection shall not entitle the claimant entry into the grand prize drawing, if any, for that or any subsequent instant game.

(3) Any ticket not passing all the validation requirements in subsection (1) of this section and the specific validation requirements contained in the rules for its specific game is invalid and ineligible for any prize.

(4) The director may replace any invalid ticket with an unplayed ticket of equivalent sales price from any current instant game. In the event a defective ticket is purchased, the only responsibility or liability of the lottery shall be the replacement of the defective ticket with an unplayed ticket of equivalent sales price from any current instant game, or issue a refund of the sales price. However, if the ticket is partially mutilated or if the ticket is not intact but it still can be validated by other validation tests, the director may pay the prize for that ticket.

**AMENDATORY SECTION** (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

**WAC 315-10-075 How do I claim an instant game prize?** Procedures for claiming instant game prizes are as follows:

(1) To claim an instant game prize of \$600.00 or less the claimant may either (~~may~~) present the apparent winning ticket to any lottery retailer regardless of where the ticket was purchased, or may present the apparent winning ticket to the lottery by mail or in person. When a retailer is presented with a claim under this section, the retailer shall verify the claim and, if acceptable, make payment of the amount due the claimant. The prizes shall be paid during all normal business hours of that retailer provided that claims can be validated on the lottery's (~~instant ticket scanner~~) terminal. The retailer shall not charge the claimant any fee for payment of the prize or for cashing a business check drawn on the retailer's account.

(2) In the event the retailer cannot verify the claim, the claimant shall present a claim to the lottery by mail or in person. If the claim is validated by the lottery, (~~a check~~) funds shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(3) To claim an instant prize of more than \$600.00, the claimant shall complete a claim form, as provided in WAC 315-06-120, which is obtained from the lottery retailer or the lottery and mail or present in person the completed form together with the apparent winning ticket to the lottery. Upon validation by the director, (~~a check~~) funds shall be (~~mailed~~) forwarded or presented to the claimant in payment of the amount due, less any applicable federal income tax withholding and deductions pursuant to RCW 67.70.255 and WAC 315-06-125. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(4) To claim an instant prize pursuant to WAC 315-10-070(2), the claimant shall notify the lottery of the claim and request reconstruction of the ticket not later than one hundred eighty days after the official end of that instant game or one hundred eighty days from purchase of a computer generated ticket. If the director authorizes reconstruction, the ticket shall not be validated nor the prize paid prior to (~~the~~) one hundred (~~eighty first~~) eighty days following the official end of that instant game or one hundred eighty days from purchase of a computer generated ticket. A ticket(s) validated pursuant to WAC 315-10-070(2) shall not entitle the claimant entry into the grand prize drawing, if any, for that or any subsequent instant game.

(5) Any ticket not passing all the validation checks specified by the director is invalid and ineligible for any prize and shall not be paid. However, the director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the director shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game).

## WSR 05-08-063

## PROPOSED RULES

## BOARD OF

## PILOTAGE COMMISSIONERS

[Filed March 31, 2005, 8:56 a.m.]

## Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district.

Hearing Location(s): 2911 Second Avenue, Level B Conference Room, Seattle, WA 98121, on May 12, 2005, at 9:30 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2911 Second Avenue, Seattle, WA 98121, e-mail [larsnp@wsdot.wa.go](mailto:larsnp@wsdot.wa.go), fax (206) 515-3906, by May 5, 2005.

Assistance for Persons with Disabilities: Contact Judy Bell by May 9, 2005, (206) 515-3647.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to establish a Puget Sound pilotage district annual tariff.

The proposed rule reflects a 4% increase in all categories except transportation to be charged for pilotage services in the Puget Sound pilotage district for the 2005-2006 tariff year.

The proposed rule reflects changes in the "Transportation to Vessels on Puget Sound" category which represent new taxi rates of \$2.50 per drop and \$2.00 per mile.

Reasons Supporting Proposal: RCW 88.16.035 requires that a tariff be set annually.

Statutory Authority for Adoption: RCW 88.16.035.

Statute Being Implemented: Chapter 88.16 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Current rates for the Puget Sound pilotage district expire on June 30, 2005. New rates must be set annually.

The board may adopt a rule that varies from the proposed rule upon consideration of presentations and written comments from other interested parties and the public.

Name of Proponent: Puget Sound Pilots, Pacific Merchant Shipping Association, and Polar Tankers, Inc. N.W., private.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, 2901 Third Avenue, Seattle, WA 98121, (206) 515-3904.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is being considered in the context of the required annual revision to the rates charged for pilotage services and the application of the 4% increase and the transportation charge increase is clear in the attached proposed tariff.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule adop-

PROPOSED

tion. The Washington State Board of Pilotage Commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

March 29, 2005  
 Peggy Larson  
 Administrator

PROPOSED

**AMENDATORY SECTION** (Amending WSR 04-12-014, filed 5/24/04, effective 7/1/04)

**WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district.** Effective 0001 hours July 1, ~~((2004))~~ 2005, through 2400 hours June 30, ~~((2005))~~ 2006.

CLASSIFICATION	RATE
Ship length overall (LOA)	
Charges:	per LOA rate schedule in this section
Boarding fee:	\$ <del>((33.00))</del> <u>34.00</u>
Per each boarding/deboarding at the Port Angeles pilot station.	
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift Dead ship	Double LOA Zone I
Dead ship towing charge:	Double LOA
LOA of tug + LOA of tow + beam of tow	Zone

Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

**Waterway and bridge charges:**

**Ships up to 90' beam:**  
 A charge of \$~~((176.00))~~ 183.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of \$~~((84.00))~~ 87.00 per bridge.

**Ships 90' beam and/or over:**

A charge of \$~~((239.00))~~ 249.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of \$~~((167.00))~~ 174.00 per bridge.

(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

**Two or three pilots required:**

In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Compass adjustment	\$ <del>((238.00))</del> <u>248.00</u>
Radio direction finder calibration	\$ <del>((238.00))</del> <u>248.00</u>
Launching vessels	\$ <del>((358.00))</del> <u>372.00</u>
Trial trips, 6 hours or less (Minimum \$ <del>((672.00))</del> <u>696.00</u> )	\$ <del>((112.00))</del> <u>116.00</u> per hr.
Trial trips, over 6 hours (two pilots)	\$ <del>((224.00))</del> <u>233.00</u> per hr.
Shilshole Bay – Salmon Bay	\$ <del>((140.00))</del> <u>146.00</u>
Salmon Bay – Lake Union	\$ <del>((109.00))</del> <u>113.00</u>
Lake Union – Lake Washington (plus LOA zone from Webster Point)	\$ <del>((140.00))</del> <u>146.00</u>
Cancellation charge	LOA Zone I
Cancellation charge—Port Angeles (when a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for pilot or when a pilot order is cancelled less than twelve hours prior to the original ETA.)	LOA Zone II
Docking delay after anchoring:	\$ <del>((112.00))</del> <u>116.00</u> per hr.
	Applicable harbor shift rate to apply, plus \$ <del>((112.00))</del> <u>116.00</u> per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$ <del>((112.00))</del> <u>116.00</u> for every hour or fraction thereof.
Sailing delay:	\$ <del>((112.00))</del> <u>116.00</u> per hour
	No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$ <del>((112.00))</del> <u>116.00</u> for every hour or fraction thereof. The assessment of the standby fee shall not exceed a period of twelve hours in any twenty-four hour period.
Slowdown:	\$ <del>((112.00))</del> <u>116.00</u> per hour

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of \$~~((+12.00))~~ 116.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Tonnage charges:

0 to 20,000 gross tons:

Additional charge to LOA zone mileage of \$~~((0.0056))~~ 0.0058 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:

Additional charge to LOA zone mileage of \$~~((0.0577))~~ 0.0600 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:

In excess of 50,000 gross tons, the charge shall be \$~~((0.0691))~~ 0.0712 per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Delayed arrival-Port Angeles: \$~~((+12.00))~~  
116.00  
per hour

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of \$~~((+12.00))~~ 116.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Transportation to vessels on Puget Sound:

March Point or Anacortes	\$ <del>((+144.00))</del> <u>157.00</u>
Bangor	<del>((84.00))</del> <u>153.00</u>
Bellingham	<del>((+58.00))</del> <u>181.00</u>
Bremerton	<del>((44.00))</del> <u>135.00</u>
Cherry Point	<del>((+75.00))</del> <u>209.00</u>
Dupont	<del>((85.00))</del> <u>97.00</u>

Edmonds	<del>((27.00))</del> <u>35.00</u>
Everett	<del>((52.00))</del> <u>59.00</u>
Ferndale	<del>((+73.00))</del> <u>199.00</u>
Manchester	<del>((66.00))</del> <u>131.00</u>
Mukilteo	<del>((52.00))</del> <u>53.00</u>
Olympia	<del>((+08.00))</del> <u>125.00</u>
Point Wells	<del>((27.00))</del> <u>35.00</u>
Port Gamble	<del>((77.00))</del> <u>185.00</u>
Port Townsend (Indian Island)	<del>((+09.00))</del> <u>223.00</u>
Seattle	15.00
<del>((Semiahmoo (Blaine))</del>	<del>196.00))</del>
Tacoma	<del>((56.00))</del> <u>71.00</u>
<del>((Tacoma Smelter</del>	<del>66.00</del>
<del>Winslow</del>	<del>42.00))</del>

- (a) Intraharbor transportation for the Port Angeles port area - transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.
- (b) Interport shifts: Transportation paid to and from both points.
- (c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is cancelled on or before scheduled reporting time, transportation paid one way only.
- (d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.
- (e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$~~((+80))~~ 2.00 per mile. Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

LOA rate schedule

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

PROPOSED

PROPOSED

((LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra-Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
Up to 449	175	269	461	687	925	1,200
450-459	181	275	464	697	940	1,206
460-469	183	278	471	709	953	1,211
470-479	190	286	477	723	955	1,214
480-489	195	292	479	736	961	1,219
490-499	197	295	486	750	974	1,224
500-509	207	300	493	759	980	1,233
510-519	209	306	498	770	990	1,236
520-529	211	316	505	773	999	1,248
530-539	218	320	512	781	1,015	1,261
540-549	221	324	523	791	1,031	1,272
550-559	226	336	527	802	1,039	1,285
560-569	234	349	537	808	1,050	1,297
570-579	239	353	539	812	1,060	1,306
580-589	248	359	552	819	1,066	1,319
590-599	261	365	555	822	1,082	1,334
600-609	269	376	562	826	1,095	1,341
610-619	285	380	573	830	1,106	1,352
620-629	296	385	578	839	1,118	1,368
630-639	310	391	584	841	1,128	1,380
640-649	322	401	591	843	1,138	1,391
650-659	345	408	601	850	1,152	1,405
660-669	352	412	606	854	1,163	1,416
670-679	364	423	613	869	1,177	1,424
680-689	369	430	621	878	1,188	1,438
690-699	380	437	629	893	1,200	1,468
700-719	397	451	641	903	1,223	1,484
720-739	421	464	657	916	1,248	1,509
740-759	437	486	669	925	1,272	1,536
760-779	455	502	686	940	1,297	1,557
780-799	477	524	697	953	1,319	1,584
800-819	496	539	711	958	1,341	1,608
820-839	512	558	728	974	1,368	1,626
840-859	533	581	741	984	1,390	1,654
860-879	553	601	756	1,010	1,416	1,678
880-899	573	618	770	1,033	1,438	1,703
900-919	589	638	783	1,059	1,468	1,727
920-939	608	657	802	1,082	1,483	1,749
940-959	629	674	813	1,106	1,509	1,772
960-979	644	695	827	1,128	1,536	1,798
980-999	666	711	842	1,152	1,557	1,820
1000-1019	705	757	879	1,212	1,630	1,899

((LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra-Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
1020-1039	725	779	907	1,248	1,679	1,955
1040-1059	746	798	934	1,285	1,728	2,013
1060-1079	770	827	960	1,324	1,781	2,074
1080-1099	792	850	990	1,362	1,834	2,135
1100-1119	815	875	1,019	1,404	1,888	2,200
1120-1139	840	903	1,051	1,445	1,945	2,265
1140-1159	865	929	1,081	1,489	2,003	2,334
1160-1179	890	955	1,113	1,534	2,063	2,403
1180-1199	918	985	1,146	1,579	2,125	2,475
1200-1219	945	1,015	1,180	1,626	2,188	2,548
1220-1239	974	1,045	1,215	1,675	2,253	2,624
1240-1259	1,002	1,075	1,251	1,710	2,322	2,703
1260-1279	1,031	1,107	1,289	1,776	2,391	2,784
1280-1299	1,061	1,141	1,327	1,830	2,462	2,868
1300-1319	1,094	1,173	1,367	1,884	2,537	2,953
1320-1339	1,127	1,209	1,408	1,941	2,612	3,042
1340-1359	1,160	1,245	1,450	1,998	2,690	3,133
1360-1379	1,195	1,282	1,494	2,059	2,770	3,226
1380-1399	1,230	1,320	1,539	2,120	2,853	3,324
1400-1419	1,268	1,360	1,583	2,183	2,938	3,423
1420-1439	1,305	1,401	1,631	2,248	3,026	3,525
1440-1459	1,345	1,443	1,681	2,315	3,117	3,631
1460-1479	1,383	1,486	1,729	2,385	3,210	3,739
1480-1499	1,425	1,530	1,782	2,456	3,306	3,851
1500 & Over	1,468	1,576	1,835	2,531	3,404	3,966))

LOA	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Intra-Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
<u>Up to 449</u>	<u>182</u>	<u>280</u>	<u>480</u>	<u>715</u>	<u>962</u>	<u>1,248</u>
<u>450 - 459</u>	<u>188</u>	<u>286</u>	<u>482</u>	<u>725</u>	<u>978</u>	<u>1,254</u>
<u>460 - 469</u>	<u>190</u>	<u>289</u>	<u>489</u>	<u>737</u>	<u>991</u>	<u>1,260</u>
<u>470 - 479</u>	<u>197</u>	<u>297</u>	<u>496</u>	<u>752</u>	<u>994</u>	<u>1,262</u>
<u>480 - 489</u>	<u>203</u>	<u>303</u>	<u>498</u>	<u>766</u>	<u>1,000</u>	<u>1,268</u>
<u>490 - 499</u>	<u>205</u>	<u>307</u>	<u>505</u>	<u>780</u>	<u>1,013</u>	<u>1,273</u>
<u>500 - 509</u>	<u>216</u>	<u>312</u>	<u>513</u>	<u>789</u>	<u>1,020</u>	<u>1,282</u>
<u>510 - 519</u>	<u>217</u>	<u>318</u>	<u>518</u>	<u>801</u>	<u>1,030</u>	<u>1,286</u>
<u>520 - 529</u>	<u>220</u>	<u>329</u>	<u>525</u>	<u>804</u>	<u>1,039</u>	<u>1,298</u>
<u>530 - 539</u>	<u>227</u>	<u>333</u>	<u>532</u>	<u>813</u>	<u>1,056</u>	<u>1,312</u>
<u>540 - 549</u>	<u>230</u>	<u>337</u>	<u>544</u>	<u>822</u>	<u>1,073</u>	<u>1,323</u>

LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra	0-30	31-50	51-75	76-100	101
	Harbor	Miles	Miles	Miles	Miles	Miles
						& Over
550 - 559	235	349	548	834	1,080	1,336
560 - 569	243	363	559	841	1,092	1,349
570 - 579	249	367	561	845	1,102	1,358
580 - 589	258	373	574	852	1,109	1,372
590 - 599	271	380	577	855	1,125	1,387
600 - 609	280	391	584	859	1,139	1,394
610 - 619	296	396	596	863	1,150	1,406
620 - 629	308	401	601	873	1,163	1,423
630 - 639	322	407	608	874	1,173	1,435
640 - 649	335	417	615	877	1,183	1,446
650 - 659	359	424	625	884	1,198	1,461
660 - 669	366	429	630	888	1,210	1,472
670 - 679	378	440	637	904	1,224	1,481
680 - 689	384	448	646	913	1,235	1,496
690 - 699	396	455	655	928	1,248	1,526
700 - 719	413	469	667	940	1,272	1,544
720 - 739	438	482	683	953	1,298	1,570
740 - 759	455	505	696	962	1,323	1,598
760 - 779	473	522	714	978	1,349	1,619
780 - 799	496	545	725	991	1,372	1,647
800 - 819	516	561	740	996	1,394	1,672
820 - 839	532	581	757	1,013	1,423	1,692
840 - 859	555	604	770	1,023	1,446	1,720
860 - 879	575	625	786	1,050	1,472	1,745
880 - 899	596	643	801	1,074	1,496	1,771
900 - 919	613	663	814	1,101	1,526	1,796
920 - 939	632	683	834	1,125	1,542	1,819
940 - 959	655	701	846	1,150	1,570	1,843
960 - 979	670	722	861	1,173	1,598	1,870
980 - 999	693	740	875	1,198	1,619	1,892
1000 - 1019	734	788	914	1,260	1,695	1,975
1020 - 1039	754	810	943	1,298	1,746	2,033
1040 - 1059	776	830	971	1,336	1,797	2,094
1060 - 1079	801	860	999	1,377	1,852	2,157
1080 - 1099	824	884	1,029	1,417	1,907	2,221
1100 - 1119	848	910	1,060	1,460	1,964	2,288
1120 - 1139	874	939	1,093	1,503	2,023	2,356
1140 - 1159	900	966	1,124	1,548	2,084	2,427
1160 - 1179	926	994	1,158	1,595	2,145	2,499
1180 - 1199	954	1,024	1,192	1,642	2,210	2,574
1200 - 1219	983	1,055	1,227	1,692	2,276	2,650
1220 - 1239	1,013	1,087	1,264	1,742	2,343	2,729

LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra	0-30	31-50	51-75	76-100	101
	Harbor	Miles	Miles	Miles	Miles	Miles
						& Over
1240 - 1259	1,042	1,118	1,301	1,794	2,415	2,811
1260 - 1279	1,073	1,151	1,340	1,847	2,487	2,895
1280 - 1299	1,104	1,187	1,380	1,904	2,561	2,982
1300 - 1319	1,138	1,220	1,421	1,959	2,638	3,071
1320 - 1339	1,173	1,257	1,465	2,018	2,716	3,164
1340 - 1359	1,206	1,295	1,508	2,078	2,797	3,259
1360 - 1379	1,243	1,333	1,553	2,141	2,881	3,355
1380 - 1399	1,280	1,373	1,600	2,204	2,967	3,457
1400 - 1419	1,319	1,414	1,646	2,270	3,055	3,560
1420 - 1439	1,357	1,457	1,697	2,338	3,147	3,666
1440 - 1459	1,399	1,500	1,748	2,408	3,241	3,776
1460 - 1479	1,439	1,545	1,798	2,480	3,339	3,889
1480 - 1499	1,482	1,591	1,853	2,554	3,438	4,005
1500 & Over	1,526	1,639	1,909	2,632	3,540	4,125

**WSR 05-08-067**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Filed March 31, 2005, 11:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-02-073.

Title of Rule and Other Identifying Information: Chapter 332-130 WAC, Minimum standards for land boundary surveys and geodetic control surveys and guidelines for the preparation of land descriptions.

Hearing Location(s): Natural Resources Building, Room 371, 1111 Washington Street S.E., Olympia, WA 98504-7060, on May 10, 2005, at 2:00 p.m.

Date of Intended Adoption: June 7, 2005.

Submit Written Comments to: Gwen Roy, PLS, Manager, Public Land Survey Office, Department of Natural Resources, P.O. Box 47060, Olympia, WA 98504-7060, e-mail [gwen.roy@wadnr.gov](mailto:gwen.roy@wadnr.gov), fax (360) 902-1191, by May 10, 2005.

Assistance for Persons with Disabilities: Contact Engineering and General Services Division at (360) 902-1200, by May 10, 2005, TTY (360) 902-1125 or (360) 902-1200.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: For clarification and to bring existing rules up to date with current technology. The proposal changes the coordinate system adjustment required for the horizontal control network in Washington from NAD83 (1991) and allow for the reporting of the specific adjustment used.

**Reasons Supporting Proposal:** The original rule was written before the proliferation of G.P.S. and the datum at that time was thought to be stable. Technologic advances have simplified the remeasuring of the horizontal control network and have allowed greater accuracies. The original rule requires surveyors to use NAD83 (1991), which is an out dated adjustment. The proposed rule change would allow surveyors to take advantage of new technology and higher positional accuracies by using current and future datum adjustments.

**Statutory Authority for Adoption:** Chapter 58.24 RCW.  
**Statute Being Implemented:** Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

**Name of Proponent:** Department of Natural Resources, governmental.

**Name of Agency Personnel Responsible for Drafting and Implementation:** Dave Steele, Olympia, (360) 902-1181; and **Enforcement:** George Twiss, Olympia, Board of Registration for Engineers and Land Surveyors, (360) 664-1565.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared under chapter 19.85 RCW since this rule will not impose additional costs on businesses in an industry.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis was not prepared under RCW 34.05.328 since this rule will not impose additional costs on businesses in an industry.

March 30, 2005  
Howard P. Thomsen  
for Bruce Mackey  
Lands Steward

**AMENDATORY SECTION** (Amending Order 617, filed 2/25/94, effective 3/28/94)

**WAC 332-120-040 Monument removal or destruction.** (1) All land boundary survey monuments that are removed or destroyed shall be replaced or witness monuments shall be set to perpetuate the survey point.

(2) A land boundary survey corner shall be referenced to the Washington Coordinate System of 1983, (~~(adjusted in 1991)~~) prior to removal or destruction. See WAC (~~(332-130-060, Geodetic control)~~) 332-130-070(2), land boundary survey standards.

An applicant may request a variance from this referencing requirement by so noting in the applicant information section on the permit and providing the justification on the back of the form. The department shall note whether the variance is approved or not approved and shall provide the reason for not approving the request.

**AMENDATORY SECTION** (Amending Order 597, filed 1/3/92, effective 2/3/92)

**WAC 332-130-020 Definitions.** The following definitions shall apply to this chapter:

(1) **Local geodetic control surveys:** Surveys for the specific purpose of establishing control points for extending

the National Geodetic Survey horizontal and vertical control nets, (~~(establishing plane coordinate values on boundary monuments within the requirements of the Washington coordinate system, and determining the vertical elevations of boundary monuments)~~) also known as the National Spatial Reference System (NSRS), but not submitted to the National Geodetic Survey for inclusion in the NSRS.

(2) **GLO and BLM:** The General Land Office and its successor, the Bureau of Land Management.

(3) **Land boundary surveys:** All surveys, whether made by individuals, entities or public bodies of whatever nature, for the specific purpose of establishing, reestablishing, laying out, subdividing, defining, locating and/or monumenting the vertical or horizontal boundary of any easement, right of way, lot, tract, or parcel of real property or which reestablishes or restores General Land Office or Bureau of Land Management survey corners.

(4) **Land corner record:** The record of corner information form as prescribed by the department of natural resources in WAC 332-130-025.

(5) **Land description:** A description of real property or of rights associated with real property.

(6) **Land surveyor:** Any person authorized to practice the profession of land surveying under the provisions of chapter 18.43 RCW.

(7) **NAD83 (~~(1991)~~):** North American Datum of 1983(~~(adjusted in 1991)~~) as designated by chapter 58.20 RCW.

(8) **Parcel:** A part or portion of real property including but not limited to GLO and BLM segregations, easements, rights of way, aliquot parts of sections or tracts.

(9) **Survey Recording Act:** The law as established and designated in chapter 58.09 RCW.

(10) **Washington coordinate system:** The system of plane coordinates as established and designated by chapter 58.20 RCW.

**AMENDATORY SECTION** (Amending Order 581, filed 9/9/91, effective 10/10/91)

**WAC 332-130-060 Local geodetic control survey standards.** The following standards shall apply to local geodetic control surveys:

~~((1))~~ The datum for the horizontal control network in Washington shall be NAD83 (~~(1991)~~) as officially adjusted and published by the National Geodetic Survey of the United States Department of Commerce or as established in accordance with chapter 58.20 RCW. The datum (~~(adjustment)~~) tag and coordinate epoch date (if pertinent) shall be (~~(identified)~~) reported on all (~~(geodetic control referenced)~~) documents prepared, which show local geodetic control; (~~(i.e.)~~) e.g., NAD83 (1991), NAD83 (CORS) (2002.00), NAD83 (NSRS) (2005.50) and other future standards.

~~(2) Horizontal and vertical control work must meet or exceed those accuracy and specification standards as published by the Federal Geodetic Control Committee, September 1984, in the bulletin titled, "Standards and Specifications for Geodetic Control Networks" or any subsequently published bulletins modifying such class standards. The class of control surveys shall be shown on documents prepared.~~

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**AMENDATORY SECTION** (Amending Order 568, filed 3/1/90, effective 4/1/90)

**WAC 332-130-070 Land boundary survey standards. The following standards shall apply to land boundary surveys:**

(1) The accuracy or precision of field work may be determined and reported by either relative accuracy procedures or field traverse standards, provided that the final result shall meet or exceed the standards contained in WAC 332-130-090.

(2) The datum when using the Washington Coordinate System shall be NAD83 as officially adjusted and published by the National Geodetic Survey of the United States Department of Commerce or as established in accordance with chapter 58.20 RCW. The datum tag and the coordinate epoch date (if pertinent) shall be reported on all documents prepared which reference the Washington Coordinate System, e.g., NAD83 (1991), NAD83 (CORS) (2002.00), NAD83 (NSRS) (2005.50) and other future standards.

**WSR 05-08-069**

**WITHDRAWAL OF PROPOSED RULES  
STATE BOARD OF EDUCATION**

[Filed March 31, 2005, 2:39 p.m.]

We are requesting that the CR-102 on proposed changes to WAC 180-82-105 (WSR 05-04-015) be withdrawn.

A new CR-102 with proposed changes to WAC 180-82-105 will be filed at a later date.

Larry Davis  
Executive Director

**WSR 05-08-075**

**PROPOSED RULES  
CRIMINAL JUSTICE  
TRAINING COMMISSION**

[Filed April 1, 2005, 9:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-05-013.

Title of Rule and Other Identifying Information: WAC 139-10-235 Basic misdemeanor probation/classification academy curriculum.

Hearing Location(s): Washington State Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, on Wednesday, June 8, 2005, at 10:00 a.m.

Date of Intended Adoption: June 8, 2005.

Submit Written Comments to: Sonja Hirsch, 19010 1st Avenue South, Burien, WA 98148, e-mail shirsch@chtc.state.wa.us, fax (206) 439-3860, by June 1, 2005.

Assistance for Persons with Disabilities: Contact Sonja Hirsch by June 1, 2005, TTY (206) 835-7300.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Adult Services Academy was divided into three separate tracks: County probation, state DOC community corrections officers, and state institutional counselors. Changes in WAC 139-10-210 have reconfigured these academies. As a result, the specific curriculum for each of these academies will be defined.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Staff in cooperation with the Board on Corrections Training, Standards, and Education (BCTSE), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Graham, Burien, Washington, (206) 835-7302; and Enforcement: Al Isaac, Burien, Washington, (206) 835-7306.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2); therefore, a small business economic impact statement is not required.

A cost-benefit analysis is not required under RCW 34.05.328.

March 31, 2005

Michael D. Parsons  
Executive Director

**AMENDATORY SECTION** (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

**WAC 139-10-235 ~~Basic ((adult services))~~ misdemeanant probation/classification academy curriculum.** The basic ~~((adult correctional services))~~ misdemeanant probation/classification academy curriculum of the Washington state criminal justice training commission shall be not less than eighty instructional hours in length and shall include, but not be limited to, the following subject matter areas:

- (1) Core skills
  - (a) Assessment
  - (b) Motivation
  - (c) Goal setting/action planning
  - (d) Monitoring and intervention
- (2) Key skills
  - (a) Interpersonal skills
  - (b) Interviewing
  - (c) Classification
  - (d) Supervision and discipline
  - (e) Offense prevention
- (3) Related skills
  - (a) Dealing with aggressive and resistive behavior
  - (b) Legal issues
  - (c) Report writing
  - (d) Counseling techniques

(e) Managing information.

**WSR 05-08-076**  
**PROPOSED RULES**  
**CRIMINAL JUSTICE**  
**TRAINING COMMISSION**

[Filed April 1, 2005, 9:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-05-014.

Title of Rule and Other Identifying Information: WAC 139-10-530 Basic community corrections officer academy curriculum.

Hearing Location(s): Washington State Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, on Wednesday, June 8, 2005, at 10:00 a.m.

Date of Intended Adoption: June 8, 2005.

Submit Written Comments to: Sonja Hirsch, 19010 1st Avenue South, Burien, WA 98148, e-mail shirsch@cjtc.state.wa.us, fax (206) 439-3860, by June 1, 2005.

Assistance for Persons with Disabilities: Contact Sonja Hirsch by June 1, 2005, TTY (206) 835-7300.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Adult Services Academy was divided into three separate tracks: County probation, state DOC community corrections officers, and state institutional counselors. Changes in WAC 139-10-210 have reconfigured these academies. As a result, the specific curriculum for each of these academies will be defined.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Staff in cooperation with the Board on Corrections Training, Standards, and Education (BCTSE), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Graham, Burien, Washington, (206) 835-7302; and Enforcement: Al Isaac, Burien, Washington, (206) 835-7306.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2); therefore, a small business economic impact statement is not required.

A cost-benefit analysis is not required under RCW 34.05.328.

March 31, 2005

Michael D. Parsons  
Executive Director

**NEW SECTION**

**WAC 139-10-530 Basic community corrections officer academy curriculum.** The basic community corrections officer academy curriculum of the Washington state criminal justice training commission shall be not less than

eighty instructional hours in length and shall include, but not be limited to, the following subject matter areas:

- (1) Core skills
  - (a) Assessment
  - (b) Motivation
  - (c) Goal setting/action planning
  - (d) Monitoring and intervention
  - (e) Arrest and search procedures
- (2) Key skills
  - (a) Interpersonal skills
  - (b) Interviewing
  - (c) Classification
  - (d) Offense prevention
- (3) Related skills
  - (a) Dealing with aggressive and resistive behavior
  - (b) Legal issues
  - (c) Counseling techniques
  - (d) Managing information
  - (e) Defensive tactics and security management.

**WSR 05-08-077**  
**PROPOSED RULES**  
**CRIMINAL JUSTICE**  
**TRAINING COMMISSION**

[Filed April 1, 2005, 9:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-05-015.

Title of Rule and Other Identifying Information: WAC 139-10-540 Basic institutional corrections counselor academy curriculum.

Hearing Location(s): Washington State Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, on Wednesday, June 8, 2005, at 10:00 a.m.

Date of Intended Adoption: June 8, 2005.

Submit Written Comments to: Sonja Hirsch, 19010 1st Avenue South, Burien, WA 98148, e-mail shirsch@cjtc.state.wa.us, fax (206) 439-3860, by June 1, 2005.

Assistance for Persons with Disabilities: Contact Sonja Hirsch by June 1, 2005, TTY (206) 835-7300.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Adult Services Academy was divided into three separate tracks: County probation, state DOC community corrections officers, and state institutional counselors. Changes in WAC 139-10-210 have reconfigured these academies. As a result, the specific curriculum for each of these academies will be defined.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Staff in cooperation with the Board on Corrections Training, Standards, and Education (BCTSE), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Graham, Burien, Washington,

(206) 835-7302; and Enforcement: Al Isaac, Burien, Washington, (206) 835-7306.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2); therefore, a small business economic impact statement is not required.

A cost-benefit analysis is not required under RCW 34.05.328.

March 31, 2005  
Michael D. Parsons  
Executive Director

### NEW SECTION

**WAC 139-10-540 Basic institutional corrections counselor academy curriculum.** The basic institutional corrections counselor academy curriculum of the Washington state criminal justice training commission shall be not less than eighty instructional hours in length and shall include, but not be limited to, the following subject matter areas:

- (1) Core skills
  - (a) Assessment
  - (b) Motivation
  - (c) Goal setting/action planning
  - (d) Monitoring and intervention
- (2) Key skills
  - (a) Interpersonal skills
  - (b) Interviewing
  - (c) Classification
  - (d) Supervision and discipline
  - (e) Offense prevention
- (3) Related skills
  - (a) Dealing with aggressive and resistive behavior
  - (b) Legal issues
  - (c) Report writing
  - (d) Counseling techniques
  - (e) Managing information.

#### **WSR 05-08-079**

#### **WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF AGRICULTURE**

[Filed April 1, 2005, 11:19 a.m.]

The Washington State Department of Agriculture is formally withdrawing WSR 05-07-114 filed on March 21, 2005, regarding the Washington Hop Commission marketing order, chapter 16-532 WAC.

William E. Brookreson  
Deputy Director

#### **WSR 05-08-080**

#### **WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF AGRICULTURE**

[Filed April 1, 2005, 11:20 a.m.]

The Washington State Department of Agriculture is formally withdrawing WSR 05-07-112 filed on March 21, 2005,

regarding rules of the Washington State Hop Commodity Board, chapter 16-532 WAC.

William E. Brookreson  
Deputy Director

#### **WSR 05-08-081**

#### **WITHDRAWAL OF PROPOSED RULES HOP COMMISSION**

[Filed April 1, 2005, 11:21 a.m.]

The Washington Hop Commission is formally withdrawing WSR 05-07-113 filed on March 21, 2005, regarding rules of the Washington State Hop Commodity Board, chapter 16-532 WAC.

Ann E. George  
Administrator

#### **WSR 05-08-085**

#### **PROPOSED RULES FOREST PRACTICES BOARD**

[Filed April 1, 2005, 3:34 p.m.]

Supplemental Notice to WSR 04-24-088.

Title of Rule and Other Identifying Information: Cultural resources protection and management in forest practices.

Date of Intended Adoption: May 11, 2005.

March 30, 2005  
Pat McElroy  
Chair

#### **WSR 05-08-092**

#### **PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed April 1, 2005, 3:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-07-087.

Title of Rule and Other Identifying Information: WAC 388-544-0010, 388-544-0050, 388-544-0100, 388-544-0150, 388-544-0200, 388-544-0250, 388-544-0300, 388-544-0350, 388-544-0400, 388-544-0450, 388-544-0475, 388-544-0500, 388-544-0550, and 388-544-0600, vision care services.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 25, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500

10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 24, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator by May 20, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This WAC revision is intended to accomplish several objectives:

- Aligning MAA policies with industry standard when applicable;
- Clarifying vision care coverage;
- Clarifying client eligibility;
- Updating and clarifying wording in the definition section;
- Adding "ocularists" to eligible provider types;
- Adding policy regarding unclaimed hardware and contact lenses;
- Updating noncovered section;
- Clarifying sphere power and diopter guidelines as per stakeholders' responses;
- Clarifying coverage for back-up glasses for clients with developmental disabilities;
- Clarifying medical criteria for durable and flexible frames;
- Outlining coverage for scratch resistant coating for all plastic lenses;
- Updating replacement lense(s) allowances;
- Updating diagnoses for photochromatic lenses;
- Adding coverage for infants and toddlers with motor ataxia for polycarbonate lenses;
- Expanding coverage of contact lenses to include monthly and quarterly wear disposable;
- Discontinuing coverage of glass lenses;
- Updating cataract surgery conditions; and
- Updating expedited prior authorization section.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.510, and 74.09.520; 42 C.F.R. 440.120, 42 C.F.R. 440.225.

Statute Being Implemented: 42 C.F.R. 440.225.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting: Wendy L. Boedigheimer, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1306; Implementation and Enforcement: Marlene Black, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1577.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has determined that the proposed rule will not create more than minor costs for affected small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Marlene Black, Division of Medical Management, P.O. Box 45506, Olympia, WA 98504-5506,

phone (360) 725-1577, fax (360) 586-8827, e-mail blackml@dshs.wa.gov.

March 31, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-09 issue of the Register.

## WSR 05-08-095

### PROPOSED RULES

#### WASHINGTON STATE LOTTERY

[Filed April 1, 2005, 4:20 p.m.]

Continuance of WSR 05-04-081.

Title of Rule and Other Identifying Information: Chapter 315-34 WAC, Lotto 6 of 49 rules, changes to the Lotto rules allow additional drawing days and cashpots to be established at the director's discretion. This is a continuation of the rule adoption item presented at the Lottery Commission's March 17, 2005, meeting. No action was taken on these rules at that time because of lack of a quorum.

Hearing Location(s): Red Lion at the Park, West 303 North River Drive, Spokane, WA 98201, on May 12, 2005, at 10:00 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Ceil Buddeke, 814 East 4th Avenue, Olympia, WA 98506, e-mail Cbuddeke@walottery.com, fax (360) 586-6586 by May 10, 2005.

Assistance for Persons with Disabilities: Contact Joan Reuell by May 10, 2005, TTY (360) 586-0933.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Washington's lottery intends to recommend permanent amendment of this rule, to correctly reflect the drawing schedule change for increased consumer awareness and increased revenue contributions to the state.

Reasons Supporting Proposal: The rule broadens players' opportunities and options in the Lotto game.

Statutory Authority for Adoption: Chapter 67.70 RCW.

Statute Being Implemented: RCW 67.70.040.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington's Lottery, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ceil Buddeke, 814 East 4th Avenue, Olympia, WA 98506, (360) 664-4833.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose costs on industry businesses, and the lottery has not been asked to prepare a small business economic impact statement. See RCW 19.85.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Ceil Buddeke, 814 East 4th Avenue,

Olympia, WA 98506, phone (360) 664-4833, fax (360) 586-6586, e-mail Cbuddeke@walottery.com.

April 1, 2005  
Ceil Buddeke  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 96-15-054, filed 7/15/96, effective 8/15/96)

**WAC 315-34-010 Definitions for Lotto.** (1) Number: Any play integer from 1 through 49 inclusive.

(2) Game grids: A field of ~~((the))~~ 49 numbers found on the play slip.

(3) Play: One selection of six numbers.

(4) ~~((Pair))~~ Set: Two plays.

(5) Play slip: A ~~((mark-sense))~~ mark-sensitive game card used by players of Lotto to select plays.

(6) Lotto ticket: A computer-generated receipt evidencing payment for two or more plays in the Lotto game. Tickets shall be issued by ~~((an on-line terminal))~~ a licensed lottery retailer and shall list the set of six-number plays that belong to the ticket holder.

**AMENDATORY SECTION** (Amending WSR 96-15-054, filed 7/15/96, effective 8/15/96)

**WAC 315-34-020 Price of Lotto play.** The price of each Lotto play shall be \$.50 and shall be sold only in ~~((pairs))~~ sets for \$1.00.

**AMENDATORY SECTION** (Amending WSR 90-19-048, filed 9/14/90, effective 10/15/90)

**WAC 315-34-030 Play for Lotto.** (1) Type of play: A Lotto player must select six numbers in each play. A winning play is achieved only when 3, 4, 5, or 6 of the numbers selected by the player match, in any order, the six winning numbers drawn by the lottery.

(2) Method of play: The player will use play slips to make number selections. The ~~((on-line))~~ lottery terminal will read the play slip and issue ticket(s) with corresponding plays. If a play slip is not available, the ~~((on-line))~~ lottery retailer may enter the selected numbers via the keyboard. A player may choose to have the number selections made by the lottery terminal, a random number generator operated by the computer, commonly referred to as "quick ~~((play))~~ pick."

**AMENDATORY SECTION** (Amending WSR 03-23-097, filed 11/17/03, effective 11/17/03)

**WAC 315-34-040 ~~((Prize[d]s))~~ Prizes for Lotto.** (1) The prize amounts to be paid to each Lotto player who selects a winning combination of numbers in the first, second, third~~((,))~~, and ~~((fourth))~~ fourth prize categories are as follows:

WINNING COMBINATIONS	PRIZE CATEGORIES	PRIZE AMOUNTS	ODDS OF WINNING (ONE PLAY)
All six <del>((winner-[win-ning]))</del> <u>winning numbers</u> in one play	First Prize	Jackpot	<del>((+6,991,908))</del> <u>1:13,983,816</u>

WINNING COMBINATIONS	PRIZE CATEGORIES	PRIZE AMOUNTS	ODDS OF WINNING (ONE PLAY)
Any five but not six winning numbers in one play	Second Prize	\$1,000	<del>((+27,100))</del> <u>1:54,201</u>
Any four but not five or six winning numbers in one play	Third Prize	<del>(((\$30))</del> <u>\$30</u>	<del>((+516))</del> <u>1:1,033</u>
Any three but not four, five or six winning numbers in one play	Fourth Prize	\$3	<del>((+28))</del> <u>1:57</u>

(2) Prize amounts.

(a) First prize (jackpot). ~~((The))~~ All first prizes will be the amount announced by the director as the Lotto jackpot. The jackpot will be divided equally among all players who selected all six winning numbers in one play (in any sequence).

(b) Second prize. The second prize will be \$1,000, which will be paid to each player who selected five of the six winning numbers in one play (in any sequence).

(c) Third prize. The third prize will be \$30, which will be paid to each player who selected four of the six winning numbers in one play (in any sequence).

(d) Fourth prize. A \$3.00 prize is to be paid to each player who selected three of the six winning numbers in one play (in any sequence).

(e) The holder of a winning ticket may win only one prize per play in connection with the winning numbers drawn and shall be entitled only to the highest prize category won by those numbers.

(f) In the event any player who has selected three, four, five, or six of the six winning numbers does not claim the prize won within one hundred eighty days after the drawing in which the prize was won, that player's prize shall be retained in the state lottery account for further use as prizes, pursuant to RCW 67.70.190.

**AMENDATORY SECTION** (Amending WSR 01-17-022, filed 8/6/01, effective 9/6/01)

**WAC 315-34-050 Ticket purchases.** (1) Lotto tickets may be purchased ~~((or redeemed during no less than seven-teen hours each day))~~ daily in accordance with a schedule to be determined by the director~~((, provided that on-line))~~, Licensed lottery retailers shall sell and redeem tickets only during their normal business hours. Lotto tickets may be purchased only from a licensed lottery retailer.

~~((Lotto tickets may be purchased only from a lottery retailer authorized by the director to sell on-line tickets.~~

~~((3)))~~ Lotto tickets shall, on the front of the ticket, contain the player's selection of numbers, amount, game grids played, drawing date ~~((and validation))~~, ticket serial number and reference numbers. The back of the ticket shall contain overall odds of winning, player instructions, player information and signature area, governing statutes and rules, and the ticket ~~((serial))~~ stock number.

PROPOSED

AMENDATORY SECTION (Amending WSR 01-17-022, filed 8/6/01, effective 9/6/01)

**WAC 315-34-057 Lotto prize claim and payment methods.** The following sets forth requirements for claims and payment of Lotto prizes:

(1) Claims for prize payment shall be made in accordance with chapter 315-30 WAC ((315-30-030(6))).

(2) Prize payments shall be made as follows:

(a) **Cash option:** After a player has claimed a jackpot prize or a share of a jackpot prize, and after the claim has been validated (including a debt check pursuant to WAC 315-06-125), the player may elect to be paid a one-time single cash payment of fifty percent of his or her share of the announced jackpot, provided:

(i) The player must elect this cash option within sixty days of the validation of his or her prize, by following the procedure required by the lottery;

(ii) If the federal tax code is interpreted by federal authorities to require that this cash option be exercised within sixty days of the drawing for the prize, then (a)(i) of this subsection will not apply and instead, the player must elect this cash option within sixty days of the date of the drawing for the prize;

(iii) The player's choice of payment method as designated by signing the appropriate lottery form is final and may not be changed by the player at a later date.

(b) **Annuity:** A player who chooses not to elect the cash option or who does not elect the cash option within the sixty-day limit will be paid his or her prize in twenty-five annual installment payments.

AMENDATORY SECTION (Amending WSR 90-19-048, filed 9/14/90, effective 10/15/90)

**WAC 315-34-060 Drawings.** (1) The Lotto drawing shall be held ~~((each week on Wednesday and Saturday evenings beginning October 24, 1990, except that the director may change the drawing schedule if Wednesday or Saturday is a holiday))~~ up to once every twenty-four hours, at the discretion of the director.

(2) The drawing will be conducted by lottery officials.

(3) Each drawing shall ~~((determine, at random, six winning numbers with the aid of mechanical drawing equipment which))~~ randomly select six winning numbers between 1 and 49. The drawing method shall be tested before and after ((that)) each drawing. Any drawn numbers are not declared winning numbers until the drawing is certified by the lottery. The winning numbers shall be used in determining all Lotto winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.

(4) The drawing shall not be invalidated based on the liability of the lottery.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 315-34-070 Double Lotto.

WAC 315-34-080 Price of Double Lotto play.

WAC 315-34-090 Prizes for Double Lotto.

WAC 315-34-100 Double Lotto ticket purchases.

**WSR 05-08-100**

**PROPOSED RULES**

**WASHINGTON STATE LOTTERY**

[Filed April 4, 2005, 1:31 p.m.]

Preproposal statement of inquiry was filed as WSR [05-06-026] on February 23, 2005.

Title of Rule and Other Identifying Information: Chapter 315-38 WAC, Mega Millions, with the states of California and Texas joining the multi-state Mega Millions game, the matrix, prize structure and the overall odds of winning a Mega Millions' prize will change.

Hearing Location(s): Red Lion at the Park, West 303 North River Drive, Spokane, WA 98201, on May 12, 2005, at 10:00 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Ceil Buddeke, P.O. Box 43025, Olympia, WA 98504-3025, e-mail Cbuddeke@walottery.com, fax (360) 586-6586 by May 10, 2005.

Assistance for Persons with Disabilities: Contact Joan Reuell by May 10, 2005, TTY (360) 586-0933.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes to the Mega Millions' rules allows the addition of the states of California and Texas joining the multi-state game, matrix changes from five (5) winning numbers from a field numbered one (1) to a fifty-two (52) and one winning number from a second field numbered one (1) through fifty-two (52) changed to five (5) winning numbers from a field numbered one (1) to fifty-six (56) and one winning number from a second field numbered one (1) to forty-six (46), prize structure change and the overall odds of winning a Mega Millions' prize will change.

Reasons Supporting Proposal: The substantive changes to an [adding] additional states to the multi-state game, matrix change, prize structure change and the overall odds of winning change will not be reflected accurately in the current rules as they are now.

Statutory Authority for Adoption: RCW 67.70.040.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Ceil Buddeke, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ceil Buddeke, 814 4th Avenue East, Olympia, WA 98507, (360) 664-4833.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Ceil Buddeke, 814 4th Avenue East,

PROPOSED

Olympia, WA 98507, phone (360) 664-4833, fax (360) 586-6586, e-mail Cbuddeke@walottery.com.

April 1, 2005

Ceil Buddeke

Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 02-15-122, filed 7/19/02, effective 8/19/02)

**WAC 315-38-010 General description.** Mega Millions is a game conducted by the Washington state lottery, pursuant to chapter 67.70 RCW and Title 315 WAC and pursuant to the requirements of the multistate agreement, Mega Millions official game rules, Mega Millions finance and operation procedures and Mega Millions line drawing procedures. The Mega Millions game awards prizes to ticket holders matching specified combinations of numbers randomly selected in regularly scheduled drawings. Chapter 315-38 WAC applies only to Mega Millions tickets purchased and redeemed in Washington state. Players who purchase Mega Millions tickets in other party lottery states must comply with the rules of the party lottery state in which the ticket was purchased.

**AMENDATORY SECTION** (Amending WSR 02-15-122, filed 7/19/02, effective 8/19/02)

**WAC 315-38-020 Definitions.** Words and terms set forth below, when used herein, shall have the following meaning unless otherwise indicated:

(1) Annual/annuitized/annuity option((---)): The manner in which the Mega Millions jackpot prize may be paid in twenty-six annual installments. In order to allow for the efficient purchase of securities, the first installment may be of a different value from the second through the twenty-sixth installment. The second through the twenty-sixth installments shall be of equal value.

(2) Authorized claim center((---)): Any Mega Millions agent or retailer, or party lottery office, in the state where the winning official Mega Millions ticket was purchased.

(3) Cash option((---)): The manner in which the Mega Millions jackpot prize may be paid in a single payment. The cash option amount shall be the proceeds of the sale of investments purchased to fund the particular winner's share of the annuitized jackpot prize. At the director's discretion, an initial payment of a portion of the cash option prize may be paid to the winner at the time the prize is claimed.

(4) Claimant: Any person or entity submitting a claim form within the required time period to collect a prize for an official Mega Millions ticket. A claimant may be the purchaser, the person or entity named on a signed official Mega Millions ticket, the bearer of an unsigned official Mega Millions ticket, or any other person or entity who may seek entitlement to a Mega Millions prize payment in accordance with the Mega Millions rules and party lottery governing laws, policies and rules. No claimant may assert rights different from the rights acquired by the original purchaser at the time of purchase.

(5) Director(s): The chief officers of the party lotteries or any other persons to whom the directors' authority is lawfully delegated.

(6) Multistate agreement: The amended and restated multistate agreement regarding the Mega Millions game, or any subsequent amended agreement, signed by the party lotteries and including the Mega Millions official game rules, finance and operations procedures for Mega Millions, and on-line drawing procedures for Mega Millions.

(7) Official Mega Millions ticket: A game ticket, produced on official paper stock by a Mega Millions agent or retailer in an authorized manner, bearing player or computer selected numbers, game name, drawing date, amount of wager, and validation data.

(8) Party lottery or lotteries: One or more of the state lotteries established and operated pursuant to the laws of California, Georgia, Illinois, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Texas, Virginia, Washington state or any other state lottery authorized to become a member of Mega Millions.

(9) Parimutuel: Total amount of sales allocated to pay prize claimants at the designated prize level, divided among the number of winning official Mega Millions tickets at the designated prize level.

(10) Prize fund: That portion of Mega Millions gross sales in the party lottery states set aside for the payment of prizes. The prize fund for any drawing is expected to be fifty percent of sales, but may be higher or lower based upon the number of winners at each set prize level, as well as the funding required to meet the advertised jackpot.

(11) Purchaser(s): Player(s) of Mega Millions who purchase tickets in accordance with Mega Millions rules and party lottery governing laws, policies, and rules.

(12) Quick-pick, auto-pick or easy pick: A player option in which Mega Millions number selections are determined at random by computer software.

(13) Total prize liability: For any one Mega Millions drawing, total prize liability is calculated as all lower tier prizes won, plus the total sales for that drawing multiplied by 31.8% (allocation to the jackpot prize pool). The California state lottery's sales and prizes are excluded for purposes of this calculation.

(14) Subscription/season ticket: An extended, multi-draw purchase option, which may be offered in Washington state at the discretion of the director of the Washington state lottery, wherein the same set(s) of numbers may be played for a specified number of consecutive drawings (for example, 26, 52 or 104), effective on a future date. Subscription/season tickets are distinguished from multidraw tickets which are effective for specified future drawings and are sold at the retailer level.

((14)) (15) Mega Millions agent, sales agent or retailer: A location in one of the states which are party lotteries and which is licensed or contracted and equipped by its respective state lottery to sell official Mega Millions tickets.

((15)) (16) Mega Millions panel or play area: That area of an official Mega Millions ticket identified by an alpha character and containing one field of five one-digit or two-digit player or computer selected numbers, and a second field

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of one one-digit or two-digit player or computer selected number.

~~((16))~~ (17) Mega Millions play/bet slip: A computer-readable form, printed and issued by each party lottery, used in purchasing an official Mega Millions ticket, with each play area consisting of two fields. The first field contains ~~((52))~~ 56 areas/spaces numbered 1 through ~~((52))~~ 56; the second field contains ~~((52))~~ 46 areas/spaces numbered 1 through ~~((52))~~ 46.

~~((17))~~ (18) Mega Millions winning numbers - Five one-digit or two-digit numbers, from 1 through ~~((52))~~ 56 and one one-digit or two-digit number from 1 through ~~((52))~~ 46, randomly selected at each Mega Millions drawing, which shall

be used to determine winning Mega Millions plays contained on official Mega Millions tickets.

**AMENDATORY SECTION** (Amending WSR 02-15-122, filed 7/19/02, effective 8/19/02)

**WAC 315-38-080 Prize structure and odds.** Winning number matches for the Field 1 of 5 of ~~((52))~~ 56 and Field 2 of 1 of ~~((52))~~ 46 shall win prizes as set forth below, based on an estimated anticipated prize fund of fifty percent of gross sales and estimated percents of prize fund, as defined in WAC 315-38-020(10) and the Mega Millions multistate agreement:

PRIZE LEVEL	FIELD 1 MATCH FIVE WHITE BALLS <del>((1-52))</del> <u>1-56</u>	FIELD 2 MATCH MEGA BALL <del>((1-52))</del> <u>1-46</u>	PRIZE	ODDS (per \$1 play)	PERCENT OF PRIZE FUND
Jackpot Prize	5	1	Jackpot	<del>((1:135,145,920))</del> <u>1:175,711,536.00</u>	<del>((63.38))</del> <u>63.60</u>
Second	5	0	<del>\$(175,000*)</del> <u>250,000*</u>	<del>((1:2,649,920))</del> <u>1:3,904,700.80</u>	<del>((13.21))</del> <u>12.80</u>
Third	4	1	<del>\$(5,000*)</del> <u>10,000*</u>	<del>((1:575,089))</del> <u>1:689,064.85</u>	<del>((1.74))</del> <u>2.90</u>
Fourth	4	0	\$150*	<del>((1:11,276))</del> <u>1:15,312.55</u>	<del>((2.66))</del> <u>1.96</u>
Fifth	3	1	\$150*	<del>((1:12,502))</del> <u>1:13,781.30</u>	<del>((2.40))</del> <u>2.18</u>
Sixth	2	1	\$10	<del>((1:833))</del> <u>1:843.75</u>	<del>((2.40))</del> <u>2.38</u>
Seventh	3	0	\$7	<del>((1:245))</del> <u>1:306.25</u>	<del>((5.71))</del> <u>4.58</u>
Eighth	1	1	\$3	<del>((1:152))</del> <u>1:140.63</u>	<del>((3.96))</del> <u>4.26</u>
Ninth	0	1	\$2	<del>((1:88))</del> <u>1:74.80</u>	<del>((4.54))</del> <u>5.34</u>
Overall odds of winning: <del>((1:43))</del> <u>1:40</u>					

\* Should total prize liability, exclusive of jackpot prize rollover from previous drawings, exceed three hundred percent of draw sales or fifty percent of draw sales plus \$50,000,000, whichever is less, (both hereinafter referred to as the "liability cap"), the second through fifth prizes shall be paid on a parimutuel rather than set prize basis, provided, however, that in no event shall the parimutuel prize be greater than the set prize. The amount to be used for the allocation of such parimutuel prizes shall be the liability cap less the amount paid for the jackpot prize and prize levels six through nine.

**AMENDATORY SECTION** (Amending WSR 02-15-122, filed 7/19/02, effective 8/19/02)

**WAC 315-38-090 Jackpot prize payments.** (1) Prior to each drawing, the directors shall determine the estimated annuitized jackpot prize amount to be advertised. The advertised jackpot prize amount shall be the basis for determining the amount to be awarded for each Mega Millions panel matching all five of the five Mega Millions winning numbers drawn for Field 1 and the one Mega Millions winning number drawn for Field 2. No annuitized jackpot prize, when there is

only one jackpot prize winning ticket, shall be less than ~~((10))~~ \$12 million.

(2) If, in any Mega Millions drawing, there are no Mega Millions panels that qualify for the jackpot prize category, the portion of the prize fund allocated to such jackpot prize category shall remain in the jackpot prize category and be added to the amount allocated for the jackpot prize category in the next consecutive Mega Millions drawing.

(3) If the annuitized jackpot prize divided by the number of Mega Millions panels matching all five of the five Mega Millions winning numbers for Field 1 and the one Mega Millions winning number for Field 2, is equal to or greater than \$1,000,000, the jackpot prize(s) will be paid under the annuity option unless a cash option was selected by the winner(s), as follows:

(a) **Cash option:** After a player has claimed a jackpot prize or a share of a jackpot prize, and after the claim has been validated (including a debt check pursuant to WAC 315-06-125), the player may elect to be paid a one-time sin-

gle cash option payment as defined by WAC 315-38-020(3), provided:

(i) The player must elect this cash option within sixty days of the validation of his or her prize, by following the procedure required by the lottery;

(ii) If the federal tax code is interpreted by federal authorities to require that this cash option be exercised within sixty days of the drawing for the prize, then (a)(i) of this subsection will not apply and instead, the player must elect this cash option within sixty days of the date of the drawing for the prize;

(iii) The player's choice of payment method as designated by signing the appropriate lottery form is final and may not be changed by the player at a later date;

(iv) Cash option jackpot prizes shall be paid in a single payment in accordance with the internal validation procedures and settlement procedures pursuant to the multistate agreement and the Washington state lottery. At the director's discretion, an initial payment of a portion of the cash option prize may be paid to the winner at the time the prize is claimed.

(b) **Annuity:** A player who chooses not to elect the cash option or who does not elect the cash option within the sixty-day limit will be paid his or her prize in twenty-six annual installment payments. The initial payment shall be paid in accordance with the internal validation procedures and settlement procedures established by the multistate agreement and the Washington state lottery. The subsequent twenty-five payments shall be paid annually to coincide with the month of the federal auction date at which the bonds were purchased. All such payments shall be made within seven days of the anniversary of the actual auction date. This date of payment of the subsequent payments is subject to the discretion of the director of the Washington state lottery, acting in the best interest of the lottery.

(4) In the event multiple Mega Millions panels match all five of the five Mega Millions winning numbers for Field 1 and the one Mega Millions winning number for Field 2, and the annuitized Mega Millions jackpot prize divided by the number of winning game panels is less than \$1,000,000, each Mega Millions jackpot prize winner shall be paid an amount equal to the "cash equivalent grand/jackpot prize," as defined by the multistate agreement, divided equally by the number of jackpot prize winners. Each such jackpot prize winner will be paid in a single cash payment.

**AMENDATORY SECTION** (Amending WSR 02-15-122, filed 7/19/02, effective 8/19/02)

**WAC 315-38-100 Second through ninth level prizes.**

(1) Mega Millions panels matching five of the five Mega Millions winning numbers drawn for Field 1, but not matching the Mega Millions winning number drawn for Field 2 shall be entitled to receive a second prize of ~~(((\$175,000))~~ \$250,000 subject to subsection (5) of this section.

(2) Mega Millions panels matching four of the five Mega Millions winning numbers drawn for Field 1 and the Mega Millions winning number drawn for Field 2 shall be entitled to receive a third prize of ~~(((\$5,000))~~ \$10,000 subject to subsection (5) of this section.

(3) Mega Millions panels matching four of the five Mega Millions winning numbers drawn for Field 1 but not matching the Mega Millions winning number drawn for Field 2 shall be entitled to receive a fourth prize of \$150 subject to subsection (5) of this section.

(4) Mega Millions panels matching three of the five Mega Millions winning numbers drawn for Field 1 and the Mega Millions winning number drawn for Field 2 shall be entitled to receive a fifth prize of \$150 subject to subsection (5) of this section.

(5) Should total prize liability, exclusive of jackpot prize rollover from previous drawings, exceed three hundred percent of draw sales or fifty percent of draw sales plus \$50,000,000, whichever is less, (both hereinafter referred to as the "liability cap"), the second through fifth prizes shall be paid on a parimutuel rather than set prize basis, provided, however, that in no event shall the parimutuel prize be greater than the set prize. The amount to be used for the allocation of such parimutuel prizes shall be the liability cap less the amount paid for the jackpot prize and prize levels six through nine. The California state lottery's sales and prizes are excluded for purposes of the liability cap calculation.

(6) Mega Millions panels matching two of the five Mega Millions winning numbers drawn for Field 1 and matching the Mega Millions winning number drawn for Field 2 shall be entitled to receive a sixth prize of \$10.

(7) Mega Millions panels matching three of the five Mega Millions winning numbers drawn for Field 1 but not the Mega Millions winning number drawn for Field 2 shall be entitled to receive a seventh prize of \$7.

(8) Mega Millions panels matching one of the five Mega Millions winning numbers drawn for Field 1 and the Mega Millions winning number drawn for Field 2 shall be entitled to receive an eighth prize of \$3.

(9) Mega Millions panels matching no numbers of the five Mega Millions winning numbers drawn for Field 1 but matching the Mega Millions winning number drawn for Field 2 shall be entitled to receive a ninth prize of \$2.

(10) Each Mega Millions second through ninth prize shall be paid in one payment.

**WSR 05-08-102**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed April 4, 2005, 4:18 p.m.]

Original Notice.

Title of Rule and Other Identifying Information: Rules of Washington State Hop Commodity Board, chapter 16-532 WAC.

Hearing Location(s): Washington Hop Commission, 301 West Prospect Place, Moxee, WA 98936, on May 12, 2005, at 1:30 p.m.

Date of Intended Adoption: May 26, 2005.

Submit Written Comments to: Lynn Briscoe, Commodity Commission Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, e-mail lbriscoe@agr.wa.gov, fax (360) 902-2092, by May 13, 2005, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Rochelle Painter at (360) 902-2060 by May 5, 2005, TTY (360) 902-1996.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to amend and adopt sections within the rules of the Washington State Hop Commodity Board, chapter 16-532 WAC. Proposed amendments and additions will update rule language and establish provisions for producer reporting. The following sections are affected by the proposed amendments:

1. Amend WAC 16-532-110 Requirements for collection of assessments.

2. New section WAC 16-532-115 Reporting.

Reasons Supporting Proposal: Rule language updates will improve the readability and clarity of the affected section and clarifying provisions for producer reporting are being added to aid producers in understanding the necessary reporting procedures.

Statutory Authority for Adoption: Chapter 15.65 RCW, specifically RCW 15.65.047 and 15.65.280, and chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.65 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington Hop Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Lynn Briscoe, Olympia, Washington, (360) 902-2043; Implementation and Enforcement: Ann George, Moxee, Washington, (509) 453-4749.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Technical amendments being proposed do not require a small business economic impact statement pursuant to RCW 19.85.030.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Agriculture and the Washington Hop Commission are not named agencies in RCW 34.05.328 (5)(a)(i).

April 4, 2005

William E. Brookreson  
Deputy Director

**AMENDATORY SECTION** (Amending WSR 97-17-096, filed 8/20/97, effective 9/20/97)

**WAC 16-532-110 Requirements for collection of assessments.** (1) Assessments on all hops marketed or processed shall be paid at the rate specified in WAC 16-532-040 to the hop commodity board (commission) by the first handler receiving or handling such hops for or from a producer (~~or by the producer if processing occurs before the first sale~~). ~~((Such))~~ The assessments shall be deducted from the payment to be made by such handler to the producer. If processing occurs before the first sale, the assessment shall be paid by the producer.

(2) Payment of such assessment shall be due and payable on the tenth day of the second calendar month following the receiving or delivery to said first handler or the assumption of control of a producer's hops, or following the date of process-

ing, if processed prior to the first sale, by said first handler or producer.

(3) ~~((An inventory))~~ A report on all hops which are ~~((not marketed or processed))~~ produced during the preceding crop year, including a breakdown of pounds marketed, pounds not processed or marketed, and pounds processed but not marketed prior to December 31 of the year in which those hops are produced shall be submitted by the producer no later than January 31 of the following year.

(4) Any handler or producer failing to pay on or before the due date set forth for payment in this regulation, shall add ten percent to the total amount due as a cost for collection as prescribed in RCW 15.65.440.

#### NEW SECTION

**WAC 16-532-115 Reporting.** (1) A report on all hops which are produced during the preceding crop year, including a breakdown of pounds marketed, pounds not processed or marketed, and pounds processed but not marketed prior to December 31 of the year in which those hops are produced, shall be submitted by the producer no later than January 31 of the following year.

(2) A "custom processing" report on all hops processed but not sold will be submitted to the commission by the custom processor on the form prescribed by the commission.

WSR 05-08-103

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed April 4, 2005, 4:19 p.m.]

Original Notice.

Title of Rule and Other Identifying Information: Washington Hop Commission Marketing Order, chapter 16-532 WAC.

Hearing Location(s): Washington Hop Commission, 301 West Prospect Place, Moxee, WA 98936, on May 12, 2005, at 1:30 p.m.

Date of Intended Adoption: July 15, 2005.

Submit Written Comments to: Lynn Briscoe, Commodity Commission Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, e-mail lbriscoe@agr.wa.gov, fax (360) 902-2092, by May 13, 2005, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Rochelle Painter at (360) 902-2060 by May 5, 2005, TTY (360) 902-1996.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to amend sections within the commission's marketing order. Proposed amendments will update the definitions, decrease the board membership by two positions, decrease the annual assessment rate on all varieties of hops by \$.70 per affected unit, and repeal WAC 16-532-065. The following sections are affected by the proposed amendments:

1. Amend WAC 16-532-010 Definitions.
2. Amend WAC 16-532-020 Hop board.

3. Amend WAC 16-532-040 Assessments and collections.

4. Repeal WAC 16-532-065 Rules for implementation of promotional hosting by the Washington Hop Commission.

Reasons Supporting Proposal: The proposed amendments are intended to make the marketing order consistent with the commodity commission enabling statute, chapter 15.65 RCW, and to implement the petition received from the Washington Hop Commission in accordance with RCW 15.65.050.

Statutory Authority for Adoption: RCW 15.65.047 and chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.65 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Any rule proposal that results from this rule-making process will not be adopted unless the proposed rules are also approved in a referendum of affected hop producers pursuant to chapter 15.65 RCW.

Name of Proponent: Washington Hop Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Lynn Briscoe, Olympia, Washington, (360) 902-2043; Implementation and Enforcement: Washington Hop Commission, Moxee, Washington, (509) 453-4749 and Department of Agriculture, Olympia, Washington, (360) 902-2043.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Any adoption of amendments to chapter 16-521 WAC would ultimately be determined by a referendum vote of the affected parties. A formal small business economic impact statement under chapter 19.85 RCW is not required because of the exemption granted in RCW 15.65.570(2).

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Agriculture and the Washington Hop Commission are not named agencies in RCW 34.05.328 (5)(a)(i).

April 4, 2005

William E. Brookreson

Deputy Director

**AMENDATORY SECTION** (Amending WSR 98-13-122, filed 6/17/98, effective 7/18/98)

**WAC 16-532-010 Definitions.** For the purpose of this marketing order:

(1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington State Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

(4) "Person" means any person, firm, association or corporation.

(5) "Affected producer" or "producer" means any person who produces hops in commercial quantities in the state of Washington.

(6) "Commercial quantity" means any hops produced for market by a producer in any calendar year.

(7) "Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, or distributing hops not produced by him.

(8) "Hop commodity board" hereinafter referred to as "board" means the commodity board formed under the provisions of WAC 16-532-020.

(9) "Hops" means and includes all kinds and varieties of "humulus lupulus" grown, picked and dried in the state of Washington, whether loose, packaged or baled and all oils, extracts and/or lupulin derived therefrom.

(10) "Processed" means and includes all hops which are converted into pellets, extracts, oils, lupulin, and/or other forms, including hops which are frozen in undried form, but excluding whole, dried hop cones, whether loose or baled.

(11) "Marketing season" means the twelve month period beginning with January 1 of any year and ending December 31, both dates being inclusive.

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to hops. A producer-handler shall be deemed to be a producer with respect to the hops which he produces and a handler with respect to the hops which he handles, including those produced by himself.

(13) "Affected area" means the state of Washington.

(14) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(15) "Affected unit" means two hundred pounds net of hops, or the amount of lupulin, extract or oil produced from two hundred pounds net of hops.

~~((16) "Promotional hosting" as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations and promoting sales of Washington grown hops.~~

~~((17) "Hosting" may include providing meals, refreshments, lodging, transportation, gifts of nominal value, reasonable and customary entertainment, and normal incidental expenses at meetings or gatherings.))~~

**AMENDATORY SECTION** (Amending WSR 99-10-095, filed 5/5/99, effective 6/5/99)

**WAC 16-532-020 Hop board.** (1) **Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of ~~((ten))~~ eight members. ~~((Nine))~~ Seven members shall be affected producers elected as provided in this section. The director shall appoint one member of the board who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be the entire state of Washington.

(3) **Board membership qualifications.**

The affected producer members of the board shall be practical producers of hops and shall be citizens and residents

of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing hops within the state of Washington for a period of five years and has during that time derived a substantial portion of his income therefrom and who is not engaged in business, directly or indirectly, as a handler or other dealer.

**(4) Term of office.**

(a) The term of office for members of the board shall be three years and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through ~~((nine))~~ seven and the member appointed by the director position ~~((ten))~~ eight.

(c) The term of office for the initial board members shall be as follows:

Positions one, two, three and ten - until June 30, 1967

Positions four, five and six - until June 30, 1966

Positions seven, eight and nine - until June 30, 1965

(d) Terms of office for the board members serving at the time of the 1992 amendment of this section shall be as follows:

Positions one, two, three and ten - until December 31, 1994

Positions four, five and six - until December 31, 1993

Positions seven, eight and nine - until December 31, 1992

(e) The term of office for the remaining producer board members serving at the time of the effective date of the 2005 amended marketing order shall be as follows:

Positions four, five, and six - until December 31, 2005

Positions one and two - until December 31, 2006

Positions three and seven - until December 31, 2007

**(5) Nomination and election of board members.** Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the major production area not less than ten days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meetings. Nominations may also be made within five days after any such meetings by written petition filed with the director signed by not less than five affected producers. At the inception of this order nominations may be made at the issuance hearing.

**(6) Election of board members.**

(a) Members of the board shall be elected by secret mail ballot within the month of November under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot a run-off election shall be held by mail in a

similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the major production area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of such affected producers maintained by the director in accordance with RCW 15.65.-200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board member.

**(7) Vacancies prior to election.** In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

**(8) Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

**(9) Board compensation.** No member of the board shall receive any salary or other compensation, but each member shall be reimbursed for actual subsistence and traveling expenses incurred through attendance at meetings or other board activities: Provided, That such expenses shall be authorized by resolution by unanimous approval of the board at a regular meeting.

**(10) Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order.

(f) To establish a "hop board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually

subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

**(11) Procedures for board.**

(a) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings of the board with reasonable notice to the members: Provided, That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

**AMENDATORY SECTION** (Amending WSR 97-17-096, filed 8/20/97, effective 9/20/97)

**WAC 16-532-040 Assessments and collections. (1) Assessments.**

(a) The annual assessment on all varieties of hops shall be ~~((two))~~ one dollar~~((s))~~ and ~~((fifty))~~ eighty cents per affected unit.

(b) For the purpose of collecting assessments the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment; or

(iii) Require the person subject to the assessment to remit assessments for any hops which are processed prior to the first sale; or

(iv) Require the person subject to the assessment to remit an inventory report for any hops which are not processed or sold prior to December 31 of the year in which they are produced.

(c) Subsequent to the first sale or processing, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped or sold, both inside and outside the state.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 16-532-065

Rules for implementation of promotional hosting by the Washington hop commission.

PROPOSED

**WSR 05-08-104**  
**PROPOSED RULES**  
**HOP COMMISSION**

[Filed April 4, 2005, 4:20 p.m.]

**Original Notice.**

**Title of Rule and Other Identifying Information:** Rules of Washington State Hop Commodity Board, chapter 16-532 WAC.

**Hearing Location(s):** Washington Hop Commission, 301 West Prospect Place, Moxee, WA 98936, on May 12, 2005, at 1:30 p.m.

**Date of Intended Adoption:** May 26, 2005.

**Submit Written Comments to:** Ann George, Administrator, Washington Hop Commission, P.O. Box 1207, Moxee, WA 98936, e-mail ann@wahops.org, fax (509) 457-8561, by May 13, 2005, at 5:00 p.m.

**Assistance for Persons with Disabilities:** Contact Rochelle Painter at (360) 902-2060 by May 5, 2005, TTY (360) 902-1996.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The purpose of this rule making is to add definitions and amend the board's promotional hosting rules in chapter 16-532 WAC. Proposed additions and amendments will include:

1. New section WAC 16-532-103, adding "promotional hosting" and "hosting" definitions.
2. New section WAC 16-532-105, updating and moving the promotional hosting rules from the marketing order to the board's rules section of the chapter.

**Reasons Supporting Proposal:** Promotional hosting rules should be included within the rules of the Washington State Hop Commodity Board pursuant to RCW 15.65.305. A new section is being added to define "promotional hosting" and "hosting." The current promotional hosting rule is being updated and added as a rule of the Hop Commodity Board. WAC 16-532-065 will be repealed.

**Statutory Authority for Adoption:** Chapter 15.65 RCW, specifically RCW 15.65.305, and chapter 34.05 RCW.

**Statute Being Implemented:** Chapter 15.65 RCW.

Rule is not necessitated by federal law, federal or state court decision.

**Name of Proponent:** Washington Hop Commission, governmental.

**Name of Agency Personnel Responsible for Drafting:** Lynn Briscoe, Washington State Department of Agriculture, Olympia, (360) 902-2043; **Implementation and Enforcement:** Ann George, Moxee, (509) 453-4749.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Technical amendments being proposed do not require a small business economic impact statement pursuant to RCW 19.85.030.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington Hop Commission is not a named agency in RCW 34.05.328 (5)(a)(i).

April 4, 2005  
 Ann E. George  
 Administrator

NEW SECTION

**WAC 16-532-103 Rules for implementation of promotional hosting by the Washington state hop commodity board (commission)—Definitions.** For the purposes of WAC 16-532-105, the following definitions shall apply:

(1) **"Promotional hosting"** as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations and promoting sales of Washington-grown hops.

(2) **"Hosting"** may include providing meals, refreshments, lodging, transportation, gifts of nominal value, reasonable and customary entertainment, and normal incidental expenses at meetings or gatherings.

NEW SECTION

**WAC 16-532-105 Rules for implementation of promotional hosting by the Washington state hop board.** RCW 15.65.305 and 15.04.200 provide that agricultural commodity boards or commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity board or commission employees, agents, or commissioners. The rules governing promotional hosting expenditures for the Washington state hop board (commission) shall be as follows:

(1) **Budget approval.** Commission expenditures for agricultural development or trade promotion and promotional hosting shall be pursuant to specific budget items as approved by the commission at annual public hearings on the commission budget.

(2) **Officials and agents authorized to make expenditures.** The following officials and agents are authorized to make expenditures for agricultural development or trade promotion and promotional hosting in accordance with the provisions of these rules:

(a) Hop board members.

(b) **Administrators.** Individual commissioners shall make promotional hosting expenditures, or seek reimbursements for those expenditures, only in those instances where the expenditures have been approved by the commission.

(3) **Payment and reimbursement.** All payments and reimbursements shall be identified and supported by vouchers to which receipts are attached. Voucher forms will be supplied by the commission, and shall require the following information:

(a) Name and position of each person hosted, provided that in case of a group of twenty-five or more persons, then only the name of the group hosted shall be required.

(b) General purpose of the hosting.

(c) Date of hosting.

(d) Location of the hosting.

(e) To whom payment was or will be made.

(f) Signature of person seeking payment or reimbursement.

(4) The chair of the commission and administrator are authorized to approve direct payment or reimbursements submitted in accordance with these rules.

(5) The following persons may be hosted when it is reasonably believed such hosting will cultivate trade relations

and promote sales of Washington-grown hops, provided that such hosting shall not violate federal or state conflict of interest laws:

(a) Individuals from private business.

(b) Foreign government officials.

(c) Federal and state officials: Provided, lodging, meals, and transportation will not be provided when such officials may obtain reimbursement for these expenses from their government employer.

(d) The general public, at meetings and gatherings open to the general public.

(e) Commissioners and employees of the commission when their attendance at meetings, meals, and gatherings at which the persons described in (a) through (d) of this subsection are being hosted will cultivate and promote sales of Washington-grown hops.

#### WSR 05-08-105

#### WITHDRAWAL OF PROPOSED RULES GAMBLING COMMISSION

(By the Code Reviser's Office)

[Filed April 5, 2005, 8:22 a.m.]

WAC 230-30-033, proposed by the Gambling Commission in WSR 04-19-093 appearing in issue 04-19 of the State Register, which was distributed on October 6, 2004, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

#### WSR 05-08-106

#### WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF LICENSING

(By the Code Reviser's Office)

[Filed April 5, 2005, 8:23 a.m.]

WAC 308-108-010, 308-108-020, 308-108-080, 308-108-090, 308-108-100, 308-108-110, 308-108-120, 308-108-130, 308-108-140, 308-108-150, 308-108-160, 308-108-170 and 308-108-180, proposed by the Department of Licensing in WSR 04-19-149 appearing in issue 04-19 of the State Register, which was distributed on October 6, 2004, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

#### WSR 05-08-109 PROPOSED RULES DEPARTMENT OF LABOR AND INDUSTRIES

(Board of Boiler Rules)

[Filed April 5, 2005, 12:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-05-068.

Title of Rule and Other Identifying Information: General fee increase for the Board of Boiler Rules, WAC 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses?

Hearing Location(s): Department of Labor and Industries, 950 Broadway, Suite 200, Tacoma, WA, on May 18, 2005, at 9:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sally Elliott, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, e-mail [yous235@lni.wa.gov](mailto:yous235@lni.wa.gov), fax (360) 902-5292, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Sally Elliott by May 1, 2005, at (360) 902-6411 or [yous235@lni.wa.gov](mailto:yous235@lni.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Board of Boiler Rules is proposing a 3.03% (rounded down to the nearest tenth of a dollar) general fee increase. The 3.03% rate is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 2005. The general fee increase is necessary to help offset inflation and to maintain the financial health and operational effectiveness of the program.

Reasons Supporting Proposal: The general fee increase is necessary to help offset inflation and to maintain the financial health and operational effectiveness of the program.

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040, 70.79.150, 70.79.290, 70.79.330, and 70.79.350.

Statute Being Implemented: Chapter 70.79 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Board of Boiler Rules, governmental.

Name of Agency Personnel Responsible for Drafting: Board of Boiler Rules, Tumwater, Washington, (360) 902-5270; Implementation and Enforcement: Robb Marvin, Tumwater, Washington, (360) 902-5270.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because of the exemption under RCW 34.05.328 (5)(b)(vi), since the changes in this rule making set or adjust fees.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis was not prepared because of the exemption under RCW 34.05.328 (5)(b)(vi), since the changes in this rule making set or adjust fees.

April 5, 2005  
Craig Hopkins, Chair  
Board of Boiler Rules

PROPOSED

**AMENDATORY SECTION** (Amending WSR 04-21-069, filed 10/19/04, effective 1/1/05)

**WAC 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses?** The following fees shall be paid by, or on behalf of, the owner or user upon the completion of the inspection. The inspection fees apply to inspections made by inspectors employed by the state.

**Heating boilers:**

	Internal	External
Cast iron—All sizes	\$(( <del>30.30</del> ))	\$(( <del>24.20</del> ))
	<u>31.20</u>	<u>24.90</u>
All other boilers less than 500 sq. ft.	\$(( <del>36.50</del> ))	\$(( <del>24.20</del> ))
	<u>37.60</u>	<u>24.90</u>
500 sq. ft. to 2500 sq. ft.	\$(( <del>60.80</del> ))	\$(( <del>30.30</del> ))
	<u>62.00</u>	<u>31.20</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	\$(( <del>24.20</del> ))	\$(( <del>12.00</del> ))
	<u>24.90</u>	<u>12.30</u>

**Power boilers:**

	Internal	External
Less than 100 sq. ft.	\$(( <del>30.30</del> ))	\$(( <del>24.20</del> ))
	<u>31.20</u>	<u>24.90</u>
100 sq. ft. to less than 500 sq. ft.	\$(( <del>36.50</del> ))	\$(( <del>24.20</del> ))
	<u>37.60</u>	<u>24.90</u>
500 sq. ft. to 2500 sq. ft.	\$(( <del>60.80</del> ))	\$(( <del>30.30</del> ))
	<u>62.00</u>	<u>31.20</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	\$(( <del>24.20</del> ))	\$(( <del>12.00</del> ))
	<u>24.90</u>	<u>12.30</u>

**Pressure vessels:**

Automatic utility hot water supply heaters per RCW 70.79.090

	\$(( <del>5.80</del> ))
	<u>5.90</u>

All other pressure vessels:

Square feet shall be determined by multiplying the length of the shell by its diameter.

	Internal	External
Less than 15 sq. ft.	\$(( <del>24.20</del> ))	\$(( <del>18.10</del> ))
	<u>24.90</u>	<u>18.60</u>
15 sq. ft. to less than 50 sq. ft.	\$(( <del>36.50</del> ))	\$(( <del>18.10</del> ))
	<u>37.00</u>	<u>18.60</u>
50 sq. ft. to 100 sq. ft.	\$(( <del>42.50</del> ))	\$(( <del>24.20</del> ))
	<u>43.00</u>	<u>24.90</u>
For each additional 100 sq. ft. or any portion thereof	\$(( <del>42.50</del> ))	\$(( <del>12.00</del> ))
	<u>43.00</u>	<u>12.30</u>

Certificate of inspection fees: For objects inspected, the certificate of inspection fee is \$((~~18.10~~)) 18.60 per object.

Boiler and pressure vessel installation/reinstallation permit (excludes inspection and certificate of inspection fee) \$50.00

Nonnuclear shop inspections, field construction inspections, and special inspection services:

For each hour or part of an hour up to 8 hours \$((~~36.50~~))  
37.60

For each hour or part of an hour in excess of 8 hours \$((~~54.60~~))  
56.20

Nuclear shop inspections, nuclear field construction inspections, and nuclear triennial shop survey and audit:

For each hour or part of an hour up to 8 hours \$((~~54.60~~))  
56.20

For each hour or part of an hour in excess of 8 hours \$((~~85.20~~))  
88.20

Nonnuclear triennial shop survey and audit:

When state is authorized inspection agency:  
For each hour or part of an hour up to 8 hours \$((~~36.50~~))  
37.60

For each hour or part of an hour in excess of 8 hours \$((~~54.60~~))  
56.20

When insurance company is authorized inspection agency:

For each hour or part of an hour up to 8 hours \$((~~54.60~~))  
56.20

For each hour or part of an hour in excess of 8 hours \$((~~85.20~~))  
87.70

Examination fee: A fee of \$((~~67.40~~)) 69.40 will be charged for each applicant sitting for an inspection examination(s).

Special inspector commission: An initial fee of \$25 and an annual renewal fee of \$10 along with an annual work card fee of \$15.

Expenses shall include:

Travel time and mileage: The department shall charge for its inspectors' travel time from their offices to the inspection sites and return. The travel time shall be charged for at the same rate as that for the inspection, audit, or survey. The department shall also charge the current Washington office of financial management accepted mileage cost fees or the actual cost of purchased transportation. Hotel and meals: Actual cost not to exceed the office of financial management approved rate.

Washington state specials: For each vessel to be considered by the board for a Washington state special certificate, a fee of \$((~~338.00~~)) 348.20 must be paid to the department before the board meets to consider the vessel. The board

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may, at its discretion, prorate the fee when a number of vessels that are essentially the same are to be considered.

**WSR 05-08-111  
PROPOSED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed April 5, 2005, 12:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-05-066.

Title of Rule and Other Identifying Information: The department is proposing a fee increase for the following rules: Contractor registration (chapter 296-200A WAC), elevators (chapter 296-96 WAC), and factory assembled structures (chapters 296-150C, 296-150F, 296-150M, 296-150P, 296-150R, 296-150T, and 296-150V WAC).

Hearing Location(s): Department of Labor and Industries, 901 North Monroe Street, Room Spok 4, Spokane, WA, on May 10, 2005, at 1:00 p.m.; and Department of Labor and Industries, 7273 Linderson Way S.W., Room S117, Tumwater, WA, on May 12, 2005, at 1:00 p.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sally Elliott, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, e-mail [yous235@lni.wa.gov](mailto:yous235@lni.wa.gov), fax (360) 902-5292, by May 12, 2005.

Assistance for Persons with Disabilities: Contact Sally Elliott by April 25, 2005, (360) 902-6411 or [yous235@lni.wa.gov](mailto:yous235@lni.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to increase fees 3.03% (rounded down to the nearest tenth of a dollar), which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 2005. The fee increase is necessary to help cover the costs of ongoing services of the contractor registration, factory assembled structures, and elevator programs.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapters 18.27, 43.22, and 70.87 RCW.

Statute Being Implemented: Chapters 18.27, 43.22, and 70.87 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Sally Elliott, Tumwater, Washington, (360) 902-6411; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Labor and industries is exempt from preparing a small business economic impact statement under RCW 34.05.328 (b)(b)(vi), since the purpose of this rule making is to set and adjust fees based upon the

Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 2005.

A cost-benefit analysis is not required under RCW 34.05.328. Labor and industries is exempt from preparing a cost-benefit analysis under RCW 34.05.328 (5)(b)(vi), because rule making is setting and adjusting fees based upon the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 2005.

April 5, 2005

Judy Schurke

Acting Director

**AMENDATORY SECTION** (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

**WAC 296-96-00922 What are the fees associated with licensing?** The following are the department's elevator license fees:

Type of Fee	Period Covered by Fee	Dollar Amount of Fee
Elevator contractor/mechanic application fee (not required for renewal of valid license)	Per application	<del>\$(50.00)</del> <u>15.50</u>
Elevator contractor/mechanic examination fee	Per application	<del>\$(150.00)</del> <u>154.50</u>
Reciprocity application fee*	Per application	<del>\$(50.00)</del> <u>51.50</u>
Elevator mechanic license	2 years	<del>\$(100.00)</del> <u>103.00</u>
Elevator contractor license	2 years	<del>\$(100.00)</del> <u>103.00</u>
Temporary elevator mechanic license	30 days	<del>\$(25.00)</del> <u>25.70</u>
Elevator mechanic/contractor timely renewal fee**	2 years	<del>\$(100.00)</del> <u>103.00</u>
Elevator mechanic/contractor late renewal fee***	2 years	<del>\$(200.00)</del> <u>206.00</u>
Training provider application/renewal fee	2 years	<del>\$(100.00)</del> <u>103.00</u>
Continuing education course fee by approved training provider****	1 year	Not applicable
Replacement of any licenses		<del>\$(15.00)</del> <u>15.40</u>
Refund processing fee		<del>\$(30.00)</del> <u>30.90</u>

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- \* Reciprocity application is only allowed for applicants who are applying for licensing based upon possession of a valid license that was obtained in state(s) with which the department has a reciprocity agreement.
- \*\* Renewals will be considered "timely" when the renewal application is received on or prior to the expiration date of the license.
- \*\*\* Late renewal is for renewal applications received no later than ninety days after the expiration of the licenses. If the application is not received within ninety days from license expiration, the licensee must reapply and pass the competency examination.
- \*\*\*\* This fee is paid directly to the continuing education training course provider approved by the department.

\$1,001 to and including \$5,000 .....	<del>((75.00))</del> 77.20
\$5,001 to and including \$7,000 .....	<del>((125.00))</del> 128.70
\$7,001 to and including \$10,000 .....	<del>((150.00))</del> 154.50
\$10,001 to and including \$15,000 .....	<del>((200.00))</del> 206.00
OVER \$15,000 .....	<del>((200.00))</del> 206.00
Each additional \$1,000 or fraction thereof .....	<del>\$(7.00)</del> 7.20

**AMENDATORY SECTION** (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

**WAC 296-96-01010 What are the installation permit fees for conveyances, material lifts, and hoists and how are they calculated?** Installation permit fees are based on the total cost of the conveyance and the labor to install the conveyance. The following permit fees apply to the construction or relocation of all conveyances and material lifts:

TOTAL COST OF CONVEYANCE	FEE
\$0 to and including \$1,000 .....	<del>\$(50.00)</del> 51.50
\$1,001 to and including \$5,000 .....	<del>((75.00))</del> 77.20
\$5,001 to and including \$7,000 .....	<del>((125.00))</del> 128.70
\$7,001 to and including \$10,000 .....	<del>((150.00))</del> 154.50
\$10,001 to and including \$15,000 .....	<del>((200.00))</del> 206.00
OVER \$15,000 .....	<del>((280.00))</del> 288.40
Each additional \$1,000 or fraction thereof .....	plus <del>((7.00))</del> 7.20

**AMENDATORY SECTION** (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

**WAC 296-96-01012 What are the permit fees for alterations to conveyances, material lifts, and hoists and how are they calculated?** Permit fees are based on the total cost of the equipment, materials and labor to perform the alteration. The following permit fees apply to the alteration of all conveyances and material lifts:

TOTAL COST OF ALTERATION	FEE
\$0 to and including \$1,000 .....	<del>\$(50.00)</del> 51.50

**AMENDATORY SECTION** (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

**WAC 296-96-01027 Are initial installation permit fees refundable?** Your initial installation permit fees are refundable if the installation work has not been performed minus a processing fee unless your permits have expired. No refunds will be issued for expired permits. All requests for refunds must be submitted in writing to the elevator section and must identify the specific permits and the reasons for which the refunds are requested.

The processing fee for each refund is ..... ~~\$(30.00)~~ 30.90

**AMENDATORY SECTION** (Amending WSR 03-12-045, filed 5/30/03, effective 6/30/03)

**WAC 296-96-01030 What is the process for installation and alteration plan approval?** Prior to the start of construction, you must submit to the department for approval two copies of plans for new installations or major alterations. To be approved, the plan must comply with the latest adopted edition of the American Society of Mechanical Engineers (ASME), the National Electrical Code (NEC) and applicable Washington Administrative Codes (WAC). In addition, the plans must include all information necessary in determining whether each installation/alteration complies with all applicable codes. You must keep a copy of the approved plan on the job site until the department has witnessed all acceptance tests. Any alterations to the approved plan must be submitted to the department for approval before a final inspection will be conducted. The nonrefundable fees for reviewing your plans are:

For each installation/major alteration ..... ~~\$(25.00)~~ 25.70  
If more than two sets of plans are submitted, the fee for each additional set ..... ~~\$(10.00)~~ 10.30

**AMENDATORY SECTION** (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

**WAC 296-96-01035 Are there inspection fees?** Yes. The initial inspection of a conveyance or for the initial inspection of construction, alteration or relocation of a conveyance is included with your permit fee. Once the department has approved the initial installation of the conveyance you will be issued a temporary operating permit that is valid

for 30 days. Prior to the expiration of the 30-day permit the application for an annual operating permit and the appropriate fees must be paid to the department. Once the department has received the appropriate fees and application you will be issued your first annual operating permit. You are required to renew your annual operating permit yearly.

The following inspections require an additional inspection fee:

(1) **Reinspection.** If a conveyance does not pass an initial inspection and an additional inspection is required, the fee for each reinspection of a conveyance is ~~\$(100.00)~~ 103.00 per conveyance plus \$50.00 per hour for each hour in addition to the first hour.

The department may waive reinspection fees.

(2) **Inspecting increases in the height (jumping) of personnel and material hoists.**

The fee for inspecting an increase in the height (jumping) of each personnel hoist or material hoist is ~~\$(100.00)~~ 103.00 plus ~~\$(50.00)~~ 51.50 per hour for each hour in addition to 2 hours. This fee is for inspections occurring during regular working hours.

(3) **Variance inspections.**

(a) The fee for an on-site variance inspection is ~~\$(150.00)~~ 154.50 per conveyance plus ~~\$(50.00)~~ 51.50 per hour for each hour in addition to 2 hours. This fee is for inspections occurring during regular working hours.

(b) The fee for a variance that does not require an on-site inspection is ~~\$(50.00)~~ 51.50 per conveyance. The individual requesting the variance must provide the department with pictures, documentation, or other information necessary for the department to review the variance. The department may conduct an on-site variance inspection to verify the information provided or if it determines that an inspection is necessary. If an on-site variance inspection is performed, the fees in (a) of this subsection will apply.

(4) **"Red tag" status fee.** The annual fee for a conveyance in "Red tag" status is ~~\$(25.00)~~ 25.70.

**Note:** You must provide the department with written approval from the building official, indicating that the conveyance is not required for building occupancy, when you apply to have the conveyance placed in voluntary red tag status.

(5) **Decommission inspection.** The fee for performing a decommission inspection is ~~\$(50.00)~~ 51.50. Once the decommission inspection has been performed and approved, the conveyance will no longer require annual inspections until such time that the conveyance is brought back into service. Prior to operating the conveyance, a new inspection and annual operating permit must be obtained.

(6) **Voluntary inspections by request.** The owner or potential purchaser of a building within the department's jurisdiction may request a voluntary inspection of a conveyance. The fee for this inspection will be ~~\$(100.00)~~ 103.00 per conveyance and ~~\$(50.00)~~ 51.50 per hour for each hour in addition to 2 hours plus the standard per diem and mileage allowance granted to department inspectors. The owner/potential purchaser requesting the voluntary inspection will not be subject to any penalties based on the inspector's findings.

**AMENDATORY SECTION** (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

**WAC 296-96-01040** What is the fee for testing and inspecting regular elevators used as temporary elevators to provide transportation for construction personnel, tools, and materials only? (1) The fee for the inspecting and testing of regular elevators used as temporary elevators is ~~\$(80.00)~~ 82.40, in addition to any other fees required in this chapter. This fee purchases a 30-day temporary use permit that may be renewed at the department's discretion.

(2) When this temporary use permit is purchased, a notice declaring that the equipment has not received final approval from the department must be conspicuously posted in the elevator.

**AMENDATORY SECTION** (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

**WAC 296-96-01045** What are the inspection requirements and fees for conveyances in private residences? (1) Chapter 70.87 RCW requires the department to inspect all new, altered or relocated conveyances operated exclusively for single-family use in private residences. Prior to inspection, you must complete a permit application as described in WAC 296-96-01005 and pay the appropriate fee listed in WAC 296-96-01010.

(2) Chapter 70.87 RCW allows the department to inspect conveyances operated exclusively for single-family use in private residences when the department is investigating an accident or an alleged or apparent violation of the statute or these rules.

(3) No annual inspection and operating permit is required for a private residence conveyance operated exclusively for single-family use unless the owner requests it. When an owner requests an inspection and an annual operating permit, the following fee must be paid prior to an inspection:

TYPE OF CONVEYANCE	FEE
Each inclined stairway chair lift in private residence . . . . .	<del>\$(23.40)</del> <u>24.10</u>
Each inclined wheel chair lift in a private residence . . . . .	<del>(23.40)</del> <u>24.10</u>
Each vertical wheel chair lift in a private residence . . . . .	<del>(29.60)</del> <u>30.40</u>
Each dumbwaiter in a private residence. . . . .	<del>(23.40)</del> <u>24.10</u>
Each inclined elevator at a private residence. . . . .	<del>(83.20)</del> <u>85.70</u>
Each private residence elevator . . . . .	<del>(53.60)</del> <u>55.20</u>
Duplication of a lost, damaged or stolen operating permit . . . . .	<del>(10.00)</del> <u>10.30</u>

PROPOSED

PROPOSED

**AMENDATORY SECTION** (Amending WSR 03-12-045, filed 5/30/03, effective 6/30/03)

**WAC 296-96-01050 How do I get a supplemental inspection?** Any person, firm, corporation or governmental agency can request a supplemental inspection from the department by paying a fee of \$~~((60.00))~~ 61.80 per hour (including travel time) plus the standard per diem and mileage allowance granted to department inspectors. This fee is for inspections occurring during regular working hours.

**AMENDATORY SECTION** (Amending WSR 03-12-045, filed 5/30/03, effective 6/30/03)

**WAC 296-96-01055 Are technical services available and what is the fee?** You may request elevator field technical services from the department by paying a fee of \$~~((60.00))~~ 61.80 per hour (including travel time) plus the standard per diem and mileage allowance granted to department inspectors. These field technical services may include code evaluation, code consultation, plan examination, code interpretation and clarification of technical data relating to the application of the department's conveyance rules. Field technical services do not include inspections.

**AMENDATORY SECTION** (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

**WAC 296-96-01060 Can I request an after hours inspection and what is the fee?** You may request an inspection outside of normal business hours, which are 7:00 a.m. to 5:00 p.m., if an inspector is available and the inspection is authorized by the department. The minimum fee for an after-hours inspection is \$~~((75.00))~~ 77.20 and \$~~((75.00))~~ 77.20 per hour for each hour in addition to the first hour plus the standard per diem and mileage allowance granted to department inspectors. This fee is in addition to any other fees required for your project.

**AMENDATORY SECTION** (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

**WAC 296-96-01065 What are the annual operating permits fees?** An annual operating permit will be issued to you upon payment of the appropriate fee:

TYPE OF CONVEYANCE	FEE
Each hydraulic elevator .....	\$ <del>((100.00))</del> <u>103.00</u>
Each roped-hydraulic elevator .....	<del>((125.00))</del> <u>128.70</u>
plus for each hoistway opening in excess of two .....	<del>((40.00))</del> <u>10.30</u>
Each cable elevator .....	<del>((125.00))</del> <u>128.70</u>
plus for each hoistway opening in excess of two .....	<del>((40.00))</del> <u>10.30</u>
Each cable elevator traveling more than 25 feet without an opening—for each 25 foot traveled .....	<del>((40.00))</del> <u>10.30</u>

Each limited-use/limited-application (—LULA) elevator .....	<del>((100.00))</del> <u>103.00</u>
Each escalator .....	<del>((83.10))</del> <u>85.60</u>
Each dumbwaiter in other than a private residence .....	<del>((53.60))</del> <u>55.20</u>
Each material lift .....	<del>((100.00))</del> <u>103.00</u>
Each incline elevator in other than a private residence .....	<del>((107.50))</del> <u>110.70</u>
Each belt manlift .....	<del>((100.00))</del> <u>103.00</u>
Each stair lift in other than a private residence .....	<del>((53.60))</del> <u>55.20</u>
Each wheel chair lift in other than a private residence .....	<del>((53.60))</del> <u>55.20</u>
Each personnel hoist .....	<del>((100.00))</del> <u>103.00</u>
Each grain elevator personnel lift .....	<del>((83.10))</del> <u>85.60</u>
Each material hoist .....	<del>((100.00))</del> <u>103.00</u>
Each special purpose elevator .....	<del>((100.00))</del> <u>103.00</u>
Each private residence elevator installed in other than a private residence .....	<del>((100.00))</del> <u>103.00</u>
Each casket lift .....	<del>((83.10))</del> <u>85.60</u>
Each sidewalk freight elevator .....	<del>((83.10))</del> <u>85.60</u>
Each hand-powered manlift or freight elevator .....	<del>((56.30))</del> <u>58.00</u>
Each boat launching elevator .....	<del>((83.10))</del> <u>85.60</u>
Each auto parking elevator .....	<del>((83.10))</del> <u>85.60</u>
Each moving walk .....	<del>((83.10))</del> <u>85.60</u>
Duplication of a damaged, lost or stolen operating permit .....	<del>((40.00))</del> <u>10.30</u>

**AMENDATORY SECTION** (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

**WAC 296-96-01070 What are the civil (monetary) penalties for violating the conveyance permit and operation requirements of chapter 70.87 RCW and this chapter?** (1) Any licensee, installer, owner or operator of a conveyance who violates a provision of chapter 70.87 RCW or this chapter shall be subject to the following civil penalties:

(a) Operation of a conveyance without a permit:	
First violation . . . . .	<del>\$(150.00)</del> <u>154.50</u>
Second violation . . . . .	<del>((300.00))</del> <u>309.00</u>
Each additional violation . . . . .	<del>((500.00))</del> <u>515.10</u>
(b) Installation of a conveyance without a permit:	
First violation . . . . .	<del>\$(150.00)</del> <u>154.50</u>
Second violation . . . . .	<del>((300.00))</del> <u>309.00</u>
Each additional violation . . . . .	<del>((500.00))</del> <u>515.10</u>
(c) Relocation of a conveyance without a permit:	
First violation . . . . .	<del>\$(150.00)</del> <u>154.50</u>
Second violation . . . . .	<del>((300.00))</del> <u>309.00</u>
Each additional violation . . . . .	<del>((500.00))</del> <u>515.10</u>
(d) Alteration of a conveyance without a permit:	
First violation . . . . .	<del>\$(150.00)</del> <u>154.50</u>
Second violation . . . . .	<del>((300.00))</del> <u>309.00</u>
Each additional violation . . . . .	<del>((500.00))</del> <u>515.10</u>
(e) (i) Operation of a conveyance for which the department has issued a red tag or has revoked or suspended an operating permit or operation of a decommissioned elevator . . . . .	
	<del>\$(500.00)</del> <u>515.10</u>
(ii) Removal of a red tag from a conveyance . . . . .	
	<del>\$(500.00)</del> <u>515.10</u>
(f) Failure to comply with a correction notice:	
Within 90 days . . . . .	<del>\$(100.00)</del> <u>103.00</u>
Between 91 and 180 days . . . . .	<del>((250.00))</del> <u>257.50</u>
Between 181 and 270 days . . . . .	<del>((400.00))</del> <u>412.10</u>
Between 271 and 360 days . . . . .	<del>((500.00))</del> <u>515.10</u>
Each 30 days after 360 days . . . . .	<del>((500.00))</del> <u>515.10</u>

Note: Penalties cumulate

(g) Failure to submit official written notification that all corrections have been completed:	
Within 90 days . . . . .	<del>\$(100.00)</del> <u>103.00</u>
Between 91 and 180 days . . . . .	<del>((250.00))</del> <u>257.50</u>
Between 181 and 270 days . . . . .	<del>((400.00))</del> <u>412.10</u>
Between 271 and 360 days . . . . .	<del>((500.00))</del> <u>515.10</u>
Each 30 days after 360 days . . . . .	<del>((500.00))</del> <u>515.10</u>

Note: Penalties cumulate

(h) Failure to notify the department of each accident to a person requiring the services of a physician or resulting in a disability exceeding one day may result in a ~~\$(500)~~ 515.10 penalty per day. The conveyance must be removed from service until the department authorizes the operation of the conveyance. This may require an inspection and the applicable fees will be applied. Failure to remove the conveyance from service may result in an additional ~~\$(500)~~ 515.10 penalty per day.

(2) A violation as described in subsection (1)(a), (b), (c), and (d) of this section will be a "second" or "additional" violation only if it occurs within one year of the first violation.

(3) The department must serve notice by certified mail to an installer, licensee, owner, or operator for a violation of chapter 70.87 RCW, or this chapter.

PROPOSED

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

**WAC 296-150C-3000 Commercial coach fees.**

PROPOSED

<b>INITIAL FILING FEE</b>	<del>\$(31.40)</del> <u>32.30</u>
<b>DESIGN PLAN FEES:</b>	
INITIAL FEE - MASTER DESIGN	<del>\$(216.30)</del> <u>222.80</u>
INITIAL FEE - ONE YEAR DESIGN	<del>\$(88.60)</del> <u>91.20</u>
RENEWAL FEE	<del>\$(37.50)</del> <u>38.60</u>
RESUBMIT FEE	<del>\$(63.20)</del> <u>65.10</u>
ADDENDUM (Approval expires on same date as original plan)	<del>\$(63.20)</del> <u>65.10</u>
ELECTRONIC PLAN SUBMITTAL FEE <del>\$(4.80)</del> <u>4.90</u> per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
<b>ELECTRICAL PLAN REVIEW</b> (When required by chapter 296-46B WAC. Plan review for educational, institutional or health care facilities and other buildings)	
Electrical Plan submission fee	<del>\$(63.20)</del> <u>65.10</u>
Service/feeder Ampacity:	
0 - 100	<del>\$(28.00)</del> <u>28.80</u>
101 - 200	<del>\$(34.90)</del> <u>35.90</u>
201 - 400	<del>\$(65.50)</del> <u>67.40</u>
401 - 600	<del>\$(77.20)</del> <u>79.50</u>
601 - 800	<del>\$(99.50)</del> <u>102.50</u>
801 - 1000	<del>\$(121.80)</del> <u>125.40</u>
Over 1000	<del>\$(132.10)</del> <u>136.10</u>
Over 600 volts surcharge	<del>\$(20.90)</del> <u>21.50</u>
Thermostats:	
First	<del>\$(12.40)</del> <u>12.70</u>
Each additional	\$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	<del>\$(11.30)</del> <u>11.60</u>
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	
	<del>\$(74.90)</del> <u>77.10</u>
<b>ELECTRICAL COMMERCIAL/INDUSTRIAL</b>	
Electrical Service/feeders Ampacity	<del>((201))</del> <u>207 plus</u>
Service/feeder	<del>\$(184.30)</del> <u>189.80</u>
Additional Feeder	<del>\$(35.00)</del> <u>36.00</u>
<b>ELECTRICAL MULTIFAMILY RESIDENTIAL</b>	
Electrical Service/feeders	<del>((201))</del> <u>207 plus</u>
Service/feeder	<del>\$(97.80)</del> <u>100.70</u>
Additional Feeder	<del>\$(25.00)</del> <u>25.70</u>
<b>MEDICAL GAS PLAN REVIEW:</b>	
SUBMISSION FEE	<del>\$(60.60)</del> <u>62.40</u>
FIRST STATION	<del>\$(60.60)</del> <u>62.40</u>
EACH ADDITIONAL STATION	<del>\$(22.20)</del> <u>22.80</u>

PROPOSED

<b>RECIPROCAL PLAN REVIEW:</b>	
INITIAL FEE - MASTER DESIGN	\$((96.40)) 99.30
INITIAL FEE - ONE YEAR DESIGN	\$((58.40)) 60.10
RENEWAL FEE	\$((58.40)) 60.10
ADDENDUM	\$((58.40)) 60.10
<b>PLANS APPROVED BY PROFESSIONALS</b>	
	\$((44.00)) 45.30
<b>APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS</b>	
	\$((11.90)) 12.20
<b>DEPARTMENT INSPECTION FEES</b>	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$((63.20)) 65.10
TRAVEL (Per hour)	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (Per hour*)	\$((63.20)) 65.10
TRAVEL (Per hour*)	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$((94.60)) 97.40
<b>INSIGNIA FEES:</b>	
FIRST SECTION	\$((19.20)) 19.70
EACH ADDITIONAL SECTION	\$((11.90)) 12.20
ALTERATION	\$((31.40)) 32.30
REISSUED-LOST/DAMAGED	\$((11.90)) 12.20
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((63.20)) 65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$((11.90)) 12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines	
*** Actual charges incurred	

**AMENDATORY SECTION** (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

**WAC 296-150F-3000 Factory-built housing and commercial structure fees.**

<b>INITIAL FILING FEE</b>	\$((55.70)) 57.30
<b>DESIGN PLAN FEES:</b>	
INITIAL FEE - MASTER DESIGN (CODE CYCLE)	\$((274.50)) 282.80
INITIAL FEE - ONE YEAR DESIGN	\$((160.90)) 165.70
RENEWAL FEE	\$((55.70)) 57.30
RESUBMIT FEE	\$((80.40)) 82.80
ADDENDUM (Approval expires on same date as original plan.)	\$((80.40)) 82.80

PROPOSED

ELECTRONIC PLAN SUBMITTAL FEE <del>\$(4.70)</del> 4.80 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.		
<b>ELECTRICAL PLAN REVIEW</b> (When required by chapter 296-46A WAC, Plan review for educational, institutional or health care facilities and other buildings):		
Electrical Plan submission fee		<del>\$(61.30)</del> 63.10
Service/feeder Ampacity:		
0 - 100		<del>\$(27.20)</del> 28.00
101 - 200		<del>\$(33.90)</del> 34.90
201 - 400		<del>\$(63.40)</del> 65.30
401 - 600		<del>\$(74.90)</del> 77.10
601 - 800		<del>\$(96.40)</del> 99.30
801 - 1000		<del>\$(118.00)</del> 121.50
Over 1000		<del>\$(128.00)</del> 131.80
Over 600 volts surcharge		<del>\$(20.30)</del> 20.90
Thermostats:		
First		<del>\$(12.10)</del> 12.40
Each additional		\$3.00
Low voltage fire alarm and burglar alarm:		
Each control panel and up to four circuits or zones		<del>\$(11.00)</del> 11.30
Each additional circuit or zone		\$2.00
Generators, refer to appropriate service/feeder ampacity fees		
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>		
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) will be charged per hour or fraction of an hour*		<del>\$(72.50)</del> 74.60
<b>ELECTRICAL COMMERCIAL/INDUSTRIAL</b>		
Electrical Service /feeders Ampacity		<del>((201))</del> 207 plus
Service/feeder		<del>\$(184.30)</del> 189.80
Additional Feeder		<del>\$(35.00)</del> 36.00
<b>ELECTRICAL MULTIFAMILY RESIDENTIAL</b>		
Electrical Service/feeders		<del>((201))</del> 207 plus
Service/feeder		<del>\$(97.80)</del> 100.70
Additional Feeder		<del>\$(25.00)</del> 25.70
<b>MEDICAL GAS PLAN REVIEW:</b>		
SUBMISSION FEE		<del>\$(76.30)</del> 78.60
FIRST STATION		<del>\$(76.30)</del> 78.60
EACH ADDITIONAL STATION		<del>\$(27.80)</del> 28.60
<b>RECIPROCAL PLAN REVIEW:</b>		
INITIAL FEE-MASTER DESIGN		<del>\$(122.80)</del> 126.50
INITIAL FEE-ONE YEAR DESIGN		<del>\$(74.30)</del> 76.50
RENEWAL FEE		<del>\$(74.30)</del> 76.50
ADDENDUM		<del>\$(74.30)</del> 76.50
<b>PLANS APPROVED BY DESIGN PROFESSIONALS</b>		<del>\$(55.70)</del> 57.30
<b>APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS</b>		<del>\$(14.40)</del> 14.80

PROPOSED

<b>DEPARTMENT INSPECTION FEES</b>	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$((71.20)) 73.30
TRAVEL (Per hour*)	\$((71.20)) 73.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (Per hour*)	\$((71.20)) 73.30
TRAVEL (Per hour*)	\$((71.20)) 73.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
FIRST SECTION	\$((227.00)) 233.80
EACH ADDITIONAL SECTION	\$((20.60)) 21.20
REISSUED-LOST/DAMAGED	\$((55.70)) 57.30
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((71.20)) 73.30
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	\$((30.90)) 31.80
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$((41.60)) 11.90
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

**AMENDATORY SECTION (Amending WSR 04-12-048, filed 5/28/04, effective 6/30/04)**

**WAC 296-150M-3000 Manufactured home fees.**

<b>INITIAL FILING FEE</b>	\$((30.50)) 31.40
<b>DESIGN PLAN FEES:</b>	
STRUCTURAL ALTERATION - MASTER DESIGN (CODE CYCLE)	\$((122.90)) 126.60
STRUCTURAL ALTERATION - ONE YEAR DESIGN	\$((82.50)) 84.90
RENEWAL FEE	\$((36.70)) 37.80
RESUBMITTAL FEE	\$((61.30)) 63.10
ADDENDUM (Approval expires on the same date as original plan.)	\$((61.30)) 63.10
ELECTRONIC PLAN SUBMITTAL FEE \$((4.70)) 4.80 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION	
<b>MECHANICAL</b>	
Heat Pump	\$((30.90)) 31.80
Combination Heat Pump (new) and Furnace (replacement)	\$((41.20)) 42.40
Air Conditioning	\$((30.90)) 31.80
Combination Air Conditioning (new) and Furnace (replacement)	\$((41.20)) 42.40
Furnace Installation (gas*** or electric)	\$((30.90)) 31.80

PROPOSED

Gas*** Piping	\$((30.90)) 31.80
Wood Stove	\$((30.90)) 31.80
Pellet Stove	\$((30.90)) 31.80
Gas*** Room Heater	\$((30.90)) 31.80
Gas*** Decorative Appliance	\$((30.90)) 31.80
Range: Changing from electric to gas***	\$((30.90)) 31.80
Gas*** Water Heater Replacement	\$((20.60)) 21.20
Water Heater: Changing from electric to gas***	\$((20.60)) 21.20
Any combination of Furnace, Range, and Water Heater changing from electric to gas*** and includes Gas Piping charge	\$((61.90)) 63.70
<b>ELECTRICAL</b>	
Heat Pump	\$((41.20)) 42.40
Heat Pump (when home is prewired for a heat pump)	\$((10.30)) 10.60
Combination Heat Pump (new) and Furnace (replacement)	\$((51.60)) 53.10
Air Conditioner	\$((41.20)) 42.40
Air Conditioner (when home is prewired for an air conditioner)	\$((10.30)) 10.60
Combination Air Conditioner (new) and Furnace (replacement)	\$((51.60)) 53.10
Furnace Installation (gas or electric)	\$((41.20)) 42.40
Wood Stove (if applicable)	\$((41.20)) 42.40
Pellet Stove (if applicable)	\$((41.20)) 42.40
Gas*** Room Heater (if applicable)	\$((41.20)) 42.40
Gas*** Decorative Appliance (if applicable)	\$((41.20)) 42.40
Range: Changing from gas*** to electric	\$((41.20)) 42.40
Electric Water Heater Replacement	\$((41.20)) 42.40
Electric Water Heater replacing Gas*** Water Heater	\$((41.20)) 42.40
Each added or modified 120 volt circuit (maximum charge is two circuits)	\$((41.20)) 42.40
Each added 240 volt circuit (for other than Heat Pumps, Air Conditioners, Furnaces, Water Heaters, Ranges, Hot Tubs or Spas)	\$((41.20)) 42.40
Hot Tub or Spa (power from home electrical panel)	\$((41.20)) 42.40
Replace main electrical panel	\$((41.20)) 42.40
Low voltage fire/intrusion alarm	\$((41.20)) 42.40
Fire Safety	\$((41.20)) 42.40
Any combination of Furnace, Range and Water Heater changing from electric to gas***	\$((41.20)) 42.40
<b>PLUMBING</b>	
Fire sprinkler system (also requires a plan review)	\$((20.60)) 21.20
Each added fixture	\$((20.60)) 21.20
Replacement of water piping system (this includes two inspections)	\$((92.80)) 95.60
<b>STRUCTURAL</b>	
Inspection as part of a mechanical/fire safety installation (cut truss/floor joist, sheet rocking)	\$((41.20)) 42.40
Reroofs (may require a plan review)	\$((72.20)) 74.30
Changes to home when additions bear loads on home per the design of a professional (also requires a plan review)	\$((72.20)) 74.30
Other structural changes (may require a plan review)	\$((72.20)) 74.30
Fire Safety (may also require an electrical fire safety inspection)	\$((41.20)) 42.40
<b>MISCELLANEOUS</b>	
Other structural changes (may require a plan review)	\$((72.20)) 74.30
Plan Review	\$((82.50)) 84.90
OTHER REQUIRED INSPECTIONS (Per hour*)	\$((56.70)) 58.40
ALL REINSPECTIONS (Per hour*)	\$((56.70)) 58.40
<b>INSIGNIA FEES:</b>	
ALTERATION	\$((10.30)) 10.60
REISSUED - LOST/DAMAGED	\$((10.30)) 10.60
<b>IPIA</b>	

PROPOSED

<b>DEPARTMENT AUDIT FEES</b>	
<b>REGULARLY SCHEDULED IPIA AUDIT:</b>	
First inspection on each section (one time only)	\$(( <del>27.90</del> )) <u>28.70</u>
Second and succeeding inspections of unlabeled sections (Per hour*)	\$(( <del>61.30</del> )) <u>63.10</u>
<b>OTHER IPIA FEES:</b>	
Red tag removal during a regularly scheduled IPIA audit (Per hour* separate from other fees)	\$(( <del>61.30</del> )) <u>63.10</u>
Red tag removal at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$(( <del>61.30</del> )) <u>63.10</u>
Increased frequency surveillance (Per hour* plus travel time* and mileage**)	\$(( <del>61.30</del> )) <u>63.10</u>
Attendance at manufacturers training classes (Per hour* only)	\$(( <del>61.30</del> )) <u>63.10</u>
Subpart "I" investigations (Per hour* plus travel time* and mileage**)	\$(( <del>61.30</del> )) <u>63.10</u>
Alterations to a labeled unit (Per hour* plus travel time* and mileage**)	\$(( <del>61.30</del> )) <u>63.10</u>
IPIA Issues/Responses (Per hour* Plus travel time* and mileage**)	\$(( <del>61.30</del> )) <u>63.10</u>
Monthly surveillance during a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$(( <del>61.30</del> )) <u>63.10</u>
Monthly surveillance at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$(( <del>61.30</del> )) <u>63.10</u>
Plant certifications, recertifications and addenda updates (Per hour* plus travel time* and mileage** per each inspector)	\$(( <del>61.30</del> )) <u>63.10</u>
Response to HBT Audit during a regularly scheduled IPIA audit (Per hour*)	\$(( <del>61.30</del> )) <u>63.10</u>
Response to HBT Audit at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$(( <del>61.30</del> )) <u>63.10</u>
Alternative construction (AC) letter inspections at placement site (Per hour* plus travel time* and mileage**)	\$(( <del>61.30</del> )) <u>63.10</u>
Replacement of HUD labels (Per hour* plus travel time* and mileage**)	\$(( <del>61.30</del> )) <u>63.10</u>
State Administrative Agency (SAA) inspection fee (Per hour* plus travel time* and mileage**)	\$(( <del>61.30</del> )) <u>63.10</u>
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour plus travel time* and mileage**)	\$(( <del>56.70</del> )) <u>58.40</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	\$(( <del>11.60</del> )) <u>11.90</u>
VARIANCE INSPECTION FEE	\$(( <del>82.50</del> )) <u>84.90</u>
HOMEOWNER REQUESTED INSPECTION	\$(( <del>82.50</del> )) <u>84.90</u>
DECERTIFICATION OF A MOBILE/MANUFACTURED HOME	\$(( <del>82.50</del> )) <u>84.90</u>
DEMOLITION OF A MOBILE/MANUFACTURED HOME	\$(( <del>82.50</del> )) <u>84.90</u>
<b>NOTE: Local jurisdictions may have other fees that apply.</b>	
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Gas means all gases; natural, propane, etc.	

**AMENDATORY SECTION (Amending WSR 04-12-048, filed 5/28/04, effective 6/30/04)**

**WAC 296-150P-3000 Recreational park trailer fees.**

<b>INITIAL FILING FEE</b>	\$(( <del>31.40</del> )) <u>32.30</u>
<b>DESIGN PLAN FEES:</b>	
NEW PLAN REVIEW FEE WITHOUT STRUCTURAL REQUIREMENTS	\$(( <del>88.60</del> )) <u>91.20</u>
NEW PLAN REVIEW FEE WITH STRUCTURAL REQUIREMENTS	\$(( <del>117.00</del> )) <u>120.50</u>
RESUBMITTAL FEE	\$(( <del>63.20</del> )) <u>65.10</u>
ADDENDUM (Approval expires on same date as original plan.)	\$(( <del>63.20</del> )) <u>65.10</u>
ELECTRONIC PLAN SUBMITTAL FEE \$(( <del>4.80</del> )) <u>4.90</u> per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
<b>QUALITY CONTROL/MANUAL FEES:</b>	
INITIAL APPROVAL	\$(( <del>11.90</del> )) <u>12.20</u>
RESUBMITTAL FEE	\$(( <del>63.20</del> )) <u>65.10</u>
ADDENDUM	\$(( <del>63.20</del> )) <u>65.10</u>
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (per hour)*	\$(( <del>63.20</del> )) <u>65.10</u>

PROPOSED

TRAVEL (per hour)*	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION (per hour)*	\$((63.20)) 65.10
TRAVEL (per hour)*	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$((94.60)) 97.40
<b>INSIGNIA FEES:</b>	
STATE CERTIFIED	\$((11.70)) 12.00
ALTERATION	\$((31.40)) 32.30
REISSUED-LOST/DAMAGED	\$((11.70)) 12.00
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$((63.20)) 65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	\$((11.90)) 12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

**AMENDATORY SECTION** (Amending WSR 04-12-048, filed 5/28/04, effective 6/30/04)

**WAC 296-150R-3000 Recreational vehicle fees.**

<b>STATE PLAN</b>	
INITIAL FILING FEE	\$((31.40)) 32.30
<b>DESIGN PLAN FEES:</b>	
NEW PLAN REVIEW FEE	\$((88.60)) 91.20
RESUBMITTAL FEE	\$((63.20)) 65.10
ADDENDUM (Approval expires on same date as original plan.)	\$((63.20)) 65.10
<b>QUALITY CONTROL/MANUAL FEES:</b>	
INITIAL APPROVAL	\$((11.90)) 12.20
RESUBMITTAL FEE	\$((63.20)) 65.10
ADDENDUM	\$((63.20)) 65.10
ELECTRONIC PLAN SUBMITTAL FEE \$((4.80)) 4.90 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (per hour)*	\$((63.20)) 65.10
TRAVEL (per hour)*	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	

PROPOSED

PARKING	
AIRFARE***	
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION (per hour)*	\$((63.20)) <u>65.10</u>
TRAVEL (per hour)*	\$((63.20)) <u>65.10</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$((94.60)) <u>97.40</u>
<b>INSIGNIA FEES:</b>	
STATE CERTIFIED	\$((11.30)) <u>11.60</u>
ALTERATION	\$((31.40)) <u>32.30</u>
REISSUED-LOST/DAMAGED	\$((11.30)) <u>11.60</u>
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$((63.20)) <u>65.10</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	\$((11.90)) <u>12.20</u>
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
***Actual charges incurred.	

<b>SELF CERTIFICATION</b>	
INITIAL FILING FEE	\$((31.40)) <u>32.30</u>
<b>DESIGN PLAN FEES:</b>	
NEW PLAN REVIEW FEE (one time fee)	\$((88.60)) <u>91.20</u>
RESUBMITTAL FEE	\$((63.20)) <u>65.10</u>
ADDENDUM (Approval expires on same date as original plan.)	\$((63.20)) <u>65.10</u>
ELECTRONIC PLAN SUBMITTAL FEE \$((4.80)) <u>4.90</u> per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
<b>SELF CERTIFICATION/MANUAL FEES:</b>	
INITIAL APPROVAL	\$((11.90)) <u>12.20</u>
RESUBMITTAL FEE	\$((63.20)) <u>65.10</u>
ADDENDUM	\$((63.20)) <u>65.10</u>
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (per hour)*	\$((63.20)) <u>65.10</u>
TRAVEL (per hour)*	\$((63.20)) <u>65.10</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING	
AIRFARE***	
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION (per hour)*	\$((63.20)) <u>65.10</u>
TRAVEL (per hour)*	\$((63.20)) <u>65.10</u>
PER DIEM**	
HOTEL***	

PROPOSED

MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
SELF CERTIFIED	\$((11.30)) 11.60
ALTERATION	\$((31.40)) 32.30
REISSUED-LOST/DAMAGED	\$((11.30)) 11.60
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$((63.20)) 65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	\$((11.90)) 12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

**AMENDATORY SECTION** (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

**WAC 296-150T-3000 Factory-built temporary worker housing fees.**

<b>INITIAL FILING FEE</b>	\$((44.00)) 45.30
<b>DESIGN PLAN FEES:</b>	
INITIAL ONE YEAR DESIGN	\$((126.90)) 130.70
RENEWAL FEE	\$((44.00)) 45.30
RESUBMIT FEE	\$((63.20)) 65.10
ADDENDUM (Approval expires on same date as original plan)	\$((63.20)) 65.10
ELECTRONIC PLAN SUBMITTAL FEE \$((4.70)) 4.80 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	
	\$((75.00)) 77.20
<b>APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS</b>	
	\$((11.90)) 12.20
<b>DEPARTMENT INSPECTION FEES</b>	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$((63.20)) 65.10
TRAVEL (Per hour)*	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (Per hour*)	\$((63.20)) 65.10
TRAVEL (Per hour*)	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
FIRST SECTION	\$((177.90)) 183.20

PROPOSED

EACH ADDITIONAL SECTION	\$((17.30)) 17.80
REISSUED-LOST/DAMAGED	\$((44.00)) 45.30
<b>ELECTRICAL COMMERCIAL/INDUSTRIAL</b>	
Electrical Service/feeders Ampacity	((201)) 207 plus
Service/feeder	\$((184.30)) 189.80
Additional Feeder	\$((35.00)) 36.00
<b>ELECTRICAL MULTIFAMILY RESIDENTIAL</b>	
Electrical Service/feeders	((201)) 207 plus
Service/feeder	\$((97.80)) 100.70
Additional Feeder	\$((25.00)) 25.70
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((63.20)) 65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free per year)	\$((11.90)) 12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines	
*** Actual charges incurred	

**AMENDATORY SECTION** (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

**WAC 296-150V-3000 Conversion vendor units and medical units—Fees.**

<b>INITIAL FILING FEE</b>	\$((31.40)) 32.30
<b>DESIGN PLAN FEES:</b>	
INITIAL FEE - MASTER DESIGN	\$((216.30)) 222.80
INITIAL FEE - ONE YEAR DESIGN	\$((88.60)) 91.20
RENEWAL FEE	\$((37.80)) 38.90
RESUBMIT FEE	\$((63.20)) 65.10
ADDENDUM (Approval expires on same date as original plan)	\$((63.20)) 65.10
ELECTRONIC PLAN SUBMITTAL FEE \$((4.70)) 4.80 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
<b>RECIPROCAL PLAN REVIEW:</b>	
INITIAL FEE - MASTER DESIGN	\$((96.40)) 99.30
INITIAL FEE - ONE YEAR DESIGN	\$((58.40)) 60.10
RENEWAL FEE	\$((58.40)) 60.10
ADDENDUM	\$((58.40)) 60.10
<b>APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS</b>	\$((11.90)) 12.20
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$((63.20)) 65.10
TRAVEL (Per hour*)	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR****	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$((94.60)) 97.40
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (Per hour*)	\$((63.20)) 65.10
TRAVEL (Per hour*)	\$((63.20)) 65.10

PROPOSED

PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
FIRST SECTION	\$((18.30)) 18.80
ALTERATION	\$((31.40)) 32.30
REISSUED-LOST/DAMAGED	\$((41.90)) 12.20
EXEMPT	\$((31.40)) 32.30
<b>ELECTRICAL COMMERCIAL/INDUSTRIAL</b>	
Electrical Service/feeders Ampacity	((201)) 207 plus
Service/feeder	\$((184.30)) 189.80
Additional Feeder	\$((35.00)) 36.00
<b>ELECTRICAL MULTIFAMILY RESIDENTIAL</b>	
Electrical Service/feeders	((201)) 207 plus
Service/feeder	\$((97.80)) 100.70
Additional Feeder	\$((25.00)) 25.70
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((63.20)) 65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$((41.90)) 12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

**AMENDATORY SECTION** (Amending WSR 04-12-048, filed 5/28/04, effective 6/30/04)

**WAC 296-200A-900 What fees does the department charge contractors for issuance, renewal, reregistration, and reinstatement of certificates of registration?** The department charges the following fees:

- (1) \$((406.50)) 109.70 for each issuance, renewal or reregistration of a certificate of registration for contractors. This registration is valid for two years from date of issuance, renewal or reregistration or until it is suspended or revoked.
- (2) \$((50.40)) 51.90 for the reinstatement of a certificate of registration.
- (3) \$((41.90)) 12.20 for providing a duplicate certificate of registration.
- (4) \$((24.10)) 24.80 for each requested certified letter prepared by the department.
- (5) \$162.00 for the construction and electrical contractor listing publication on CD ROM per year, prorated according to the number of issues left in the subscription year, which runs from November 1 through October 31. Each issue costs \$13.50.
- (6) \$2.00 per copy for documents copied from a contractor's file. The maximum copy charge for copies from one contractor's file will be \$27.20.
- (7) \$20.00 is required to cover the costs for the service of process in an action against a contractor, the contractor's bond, or the deposit under RCW 18.27.040.

(8) \$25.00 is required to cover the costs for the service of processing refunds.

**WSR 05-08-112  
PROPOSED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**  
[Filed April 5, 2005, 12:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-090.

Title of Rule and Other Identifying Information: Motor vehicles, the department is proposing to rewrite and clarify requirements relating to motor vehicles. This proposal will place motor vehicle requirements for general industry (WAC 296-24-233) into one chapter (chapter 296-865 WAC, Motor vehicles). This rule making is part of our goal to rewrite all of WISHA's general occupational safety and health rules for clarity. The department is eliminating unnecessary requirements and outdated terminology.

**AMENDED SECTIONS:**

WAC 296-305-04501 Automotive fire apparatus design and construction.

- Update a reference.

**NEW SECTIONS:****WAC 296-865-100 Scope.**

- Created this section to explain the requirements relating to motor vehicles.

**WAC 296-865-200 All motor vehicles.**

- Created this summary page to include all the sections located in WAC 296-865-200 that relate to general requirements for all motor vehicles.

**WAC 296-865-20005 Motor vehicle operation.**

- Requirements in this section were moved from WAC 296-24-233(1) and Title 46 RCW, Motor vehicles.

**WAC 296-865-20010 Transportation of passengers.**

- Requirements in this section were moved from WAC 296-24-233 (15)(a) and (b), and Title 46 RCW, Motor vehicles.

**WAC 296-865-20015 Motor vehicle equipment.**

- Requirements in this section were moved from WAC 296-24-233 (10), (11), (15)(a), (c), (f), and (k).

**WAC 296-865-300 Trucks and trailers.**

- Created this summary page to include all sections located in WAC 296-865-300 that relate to requirements for trucks and trailers.

**WAC 296-865-30005 Truck operation.**

- Requirements in this section were moved from WAC 296-24-233 (5), (8), and (7).

**WAC 296-865-30010 Dump trucks.**

- Requirements in this section were moved from WAC 296-24-233(9).

**WAC 296-865-30015 Semitruck brakes.**

- Requirements in this section were moved from WAC 296-24-233 (2), (3), (4), (14), and (3).

**WAC 296-865-30020 Transportation of loads.**

- Requirements in this section were moved from WAC 296-24-233(12).

**WAC 296-865-400 Definitions.**

- The following definitions have been added to chapter 296-865 WAC, Motor vehicles: Motor vehicle, semitruck, trailer, and truck.

**REPEALED SECTION:****WAC 296-24-233 Motor vehicle trucks and trailers.**

- Repeal this section.
- Requirements relating to motor vehicles have been moved to chapter 296-865 WAC, Motor vehicles.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., S118, Tumwater, WA 98501, on May 10, 2005, at 1:30 p.m.; and at the Department of Labor and Industries, Room 4 (on the 3rd floor), 901 North

Monroe Street, Suite 100, Spokane, WA 99201, on May 13, 2005, at 9:30 a.m.

Date of Intended Adoption: August 3, 2005.

Submit Written Comments to: Jamie Scibelli, P.O. Box 44620, Olympia, WA 98504-4620, e-mail Scij235@lni.wa.gov, fax (360) 902-5529, by May 20, 2005.

Assistance for Persons with Disabilities: Contact Kim Johnson by May 3, 2005, Rhok235@lni.wa.gov or (360) 902-5008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to make this rule easy to read, understand and more usable for employers. This proposal will place motor vehicle requirements for general industry, WAC 296-24-233, into chapter 296-865 WAC, Motor vehicles. There are no anticipated effects.

Reasons Supporting Proposal: See Title of Rule above.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael Wood, Tumwater, (360) 902-5495.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department does not anticipate costs to small business as a result of this proposal. Per RCW 19.85.030 (1)(a), an agency must prepare a small business economic impact statement if the proposed rule will impose more than minor costs on businesses in an industry. These rules were analyzed for economic impact and it was determined that, in order for these rules to impose any costs, a firm would have to have enough privately owned land that their vehicles never pass from their property to the public roadways. Because small businesses are highly unlikely to meet these conditions, the rule will not impose more than a minor cost on businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Trista Zugel, Department of Labor and Industries, Research and Data Services, P.O. Box 4321 [44321], Olympia, WA 98504-4321, phone (360) 902-5122, fax (360) 902-4249, e-mail Zugy235@lni.wa.gov.

April 5, 2005

Judy Schurke

Acting Director

**AMENDATORY SECTION** (Amending WSR 99-05-080, filed 2/17/99, effective 6/1/99)

**WAC 296-305-04501 Automotive fire apparatus design and construction.** (1) All new fire apparatus with the exception of specialized equipment, shall conform to the following minimum safety standards contained in NFPA Booklets No. 1901, 1902, 1903, 1904, and other 1900's.

PROPOSED

(2) Fire apparatus, purchased after December 17, 1977, weighing 10,000 pounds or more shall conform with the following U.S. Department of Transportation standards, when applicable:

(a) 49 CFR Ch. V (10-93 edition) 571.121 "Air brake systems";

(b) 49 CFR Ch. V (10-93 edition) 571.106 "Hydraulic brake hoses";

(c) 49 CFR Ch. V (10-93 edition) 571-211 "Hydraulic brake hoses."

(3) Employers acquiring used apparatus or used equipment shall not be required to bring it under a more stringent code than the one in force at the time the apparatus was manufactured. However, such vehicle must meet applicable U.S. Department of Transportation standards and chapter 296-865 WAC ((296-24-233)), Motor vehicles.

(4) Fire apparatus tailboards and steps shall have a non-skid rough surface.

(5) Exhaust systems shall be installed and maintained in proper condition, and shall be so designed as to minimize the exposure of the fire fighter to the exhaust gases and fumes.

(6) Spinner knobs shall not be attached to the steering handwheel of fire apparatus.

(7) The transmission shifting pattern of the apparatus shall be clearly stenciled or labeled and posted so it can be clearly read by the driver while operating the apparatus.

(8) The height of any apparatus, over seven feet in height from the ground to the top of the beacon or highest point of the apparatus, shall be clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

(9) All apparatus in excess of 10,000 pounds loaded weight, shall have the weight of the vehicle in pounds and tons clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

**Chapter 296-865 WAC**

**MOTOR VEHICLES**

**NEW SECTION**

**WAC 296-865-100 Scope.** This chapter applies to all motor vehicles and semitrucks used on public or private roadways.

**Definition:**

**Motor vehicle** means any vehicle, machine, tractor, trailer, or any combination of these that is driven by mechanical power and used on the roadways in the transportation of people or materials.

This section does not apply to:

• Powered industrial trucks (forklifts) covered by another chapter, Powered industrial trucks, chapter 296-863 WAC;

• Construction equipment covered by another chapter, Safety standards for construction work, chapter 296-155 WAC;

• Logging trucks covered by another chapter, Logging operations, chapter 296-54 WAC;

AND

• Agricultural equipment covered by another chapter, Safety standards for agriculture, chapter 296-307 WAC.

**NEW SECTION**

**WAC 296-865-200 All motor vehicles.**

**Your responsibility:**

To make sure all motor vehicle occupants are safe and equipment is safe to use.

Motor vehicle operation

WAC 296-865-20005.

Transportation of passengers

WAC 296-865-20010.

Motor vehicle equipment

WAC 296-865-20015.

**NEW SECTION**

**WAC 296-865-20005 Motor vehicle operation.**

**You must:**

• Allow only drivers who are qualified to operate a motor vehicle.

• Allow only drivers who have a current motor vehicle operator's license to operate motor vehicles on public roadways.

• Make sure employees follow any site-specific rules and posted speed limits when operating motor vehicles on roadways privately owned and maintained.

**NEW SECTION**

**WAC 296-865-20010 Transportation of passengers.**

**You must:**

• Transport all passengers safely.

• Make sure all employees use seat belts, if the vehicle is equipped with seat belts.

**Exemption:** This does not apply to emergency medical workers during the treatment of a patient in an ambulance.

**NEW SECTION**

**WAC 296-865-20015 Motor vehicle equipment.**

**You must:**

• Make sure all motor vehicle equipment meets the specification or requirements in Table 1.

**Table 1  
Motor Vehicle Equipment**

<b>Equipment</b>	<b>Must meet the following specifications or requirements:</b>
All equipment operated on public roadways	Must meet all of the state of Washington motor vehicles laws.
All parts and accessories	Must be safe to use.

<b>Equipment</b>	<b>Must meet the following specifications or requirements:</b>
Vehicles used to transport employees	Must be, at all times: – Well equipped; – Covered against the weather; <b>AND</b> – Maintained in good mechanical condition.
Seats	Must be: – Properly secured; <b>AND</b> – Available for every employee in the vehicle.
Tires	Must be safe: <b>Helpful Tool: Determining Tire Safety</b> This helpful tool can help you determine if your tires are worn beyond the point of safety. You can find a copy of this helpful tool in the resource section of this chapter.
Compartments or (cargo) screens	Must be: – Provided when transporting sharp tools that could present a hazard to employees in the vehicle; <b>AND</b> – Strong enough to retain them.
Exhaust systems	Must be: – Designed to eliminate the exposure of exhaust gases and fumes; <b>AND</b> – Installed and maintained in proper condition.
Fire extinguishers	Must be provided when the vehicle is: – At least 26,000 pounds (manufacturer's gross weight); <b>AND</b> – Only used in the state of Washington.

Transportation of loads  
WAC 296-865-30020.

NEW SECTION

**WAC 296-865-30005 Truck operation.**

**You must:**

- Make sure truck drivers operate equipment at a safe speed at all times for roadway conditions.
- Make sure truck drivers either:
  - Sound their horn before starting to back and intermittently during the entire backing operation;

**OR**

– Have a working automatic reverse signal alarm that is audible:

- Above the surrounding noise level;

**AND**

- No less than fifteen feet from the rear of the vehicle.

• Make sure, during the backing of trucks where vision is obstructed, a signal person is stationed at a point giving a clear view of the rear of the truck and the operator of the truck at all times.

NEW SECTION

**WAC 296-865-30010 Dump trucks.**

**You must:**

• Make sure dump trucks have a device installed on the frame that will hold the bed in the raised position when employees are working underneath.

NEW SECTION

**WAC 296-865-30015 Semitruck brakes.**

**You must:**

• Make sure semitrucks are equipped with brakes that will safely hold the maximum load on maximum grades.

**Note:** Trailers may use air brakes or other types of brake equipment approved by the Washington state patrol.

**You must:**

- Test brakes before descending a steep grade.
- Follow the requirements in Table 2, Truck Braking Requirements.

**Table 2  
Semitruck Braking Requirements**

When	You must
You park a truck on an incline	– Turn the wheels into the curb; <b>AND</b> – Have at least one "driver" wheel chocked on each side, independent of the braking system.
Using air brakes	Cut air into the trailer brake system at the time the trailer is attached to the truck.

NEW SECTION

**WAC 296-865-300 Trucks and trailers.**

**Your responsibility:**

To make sure all trucks and trailers are operated and maintained safely.

Truck operation

WAC 296-865-30005.

Dump trucks

WAC 296-865-30010.

Semitruck brakes

WAC 296-865-30015.

NEW SECTION

**WAC 296-865-30020 Transportation of loads.**

**You must:**

- Make sure all loads transported on trucks or trailers are:
  - Properly secured and distributed;

**AND**

– Limited to a safe operating load for the:

- Condition of the roadway;

**AND**

- Capacity of the bridges, trestles, and other structures.

**Note:** The commercial motor vehicles unit of the Washington state patrol determines how much weight can be carried on a vehicle by factoring manufacture limitations, number of axles, and other variables. For more information:

- See RCW 46.44.041, Maximum gross weights—Wheel-base and axle factors; or
- Contact the commercial motor vehicles unit of the Washington state patrol at Trucks@wsp.wa.gov.

NEW SECTION

**WAC 296-865-400 Definitions. Motor vehicle** means any vehicle, machine, tractor, trailer, or any combination of these that is driven by mechanical power and used on the roadways in the transportation of people or materials.

**Semitruck** means a truck and trailer combination designed and used primarily for carrying material and property.

**Trailer** means a nonmotorized vehicle designed to be towed by a motor vehicle.

**Truck** means any motor vehicle designed, used, or maintained primarily for the transportation of property.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-24-233                      Motor vehicle trucks and trailers.

**WSR 05-08-120**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed April 5, 2005, 4:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-21-074.

Title of Rule and Other Identifying Information: WAC 388-418-0007 When do I have to report changes in my circumstances?

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 10, 2005, at 10:00 a.m.

Date of Intended Adoption: No earlier than May 11, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 10, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 6, 2005, TTY (360) 664-6178 or (360) 664-6094.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 388-418-0007 explains how much time a person has to report a change of circumstances. This proposal amends WAC 388-418-0007 to reflect department policy regarding when clients must report a change in circumstances and to update a reference in the rule.

Reasons Supporting Proposal: The changes are necessary to reflect department policy on when changes must be reported to the department.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04-055, 74.04.057, 74.08.090.

Rule is necessary because of federal law, Title 7 C.F.R. 273.12.

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Camp, 1009 College S.E., Lacey, WA 98504, (360) 725-4616.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not have an economic impact on small businesses, they only affect DSHS clients by establishing how long clients have to report a change in circumstances for Basic Food, cash, and medical programs.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." This rule filing adopts federal reporting requirements for the food stamp program as set in the Code of Federal Regulations 7 C.F.R. § 273.12 and adopts reporting requirements for clients receiving cash or medical assistance.

March 30, 2005  
Andy Fernando, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-19-134, filed 9/21/04, effective 10/1/04)

**WAC 388-418-0007 When do I have to report changes in my circumstances?** (1) If your household has a change of circumstances you are **not required to report** under WAC 388-418-0005, you do not need to contact the department about this change. If you tell us about this change, we take action based on the new information. This includes:

- (a) Requesting additional information we need to determine your eligibility and benefits under WAC 388-490-0005;

PROPOSED

(b) Increasing your benefits when we have proof of a change that makes you eligible for more benefits; or

(c) Reducing or terminating your benefits based on the change.

(2) If you **are applying for** benefits and have had a change:

(a) After the date you applied but before your interview, you must report the change at the time of your interview; or

(b) After you have been interviewed, you must report changes required to be reported by someone receiving benefits as described under WAC 388-418-0005. You must report this change by the tenth day of the month following the month the change happened.

(3) If you receive cash assistance, medical, or Basic Food, you must report changes required under WAC 388-418-0005 by the tenth day of the month following the month the change happened.

(4) For a change in income, the date a change happened is the date you receive income based on this change. For example, the date of your first paycheck for a new job, or the date of a paycheck showing a change in your wage or salary.

(5) If we require you to complete a six-month report, you must complete the report to inform us of your circumstances as described under WAC (~~388-418-0010~~) 388-418-0011 in order to keep getting benefits.

(6) If you get TANF/SFA, and you learn that a child in your assistance unit (AU) will be gone from your home longer than ninety days, you must report this information to us within five calendar days from the date you learn this information. If you do not report this within five days, the child's caretaker is not eligible for cash benefits for one month. We continue to budget the ineligible person's countable income as described in WAC 388-450-0162 while determining the benefits for the remaining people in the AU.

(7) If you report changes late, you may get the wrong amount or wrong type of benefits. If you get more benefits than you are eligible for, you may have to pay them back as described in chapter 388-410 WAC.

10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 10, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 6, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This amendment will add a new activity, job preparation, to community services.

Reasons Supporting Proposal: The purpose of the new activity is to better prepare parents for a successful job search.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.280, 74.08.090.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ian Horlor, Lacey Government Center, (360) 725-4634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

March 31, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

PROPOSED

**WSR 05-08-121**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed April 5, 2005, 4:19 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-22-065.

Title of Rule and Other Identifying Information: WAC 388-310-1400 WorkFirst—Community service.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 10, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 11, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500

**AMENDATORY SECTION** (Amending WSR 00-06-062, filed 3/1/00, effective 3/1/00)

**WAC 388-310-1400 WorkFirst—Community service.** (1) **What is community service?**

Community service includes two types of activities for mandatory participants:

(a) Unpaid work (such as the work performed by volunteer workers) that you perform for a charitable nonprofit organization, federal, state, local or tribal government or district; or

(b) An activity approved by your case manager which benefits you, your family, your community or your tribe. These activities may include traditional activities that perpetuate tribal culture and customs.

(2) **What type of community service[s] activities benefit me, my family, my community or my tribe and might be included in my individual responsibility plan?**

The following types of community service activities benefit you, your family, your community or your tribe and might be included in your individual responsibility plan:

(a) Caring for a disabled family member;

(b) Caring for a child, if you are fifty-five years old or older and receiving TANF or SFA assistance for the child as a relative (instead of as the child's parent);

(c) Providing childcare for another WorkFirst participant who is doing community service;

(d) Actively participating in a drug or alcohol assessment or treatment program which is certified or contracted by the state under chapter 70.96A RCW;

(e) Participating in family violence counseling or drug or alcohol treatment that will help you become employable or keep your job (this is called "specialized services" in state law); ~~((and/or))~~

(f) Participating in the pregnancy to employment pathway; and/or

(g) Job preparation.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: C. H. Hank Balderrama, Olympia, Washington, (360) 902-0820; and Enforcement: Kelleen Foster, Olympia, Washington, (360) 902-0795.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This regulatory change affects prepaid inpatient health plans which are not small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Does not meet the definition of a significant rule under RCW 34.05.328.

March 30, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

### WSR 05-08-122

#### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed April 5, 2005, 4:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-05-085.

Title of Rule and Other Identifying Information: Amending WAC 388-865-0335 Consumer enrollment, and repealing WAC 388-865-0340 Consumer disenrollment.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 10, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 11, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaa@dsht.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 10, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 6, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules implement the state's Medicaid 1915(b) waiver under the Social Security Act and Medicaid state plan to modify consumer enrollment provisions and repeal the consumer disenrollment provision.

Reasons Supporting Proposal: Implementation of these rules is necessary to maintain compliance with the Medicaid 1915(b) waiver and state plan provisions. The rule establishes the process by which consumers may be enrolled for Medicaid sponsored mental health benefits and repeals the provision for consumers to disenroll from the local service provider of record.

Statutory Authority for Adoption: RCW 71.24.035.

Statute Being Implemented: RCW 71.24.035.

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

**WAC 388-865-0335 Consumer enrollment.** (1) DSHS enrolls a Medicaid recipient in a mental health prepaid inpatient health plan when the person resides in the contracted service area of the prepaid inpatient health plan. The assigned prepaid inpatient health plan is responsible to provide outpatient medically necessary state Medicaid plan approved services to Medicaid service recipients in the contracted service area and to assure inpatient medically necessary state Medicaid plan approved services are received;

(2) An enrolled Medicaid (~~(consumer)~~) service recipient who requests or receives medically necessary nonemergency community mental health rehabilitation services (~~(requests and receives))~~ may request and receive such service from the assigned mental health prepaid inpatient health plan through authorized providers only;

(3) An enrolled Medicaid (~~(consumer does not need to request disenrollment from the mental health division))~~ service recipient is automatically transferred from the assigned prepaid inpatient health plan when the recipient moves from the contracted service area of one mental health prepaid inpatient health plan to the contracted service area of another;

(4) Services to Medicaid recipients may be provided through alternative means if currently contracted authorized providers are not able to provide those services when:

(a) The services are state Medicaid plan approved services and are medically necessary for the Medicaid service recipient; and

(b) Services are or should be available to other Medicaid service recipients in the local mental health prepaid inpatient health plan; and

(c) The Medicaid service recipient has made reasonable attempts to utilize services through authorized providers; or

(d) The Medicaid service recipient has received a choice of providers and has made an informed decision to request medically necessary services through a provider outside the prepaid inpatient health plan provider network that has cultural or linguistic expertise or both needed to meet medical

necessity that are not sufficient within the provider network; or

(e) The Medicaid service recipient has utilized the pre-paid inpatient health plan grievance or appeal process and the state administrative hearing process, and a decision has been made in favor of the Medicaid service recipient that Medicaid plan approved services continue to be medically necessary.

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-865-0340 Consumer disenrollment.

### **WSR 05-08-123**

#### **PROPOSED RULES**

#### **DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Health and Rehabilitative Services Administration)

[Filed April 5, 2005, 4:21 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-122.

Title of Rule and Other Identifying Information: Adding new sections and amending other related rules as appropriate in chapter 388-865 WAC to include provisions for consumer peer support services.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 10, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 11, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 10, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 6, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules implement the state's Medicaid 1915(b) waiver under the Social Security Act and state plan amendment to establish a peer support modality for Community Mental Health Agency (CMHA) services.

Reasons Supporting Proposal: Implementation of these rules is necessary to maintain compliance with the Medicaid 1915(b) waiver and state plan amendment. The rule establishes standards for licensing CMHA peer support services and certifying peer counselors.

Statutory Authority for Adoption: RCW 71.24.035 (5)(c) and 71.24.037.

Statute Being Implemented: RCW 71.24.035 (5)(c) and 71.24.037.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Karie Castleberry, Olympia, Washington, (360) 902-0799; and Enforcement: Kelleen Foster, Olympia, Washington, (360) 902-0795.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Affected regional support networks are government entities and are not small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule does not meet the definition of a significant rule under RCW 34.05.328.

March 31, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

### NEW SECTION

**WAC 388-865-0107 Peer counselor certification.** The mental health division certifies consumers to provide peer support services.

(1) In order to be certified as a peer counselor, all applicants must meet the following requirements:

(a) Be a self-identified consumer of mental health services, as defined;

(b) Maintain registration as a counselor under chapter 18.19 RCW;

(c) Complete specialized training provided or contracted by the mental health division; and

(d) Successfully pass an examination administered by the mental health division or an authorized contractor.

(2) The training requirement specified in (2)(c) of this subsection is waived for consumers who were trained prior to October 1, 2004 by trainers approved by the mental health division, provided that all of the other requirements are met by January 31, 2005.

(3) A consumer whose request for certification is denied has the right to contest this decision by submitting a written request to the mental health division within twenty-eight calendar days of the date of notification:

(a) The request should include the consumer's name, address, and telephone number and a brief explanation of the issue and resolution being requested;

(b) The consumer also has the right to use the state administrative hearing process as described in chapter 388-02 WAC;

(c) A consumer who completes the administrative hearing process may request reconsideration in accordance with chapter 388-02 WAC but does not have recourse to review by the DSHS board of appeals.

AMENDATORY SECTION (Amending WSR 03-24-030, filed 11/24/03, effective 12/25/03)

**WAC 388-865-0150 Definitions.** "Adult" means a person on or after their eighteenth birthday. For persons eligible for the Medicaid program, adult means a person on or after his/her twenty-first birthday.

**"Certified peer counselor"** is defined as a consumer of mental health services who has met the registration, experience, and training requirements, has satisfactorily passed the examination, and has been issued a certificate by the mental health division as specified in WAC 388-865-0107.

**"Child"** means a person who has not reached his/her eighteenth birthday. For persons eligible for the Medicaid program, child means a person who has not reached his/her twenty-first birthday.

**"Clinical services"** means those direct age and culturally appropriate consumer services which either:

- (1) Assess a consumer's condition, abilities or problems;
- (2) Provide therapeutic interventions which are designed to ameliorate psychiatric symptoms and improve a consumer's functioning.

**"Consumer"** means a person who has applied for, is eligible for or who has received mental health services. For a child, under the age of thirteen, or for a child age thirteen or older whose parents or legal guardians are involved in the treatment plan, the definition of consumer includes parents or legal guardians.

**"Consultation"** means the clinical review and development of recommendations regarding the job responsibilities, activities, or decisions of, clinical staff, contracted employees, volunteers, or students by persons with appropriate knowledge and experience to make recommendations.

**"Cultural competence"** means a set of congruent behaviors, attitudes, and policies that come together in a system or agency and enable that system or agency to work effectively in cross-cultural situations. A culturally competent system of care acknowledges and incorporates at all levels the importance of language and culture, assessment of cross-cultural relations, knowledge and acceptance of dynamics of cultural differences, expansion of cultural knowledge and adaptation of services to meet culturally unique needs.

**"Ethnic minority"** or **"racial/ethnic groups"** means, for the purposes of this chapter, any of the following general population groups:

- (1) African American;
- (2) An American Indian or Alaskan native, which includes:
  - (a) A person who is a member or considered to be a member in a federally recognized tribe;
  - (b) A person determined eligible to be found Indian by the secretary of interior, and
  - (c) An Eskimo, Aleut, or other Alaskan native.
- (d) A Canadian Indian, meaning a person of a treaty tribe, Metis community, or nonstatus Indian community from Canada.
- (e) An unenrolled Indian meaning a person considered Indian by a federally or nonfederally recognized Indian tribe or off reservation Indian/Alaskan native community organization.

- (3) Asian/Pacific Islander; or
- (4) Hispanic.

**"Medical necessity"** or **"medically necessary"** - A term for describing a requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions in the recipient that endan-

ger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause or physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the person requesting service. For the purpose of this chapter "course of treatment" may include mere observation or, where appropriate, no treatment at all.

**"Mental health division"** means the mental health division of the Washington state department of social and health services (DSHS). DSHS has designated the mental health division as the state mental health authority to administer the state and Medicaid funded mental health program authorized by chapters 71.05, 71.24, and 71.34 RCW.

**"Mental health professional"** means:

(1) A psychiatrist, psychologist, psychiatric nurse or social worker as defined in chapters 71.05 and 71.34 RCW;

(2) A person with a masters degree or further advanced degree in counseling or one of the social sciences from an accredited college or university. Such person shall have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the supervision of a mental health professional;

(3) A person who meets the waiver criteria of RCW 71.24.260, which was granted prior to 1986((-));

(4) A person who had an approved waiver to perform the duties of a mental health profession that was requested by the regional support network and granted by the mental health division prior to July 1, 2001; or

(5) A person who has been granted a time-limited exception of the minimum requirements of a mental health professional by the mental health division consistent with WAC 388-865-265.

**"Mental health specialist"** means:

(1) A **"child mental health specialist"** is defined as a mental health professional with the following education and experience:

(a) A minimum of one hundred actual hours (not quarter or semester hours) of special training in child development and the treatment of children and youth with serious emotional disturbance and their families; and

(b) The equivalent of one year of full-time experience in the treatment of seriously emotionally disturbed children and youth and their families under the supervision of a child mental health specialist.

(2) A **"geriatric mental health specialist"** is defined as a mental health professional who has the following education and experience:

(a) A minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to the mental health problems and treatment of persons sixty years of age or older; and

(b) The equivalent of one year of full-time experience in the treatment of persons sixty years of age or older, under the supervision of a geriatric mental health specialist.

(3) An **"ethnic minority mental health specialist"** is defined as a mental health professional who has demonstrated cultural competence attained through major commitment, ongoing training, experience and/or specialization in

serving ethnic minorities, including evidence of one year of service specializing in serving the ethnic minority group under the supervision of an ethnic minority mental health specialist; and

(a) Evidence of support from the ethnic minority community attesting to the person's commitment to that community; or

(b) A minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to ethnic minority issues and treatment of ethnic minority consumers.

(4) A **"disability mental health specialist"** is defined as a mental health professional with special expertise in working with an identified disability group. For purposes of this chapter only, **"disabled"** means an individual with a disability other than a mental illness, including a developmental disability, serious physical handicap, or sensory impairment.

(a) If the consumer is deaf, the specialist must be a mental health professional with:

(i) Knowledge about the deaf culture and psychosocial problems faced by people who are deaf; and

(ii) Ability to communicate fluently in the preferred language system of the consumer.

(b) The specialist for consumers with developmental disabilities must be a mental health professional who:

(i) Has at least one year's experience working with people with developmental disabilities; or

(ii) Is a developmental disabilities professional as defined in RCW 71.05.020.

**"Older person"** means an adult who is sixty years of age or older.

**"Service recipient"** means for the purposes of a mental health prepaid health plan, a consumer eligible for the Title XIX Medicaid program.

**"Substantial hardship"** means that a consumer will not be billed for emergency involuntary treatment if he or she meets the eligibility standards of the psychiatric indigent inpatient program that is administered by the DSHS economic services administration.

**"Supervision"** means monitoring of the administrative, clinical, or clerical work performance of staff, students, volunteers, or contracted employees by persons with the authority to give direction and require change.

**"Underserved"** means consumers who are:

- (1) Minorities;
- (2) Children;
- (3) Older adults;
- (4) Disabled; or
- (5) Low-income persons.

**AMENDATORY SECTION** (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

**WAC 388-865-0230 Community support services.** The regional support network must develop and coordinate age and culturally competent community support services that are consistent with chapters 71.24, 71.05, and 71.34 RCW:

(1) Provide the following services directly, or contract with sufficient numbers and variety of licensed and/or certified service providers to ensure that persons eligible for

regional support network services have access to at least the following services:

(a) Emergency crisis intervention services;

(b) Case management services;

(c) Psychiatric treatment including medication supervision;

(d) Counseling and psychotherapy services;

(e) Day treatment services as defined in RCW 71.24.300(5) and 71.24.035(7); ~~((and))~~

(f) Consumer employment services as defined in RCW 71.24.035 (5)(e); and

(g) Peer support services.

(2) Conduct prescreening determinations for providing community support services for persons with mental illness who are being considered for placement in nursing homes (RCW 71.24.025(7) and 71.24.025(9)); and

(3) Complete screening for persons with mental illness who are being considered for admission to residential services funded by the regional support network (RCW 71.24.025 and 71.24.025(9)).

**AMENDATORY SECTION** (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

**WAC 388-865-0400 Community support service providers.** The mental health division licenses and certifies community support service providers. To gain and maintain licensure or certification, a provider must meet applicable local, state and federal statutes and regulations as well as the requirements of WAC 388-865-400 through 388-865-450 as applicable to services offered. The license or certificate lists service components the provider is authorized to provide to publicly funded consumers and must be prominently posted in the provider reception area. In addition, the provider must meet minimum standards of the specific service components for which licensure is being sought:

(1) Emergency crisis intervention services;

(2) Case management services;

(3) Psychiatric treatment, including medication supervision;

(4) Counseling and psychotherapy services;

(5) Day treatment services; ~~((and/or))~~

(6) Consumer employment services; and/or

(7) Peer support services.

**NEW SECTION**

**WAC 388-865-0453 Peer support services** (1) Peer support services are a wide range of scheduled activities to assist consumers in exercising control over their own lives and recovery process (e.g., promoting socialization, self advocacy, developing natural supports and maintenance of community living skills). Peer support services may include but are not limited to self-help support groups, telephone support lines, drop-in centers, and sharing of the peer counselor's own life experiences. Services must be limited to four hours per day per consumer.

(2) The community support service provider that is licensed to provide peer support services must assure that all general minimum standards for community support services are met.

(3) Services must be provided by a peer counselor who has been certified consistent with WAC 388-865-0107 and who discloses him/herself to be a consumer of mental health services.

(4) Services must be documented in the clinical record at least monthly, including objective progress toward goals established in the individual service plan.

### WSR 05-08-125

#### WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF PERSONNEL

[Filed April 6, 2005, 9:26 a.m.]

The Department of Personnel hereby withdraws the proposed new section, WAC 357-31-385. This section was proposed under WSR 05-01-247 filed on December 22, 2004.

Eva Santos  
Director

### WSR 05-08-126

#### PROPOSED RULES DEPARTMENT OF PERSONNEL

[Filed April 6, 2005, 9:30 a.m.]

#### Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 357-19-183 Must DSHS conduct background checks on all employees in covered positions and candidates under final consideration for a covered position?, 357-19-184 Besides the Department of Social and Health Services, may other employers conduct background checks on applicants or employees and what is the requirement to notify applicants or employees?, 357-19-185 What is a covered position for purposes of WAC 357-19-183?, 357-19-186 For purposes of WAC 357-19-183, what information is considered in a background check conducted by DSHS and what are the results of the background check used for?, 357-19-187 For purposes of WAC 357-19-183, must an employee and/or candidate authorize the secretary of the department of social and health services to conduct a background check and what happens if the employee or candidate doesn't provide authorization?, 357-19-188 What happens when a permanent DSHS employee is disqualified because of a background check?, 357-19-189 What are the responsibilities of the secretary of the DSHS in carrying out the requirement to conduct background checks?, and 357-19-191 May an applicant or candidate for a covered position who is denied employment due to a disqualifying background check request a review of the disqualification?

Hearing Location(s): LeeAnn Miller Conference Center, 4224 6th Avenue S.E., Building #1, Lacey, WA, on May 12, 2005, at 10:00 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACK-

ING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 6, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 6, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules address background checks for state employees.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding background checks [of] classified state employees. The proposed rules implement this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

A cost-benefit analysis is not required under RCW 34.05.328.

April 5, 2005

Eva Santos

Director

#### NEW SECTION

**WAC 357-19-183 Must DSHS conduct background checks on all employees in covered positions and candidates under final consideration for a covered position?** (1) The secretary of the Department of Social and Health Services (DSHS) must conduct background checks, which may include fingerprinting as authorized by statute, on all employees in covered positions and candidates under final consideration for a covered position.

(2) The requirement for background checks shall include the following:

(a) Any employee seeking a covered position because of a layoff, reallocation, transfer, promotion or demotion.

(b) Any applicant prior to appointment into a covered position, except when appointment is made on a conditional basis in accordance with agency procedures authorized by WAC 357-19-189(2).

(3) A background check will be conducted on the final preferred candidate prior to appointment.

#### NEW SECTION

**WAC 357-19-184 Besides the department of social and health services, may other employers conduct background checks on applicants or employees and what is the requirement to notify applicants or employees? (1)**

Employers may conduct background checks on applicants and/or employees if required by state or federal law, or if the employer identifies the need for a background check to verify that the applicant or employee satisfies the position requirements.

(2) Employers who conduct background checks must develop procedures regarding how and when background checks will be conducted. The procedures must include notification to applicants and/or employees if a background check is required.

#### NEW SECTION

**WAC 357-19-185 What is a covered position for purposes of WAC 357-19-183?** For purposes of WAC 357-19-183, a covered position is one in which a person will or may have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities.

#### NEW SECTION

**WAC 357-19-186 For purposes of WAC 357-19-183, what information is considered in a background check conducted by DSHS and what are the results of the background check used for? (1) The background check information considered by the secretary of the DSHS will include, but not be limited to:**

(a) Conviction records, pending charges, disciplinary board final decisions, findings of abuse, neglect, exploitation or abandonment, denial, suspension, revocation or provider license, restrictions to license, and/or DSHS contract termination.

(b) Evidence that substantiates or mitigates convictions, pending charges, and disciplinary board final decisions including, but not limited to:

(i) The employee or applicant's background check authorization and disclosure form;

(ii) The employee or applicant's age at the time of conviction, charge, or disciplinary board final decision;

(iii) The nature and severity of the conviction, charge, or disciplinary board final decision;

(iv) The length of time since the conviction, charge, or disciplinary board final decision;

(v) The nature and number of previous offenses;

(vi) Vulnerability of the child, vulnerable adult, or individual with mental illness or developmental disabilities to which the employee or applicant will or may have unsupervised access; and

(vii) The relationship between the potentially disqualifying event and the duties of the employee or applicant.

(c) Information contained in background checks must be used solely for the purpose of determining the character, suitability and competence of the candidate and/or employee. The information must not be disseminated further. Dissemination and use of such information is governed by the criminal records privacy act, chapter 10.97 RCW. Unlawful dissemination of information protected by the criminal records privacy act is a criminal offense and may result in prosecution and/or disciplinary action as provided in chapter 357-40 WAC.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 357-19-187 For purposes of WAC 357-19-183, must an employee and/or candidate authorize the secretary of the department of social and health services to conduct a background check and what happens if the employee or candidate doesn't provide authorization? An employee and/or candidate must authorize the secretary of the department of social and health services to conduct a background check which may include fingerprinting.**

Failure to authorize the secretary of the DSHS to conduct a background check disqualifies an employee, candidate, or applicant from consideration for any covered position including their current covered position.

#### NEW SECTION

**WAC 357-19-188 What happens when a permanent DSHS employee is disqualified because of a background check? (1) A permanent employee with a background check disqualification may be subject to any of the following actions:**

(a) Job restructuring;

(b) Job reassignment;

(c) Voluntary demotion;

(d) Voluntary resignation;

(e) Non-disciplinary separation in accordance with WAC 357-46-195; or

(f) Disciplinary action in accordance with WAC 357-40-010.

(2) An appointing authority may use the following interim measures while exploring the availability of actions (not to exceed 30 calendar days except in cases where there are investigations of pending charges):

(a) Voluntary use of accrued vacation, exchange, and/or compensatory time;

(b) Authorized leave without pay, if there is no paid leave available, or if the employee chooses not to use paid leave; and/or

(c) Reassignment to another work location.

(d) When considering the above actions, the agency will consider the least restrictive means necessary to prevent unsupervised access.

#### NEW SECTION

**WAC 357-19-189 What are the responsibilities of the secretary of the DSHS in carrying out the requirement to conduct background checks? In order to implement the requirements of WAC 357-19-183, the secretary of the DSHS must:**

(1) Notify employees and applicants that a background check is required for covered positions;

(2) Develop procedures specifying when employees and applicants may be hired on a conditional basis pending the results of a background check; and

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(3) Develop policies and procedures pertaining to background checks.

#### NEW SECTION

**WAC 357-19-191 May an applicant or candidate for a covered position who is denied employment due to a disqualifying background check request a review of the disqualification?** An applicant or candidate for a covered position who is denied employment due to a disqualifying background check may request review by the appointing authority.

**WSR 05-08-127**

**PROPOSED RULES**

**DEPARTMENT OF PERSONNEL**

[Filed April 6, 2005, 9:31 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 357-46-057 When is an employee considered to have a break in state service? and 357-46-058 Is an employee who is rehired following layoff considered to have had a break in service?

Hearing Location(s): LeeAnn Miller Conference Center, 4224 6th Avenue S.E., Building #1, Lacey, WA, on May 12, 2005, at 10:00 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 6, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 6, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules address when a state employee is considered to have a break in service.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding breaks in service for classified state employees. The proposed rules implement this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

A cost-benefit analysis is not required under RCW 34.05.328.

April 5, 2005

Eva Santos

Director

#### NEW SECTION

**WAC 357-46-057 When is an employee considered to have a break in state service?** An employee has a break in his/her continuous state service if the employee is separated, dismissed, or resigns from state service. A furlough for the purposes of temporary layoff as provided in WAC 357-46-063 is not considered a break in continuous state service.

#### NEW SECTION

**WAC 357-46-058 Is an employee who is rehired following layoff considered to have had a break in state service?** When an individual who was laid off in accordance with the provisions of WAC 357-46-010 is appointed to a position from a layoff list or the general government transition pool within two years of separation, the employee is not considered to have had a break in continuous state service.

Upon appointment, the employee is reinstated with the seniority and unbroken service the employee had at the time of layoff. For a general government employee, the time spent off the payroll due to layoff is treated like leave without pay and seniority and unbroken service dates must be adjusted in accordance with WAC 357-31-345 and WAC 357-46-055 respectively.

**WSR 05-08-128**

**PROPOSED RULES**

**DEPARTMENT OF PERSONNEL**

[Filed April 6, 2005, 9:32 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 357-01-173 Furlough, 357-46-063 May an employer temporarily layoff an employee?, 357-46-064 Are there any limits to temporary layoff?, 357-46-065 Under the provisions of temporary layoff, what happens if an employer has less than 20 hours per week of work for an employee to perform?, 357-46-066 What is the notice requirement to temporarily layoff an employee?, 357-46-067 What is an employee's status during temporary layoff?, and 357-46-068 At the conclusion of a temporary layoff, does an employee have the right to return to the position he/she held immediately prior to being temporarily laid off?

Hearing Location(s): LeeAnn Miller Conference Center, 4224 6th Avenue S.E., Building #1, Lacey, WA, on May 12, 2005, at 10:00 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 6, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 6, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules address temporary layoffs for state employees.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding layoff for classified state employees. The proposed rules implement this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

A cost-benefit analysis is not required under RCW 34.05.328.

April 5, 2005  
Eva Santos  
Director

#### NEW SECTION

**WAC 357-01-173 Furlough.** The temporary cessation of an employee's service in accordance with WAC 357-46-063.

#### NEW SECTION

**WAC 357-46-063 May an employer temporarily layoff an employee?** For any of the reasons specified in WAC 357-46-010, an employer may temporarily layoff an employee by:

- (1) Reducing the number of hours an employee is scheduled to work; or
- (2) Furloughing the employee.

#### NEW SECTION

**WAC 357-46-064 Are there any limits to temporary layoff?** Under the provisions of WAC 357-46-063, an employer may not:

- (1) Furlough an employee for more than 30 calendar days in a calendar year; or

- (2) Temporarily reduce an employee's regular work schedule to less than 20 hours a week for more than 60 calendar days in a calendar year.

#### NEW SECTION

**WAC 357-46-065 Under the provisions of temporary layoff, what happens if an employer has less than 20 hours per week of work for an employee to perform?** If an employer has less than twenty (20) hours per week of work for an employee to perform during a period of temporary layoff, the employer must notify the employee that he/she is being furloughed. The employer may then offer the available work hours to the employee as a nonpermanent appointment under the provisions of WAC 357-19-360 or temporary appointment under the provisions of WAC 357-19-435.

#### NEW SECTION

**WAC 357-46-066 What is the notice requirement to temporarily layoff an employee?** An employer must provide the employee seven (7) calendar days' notice of temporary layoff. The temporary layoff notice must inform the employee of his/her status during temporary layoff and the expected duration of the temporary layoff.

#### NEW SECTION

**WAC 357-46-067 What is an employee's status during temporary layoff?** (1) Hours not worked due to temporary layoff are not treated as leave without pay, therefore:

- (a) An employee's anniversary date, seniority, or unbroken service date is not adjusted for periods of time spent on temporary layoff; and

- (b) An employee continues to accrue vacation and sick leave in accordance with chapter 357-31 WAC.

- (2) An employees who is temporarily laid off is not entitled to:

- (a) Layoff rights, including the ability to bump any other position or be placed on the employer's internal or statewide layoff list;

- (b) Payment for his/her vacation leave balance; and

- (c) Use of his/her accrued vacation leave for hours the employee is not scheduled to work if the temporary layoff was due to lack of funds.

- (3) If the temporary layoff was not due to lack of funds, an employer may allow an employee to use accrued vacation leave in lieu of temporary layoff.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 357-46-068 At the conclusion of a temporary layoff, does an employee have the right to return to the position he/she held immediately prior to being temporarily laid off?** At the conclusion of the temporary layoff, the employee has the right to resume the position he/she held immediately prior to being temporarily laid off. The

PROPOSED

employee returns with the same status and percentage of appointment he/she held prior to the layoff.

**WSR 05-08-129**

**PROPOSED RULES**

**DEPARTMENT OF PERSONNEL**

[Filed April 6, 2005, 9:33 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 357-46-053 How is a higher education employee's seniority date determined?

Hearing Location(s): LeeAnn Miller Conference Center, 4224 6th Avenue S.E., Building #1, Lacey, WA, on May 12, 2005, at 10:00 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 6, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 6, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule addresses seniority for higher education employees.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding seniority for higher education employees. The proposed rule implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

A cost-benefit analysis is not required under RCW 34.05.328.

April 5, 2005

Eva Santos  
Director

**NEW SECTION**

**WAC 357-46-053 How is a higher education employee's seniority date determined?** For higher education employees, the seniority date is determined in accor-

dance with the employer's layoff procedure. The employer's layoff procedure must specify a uniform method for determining the seniority date for employees of the higher education institution or related board who are covered by the civil service rules. Employees on military leave as provided in WAC 357-31-370 must not have their seniority date adjusted for the time spent on military leave without pay.

**WSR 05-08-130**

**PROPOSED RULES**

**DEPARTMENT OF PERSONNEL**

[Filed April 6, 2005, 9:34 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 357-19-300 What is a seasonal appointment?, 357-19-301 Does chapter 357-16 WAC apply to seasonal appointments?, 357-19-302 Do employees appointed to seasonal appointments serve a probationary period and gain permanent status?, 357-19-303 What provisions govern the layoff of employees from seasonal appointments?, and 357-19-375 Can an employee receive consecutive general government nonpermanent appointments?

Hearing Location(s): LeeAnn Miller Conference Center, 4224 6th Avenue S.E., Building #1, Lacey, WA, on May 12, 2005, at 10:00 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 6, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 6, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules address seasonal appointments.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding seasonal appointments for classified state employees. The proposed rules implement this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

A cost-benefit analysis is not required under RCW 34.05.328.

April 5, 2005  
Eva Santos  
Director

#### NEW SECTION

**WAC 357-19-300 What is a seasonal appointment?** A seasonal appointment is an appointment made by general government employers that is cyclical in nature, recurs at approximately the same time each year, and last for a minimum of five (5) months but less than twelve (12) months in duration during any consecutive twelve-month period.

#### NEW SECTION

**WAC 357-19-301 Does chapter 357-16 WAC apply to seasonal appointments?** Seasonal appointments must be made accordance with the rules on recruitment, assessment, and certification as provided in chapter 357-16 WAC.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 357-19-302 Do employees appointed to seasonal appointments serve a probationary period and gain permanent status?** General government employees who do not have permanent status and receive a seasonal appointment must complete a probationary period. The probationary period may be completed in consecutive seasonal appointments with the same employer. Upon completion of the probationary period, employees in seasonal appointments gain permanent status.

#### NEW SECTION

**WAC 357-19-303 What provisions govern the layoff of employees from seasonal appointments?** (1) Employers may take actions to layoff employees in seasonal appointments in accordance with WAC 357-46-005 and 357-46-010.

(2) Employers who use seasonal appointments must address the following within their layoff procedures:

- (a) Definition of seasonal layoff units.
- (b) Description of separate internal layoff lists for seasonal positions.
- (c) Notification of layoff for employees in seasonal appointments.
  - (i) Probationary employees in seasonal appointments must receive at least one calendar day's notice.
  - (ii) Permanent employees in seasonal appointments must receive at least 2 working days' notice.
- (d) Layoff options in accordance with WAC 357-46-035 within the seasonal layoff unit for seasonal employees being laid off.

**AMENDATORY SECTION** (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

**WAC 357-19-375 Can an employee receive consecutive general government nonpermanent appointments?** Individuals may receive consecutive nonpermanent appointments as long as ((any)):

(1) Any subsequent appointment is to a different position; or

(2) The multiple appointments are of a seasonal nature but don't meet the definition of seasonal appointment because each appointment last less than 5 months in duration during any consecutive 12-month period.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 05-08-131**

**PROPOSED RULES**

**DEPARTMENT OF PERSONNEL**

[Filed April 6, 2005, 9:35 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 357-16-110 Do veterans receive any preference in the hiring process?, 357-46-060 Does a veteran receive any preference in layoff?, 357-19-025 When must an employee serve a trial service period?, 357-19-080 What happens if a permanent employee accepts a nonpermanent appointment during a trial service period?, 357-19-388 What notices must employees and their employers provide each other when an employee accepts a nonpermanent appointment?, 357-28-070 Can an employer adjust the timing and amount of increment increases?, 357-46-110 Must employees who are appointed to a position through the layoff process serve any type of review period?, 357-28-165 When an exempt position is converted to classified, how is the base salary of the incumbent determined?, 357-19-475 To be eligible for reemployment following disability separation under WAC 357-19-465 what must the employee do?, 357-19-115 To which employer and position would an employee revert?, 357-46-095 Who is eligible for the general government transition pool program?, and 357-28-300 Is there a limit to the amount an employee can receive for performance recognition pay?

Hearing Location(s): LeeAnn Miller Conference Center, 4224 6th Avenue S.E., Building #1, Lacey, WA, on May 12, 2005, at 10:00 a.m.

Date of Intended Adoption: May 12, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 6, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 6, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule

addresses veteran's preference, trial service periods, nonpermanent appointments, increment increases, review periods, salary when an exempt position is converted to classified, reemployment following a disability separation, reversion, general government transition pool and performance recognition pay.

Statutory Authority for Adoption: Chapter 41.06 RCW.  
Statute Being Implemented: RCW 41.06.150.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The proposed modifications are housekeeping in nature.

Name of Proponent: Department of Personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

A cost-benefit analysis is not required under RCW 34.05.328.

April 5, 2005  
Eva Santos  
Director

**AMENDATORY SECTION** (Amending WSR 05-01-200, filed 12/21/04, effective 7/1/05)

**WAC 357-16-110 Do veterans receive any preference in the hiring process?** (1) If an employer is administering an examination prior to certification, the employer must grant preference to veterans in accordance with the veterans scoring criteria provisions of RCW 41.04.010.

(2) If no examination is administered prior to certification, the employer must refer (~~(eligible veterans or eligible veterans' widows or widowers)~~) the following individuals to the employing official under the provisions of RCW 73.16.010 as long as the ((veteran or veteran's widow or widower)) individual meets the competencies and other position requirements(-):

(a) Eligible veterans;

(b) Surviving spouses of eligible veterans; or

(c) Spouses of honorably discharged veterans who have a service connected permanent and total disability.

**AMENDATORY SECTION** (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/05)

**WAC 357-46-060 Does a veteran receive any preference in layoff?** (1) An eligible veteran receives a preference by having his/her seniority increased. This is done by adding the eligible veteran's total active military service, not to exceed five (5) years, to his/her unbroken service date.

(2) An eligible veteran is defined as any permanent employee who:

(a) Has one or more years in active military service in any branch of the armed forces of the United States or who

has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government; and

(b) Has received, upon termination of such service:

(i) An honorable discharge;

(ii) A discharge for physical reasons with an honorable record; or

(iii) A release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge is given.

(3) "An eligible veteran" does not include any person who as a veteran voluntarily retired with twenty (20) or more years' active military service and has military retirement pay in excess of five hundred dollars per month.

(4) The (~~(unmarried widow/widower)~~) surviving spouse of an eligible veteran is entitled to veteran's seniority preference for up to five (5) years as outlined in subsection (1) and (2) of this section regardless of whether the veteran had at least one year of active military service.

**AMENDATORY SECTION** (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

**WAC 357-19-025 When must an employee serve a trial service period?** A permanent employee must serve a trial service period upon promotional appointment to a position in a (~~(new)~~) class in which the employee has not held permanent status.

**AMENDATORY SECTION** (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

**WAC 357-19-080 What happens if a permanent employee accepts a nonpermanent appointment during a trial service period?** (~~((+))~~) If a permanent employee accepts a nonpermanent appointment during a trial service period and the employer has agreed to return the employee to a position at the conclusion of the nonpermanent appointment, the employer may: (~~((Suspend the trial service period and allow the employee to resume the trial service period when the employee returns from the nonpermanent appointment;))~~)

(1) Suspend the trial service period and allow the employee to resume the trial service period when the employee returns from the nonpermanent appointment;

(2) Require the trial service period to start over when the employee returns from the nonpermanent appointment; or

(3) Count the time worked in the nonpermanent appointment towards the trial service period.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION** (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

**WAC 357-19-388 What notices must employees and their employers provide each other when an employee accepts a nonpermanent appointment?** Employees who accept a nonpermanent appointment must give their current employers at least fourteen (14) calendar days' notice before moving to a nonpermanent appointment. The current agency

and employee may agree to waive or shorten the notice period.

When the current employer receives the employee's notice, the employee's permanent agency must notify the employee in writing of his/her return right ((to the agency)) at the conclusion of the nonpermanent appointment.

For purposes of this rule, written notice may be provided using alternative methods such as e-mail, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC 357-04-105.

**AMENDATORY SECTION** (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

**WAC 357-28-070 Can an employer adjust the timing and amount of increment increases?** Employers may adjust the timing and/or amount of regularly scheduled increment increases stated in WAC 357-28-060 by resetting the periodic increment date based on the nature of the work or training requirements. This may apply to all employees, employees in specific positions, all employees allocated to a class, or all employees in an organizational unit. This may happen as long as employees receive minimally an increase of two steps annually until their

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**AMENDATORY SECTION** (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/05)

**WAC 357-46-110 Must employees who are appointed to a position through the layoff process serve any type of review period?** An employer may require a six-month transition review period when an employee is appointed to a position as a layoff option or is appointed from the internal or statewide layoff list or the general government transition pool. (See WAC 357-46-115 for exceptions to this rule.)

**AMENDATORY SECTION** (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

**WAC 357-28-165 When an exempt position is converted to classified, how is the base salary of the incumbent determined?** If an exempt position is converted to classified status under the provisions of WAC 357-19-((150)) 225, the base salary of the incumbent must not be less than the exempt salary at the time of conversion. If the employee's salary at the time of conversion exceeds the maximum of the salary range, the employee's base salary must be set outside the range in accordance with WAC 357-28-040.

**AMENDATORY SECTION** (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

**WAC 357-19-475 To be eligible for reemployment following disability separation under WAC 357-19-465 what must the employee do?** To be eligible for reemployment the former employee must:

(1) Complete and submit an application(s) for reemployment to the employer;

(2) Meet the competencies and other requirements of the class and/or position for which the former employee is applying; and

(3) Submit to the ((appointing authority)) employer a statement from a licensed health care provider affirming the former employee's fitness to return to work and specifying any work restrictions due to a physical, sensory, or mental disability of the individual.

(a) If the licensed health care provider's statement provides inadequate information, the former employee will obtain the necessary clarification from the licensed health care provider or provide a release to the personnel officer/appointing authority to communicate directly with the licensed health care provider regarding the disabling condition as it relates to employment. Such information will be obtained at the former employee's expense.

(b) The employer may require that the former employee be examined by a licensed health care provider of the employer's choice at the employer's expense.

**AMENDATORY SECTION** (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

**WAC 357-19-115 To which employer and position would an employee revert?** A((n)) permanent employee who does not satisfactorily complete the trial service period or a Washington management service (WMS) review period has reversion rights with the current employer at the time of reversion. An employee has the right to revert to a position, if available, in accordance with the following:

(1) For employees reverting from trial service following a promotion, transfer or elevation, the employer must revert the employee to a vacant position, or a position filled by a nonpermanent appointee as defined in WAC 357-01-210, for which the employee satisfies competencies and other position requirements and which is:

(a) Allocated to the class the employee last held permanent status in; or

(b) If no positions are available, allocated to a class which has the same or lower salary range maximum.

(2) For employees reverting from trial service following a voluntary demotion, the employer must revert the employee to a vacant position, or a position filled by a nonpermanent appointee as defined in WAC 357-01-210, for which the employee satisfies the competencies and other position requirements and which is allocated to a class which has the same or lower salary range maximum as the class from which the employee is reverting.

**AMENDATORY SECTION** (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/05)

**WAC 357-46-095 Who is eligible for the general government transition pool program?** The following individuals are eligible to participate in the general government transition pool program:

(1) All general government permanent employees separated by layoff or notified by their employer that they are at risk of layoff;

(2) Employees who are eligible to participate in the return-to-work initiative program in accordance with chapter 357-19 WAC;

(3) Permanent Washington management service employees who accept a position in Washington general service and are being voluntarily or involuntarily reverted during the trial service period;

(4) Former permanent classified general government employees who have submitted a written request for reemployment within two (2) years of disability separation and who have met the reemployment requirements of WAC 357-19-475; and

(5) General government employee business unit members whose contract has expired or been terminated.

(6) Permanent Washington management service employees who accept acting appointments and who do not return on the agreed upon date in accordance with WAC 357-58-275.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

**WAC 357-28-300** Is there a limit to the amount an employee can receive for performance recognition pay? Over an annual period, ((P))performance recognition pay may not exceed fifteen percent of an employee's annual base salary unless approved by the director.

**WSR 05-08-142**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed April 6, 2005, 11:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-05-050.

Title of Rule and Other Identifying Information: WAC 16-303-020 Schedule of charges—Billing policies and procedures, 16-303-200 Seed program testing fees, 16-303-210 Fees for special seed tests, 16-303-250 Miscellaneous charges for seed services, 16-303-310 Organization for economic cooperation and development scheme for varietal certification (O.E.C.D.) fees, and 16-303-320 Certification fees for seed certified by the department.

Hearing Location(s): Washington State Department of Agriculture, 21 North First Avenue, Suite 238 B Conference Room, Yakima, WA 98902, on May 11, 2005, at 11:00 a.m.

Date of Intended Adoption: May 25, 2005.

Submit Written Comments to: George Huffman, P.O. Box 42560, Olympia, WA 98504-2560, e-mail ghuffman@agr.wa.gov, fax (360) 902-2085, by 5 p.m. on May 11, 2005.

Assistance for Persons with Disabilities: Contact the agency receptionist by calling TTY (360) 902-1996 or (360) 902-1976.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend chapter 16-303 WAC so the fees charged for certain seed program activities reflect current

seed industry production practices. The anticipated effects of these proposed changes will be a fee structure that will ensure that the program recovers the full cost of services provided.

The changes to existing rules include:

- Increases to certain fees beyond the Office of Financial Management fiscal growth rate factor to cover the cost of providing seed certification services;
- Establish a new fee for services currently provided for free;
- Modify certification fees to create an equitable fee structure based upon crop yields; and
- Correct typographical, spelling and similar errors.

Reasons Supporting Proposal: The proposed modifications are necessary to ensure the WSDA seed program collects sufficient revenue for certification services to cover the cost of providing said services. In addition these proposals modify certain fees to better align them with the value of the service provided and bring equitability in the fee structure so commodity groups pay the same rate for certification services.

Statutory Authority for Adoption: Section 309(2), chapter 25, Laws of 2003 1st sp.s.; RCW 15.49.310, 15.49.370(3), and chapter 34.05 RCW.

Statute Being Implemented: RCW 15.49.370(3).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington State Department of Agriculture, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Victor Shaul, Operations Manager, Yakima, (509) 225-2682; and Enforcement: Fawad Shah, Program Manager, Yakima, (509) 225-2636.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department surveyed the one hundred seven entities affected by the proposed fee amendments. The survey was very simple and straightforward. It simply asked if the respondent supported the department's proposal or not. Forty entities responded to the survey (37.4%). Thirty-four respondents (87.2%) supported the proposal. Five respondents (12.8%) opposed the proposal. One respondent reported that he was not affected by the proposal because he was no longer in the seed business. Based upon the survey responses received, the department has concluded that the proposed seed program amendments have strong industry support and do not impose a "more than minor impact" upon the industry. Therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Department of Agriculture is not a listed agency in RCW 34.05.328 (5)(a)(i).

April 6, 2005

Robert W. Gore

Assistant Director

PROPOSED

**AMENDATORY SECTION** (Amending WSR 01-01-015, filed 12/6/00, effective 1/6/01)

**WAC 16-303-020 Schedule of charges—Billing policies and procedures.** (1) Accounts.

(a) All billable services provided for under chapter 15.49 RCW are due and payable upon billing by the department. For the convenience of established accounts and in accord with good business practices, the department provides a monthly billing service. Accounts not paid in full within thirty days of billing are considered delinquent.

(b) On all debts due and payable after July 28, 1991, all delinquent accounts are assessed a late charge equal to one and one-half percent per month, or portion of a month, on the unpaid balance.

(c) Except for established accounts where there is a reasonable expectation of additional charges during a calendar month, the minimum billable amount through the monthly billing system is twenty dollars. All billable services of less

than twenty dollars are due and payable on the date that service is rendered.

(d) No person with an account ninety days or more in arrears may receive service except on the basis of payment in full at the time service is rendered. Accounts in arrears may be subject to legal action for collection and are not restored to monthly billing status until all past due amounts are paid-in-full.

(e) Accounts that become ninety or more days in arrears twice within a five-year period may be subject to a permanent requirement for payment in full at the time service is provided.

(2) Unless otherwise provided for in rule, requests for refund fees or assessments must be submitted to the department by June 30 of the year following payment of the fee or assessment.

(3) Fees for services not listed in rule are set on the basis of the actual cost to the department of agriculture, or the most appropriate fee established by rule.

**AMENDATORY SECTION** (Amending WSR 03-18-071, filed 8/29/03, effective 9/29/03)

**WAC 16-303-200 Seed program testing fees.** Seed testing fees are as follows:

(1)

Category	Crop kind	PURITY	GERM/1	TZ	Additional Crops in each Category/2
1	Agricultural Grasses	37.00	22.60	41.83	Alkaligrass, Bermudagrass, Canarygrass, Foxtail, Switchgrass, Timothy, Zoysia
2	Alfalfa & Clover	28.78	24.66	41.83	Alfalfa, Black Medic, Clover, Lupine, Milkvetch, Sainfoin, Trefoil
3	Beans	26.72	24.66	41.83	Beans
4	Beets	39.06	43.16	41.83	Beets, Swiss chard, spinach
5	Bentgrass, redtop	65.78	34.94	41.83	Bentgrass, redtop
6	Bluegrass	45.22	30.82	41.83	Bluegrass, all types
7	Brassica sp.	69.88	34.94	41.83	Brassica Species
8	Brome	47.28	24.66	41.83	<b>Brome:</b> Mountain, Smooth, Meadow
9	Fescue	37.00	24.66	41.83	<b>Fescue:</b> Tall and Meadow
10	Fescue, all others	45.22	24.66	41.83	<b>Fescue:</b> Arizona, Blue, Blue Hard, chewings, creeping, Hard, Idaho, Red, Sheep
11	Flax	28.78	24.66	41.83	Lewis flax
12	Orchardgrass	51.38	26.72	41.83	Orchardgrass
13	Peas <u>and other large seeded legumes</u>	28.78	24.66	41.83	Peas, ( <del>other large seeded legumes</del> ) <u>Chickpeas, Lentil</u>
14	Primrose	28.78	24.66	41.83	Primrose
15	Ryegrass	45.22	22.60	41.83	Ryegrass, (Perennial or Annual)
16	Small burnet	28.78	24.66	41.83	Small burnet
17	Sudangrass	28.78	24.66	41.83	Sudangrass
18	Vegetables	28.78	24.66	45.00	<b>Vegetables:</b> Asparagus, ( <del>Cabbage</del> ;) Cantaloupe, Carrot, Celery, ( <del>Chard</del> ;) Corn, Coriander, Cucumber, Dill, Eggplant, Endive, ( <del>Kale</del> ;) Leek, Lettuce, Okra, Onion, Parsley, Parsnip, Pepper, Pumpkin, Radish, Squash, Tomato, ( <del>Turnip</del> ;) Watermelon

PROPOSED

PROPOSED

Category	Crop kind	PURITY	GERM/1	TZ	Additional Crops in each Category/2
19	Grains and Pulses	28.78	24.66	41.83	Wheat, Triticale, Sunflower, Sorghum, Safflower, Rye, Rice, Millet, ( <del>Lentils</del> ), Buckwheat, Barley, Oats, ( <del>Chickpeas</del> ), Vetch
20	Wheatgrass, Wildrye, other native sp.	78.12	30.82	41.83	<b>Wheatgrass:</b> Beardless, Bluebunch, Crested, Intermediate, Pubescent, R/S, Slender, Siberian, Tall, Thickspike, Western Wildrye <b>Other Native Species:</b> Echinacea, Green needlegrass, Indian ricegrass, Junegrass, Little bluestem, Needle and Thread, Squirreltail, Kochia, Penstemon, Oatgrass, Prairie sandreed, Sand dropseed, Sand Lovegrass, Sideoats grama

/1 Standard 400 seed germination test.

(2) Crops not listed in the above table will be charged by the category that they fit into.

**AMENDATORY SECTION** (Amending WSR 03-18-071, filed 8/29/03, effective 9/29/03)

**WAC 16-303-210 Fees for special seed tests.**

Test	Fee	Additional Information
(1) All states noxious weed examination	\$ 33.38	
(2) <b>Dormant Seed Test</b>	\$ 41.83	
<del>((3))</del> (2) (a) For crops requiring a 400 seed TZ as required in the AOSA rules. This fee also applies to paired tests when required by AOSA rules	\$ 83.66	
<del>((4))</del> (3) Brassica seed chemical identification	\$ 20.94	
<del>((5))</del> (4) Cold (vigor) test for wheat	\$ 65.00	
<del>((6))</del> (5) <b>Crop or weed exam</b>		Standard noxious amount from AOSA rules
Turf-type and other small seeded grasses	\$ 38.00	Kentucky bluegrass, timothy, alkaligrass, fine-leaved fescues
Small seeded legumes and medium seeded crops	\$ 44.00	Brassicas, ryegrass, tall fescue
Wheatgrass and native species	\$ 50.00	
Grains and pulses	\$ 22.00	
<del>((7))</del> (6) Fescue seed ammonia test	\$ 30.82	
<del>((8))</del> (7) Fluorescence test (400 seed test)	\$ 26.72	
<del>((9))</del> (8) Miscellaneous services, samples requiring extra time, field run samples, etc.	\$ 30.00/hour	
<del>((10))</del> (9) Pest and disease (phyto exam) or soil exam	\$ 34.94	
<del>((11))</del> (10) Quarantine tests on seed		
Bluegrass and Bentgrass	\$ 18.04/5 grams	
Other grasses	\$ 18.04/10 grams	
<del>((12))</del> (11) Rules test—Canadian		
Alfalfa, clover, peas, lentils	PURITY \$ 32.37	GERMINATION \$ 24.66
Kentucky bluegrass	\$ 49.34	\$ 30.82

PROPOSED

Test	Fee	Additional Information
Bentgrass	\$ 72.47	\$ 34.94
<del>((13))</del> (12) Rules test—I.S.T.A.	PURITY	GERMINATION
Alfalfa, clover, peas, lentils	\$ 32.37	\$ 30.82
Kentucky bluegrass	\$ 49.34	\$ 30.82
<del>((14))</del> (13) Moisture test	\$ 30.00	
<del>((15))</del> (14) Seed Count	\$ 21.84	
<del>((16) Outstanding)</del> (15) Out-sourcing charge	\$ 15.00	
<del>((17))</del> (16) Sod seed analysis	Bluegrass \$ 75.00 Fescue \$ 52.00 Ryegrass \$ 42.00	
<del>((18))</del> (17) Sodium Hydroxide test for presence of red and/or white wheat	\$ 20.54	
	<del>((18.04))</del>	Reported on seed analysis certificate))
<del>((19))</del> (18) Undesirable grass species test (includes an all states noxious test) examination (UGS test)	\$ 70.37	

**AMENDATORY SECTION** (Amending WSR 03-18-071, filed 8/29/03, effective 9/29/03)

**WAC 16-303-250 Miscellaneous charges for seed services.** Fees for miscellaneous department seed services are as follows:

Service	Fee
Rush samples (including phone or FAX report if requested at time sample is submitted)	\$ 15.00
High priority sample - purity result completed before the end of the next business day. (Special circumstances only. Call ahead for availability.)	\$ 150.00
Phone reports on test result, per call	\$ 7.18
Preliminary report on germination	\$ 20.00
Additional mailing of report	\$ 5.12 each destination
Additional copies of reports	\$ 5.12 minimum fee
Revised reports	\$ 10.26 minimum (hourly fee when applicable)
Fee for special shipping and handling service, for example Federal Express, Air Parcel or air freight	\$ 3.70 plus exact shipping cost
Fee for facsimile transmission of documents	\$ <del>((5.39))</del> 1.00 per document
Mileage - additional or special requested trips	As established by the Washington State Office of Financial Management

Service	Fee	Service
Stand-by time - or travel time	\$ 30.00/hour	Travel time to be charged when special trip is requested.
Sample envelopes		Customer will be charged the exact cost of the envelopes.

**AMENDATORY SECTION** (Amending WSR 03-18-071, filed 8/29/03, effective 9/29/03)

**WAC 16-303-310 Organization for economic cooperation and development scheme for varietal certification (O.E.C.D.) fees.** In addition to fees required by applicable Washington certification rules, the following fees shall apply to all seed tagged O.E.C.D. and is payable by the person requesting O.E.C.D. certificate. The certifying agency may require fees paid in advance:

Service	Fee	Additional Information
O.E.C.D. certificate	\$ 15.41 each	
O.E.C.D. grow out test	\$ 65.72 each entry	No charge for control entry
O.E.C.D. assessment	cost to program	
O.E.C.D. tagging fee	\$ 0.84/cwt.	All grasses <u>except tall fescue</u>
	\$ 0.51/cwt.	Tall fescue
	\$ 0.53/cwt.	all other crops

**AMENDATORY SECTION** (Amending WSR 03-18-071, filed 8/29/03, effective 9/29/03)

**WAC 16-303-320 Certification fees for seed certified by the department.** (1) Fees apply to both new and renewal applications.

The seed processor is responsible for seed certification fees including sampling, testing, production and final certification fees, and may accept responsibility for any other addi-

tional fees associated with certification. Fees for services such as O.E.C.D. and sod quality, etc., are in addition to the fees listed in this section.

PROPOSED

Seed	Applica-tion Fee 1/	Seedling field inspection fee	Seedling producing or field inspection Fee 2/	Late Application Penalty Fee	Reinspection Fee (other than isolation)	Production Fee (includes tagging) 7/	Seed shipped Out-of-State (uncleaned)
Alfalfa, Red clover, White clover and Trefoil	\$ ((23-12)) 30.00 per variety per grower	\$ 50.00/field	\$ 1.85/acre	\$ 41.00	\$ 53.44 ea. field	\$ 0.53/cwt. 5/	\$ 0.20/cwt.
Bean	\$ ((23-12)) 30.00 per variety per grower	N/A	\$ 1.85/acre 3/ (one inspection) \$ 3.70/acre 4/ (two inspections)	\$ 41.00	\$ 53.44 ea. field	\$ 0.53/cwt.	\$ 0.20/cwt.
Turnip, Ruta-baga	\$ ((23-12)) 30.00 per field	N/A	\$ 3.70/acre (two inspections)	\$ 41.00	\$ 53.44 each field	\$ 0.53/cwt.	\$ 0.20
Perennial Grasses 6/	\$ ((23-12)) 30.00 per field	\$ 50.00/field	\$ ((41-00)) 50.00 per field	\$ 41.00	\$ 53.44 each field	Option A \$ 0.84/cwt. for all grass except tall fescue \$ 0.51/cwt. tall fescue Option B \$ 1.17/cwt. (min. \$ 11.66)	\$ 0.31
Corn	\$ ((23-12)) 30.00 for each separate combination/ or isolation	N/A	\$ 50.00 first acre \$ 10.99 ea. additional acre except hybrid corn \$ 4.85 ea. additional acre	---	---	---	---
Annual grasses	\$ ((23-12)) 30.00 per field	N/A	\$ 1.85/acre	\$ 41.00 per field	---	\$ 0.42/cwt.	\$ 0.20
Rapeseed	\$ ((23-12)) 30.00 per variety per grower	N/A	\$ 1.85/acre (one inspection)	\$ 41.00 per grower	\$ 53.44 ea. field	\$ 0.53/cwt.	\$ 0.20

- 1/ Seed certification application due dates can be found in WAC 16-302-050.
- 2/ Seedling producing or field inspection fees are refundable if the acreage is withdrawn before the inspection is completed. In the case of bean seed, fees are required of seedling fields to be harvested for certification the year of planting.
- 3/ One inspection is required for Great Northern Red Mexican, pinto, pink, and small white bean.
- 4/ Includes windrow inspection which is required for certification of snap beans, kidney beans, and eligibility for shipment into the state of Idaho.
- 5/ Production fees are billed at completion of laboratory analysis tests. If no seed is tagged, \$ 0.10 of the \$ 0.53 per cwt. production fee is refundable.
- 6/ Option A: Inspection and final certification fees are based on pounds sampled and billed upon completion of required laboratory tests.  
Option B: Inspection and final certification fees are based on pounds tagged after required laboratory tests are completed. Those dealers requesting sampling and tagging privileges and/or participation in Option B must sign a memorandum of agreement that shall expire on June 30 of each year. The memorandum may be terminated by the director if the conditioner violates certification standards or requirements of memorandum.

- 7/ Does not include shipping and handling charge.
- (2) Other fees associated with grass seed certification: Out-of-state origin seed tagged with interagency certification tags.
 

Grass Option A:	\$ 0.31 per cwt.
Grass Option B:	\$ 0.68 per cwt.
Reissuance of cert. tags:	\$ 0.11 per tag or minimum fee of \$ 11.66

**WSR 05-08-096**  
**EXPEDITED RULES**  
**DEPARTMENT OF LICENSING**

[Filed April 4, 2005, 9:34 a.m.]

Title of Rule and Other Identifying Information: Chapter 308-96A WAC, Vehicle licenses, to include WAC 308-96A-026 Vehicle transit permits.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Katherine Iyall Vasquez, Department of Licensing, 1125 Washington Street S.E., P.O. Box 2957, Olympia, WA 98507-2957, AND RECEIVED BY June 7, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Drivers licensing offices have an old paper version of the transit permit that is no longer used by vehicle licensing offices. Current transit permits are issued through the vehicle licensing system and we are discontinuing the old paper version in an effort to have better control over this inventory item.

Reasons Supporting Proposal: Sound management practices require the department to have better control over this and processes and procedures would have to otherwise be put in place for just a few permits. There will be very little customer impact because licensing service offices have issued very few of these permits. Because of the availability of agents and subagents to process and issue these permits, this rule change will be a cost-effective way to control inventory without undue negative customer impact.

Statutory Authority for Adoption: RCW 65.20.110.

Statute Being Implemented: RCW 65.20.090.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Katherine Iyall Vasquez, 1125 Washington Street S.E., Olympia, (360) 902-3718; Implementation and Enforcement: Eric Andersen, 1125 Washington Street S.E., Olympia, (360) 902-4045.

March 31, 2005  
 James A. Fellows  
 for Fred Stephens  
 Director

**AMENDATORY SECTION** (Amending WSR 04-08-002, filed 3/24/04, effective 4/24/04)

**WAC 308-96A-026 Vehicle transit permit. (1) What is a vehicle transit permit?**

A vehicle transit permit is a document that authorizes an individual to operate a vehicle on a public highway of this state solely for the purpose of obtaining necessary documen-

tation to complete an application for a Washington certificate of ownership or registration. Use of the vehicle is restricted to the reason(s) indicated on the permit.

**(2) How may a vehicle transit permit be used?**

A vehicle transit permit may be used to obtain:

- (a) A Washington state patrol inspection;
- (b) A scale weight slip;
- (c) An emission test; or
- (d) Any other purpose that the department deems necessary.

**(3) Where do I obtain a vehicle transit permit?**

You may obtain a vehicle transit permit from((:

- ~~(a)) Washington vehicle licensing offices((; or~~
- ~~(b) Washington drivers services licensing services offices)).~~

**(4) How long is the vehicle transit permit valid?**

The permit is valid only for the days shown on the permit and may not exceed two days. The two days do not need to be consecutive.

**(5) What information is required to issue the vehicle transit permit?**

- (a) Description of the vehicle for which the permit is issued, which may include make, model, model year, and vehicle identification number;
- (b) Name and address of person obtaining the permit;
- (c) Specific purpose for which the permit is issued;
- (d) The date or dates on which the permit is valid, for a maximum of two days;
- (e) Applicant's signature; and
- (f) Signature of vehicle licensing agent or issuing authority.

**(6) How much does a vehicle transit permit cost?**

There is no fee for the vehicle transit permit, however vehicle-licensing subagents charge a service fee.

EXPEDITED



**WSR 05-06-051**  
**PERMANENT RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Docket No. A-021178 and TO-030288, General Order No. R-518—Filed February 28, 2005, 2:55 p.m., effective March 31, 2005]

In the matter of amending, adopting and repealing certain sections of chapters 480-90, 480-100, 480-110, and 480-120 WAC; amending and adopting certain sections of chapters 480-70 and 480-92 WAC; adopting chapter 480-73 WAC; amending WAC 480-121-063, and repealing WAC 480-146-350 and 480-146-360; relating to reporting of transactions between regulated utility and transportation companies and their subsidiaries.

**1 STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 05-01-224, filed with the code reviser on December 22, 2004. The commission brings this proceeding pursuant to RCW 80.01.040, 80.04.160, 81.04.160, and 34.05.353.

**2 STATEMENT OF COMPLIANCE:** This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

**3 DATE OF ADOPTION:** The commission adopts this rule on the date that this order is entered.

**4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325 requires that the commission prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must include the identification of the reasons for adopting the rule, a summary of the comments received regarding the proposed rule, and responses reflecting the commission's consideration of the comments.

**5** The commission often includes a discussion of those matters in its rule adoption order. In addition, most rule-making proceedings involve extensive work by commission staff that includes summaries in memoranda of stakeholder comments, commission decisions, and staff recommendations in each of those areas.

**6** In this docket, to avoid unnecessary duplication, the commission designates the discussion in this order as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda presented at the adoption hearing and at the open meetings where the commission considered whether to begin a rule making and whether to propose adoption of specific language. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

**7 REFERENCE TO AFFECTED RULES:** This rule repeals, amends, or adopts the following sections of the Washington Administrative Code:

**Chapter 480-70 WAC, Solid waste and/or refuse collection companies.**

Amend WAC 480-70-041 Definitions, general.

1. Adds definitions for "Affiliated interest," "Control," and "Subsidiary."

Amend WAC 480-70-051 Exemptions from rules in chapter 480-70 WAC.

1. Amended to reference WAC 480-07-110 Exceptions from and modifications to the rules in this chapter; special rules.

Adopt WAC 480-70-077 Transferring cash or assuming obligations.

1. Adds requirement for reporting of cash transfers to affiliates and subsidiaries if credit rating is not in one of the four highest rating categories of either Standard & Poors L.L.C. or Moody's Investors Service, Inc.

Adopt WAC 480-70-078 Affiliated interest—Contracts or arrangements.

1. Adopt rules implementing requirements to report transactions with affiliated interests and subsidiaries.

2. Provides exception for transactions provided at tariff rates.

Adopt WAC 480-70-079 Affiliated interest and subsidiary transactions report.

1. Adopt rules implementing requirements to report transactions with affiliated interests and subsidiaries.

2. Provides exception for transactions provided at tariff rates.

**Chapter 480-90 WAC, Gas companies—Operations.**

Amend WAC 480-90-008 Exemptions from rules in chapter 480-90 WAC.

1. Amended to reference WAC 480-07-110 Exceptions from and modifications to the rules in this chapter; special rules.

Amend WAC 480-90-023 Definitions.

1. Adds definitions for "Affiliated interest," "Control," and "Subsidiary."

Adopt WAC 480-90-207 Filing information.

1. Adds filing information within chapter.

Repeal WAC 480-90-208 Financial reporting requirements.

1. Financial reporting requirements moved to new sections:

Annual reports - WAC 480-90-252 Federal Energy Regulatory Commission (FERC) Form No. 2.

Commission basis reports (annual) - WAC 480-90-257 Commission basis report.

Quarterly reports - WAC 480-90-275 Actual results for Washington operations report.

Additional reports - WAC 480-90-209 Additional reports.

Adopt WAC 480-90-209 Additional reports.

1. Adopted from WAC 480-90-208 Financial reporting requirements, repealed in this rule making.

Repeal WAC 480-90-218 Securities, affiliated interests, and transfers of property.

1. Deletes subsections (1) and (3), which are moved into new WAC 480-90-248 Securities and transfers of property.

Adopt WAC 480-90-244 Transferring cash or assuming obligation.

1. Adds requirement for reporting of cash transfers to affiliated interests and subsidiaries when transaction exceeds certain threshold if credit rating is not in one of the four highest rating categories of either Standard & Poors L.L.C. or Moody's Investors Services, Inc.

Adopt WAC 480-90-245 Affiliated interests—Contracts or arrangements.

1. Adopts provisions from WAC 480-146-350 Filing of affiliated interest transactions, repealed in this rule making.

2. Provides exception for transactions provided at tariff rates.

Adopt WAC 480-90-248 Securities and transfers of property.

1. Adopts provisions from WAC 480-90-218 Securities, affiliated interests, and transfers of property, repealed in this rule making.

2. Adds requirements for issuing stock, securities, or other evidence of indebtedness.

Adopt WAC 480-90-252 Federal Energy Regulatory Commission (FERC) Form No. 2.

1. Adopts provisions from WAC 480-90-208 Financial reporting requirements, repealed in this rule making.

Adopt WAC 480-90-257 Commission basis report.

1. Adopts provision from WAC 480-90-208 Financial reporting requirements, repealed in this rule making.

Adopt WAC 480-90-264 Affiliated interest and subsidiary transactions report.

1. Adopts provision from WAC 480-146-360 Reporting of affiliated interest transactions, repealed in this rule making.

2. Adds subsidiaries to reporting requirement.

3. Provides exception for transactions provided at tariff rates.

Adopt WAC 480-90-268 Essential utilities services contracts report.

1. Adds requirement for reporting of essential utilities services contract when certain thresholds are exceeded.

Adopt WAC 480-90-275 Actual results for Washington operations report.

1. Adopts provisions from WAC 480-90-208 Financial reporting requirements, repealed in this rule making.

Amend WAC 480-90-999 Adoption by reference.

1. Revised to reflect references to repealed sections and new sections.

#### **Chapter 480-92 WAC, Low-level radioactive waste companies.**

Amend WAC 480-92-016 Exemptions from rules in chapter 480-92 WAC.

1. Amended to reference WAC 480-07-110 Exceptions from and modifications to the rules in this chapter; special rules.

Amend WAC 480-92-021 Definitions.

1. Adds definitions for "Affiliated interest," "Control," and "Subsidiary."

Amend WAC 480-92-050 Reporting requirements—Annual report.

1. Grammar changes.

Adopt WAC 480-92-055 Reporting requirements—Special reports.

1. Adopt low-level radioactive waste company rules implementing requirements to report transactions with affiliated interests and subsidiaries.

2. Provides exception for transactions provided at tariff rates.

#### **Chapter 480-100 WAC, Electric companies—Operations.**

Amend WAC 480-100-008 Exemptions from rules in chapter 480-90 WAC.

1. Amended to reference WAC 480-07-110 Exceptions from and modifications to the rules in this chapter; special rules.

Amend WAC 480-100-023 Definitions.

1. Adds definitions for "Affiliated interest," "Control," and "Subsidiary."

Adopt WAC 480-100-207 Filing information.

1. Adds filing information within chapter.

Repeal WAC 480-100-208 Financial reporting requirements.

1. Financial reporting requirements moved to new sections:

Annual reports - WAC 480-100-252 Federal Energy Regulatory Commission (FERC) Form No. 2.

Commission basis reports (annual) - WAC 480-100-257 Commission basis report.

Quarterly reports - WAC 480-100-275 Actual results for Washington operations report.

Additional reports - WAC 480-100-209 Additional reports.

Adopt WAC 480-100-209 Additional reports.

1. Adopted from WAC 480-100-208 Financial reporting requirements, repealed in this rule making.

Repeal WAC 480-100-218 Securities, affiliated interests, and transfers of property.

1. Deletes subsections (1) and (3), which are moved into new section WAC 480-100-248 Securities and transfers of property.

Adopt WAC 480-100-244 Transferring cash or assuming obligations.

1. Adds requirement for reporting of cash transfers to affiliated interests and subsidiaries when transaction exceeds certain threshold if credit rating is not in one of the four highest rating categories of either Standard & Poors L.L.C. or Moody's Investors Service, Inc.

Adopt WAC 480-100-245 Affiliated interests—Contracts or arrangements.

1. Adopts provisions from WAC 480-146-350 Filing of affiliated interest transactions, repealed in this rule making.
2. Provides exception for transactions provided at tariff rates.

Adopt WAC 480-100-248 Securities and transfers of property.

1. Adopts provisions from WAC 480-100-218 Securities, affiliated interests, and transfers of property, repealed in this rule making.

2. Adds requirements for issuing stock, securities, or other evidence of indebtedness.

Adopt WAC 480-100-252 Federal Energy Regulatory Commission (FERC) Form No. 1.

1. Adopts provisions from WAC 480-100-208 Financial reporting requirements, repealed in this rule making.

Adopt WAC 480-100-257 Commission basis report.

1. Adopts provisions from WAC 480-100-208 Financial reporting requirements, repealed in this rule making.

Adopt WAC 480-100-264 Affiliated interest and subsidiary transactions report.

1. Adopts provisions from WAC 480-146-360 Reporting of affiliated interest transactions, repealed in this rule making.

2. Adds subsidiaries to reporting requirement.

3. Provides exception for transactions provided at tariff rates.

Adopt WAC 480-100-268 Essential utilities services contracts report.

1. Adds requirement for reporting of essential utilities services contract when certain thresholds are exceeded.

Adopt WAC 480-100-275 Actual results for Washington operations report.

1. Adopts provisions from WAC 480-100-208 Financial reporting requirements, repealed in this rule making.

Amend WAC 480-100-999 Adoption by reference.

1. Revised to reflect references to repealed sections and new sections.

### Chapter 480-110 WAC, Water companies.

Amend WAC 480-110-205 Application of rules.

1. Grammar changes.

Amend WAC 480-110-215 Exemption from rules in chapter 480-110 WAC.

1. Amended to reference WAC 480-07-110 Exceptions from and modifications to the rules in this chapter; special rules.

Amend WAC 480-110-225 Additional requirements.

1. Adds new standard language for section that replaced previous language.

Adopt WAC 480-110-227 Severability.

1. Adds new standard language for section.

Amend WAC 480-110-235 Definition of control.

1. Grammar change.

Amend WAC 480-110-245 Glossary.

1. Grammar change.

Repeal WAC 480-110-495 Maps.

1. Repealed to reflect new numbering of chapter parts.

Adopt WAC 480-110-261 Maps.

1. Adopted to reflect new numbering of chapter parts.

Amend WAC 480-110-335 Establishing credit and deposits.

1. Clarifies interest on deposit calculation.

Amend WAC 480-110-355 Discontinuing service.

1. Grammar change.

Amend WAC 480-110-365 Service responsibilities.

1. Grammar change.

Amend WAC 480-110-375 Form of bills.

1. Grammar change.

Amend WAC 480-110-385 Water company responsibility for complaints and disputes.

1. Grammar change.

Amend WAC 480-110-395 Water quality refunds.

1. Grammar change.

2. Changes statutory authority reference.

Amend WAC 480-110-415 Meters.

1. Grammar change.

Amend WAC 480-110-425 Water company customer notice requirements.

1. Grammar change.

Repeal WAC 480-110-265 Tariffs.

1. Repealed to reflect new numbering of chapter parts.

Adopt WAC 480-110-431 Tariffs.

1. Adopted to reflect new numbering of chapter parts.

Repeal WAC 480-110-295 Adopted and initial tariffs.

1. Repealed to reflect new numbering of chapter parts.

Adopt WAC 480-110-433 Adopted and initial tariffs.

1. Adopted to reflect new numbering of chapter parts.

Amend WAC 480-110-445 Service connections and customer service lines.

1. Grammar change.

Adopt WAC 480-110-456 Definitions.

1. Adds definitions for "Affiliated interest," "Control," and "Subsidiary."

Adopt WAC 480-110-457 Filing information.

1. Adds filing information within chapter.

Adopt WAC 480-110-459 Additional reports.

1. Adds new standard language for section.

Amend WAC 480-110-465 Expenditures for political or legislative activities.

1. Adds new standard language for section.

Amend WAC 480-110-485 Retaining and preserving records and reports.

1. Changes title to standard commission format.

Repeal WAC 480-110-275 Accounting and reporting requirements, and regulatory fees.

1. Repealed to reflect new numbering of chapter parts.

Adopt WAC 480-110-505 Accounting and reporting requirements, and regulatory fees.

1. Adopted to reflect new numbering of chapter parts.

Repeal WAC 480-110-475 Reports of accidents.

1. Repealed to reflect new numbering of chapter parts.

Adopt WAC 480-110-515 Reports of accidents.

1. Adopted to reflect new numbering of chapter parts.

Adopt WAC 480-110-535 Transferring cash or assuming obligations.

1. Adds requirement for reporting of cash transfers to affiliates and subsidiaries when transaction exceeds certain threshold if credit rating is not in one of the four highest rating categories of either Standard & Poors L.L.C. or Moody's Investors Service, Inc.

Adopt WAC 480-110-545 Affiliated interests—Contracts or arrangements.

1. Adopts provisions from WAC 480-146-350 Filing of affiliated interest transactions, repealed in this rule making.
2. Provides exception for transactions provided at tariff rates.

Repeal WAC 480-110-285 Securities, affiliated interest, transfer of property.

1. Deletes subsections (1) and (3), which are moved into new section WAC 480-110-555 Securities and transfers of property.

Adopt WAC 480-110-555 Securities and transfers of property.

1. Adopts provisions from WAC 480-110-285 Securities, affiliated interests, and transfer of property, repealed in this rule making.
2. Adds requirements for issuing stock, securities, or other evidence of indebtedness.

Adopt WAC 480-110-575 Affiliated interest and subsidiary transactions report.

1. Adopts provisions from WAC 480-146-360 Reporting of affiliated interest transactions, repealed in this rule making.
2. Adds subsidiaries to reporting requirement.
3. Provides exception for transactions provided at tariff rates.

Amend WAC 480-110-999 Adoption by reference.

1. Grammar change.

#### **Chapter 480-120 WAC, Telecommunications operations.**

Amend WAC 480-120-015 Exemptions from rules in chapter 480-120 WAC.

1. Amended to reference WAC 480-07-110 Exceptions from and modifications to the rules in this chapter; special rules.

Adopt WAC 480-120-325 Definitions.

1. Adds definitions for "Affiliated interest," "Control," and "Subsidiary."

Adopt WAC 480-120-331 Filing information.

1. Adds filing information within chapter.

Adopt WAC 480-120-335 Additional reports.

1. Adds new standard language for section.

Repeal WAC 480-120-305 Streamlined filing requirements for Class B telecommunications company rate increase.

1. Repealed to reflect new numbering of chapter parts.

Adopt WAC 480-120-339 Streamlined filing requirements for Class B telecommunications company rate increase.

1. Adopted to reflect new numbering of chapter parts.

Repeal WAC 480-120-321 Expenditures for political or legislative activities.

1. Repealed to reflect new numbering of chapter parts.

Adopt WAC 480-120-344 Expenditures for political or legislative activities.

1. Adopted to reflect new numbering of chapter parts.

Repeal WAC 480-120-323 Washington Exchange Carrier Association (WECA).

1. Repealed to reflect new numbering of chapter parts.

Adopt WAC 480-120-352 Washington Exchange Carrier Association (WECA).

1. Adopted to reflect new numbering of chapter parts.

Repeal WAC 480-120-301 Accounting requirements for competitively classified companies.

1. Repealed to reflect new numbering of chapter parts.

Adopt WAC 480-120-355 Competitively classified companies.

1. Adopted to reflect new numbering of chapter parts.

Adopt WAC 480-120-369 Transferring cash or assuming obligation.

1. Adds requirement for reporting of cash transfers to affiliates and subsidiaries when transaction exceeds certain threshold if credit rating is not in one of the four highest rating categories of either Standard & Poors L.L.C. or Moody's Investors Service, Inc.

Adopt WAC 480-120-375 Affiliated interests—Contracts or arrangements.

1. Adopts provisions from WAC 480-146-350 Filing of affiliated interest transactions, repealed in this rule making.
2. Provides exception for transactions provided at tariff rates.

Adopt WAC 480-120-379 Transfers of property.

1. Adopted to incorporate language concerning transfers of property.

Repeal WAC 480-120-303 Reporting requirements for competitively classified companies.

1. Repealed to reflect new numbering of chapter parts.

Adopt WAC 480-120-382 Annual report for competitively classified companies.

1. Adopted to reflect new numbering of chapter parts.

Repeal WAC 480-120-304 Reporting requirements for companies not classified as competitive.

1. Repealed to reflect new numbering of chapter parts.

Adopt WAC 480-120-385 Annual report and quarterly results of operations reports for companies not classified as competitive.

1. Adopted to reflect new numbering of chapter parts.

Adopt WAC 480-120-395 Affiliated interest and subsidiary transactions report.

1. Adopts provisions from WAC 480-146-360 Reporting of affiliated interest transactions, repealed in this rule making.

2. Adds subsidiaries to reporting requirement.

3. Provides exception for transactions provided at tariff rates.

Repeal WAC 480-120-311 Access charge and universal service reporting.

1. Repealed to reflect new numbering of chapter parts.

Adopt WAC 480-120-399 Access charge and universal service reporting.

1. Adopted to reflect new numbering of chapter parts.

**Chapter 480-121 WAC, Registration, competitive classification and price lists of telecommunications companies.**

Amend WAC 480-121-063 Regulatory requirements that may be waived for competitively classified telecommunications companies.

1. Revised to reflect references to repealed sections, adopted sections, and new numbering of chapter 480-120 WAC.

Chapter 480-146 WAC, Commission general—Securities, liens, affiliated interests, refunding of notes, lease of utility facilities.

1. Removes Affiliated interests from title.

Repeal WAC 480-146-350 Filing of affiliated interest transactions.

1. This section adopted in WAC 480-70-078 Affiliated interests—Contracts or arrangements, 480-90-245 Affiliated interests—Contracts or arrangements, 480-92-055 Reporting requirements—Special reports subsection (1) Affiliated interests—Contracts or arrangements, 480-100-245 Affiliated interests—Contracts or arrangements, 480-110-545 Affiliated interests—Contracts or arrangements, and 480-120-375 Affiliated interests—Contracts or arrangements.

Repeal WAC 480-146-360 Reporting of affiliated interest transactions.

1. This section adopted in WAC 480-70-079 Affiliated interest and subsidiary transactions report, 480-90-264 Affiliated interest and subsidiary transactions report, 480-92-055 Reporting requirements—Special reports subsection (3) Affiliated interest and subsidiary transactions report, 480-100-264 Affiliated interest and subsidiary transactions report, 480-110-575 Affiliated interest and subsidiary transactions

report, and 480-120-395 Affiliated interest and subsidiary transactions report.

**Chapter 480-73 WAC, Hazardous liquid pipeline companies.**

Adopt WAC 480-73-010 Application of rules, 480-73-020 Exemptions from rules in chapter 480-73 WAC, 480-73-030 Additional requirements, 480-73-040 Severability, 480-73-050 Tariffs, 480-73-060 Definitions, 480-73-110 Filing information, 480-73-120 Additional reports, 480-73-130 Accounting system requirements, 480-73-140 Expenditures for political or legislative activities, 480-73-150 Retaining and preserving records and reports, 480-73-160 Annual reports, 480-73-180 Transferring cash or assuming obligation, 480-73-190 Affiliated interests—Contracts or arrangements, 480-73-210 Affiliated interest and subsidiary transactions report, and 480-73-999 Adoption by reference.

**8 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:** The commission filed a preproposal statement of inquiry (CR-101) on October 2, 2002, at WSR 02-20-105, and October 28, 2002, at WSR 02-22-030, in Docket A-021178. The commission filed a preproposal statement of inquiry (CR-101) on March 13, 2003, at WSR 03-07-034, in Docket TO-030288.

**9 ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT:** The statement at WSR 02-20-105 advised interested persons that the commission was considering entering a rule making on establishing reporting rules for transactions between regulated utility and transportation companies and their subsidiaries. The statement at WSR 02-22-030 advised interested persons that other industries, including auto transportation companies may be affected by rules adopted in this docket, and that rules adopted in this docket would not apply to competitive telecommunications companies. The statement at WSR 03-07-034 advised interested persons that the commission was considering developing a new chapter applicable to the economic regulation of hazardous liquid pipeline companies regulated as common carriers by the commission, including, but not limited to, financial reporting requirements.

**10** The commission also informed persons of the inquiry into these matters by providing notice of the subjects and the CR-101s to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all registered companies and the commission's lists of regulatory attorneys. The commission posted the relevant rule-making information on its internet website at <http://www.wutc.wa.gov>.

**11 WORKSHOP; ORAL COMMENTS; WRITTEN COMMENTS:** Pursuant to the notice, the commission held three stakeholder workshops. In addition, staff met informally to discuss issues related to financial reporting rules with representatives from Qwest Corporation (Qwest), PacifiCorp, Puget Sound Energy, Inc. (PSE), Avista Corporation (Avista), and Olympic Pipe Line Company (Olympic). Representatives of regulated companies and consumer advocacy organizations attended the workshops and/or filed written comments.

**12 NOTICE OF PROPOSED RULE MAKING:** The commission filed a notice of proposed rule making (CR-102) on Sep-

tember 1, 2004, at WSR 04-18-129. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 04-18-129 at 1:30 p.m., Wednesday, October 13, 2004, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

**13 ORAL COMMENTS:** Representatives of Verizon Northwest, Inc. (Verizon), Qwest, and public counsel provided oral comments on the rule proposal.

**14 COMMENTERS (WRITTEN COMMENTS):** The commission received written comments on the proposed rules (i.e., CR-102) from: PacifiCorp, Qwest, PSE, The Bond Market Associates, O'Melveny & Myers LLP, Cahill Gordon & Reindel LLP, Gibson, Dunn & Crutcher, LLP, and Washington Refuse & Recycling Association.

**15 RULE-MAKING HEARING:** The rule proposal was considered for adoption, pursuant to the notice, at a rule-making hearing scheduled during the commission's regularly scheduled open public meeting on October 13, 2004, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, and Commissioner Patrick Oshie. The commission heard oral comments from Fred Ottavelli representing commission staff, and from representatives of Verizon, PacifiCorp, Qwest, and Avista.

**16 SUPPLEMENTAL NOTICE OF PROPOSED RULE MAKING:** The commission filed a supplemental notice of proposed rule making (supplemental CR-102) on December 22, 2004, at WSR 05-01-224. The notice advised interested persons of a substantial change from the CR-102 proposal filed at WSR 04-18-129, and of the commission's intention that the entire proposal submitted at WSR 04-18-129 be renoticed for comment by interested persons. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 05-01-224 at 1:30 p.m., Tuesday, February 1, 2005, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

**17 COMMENTERS (WRITTEN COMMENTS):** The commission received written comments on the proposed rules (i.e., supplemental CR-102) from: Qwest, Verizon, PacifiCorp, PSE, Northwest Natural Gas Company (NW Natural), Olympic, Tesoro Refining and Marketing Company, and The Bond Market Associates.

**18 RULE-MAKING HEARING:** The rule proposal was considered for adoption, pursuant to the notice, at a rule-making hearing scheduled during the commission's regularly scheduled open public meeting on February 1, 2005, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, and Commissioner Patrick Oshie. The commission heard oral comments from representatives of Qwest, Verizon, and PacifiCorp. In addition, Richard Boehmer of O'Melveny & Myers, special securities counsel to Qwest Communications International, Inc. and its subsidiaries, provided comment.

**19 SUGGESTIONS FOR CHANGE THAT ARE ACCEPTED OR REJECTED:** In this section the commission responds to comments made on the proposed rules. The material in this section is organized by rule number. In each response we

indicate whether we made a change in the adopted rules based upon the comment, or whether we adhered to the language in the proposed rule.

WAC Sections Related to Issuing Securities.

20 Qwest, Verizon, NW Natural, PSE, PacifiCorp, The Bond Market Association, and O'Melveny & Myers, LLP commented on the rules related to the issuance of securities. The commission has decided to consider the rules related to securities at a later date.

WAC 480-120-325 and 480-100-023 Definitions.

21 Qwest and PacifiCorp comment that the definitions of "subsidiary" and "control" are vague and unenforceable. Qwest acknowledges that control should be the focus of a definition of "subsidiary," but argues that the inclusion of "by contract, or otherwise" in the definition of "control" is vague and confusing. Qwest suggests that the commission adopt the Washington Corporations Act definition of a "subsidiary," that requires no further investigation or analysis other than whether the utility owns a majority of the voting securities of the other company.<sup>1</sup>

22 PacifiCorp contends that the 5% ownership threshold is too broad and captures ownership structures that do not fit the traditional parent-subsidiary model. PacifiCorp contends that its research of case precedent interpreting the SEC rules that define "control" supports its concern for incorporating this "elusive notion" of "control" in the commission's rules.

23 The commission concludes that these suggestions cannot be adopted without undermining the fundamental purpose of requiring that companies report transactions with subsidiaries. When a regulated company owns one or more unregulated companies, there is the potential for the companies to engage in coordinated transactions among themselves and thereby to frustrate the commission's ability to ensure that only reasonable costs are charged to the customers of the regulated company. Commenters do not contest either the notion that unreported transactions with a subsidiary can frustrate effective oversight of a regulated company or the notion that a company can "control" another company without owning a majority of its shares. The commission has addressed the legitimate concerns about how to determine whether a regulated company "controls" a subsidiary. It has done so by using a definition for "subsidiary" that tracks the long-established definition of "affiliated interest" in RCW 80.16.010, with the addition of language that would allow the utility to demonstrate it does not have "control" of the subsidiary. The source of the definition for "control" is a rule of the Securities and Exchange Commission, Rule 1-02(g), "Definition of terms used in Regulation S-X," as found at 17 C.F.R. Part 210<sup>2</sup>.

WAC 480-120-369 Transferring cash or assuming obligations.

24 Qwest objects to this rule as beyond the commission's statutory authority. Qwest argues that the legislature did not impose, or authorize the commission to impose, pre-filing requirements for cash transfers. Qwest also suggests that the rule is an attempt to permit the commission to engage in regulating the multistate cash management of utilities and their affiliates and subsidiaries. According to Qwest, any attempt by the commission to regulate multistate cash management activities of Qwest and its family of companies would violate

RCW 80.01.040(3) and the commerce clause of the United States Constitution.

25 Contrary to Qwest's position, RCW 80.04.080 grants the commission broad authority to require companies to provide special reports "concerning any matter about which the commission is authorized or required by this or any other law, to inquire into or keep itself informed about." This broad authority provides sufficient basis to request notice of the large cash transfers that are encompassed in the rules. The notice rules are specifically intended to cover only a small, particularly significant subset of all utility cash transfers: Namely, cash transfers exceeding a high monetary threshold, made by utilities that are not rated investment grade.

26 Transfers of large amounts of cash from the regulated utility or its subsidiaries could have serious and detrimental effects on ratepayers. Regulated utilities collect cash from customers as they pay for utility services, and regulated utilities use cash to fund operations and capital investment. A large transfer of cash from the control of the regulated utility could effectively disable funding for utility operations or render the utility unable to make necessary capital investments. Either circumstance could cause an immediate harm to customers. Providing the commission with five days' advance notice of such transfers would allow the commission to immediately commence ratemaking or prudence proceedings, or, in particularly egregious instances, to seek to enjoin the utility from proceeding with the cash transfer altogether, if necessary to protect the interests of the ratepayers or the public interest. RCW 80.36.140 and 80.28.020 authorize the commission to determine, after hearing, that a company's "practices" or "practices affecting rates" are unreasonable, to determine the just, reasonable, and proper practices to be thereafter observed and used, and to "fix the same by order or rule."

27 The commission is particularly concerned about large cash transactions by noninvestment grade companies, because a parent company that is in a weak financial condition is both more likely to take advantage of cash held by a utility subsidiary and because such a company would have greater difficulty raising capital to offset the loss of cash. Large cash transfers by noninvestment grade companies are more likely to directly affect the rates or service provided to ratepayers. Providing the commission with five days' advance notice does not unreasonably burden the company, and it affords the commission with sufficient time to take remedial action, if necessary, in advance of any irreparable harm to ratepayers or to the public interest.

28 The commission also finds that the proposed rule, which requires only that the commission be given five days' advance notice of certain large cash transfers from the regulated utility or its subsidiary, does not violate the commerce clause, pursuant to the test set forth in *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142, 90 S.Ct. 844, 25 L.Ed.2d 174 (1970). The rule does not interfere with Qwest's management prerogatives. Whatever effects the rule might have on interstate commerce are at most incidental and minimal, and are clearly outweighed by the commission's strong interest to protect the ratepayers of regulated utilities and the public interest.

WAC 480-90-245 and 480-73-190 Affiliated interests—  
Contracts or arrangements.

29 NW Natural states that, absent a materiality threshold, the requirement to file contracts or arrangements with affiliates could be burdensome on the utility.

30 The commission does not accept this proposal, because it is inconsistent with the statute. RCW 80.16.020 requires every public service company file with the commission a copy or summary of contracts or arrangements with affiliates. The statute provides no exemption from the requirement based upon materiality.

31 Olympic Pipe Line Company is concerned that the proposed regulation suggests the commission has the authority to disapprove any contract or arrangement that Olympic might enter into with an affiliated entity. Olympic believes that the operation of interstate pipeline facilities such as Olympic's system is subject to the exclusive jurisdiction of the federal government.

32 The commission responds as follows: Neither chapter 81.16 RCW nor the proposed rule call for affiliated interest contracts to be filed "for approval." On the other hand, the statute gives the commission authority to disapprove payments under an affiliated interest agreement. RCW 81.16.-030. Presumably, the disapproved payment would be in the context of ratemaking recovery, and it would apply only to the Washington intrastate share of the payment. If so, there is no problem, because FERC does not regulate intrastate rates. Congress has "expressly provided that [scope of federal rate regulation] was not to extend to purely intrastate traffic." *Simpson v. Shephard*, 230 U.S. 352, 418 (1913).

33 The commission also has statutory authority to disapprove the contract itself. RCW 81.16.020. In any event, a challenge on this basis is premature, because the rule itself does not pose that sort of conflict. Accordingly, the broad attack of the sort levied by Olympic against the affiliated interest filing requirements fails because there are legitimate purposes to be fulfilled under chapter 81.16 RCW by the commission regarding regulation of intrastate pipeline transportation rates, and those purposes are advanced by the proposed rule.

WAC 480-90-257 Commission basis report.

34 NW Natural suggests that subsection (2)(b) be clarified so as to state, "Results of operations adjusted for any material out-of-period, nonoperating, nonrecurring, and extraordinary items or any other item that materially distorts reporting period earnings and rate base, and ..."

35 The commission accepts this proposal.

WAC 480-70-079, 480-90-264, 480-100-264, 480-110-575, 480-120-395 Affiliated interest and subsidiary transactions report, and WAC 480-92-055 Reporting requirements—Special reports.

36 Qwest and Verizon urge deletion of the rule's reporting requirement of transactions between a public service company and its subsidiaries. They argue that subsidiary regulation is not permitted under chapter 80.16 RCW, the affiliated interest statute, nor any other statute vesting the commission with regulatory powers. Alternatively, Verizon requests the rule specifically exempt subsidiaries that are local exchange companies.

37 Olympic comments that this rule would require extensive reporting on each and every activity and "transaction" governed by the operating agreement which necessarily involves Olympic's operator, an "affiliate" entity. Olympic also states that this contract is already provided to the commission under WAC 480-73-190. Olympic suggests that to the extent transactions with affiliated entities are governed by and required by its operating agreement, those transactions should be excluded from the reporting obligations of this proposed regulation.

38 Olympic notes that its two shareholders are ultimately affiliated with two of the world's largest corporations, BP and Shell. According to Olympic, there are literally hundreds of entities "affiliated" with Olympic, many of which are not publicly traded. Olympic asserts that the commission does not have authority to compel Olympic to provide to the commission financial information which is not Olympic's property, is not "public information," and is instead the property of entities which are not subject to the commission's regulatory authority. Olympic states that it could provide annual financial statements and reports of both BP and Shell, which are publicly traded and thus their financial information is available.

39 The commission does not accept the proposal to delete reporting of transactions involving a regulated company's subsidiaries from the proposed rule. The commission has broad authority under RCW 80.04.080 to require special reports from regulated companies concerning any matters about which it is authorized or required to keep itself informed. These include transactions involving a regulated company's subsidiaries, which can directly and substantially affect the assets and liabilities of the regulated company, and in turn, the rates and services provided by the regulated company to its ratepayers. The commission also has broad authority to examine the accounts, books, and documents of the regulated company, including its subsidiaries, pursuant to RCW 80.04.070. The commission also rejects Verizon's alternative proposal to specifically exempt subsidiaries that are local exchange companies. The fact that a subsidiary of a utility is itself a regulated utility does not, in and of itself, eliminate the possibility that transactions between the two entities could be disadvantageous to one of them. The regulator would not have reviewed the terms of the transaction, and it would not be at arms length. Therefore, effective oversight of the regulated utility requires information on its transactions with regulated subsidiaries. If there are specific circumstances where this concern is not present, the affected utility may seek an exemption.

WAC 480-120-331 Filing information.

40 Qwest recommends deleting subsection (2) of the proposed rule, which provides that the commission may require pertinent information "in addition to that" specified by statute or in this statute because it appears to grant the commission powers beyond those granted by the legislature.

41 The commission does not accept this proposal. The proposed rule specifies that the additional information that the commission may require is limited to "pertinent information." As Qwest points out, the commission has broad authority to gather information from public service companies under the provision of RCW 80.04.070.

WAC 480-73-160 Annual reports.

42 Olympic suggests amending WAC 480-73-160(5) to specify the regulatory fee is based upon intrastate operating revenue.

43 The commission accepts this suggestion. The regulatory fee is based upon intrastate operating revenue.

44 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the commission finds and concludes that it should amend, repeal, and adopt the rules in the supplemental CR-102 notice at WSR 05-01-224 with the changes described below.

45 **CHANGES FROM PROPOSAL:** After reviewing the entire record, the commission adopts the supplemental CR-102 proposal with the following changes from the text noticed at WSR 05-01-224.

WAC 480-70-078, 480-73-190, 480-90-245, 480-100-245, 480-110-545, 480-120-375 Affiliated interests—Contracts or arrangements, and WAC 480-92-055 Reporting requirements—Special reports.

46 WAC 480-70-078, 480-73-190, 480-90-245, 480-100-245, 480-110-545, 480-120-375 and 480-92-055 are edited as follows:

Prior to the effective date of any contract or arrangement described in RCW 81.16.020, each [solid waste collection company] must file a verified copy or a verified summary, if unwritten, of contracts or arrangements, except for transactions provided at tariff rates.

WAC 480-70-079, 480-90-264, 480-100-264, 480-110-575, 480-120-395 Affiliated interest and subsidiary transactions report, and WAC 480-92-055 Reporting requirements—Special reports.

47 WAC 480-70-079, 480-90-264, 480-100-264, 480-110-575, 480-120-395 and 480-92-055, as published in the CR-102, are edited as follows:

(1) By June 1 of each year each [Class A company] must file a report summarizing all transactions that occurred between the company and its affiliated interests, except for transactions provided at tariff rates.

WAC 480-73-210 Affiliated interest and subsidiary transactions report.

48 WAC 480-73-210, as published in the CR-102, is edited as follows:

(2) The information required in this section must be provided for total company and for total state of Washington. The report must include a corporate organization chart ~~of the company~~ and showing the pipeline company and how it is related to its affiliated interests and subsidiaries.

(3)(a) A balance sheet and income statement for such affiliated interest to the extent such information is publicly available, and if not publicly available but the balance sheet and income statement of a parent of such affiliated interest is publicly available, then the balance sheet and income statement for such parent must be provided:

WAC 480-73-060 and 480-110-456 Definitions.

49 WAC 480-73-060 and 480-110-456, as published in the CR-102, are edited as follows:

"Securities" means stocks, stock certificates, other evidence of interest or ownership, bonds, notes, or other evidence of indebtedness, or any obligation or liability as guarantor.

WAC 480-73-110, 480-90-207, 480-100-207, 480-110-457 and 480-120-331 Filing information.

50 WAC 480-73-110, 480-90-207, 480-100-207, 480-110-457 and 480-120-331, as published in the CR-102, are edited as follows:

(1) ~~Filing. The commission records center will accept any filing under WAC 480-73-170 (Issuing securities) delivered in person, by mail, telefacsimile, or electronic mail message. The commission records center will accept all other reports...~~

WAC 480-73-160 Annual reports.

51 WAC 480-73-160, as published in the CR-102, is edited as follows:

(5) Economic regulatory fees. An economic regulatory fee is an annual assessment paid by each company to cover the costs of economic regulation of the industry. The economic regulatory fee is separate from the pipeline safety fee identified in WAC 480-75-240 (Annual pipeline safety fee methodology). The maximum economic regulatory fee is set by statute at one-tenth of one percent of the first fifty thousand dollars of gross intrastate operating revenue plus two-tenths of one percent of any gross intrastate operating revenue in excess of fifty thousand dollars.

WAC 480-73-180, 480-90-244, 480-100-244, and 480-120-369 Transferring cash or assuming obligations.

52 WAC 480-73-180, 480-90-244, 480-100-244, and 480-120-369, as published in the CR-102, are edited as follows:

(1) At least five business days before a [pipeline company] ~~that is not rated investment grade whose corporate/issuer rating is not in one of the four highest rating categories of either Standard & Poors L.L.C. or Moody's Investors Service, Inc.~~

WAC 480-90-244 Transferring cash or assuming obligations.

53 WAC 480-90-244, as published in the CR-102, is edited as follows:

(1)(b) A utility's common shareholder equity is determined according to the latest annual report filed pursuant to WAC ~~480-100-90-252~~ (Federal Energy Regulatory Commission (FERC) Form No. 1 2). Information about the FERC Form No. 1 2 regarding the version adopted and where to obtain it is set out in WAC ~~480-100-90-999~~ (Adoption by reference).

WAC 480-110-535 Transferring cash or assuming obligation.

54 WAC 480-110-535, as published in the CR-102, is edited as follows:

Transferring cash or assuming obligations.

WAC 480-120-369 Transferring cash or assuming obligations.

55 WAC 480-120-369, as published in the CR-102, is edited as follows:

This section does not apply to a company classified as competitive pursuant to RCW 80.36.320-, or to a local exchange company that serves less than two percent of the access lines in the state of Washington.

WAC 480-90-248, 480-100-248, and 480-110-555 Transfers of property.

56 WAC 480-90-248, 480-100-248, and 480-110-555, as published in the CR-102, are edited as follows:

Securities and Transfers of property. (1) Before a [gas utility] issues stock, securities, or other evidence of indebtedness, the utility must comply with the requirements of chapters 80.08 RCW and 480-146 WAC.

WAC 480-90-257 and 480-100-257 Commission basis report.

57 WAC 480-90-257 and 480-100-257, as published in the CR-102, are edited as follows:

(b) Results of operations adjusted for any material out-of-period,

WAC 480-110-335 Establishing credit and deposits.

58 WAC 480-110-335, as published in the CR-102, is edited as follows:

(6) Interest on deposits. Companies that collect customer deposits must pay interest on those deposits calculated:

(a) ((For each calendar) ~~Effective February 1 of each year, at the rate for the one-year Business Day Treasury Constant Maturity as of November 15 of the previous year, as calculated by the U.S. Treasury, as and published in the Federal Reserve's Statistical Release H.15 on January 15 of that year. If January 15 falls on a nonbusiness day, the company will use the rate posted on the next ((following)) business day;~~

WAC 480-121-063 Regulatory requirements that may be waived for competitively classified telecommunications companies.

59 WAC 480-121-063, as published in the CR-102, is edited as follows:

(p) ((Chapter 480-146 WAC (Commission general—Securities, liens, ~~affiliated interests~~, refunding of notes, lease of utility facilities);

(q)) WAC 480-120-102 (Service offered);

((r) ~~WAC 480-120-305~~) ~~(q)~~ WAC 480-120-339 (Streamlined filing requirements for Class B telecommunications company rate increases);

((s)) ~~(r)~~ WAC 480-120-311 (Access charge and universal service reporting);

((t) ~~WAC 480-120-321~~) ~~(s)~~ WAC 480-120-344 (Expenditures for political or legislative activities); ~~(and~~

(u) ~~WAC 480-120-323~~) ~~(t)~~ WAC 480-120-352 (Washington Exchange Carrier Association (WECA));

~~(u)~~ WAC 480-120-365 (Issuing securities);

(v) WAC 480-120-369 (Transferring cash or assuming obligation);

(w) WAC 480-120-375 (Affiliated interests—Contracts or arrangements); and

~~(x) WAC 480-120-389 (Securities report); and~~

~~(y)~~ WAC 480-120-395 (Affiliated interest and subsidiary transactions report).

This rule supersedes all waivers of regulatory requirements for competitively classified companies granted by the commission at the time of a company's competitive classification. However, subsequent to the adoption of this rule, the commission may revoke the waiver of any regulatory requirement set forth in (a) through ~~((u))~~ ~~(y)~~ (x) of this subsection or may waive any regulatory requirement not included in (a) through ~~((u))~~ ~~(y)~~ (x) of this subsection.

**Chapter 480-146 WAC, Commission General—Securities, Liens, Affiliated Interest, Refunding of Notes, Lease of Utility Facilities**

60 The title of chapter 480-146 WAC as published in the CR-102, is edited as follows:

**COMMISSION GENERAL—SECURITIES, LIENS, AFFILIATED INTEREST, REFUNDING OF NOTES, LEASE OF UTILITY FACILITIES**

61 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission determines that WAC 480-90-208, 480-90-218, 480-100-208, 480-100-218, 480-110-495, 480-110-265, 480-110-295, 480-110-275, 480-110-475, 480-110-285, 480-120-301, 480-120-303, 480-120-304, 480-120-305, 480-120-311, 480-120-321, 480-120-323, 480-146-350, and 480-146-360 should be repealed as set forth in Appendix A, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

62 WAC 480-70-041, 480-70-051, 480-90-008, 480-90-023, 480-90-999, 480-92-016, 480-92-021, 480-92-050, 480-100-008, 480-100-023, 480-100-999, 480-110-205, 480-110-215, 480-110-225, 480-110-235, 480-110-245, 480-110-335, 480-110-355, 480-110-365, 480-110-375, 480-110-385, 480-110-395, 480-110-415, 480-110-425, 480-110-445, 480-110-465, 480-110-485, 480-110-999, 480-120-015, 480-121-063, and the title to chapter 480-146 WAC should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

63 WAC 480-70-077, 480-70-078, 480-70-079, 480-90-207, 480-90-209, 480-90-244, 480-90-245, 480-90-248, 480-90-252, 480-90-257, 480-90-264, 480-90-268, 480-90-275, 480-92-055, 480-100-207, 480-100-209, 480-100-244, 480-100-245, 480-100-248, 480-100-252, 480-100-257, 480-100-264, 480-100-268, 480-100-275, 480-110-227, 480-110-261, 480-110-431, 480-110-433, 480-110-456, 480-110-457, 480-110-459, 480-110-505, 480-110-515, 480-110-535, 480-110-545, 480-110-555, 480-110-575, 480-120-325, 480-120-331, 480-120-335, 480-120-339, 480-120-344, 480-120-352, 480-120-355, 480-120-369, 480-120-375, 480-120-379, 480-120-382, 480-120-385, 480-120-395, 480-120-399, 480-73-010, 480-73-020, 480-73-030, 480-73-040, 480-73-050, 480-73-060, 480-73-110, 480-73-120, 480-73-130, 480-73-140, 480-73-150, 480-73-160, 480-73-180, 480-73-190, 480-73-210, and 480-73-999 should be adopted to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380 (2) on the thirty-first day after filing with the code reviser.

<sup>1</sup> The Washington Corporations Act defines a subsidiary as "a domestic or foreign corporation that has a majority of its outstanding voting shares owned, directly or indirectly, by another domestic or foreign corporation." RCW 23B.19.020(17).

<sup>2</sup> Regulation S=X pertains to the requirements for financial statements filed pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934, and the Public Utility Holding Company Act of 1935. This is substantially the same definition for "control" as defined in Rule 12b-2(f) under the Securities Exchange Act of 1934. 17 C.F.R. Part 240 at Rule 12b-2.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 67, Amended 30, Repealed 19.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

**THE COMMISSION ORDERS:**

64 WAC 480-90-208, 480-90-218, 480-100-208, 480-100-218, 480-110-495, 480-110-265, 480-110-295, 480-110-275, 480-110-475, 480-110-285, 480-120-301, 480-120-303, 480-120-304, 480-120-305, 480-120-311, 480-120-321, 480-120-323, 480-146-350, and 480-146-360 are repealed as set forth in Appendix A, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

65 WAC 480-70-041, 480-70-051, 480-90-008, 480-90-023, 480-90-999, 480-92-016, 480-92-021, 480-92-050, 480-100-008, 480-100-023, 480-100-999, 480-110-205, 480-110-215, 480-110-225, 480-110-235, 480-110-245, 480-110-335, 480-110-355, 480-110-365, 480-110-375, 480-110-385, 480-110-395, 480-110-415, 480-110-425, 480-110-445, 480-110-465, 480-110-485, 480-110-999, 480-120-015, 480-121-063, and the title of chapter 480-146 WAC are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

66 WAC 480-70-077, 480-70-078, 480-70-079, 480-90-207, 480-90-209, 480-90-244, 480-90-245, 480-90-248, 480-90-252, 480-90-257, 480-90-264, 480-90-268, 480-90-275, 480-92-055, 480-100-207, 480-100-209, 480-100-244, 480-100-245, 480-100-248, 480-100-252, 480-100-257, 480-100-264, 480-100-268, 480-100-275, 480-110-227, 480-110-261, 480-110-431, 480-110-433, 480-110-456, 480-110-457, 480-110-459, 480-110-505, 480-110-515, 480-110-535, 480-110-545, 480-110-555, 480-110-575, 480-120-325, 480-120-331, 480-120-335, 480-120-339, 480-120-344, 480-120-352, 480-120-355, 480-120-369, 480-120-375, 480-120-379, 480-120-382, 480-120-385, 480-120-395, 480-120-399, 480-73-010, 480-73-020, 480-73-030, 480-73-040, 480-73-050, 480-73-060, 480-73-110, 480-73-120, 480-73-130, 480-73-140, 480-73-150, 480-73-160, 480-73-180, 480-73-190, 480-73-210, and 480-73-999 are adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.-380(2).

67 This order and the rules set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 28th day of February, 2005.

Washington Utilities and Transportation Commission  
Richard Hemstad, Commissioner  
Patrick J. Oshie, Commissioner

## PART ((±)) I—GENERAL ADMINISTRATIVE RULES

**AMENDATORY SECTION** (Amending General Order No. R-479, Docket No. A-010648 [TG-990161], filed 3/23/01, effective 4/23/01)

**WAC 480-70-041 Definitions, general.** (See WAC 480-70-226 (Tariffs, definitions used in) for definition of terms used primarily in tariff filings.) Unless the language or context indicates that a different meaning is intended, the following words, terms and phrases mean:

**"Affiliated interest"** means a person or corporation as defined in RCW 81.16.010.

**"Application docket"** means a commission publication listing applications requesting operating authority, and commission action taken on applications for temporary authority.

**"Biomedical waste"** means the following types of waste:

"Animal waste" means waste animal carcasses, body parts, and bedding of animals that are known to be infected with, or that have been inoculated with, human pathogenic microorganisms infectious to humans.

"Biosafety level 4 disease waste" means waste contaminated with blood, excretions, exudates, or secretions from humans or animals who are isolated to protect others from highly communicable infectious diseases that are identified as pathogenic organisms assigned to biosafety level 4 by the Centers for Disease Control, National Institute of Health, *Biosafety in Microbiological and Biomedical Laboratories*, current edition.

"Cultures and stocks" means wastes infectious to humans and includes specimen cultures, cultures and stocks of etiologic agents, wastes from production of biologicals and serums, discarded live and attenuated vaccines, and laboratory waste that has come into contact with cultures and stocks of etiologic agents or blood specimens. Such waste includes, but is not limited to, culture dishes, blood specimen tubes, and devices used to transfer, inoculate, and mix cultures.

"Human blood and blood products" means discarded waste human blood and blood components, and materials containing free-flowing blood and blood products.

"Pathological waste" means waste human source biopsy materials, tissues, and anatomical parts that emanate from surgery, obstetrical procedures, and autopsy. "Pathological waste" does not include teeth, human corpses, remains, and anatomical parts that are intended for interment or cremation.

"Sharps waste" means all hypodermic needles, syringes with needles attached, IV tubing with needles attached, scalpel blades, and lancets that have been removed from the original sterile package.

**Note:** Certificates issued prior to the effective date of these rules may contain the terms "biohazardous waste" or "infectious waste" in describing services authorized. From the effective date of these rules, those permits shall be understood to allow the transportation of "biomedical waste."

**"Biohazardous or biomedical waste generator"** means any person, by site, whose act or process produces infectious waste, or whose act first caused an infectious waste to become subject to regulation. In the case where more than one person, e.g., doctors with separate medical practices, are located in the same building, each individual business entity is a separate generator for the purposes of these rules.

**"Biohazardous or biomedical waste transporter"** means any person who transports infectious waste over the highways in a quantity equal to or exceeding one hundred pounds per month for compensation.

**"Biosolids"** means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process.

**"Business of transporting solid waste for collection and/or disposal for compensation"** means those carriers who are primarily in the specialized business of solid waste for collection and/or disposal.

**"Cancellation"** means an act by the commission to terminate a solid waste collection company certificate; or an act by a carrier to discontinue the application of a tariff, a tariff supplement, or a tariff item.

**"Certificate"** means the certificate of public convenience and necessity issued by the Washington utilities and transportation commission under the provisions of chapter 81.77 RCW for the operation of solid waste collection companies.

**"Certificated authority"** means the territory and services granted by the commission and described in a company's certificate of public convenience and necessity.

**"City regulation"** means regulation of the operations of a solid waste collection company by a city through issuance of a contract.

**"Classes of companies":**

**"Class A company"** means a traditional solid waste collection company with an annual gross operating revenue from regulated, intrastate operations of five million dollars or more.

**"Class B company"** means a traditional solid waste collection company with an annual gross operating revenue from regulated, intrastate operations of less than five million dollars.

**"Class C company"** means a solid waste collection company that does not provide traditional residential or commercial solid waste operations. This class includes specialized carriers generally hauling specific waste products for specific customers or providing only on-call or nonscheduled service.

**"Classes of service"** means either commercial, specialized, drop box, or residential service.

**"Company"** means a solid waste collection company.

**"Commercial authority"** means authority to provide solid waste collection service to business, institutional, or industrial generators.

**"Commercial recycling service"** means transportation of recyclable commodities from a buy-back center, drop box, or from a commercial or industrial generator of recyclable materials when those recyclable materials are being transported for use other than landfill disposal or incineration.

Commercial recycling is regulated under chapter 81.80 RCW.

**"Commercial service"** means solid waste collection service provided to a business, institutional, or industrial generator.

**"Commission"** means the Washington utilities and transportation commission.

**"Common carrier"** means any person who transports solid waste by motor vehicle for compensation.

**"Construction debris"** or **"construction waste"** means solid waste resulting from the building or renovation of buildings, roads and other man-made structures. Construction debris includes, but is not limited to, materials such as plasterboard, cement, dirt, wood, and brush.

**"Contract carrier"** means a person holding a certificate issued by the commission authorizing transportation of solid waste for collection and/or disposal under special and individual contracts or agreements.

**"Control"** means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a company, whether through the ownership of voting shares, by contract, or otherwise.

**"Demolition waste"** or **"demolition debris"** means solid waste resulting from the demolition or razing of buildings, roads and other man-made structures. Demolition waste includes, but is not limited to, concrete, brick, bituminous concrete, wood and masonry, composition roofing and roofing paper, steel, and minor amounts of other metals like copper.

**"Disinfect"** means to cleanse by destroying harmful microorganisms.

**"Disposal site"** means the location where any final treatment, utilization, processing, or deposit of solid waste occurs. This term includes, but is not limited to, landfills, transfer stations, and incinerators.

**"Dump truck operator"** means a carrier holding a permit under chapter 81.80 RCW engaged in the operation of dump trucks and similar vehicles used in the transportation of sand, gravel, dirt, debris, and other similar commodities except solid waste. Dump truck operations are usually conducted during the daytime; are local in character; are somewhat seasonal, especially in connection with building or construction projects; and the value of the commodity transported is usually low.

**"Filing"** means any application, petition, tariff proposal, annual report, comment, complaint, pleading, or other document submitted to the commission.

**"Garbage"** means those materials of solid waste that are putrescible.

**"Garbage and refuse."** Whenever the phrase "garbage and refuse" is used as a qualifying phrase, it means either garbage or refuse, or both garbage and refuse.

**"Hazardous waste"** means any material that is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in 40 CFR Part 262.

**"Incineration"** means to reduce the volume of solid waste by use of an enclosed device using controlled flame combustion.

**"Incinerator"** means a site where solid waste is reduced in volume by use of an enclosed device using controlled flame combustion.

**"Landfill"** means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land-treatment facility.

**"Land-treatment facility"** means the site on which the practice of applying dangerous waste onto or incorporating dangerous waste into the soil surface so that it will degrade or decompose takes place. The term does not include applying waste onto or into the soil surface for the purpose of soil sweetening or soil amendment.

**"Leachate"** means water or other liquid that has been contaminated by dissolved or suspended materials due to contact with solid waste or gases.

**"Motor vehicle"** means any truck, trailer, semi-trailer, tractor or any self-propelled or motor-driven vehicle used on any public highway of this state for the purpose of transporting solid waste for collection and/or disposal.

**"Multiple-family residence"** or **"multifamily residence"** means any structure housing two or more dwelling units.

**"Multifamily service"** means residential service provided to multifamily structures or locations including, but not limited to, duplexes, apartments, mobile home courts, and condominiums.

**"Nonputrescible"** means not capable of being readily decomposed by microorganisms.

**"Occasional"** means occurring at irregular and infrequent intervals. The term is qualitative, not quantitative, in that the term applies to services that are only performed from time-to-time, not that the solid waste hauling is only a small part of services offered.

**"Packer"** means a device or vehicle specially designed to compress loose materials.

**"Person"** means an individual, firm, corporation, association, partnership, lessee, receiver, trustee, consortium, joint venture, or commercial entity.

**"Private carrier"** means a person who transports solid waste in the person's own vehicle purely as an incidental adjunct to some other established private business owned or operated by that person in good faith.

**EXCEPTION:** A person who transports solid waste from residential sources in a vehicle designed or used primarily for the transport of solid waste is not a private carrier.

**"Private motor vehicle"** means a vehicle owned or operated by a private carrier.

**"Private road"** means a road not normally available for use by the public.

**"Public highway"** means every street, road, or highway in this state normally available for use by the public.

**"Putrescible"** means capable of being readily decomposed by microorganisms.

**"Recyclable materials"** means materials that are transported for recycling, reprocessing, reclamation, or for any process that extracts or modifies the commodity for reuse or another commercially valuable purpose.

**"Recycling"** means transforming or remanufacturing materials into usable or marketable materials for use other than landfill disposal or incineration.

**"Refuse"** means those materials of solid waste that are not putrescible.

**"Residence"** means the regular dwelling place of an individual or individuals.

**"Residential authority"** means authority to provide solid waste collection from residences.

**"Residential recycling service"** means collection of those solid wastes that are separated for recycling or reuse, such as paper, plastic, metals, and glass, that are identified as recyclable materials pursuant to a local comprehensive solid waste plan.

**"Residential service"** means solid waste collection from residences.

**"Sewer sludge"** means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials, generated from a wastewater treatment system, that does not meet the requirements of chapter 70.95J RCW, and is transported to a site for disposal.

**"Shipping paper"** means a shipping order, bill of lading, manifest, or other shipping document serving a similar purpose and containing the information required in WAC 480-70-401 (Payment options).

**"Small business"** means any company that has fifty or fewer employees.

**"Solid waste"** or **"solid wastes"** means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to:

- Garbage;
- Rubbish;
- Refuse;
- Swill;
- Ashes;
- Industrial wastes;
- Sewage sludge;
- Demolition and construction wastes;
- Abandoned vehicles or parts of abandoned vehicles;

and

• Source-separated recyclable materials collected from single and multifamily residences.

**"Solid waste collection"** means collecting solid waste from residential or commercial customers and transporting the solid waste, using a motor vehicle, for collection and/or disposal over the highways of the state of Washington for compensation.

**"Solid waste collection company"** means every common carrier, including a contract carrier, who provides solid waste collection service.

**"Source separation"** means the separation of different kinds of solid waste at the place where the waste originates.

**"Specialized solid waste collection company"** means a company providing other than traditional solid waste collection service. Specialized companies generally haul specific waste products for specific customers, provide only on-call or nonscheduled service, or provide accessorial services not normally provided by traditional solid waste collection companies.

**"State"** means the state of Washington.

**"Subsidiary"** means any company in which the solid waste company owns directly or indirectly five percent or

more of the voting securities, unless the solid waste company demonstrates it does not have control.

**"Suspension"** means an act by the commission to temporarily withhold a solid waste collection company's certificated authority; or an act by the commission to withhold approval of a company's tariff filing.

**"Tariff"** means a document issued by a company, and approved by the commission, containing the services provided, the rates and charges the company bills its customers for those services, and the rules describing how the rates and charges apply.

**"Tariff service territory"** means a company-defined geographic division of its certificated authority in which a specific tariff applies.

**"Third-party waste broker"** means a person or company acting on behalf of a generator of solid waste, usually an industrial or commercial generator, to arrange for collection and/or disposal of solid waste.

**"Traditional solid waste collection company"** means a company engaged in collecting and removing solid waste and recyclable materials from private homes, and/or removing solid waste from commercial establishments, industrial facilities, and other sites. Solid waste is normally picked up on a daily, weekly, or other regular basis. Drivers are usually assigned designated routes to collect curbside residential solid waste or transport cans or containers for commercial businesses. Unless the company's certificate is restricted against doing so, a traditional solid waste collection company may also perform specialized solid waste collection service.

**"Transfer station"** means a staffed, fixed supplemental facility used by persons and route collection vehicles to deposit solid wastes into transfer trailers for transportation to a disposal site. The definition does not usually include detachable containers. However, in counties with a population of less than seventy thousand, and in any county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand that is located east of the crest of the Cascade mountain range, if detachable containers are securely fenced, staffed by an attendant during all hours when the detachable container is open to the public, and tipping fees that cover the cost of providing the containers and the use of the facility are charged, then such detachable containers constitute a transfer station. (Refer to RCW 36.58-.030.)

**"Treatment"** means incineration, sterilization, or other method, technique, or process that changes the character or composition of a biomedical waste so as to minimize the risk of transmitting an infectious disease by making it noninfectious. Any waste, except sharps, that has been treated is not considered biohazardous or biomedical waste, and may be considered to be solid waste for purposes and handling.

**"Vehicle"** means every device capable of transporting solid waste on a public highway. The term "vehicle" does not include devices moved by human or animal power or used exclusively on stationary rails or tracks.

**"Yard waste"** or **"yard debris"** means plant material commonly created in the course of maintaining yards and gardens and through horticulture, gardening, landscaping, or similar activities. Yard waste includes, but is not limited to,

grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, and vegetable garden debris.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

**WAC 480-70-051 Exemptions from rules in chapter 480-70 WAC.** ~~((1) The commission may grant an exemption of any rule in this chapter, when doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.~~

~~(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought, giving a full explanation of the reason for requesting the exemption.~~

~~(3) The commission will assign the request a docket number, if it does not arise in an existing docket, and will schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date of the hearing or open meeting when the commission will consider the request.~~

~~(4) In determining whether to grant the request, the commission may consider whether application of the rule would impose undue hardship on the petitioner, of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the purpose of the rule.~~

~~(5) The commission will issue an order granting or denying the request or setting it for hearing pursuant to chapter 480-07 WAC.)~~ The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modifications to the rules in this chapter; special rules).

**PART ((2)) II—ACCOUNTING REQUIREMENTS, REPORTING REQUIREMENTS AND REGULATORY FEES**

NEW SECTION

**WAC 480-70-077 Transferring cash or assuming obligations.** (1) At least five business days, as defined in WAC 480-07-120 (Office hours), before a Class A company, whose corporate credit/issuer rating is not in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc., or its subsidiary transfers cash to any of its affiliated interests or subsidiaries or assumes an obligation or liability of any of its affiliated interests or any of its subsidiaries, the company must report to the commission an estimate of the amount to be transferred and the terms of the transaction when the transaction will exceed thresholds as described in (a) or (b) of this subsection.

(a) The company must report if the cumulative transactions to a subsidiary or affiliated interest for the prior twelve months exceed a threshold of five percent, which is based on

the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(b) When the threshold in (a) of this subsection has been reached, the company must report each subsequent transaction exceeding a threshold of one percent for the prior twelve-month period, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(2) The reporting requirements in subsection (1) of this section do not include payments for:

(a) Federal and state taxes;

(b) Goods, services, or commodities;

(c) Transactions, attributed to the regulated entity, previously approved or ordered by the commission, other regulatory agencies, or the court; or

(d) Dividends to the extent the level of such dividends over a twelve-month period does not exceed the larger of:

(i) Net income during such period; or

(ii) The average level of dividends over the preceding three years; or

(e) Sweep or cash management accounts used to transfer funds to or from a subsidiary or affiliate as part of the customary and routine cash management functions between or among the utility and its subsidiary or affiliate.

NEW SECTION

**WAC 480-70-078 Affiliated interest—Contracts or arrangements.** Prior to the effective date of any contract or arrangement described in RCW 81.16.020, each solid waste collection company must file a verified copy or a verified summary, if unwritten, of contracts or arrangements, except for transactions provided at tariff rates, with affiliated interests. Prior to the effective date of any modification or amendment, the company must file verified copies of the modifications or amendments to the contracts or arrangements. If the contract or arrangement is unwritten, the company must file a verified summary of any modification or amendment. The commission may institute an investigation and disapprove the contract or arrangement if the commission finds the company has failed to prove that it is reasonable and consistent with the public interest.

NEW SECTION

**WAC 480-70-079 Affiliated interest and subsidiary transactions report.** (1) By June 1 of each year each Class A company must file a report summarizing all transactions that occurred between the company and its affiliated interests, except for transactions provided at tariff rates, and the company and its subsidiaries, during the period January 1 through December 31 of the preceding year.

(2) The information required in this subsection must be for total company and for total state of Washington. The report must include a corporate organization chart of the company and its affiliated interests and subsidiaries.

(3) When total transactions with an affiliated interest or a subsidiary are less than one hundred thousand dollars for the reporting period, the company must provide the name of the affiliated interest or subsidiary participating in the trans-

actions and the total dollar amounts of the transactions. When total transactions with an affiliated interest or subsidiary equal or exceed one hundred thousand dollars for the reporting period, the company must provide:

- (a) A balance sheet and income statement for such affiliated interest;
  - (b) A description of the products or services provided to or from the company and each such affiliated interest or subsidiary;
  - (c) A description of the pricing basis or costing method, and procedures for allocating costs for such products or services, and the amount and accounts charged during the year;
  - (d) A description of the terms of any loans between the company and each such affiliated interest or subsidiary and a listing of the year-end loan amounts and maximum loan amounts outstanding during the year;
  - (e) A description of the terms and total amount of any obligation or liability assumed by the company for each such affiliated interest or subsidiary;
  - (f) A description of the activities of each such affiliated interest or subsidiary with which the company has transactions; and
  - (g) A list of all common officers and directors between the solid waste company and each such affiliated interest or subsidiary, along with their titles in each organization.
- (4) The company is obligated to file verified copies of affiliated interest contracts and arrangements as stated in WAC 480-70-078 (Affiliated interests—Contracts or arrangements).

**PART ((3)) III—CERTIFICATES**

**PART ((4)) IV—INSURANCE**

**PART ((5)) V—EQUIPMENT AND DRIVERS**

**PART ((6)) VI—COMPLIANCE**

**PART ((7)) VII—TARIFFS, RATES, AND RATE FILINGS**

**PART ((8)) VIII—CONSUMER RULES**

**PART ((9)) IX—BIOMEDICAL WASTE RULES**

**PART ((10)) X—HAZARDOUS WASTE RULES**

**PART ((11)) XI—ADOPTION BY REFERENCE**

**PART ((1)) I—GENERAL ((RULES)) PROVISIONS**

**AMENDATORY SECTION** (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

**WAC 480-90-008 Exemptions from rules in chapter 480-90 WAC.** ~~((1) The commission may grant an exemption from the provisions of any rule in this chapter if consistent with the public interest, the purposes underlying regulation, and applicable statutes.~~

~~(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought, giving a full explanation of the reason for requesting the exemption.~~

~~(3) The commission will assign the request a docket number, if it does not arise in an existing docket, and will schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date of the hearing or open meeting when the commission will consider the request.~~

~~(4) In determining whether to grant the request, the commission may consider whether application of the rule would impose undue hardship on the petitioner, of a degree or a kind different from hardship imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the purposes of the rule.~~

~~(5) The commission will enter an order granting or denying the request or setting it for hearing, pursuant to chapter 480-07 WAC.) The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modifications to the rules in this chapter; special rules).~~

**AMENDATORY SECTION** (Amending Docket No. UG-990294, General Order No. R-484, filed 5/3/01, effective 6/3/01)

**WAC 480-90-023 Definitions. "Affiliated interest" means a person or corporation as defined in RCW 80.16.010.**

**"Applicant"** means any person, corporation, partnership, government agency, or other entity that applies for service with a gas utility or who reapplies for service at a new or existing location after service has been discontinued.

**"British thermal unit"** (Btu) means the quantity of heat required to raise the temperature of one pound of water at 60° Fahrenheit and standard pressure, one degree Fahrenheit.

**"Business day"** means Monday through Friday, 8:00 a.m. until 5:00 p.m., except for official state holidays.

**"Commission"** means the Washington utilities and transportation commission.

**"Control"** means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a company, whether through the ownership of voting shares, by contract, or otherwise.

**"Customer"** means any person, corporation, partnership, government agency, or other entity that applied for, has been accepted for, and is currently receiving service.

**"Cubic foot of gas"** means a volumetric unit of measure used in sales and testing.

**"Sales volume"** means a cubic foot of gas for billing purposes is the amount of gas that occupies a volume of one cubic foot under the temperature and pressure conditions existing in the customer's meter. Temperature and/or pressure recording or compensating devices may be used to reflect temperature or pressure base conditions for computing the volume sold. Temperature and/or pressure compensation

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factors may be used to compute the volume of gas sold as provided in the utility's tariff.

"**Testing volume**" means a cubic foot of gas for testing purposes is the amount that occupies a volume of one cubic foot at a temperature of 60° Fahrenheit and pressure of 14.73 pounds per square inch absolute.

"**Gas**" means any fuel or process gas, whether liquid petroleum gas, manufactured gas, natural gas, or any mixture of these.

"**Liquefied petroleum gas**" means a gas consisting of vapors of one or more of the paraffin hydrocarbons, or a combination of one or more of these vapors with air.

"**Manufactured gas**" means any gas produced artificially by any process.

"**Natural gas**" means a mixture of gaseous hydrocarbons (chiefly methane) and nonhydrocarbons that occur naturally in the earth.

"**Subsidiary**" means any company in which the gas utility owns directly or indirectly five percent or more of the voting securities, unless the utility demonstrates it does not have control.

"**Therm**" means a unit of heat equal to 100,000 Btus.

"**Gas utility**" (utility) means any business entity (e.g., corporation, company, association, joint stock association, or partnership) or person, including a lessee, trustee, or court appointed receiver, that meets the three following conditions:

Owens, controls, operates, or manages any gas plant in Washington state;

Manufactures, transmits, distributes, sells, or furnishes gas to the public for compensation; and

Is subject to the commission's jurisdiction.

Terms used in this chapter and defined in the public service laws of Washington state (i.e., principally Title 80 RCW) have the same meaning here as in the statutes. Terms not defined in these rules or the applicable statutes have the meaning generally accepted in the gas industry, or their ordinary meaning if there is no meaning generally accepted in the gas industry.

## PART ((2)) II—CONSUMER RULES

### PART ((3)) III—FINANCIAL RECORDS AND REPORTING RULES

#### Subpart A: General Rules

##### NEW SECTION

**WAC 480-90-207 Filing information.** (1) **Filing.** The commission records center will accept all reports required in Part III in person, by mail, or when procedures are in place, electronic mail message.

(2) **Commission may require additional information.** The commission may require pertinent information in addition to that specified by statute or in this chapter.

(3) **Information by reference.** When any information required to support a filing is on file with the commission, it is sufficient to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

(4) **When information is unavailable.** If any required information is unavailable at the time of the filing, the filing must include the reason why the information is not available and state when it will be available.

##### NEW SECTION

**WAC 480-90-209 Additional reports.** Part III does not supersede any reporting requirement specified in a commission order or limit the commission's ability to request additional information.

#### Subpart B: Financial Transaction Reporting Requirements

##### NEW SECTION

**WAC 480-90-244 Transferring cash or assuming obligations.** (1) At least five business days before a gas utility whose corporate/issuer rating is not in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc., or its subsidiary transfers cash to any of its affiliated interests or subsidiaries or assumes an obligation or liability of any of its affiliated interests or any of its subsidiaries, the utility must report to the commission an estimate of the amount to be transferred and the terms of the transaction when the transaction will exceed thresholds described in (a) or (b) of this subsection.

(a) The utility must report if the cumulative transactions to a subsidiary or affiliated interest for the prior twelve months exceed a threshold of two percent, which is based on the utility's common shareholders equity.

(b) When the threshold in (a) of this subsection has been reached, the utility must report each subsequent transaction exceeding a threshold of one percent for the prior twelve-month period, which is based on the utility's common shareholders equity.

A utility's common shareholder equity is determined according to the latest annual report filed pursuant to WAC 480-90-252 (Federal Energy Regulatory Commission (FERC) Form No. 2). Information about the FERC Form No. 2 regarding the version adopted and where to obtain it is set out in WAC 480-90-999 (Adoption by reference).

(2) The reporting requirements in subsection (1) of this section do not include payments for:

(a) Federal and state taxes;

(b) Goods, services, or commodities, including fuel supplies (e.g., gas, coal, or oil);

(c) Transactions, attributed to the regulated entity, previously approved or ordered by the commission, other regulatory agencies, or the court;

(d) Dividends to the extent the level of such dividends over a twelve-month period does not exceed the larger of:

(i) Net income during such period; or

(ii) The average level of dividends over the preceding three years; or

(e) Sweep or cash management accounts used to transfer funds to or from a subsidiary or affiliate as part of the customary and routine cash management functions between or among the utility and its subsidiary or affiliate.

NEW SECTION

**WAC 480-90-245 Affiliated interests—Contracts or arrangements.** Prior to the effective date of any contract or arrangement described in RCW 80.16.020, each gas utility must file a verified copy or a verified summary, if unwritten, of contracts or arrangements, except for transactions provided at tariff rates, with any affiliated interest. Prior to the effective date of any modification or amendment, the utility must file verified copies of the modifications or amendments to the contracts or arrangements. If the contract or arrangement is unwritten, the utility must file a verified summary of any modification or amendment. The commission may institute an investigation and disapprove the contract or arrangement if the commission finds the utility has failed to prove that it is reasonable and consistent with the public interest.

NEW SECTION

**WAC 480-90-248 Securities and transfers of property.** (1) Before a gas utility issues stock, securities, or other evidence of indebtedness, the utility must comply with the requirements of chapters 80.08 RCW and 480-146 WAC.

(2) Before selling, leasing, or assigning any of its property or facilities which are necessary or useful in the performance of its duties to the public, or before acquiring property or facilities of another public utility, a gas utility must obtain from the commission an order authorizing such transaction in accordance with chapter 80.12 RCW (Transfers of property) and chapter 480-143 WAC (Commission general—Transfers of property).

**Subpart C: Annual Reporting Requirements**NEW SECTION

**WAC 480-90-252 Federal Energy Regulatory Commission (FERC) Form No. 2.** (1) Each gas utility must use the annual report form (FERC Form No. 2) promulgated by the Federal Energy Regulatory Commission in Title 18 of the Code of Federal Regulations, Part 141, for purposes of this report to the commission. Data required by RCW 80.04.080 (Annual reports), but not included in the FERC Form No. 2, must also be submitted with the annual report. The utility must submit the annual report for the preceding calendar year, along with the regulatory fee, by May 1st of each year. If not presented in the prescribed FERC Form No. 2, the annual report must include the following data per customer class for the calendar year: Revenues, average customer count, and total unit sales. Information about the FERC Form No. 2 regarding the version adopted and where to obtain it is set out in WAC 480-90-999 (Adoption by reference).

(2) Each utility must also submit to this commission, in essentially the same format and content as the FERC Form No. 2, a report that documents the costs incurred and the property necessary to furnish utility service to its customers and the revenues obtained in the state of Washington. The report must include the following data per customer class for the calendar year: Revenues, average customer count, and total unit sales.

(3) Combination and multistate utilities must submit with the annual report their cost allocation methods necessary to develop results of operations for the state of Washington. Approval of cost allocation methods for rate-making purposes is accomplished only by commission order.

(4) The total utility results of operations reported by each utility in its annual report to the commission must agree with the results of operations shown on the utility's books and records.

NEW SECTION

**WAC 480-90-257 Commission basis report.** (1) Commission basis reports are due within four months of the end of a utility's fiscal year.

(2) The intent of the commission basis report is to depict the gas operations of a gas utility under normal temperature and power supply conditions during the reporting period. The commission basis report must include:

(a) Booked results of gas operations and rate base, and all the necessary adjustments as accepted by the commission in the utility's most recent general rate case or subsequent orders;

(b) Results of operations adjusted for any material out-of-period, nonoperating, nonrecurring, and extraordinary items or any other item that materially distorts reporting period earnings and rate base; and

(c) Booked revenues and power supply expenses adjusted to reflect operations under normal temperature and power supply conditions before the achieved return on rate base is calculated.

(3) Commission basis reports should not include adjustments that annualize price, wage, or other cost changes during a reporting period, nor new theories or approaches that have not been previously addressed and resolved by the commission.

(4) Each utility must submit the basis of any cost allocations and the allocation factors necessary to develop the commission basis results of gas operations for the state of Washington.

NEW SECTION

**WAC 480-90-264 Affiliated interest and subsidiary transactions report.** (1) Each gas utility must file an annual report summarizing all transactions, except transactions provided at tariff rates, that occurred between the utility and its affiliated interests, and the utility and its subsidiaries. The report is due one hundred twenty days from the end of the utility's fiscal or calendar year (reporting period). The report must include a corporate organization chart of the utility and its affiliated interests and subsidiaries.

(2) When total transactions with an affiliated interest or a subsidiary are less than one hundred thousand dollars for the reporting period, the utility must provide the name of the affiliated interest or subsidiary participating in the transactions and the total dollar amounts of the transactions. When total transactions with an affiliated interest or subsidiary equal or exceed one hundred thousand dollars for the reporting period, the utility must provide:

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(a) A balance sheet and income statement for such affiliated interest;

(b) A description of the products or services provided to or from the utility and each such affiliated interest or subsidiary;

(c) A description of the pricing basis or costing method, and procedures for allocating costs for such products or services, and the amount and accounts charged during the year;

(d) A description of the terms of any loans between the utility and each such affiliated interest or subsidiary and a listing of the year-end loan amounts and maximum loan amounts outstanding during the year;

(e) A description of the terms and total amount of any obligation or liability assumed by the utility for each such affiliated interest or subsidiary;

(f) A description of the activities of each such affiliated interest or subsidiary with which the utility has transactions; and

(g) A list of all common officers and directors between the gas utility and each such affiliated interest or subsidiary, along with their titles in each organization.

(3) The report required in this section supersedes the reporting requirements contained in previous commission orders authorizing affiliated interest transactions pursuant to chapter 80.16 RCW.

(4) The utility is obligated to file verified copies of affiliated interest contracts and arrangements as stated in WAC 480-90-245 (Affiliated interest—Contracts and arrangements).

#### NEW SECTION

**WAC 480-90-268 Essential utilities services contracts report.** (1) When the annual value to a vendor exceeds one and one-half percent of total company sales to ultimate customers as reported in the utility's most recent Federal Energy Regulatory Commission (FERC) Form No. 2 (or combined Forms No. 1 and No. 2 for combined utilities), each gas utility must report the total contracts with that vendor for essential utility services specifying the relevant terms of the contract or contracts, along with anticipated associated charges. Information about the FERC Form No. 2 regarding the version adopted and where to obtain it is set out in WAC 480-90-999 (Adoption by reference).

(2) The report of essential service vendors is due one hundred twenty days from the end of each reporting period, whether a fiscal or calendar year.

(3) For each vendor the report must include:

(a) The parties to the contract;

(b) The type of contract;

(c) The essential obligations of each party to the contract;

(d) The length of the contract;

(e) The budgeted annual dollar value of the contract during the reporting period; and

(f) The actual payments for services rendered under the contract during the reporting period.

(4) Essential utility services are those services necessary to provide gas service such as:

(a) Operation or maintenance of gas system infrastructure;

(b) Operation or maintenance of computer systems;

(c) Purchase of gas for classes of customer service regulated by the commission; and

(d) Construction of gas system infrastructure.

(5) The requirements under this section may be satisfied in whole or in part by cross-reference to the applicable portions of other documents that the utility has on file with the commission.

#### **Subpart D: Quarterly Reporting Requirement**

#### NEW SECTION

**WAC 480-90-275 Actual results for Washington operations report.** Within forty-five days of the end of each quarter, each gas utility must file a report of actual results for Washington operations. The results of operations report must contain each of the three monthly balances and the latest twelve months' ending balance for all accounts of the uniform system of accounts. The report must include the average customer count and total unit sales per customer class for each reported period.

#### **PART ((4)) IV—GAS METERING AND STANDARDS RULES**

#### **PART ((5)) V—ADOPTION BY REFERENCE**

AMENDATORY SECTION (Amending General Order No. R-511, Docket No. A-030852, filed 12/22/03, effective 1/22/04)

**WAC 480-90-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) Title 18 Code of Federal Regulations, cited as 18 CFR, including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on April 1, 2003.

(b) This publication is referenced in WAC 480-90-203 (Accounting system requirements) (~~and WAC 480-90-208 (Financial reporting requirements)~~), WAC 480-90-244 (Transferring cash or assuming obligation), WAC 480-90-252 (Federal Energy Regulatory Commission (FERC) Form No. 2), and WAC 480-90-268 (Essential utilities services contracts report).

(c) Copies of 18 CFR are available from the U.S. Government Printing Office in Pittsburgh, Pennsylvania.

(2) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies* is published by the National Association of Regulatory Utility Commissioners (NARUC).

(a) The commission adopts the version in effect in 1985.

(b) This publication is referenced in WAC 480-90-228 (Retention and preservation of records and reports).

(c) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies* is a copyrighted document. Copies are available from NARUC, in Washington, D.C.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-90-208	Financial reporting requirements.
WAC 480-90-218	Securities, affiliated interests, and transfers of property.

AMENDATORY SECTION (Amending Order R-458, Docket No. UR-980080, filed 2/5/99, effective 3/8/99)

WAC 480-92-016 ((Waiver.)) Exemptions from rules in chapter 480-92 WAC. (((1) The commission may grant a waiver of any rule in this chapter when doing so is consistent with the public interest, the purposes underlying regulation, and sound public policy, and is not inconsistent with applicable statutes.

((2) To request a rule waiver, a site operator must file a written request with the commission identifying the rule for which a waiver is sought, and giving a full explanation of the reason for requesting the waiver.)) The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modifications to the rules in this chapter; special rules).

AMENDATORY SECTION (Amending Order R-458, Docket No. UR-980080, filed 2/5/99, effective 3/8/99)

WAC 480-92-021 Definitions. The definitions contained in chapter 81.108 RCW and RCW 81.04.010 are incorporated by reference in this section. To the extent that any of the definitions in this chapter differ from statutory definitions, the statutory definitions shall control.

"Affiliated interest" means a person or corporation as defined in RCW 81.16.010.

"Commission" means the Washington utilities and transportation commission.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a company, whether through the ownership of voting shares, by contract, or otherwise.

"Effective rate" means the highest permissible rate, for the disposal of low-level radioactive waste, calculated as the lowest contract rate plus an administrative fee, if applicable, determined pursuant to RCW 81.108.040.

"Extraordinary volume" means volumes of low-level radioactive waste delivered to a site caused by nonrecurring events, outside normal operations of a generator, that are in

excess of twenty thousand cubic feet or twenty percent of the preceding year's total volume at such site, whichever is less.

"Extraordinary volume adjustment" means a mechanism that allocates the potential rate reduction benefits of an extraordinary volume among all generators and the generator responsible for such extraordinary volume as described in RCW 81.108.070.

"Generator" means a person, partnership, association, corporation, or any other entity that, as a part of its activities, produces low-level radioactive waste.

"Inflation adjustment" means a mechanism that adjusts the maximum disposal rate by a percentage equal to the change in price levels in the preceding period, as measured by a common, verifiable price index as determined in RCW 81.108.040.

"Low-level radioactive waste" means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations nor naturally occurring or accelerator produced radioactive material.

"Maximum disposal rate" the maximum disposal is the rate a site operator may charge generators as provided in RCW 81.108.050.

"Site" means a location, structure, or property used or to be used for the storage, treatment, or disposal of low-level radioactive waste for compensation within the state of Washington.

"Site operator" means a low-level radioactive waste site operating company, which includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling, or managing a low-level radioactive waste disposal site or sites located within the state of Washington.

"Subsidiary" means any company in which the low-level waste company owns directly or indirectly five percent or more of the voting securities, unless the low-level waste company demonstrates it does not have control.

"Volume adjustment" means a mechanism that adjusts the maximum disposal rate in response to material changes in volumes of waste deposited at the site during the preceding period so as to provide a level of total revenues sufficient to recover the costs to operate and maintain the site.

AMENDATORY SECTION (Amending Order R-458, Docket No. UR-980080, filed 2/5/99, effective 3/8/99)

WAC 480-92-050 Reporting requirements—Annual report. ((The commission will distribute an annual report form to site operators each year. The site operator must complete the form, file it with the commission, and pay regulatory fees for the preceding calendar year by May 1.

A site operator may request in writing prior to May 1, an extension of time to file its annual report, stating the reasons

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~~for the request and the extension date. The commission will not grant extensions for payment of regulatory fees.)~~ An annual report is an end-of-the-year summary of financial and operational activity that each site operator is required to file with the commission.

(1) Each year the commission provides an annual report form and instructions to each site operator at its address of record. Failure to receive the form does not relieve a company of its obligation to complete and file its annual report. A site operator that does not receive an annual report form must contact the commission to request a copy of the form.

(2) A site operator must file a complete, accurate annual report showing all requested information by May 1 of the succeeding year. Information provided on the annual report must agree with source documents maintained at site operator offices.

## NEW SECTION

**WAC 480-92-055 Reporting requirements—Special reports.** (1) **Affiliated interests—Contracts or arrangements.** Prior to the effective date of any contract or arrangement described in RCW 81.16.020, each site operator must file a verified copy or a verified summary, if unwritten, of contracts or arrangements, except transactions provided at tariff rates, with any affiliated interest. Prior to the effective date of any modification or amendment, the site operator must file verified copies of the modifications or amendments to the contracts or arrangements. If the contract or arrangement is unwritten, the site operator must file a verified summary of any modification or amendment. The commission may institute an investigation and disapprove the contract or arrangement if the commission finds the site operator has failed to prove that it is reasonable and consistent with the public interest.

### **(2) Transferring cash or assuming obligations.**

(a) At least five business days, as defined in WAC 480-07-120 (Office hours), before a site operator, whose corporate credit/issuer rating is not in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc., or its subsidiary transfers cash to any of its affiliated interests or subsidiaries or assumes an obligation or liability of any of its affiliated interests or any of its subsidiaries, the company must report to the commission an estimate of the amount to be transferred and the terms of the transaction when the transaction will exceed thresholds as described in (a)(i) or (ii) of this subsection.

(i) The company must report if the cumulative transactions to a subsidiary or affiliated interest for the prior twelve months exceed a threshold of five percent, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(ii) When the threshold in (a)(i) of this subsection has been reached, the company must report each subsequent transaction exceeding a threshold of one percent for the prior twelve-month period, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(b) The reporting requirements in subsection (1) of this section do not include payments for:

(i) Federal and state taxes;

(ii) Goods, services, or commodities;

(iii) Transactions, attributed to the regulated entity, previously approved or ordered by the commission, other regulatory agencies, or the court;

(iv) Dividends to the extent the level of such dividends over a twelve-month period does not exceed the larger of:

(A) Net income during such period; or

(B) The average level of dividends over the preceding three years; or

(v) Sweep or cash management accounts used to transfer funds to or from a subsidiary or affiliate as part of the customary and routine cash management functions between or among the site operator and its subsidiary or affiliate.

### **(3) Affiliated interest and subsidiary transactions report.**

(a) By June 1 of each year, each site operator must file a report summarizing all transactions, except transactions provided at tariff rates, that occurred between the site operator and its affiliated interests, and the site operator and its subsidiaries, during the period January 1 through December 31 of the preceding year. The information required in this subsection must be for total company and for total state of Washington. The report must include a corporate organization chart of the company and its affiliated interests and subsidiaries.

(b) When total transactions with an affiliated interest or a subsidiary are less than one hundred thousand dollars for the reporting period, the site operator must provide the name of the affiliated interest or subsidiary participating in the transactions and the total dollar amounts of the transactions. When total transactions with an affiliated interest or subsidiary equal or exceed one hundred thousand dollars for the reporting period, the site operator must provide:

(i) A balance sheet and income statement for such affiliated interest;

(ii) A description of the products or services provided to or from the company and each such affiliated interest or subsidiary;

(iii) A description of the pricing basis or costing method, and procedures for allocating costs for such products or services, and the amount and accounts charged during the year;

(iv) A description of the terms of any loans between the company and each such affiliated interest or subsidiary and a listing of the year-end loan amounts and maximum loan amounts outstanding during the year;

(v) A description of the terms and total amount of any obligation or liability assumed by the company for each such affiliated interest or subsidiary;

(vi) A description of the activities of each such affiliated interest or subsidiary with which the company has transactions; and

(vii) A list of all common officers and directors between the low-level waste company and each such affiliated interest or subsidiary, along with their titles in each organization.

**PART ((1)) I—GENERAL ((RULES)) PROVISIONS**

**AMENDATORY SECTION** (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

**WAC 480-100-008 Exemptions from rules in chapter 480-100 WAC.** ~~((1) The commission may grant an exemption from the provisions of any rule in this chapter, if consistent with the public interest, the purposes underlying regulation, and applicable statutes.~~

~~(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought, giving a full explanation of the reason for requesting the exemption.~~

~~(3) The commission will assign the request a docket number, if it does not arise in an existing docket, and will schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date of the hearing or open meeting when the commission will consider the request.~~

~~(4) In determining whether to grant the request, the commission may consider whether application of the rule would impose undue hardship on the petitioner, of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the purposes of the rule.~~

~~(5) The commission will enter an order granting or denying the request, or setting it for hearing, pursuant to chapter 480-07 WAC.)~~ The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modifications to the rules in this chapter; special rules).

**AMENDATORY SECTION** (Amending Docket No. UE-990473, General Order No. R-482, filed 5/3/01, effective 6/3/01)

**WAC 480-100-023 Definitions. "Affiliated interest" means a person or corporation as defined in RCW 80.16.010.**

**"Applicant"** means any person, corporation, partnership, government agency, or other entity that applies for service with an electric utility or who reapplies for service at a new or existing location after service has been discontinued.

**"Business day"** means Monday through Friday, 8:00 a.m. until 5:00 p.m., except for official state holidays.

**"Commission"** means the Washington utilities and transportation commission.

**"Control"** means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a company, whether through the ownership of voting shares, by contract, or otherwise.

**"Customer"** means any person, corporation, partnership, government agency, or other entity that has applied for, has been accepted, and is currently receiving service.

**"Electric utility (utility)"** means any business entity (e.g., corporation, company, association, joint stock associa-

tion, or partnership) or person, including a lessee, trustee, or court appointed receiver that meets the following conditions:

Owns, controls, operates, or manages any electric plant for hire in Washington state; and

Is subject to the commission's jurisdiction.

**"Subsidiary"** means any company in which the electric utility owns directly or indirectly five percent or more of the voting securities, unless the utility demonstrates it does not have control.

Terms used in this chapter and defined in the public service laws of Washington state (i.e., principally Title 80 RCW) have the same meaning here as in the statutes. Terms not defined in these rules or the applicable statutes have the meaning generally accepted in the electric industry, or their ordinary meaning if there is no meaning generally accepted in the electric industry.

**PART ((2)) II—CONSUMER RULES****PART ((3)) III—FINANCIAL RECORDS AND REPORTING RULES****Subpart A: General Rules****NEW SECTION**

**WAC 480-100-207 Filing information.** (1) **Filing.** The commission records center will accept all reports required in Part III in person, by mail, or when procedures are in place, electronic mail message.

(2) **Commission may require additional information.** The commission may require pertinent information in addition to that specified by statute or in this chapter.

(3) **Information by reference.** When any information required to support a filing is on file with the commission, it is sufficient to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

(4) **When information is unavailable.** If any required information is unavailable at the time of the filing, the filing must include the reason why the information is not available and state when it will be available.

**NEW SECTION**

**WAC 480-100-209 Additional reports.** Part III does not supersede any reporting requirement specified in a commission order or limit the commission's ability to request additional information.

**Subpart B: Financial Transaction Reporting Requirements****NEW SECTION**

**WAC 480-100-244 Transferring cash or assuming obligations.** (1) At least five business days before an electric utility whose corporate/issuer rating is not in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc., or its subsidiary transfers cash to any of its affiliated interests or subsidiaries or

assumes an obligation or liability of any of its affiliated interests or any of its subsidiaries, the utility must report to the commission an estimate of the amount to be transferred and the terms of the transaction when the transaction will exceed thresholds described in (a) or (b) of this subsection.

(a) The utility must report if the cumulative transactions to a subsidiary or affiliated interest for the prior twelve months exceed a threshold of two percent, which is based on the utility's common shareholders equity.

(b) When the threshold in (a) of this subsection has been reached, the utility must report each subsequent transaction exceeding a threshold of one percent for the prior twelve-month period, which is based on the utility's common shareholders equity.

A utility's common shareholder equity is determined according to the latest annual report filed pursuant to WAC 480-100-252 (Federal Energy Regulatory Commission (FERC) Form No. 1). Information about the FERC Form No. 1 regarding the version adopted and where to obtain it is set out in WAC 480-100-999 (Adoption by reference).

(2) The reporting requirements in subsection (1) in this section do not include payments for:

(a) Federal and state taxes;

(b) Goods, services, or commodities, including fuel supplies (e.g., gas, coal, or oil);

(c) Transactions, attributed to the regulated entity, previously approved or ordered by the commission, other regulatory agencies, or the court;

(d) Dividends to the extent the level of such dividends over a twelve-month period does not exceed the larger of:

(i) Net income during such period; or

(ii) The average level of dividends over the preceding three years; or

(e) Sweep or cash management accounts used to transfer funds to or from a subsidiary or affiliate as part of the customary and routine cash management functions between or among the utility and its subsidiary or affiliate.

#### NEW SECTION

**WAC 480-100-245 Affiliated interests—Contracts or arrangements.** Prior to the effective date of any contract or arrangement described in RCW 80.16.020, each electric utility must file a verified copy or a verified summary, if unwritten, of contracts or arrangements, except transactions provided at tariff rates, with any affiliated interest. Prior to the effective date of any modification or amendment, the utility must file verified copies of the modifications or amendments to the contracts or arrangements. If the contract or arrangement is unwritten, the utility must file a verified summary of any modification or amendment. The commission may institute an investigation and disapprove the contract or arrangement if the commission finds the utility has failed to prove that it is reasonable and consistent with the public interest.

#### NEW SECTION

**WAC 480-100-248 Securities and transfers of property.** (1) Before an electric utility issues stock, securities, or other evidence of indebtedness, the utility must comply with the requirements of chapters 80.08 RCW and 480-146 WAC.

(2) Before selling, leasing, or assigning any of its property or facilities which are necessary or useful in the performance of its duties to the public, or before acquiring property or facilities of another public utility, an electric utility must obtain from the commission an order authorizing such transaction in accordance with chapters 80.12 RCW (Transfers of property) and 480-143 WAC (Commission general—Transfers of property).

#### **Subpart C: Annual Reporting Requirements**

#### NEW SECTION

**WAC 480-100-252 Federal Energy Regulatory Commission (FERC) Form No. 1.** (1) Each electric utility must use the annual report form (FERC Form No. 1) promulgated by the Federal Energy Regulatory Commission in Title 18 of the Code of Federal Regulations, Part 141, for purposes of this report to the commission. Data required by RCW 80.04.080 (Annual reports), but not included in the FERC Form No. 1, must also be submitted with the annual report. The utility must submit the annual report for the preceding calendar year, along with the regulatory fee, by May 1st of each year. If not presented in the prescribed FERC Form No. 1, the annual report must include the following data per customer class for the calendar year: Revenues, average customer count, and total unit sales. Information about the FERC Form No. 1 regarding the version adopted and where to obtain it is set out in WAC 480-100-999 (Adoption by reference).

(2) Each utility must also submit to this commission, in essentially the same format and content as the FERC Form No. 1, a report that documents the costs incurred and the property necessary to furnish utility service to its customers and the revenues obtained in the state of Washington. The report must include the following data per customer class for the calendar year: Revenues, average customer count, and total unit sales.

(3) Combination and multistate utilities must submit with the annual report their cost allocation methods necessary to develop results of operations for the state of Washington. Approval of cost allocation methods for rate-making purposes is accomplished only by commission order.

(4) The total utility results of operations reported by each utility in its annual report to the commission must agree with the results of operations shown on the utility's books and records.

#### NEW SECTION

**WAC 480-100-257 Commission basis report.** (1) Commission basis reports are due within four months of the end of a utility's fiscal year.

(2) The intent of the commission basis report is to depict the electric operations of an electric utility under normal temperature and power supply conditions during the reporting period. The commission basis report must include:

(a) Booked results of electric operations and rate base, and all the necessary adjustments as accepted by the commission in the utility's most recent general rate case or subsequent orders;

(b) Results of operations adjusted for any material out-of-period, nonoperating, nonrecurring, and extraordinary items or any other item that materially distorts reporting period earnings and rate base; and

(c) Booked revenues and power supply expenses adjusted to reflect operations under normal temperature and power supply conditions before the achieved return on rate base is calculated.

(3) Commission basis reports should not include adjustments that annualize price, wage, or other cost changes during a reporting period, nor new theories or approaches that have not been previously addressed and resolved by the commission.

(4) Each utility must submit the basis of any cost allocations and the allocation factors necessary to develop the commission basis results of electric operations for the state of Washington.

#### NEW SECTION

**WAC 480-100-264 Affiliated interest and subsidiary transactions report.** (1) Each electric utility must file an annual report summarizing all transactions, except transactions provided at tariff rates, that occurred between the utility and its affiliated interests, and the utility and its subsidiaries. The report is due one hundred fifty days from the end of each reporting period, whether a fiscal or calendar year. The report must include a corporate organization chart of the utility and its affiliated interests and subsidiaries.

(2) When total transactions with an affiliated interest or a subsidiary are less than one hundred thousand dollars for the reporting period, the utility must provide the name of the affiliated interest or subsidiary participating in the transactions and the total dollar amounts of the transactions. When total transactions with an affiliated interest or subsidiary equal or exceed one hundred thousand dollars for the reporting period, the utility must provide:

(a) A balance sheet and income statement for such affiliated interest;

(b) A description of the products or services provided to or from the utility and each such affiliated interest or subsidiary;

(c) A description of the pricing basis or costing method, and procedures for allocating costs for such products or services, and the amount and accounts charged during the year;

(d) A description of the terms of any loans between the utility and each such affiliated interest or subsidiary and a listing of the year-end loan amounts and maximum loan amounts outstanding during the year;

(e) A description of the terms and total amount of any obligation or liability assumed by the utility for each such affiliated interest or subsidiary;

(f) A description of the activities of each such affiliated interest or subsidiary with which the utility has transactions; and

(g) A list of all common officers and directors between the electric utility and each such affiliated interest or subsidiary, along with their titles in each organization.

(3) The report required in this section supersedes the reporting requirements contained in previous commission

orders authorizing affiliated interest transactions pursuant to chapter 80.16 RCW.

(4) The utility is obligated to file verified copies of affiliated interest contracts and arrangements as stated in WAC 480-100-245 (Affiliated interest—Contracts and arrangements).

#### NEW SECTION

**WAC 480-100-268 Essential utilities services contracts report.** (1) When the annual transactions with a vendor exceed one and one-half percent of total company sales to ultimate customers as reported in the utility's most recent Federal Energy Regulatory Commission (FERC) Form No. 1 (or combined Forms No. 1 and No. 2 for combined utilities), each electric utility must report the total contracts with that vendor for essential utility services specifying the relevant terms of the contract or contracts, along with anticipated associated charges. Information about the FERC Form No. 1 regarding the version adopted and where to obtain it is set out in WAC 480-100-999 (Adoption by reference).

(2) The report of essential service vendors is due one hundred twenty days from the end of each reporting period, whether a fiscal or calendar year.

(3) For each vendor the report must include:

(a) The parties to the contract;

(b) The type of contract;

(c) The essential obligations of each party to the contract;

(d) The length of the contract;

(e) The budgeted annual dollar value of the contract during the reporting period; and

(f) The actual payments for services rendered under the contract during the reporting period.

(4) Essential utility services are those services necessary to provide electric service such as:

(a) Operation or maintenance of electric system infrastructure;

(b) Operation or maintenance of computer systems;

(c) Purchase of electricity for classes of customer service regulated by the commission; and

(d) Construction of electric system infrastructure.

(5) The requirements under this section may be satisfied in whole or in part by cross-reference to the applicable portions of other documents that the utility has on file with the commission.

#### **Subpart D: Quarterly Reporting Requirement**

#### NEW SECTION

**WAC 480-100-275 Actual results for Washington operations report.** Within sixty days of the end of each quarter, each electric utility must file a report of actual results for Washington operations. The results of operations report must contain each of the three monthly balances and the latest twelve months' ending balance for all accounts of the uniform system of accounts. The report must include the average customer count and total unit sales per customer class for each reported period.

**PART IV—LEASE OF UTILITY FACILITIES****PART ((4)) V—METERING RULES****PART ((5)) VI—SAFETY AND STANDARDS RULES****PART ((6)) VII—ADOPTION BY REFERENCE**

**AMENDATORY SECTION** (Amending General Order No. R-511, Docket No. A-030852, filed 12/22/03, effective 1/22/04)

**WAC 480-100-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) Title 18 Code of Federal Regulations, cited as 18 CFR, including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on April 1, 2003.

(b) This publication is referenced in WAC 480-100-203 (Accounting system requirements) (~~and WAC 480-100-208 (Financial reporting requirements)~~), WAC 480-100-244 (Transferring cash or assuming obligation), WAC 480-100-252 (Federal Energy Regulatory Commission (FERC) Form No. 1), and WAC 480-100-268 (Essential utilities services contracts report).

(c) Copies of 18 CFR are available from the U.S. Government Printing Office in Pittsburgh, Pennsylvania.

(2) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies* is published by the National Association of Regulatory Utility Commissioners (NARUC).

(a) The commission adopts the version in effect in 1985.

(b) This publication is referenced in WAC 480-100-228 (Retention and preservation of records and reports).

(c) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies* is a copyrighted document. Copies are available from NARUC in Washington, D.C.

(3) The National Electrical Code is published by the National Fire Protection Association (NFPA).

(a) The commission adopts the version published in 2002.

(b) This publication is referenced in WAC 480-100-163 (Service entrance facilities).

(c) The National Electrical Code is a copyrighted document. Copies are available from the NFPA in Quincy, Massachusetts.

(4) The American National Standard for Electric Meters: Code for Electricity Metering, ANSI C12.1 is published by the American National Standards Institute.

(a) The commission adopts the version published in 2001.

(b) This publication is referenced in WAC 480-100-318 (Meter readings, multipliers, and test constants), WAC 480-

100-338 (Accuracy requirements for electric meters), and WAC 480-100-343 (Statement of meter test procedures).

(c) The ANSI C12.1 is a copyrighted document. Copies are available from Global Engineering Documents in Englewood, Colorado.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 480-100-208 Financial reporting requirements.

WAC 480-100-218 Securities, affiliated interests, and transfers of property.

**PART I—GENERAL RULES**

**AMENDATORY SECTION** (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-205 Application of rules.** The rules in this chapter apply to any water company that distributes, sells, or supplies water, and that meets requirements for commission regulation or jurisdiction under RCW 80.04.010 and WAC 480-110-255 (Jurisdiction). This includes investor-owned water companies that meet the jurisdictional threshold of serving one hundred or more customers or receive average revenue of four hundred twenty-nine dollars or more per customer per year.

**AMENDATORY SECTION** (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

**WAC 480-110-215 Exemptions from rules in chapter 480-110 WAC.** ~~((1) The commission may grant an exemption of any rule in this chapter, if consistent with the public interest, the purposes underlying regulation, and applicable statutes:~~

~~(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought and giving a full explanation of the reason the exemption is requested.~~

~~(3) The commission will assign the request a docket number, if needed, and schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date the commission will consider the request.~~

~~(4) The commission will enter an order granting or denying the request or setting it for hearing, pursuant to chapter 480-07 WAC.) The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modifications to the rules in this chapter; special rules).~~

PERMANENT

**AMENDATORY SECTION** (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-225** (~~(Saving clause.)~~) **Additional requirements.** (~~(The commission may impose additional or different requirements on any water company in response to a complaint or on its own motion. These rules do not relieve any water company from any of its duties and obligations under the laws of the state of Washington.)~~) (1) These rules do not relieve any company from any of its duties and obligations under the laws of the state of Washington.

(2) The commission retains the authority to impose additional or different requirements on any company in appropriate circumstances, consistent with the requirements of law.

**NEW SECTION**

**WAC 480-110-227 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

**AMENDATORY SECTION** (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-235 Definition of control.** (1) For purposes of determining commission jurisdiction over a water company as defined in RCW 80.04.010, "control" means the water system operator or manager has discretion over the property or finances or operations of a water company which is normally exercised by an owner. Factors indicating control include, but are not limited to, whether the operator or manager:

- (a) May authorize the purchase or sale of all or part of the water system or its water rights;
  - (b) May authorize capital additions or improvements to the system;
  - (c) May accept contributed plant;
  - (d) May authorize the expenditure or acquisition of funds (~~(which)~~) that encumber any asset of the company;
  - (e) May authorize the expenditure of funds for nonwater company purposes;
  - (f) Receives compensation of a type or amount having no reasonable relationship to the work performed or to be performed.
- (2) Control does not include management by a satellite agency as defined in chapter 70.116 RCW if the satellite agency is not an owner of the water company.

**AMENDATORY SECTION** (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-245 Glossary.** "Applicant" means any person, partnership, firm, corporation, municipality, cooperative organization, governmental agency, etc., that has completed a water company's application for water service.

"Commission" means the Washington utilities and transportation commission.

"Contributions in aid of construction" means any money, services or property received by a water company to

fund capital investments at no cost to the company with no obligation to repay.

"Customer" means:

- Anyone who has paid water company fees and/or has an accepted application for service; or
- Anyone whose service connection is installed and is currently paying a ready-to-serve charge; or
- Anyone who is actually receiving water service from the company with the knowledge of the company.

"Extension" means the water mains and equipment necessary to extend the company's transmission and distribution infrastructure. An extension may also be called a distribution extension, a main extension, or a line extension.

"Facilities charge" means a one-time fee that a new customer must pay, consistent with WAC 480-110-455 (**Water company funding mechanisms**), before the company will connect the customer's property to the water system.

"Initial tariff" means:

- The tariff filed by a water company when it first becomes subject to the jurisdiction of the commission; or
- The tariff filed by a water company that was formerly subject to commission jurisdiction, and has once again become jurisdictional. It does not mean a tariff filed to add a newly acquired system or company to the tariff of a currently jurisdictional company.

"Jurisdictional customer" means anyone who is actually receiving water service.

"Potential customer" means anyone to whom the water company has given a letter agreeing to provide service; and

- The letter is currently enforceable and has not expired by its own terms; and
- The property is not yet receiving any type of service.

"Primary contaminants" means substances that, when present in drinking water at levels exceeding designated maximum contaminant levels (MCL), may adversely affect the health of consumers. These MCLs are established as water quality "primary standards" and are based on chronic, non-acute, or acute human health effects.

"Rate increase filing" means any filing by the company that would:

- Increase gross annual revenues of the company from activities regulated by the commission; or
- Restructure tariffs so that one class of customer would provide more gross revenue than under the prior tariff structure. The term does not mean filings designed only to recover governmentally imposed taxes or periodic rate adjustments that have been authorized by commission order.

"Ready-to-serve charge" means the charge assessed by the water company when:

- The water company has the ability to provide water service;
- The water company has committed to provide water service; and
- There is an installed service connection at the customer's property.

"Reconnect charge" means the charge specified in the company's tariff for restoring water service that has been disconnected:

- At the customer's request; or
- For nonpayment; or

- For failure to comply with the company's rules.

"Service area" means the geographic area to which the company intends to provide water service using current plant.

"Service connection" means the pipes, valves, and fittings between the water company's distribution system and the customer's service line.

"Standby charge" means a charge imposed by some unregulated companies for having transmission and distribution infrastructure installed but without the current ability to provide water. It is also sometimes referred to as a system-readiness fee. The commission does not authorize this type of charge for regulated water companies.

"Surcharge" means a monthly charge or fee paid to the water company for plant or expenses. The surcharge is in addition to regular monthly service fees and typically has an expiration date or dollar limit and is subject to specific accounting requirements.

"Water company" or "company" means any corporation, company, association, joint stock association, partnership or person, their lessees, trustees or receivers appointed by any court whatever, owning, controlling, operating or managing any water plant within the state of Washington for the purpose of furnishing water service to the public for hire and subject to the jurisdiction of the commission. It does not include management by a satellite management agency as defined in chapter 70.116 RCW if the satellite agency is not an owner of the water company.

"Water system" means all plant, equipment, and other assets used to provide water service for a specific location.

## NEW SECTION

**WAC 480-110-261 Maps.** Each water company shall maintain a current map of each of its water systems showing the current service area. The company must provide the current maps to the commission for review within five business days of a request. The maps must contain enough detail to answer questions related to rates and charges and obligations to serve.

## PART II—COMMON RULES

**AMENDATORY SECTION** (Amending Docket No. A-020405, General Order No. R-504, filed 10/16/02, effective 1/1/03)

**WAC 480-110-335 Establishing credit and deposits.**

(1) **Establishing credit - residential.** A company may not collect a security deposit if an applicant for residential service can establish satisfactory credit by any one of the following:

(a) The applicant had prior service with the company or another water company for twelve months before the application date and:

(i) Service was not disconnected for nonpayment;

(ii) The customer received no more than one delinquency notice; and

(iii) References with the other company (if applicable) can quickly and easily be checked. The company may request that the references from the previous company be in writing.

(b) The applicant had consecutive employment during the prior twelve months with no more than two employers and is currently employed or has a regular source of income.

(c) The applicant owns or has a legal interest in the premises being served.

(d) The applicant can furnish a satisfactory guarantor who will be responsible for payment of water service bills in the event of disconnection or default by the customer, in a specified amount, not to exceed the amount of the cash deposit required.

(e) The applicant personally produces at the company's business office two major credit cards, or other credit references that the company can quickly and easily check, that demonstrate a satisfactory payment history.

(2) **Establishing credit - nonresidential.** A company may require an applicant for nonresidential water service to demonstrate that the applicant is a satisfactory credit risk by reasonable means appropriate under the circumstances.

(3) **Deposit requirements.** A company may require a deposit if:

(a) The applicant has failed to establish a satisfactory credit history as outlined in subsections (1) or (2) of this section;

(b) The applicant's service from another water company was disconnected for failure to pay amounts owing when due during the twelve months before the application date;

(c) The applicant has an unpaid, overdue balance owing for similar service from the water company to which application is being made or from any other water company;

(d) Two or more delinquency notices have been served on the applicant by any water company during the prior twelve months; or

(e) The application is for beginning or continuing service to a residence where a prior customer still lives and owes a past due bill to the company.

(4) **Deposit amount.** Deposits required for a customer or location must not exceed:

(a) Two-twelfths of the estimated annual billings for companies billing monthly;

(b) Three-twelfths of estimated annual billings for companies billing bimonthly;

(c) Four-twelfths of estimated annual billings for companies billing trimonthly.

(5) **Transfer of deposit.** When a customer moves to a new address within the company's service territory, the deposit plus accrued interest, less any outstanding past-due balance owing from the old address, must be transferred to the new address or refunded.

(6) **Interest on deposits.** Companies that collect customer deposits must pay interest on those deposits calculated:

(a) For each calendar year, at the rate for the one-year Treasury Constant Maturity as of November 15 of the previous year, as calculated by the U.S. Treasury, ((as)) and published in the Federal Reserve's Statistical Release H.15 (~~on January 15 of that year. If January 15 falls on a nonbusiness day, the company will use the rate posted on the next following business day~~); and

(b) From the date of deposit to the date of refund or when applied directly to the customer's account.

(7) **Deposit payment arrangements.** The company must allow an applicant or customer the option of paying fifty percent of the deposit prior to service, and paying the remaining balance in equal amounts over the next two months, on the dates mutually agreed upon between the applicant or customer and the company. The company and applicant or customer may make other mutually acceptable deposit payment arrangements.

(8) **Receipt for deposit.** A company must furnish a receipt to each applicant or customer for the amount deposited.

(9) **When refund of deposits is required.** A company must refund deposits plus accrued interest when there has been satisfactory payment, as defined in (a) of this subsection, or when service is terminated.

(a) "Satisfactory payment" means a customer has paid for service for twelve consecutive months in a prompt and satisfactory manner as evidenced by the following:

(i) The company has not started a disconnection process against the customer; and

(ii) The company has sent no more than two delinquency notices to the customer.

(b) **Termination of service.** When service is terminated, the company must return to the customer the deposit amount plus accrued interest, less any amounts due the company by the customer.

(10) **How deposits are refunded.** The company must refund any deposit plus accrued interest, as indicated by the customer at the time of deposit, or as modified by the customer on a later date, using one of the following methods:

(a) A check issued and mailed to the customer no later than fifteen days following completion of twelve months of satisfactory payment, as described above; or

(b) A credit applied to the customer's account for service beginning in the thirteenth month.

(11) **Additional deposit.** If a deposit or additional deposit amount is required after the service is established, the reasons must be specified to the customer in writing. Any request for a deposit or additional deposit amount must comply with the standards outlined in subsections (1) and (2) of this section. If the original deposit was secured by a guarantor and the guarantor does not agree to be responsible for the additional deposit amount, the customer will be held responsible for paying the additional deposit.

**AMENDATORY SECTION** (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-355 ((Discontinuance)) Discontinuing of service.** (1) **Service may be disconnected either by customer direction or by company action:**

(a) **Customer-directed((-)),** Customers wanting to discontinue service must notify the water company. The company must disconnect the service as requested by the customer. If the customer fails to request disconnection of service the customer will be responsible to continue paying for water service at the company's tariff rate until the company becomes aware that the customer vacated the property.

(b) **Company-directed: Notice requirements -** After properly notifying the customer, as explained in subsection

(3) of this section, the water company may discontinue service to its customers for:

(i) Unpaid bills, as provided for in WAC 480-110-375 (Form of bills);

(ii) Water use for purposes or properties other than those specified in the customer's application for service;

(iii) Willful waste of water through improper or defective piping, equipment, or otherwise;

(iv) Piping or equipment that does not meet the company's standards or fails to comply with other applicable codes and regulations;

(v) Tampering with the company's property;

(vi) Vacating the premises;

(vii) Nonpayment of any proper charges, including deposit, as provided in the company's tariff;

(viii) Refusing to allow access as required in WAC 480-110-305 (Access to premises);

(ix) Violating rules, service agreements, or effective tariffs, including violation of outdoor watering instructions given to customers in order to curtail water use during time of shortage;

(x) Use of equipment that detrimentally affects the company's service to its other customers.

(c) **Service obtained by fraud: No notice required before termination -** A water company may terminate service without notice when it discovers that a customer has obtained service fraudulently. Examples of fraud include: When service is connected without the company's knowledge, when service is obtained by fraudulent means or representations, or when service is used to provide service to other persons who are required to obtain their own service.

(i) **First offense:** The company may disconnect service immediately and without prior notice when it discovers fraud, unless the customer immediately pays:

(A) The tariff rate for service that the company estimates was taken fraudulently; plus

(B) All company costs resulting from the fraudulent use and all applicable fees; plus

(C) Any applicable required deposit.

(ii) **Second offense:** The company may disconnect service immediately and without prior notice when it discovers further fraud. The company may refuse to reconnect service to a customer who has been disconnected for further fraud.

(iii) **Commission review:** A customer may ask the commission to review any company determination of fraud through an informal or formal complaint. The company has the burden of proving that fraud occurred. However, this rule does not relieve any person who has committed fraud from civil or criminal responsibility.

(2) **Medical emergencies((-)),** When a water company has cause to disconnect or has disconnected a residential service, it must postpone disconnection of service or must reinstate service for a grace period of five business days after receiving either verbal or written notification of the existence of a medical emergency. In cases of actual emergencies when service is reinstated, payment of a reconnection charge and/or deposit shall not be required prior to reinstatement of service.

(a) The company may require that the customer, within five business days, submit written certification from a quali-

fied medical professional stating that the disconnection of water service would significantly endanger the physical health of a resident of the household. "Qualified medical professional" means a licensed physician, nurse practitioner, or physician's assistant authorized to diagnose and treat the medical condition without supervision of a physician. Nothing in this section precludes a company from accepting other forms of certification, but the maximum the company can require is written certification. If the company requires written certification, it may require that the certification include some or all of the following information:

- (i) Residence location;
- (ii) An explanation of how the physical health of the person will be endangered by disconnection of local service;
- (iii) A statement of how long the condition is expected to last; and
- (iv) The title, signature and telephone number of the person certifying the condition.

(b) A medical emergency does not excuse a customer from paying delinquent and ongoing charges. The company may require that the customer do the following within the five business day grace period: Pay a minimum of twenty-five percent of the delinquent balance and enter into an agreement to pay the remaining delinquent balance within ninety days and to pay subsequent bills when due. Nothing in this section precludes the company from agreeing to an alternate payment plan, but the company may not require the customer to pay more than this subsection prescribes. The company must send a notice to the customer confirming the payment arrangements within two business days.

(c) If within the five-day grace period the customer fails to provide an acceptable payment arrangement, the company may disconnect service without further notice.

(d) If the customer fails to abide by the terms of the payment agreement the company may disconnect service without further notice.

(e) The medical certification is valid only for the length of time the health endangerment is certified to exist but no longer than six months unless renewed.

**(3) Required notice prior to disconnecting service**~~((—Water companies))~~. Each water company must notify customers before disconnecting their service except in case of danger to life or property, fraudulent use, impairment of service, or violation of law. In all other cases, the company must not disconnect service until it has met the following requirements:

(a) The company must serve a written disconnection notice on the customer, either by mail, or, at the company's option, by personal delivery of the notice to the customer's address, attached to the primary door. Each disconnection notice must include:

(i) A delinquent date that is no less than eight business days after the date of personal delivery or mailing if mailed from inside the state of Washington or a delinquent date that is no less than eleven days if mailed from outside of the state of Washington; and

(ii) All pertinent information about the reason for the disconnection notice and how to correct the problem; and

(iii) The company's name, address, and telephone number by which a customer may contact the company to discuss the pending disconnection of service.

(b) In addition to (a) of this subsection, a second notice must be provided by one of the two options listed below:

(i) **Delivered notice**~~((—))~~. The company must deliver a second notice to the customer and attach it to the customer's primary door. The notice must contain a deadline for compliance that is no less than twenty-four hours after the time of delivery that allows the customer until 5:00 p.m. of the following day to comply; or

(ii) **Mailed notice**~~((—))~~. The company must mail a second notice, which must include a deadline for compliance that is no less than three business days after the date of mailing if mailed from within the state of Washington or six days if mailed outside the state of Washington.

(c) Disconnection notices must:

(i) Include detailed information pertinent to the situation; and

(ii) Include the company's name, address and telephone number by which the customer may contact the company to discuss the pending disconnection of service; and

(iii) Expire after ten business days from the first day that the company may disconnect service, unless other mutually agreed upon arrangements have been made and confirmed in writing by the company. If mutually accepted arrangements are not kept, the company may disconnect service without further notice.

(d) Except in case of danger to life or property, companies may not disconnect service on Saturdays, Sundays, legal holidays, or on any other day on which the company cannot reestablish service on the same or following day.

(e) A company employee dispatched to disconnect service must accept payment of a delinquent account at the service address if tendered in cash, but is not required to give change for cash tendered in excess of the amount due and owing. The company must credit any excess payment to the customer's account. When disconnection does not take place due to payment made by the customer, the company may assess a fee for the disconnection visit to the service address as provided in the company's tariff. The disconnection notice must describe the disconnection visit charge, the amount, and the circumstances under which the charge will be made.

(f) When service is provided through a master meter, or when the utility has reasonable grounds to believe service is to other than the customer of record, the company must undertake reasonable efforts to inform occupants of the service address of the impending disconnection. Upon request of one or more service users, where service is to other than the customer of record, a minimum period of five days must be allowed to permit the service users to arrange for continued service.

(g) When service is provided to a hospital, medical clinic with resident patients, or nursing home, notice of pending disconnection must be provided to the director of the Washington department of health, and to the customer. Upon request to the company from the Washington department of health director or designee, an additional five business days must be allowed before disconnecting service to allow the department to take whatever steps are necessary to protect the

interests of resident patients who are responsibilities of the Washington department of health.

(h) Service may not be disconnected while the customer is pursuing any remedy or appeal provided by these rules or while engaged in discussions with the company's representatives or with the commission. However, any amounts not in dispute must be paid when due and any conditions posing a danger to health, safety, or property must be corrected.

(4) **Payments at a payment agency**~~((—))~~. Payment of any past due amounts to a designated payment agency of the water company constitutes payment when the customer informs the company of the payment and the company has verified the payment with the payment agency.

(5) **Reconnecting water service after disconnection** ~~((—))~~. The water company must restore disconnected service when the customer has paid, or the company has agreed to bill, any reconnection charge and:

- (a) The causes of disconnection are removed; or
- (b) The customer pays all proper charges; or
- (c) The customer pays any applicable deposit as provided for in the company tariff in accordance with WAC 480-110-335 (Establishing credit and deposits).

The commission may order reconnection pending resolution of any bona fide dispute between the company and the customer over the propriety of disconnection.

**AMENDATORY SECTION** (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-365 Service responsibilities.** (1) **Customer responsibility** - Customers must notify the water company in writing prior to making a change in equipment or usage that will materially affect the service being provided by the company. The customer must:

- (a) Provide the company adequate time to install necessary additional facilities or supply; and
  - (b) Pay an equitable share of the cost of necessary additional facilities, if any, as provided in the company's tariff or through a contract submitted to the commission for approval.
- (2) **Water company responsibility**~~((—Water companies))~~. Each water company must:
- (a) Install and maintain all equipment at appropriate locations necessary to operate the system;
  - (b) Install additional equipment as required by the commission in connection with performing special investigations; and
  - (c) Notify all affected customers when changes to the service will require customers to adjust their equipment.
- (i) If the customer has been advised of the needed change prior to taking service, the company has no obligation to pay for any costs in connection with making required changes to the customer's equipment.

(ii) If the change in service is required by law, the company has no obligation to pay for any costs in connection with making required changes to the customer's equipment.

(iii) Otherwise when equipment must be adjusted to permit use under the changed conditions, the cost of any necessary adjustments must be equitably shared by the company and customer.

(3) **Maintenance**~~((—))~~. Each water company must maintain its plant and system in a condition that enables it to furnish adequate service and meet its obligation under chapter 246-290 WAC, Public water supplies or chapter 246-291 WAC, Group B public water systems, as applicable.

(4) **Quality of water**~~((—))~~. Each water company must meet Washington department of health requirements under chapter 246-290 or 246-291 WAC, as applicable.

(5) **Protection of water supply**~~((—))~~. Each water company must protect its sources of supply, as required by Washington department of health under chapter 246-290 or 246-291 WAC, as applicable.

(6) **Operations and maintenance**~~((—))~~. Each water company must comply with Washington department of health rules regarding operation and maintenance, as required under chapter 246-290 or 246-291 WAC as applicable, and by good engineering practices.

(7) **Test records**~~((—))~~. Each water company must:

- (a) Keep a complete record of each test made for quality and service conditions as required under these rules. The records must contain complete information concerning the test, including such items as the commission may require;
- (b) Provide the records to the commission staff upon request.

(8) **Interruption of service and service outages:**

(a) Each water ~~((companies))~~ company must make all reasonable efforts to avoid outage of service but are not insurers in the event of emergency, acts of God, or similar event. When outages do occur, the company must make reasonable efforts to reestablish service with a minimum of delay.

(b) When making necessary repairs or changes to its facilities, a water company:

- (i) May interrupt service for a period of time as reasonably necessary and in a manner that minimizes the inconvenience to the customers; and
- (ii) Must attempt to do the work during working hours regularly maintained by the company.

(c) A water company may interrupt service without incurring any liability.

(9) **Notice of service interruptions**~~((—Water companies))~~. Each water company must:

(a) Notify its customers of a scheduled interruption twenty-four hours in advance through newspapers, radio announcements, or other means;

(b) Notify police and fire departments affected by the interruption individually;

(c) Keep a record of all interruptions of service affecting a substantial number of customers, including in such records:

- (i) The location;
- (ii) The date and time;
- (iii) The duration; and
- (iv) The cause of each interruption, if known.

(d) Provide copies of records to the commission staff, upon request;

(e) Notify the Washington department of health.

**AMENDATORY SECTION** (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-375 Form of bills.** (1) Customer bills must:

- (a) Be issued at intervals not to exceed three months and identify if the water company is billing in arrears or advance;
- (b) Show a reference to the applicable rate schedule;
- (c) Identify and show each separate charge as a line item;
- (d) Show the total amount of the bill;
- (e) Include enough information that, together with tariff rates, the customer can calculate his or her bill (a copy of the tariff is available for review at company or from the commission upon request);
- (f) Show the date the bill becomes delinquent if not paid. The minimum specified time must be fifteen days after the bill's mailing date, if mailed from within the state of Washington, or eighteen days if mailed from outside the state of Washington, after the bill's mailing date.

A customer may request to pay by a certain date that is not the normally designated payment date when showing good cause. Good cause may include, but is not limited to, adjustment of a billing cycle to parallel receipt of income. The preferred payment date must be prior to the next invoice date.

(g) Include the water company's name, business address, and telephone number and/or emergency telephone number by which a customer may contact the company;

(h) If the customer is metered, include the current and previous meter readings, the current read date, and the number and kind of units consumed;

(i) Show taxes and any tax percentage rate that the taxes are computed from. Taxes must be totaled to show a total taxed amount. Upon request, the company must provide a detail of the computation of the tax amount. Taxes, as used here, represent municipal occupation, business and excise taxes that have been levied by a municipality against the company, and are being passed on to the customer as a part of the charge for water service; and

(j) Clearly identify when a bill has been estimated.

(2) (~~(Water companies)~~) Each water company may prorate bills for customers who have taken service for a fraction of the billing period. If the company does not have its method of prorating bills in its tariff, the company must prorate bills in the following manner:

(a) For flat rate service, the charge must be prorated on the basis of the proportionate part of the period during which service was rendered.

(b) For metered service the charge will be equal to:

(i) The applicable minimum charge as shown in the company's tariff must be prorated on the basis of the proportionate part of the period during which service was rendered; plus

(ii) Any water usage charge computed using rates and allowances shown in the company's tariff.

(3) The water company must include its method for estimating bills in its tariff. Estimating of bills is allowed for no more than two consecutive billing cycles.

(4) When a company has cause to back-bill a customer, the company must allow the customer payment arrangements, if requested, for the same number of months to pay equal to the cumulative total of months being back-billed.

(Example: If the company is back-billing for a one-year period, the company must allow the customer twelve months of equal payments to pay the total amount of the back billing.) These payments will be in addition to current billings.

**AMENDATORY SECTION** (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

**WAC 480-110-385 Water company responsibility for complaints and disputes.** (1) If a water company receives a complaint or dispute from a customer or an applicant for service it must:

(a) Acknowledge the complaint;

(b) Investigate promptly;

(c) Report the results of the investigation to the complainant;

(d) Take corrective action, if warranted, as soon as appropriate under the circumstances;

(e) Inform the complainant that the decision may be appealed to a higher level representative at the company, if any;

(f) Inform the complainant, if still dissatisfied after speaking with the higher level representative, of the commission's availability for review of the complaint; and

(g) Provide the complainant with the commission's address and toll-free telephone number.

(2) Applicants, customers, or their representatives, may file with the commission:

(a) An informal complaint against the company as set forth in WAC 480-07-910 (Informal complaints); and/or

(b) A formal complaint against the company as set forth in WAC 480-07-370 (Pleadings—General).

(3) When commission consumer affairs staff refers an informal complaint to the company, the company must:

(a) Investigate and report the results to the commission consumer affairs staff within two business days. The commission consumer affairs staff may grant an extension of time for responding to the complaint, if requested and warranted;

(b) Keep the commission consumer affairs staff informed of progress toward the solution and the final result.

(4) Each water company must keep a record of all complaints concerning service or rates for at least one year and, on request, make them readily available for commission review. The record must contain:

(a) Complainant's name and address;

(b) Date and nature of the complaint;

(c) Action taken; and

(d) Final result.

**AMENDATORY SECTION** (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-395 Water quality refunds.** (1) (~~(Water companies)~~) Each water company may be required to refund water charges due to poor water quality only:

(a) Upon commission order resulting from a formal proceeding before the commission; and

(b) When there are violations of the Washington department of health water quality standards in WAC 246-290-310 (~~(primary contaminants)~~) (Maximum contaminant levels)

(MCLs) and maximum residual disinfectant levels (MRDLs); and

(c) If the company does not take follow up steps outlined in WAC 246-290-320 (Follow-up action).

(2) The amount of the refund will be determined in a formal proceeding before the commission and is not recoverable through rates or charges.

AMENDATORY SECTION (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-415 Meters. (1) Water company rights and responsibilities:**

- (a) ~~((The))~~ Each water company must:
  - (i) Bear the cost of the meter and meter installation.
  - (ii) Install water meters that are in working order and accurately measure water flow.

(iii) Record meter serial numbers and identify location of installation.

(iv) Repair or replace a malfunctioning meter at its expense unless a customer causes the malfunction.

- (b) The water company may:
  - (i) Install meters and charge the tariff meter rate after thirty days notice to affected customers.
  - (ii) Install any apparatus to detect fraud or waste without notifying the customer.

**(2) Water customer rights and responsibilities:**

(a) A customer may request that a standard residential meter as defined in the company's tariff be installed, provided that metered rates are in effect.

(b) When a customer requests a meter installation, the water company may charge the customer in advance for the meter cost and meter installation, if such charge is included in the company's tariff. The company must reimburse the customer, by bill credit, at least ten percent of the meter and installation charge each month until fully paid.

(c) The water company has thirty days from the date of request to install the meter.

(d) If the water company fails to install the meter within the time limit in (c) of this subsection, the customer must be charged only the meter minimum charge until the meter is installed.

(e) If a customer tampers with a meter, the customer will be liable to the company for any repair or replacement costs.

(f) If the customer requests assistance in reading a meter, the water company must provide information on how to read the meter.

AMENDATORY SECTION (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-425 Water company customer notice requirements. (1) Each water company must submit a draft customer notice~~((s must be submitted))~~ to the commission for review at least one week ~~((prior to))~~ before the company's planned printing date for distribution.**

- (2) At a minimum, the water company must notify:
  - (a) Customers and potential customers who may be affected by the water company's proposal; and
  - (b) The public affairs section of the commission.

(3) Customers must receive notice thirty days ~~((prior to))~~ before the requested effective date when a water company proposes to:

- (a) Increase rates;
- (b) Change terms and/or conditions of an existing service;
- (c) Change the ownership or control of the operating company (see WAC 480-143-210 (Transfer customer notice requirements) for content of notice);

(d) Institute a charge for a service that was formerly provided without charge; or

(e) Eliminate or grandfather any service.

(4) Content of notice for rate change - The notice to customers must contain, at a minimum, the following:

IMPORTANT NOTICE

- (a) Date
- (b) (Insert water company name) has filed for approval from the Washington utilities and transportation commission to increase rates (insert total annual revenue). If approved, the rates will be effective on (insert effective date).
- (c) (Clearly explain the reason for the proposal - be specific.)

Current Rates/Services	Proposed Rates
\$	\$

(d) If you have questions about the proposed filing and how it will affect you, please call (insert company name & office phone number). If you have questions about the rate making process, you may contact the Washington Utilities and Transportation Commission at the following address: WUTC, 1300 S. Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250; 1-800-562-6150 (toll-free) or by e-mail [comments@wutc.wa.gov](mailto:comments@wutc.wa.gov).

(e) If you would like to comment on this proposal, it is important for you to do so now. Comments must be submitted in writing or presented at the commission's open meeting to be included as part of the formal record. The commission is interested in receiving your views regarding this proposal whether in favor or not. All open meetings are held in Olympia, WA. If you would like to be added to the commission's mailing list to be notified of the open meeting date, please call 1-800-562-6150 and leave your name, complete mailing address, the water company's name, and a description of the proposal you are interested in.

Sincerely,  
(Company Name/Representative)

(5) Notice after commission action is permitted only when the commission approves an increase in federal, state, county or city-imposed taxes, fees or surcharges, and when credits are issued.

(a) At a minimum, notice after commission action must include the effective date, a clear description of changes to rates or services resulting from the commission's decision, and a company contact number where customers may seek additional information.

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(b) Any notice after commission action may be accomplished by a bill message, bill insert, printed in a company newsletter, or mailed separately to customers.

(c) The commission may require other notification to the public as it determines necessary.

**PART III—RATES AND CHARGES RULES**

NEW SECTION

**WAC 480-110-431 Tariffs.** Tariffs filed by a water company must conform to the rules of this section and chapter 480-80 WAC Utilities general—Tariffs, unless the commission has authorized deviation from the rules in writing.

NEW SECTION

**WAC 480-110-433 Adopted and initial tariffs.** A water company must file revisions to its filed tariff within thirty days of its acquisition of new service area, whether by acquisition of another regulated water company or by acquiring one or more previously unregulated water systems.

(1) **Adopted tariffs - when a regulated company acquires another regulated company.** Any regulated water company acquiring a regulated water company must adopt the latter's tariff. An adoption form must be completed and filed with the commission by the acquiring water company within thirty days of the acquisition. The commission will supply an adoption form upon request.

(2) **Incorporate into existing tariff - when a regulated water company acquires a nonregulated company.**

(a) When a regulated water company acquires a nonregulated water company or water system, the acquiring water company must file a separate tariff page indicating the name of the newly acquired company or system with the rates and charges that were in existence before the acquisition.

(b) If the acquired nonregulated company or water system was previously subject to commission jurisdiction, the acquiring water company must file a separate tariff page indicating the name of the newly acquired company or system with the rates and charges in effect for the acquired company at the time the acquired company was removed from regulation.

(c) No other rates and charges may apply to the customers on the newly acquired system except those specifically shown on the new tariff page unless the company obtains the commission's approval to charge a different rate.

(3) **Initial tariffs - when a company becomes jurisdictional.**

(a) An initial tariff must be filed in a standard tariff format. The commission will provide illustrations of the standard format upon request.

(b) The tariff must be accompanied by a cover letter describing the filing as an initial tariff.

(c) Customers must be notified before the commission receives the filing.

(d) The filing must be accompanied by supporting financial data justifying the proposed rates. See WAC 480-07-530 (General rate proceedings—Water companies).

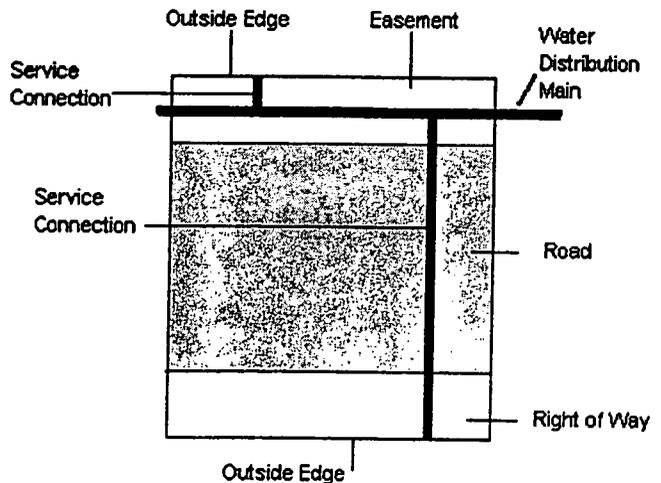
(4) **Initial tariffs - a company that was previously subject to commission jurisdiction.** If a company or water sys-

tem was previously subject to commission jurisdiction and once again becomes jurisdictional, the company must file a tariff with the rates and charges in effect at the time the company was last removed from regulation.

AMENDATORY SECTION (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-445 Service connections and customer service lines.** A service connection is the pipes, valves, and fittings between the water company's distribution system and the customer's service line. The customer's service line is the water line from the customer's points of usage to the water company's service connection.

(1) **Service connection charge and service connection length.** The length of a service connection can vary depending on where the customer's service line is or will be located. A tariffed service connection charge may be assessed for the cost of a new service connection. However, if the service connection is longer than the distance from the water distribution main to the outside edge of the right of way or easement that runs along or parallel to the water distribution main and closest to the customer's property line, the cost of such an extension may be financed as line extension, at the option of the company. The related line extension contract is subject to approval by the commission under WAC 480-110-435 (Extension contracts).



(2) Service connections may be installed when the system is built or at a later date, after the system is operational. A service connection charge may be based on the average installation cost for new service connections in subsection (3)(a) and (b) of this section. The service connection must be owned and maintained by the water company.

(3) A water company may assess a service connection charge, if named in its tariff, to recover the cost of the service connection:

- (a) Installed by the water company during construction of the water system; or
- (b) Installed after the distribution system had been buried and in service; or

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(c) When the service connection has been previously removed for good cause and must be reinstalled to provide water service.

(4) A service connection charge must not be assessed if:

(a) The water company did not incur any cost to install the service connection (e.g., the service connection is a contribution in aid of construction);

(b) The water company is just installing a meter; or

(c) The water company is merely opening a valve to connect the company's distribution system to the customer's service line.

(5) The company may install the service connection to the property line, property corner, or to a location on the property mutually agreed upon. The company may install a meter or valve at any point along the service connection line or at a different mutually agreed location provided that in such event the property line will nevertheless be deemed the point of delivery.

(6) The customer's service line must be installed to provide easy access to the water company's distribution system. If there is doubt as to where the proper location should be, the customer must consult with the water company and agree on a location.

(7) The water company may request that the trench be left open and customer's service line exposed in order to inspect the connection for potential problems. The water company must complete the inspection within two business days after notification that the trench is open.

## PART IV—FINANCIAL RECORDS AND REPORTING RULES

### Subpart A: General Rules

#### NEW SECTION

**WAC 480-110-456 Definitions.** The definitions in this section apply to Part IV of this chapter.

"**Affiliated interest**" means a person or corporation as defined in RCW 80.16.010.

"**Business day**" means the same as defined in WAC 480-07-120 (Office hours).

"**Control**" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a company, whether through the ownership of voting shares, by contract, or otherwise.

"**Investment grade**" means a water company whose corporate credit/issuer rating is in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc.

"**Subsidiary**" means any company in which the water company owns directly or indirectly five percent or more of the voting securities, unless the water company demonstrates it does not have control.

#### NEW SECTION

**WAC 480-110-457 Filing information.** (1) **Filing.** The commission records center will accept all reports required in

Part IV in person, by mail, or when procedures are in place, electronic mail message.

(2) **Commission may require additional information.** The commission may require pertinent information in addition to that specified by statute or in this chapter.

(3) **Information by reference.** When any information required to support a filing is on file with the commission, it is sufficient to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

(4) **When information is unavailable.** If any required information is unavailable at the time of the filing, the filing must include the reason why the information is not available and state when it will be available.

#### NEW SECTION

**WAC 480-110-459 Additional reports.** Part IV does not supersede any reporting requirement specified in a commission order or limit the commission's ability to request additional information.

AMENDATORY SECTION (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-465 Expenditures for political (~~information and political education~~) or legislative activities.** (~~(1) The commission will not allow expenses for political information or political education activities for ratemaking purposes.~~

~~(2) Political information and political education activities include, but are not limited to:~~

~~(a) Encouraging support or opposition to ballot measures, legislation, candidates for an office, or current public office holders.~~

~~(b) Soliciting support for political action committees.~~

~~(c) Gathering data for political mailing lists.~~

~~(d) Soliciting political contributions or recruiting political volunteers.)~~ (1) The commission will not allow either direct or indirect expenditures for political or legislative activities for ratemaking purposes.

(2) For purposes of this rule, political or legislative activities include, but are not limited to:

(a) Encouraging support or opposition to ballot measures, legislation, candidates for a public office, or current public office holders;

(b) Soliciting support for or contributing to political action committees;

(c) Gathering data for mailing lists that are generated for the purposes of encouraging support for or opposition to ballot measures, legislation, candidates for public office, or current office holders, or encouraging support for or contributions to political action committees;

(d) Soliciting contributions or recruiting volunteers to assist in the activities set forth in (a) through (c) of this subsection.

(3) Political or legislative activities do not include activities directly related to appearances before regulatory or local governmental bodies necessary for the utility's operations.

**AMENDATORY SECTION** (Amending Docket No. A-0203379, General Order No. R-501, filed 8/26/02, effective 9/26/02)

**WAC 480-110-485** (~~Retention and preservation of~~) **Retaining and preserving records and reports.** (1) The water company must retain all records and reports for three years unless otherwise specified in subsection (2) of this section.

(2) The *Regulations to Govern the Preservation of Records of Electric, Gas and Water Companies*, published by the National Association of Regulatory Utility Commissioners is prescribed as the requirement for the state of Washington. Information about the *Regulations to Govern the Preservation of Records of Electric, Gas and Water Companies* regarding the version adopted and where to obtain it is set out in WAC 480-110-999, Adoption by reference.

**Subpart B: Reporting Requirements**

**NEW SECTION**

**WAC 480-110-505 Accounting and reporting requirements and regulatory fees.** (1) Water companies must use the uniform system of accounts (USOA) published by the National Association of Regulatory Utility Commissioners (NARUC). Information about the USOA regarding the version adopted and where to obtain it is set out in WAC 480-110-999 (Adoption by reference). The USOA sets out the accounting requirements for Class A, B, and C water companies.

Water companies are classified by revenues.

Class	Annual Gross Operating Revenue
A	\$1,000,000 or more
B	\$200,000 to \$999,999
C	Less than \$200,000

- (2) A water company may use the accounting requirements for a higher class if it chooses.
- (3) The commission will distribute an annual report form that each water company must complete and file with the commission for the prior calendar year. The annual report must be filed, and the company's regulatory fee paid, no later than May 1 of each year.
- (4) A written request for the extension of the time for filing the annual report can be made prior to May 1. The commission does not grant an extension of time for payment of regulatory fees.

**NEW SECTION**

**WAC 480-110-515 Reports of accidents.** Each water company must notify the commission within seventy-two hours after every accident resulting in death or serious injury to any person occurring in its plant or through contact with its facilities. At a minimum, the report must include the name of the injured person, time and place of the accident, and an explanation of the accident. The water company may notify the commission by phone, but must provide a written report within five business days.

**NEW SECTION**

**WAC 480-110-535 Transferring cash or assuming obligations.** (1) At least five business days before a water company that is not rated investment grade or its subsidiary transfers cash to any of its affiliated interests or subsidiaries or assumes an obligation or liability of any of its affiliated interests or any of its subsidiaries, the company must report to the commission an estimate of the amount to be transferred and the terms of the transaction when the transaction will exceed thresholds as described in (a) or (b) of this subsection.

(a) The company must report if the cumulative transactions to a subsidiary or affiliated interest for the prior twelve months exceed a threshold of five percent, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(b) When the threshold in (a) of this subsection has been reached, the company must report each subsequent transaction exceeding a threshold of one percent for the prior twelve-month period, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(2) The reporting requirements in subsection (1) of this section do not include payments for:

- (a) Federal and state taxes;
- (b) Goods, services, or commodities;
- (c) Transactions, attributed to the regulated entity, previously approved or ordered by the commission, other regulatory agencies, or the court; or
- (d) Dividends to the extent the level of such dividends over a twelve-month period does not exceed the larger of:
  - (i) Net income during such period; or
  - (ii) The average level of dividends over the preceding three years; or
- (e) Sweep or cash management accounts used to transfer funds to or from a subsidiary or affiliate as part of the customary and routine cash management functions between or among the company and its subsidiary or affiliate.

**NEW SECTION**

**WAC 480-110-545 Affiliated interests—Contracts or arrangements.** Prior to the effective date of any contract or arrangement described in RCW 80.16.020, each water company must file a verified copy or a verified summary, if unwritten, of contracts or arrangements, except for transactions provided at tariff rates, with any affiliated interest. Prior to the effective date of any modification or amendment, the company must file verified copies of the modifications or amendments to the contracts or arrangements. If the contract or arrangement is unwritten, the company must file a verified summary of any modification or amendment. The commission may institute an investigation and disapprove the contract or arrangement if the commission finds the company has failed to prove that it is reasonable and consistent with the public interest.

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**NEW SECTION**

**WAC 480-110-555 Securities and transfers of property.** (1) Before issuing stock, evidence of indebtedness, or any other securities, the company must comply with the requirements of chapters 80.08 RCW and 480-146 WAC.

(2) Before selling, leasing, or assigning any of its property or facilities which are necessary or useful in the performance of its duties to the public, or before acquiring property or facilities of another public utility, a water company must obtain from the commission an order authorizing such transaction in accordance with chapters 80.12 RCW (Transfers of property) and 480-143 WAC (Commission general—Transfers of property).

**NEW SECTION**

**WAC 480-110-575 Affiliated interest and subsidiary transactions report.** (1) Each Class A water company must file an annual report summarizing all transactions, except for transactions provided at tariff rates, that occurred between the company and its affiliated interests, and the company and its subsidiaries. The report is due one hundred twenty days from the end of the company's reporting period, whether a fiscal or calendar year. The report must include a corporate organization chart of the company and its affiliated interests and subsidiaries.

(2) When total transactions with an affiliated interest or a subsidiary are less than twenty-five thousand dollars for the reporting period, the company must provide the name of the affiliated interest or subsidiary participating in the transactions and the total dollar amounts of the transactions. When total transactions with an affiliated interest or subsidiary equal or exceed twenty-five thousand dollars for the reporting period, the company must provide:

(a) A balance sheet and income statement for such affiliated interest;

(b) A description of the products or services provided to or from the company and each such affiliated interest or subsidiary;

(c) A description of the pricing basis or costing method, and procedures for allocating costs for such products or services, and the amount and accounts charged during the year;

(d) A description of the terms of any loans between the company and each such affiliated interest or subsidiary and a listing of the year-end loan amounts and maximum loan amounts outstanding during the year;

(e) A description of the terms and total amount of any obligation or liability assumed by the company for each such affiliated interest or subsidiary;

(f) A description of the activities of each such affiliated interest or subsidiary with which the company has transactions; and

(g) A list of all common officers and directors between the water company and each such affiliated interest or subsidiary, along with their titles in each organization.

(3) The report required in this section supersedes the reporting requirements contained in previous commission orders authorizing affiliated interest transactions pursuant to chapter 80.16 RCW.

(4) The company is obligated to file verified copies of affiliated interest contracts and arrangements as stated in WAC 480-110-545 (Affiliated interests—Contracts and arrangements).

**PART V—ADOPTION BY REFERENCE**

**AMENDATORY SECTION** (Amending Docket No. A-020379, General Order No. R-501, filed 8/26/02, effective 9/26/02)

**WAC 480-110-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) The *Uniform System of Accounts for Water Utilities* is published by the National Association of Regulatory Utility Commissioners (NARUC).

(a) The commission adopts the version in effect in 1996.

(b) This publication is referenced in WAC ((480-110-275,)) **480-110-505** (Accounting, and reporting requirements and regulatory fees).

(c) The *Uniform System of Account for Water Utilities* is a copyrighted document. Copies are available from NARUC, in Washington, D.C.

(2) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies* is published by the National Association of Regulatory Utility Commissioners (NARUC).

(a) The commission adopts the version in effect in 1985.

(b) This publication is referenced in WAC 480-110-485(~~(-Retention and preservation of)~~) (**Retaining and preserving records and reports**).

(c) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies* is a copyrighted document. Copies are available from NARUC, in Washington, D.C.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 480-110-265	Tariffs.
WAC 480-110-275	Accounting and reporting requirements, and regulatory fees.
WAC 480-110-285	Securities, affiliated interest, transfer of property.
WAC 480-110-295	Adopted and initial tariffs.
WAC 480-110-475	Reports of accidents.
WAC 480-110-495	Maps.

**AMENDATORY SECTION** (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

**WAC 480-120-015 Exemptions from rules in chapter 480-120 WAC.** ~~((1) The commission may grant an exemption from the provisions of any rule in this chapter, if consistent with the public interest, the purposes underlying regulation, and applicable statutes.~~

~~(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought, and provide a full explanation of the reason for requesting the exemption. In addition to any other reason, parties may allege force majeure was the factor leading to the request for waiver.~~

~~(3) The commission will assign the request a docket number, if it does not arise in an existing docket, and will schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date of the hearing or open meeting when the commission will consider the request.~~

~~(4) In determining whether to grant the request, the commission may consider whether application of the rule would impose undue hardship on the requesting person, of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the purposes of the rule.~~

~~(5) The commission will enter an order granting or denying the request, or setting it for hearing, pursuant to chapter 480-07 WAC.)~~ The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modifications to the rules in this chapter; special rules).

### Subpart A: General Rules

#### NEW SECTION

**WAC 480-120-325 Definitions.** The definitions in this section apply to Part VIII of this chapter.

"**Affiliated interest**" means a person or corporation as defined in RCW 80.16.010.

"**Control**" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a company, whether through the ownership of voting shares, by contract, or otherwise.

"**Subsidiary**" means any company in which the telecommunications company owns directly or indirectly five percent or more of the voting securities, unless the telecommunications company demonstrates it does not have control.

#### NEW SECTION

**WAC 480-120-331 Filing information.** (1) **Filing.** The commission records center will accept all reports required in Part VIII in person, by mail, or when procedures are in place, electronic mail message.

(2) **Commission may require additional information.** The commission may require pertinent information in addition to that specified by statute or in this chapter.

(3) **Information by reference.** When any information required to support a filing is on file with the commission, it is sufficient to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

(4) **When information is unavailable.** If any required information is unavailable at the time of the filing, the filing must include the reason why the information is not available and state when it will be available.

#### NEW SECTION

**WAC 480-120-335 Additional reports.** Part VIII does not supersede any reporting requirement specified in a commission order or limit the commission's ability to request additional information.

#### NEW SECTION

**WAC 480-120-339 Streamlined filing requirements for Class B telecommunications company rate increases.**

(1) A Class B company, as defined in WAC 480-120-021 (Definitions), may use the streamlined treatment described in this section for seeking a general rate increase, as an alternative to the requirements in WAC 480-07-510 (General rate proceedings—Electric, natural gas, pipeline, and telecommunications companies).

(2) **General information required.** A Class B company seeking streamlined treatment for a proposed general rate increase must submit the following information at the time of filing or prior to its first notice to customers, whichever occurs first:

(a) A copy of its customer notice as specified in subsection (6) of this section.

(b) A results-of-operations statement, on a commission basis, demonstrating that the company is not presently exceeding a reasonable level of earnings. If the company is exceeding a reasonable level of earnings, the proposed increase must be reduced accordingly.

(c) All supporting documentation used to develop the results-of-operations statement, including supporting documentation for all adjustments.

(d) The results-of-operations statement filed under this subsection must include Washington intrastate results of operations. If a company cannot provide Washington intrastate results of operations with reasonable accuracy, the commission may consider the total Washington results of operations including the interstate jurisdiction.

(3) **Adjustments provided for in the results of operations.**

(a) The results-of-operations statement must provide restating actual adjustments and pro forma adjustments in accordance with (b) of this subsection.

(b) Before the achieved return is calculated, a company must adjust the booked results of operations for restating actual and pro forma adjustments, including the following:

- (i) Nonoperating items;
- (ii) Extraordinary items;

- (iii) Nonregulated operating items; and
  - (iv) All other items that materially distort the test period.
- (4) **Rate of return.** The authorized overall rate-of-return (for purposes of this section only) is eleven and twenty-five one-hundredths percent.

(5) **Rate design.** A Class B company filing pursuant to this section must clearly describe the basis for allocating any revenue requirement change proposed by customer class (e.g., residential, business, and interexchange).

(6) **Customer notice.** The company must notify customers consistent with the manner outlined in WAC 480-120-194 (Publication of proposed tariff changes to increase charges or restrict access to services), and must include the following information:

- (a) The proposed increase expressed in:
  - (i) Total dollars and average percentage terms; and
  - (ii) The average monthly increases the customers in each category or subcategory of service might reasonably expect;
- (b) The name and mailing address of the commission and public counsel;
- (c) A statement that customers may contact the commission or public counsel with respect to the proposed rate change; and
- (d) The date, time, and place of the public meeting, if known.

(7) **Public meeting(s).** The commission will ordinarily hold at least one public meeting in the area affected by the rate increase within forty-five days after the date of filing.

(8) **Final action.** The commission will ordinarily take final action on a filing under this section within ninety days after the date of filing.

(9) The commission may decline to apply the procedures outlined in this section if it has reason to believe that:

- (a) The quality of the company's service is not consistent with its public service obligations; or
- (b) A more extensive review is required of the company's results of operations or proposed rate design.

(10) Nothing in this rule will be construed to prevent any company, the commission, any customer, or any other party from using any other procedures that are otherwise permitted by law.

#### NEW SECTION

**WAC 480-120-344 Expenditures for political or legislative activities.** (1) The commission will not allow either direct or indirect expenditures for political or legislative activities for ratemaking purposes.

(2) For purposes of this rule political or legislative activities include, but are not limited to:

- (a) Encouraging support or opposition to ballot measures, legislation, candidates for a public office, or current public office holders;
- (b) Soliciting support for or contributing to political action committees;
- (c) Gathering data for mailing lists that are generated for the purposes of encouraging support for or opposition to ballot measures, legislation, candidates for public office, or current office holders, or encouraging support for or contributions to political action committees;

(d) Soliciting contributions or recruiting volunteers to assist in the activities set forth in (a) through (c) of this subsection.

(3) Political or legislative activities do not include activities directly related to appearances before regulatory or local governmental bodies necessary for the utility's operations.

#### NEW SECTION

**WAC 480-120-352 Washington Exchange Carrier Association (WECA).** (1) The Washington Exchange Carrier Association (WECA) may:

- (a) File petitions with the commission;
- (b) Publish and file tariffs with the commission; and
- (c) Represent before the commission those members that so authorize. WECA's rules of procedure are on file with the commission under Docket No. UT-920373, and may be obtained by contacting the commission's records center.

(2) Subject to all the procedural requirements and protections associated with company filings before the commission, WECA must submit to the commission:

- (a) All initial WECA tariffs; and
  - (b) All changes to the tariffs.
- (3) A member of WECA may file directly with the commission:

- (a) Tariffs, price lists, and contracts;
- (b) Revenue requirement computations;
- (c) Revenue objectives;
- (d) Universal service support cost calculations;
- (e) Total service long run incremental cost studies;
- (f) Competitive classification petition;
- (g) Other reports; or
- (h) Any other item it or the commission deems necessary.

(4) The commission has the authority to supervise the activities of WECA. However, such supervision will not compromise the independent evaluation by the commission of any filing or proposal that must be submitted to the commission for approval.

(5) To the extent that WECA is involved in the collection and redistribution of funds under commission orders authorizing certain revenue sharing arrangements under common tariff, it must maintain, provide, and report to the commission annual financial reports, by July 1 of each year, relating to the arrangements. Annual financial reports must include:

- (a) Actual fund collections and distributions to each member company;
- (b) The basis upon which the collection and distribution is made;
- (c) Board membership;
- (d) Special committee membership; and
- (e) The status and description of any open WECA docket proceedings.

(6) Each local exchange company in the state of Washington has the option of using WECA as its filing agent, tariff bureau, or both. Companies using WECA collectively may file intrastate rates, tariffs, or service proposals.

(7) Nothing in this section will be construed as amending or modifying WECA's current methods of administration. WECA's access charge pooling administration plan is on file

with the commission and may be obtained by contacting the commission's records center and requesting the "Ninth Supplemental Order in Docket No. UT-971140 with Attachment" dated June 28, 2000.

### Subpart B: Accounting Requirements

#### NEW SECTION

**WAC 480-120-355 Competitively classified companies.** Competitively classified companies must keep accounts using generally accepted accounting principles (GAAP), or any other accounting method acceptable to the commission. In addition, the accounts must allow for identification of revenues for Washington intrastate operations subject to commission jurisdiction.

### Subpart C: Financial Reporting Requirements

#### NEW SECTION

**WAC 480-120-369 Transferring cash or assuming obligations.** This section does not apply to a company classified as competitive pursuant to RCW 80.36.320, or to a local exchange company that serves less than two percent of the access lines in the state of Washington.

(1) At least five business days before a telecommunications company whose corporate/issuer rating is not in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc., or its subsidiary that is not rated investment grade or its subsidiary transfers cash to any of its affiliated interests or subsidiaries or assumes an obligation or liability of any of its affiliated interests or any of its subsidiaries, the company must report to the commission an estimate of the amount to be transferred and the terms of the transaction when the transaction will exceed thresholds as described in (a) or (b) of this subsection.

(a) The company must report if the cumulative transactions to a subsidiary or affiliated interest for the prior twelve months exceed a threshold of five percent, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(b) When the threshold in (a) of this subsection has been reached, the company must report each subsequent transaction exceeding a threshold of one percent for the prior twelve-month period, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(2) The reporting requirements in subsection (1) of this section do not include payments for:

- (a) Federal and state taxes;
- (b) Goods, services, or commodities;
- (c) Transactions, attributed to the regulated entity, previously approved or ordered by the commission, other regulatory agencies, or the court;
- (d) Dividends to the extent the level of such dividends over a twelve-month period does not exceed the larger of:
  - (i) Net income during such period; or
  - (ii) The average level of dividends over the preceding three years; or

(e) Sweep or cash management accounts used to transfer funds to or from a subsidiary or affiliate as part of the customary and routine cash management functions between or among the company and its subsidiary or affiliate.

#### NEW SECTION

**WAC 480-120-375 Affiliated interests—Contracts or arrangements.** Prior to the effective date of any contract or arrangement described in RCW 80.16.020, each telecommunications company subject to the provisions of chapter 80.16 RCW must file a verified copy or a verified summary, if unwritten, of contracts or arrangements, except for transactions provided at tariff rates, with any affiliated interest. Prior to the effective date of any modification or amendment, the company must file verified copies of the modifications or amendments to the contracts or arrangements. If the contract or arrangement is unwritten, the company must file a verified summary of any modification or amendment. The commission may institute an investigation and disapprove the contract or arrangement if the commission finds the company has failed to prove that it is reasonable and consistent with the public interest.

#### NEW SECTION

**WAC 480-120-379 Transfers of property.** Before selling, leasing, or assigning any of its property or facilities which are necessary or useful in the performance of its duties to the public, or before acquiring property or facilities of another public utility, a telecommunications company subject to the provisions of chapter 80.12 RCW must obtain from the commission an order authorizing such transaction in accordance with chapters 80.12 RCW (Transfers of property) and 480-143 WAC (Commission general—Transfers of property).

#### NEW SECTION

**WAC 480-120-382 Annual report for competitively classified companies.** The commission will distribute an annual report form including a regulatory fee form. A competitively classified company must:

- (1) Complete both forms, file them with the commission, and pay its regulatory fee, no later than May 1 of each year;
- (2) Provide total number of access lines as required on the annual report form;
- (3) Provide income statement and balance sheet for total company; and
- (4) Provide revenues for Washington and Washington intrastate operations subject to commission jurisdiction.

#### NEW SECTION

**WAC 480-120-385 Annual report and quarterly results of operations reports for companies not classified as competitive.** (1) Annual reports for companies not classified as competitive. The commission will distribute an annual report form as specified in (c)(i), (ii), and (iii) of this subsection, and a regulatory fee form. A company not classified as competitive must:

(a) Complete both forms, file them with the commission, and pay its regulatory fee, no later than May 1 of each year;

(b) Provide total number of access lines as required on the annual report form; and

(c) Provide income statement and balance sheet for total company and results of operations for Washington and Washington intrastate.

(i) Class A companies that the FCC classified as Tier 1 telecommunications companies in Docket No. 86-182 must file annual report forms adopted by the FCC.

(ii) All other Class A companies must file annual reports on the form prescribed by the commission.

(iii) Class B companies must file annual reports as prescribed by RCW 80.04.530(2).

(2) Quarterly reports for companies not classified as competitive:

(a) All Class A companies must file results of operations quarterly.

(b) Each report will show monthly and twelve-months-ended data for each month of the quarter reported.

(c) The reports are due ninety days after the close of the period being reported, except for the fourth-quarter report which is due no later than May 1 of the following year.

(3) Methods used to determine Washington intrastate results of operations must be acceptable to the commission.

(4) This rule does not supersede any reporting requirements specified in a commission rule or order, or limit the commission's authority to request additional information.

#### NEW SECTION

**WAC 480-120-395 Affiliated interest and subsidiary transactions report.** (1) By June 1 of each year, each telecommunications company subject to the provisions of chapter 80.16 RCW must file a report summarizing all transactions, except for transactions provided at tariff rates, that occurred between the company and its affiliated interests, and the company and its subsidiaries, during the period January 1 through December 31 of the preceding year.

(2) The information required in this subsection must be for total company, total state of Washington, and Washington intrastate. The report must include a corporate organization chart of the company and its affiliated interests and subsidiaries.

(3) When total company transactions with an affiliated interest or a subsidiary are less than one hundred thousand dollars for the reporting period, the company must provide the name of the affiliated interest or subsidiary participating in the transactions and the total dollar amounts of the transactions. When total company transactions with an affiliated interest or subsidiary equal or exceed one hundred thousand dollars for the reporting period, the company must provide:

(a) A balance sheet and income statement for such affiliated interest;

(b) A description of the products or services provided to or from the company and each such affiliated interest or subsidiary;

(c) A description of the pricing basis or costing method, and procedures for allocating costs for such products or services, and the amount and accounts charged during the year;

(d) A description of the terms of any loans between the company and each such affiliated interest or subsidiary and a listing of the year-end loan amounts and maximum loan amounts outstanding during the year;

(e) A description of the terms and total amount of any obligation or liability assumed by the company for each such affiliated interest or subsidiary;

(f) A description of the activities of each such affiliated interest or subsidiary with which the company has transactions; and

(g) A list of all common officers and directors between the company and each such affiliated interest or subsidiary, along with their titles in each organization.

(3) The report required in this section supersedes the reporting requirements contained in previous commission orders authorizing affiliated interest transactions pursuant to chapter 80.16 RCW.

(4) The company is obligated to file verified copies of affiliated interest contracts and arrangements as stated in WAC 480-120-375 (Affiliated interests—Contracts or arrangements).

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 480-120-399 Access charge and universal service reporting.** (1) **Intrastate mechanism reporting.**

(a) Until legislation creating a new universal service fund is adopted and effective and commission rules to implement the legislation are adopted and effective, each Class A company in the state of Washington and the Washington Exchange Carrier Association, must provide annually:

(i) The actual demand units for the previous calendar year for each switched access tariff rate element (or category of switched access tariff rate elements, both originating and terminating) it has on file with the commission.

(ii) Primary toll carriers (PTCs) must file, in addition to the information required in (a)(i) of this subsection, the annual imputed demand units for the previous calendar year that the company would have had to purchase from itself if it had been an unaffiliated toll carrier using feature group D switched access service (including intraLATA and interLATA, both originating and terminating demand units). For purposes of this subsection, a PTC means a local exchange company offering interexchange service(s) to retail customers using feature group C switched access service for the origination or termination of any such service(s).

(b) The report containing the information required in (a) of this subsection must be filed by July 1 of each year.

(c) Each company providing information required by this section must include complete work papers and sufficient data for the commission to review the accuracy of the report.

(2) **Annual state certification requirements for interstate (federal) mechanism.** Each eligible telecommunications carrier (ETC) in Washington receiving federal high-cost universal service support funds must provide the following to the commission not later than August 31 of each year:

(a) A certification that, during the calendar year preceding the year in which certification is made, the ETC provided

the supported services required by 47 U.S.C. § 214(e) and described in the commission order granting it ETC status;

(b) A certification that, during the calendar year preceding the year in which certification is made, the ETC advertised the availability of supported services and the charges for them as required by 47 U.S.C. § 214(e) and as described in the commission order granting it ETC status;

(c) A certification that funds received by it from the federal high-cost universal service support fund will be used only for the provision, maintenance, and upgrading of the facilities and services for which the support is intended;

(d) The amount of all federal high-cost universal service support received for the calendar year preceding the year in which the filing must be made (this includes, but is not limited to, high cost loop support or "HCL," local switching support or "LSS," long term support or "LTS," interstate access support or "IAS," and interstate common line support or "ICLS");

(e) The loop counts on which federal high-cost universal service support was based for support received during the calendar year preceding the year in which the filing must be made;

(f) The certifications required in (a) through (e) of this subsection must be made in the same manner as required by RCW 9A.72.085.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-120-301	Accounting requirements for competitively classified companies.
WAC 480-120-303	Reporting requirements for competitively classified companies.
WAC 480-120-304	Reporting requirements for companies not classified as competitive.
WAC 480-120-305	Streamlined filing requirements for Class B telecommunications company rate increases.
WAC 480-120-311	Access charge and universal service reporting.
WAC 480-120-321	Expenditures for political or legislative activities.
WAC 480-120-323	Washington Exchange Carrier Association (WECA).

AMENDATORY SECTION (Amending Docket No. A-030832, General Order No. R-509, filed 10/29/03, effective 11/29/03)

**WAC 480-121-063 Regulatory requirements that may be waived for competitively classified telecommuni-**

**cations companies.** (1) The following regulatory requirements are waived for competitively classified companies:

(a) RCW 80.04.300 (Budgets to be filed by companies—Supplementary budgets);

(b) RCW 80.04.310 (Commission's control over expenditures);

(c) RCW 80.04.320 (Budget rules);

(d) RCW 80.04.330 (Effect of unauthorized expenditure—Emergencies);

(e) RCW 80.04.360 (Earnings in excess of reasonable rate—Consideration in fixing rates);

(f) RCW 80.04.460 (Investigation of accidents);

(g) RCW 80.04.520 (Approval of lease of utility facilities);

(h) RCW 80.36.100 (Tariff schedules to be filed and open to public);

(i) RCW 80.36.110 (Tariff changes—Statutory notice—Exception);

(j) Chapter 80.08 RCW (Securities) (except RCW 80.08.140, State not obligated);

(k) Chapter 80.12 RCW (Transfers of property);

(l) Chapter 80.16 RCW (Affiliated interests);

(m) WAC 480-80-101 Tariff requirements through WAC 480-80-143 Special contracts for gas, electric, and water companies;

(n) Chapter 480-140 WAC (Commission general—Budgets);

(o) Chapter 480-143 WAC (Commission general—Transfers of property);

(p) Chapter 480-146 WAC (Commission general—Securities, liens, (~~affiliated interests~~), refunding of notes, lease of utility facilities);

(q) WAC 480-120-102 (Service offered);

(r) WAC (~~480-120-305~~) 480-120-339 (Streamlined filing requirements for Class B telecommunications company rate increases);

(s) WAC 480-120-311 (Access charge and universal service reporting);

(t) WAC (~~480-120-321~~) 480-120-344 (Expenditures for political or legislative activities); (~~and~~)

(u) WAC (~~480-120-323~~) 480-120-352 (Washington Exchange Carrier Association (WECA));

(v) WAC 480-120-369 (Transferring cash or assuming obligation);

(w) WAC 480-120-375 (Affiliated interests—Contracts or arrangements); and

(x) WAC 480-120-395 (Affiliated interest and subsidiary transactions report).

This rule supersedes all waivers of regulatory requirements for competitively classified companies granted by the commission at the time of a company's competitive classification. However, subsequent to the adoption of this rule, the commission may revoke the waiver of any regulatory requirement set forth in (a) through (~~(+)~~) (x) of this subsection or may waive any regulatory requirement not included in (a) through (~~(+)~~) (x) of this subsection.

(2) The commission may by order revoke waivers of regulatory requirements if it determines that revocation is necessary to protect the public interest.

(3) In addition, the commission may waive regulatory requirements for telecommunications companies that it has classified as competitive if it determines that competition with the regulatory waiver will serve the same purposes as public interest regulation.

### Chapter 480-146 WAC

#### COMMISSION GENERAL—SECURITIES, LIENS, (~~(AFFILIATED INTERESTS,))~~ REFUNDING OF NOTES, LEASE OF UTILITY FACILITIES

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-146-350	Filing of affiliated interest transactions.
WAC 480-146-360	Reporting of affiliated interest transactions.

### Chapter 480-73 WAC

#### PART I—GENERAL PROVISIONS

#### NEW SECTION

**WAC 480-73-010 Application of rules.** The rules in this chapter apply to hazardous liquid pipeline companies regulated as common carriers under Title 81 RCW. The purpose of these rules is to address the economic regulation of liquid pipeline companies regulated as common carriers.

#### NEW SECTION

**WAC 480-73-020 Exemptions from rules in chapter 480-73 WAC.** The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modifications to the rules in this chapter; special rules).

#### NEW SECTION

**WAC 480-73-030 Additional requirements.** (1) These rules do not relieve any company from any of its duties and obligations under the laws of the state of Washington.

(2) The commission retains the authority to impose additional or different requirements on any company in appropriate circumstances, consistent with the requirements of law.

#### NEW SECTION

**WAC 480-73-040 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

#### NEW SECTION

**WAC 480-73-050 Tariffs.** (1) Each pipeline company must file tariffs in accordance with the requirements set out in chapter 480-149 WAC titled Tariff Circular No. 6.

(2) In addition to the tariff filing requirements in subsection (1) of this section, the tariff must include the pipeline company's nomination and proration policies and procedures.

#### NEW SECTION

**WAC 480-73-060 Definitions.** "Affiliated interest" means a person or corporation as defined in RCW 81.16.010.

"Business days" means the same as defined in WAC 480-07-120 (Office hours).

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a company, whether through the ownership of voting shares, by contract, or otherwise.

"Hazardous liquid pipeline companies" or "pipeline company" means any hazardous liquid pipeline company regulated as a common carrier under Title 81 RCW.

"Investment grade" means a pipeline company whose corporate credit/issuer rating is in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc.

"Nominations" means the method a shipper uses to reserve pipeline capacity for shipments.

"Proration" means the method the carrier uses to allocate space to shippers when nominations exceed the pipeline capacity.

"Subsidiary" means any company in which the pipeline company owns directly or indirectly five percent or more of the voting securities, unless the pipeline company demonstrates it does not have control.

#### PART II—FINANCIAL RECORDS AND REPORTING RULES

#### NEW SECTION

**WAC 480-73-110 Filing information.** (1) **Filing.** The commission records center will accept all reports required in Part II in person, by mail, or when procedures are in place, electronic mail message.

(2) **Commission may require additional information.** The commission may require information in addition to that specified by statute or in this chapter.

(3) **Information by reference.** When any information required to support a filing is on file with the commission, it is sufficient to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

(4) **When information is unavailable.** If any required information is unavailable at the time of the filing, the filing must include the reason why the information is not available and state when it will be available.

NEW SECTION

**WAC 480-73-120 Additional reports.** Part II does not supersede any reporting requirement specified in a commission order or limit the commission's ability to request additional information.

NEW SECTION

**WAC 480-73-130 Accounting system requirements.** (1) Each pipeline company must use the uniform system of accounts applicable to pipeline companies as published by the Federal Energy Regulatory Commission (FERC) in Title 18 of the Code of Federal Regulations (18 CFR), Part 352 - Uniform System of Accounts Prescribed for Oil Pipeline Companies Subject to the Provisions of the Interstate Commerce Act. Information about the Code of Federal Regulations regarding the version adopted and where to obtain it is set out in WAC 480-73-999 (Adoption by reference).

(2) Each pipeline company having multistate operations must maintain records in such detail that the costs of property located and business done in Washington can be readily ascertained in accordance with geographic boundaries.

(3) Any deviation from the uniform system of accounts, as prescribed by the FERC, will be accomplished only after due notice and order of this commission.

(4) This rule does not supersede any commission order regarding accounting treatments.

NEW SECTION

**WAC 480-73-140 Expenditures for political or legislative activities.** (1) For ratemaking purposes, the commission will not allow recovery of either direct or indirect expenditures by a pipeline company for political or legislative activities.

(2) For purposes of this rule, political or legislative activities include, but are not limited to:

(a) Encouraging support or opposition to ballot measures, legislation, candidates for a public office, or current public office holders;

(b) Soliciting support for or contributing to political action committees;

(c) Gathering data for mailing lists that are generated for the purposes of encouraging support for or opposition to ballot measures, legislation, candidates for public office, or current office holders, or encouraging support for or contributions to political action committees;

(d) Soliciting contributions or recruiting volunteers to assist in the activities set forth in (a) through (c) of this subsection.

(3) Political or legislative activities do not include activities directly related to appearances before regulatory or local governmental bodies necessary for the pipeline company's operations.

NEW SECTION

**WAC 480-73-150 Retaining and preserving records and reports.** Each pipeline company must retain records and reports in accordance with the 18 CFR, Part 356, Preserva-

tion of Records for Oil Pipeline Companies, which the commission adopts by reference. Information about the Code of Federal Regulations regarding the version adopted and where to obtain it is set out in WAC 480-73-999 (Adoption by reference).

NEW SECTION

**WAC 480-73-160 Annual reports.** (1) Each pipeline company must use the commission's annual report form and attach FERC Form No. 6 promulgated by the Federal Energy Regulatory Commission in 18 CFR, Part 357 (Annual, Special or Periodic Reports), for purposes of annual reporting to this commission. Information about the FERC Form No. 6 regarding the version adopted and where to obtain it is set out in WAC 480-73-999 (Adoption by reference).

(2) Each pipeline company must also submit to the commission, in essentially the same format and content as the FERC Form No. 6, a report that documents the costs incurred and the property necessary to provide service to its customers and the revenues obtained in the state of Washington.

(3) Combination and multistate pipeline companies must submit with the annual report their cost allocation methods necessary to develop results of operations in the state of Washington. Approval of cost allocation methods for rate-making purposes is accomplished only by commission order.

(4) The pipeline company must submit the annual report for the preceding calendar year by May 1 of each year.

(5) Economic regulatory fees. An economic regulatory fee is an annual assessment paid by each company to cover the costs of economic regulation of the industry. The economic regulatory fee is separate from the pipeline safety fee identified in WAC 480-75-240 (Annual pipeline safety fee methodology). The maximum economic regulatory fee is set by statute at one-tenth of one percent of the first fifty thousand dollars of gross intrastate operating revenue plus two-tenths of one percent of any gross intrastate operating revenue in excess of fifty thousand dollars.

(a) The maximum economic regulatory fee is assessed each year, unless the commission issues an order establishing the economic regulatory fee at an amount less than the statutory maximum.

(b) The minimum economic regulatory fee that a pipeline company must pay is twenty dollars.

(c) The twenty-dollar minimum economic regulatory fee is waived for any pipeline company that reports less than twenty thousand dollars in gross operating revenue.

(d) A pipeline company must pay its economic regulatory fee by May 1 each year.

(e) The commission does not grant extensions for payment of regulatory fees.

(f) If a company does not pay its economic regulatory fee by May 1, the commission will assess an automatic late fee of two percent of the amount due, plus one percent interest for each month the fee remains unpaid.

(g) The commission may issue penalty assessments or take other administrative action if a company fails to pay its regulatory fee.

NEW SECTION

**WAC 480-73-180 Transferring cash or assuming obligations.** (1) At least five business days before a pipeline company whose corporate/issuer rating is not in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc., or its subsidiary transfers cash to any of its affiliated interests or subsidiaries or assumes an obligation or liability of any of its affiliated interests or any of its subsidiaries, the company must report to the commission an estimate of the amount to be transferred and the terms of the transaction when the transaction will exceed thresholds as described in (a) or (b) of this subsection.

(a) The company must report if the cumulative transactions to a subsidiary or affiliated interest for the prior twelve months exceed a threshold of five percent, which is based on the prior calendar year gross operating revenue.

(b) When the threshold in (a) of this subsection has been reached, the company must report each subsequent transaction exceeding a threshold of one percent for the prior twelve-month period, which is based on the prior calendar year gross operating revenue.

(2) The reporting requirements in subsection (1) of this section do not include payments for:

(a) Federal and state taxes;

(b) Goods, services, or commodities;

(c) Transactions, attributed to the regulated entity, previously approved or ordered by the commission, other regulatory agencies, or the court; or

(d) Dividends to the extent the level of such dividends over a twelve-month period does not exceed the larger of:

(i) Net income during such period; or

(ii) The average level of dividends over the preceding three years; or

(e) Payments for sweep or cash management accounts. The foregoing provisions will have no application to sweep and cash management account transfers used to transfer funds to or from a subsidiary or affiliate as part of the customary and routine cash management functions between or among the pipeline company and its subsidiary or affiliate.

NEW SECTION

**WAC 480-73-190 Affiliated interests—Contracts or arrangements.** Prior to the effective date of any contract or arrangement described in RCW 81.16.020, each pipeline company must file a verified copy or a verified summary, if unwritten, of contracts or arrangements, except for transactions provided at tariff rates, with any affiliated interest. Prior to the effective date of any modification or amendment, the company must file verified copies of the modifications or amendments to the contracts or arrangements. If the contract or arrangement is unwritten, the company must file a verified summary of any modification or amendment. The commission may institute an investigation and disapprove the contract or arrangement if the commission finds the company has failed to prove that it is reasonable and consistent with the public interest.

NEW SECTION

**WAC 480-73-210 Affiliated interest and subsidiary transactions report.** (1) By June 1 of each year, each pipeline company must file a report summarizing all transactions, except transactions provided at tariff rates, which occurred between the company and each of its affiliated interests, and the company and each of its subsidiaries, during the period January 1 through December 31 of the preceding year.

(2) The information required in this section must be provided for total company and for total state of Washington. The report must include a corporate organization chart showing the pipeline company and how it is related to its affiliated interests and subsidiaries.

(3) When total transactions with an affiliated interest or a subsidiary are less than one hundred thousand dollars for the reporting period, the company must provide the name of the affiliated interest or subsidiary participating in the transactions and the total dollar amounts of the transactions. When total transactions with an affiliated interest or subsidiary equal or exceed one hundred thousand dollars for the reporting period, the company must provide:

(a) A balance sheet and income statement for such affiliated interest to the extent such information is publicly available, and if not publicly available but the balance sheet and income statement of a parent of such affiliated interest is publicly available, then the balance sheet and income statement for such parent must be provided;

(b) A description of the products or services provided to or from the company and each such affiliated interest or subsidiary;

(c) A description of the pricing basis or costing method, and procedures for allocating costs for such products or services, and the amount and accounts charged during the year;

(d) A description of the terms of any loans between the company and each such affiliated interest or subsidiary and a listing of the year-end loan amounts and maximum loan amounts outstanding during the year;

(e) A description of the terms and total amount of any obligation or liability assumed by the company for each such affiliated interest or subsidiary;

(f) A description of the activities of each such affiliated interest or subsidiary with which the company has transactions; and

(g) A list of all common officers and directors between the pipeline company and each such affiliated interest or subsidiary, along with their titles in each organization.

(4) The company is obligated to file verified copies of affiliated interest contracts and arrangements as stated in WAC 480-73-190 (Affiliated interest—Contracts and arrangements).

**PART III—ADOPTION BY REFERENCE**NEW SECTION

**WAC 480-73-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective date, references

within this chapter, and availability of the resources are as follows:

(1) Title 18 Code of Federal Regulations, cited as 18 CFR, is published by the United States Government Printing Office.

(2) The commission adopts the version in effect on April 1, 2003.

(3) This publication is referenced in WAC 480-73-130 (Accounting system requirements), WAC 480-73-150 (Retaining and preserving records and reports), and WAC 480-73-160 (Annual reports).

(4) Copies of 18 CFR are available from the U.S. Government Printing Office in Pittsburgh, Pennsylvania.

### WSR 05-07-059

#### PERMANENT RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed March 11, 2005, 3:29 p.m., effective April 11, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: (1) The Division of Child Support (DCS) is adopting rules regarding the assessment and collection of interest on support arrearages on child support cases, in accordance with the requirements of the Uniform Interstate Family Support Act, while providing that DCS will continue its policy and practice of not assessing or collecting interest on support arrearages under Washington orders unless such interest is reduced to judgment; and

(2) DCS seeks to clarify the procedures for the notice of support debt and notice of support owed.

NUMERICAL LIST OF ALL SECTIONS: Amending WAC 388-14A-3304 The division of child support serves a notice of support debt when it is enforcing a ((foreign)) support order issued in Washington state, a foreign court order or a foreign administrative order for support, 388-14A-3310 The division of child support serves a notice of support owed to establish a fixed dollar amount under an existing child support order, 388-14A-3320 What happens at a hearing on a notice of support ((debt or notice of support)) owed? and 388-14A-7100 An order from another state may be registered in Washington for enforcement or modification; and new sections WAC 388-14A-3317 What is an annual review of a support order under RCW 26.23.110?, 388-14A-3321 What happens if the custodial parent requests a hearing on a notice of support debt and demand for payment?, 388-14A-7110 The division of child support may assess and collect interest on amounts owned under support orders entered or established in a jurisdiction other than Washington state, 388-14A-7115 Are there special rules for a hearing on a notice seeking to assess and collect interest on a support order?, 388-14A-7120 When does DCS update the interest assessed on a case?, and 388-14A-8600 Does the division of child support enforce interest on unpaid support arrears?

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-3304, 388-14A-3310, 388-14A-3320, and 388-14A-7100.

Statutory Authority for Adoption: List of Sections RE: Project 1 - Assessment of Interest on Child Support Arrears: WAC 388-14A-3304, 388-14A-7100, 388-14A-7110, 388-14A-7115, 388-14A-7120, and 388-14A-8600.

Statutory Authority for Adoption for Rules in Project 1: RCW 26.21.016.

Other Authority: Not applicable.

List of Sections RE: Project 2 - Notice of Support Debt and Notice of Support Owed: WAC 388-14A-3304, 388-14A-3310, 388-14A-3317, 388-14A-3320, and 388-14A-3321.

Statutory Authority for Adoption for Rules in Project 2: RCW 74.08.090, 26.23.035, 34.05.220(1), and 74.20A.310.

Other Authority: RCW 26.23.110 and 74.20A.040.

Adopted under notice filed as WSR 05-03-095 on January 18, 2005.

Changes Other than Editing from Proposed to Adopted Version: 1. In WAC 388-14A-3317(1) the following text was added:

(1) RCW 26.23.110 provides for an annual review of the support order which was previously the subject of a notice of support owed under that statute if the division of child support (DCS), the noncustodial parent (NCP), or the custodial parent (CP) requests a review.

2. In WAC 388-14A-7115 (3) and (4), the following text was added:

(3) A party challenging the certified calculation may challenge the calculation for one or more of the following reasons:

(a) The amount of principal is incorrect because credit was not given for payments made;

(b) The amount of principal is incorrect because credit was given for payments which were not actually made; or

(c) The interest calculation was not properly done according to the law of the state issuing the order.

(4) If the administrative law judge (ALJ) finds that the party challenging the interest calculation has shown that the amount of principal is incorrect, the ALJ:

(a) Enters an order stating the correct amount of principal;

(b) Orders the party which submitted (~~IV-D agency or CPA which certified~~) the original interest calculation to:

(i) Recalculate or have recalculated the interest based on the new principal amount; and

(ii) Submit the new certified calculation to the ALJ within a reasonable amount of time; and

(c) After receiving the new certified calculation, enters an order determining the amount of debt, including interest, for the period claimed in the notice.

The changes were made for added clarity.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 6, Amended 4, Repealed 0.

Date Adopted: March 9, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

**WAC 388-14A-3304 The division of child support serves a notice of support debt when it is enforcing a support order issued in Washington state, a foreign court order or a foreign administrative order for support.** (1) The division of child support (DCS) may serve a notice of support debt on a noncustodial parent (NCP) under RCW 74.20A.040 to provide notice that DCS is enforcing a support order entered in Washington state, a foreign court order or a foreign administrative order for support. A "foreign" order is one entered in a jurisdiction other than a Washington state court or administrative forum.

(2) DCS serves a notice of support debt like a summons in a civil action or by certified mail, return receipt requested.

(3) In a notice of support debt, DCS includes the information required by RCW 74.20A.040, the amount of current and future support, accrued support debt, interest (if interest is being assessed under WAC 388-14A-7110), any health insurance coverage obligation, and any day care costs under the court or administrative order.

(4) After service of a notice of support debt, the NCP must make all support payments to the Washington state support registry. DCS does not credit payments made to any other party after service of a notice of support debt except as provided in WAC 388-14A-3375.

(5) A notice of support debt becomes final and subject to immediate wage withholding and enforcement without further notice under chapters 26.18, 26.23, and 74.20A RCW, subject to the terms of the order, unless, within twenty days of service of the notice in Washington, the NCP:

(a) Files a request with DCS for a conference board under WAC 388-14A-6400. The effective date of a conference board request is the date DCS receives the request; ((or))

(b) Obtains a stay from the superior court; or

(c) Objects to either the validity of the foreign support order or the administrative enforcement of the foreign support order, in which case DCS proceeds with registration of the foreign support order under WAC 388-14A-7100.

(6) A notice of support debt served in another state becomes final according to WAC 388-14A-7200.

(7) Enforcement of the following are not stayed by a request for a conference board or hearing under this section or WAC 388-14A-6400:

(a) Current and future support stated in the order; and

(b) Any portion of the support debt that the NCP and custodial parent (CP) fail to claim is not owed.

(8) Following service of the notice of support debt on the NCP, DCS mails to the last known address of the CP and/or the payee under the order:

(a) A copy of the notice of support debt; and

(b) A notice to payee under WAC 388-14A-3315 regarding the payee's rights to contest the notice of support debt. The CP who is not the payee under the order has the same rights to contest the notice of support debt.

(9) If the NCP requests a conference board under subsection (5)(a) of this section, DCS mails a copy of the notice of conference board to the CP informing the CP of the CP's right to:

(a) Participate in the conference board; or

(b) Request a hearing under WAC ((388-14A-3320)) 388-14A-3321 within twenty days of the date of a notice of conference board that was mailed to a Washington address. If the notice of conference board was mailed to an out-of-state address, the CP may request a hearing within sixty days of the date of the notice of conference board. The effective date of a hearing request is the date DCS receives the request.

(10) If the CP requests a hearing under subsection (9) of this section, DCS must:

(a) Stay enforcement of the notice of support debt except as required under subsection (6) of this section; and

(b) Notify the NCP of the hearing.

(11) If a CP requests a late hearing under subsection (8) of this section, the CP must show good cause for filing the late request.

(12) The NCP is limited to a conference board to contest the notice and may not request a hearing on a notice of support debt. However, if the CP requests a hearing, the NCP may participate in the hearing.

(13) A notice of support debt must fully and fairly inform the NCP of the rights and responsibilities in this section.

(14) A notice of support debt that does not include interest does not relieve the NCP of any interest that may have accrued or may accrue under the support order covered by the notice.

(15) A notice of support debt that does include interest deals only the amount of debt, including interest, that is due and owing for the indicated time periods. Such a notice does not relieve the NCP of any interest that may have accrued or may accrue for any other time periods.

**AMENDATORY SECTION** (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

**WAC 388-14A-3310 The division of child support serves a notice of support owed to establish a fixed dollar amount under an existing child support order.** (1) The division of child support (DCS) may serve a notice of support owed on a noncustodial parent (NCP) under RCW 26.23.110 to establish a fixed dollar amount of monthly support and accrued support debt:

(a) If a support obligation under a court order is not a fixed dollar amount; or

(b) To implement an adjustment or escalation provision of the court order.

(2) The notice of support owed may include ~~((s))~~ day care costs and medical support if the court order provides for such costs.

(3) DCS serves a notice of support owed on an NCP like a summons in a civil action or by certified mail, return receipt requested.

(4) Following service on the NCP, DCS mails a notice to payee under WAC 388-14A-3315.

(5) In a notice of support owed, DCS includes the information required by RCW 26.23.110, and:

(a) The factors stated in the order to calculate monthly support;

(b) Any other information not contained in the order that was used to calculate monthly support and the support debt; and

(c) Notice of the right to request ~~((a))~~ an annual review of the order ~~((once yearly))~~ or a review on the date, if any, given in the order for an annual review.

(6) The NCP must make all support payments after service of a notice of support owed to the Washington state support registry. DCS does not credit payments made to any other party after service of a notice of support owed except as provided in WAC 388-14A-3375.

(7) A notice of support owed becomes final and subject to immediate ~~((wage))~~ income withholding and enforcement without further notice under chapters 26.18, 26.23, and 74.20A RCW unless the NCP, within twenty days of service of the notice in Washington:

(a) Contacts DCS, and signs an agreed settlement;

(i) Files a request with DCS for a hearing under ~~((subsection (9) of))~~ this section; or

(ii) Obtains a stay from the superior court.

(b) A notice of support owed served in another state becomes final according to WAC 388-14A-7200.

(8) DCS may enforce at any time:

(a) A fixed or minimum dollar amount for monthly support stated in the court order or by prior administrative order entered under this section;

(b) Any part of a support debt that has been reduced to a fixed dollar amount by a court or administrative order; and

(c) Any part of a support debt that neither party claims is incorrect.

~~((is only for interpreting the court order for support and any modifying orders and not for changing or deferring the support provisions of the order. The hearing is only to determine:~~

~~(a) The amount of monthly support as a fixed dollar amount;~~

~~(b) Any accrued arrears through the date of hearing; and~~

~~(c) If a condition precedent in the court order to begin or modify the support obligation was met.~~

~~(10) If the NCP requested the hearing, he or she has the burden of proving any defenses to liability that apply under WAC 388-14A-3370 or that the amounts stated in the notice of support owed are incorrect.~~

~~((11)), see WAC 388-14A-3320.~~

~~((10))~~ A notice of support owed or ~~((an initial or review decision))~~ a final administrative order issued under ~~((subsec-~~

~~tion (9) of this section))~~ WAC 388-14A-3320 must inform the parties of the right to request ~~((a))~~ an annual review of the order ~~((once yearly or on the date, if any, given in the order for an annual review)).~~

~~((12))~~ (11) If an NCP or custodial parent (CP) requests a late hearing, the ~~((NCP))~~ party must show good cause for filing the late hearing request if it is filed more than one year after service of the notice of support owed.

~~((13))~~ (12) A notice of support owed fully and fairly informs the NCP of the rights and responsibilities in this section.

~~((14))~~ (13) For the purposes of this section, WAC 388-14A-3315 and 388-14A-3320, the term "payee" includes "physical custodian" or "custodial parent."

NEW SECTION

**WAC 388-14A-3317 What is an annual review of a support order under RCW 26.23.110?** (1) RCW 26.23.110 provides for an annual review of the support order which was previously the subject of a notice of support owed under that statute if the division of child support (DCS), the noncustodial parent (NCP), or the custodial parent (CP) requests a review.

(2) For purposes of chapter 388-14A WAC, an "annual review of a support order" is defined as:

(a) The collection by DCS of necessary information from CP and NCP;

(b) The service of a notice of support owed; and

(c) The determination of arrears and current support amount with an effective date which is at least twelve months after the date the last notice of support owed, or the last administrative order or decision based on a notice of support owed, became a final administrative order.

(3) A notice of support owed may be prepared and served sooner than twelve months after the date the last notice of support owed, or the last administrative order or decision based on a notice of support owed, became a final administrative order, but the amounts determined under the notice of support owed may not be effective sooner than twelve months after that date.

(4) Either CP or NCP may request an annual review of the support order, even though the statute mentions only the NCP.

(5) DCS may request an annual review of the support order but has no duty to do so.

(6) For the purpose of this section, the terms "payee" and "CP" are interchangeable, and can mean either the payee under the order or the person with whom the child resides the majority of the time.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

**WAC 388-14A-3320 What happens at a hearing on a notice of support ~~((debt or notice of support))~~ owed?** (1) A hearing on a notice of support ~~((debt or a notice of support))~~ owed is ~~((for the limited purpose of determining the support debt through the date of the hearing under the order))~~ only for interpreting the court order for support and any modifying

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orders and not for changing or deferring the support provisions of the order. The hearing is only to determine:

(a) The amount of monthly support as a fixed dollar amount;

(b) Any accrued arrears through the date of hearing; and

(c) If a condition precedent in the court order to begin or adjust the support obligation was met.

(2) Either the noncustodial parent (NCP) or custodial parent (CP) may request a hearing on a notice of support owed. The party who requested the hearing has the burden of proving any defenses to liability that apply under WAC 388-14A-3370 or that the amounts stated in the notice of support owed are incorrect.

(3) The office of administrative hearings (OAH) sends a notice of hearing ~~((on a notice of support debt))~~ to the noncustodial parent (NCP), to the division of child support (DCS), and to the payee. The NCP and the payee each may participate in the hearing as an independent party.

~~((3))~~ (4) If only one party appears and wishes to proceed with the hearing, the administrative law judge (ALJ) holds a hearing and issues an ~~((initial decision))~~ order based on the evidence presented or continues the hearing. See WAC 388-14A-6110 and 388-14A-6115 to determine if the ALJ enters an initial order or a final order.

(a) An ~~((initial decision))~~ order issued under this subsection includes an order of default against the nonappearing party and limits the appeal rights of the nonappearing party to the record made at the hearing.

(b) If neither the NCP nor the payee appears or wishes to proceed with the hearing, the ALJ issues an order of default against both parties.

~~((4))~~ (5) If the payee requests a late hearing on a notice of support owed ~~((or a notice of support debt))~~, the payee must show good cause for filing the late hearing request.

#### NEW SECTION

**WAC 388-14A-3321 What happens if the custodial parent requests a hearing on a notice of support debt and demand for payment?** (1) If the custodial parent (CP) requests a hearing on a notice of support debt and demand for payment (also called the "notice of support debt"), the hearing is for the limited purpose of determining the support debt under the order through the date of the hearing.

(2) The office of administrative hearings (OAH) sends a notice of hearing to the NCP, to the division of child support (DCS), and to the payee.

(a) The NCP and the payee each may participate in the hearing.

(b) "Participating in" or "proceeding with" the hearing may include signing a consent order or agreed settlement under WAC 388-14A-3600.

(3) If only one party appears and wishes to proceed with the hearing, the administrative law judge (ALJ) holds a hearing and issues an order based on the evidence presented or continues the hearing. See WAC 388-14A-6110 and 388-14A-6115 to determine if the ALJ enters an initial order or a final order.

(a) An order issued under this subsection includes an order of default against the nonappearing party and limits the

appeal rights of the nonappearing party to the record made at the hearing.

(b) If neither the NCP nor the payee appears or wishes to proceed with the hearing, the ALJ issues an order of default against both parties.

(4) If the payee requests a late hearing on a notice of support debt, the payee must show good cause for filing the late hearing request.

(5) When DCS uses a notice of support debt to assess and collect interest on an out-of-state support order, see WAC 388-14A-7110.

(6) For the purpose of this section, the terms "payee" and "CP" are interchangeable, and can mean either the payee under the order or the person with whom the child resides the majority of the time.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

**WAC 388-14A-7100 An order from another state may be registered in Washington for enforcement or modification.** (1) A support enforcement agency, or a party to a child support order or an income-withholding order for support issued by a tribunal of another state, may register the order in this state for enforcement pursuant to chapter 26.21 RCW.

(a) ~~((The))~~ At the option of the division of child support (DCS), the support order or income-withholding order may be registered with the superior court pursuant to RCW 26.21.490 or it may be registered with the administrative tribunal according to subsection (2) of this section~~((, at the option of the division of child support (DCS)))~~. Either method of registration is valid.

(b) A support order or income-withholding order issued in another state is registered when the order is filed with the registering tribunal of this state.

(c) DCS may enforce a registered order issued in another state in the same manner and ~~((is))~~ subject to the same procedures as an order issued by a tribunal of this state.

(d) DCS may assess and collect interest on amounts owed under support orders entered or established in a jurisdiction other than the state of Washington as provided in WAC 388-14A-7110.

(2) DCS must give notice to the nonregistering party when it administratively registers a support order or income-withholding order issued in another state.

(a) The notice must inform the nonregistering party:

(i) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(ii) That if a party wants a hearing to contest the validity or enforcement of the registered order, the party must request a hearing within twenty days after ~~((the date of receipt by certified or registered mail or personal service of the notice given to a nonregistering party within the state and within))~~ service of the notice on the nonregistering party within Washington state. If the nonregistering party was served with the notice outside of Washington state, the party has sixty days after ~~((the date of receipt by certified or registered mail or personal))~~ service of the notice ~~((on a nonregistering~~

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~~party outside of the state)) to request a hearing to contest the validity or enforcement of the registered order;~~

(iii) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(iv) Of the amount of any alleged arrearages, including interest, if interest is being assessed under WAC 388-14A-7110.

(b) The notice must be:

(i) Served by certified or registered mail or by any means of personal service authorized by the laws of the state of Washington; and

(ii) Accompanied by a copy of the registered order and any documents and relevant information accompanying the order submitted by the registering party.

(c) The effective date of a request for hearing to contest the validity or enforcement of the registered order is the date DCS receives the request.

(3) A hearing under this section is for the limited purpose of determining if the nonregistering party can prove one or more of the defenses listed in RCW 26.21.540(1).

(a) If the contesting party presents evidence establishing a full or partial defense under RCW 26.21.540(1), the presiding officer may:

(i) Stay enforcement of the registered order;

(ii) Continue the proceeding to allow the parties to gather additional relevant evidence; or

(iii) Issue other appropriate orders.

(b) DCS may enforce an uncontested portion of the registered order by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under RCW 26.21.540(1) to the validity or enforcement of the order, the presiding officer must issue an order confirming the registered order.

(d) The custodial parent (CP) or payee of the order may participate as a party to any hearing under this section.

(4) Except as provided below in subsections (5) and (6) of this section, confirmation of a registered order precludes further contest of the order with respect to any matter that could have been asserted at the time of registration. Confirmation may occur:

(a) By operation of law upon failure to contest registration; or

(b) By order of the administrative law judge (ALJ).

(5) Confirmation of a registered order that does not include interest does not relieve the NCP of any interest that may have accrued or may accrue under the confirmed order.

(a) If interest is later assessed, the NCP or CP may not dispute the confirmed amount of the support debt.

(b) The NCP or CP may dispute the amount of interest due and owing on that confirmed amount by requesting a conference board under WAC 388-14A-6400.

(6) Confirmation of a registered order that does include interest confirms only the amount of debt, including interest, that is due and owing for the indicated time periods. Such confirmation does not relieve the NCP of any interest that may have accrued or may accrue for any other time period.

(7) A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state may register the order in this state according to RCW 26.21.560 through 26.21.580.

(a) The order must be registered as provided in subsection (1)(a) if the order has not yet been registered.

(b) A petition for modification may be filed at the same time as a request for registration, or later. The petition must specify the grounds for modification.

(c) DCS may enforce a child support order of another state registered for purposes of modification, as if a tribunal of this state had issued the order, but the registered order may be modified only if the requirements of RCW 26.21.580 are met.

~~((6))~~ (8) Interpretation of the registered order is governed by RCW 26.21.510.

#### NEW SECTION

**WAC 388-14A-7110 The division of child support may assess and collect interest on amounts owed under support orders entered or established in a jurisdiction other than Washington state.** (1) The division of child support (DCS) may accept an interstate request to assess and collect interest when:

(a) The request is from:

(i) Another state's IV-D agency;

(ii) An Indian tribe;

(iii) A foreign country which has entered into a reciprocal agreement with the United States of America or with the state of Washington; or

(iv) A custodial parent (CP) or noncustodial parent (NCP) who resides outside of Washington state who has filed a petition under the Uniform Interstate Family Support Act (UIFSA), chapter 26.21 RCW.

(b) The party requesting that DCS assess and collect interest provides a calculation of the interest claimed which has been certified by a IV-D agency or a certified public accountant (CPA); and

(c) The support order was entered or established in a jurisdiction other than Washington state.

(2) When a foreign support order has been submitted for enforcement under UIFSA, DCS may, at its option, either:

(a) Use the notice of support debt and demand for payment to assess and collect interest on an out-of-state support order. See WAC 388-14A-3304 for the rules regarding the notice of support debt and demand for payment; or

(b) Use a notice of support debt and registration to assess and collect interest on the foreign order. See WAC 388-14A-7100 for the rules regarding registration of a foreign order.

(3) When an out of state order has been submitted for registration for enforcement and modification under UIFSA, DCS uses a notice of support debt and registration to assess and collect interest on the out of state order. See WAC 388-14A-7100 for the rules regarding registration of a foreign support order.

(4) Any hearing held on a notice of support debt and registration which includes a claim for interest is conducted in accordance with WAC 388-14A-7100(3) and WAC 388-14A-7115.

(a) WAC 388-14A-7100(4) describes the procedures for confirmation of the registered order.

(b) WAC 388-14A-7100(4) describes the effect of confirmation of the registered order.

(5) At any time after the notice of support debt and registration becomes a final administrative order, DCS may update the amount of interest as provided in WAC 388-14A-7120.

#### NEW SECTION

**WAC 388-14A-7115 Are there special rules for a hearing on a notice seeking to assess and collect interest on a support order?** (1) When the division of child support serves a notice of support debt and demand for payment or a notice of support debt and registration under WAC 388-14A-7110(2) and the notice becomes the subject of a hearing, this section applies to a determination of interest.

(2) The calculation of the amount of interest which has been certified by a IV-D agency or a CPA must be accepted as evidence at a hearing on a notice of support debt and demand for payment or on a notice of support debt and registration.

(a) Such certified calculation is prima facie evidence of the amount of interest owed by the NCP.

(b) Any party challenging the certified calculation has the burden of proving that the amount of interest claimed is incorrect.

(3) A party challenging the certified calculation may challenge the calculation for one or more of the following reasons:

(a) The amount of principal is incorrect because credit was not given for payments made;

(b) The amount of principal is incorrect because credit was given for payments which were not actually made; or

(c) The interest calculation was not properly done according to the law of the state issuing the order.

(4) If the administrative law judge (ALJ) finds that the party challenging the interest calculation has shown that the amount of principal is incorrect, the ALJ:

(a) Enters an order stating the correct amount of principal;

(b) Orders the party which submitted the original interest calculation to:

(i) Recalculate or have recalculated the interest based on the new principal amount; and

(ii) Submit the new certified calculation to the ALJ within a reasonable amount of time; and

(c) After receiving the new certified calculation, enters an order determining the amount of debt, including interest, for the period claimed in the notice.

(5) If the ALJ orders a new certified calculation, DCS may enforce any amounts of principal the ALJ found to be due and owing under the support order while the administrative order under subsection (4)(c) of this section is pending.

(6) A claim that the interest calculation was not properly done must be supported by an interest calculation which is certified by a IV-D agency or a certified public accountant (CPA). The ALJ then determines which calculation is best supported by the evidence.

(7) The division of child support does not perform certified interest calculations for use in a hearing under this section.

#### NEW SECTION

**WAC 388-14A-7117 Are there special rules for a conference board on a notice seeking to assess and collect interest on a support order?** (1) When the division of child support serves a notice of support debt and demand for payment or a notice of support debt and registration under WAC 388-14A-7110(2) and the notice becomes the subject of a conference board under WAC 388-14A-6400, this section applies to a determination of interest.

(2) The calculation of the amount of interest which has been certified by a IV-D agency or a CPA must be accepted as evidence at a conference board on a notice of support debt and demand for payment or on a notice of support debt and registration.

(a) Such certified calculation is prima facie evidence of the amount of interest owed by the NCP.

(b) Any party challenging the certified calculation has the burden of proving that the amount of interest claimed is incorrect.

(3) A party challenging the certified calculation may challenge the calculation for one or more of the following reasons:

(a) The amount of principal is incorrect because credit was not given for payment made;

(b) The amount of principal is incorrect because credit was given for payments which were not actually made; or

(c) The interest calculation was not properly done.

(4) If the conference board determines that the amount of principal is incorrect, the conference board may request that the IV-D agency or a certified public accountant that performed the initial calculation provide a new calculation based on the new principal amount.

(5) DCS may collect undisputed amounts of principal while the final conference board decision is pending.

(6) A claim that the interest calculation was not properly done must be supported by an interest calculation which is certified by a IV-D agency or a certified public accountant. The conference board then determines which calculation is best supported by the evidence.

(7) The division of child support does not perform certified interest calculations for use in a conference board under this section.

(8) The conference board issues a decision, based on the evidence, determining the debt amount, including interest, for the period claimed in the notice.

#### NEW SECTION

**WAC 388-14A-7120 When does DCS update the interest assessed on a case?** (1) When the division of child support (DCS) accepts an interstate case for assessment of interest under WAC 388-14A-7110(1), DCS may, at any time after service of a notice of support debt and registration or a notice of support debt and demand for payment, update the amount of interest assessed on the case.

(2) To notify the parties to the order that DCS has updated the amount of interest, DCS uses a form called the Updated Interest Calculation Letter.

(a) The updated interest calculation letter is based upon a calculation of interest which has been certified by a IV-D agency or certified public accountant (CPA).

(b) DCS sends the updated interest calculation letter to the noncustodial parent (NCP), by first class mail to the NCP's last known address.

(3) The updated interest calculation letter advises the NCP of:

(a) The new, updated amount of interest owed for the arrears period; and

(b) The updated total amount of support owed, including interest.

(4) An NCP who objects to an updated interest calculation letter may request a conference board under WAC 388-14A-6400 to dispute the terms of the letter.

(5) The calculation of the amount of interest which has been certified by a IV-D agency or CPA must be accepted as evidence at a conference board on an updated interest calculation letter.

(a) The certified calculation is prima facie evidence of the amount of interest owed by the NCP.

(b) Any party challenging the certified calculation has the burden of proving that the amount of interest claimed is incorrect.

**NEW SECTION**

**WAC 388-14A-8600 Does the division of child support enforce interest on unpaid support arrears?** (1) Under RCW 26.23.030(2), the division of child support (DCS) has the authority to assess and collect interest on unpaid child support that has accrued under any support order entered into the Washington state support registry (WSSR).

(2) DCS does not assess or collect interest on administrative or court orders for support entered in the state of Washington unless the amount of interest has been reduced to a judgment.

(3) DCS may assess and collect interest on support orders entered outside of Washington state as provided in WAC 388-14A-7110.

(4) DCS may update the interest assessed on a case as provided in WAC 388-14A-7120.

**WSR 05-08-008  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Economic Services Administration)**

[Filed March 25, 2005, 3:59 p.m., effective April 25, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend WAC 388-492-0070 How are my WASHCAP food benefits calculated?, in order to be consistent with a federal waiver amendment regarding how Washington combined application project (WASHCAP) benefits are calculated. Specifically, the department is amending the

utility allowance methodology used to calculate WASHCAP benefit amounts. The change will bring the department into compliance with the demonstration project cost-neutrality provisions stipulated in the federal requirements for waivers. This rule is currently in place under emergency adoption; filing for permanent adoption is necessary to complete the rule-making procedure and ensure that correct benefits are issued on a continued basis.

Citation of Existing Rules Affected by this Order: Amending WAC 388-492-0070.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Adopted under notice filed as WSR 05-05-086 on February 15, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: March 24, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR04-23-026, filed 11/8/04, effective 12/9/04)

**WAC 388-492-0070 How are my WASHCAP food benefits calculated?** We calculate your food benefits as follows:

- (1) We begin with your gross income.
- (2) We subtract one hundred thirty-four dollars from your gross income to get your countable income.
- (3) We figure your shelter cost as follows:
  - (a) If SSA tells us you pay three hundred nineteen dollars or more a month for shelter, we use three hundred twenty-nine dollars as your shelter cost; or
  - (b) If SSA tells us you pay less than three hundred nineteen dollars for shelter, we use one hundred fifty-nine dollars as your shelter cost; and
  - (c) We add the current ((standard)) limited utility allowance under WAC 388-450-0195 to determine your total shelter cost.
- (4) We figure your shelter deduction by subtracting one half of your countable income from your shelter cost.
- (5) We figure your net income by subtracting your shelter deduction from your countable income.
- (6) We figure your WASHCAP food benefits (allotment) by:

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- (a) Multiplying your net income by thirty percent and rounding up to the next whole dollar; and
- (b) Subtracting the result from the maximum allotment under WAC 388-478-0060.
- (c) If you are eligible for WASHCAP, you will get at least ten dollars in food benefits each month.

**WSR 05-08-009**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 25, 2005, 4:01 p.m., effective April 25, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: to amend WAC 388-492-0040 Can I choose whether I get WASHCAP food benefits or Basic Food benefits?, to be consistent with a federal waiver amendment regarding the criteria under which a WASHCAP-eligible or WASHCAP participant may opt-in or -out of the demonstration project. The change will bring the department into compliance with the demonstration project cost-neutrality provisions stipulated in the federal waiver requirements. This rule is currently in place under emergency adoption; filing for permanent adoption is necessary to complete the rule making procedure and ensure project sustainability.

Citation of Existing Rules Affected by this Order: Amending WAC 388-492-0040.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Adopted under notice filed as WSR 05-05-087 on February 15, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: March 24, 2005.

Andy Fernando, Manager  
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-23-026, filed 11/8/04, effective 12/9/04)

**WAC 388-492-0040 Can I choose whether I get WASHCAP food benefits or Basic Food benefits? You can**

choose to have Basic Food benefits instead of WASHCAP food benefits when:

~~(1) ((You would get more benefits from the Basic Food program-~~

~~(2) You may get more benefits in the Basic Food program when:~~

~~(a)) Your non-utility shelter costs as defined in WAC 388-450-0190 (a) through (d) are more than five hundred twenty-seven dollars a month((- We count the following items as a shelter cost:~~

~~(i) Rent or mortgage;~~

~~(ii) Property taxes;~~

~~(iii) Homeowner's insurance (for the building only); or~~

~~(iv) Mandatory homeowner's association or condo fees.~~

~~(b));~~

~~(2) Your out-of-pocket medical expenses are more than thirty-five dollars a month; or~~

(3) You chose to have Basic Food benefits instead of WASHCAP benefits prior to January 1, 2005.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 05-08-010**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed March 25, 2005, 4:37 p.m., effective April 25, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amendments were made to sections within the Washington Alfalfa Seed Commission's Marketing Order, chapter 16-529 WAC. During past legislative sessions, significant amendments were made to the commission's enabling statute, chapter 15.65 RCW. These statutory changes prompted the amendments to chapter 16-529 WAC. The changes achieve consistency with the statute, as well as, improve the readability and clarity of the marketing order.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-529-130; and amending WAC 16-529-010, 16-529-030, 16-529-040, 16-529-050, 16-529-060, 16-529-070, 16-529-080, 16-529-100, 16-529-110, 16-529-120, 16-529-150, 16-529-160, 16-529-190, 16-529-200, and 16-529-300.

Statutory Authority for Adoption: RCW 15.65.047 and chapter 34.05 RCW.

Adopted under notice filed as WSR 04-19-120 on September 21, 2004.

Changes Other than Editing from Proposed to Adopted Version: The department added language to WAC 16-529-060(2) which provides a cross reference to chapter 15.65 RCW. This reference will help to clarify the nomination process as identified by this statute.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 15, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 2, Amended 15, Repealed 1.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 15, Repealed 1.

Date Adopted: March 25, 2005.

Valoria H. Loveland  
Director

#### NEW SECTION

**WAC 16-529-005 Marketing order for Washington alfalfa seed—Policy statement.** (1) The marketing of alfalfa seed within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its alfalfa seed be properly promoted by:

(a) Enabling producers of alfalfa seed to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the alfalfa seed they produce; and

(b) Working towards stabilizing the agricultural industry by increasing production of alfalfa seed within the state.

(2) That it is in the overriding public interest that support for the alfalfa seed industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that alfalfa seed be promoted individually and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's alfalfa seed.

(b) Increase the sale and use of Washington state's alfalfa seed in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's alfalfa seed.

(d) Increase the knowledge of the qualities and value of Washington state's alfalfa seed and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of alfalfa seed produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state alfalfa seed commodity board exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to alfalfa seed under the provisions of this marketing order.

#### NEW SECTION

**WAC 16-529-006 Marketing order purposes.** This marketing order is to promote the general welfare of the state and the Washington state alfalfa seed commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; increasing production efficiency; ensuring a fair regulatory environment; or increasing per capita consumption of alfalfa seed grown in Washington state.

(1) To carry out the purposes of this chapter, the board shall provide for a program in one or more of the following areas:

(a) Establish plans and conduct programs for marketing, sales, promotion, and/or other programs for maintaining present markets and/or creating new or larger markets for alfalfa seed. Such programs shall be directed toward increasing the sale of alfalfa seed without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of alfalfa seed nor disparage the quality, value, sale, or use of any other agricultural commodity. The board may also engage in cooperative efforts in the domestic or foreign marketing of alfalfa seed.

(b) Provide for research in the production, harvesting, processing, irrigation, transportation, handling, and/or distribution of alfalfa seed and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by experiment stations of Washington State University, but if in the judgment of the board said experiment stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(c) Provide for collection and dissemination of information pertaining to alfalfa seed.

(d) Conduct programs for the purpose of providing information and education including:

(i) Marketing information and services for producers of alfalfa seed for the verification of grades, standards, weights, tests, and sampling of quality and quantity of alfalfa seed purchased by handlers from affected producers.

(ii) Information and services enabling producers to meet their resource conservation objectives.

(iii) Alfalfa seed-related education and training.

(e) Subject to the provisions of the act, provide information and communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of alfalfa seed produced in Washington state to any elected official or officer or employee of any agency.

(2) The director shall approve any plans, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for marketing and promotion of alfalfa seed.

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of alfalfa seed may be encouraged, expanded, improved, or made more efficient.

AMENDATORY SECTION (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-010 Definitions ((of terms)).** Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this ((chapter)) marketing order, the following additional definitions shall apply:

(1) "Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington State Agricultural ~~((Enabling Act of 1961))~~ Commodity Boards or chapter 15.65 RCW.

(4) "Person" means any ~~((person))~~ individual, firm, ((association, or)) corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.

(5) "Affected producer" means any person who produces any variety of alfalfa seed in the state of Washington for market in commercial quantities: Provided, That for the purpose of election and membership on the commodity board, a producer-handler shall be considered as acting only as a producer.

(6) "Commercial quantity" means all alfalfa seed produced in any calendar year by any producer.

(7) "Affected handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing, or distributing alfalfa seed not grown by him/her.

(8) "Producer-handler" means any person who acts both as a producer and as a handler with respect to the alfalfa seed which he/she produces, and a handler with respect to the alfalfa seed which he/she handles, including that produced by himself/herself. "To produce" means to act as a producer. For the purposes of the alfalfa seed marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(9) "Alfalfa seed" means the seed that is harvested from any variety of alfalfa plants.

(10) "Alfalfa seed commodity board" hereinafter referred to as "board" or "commission" means the commodity board ~~((or commission))~~ formed under the provisions of WAC 16-529-020 through 16-529-120.

(11) "Marketing season" or "fiscal year" means the twelve month period beginning with July 1 of any year and ending with June 30 of the year following, both dates being inclusive.

(12) "Affected area" means that portion of the state of Washington located east of the summit of the Cascade Mountains.

(13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

(14) "Affected unit" means one hundred weight (cwt) of cleaned alfalfa seed as sold by an affected producer to a handler or other producer.

AMENDATORY SECTION (Amending Order 1850, filed 4/22/85, effective 6/1/85)

**WAC 16-529-030 Board membership.** (1) The board shall consist of eight members. Six members shall be affected producers appointed or elected as provided in WAC 16-529-020 through 16-529-120. One member shall be an affected handler ~~((elected))~~ appointed as provided in WAC 16-529-020 through 16-529-120. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the ~~((department and the public))~~ director. The position representing the director shall be a voting member.

(a) Director-appointed positions on the board shall be designated as position 2, position 4, position 6, and position 7. The affected handler member of the board shall be position 7.

(b) Elected affected producer positions on the board shall be designated as position 1, position 3, and position 5.

(c) The position representing the director who is neither an affected producer nor an affected handler shall be designated as position 8.

(2) For the purpose of nomination, appointment, and election of affected producer members of the board, the affected area of the state of Washington shall be divided into three representative districts as follows:

(a) District I shall have two board members, being Positions 1 and 2, and shall include the counties of Adams, Chelan, Douglas, Ferry, Franklin, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens.

(b) District II shall have one board member, being Position 3, and shall include the counties of Benton, Kittitas, Klickitat, and Yakima.

(c) District III shall have three board members, being Positions 4, 5, and 6, and shall include the counties of Asotin, Columbia, Garfield, Walla Walla, and Whitman.

~~(((3) The handler member of the board shall be Position 7.~~

~~(4) The member of the board to be appointed by the director shall be Position 8.))~~

AMENDATORY SECTION (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-040 Board membership qualifications.**

(1) The affected producer members of the board ~~((shall))~~ must be practical producers of alfalfa seed and each shall be a citizen~~((s))~~ and resident~~((s))~~ of ~~((the))~~ this state ~~((of Washington)), over the age of ((twenty-five))~~ eighteen years ~~((each of whom is and has)).~~ Each affected producer board member must be and have been actually engaged in producing alfalfa seed within the state of Washington for a period of five years and has during that time derived a substantial portion of his/her income therefrom and ~~((who))~~ is not engaged in business, directly or indirectly, as a handler or other dealer.

(2) The affected handler member of the board ~~((shall))~~ must be a practical handler of alfalfa seed and shall be a citizen and resident of ~~((the))~~ this state ~~((of Washington)), over the age of ((twenty-five))~~ eighteen years ~~((, and who is and has)).~~ The affected handler board member must be and have been, either individually or as an officer or an employee of a

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corporation, firm, partnership, association, or cooperative, actually engaged in handling alfalfa seed within the state of Washington for a period of five years and has during that period derived a substantial portion of his/her income therefrom.

(3) The qualifications of members of the board must continue during their term of office.

(4) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members in positions 2, 4, 6, and 7 shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

**AMENDATORY SECTION** (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-050 Term of office.** (1) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be appointed or elected each year.

(2) ~~((Membership positions on the board shall be designated numerically; affected producers shall have positions one through six, the affected handler shall have position seven, and the member appointed by the director, position eight.~~

(3) The term of office for the initial board members shall be as follows:

- ~~Positions one and four—one year~~
- ~~Positions three, five, and eight—two years~~
- ~~Positions two, six, and seven—three years.~~

~~No))~~ Except for the director's representative, no appointed or elected member of the board may serve more than two full consecutive three-year terms.

**AMENDATORY SECTION** (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-060 Nomination ~~((and election))~~ of elected or director-appointed board members.** (1) For the purpose of nominating candidates for appointment or election to board membership, the director shall call a separate nomination meeting((s)) of affected producers and affected handlers.

(2) Each year the director shall call ~~((for))~~ a nomination meeting((s)) for both elected and director-appointed affected producer and affected handler board members in those districts whose board members' terms are about to expire. ~~((Such))~~ The meeting(s) shall be held at least thirty days in advance of the date set by the director for the election or advisory vote of board members.

(a) Notice of ~~((every such))~~ a nomination meeting shall be published in newspapers of general circulation within the affected district not less than ten days in advance of the date of such meeting and, in addition, written notice of every such meeting shall be given to all affected producers within such affected district, and to all handlers, according to the list maintained by the ~~((director pursuant to RCW 15.65.200 of the act))~~ board pursuant to RCW 15.65.295.

(b) Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

(c) Any qualified affected producer or affected handler may be nominated orally for membership on the board at ~~((such))~~ a nomination meeting((s)). Nominations may also be made within five days after ~~((any such))~~ the nomination meeting by written petition filed with the director, signed by not less than five affected producers or affected handlers.

(d) When only one nominee is nominated by the affected producers for any position, RCW 15.65.250 shall apply.

**AMENDATORY SECTION** (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-070 Election or advisory vote of board members.** ~~((Members of the board shall be elected by secret mail ballot within the month of June))~~ (1) An election or advisory vote shall be conducted by secret ballot under the supervision of the director within the month of June. Each affected producer and affected handler shall be entitled to one vote.

~~((Affected))~~ (2) Elected affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected district. ~~((Each affected producer shall be entitled to one vote. The affected handler member of the board shall be elected by a majority of votes cast by the affected handlers. Each affected handler shall be entitled to one vote.))~~

If a nominee does not receive a majority of the votes on the first ballot, a runoff election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(3) An advisory vote shall be conducted for affected producer or affected handler board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(4) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than ten days in advance of the date of ~~((such))~~ the election or advisory vote. Not less than ten days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers as maintained by the ~~((director in accordance with RCW 15.65.200))~~ board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications.

(5) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the election or advisory vote of any board member.

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**AMENDATORY SECTION** (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-080 Vacancies ((prior to election)).** (1) In the event of a vacancy on the board in an elected position, the remaining members shall select a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position becomes vacant.

(2) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

**AMENDATORY SECTION** (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-100 Board compensation.** No member of the board shall receive any salary or other compensation, but each member shall receive ~~(((\$35.00 for each day in))~~ an amount not to exceed the amount specified in RCW 43.03.230 for actual attendance on or ((travelling)) traveling to and from meetings of the board or on special assignment for the board, together with subsistence and ((travelling expense at the rate allowed by law to state employees)) traveling expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060: Provided, That the ~~((method of determining whether per diem rates or actual subsistence and lodging shall be allowed shall be determined by resolution or rule of the board in advance of the incurrence of such expenses by any board member))~~ board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

**AMENDATORY SECTION** (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-110 Powers and duties of the board.** The board shall have the following powers and duties:

(1) To administer, enforce, and control the provisions of this chapter as the designee of the director.

(2) To elect a chairman and such other officers as the board deems advisable.

(3) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of this chapter and effectuate the declared policies of the act.

(4) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of this chapter. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(5) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating this chapter.

(6) To establish an "alfalfa seed revolving fund" and such fund to be deposited in a bank or banks or financial insti-

tution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the days as advisable.

(7) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this chapter. Such records, books, and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last days of each fiscal year of the ~~((state of Washington))~~ commission. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(8) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(9) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of this chapter during each fiscal year. The board, at least sixty days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(10) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(11) To adopt rules ~~((and regulations))~~ of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.04 RCW (Administrative Procedure Act).

(12) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of this chapter and the act, along with the necessary authority and procedure for obtaining such information.

(13) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or this chapter.

(14) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(15) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(16) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(17) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(18) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of alfalfa seed.

(19) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(20) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(21) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of alfalfa seed including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(22) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each affected producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(23) To maintain a list of the names and addresses of persons who handle alfalfa seed within the affected area and data on the amount and value of the alfalfa seed handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(24) To maintain a list of names and addresses of all affected persons who produce alfalfa seed and the amount, by unit, of alfalfa seed produced during the past three years pursuant to RCW 15.65.295.

(25) To maintain a list of all persons who handle alfalfa seed and the amount of alfalfa seed handled by each person during the past three years pursuant to RCW 15.65.295.

(26) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(27) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

AMENDATORY SECTION (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-120 Procedures for board.** (1) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board. Notice of the time and place of regular meetings shall be published on or before January of each year in the Washington State Register. Notice of any change to the meeting schedule shall be published in the state register at least twenty days prior to the rescheduled meeting date.

(2) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days

prior to the meeting through regular wire news services and radio, television, and press.

(3) The board shall establish by resolution, the time, place, and manner of calling special meetings with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver ~~((thereof by each))~~ from that member of the board. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

AMENDATORY SECTION (Amending Order 5090, filed 1/24/96, effective 2/24/96)

**WAC 16-529-150 Collections.** Any moneys collected or received by the board pursuant to the provisions of this ~~((chapter))~~ order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of ~~((such))~~ the marketing ~~((agreement or))~~ order to all persons from whom ~~((such))~~ moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year, or period whenever the board finds that the same will tend to effectuate such policies and purposes.

AMENDATORY SECTION (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-160 Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and this chapter, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the ~~((same))~~ unpaid assessment to defray the cost of enforcing the collecting of the ~~((same))~~ assessment. In the event of failure of such person or persons to pay any ~~((such))~~ due and payable assessment or other ~~((such))~~ sum, the board may bring a civil action against ~~((such))~~ the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent ~~((thereon))~~, and ~~((such))~~ the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

AMENDATORY SECTION (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-190 Termination of the order.** ~~((This chapter shall be terminated if the director finds that fifty one percent by numbers and fifty one percent by volume of production of the affected producers favor or assent such dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether such termination is so assented to or favored whenever twenty percent by numbers or twenty percent by volume of production~~

~~of the affected producers file written application with him for such termination. The termination shall not, however, become effective until the expiration of the marketing season.)~~ Termination shall be accomplished pursuant to RCW 15.65.183 through 15.65.193.

AMENDATORY SECTION (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-200 Effective time.** This marketing order for alfalfa seed shall become effective after having been approved in a referendum of affected producers, by at least 51% of the affected producers of alfalfa seed having at least 65% of the volume of alfalfa seed produced, or by at least 65% of the affected producers of alfalfa seed having at least 51% of the volume of alfalfa seed produced, and after having been filed with the code reviser for not less than thirty days.

AMENDATORY SECTION (Amending Order 2, filed 10/17/75)

**WAC 16-529-300 Time, place, method for collection and remittance of assessments.** Effective with the 1975 crop, the following procedure is established for the collection, reporting, and remittance of assessments levied on alfalfa seed pursuant to RCW 15.65.410 and WAC ((16-529-040)) 16-529-140:

(1) All first buyers of alfalfa seed grown in the state of Washington, or the person acting on behalf of a first buyer, shall withhold the amount of assessment from their remittances to growers of such seed and transmit same to the commission not later than the last day of the calendar month following date of settlement.

(2) All producers selling alfalfa seed other than to first buyers for resale, whether selling directly or through brokers, and including all sales at retail, shall pay the amount of the assessment directly to the commission not later than the last day of the calendar month following date of settlement.

(3) To all assessments due and payable to the commission and not remitted on or before the date due, there shall be added a penalty fee of ten percent as provided in RCW 15.65.440.

(4) All remittances to the commission shall be transmitted with an official reporting form to be furnished free of charge by the commission. Said reporting form shall call for the name and address of the affected producer, the number of pounds of seed sold, the amount of assessment collected from each producer, and the name and address of the person or firm filing the report and remittance.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-529-130 Marketing order purposes.

#### WSR 05-08-013

#### PERMANENT RULES

#### STATE BOARD OF EDUCATION

[Filed March 28, 2005, 7:55 a.m., effective April 28, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposed changes will update, clarify and simplify the provisions relating to school library media programs.

Citation of Existing Rules Affected by this Order: Amending chapter 180-46 WAC.

Statutory Authority for Adoption: RCW 28A.320.240.

Adopted under notice filed as WSR 05-04-017 on January 24, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 4, Repealed 8.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 4, Repealed 8.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 4, Repealed 8; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 18, 2005.

March 24, 2005

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 92-24-025, filed 11/24/92, effective 12/25/92)

**WAC 180-46-005 Purpose and authority.** (1) The purpose of this chapter is to ~~((implement RCW 28A.320.240, through the adoption of rules and regulations establishing minimum standards for the operation and stocking of school library media centers))~~ identify quality criteria for school library media programs, as may be established locally, that support the attainment of the state's learning goals.

(2) The authority for this chapter is RCW 28A.320.240.

#### NEW SECTION

**WAC 180-46-009 Definitions.** (1) "Teacher-librarian" means a certified teacher with a library media endorsement under WAC 180-82A-202 (1)(i), 180-82-344, or 180-82-346.

(2) "School library media program" means a school-based program that is staffed by a certificated teacher-librarian.

AMENDATORY SECTION (Amending WSR 92-24-025, filed 11/24/92, effective 12/25/92)

**WAC 180-46-020 School library media program(s).** ~~((Library media programs in each school district are to be~~

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directed toward the implementation of the district's instructional goals and objectives and consistent with the goals for Washington common schools, as adopted by the state board of education. These programs are to include a system for continuing evaluation.) The school library media program is to include resources that promote a positive impact on student learning, such as a variety of resources for reading advocacy, student communication skills, electronic and print information, and resources that support student mastery of the essential academic learning requirements in all subject areas and the implementation of the district's school improvement plan, consistent with the goals for Washington common schools, as adopted by the state board of education.

AMENDATORY SECTION (Amending WSR 92-24-025, filed 11/24/92, effective 12/25/92)

WAC 180-46-025 Services. ~~((Each school district shall provide library media services relevant to and integrated with the district's instructional program and directed toward meeting the creative and informational needs of each student and staff member.))~~ The teacher-librarian, through the school library media program, shall collaborate as an instructional partner and informational specialist with classroom teachers to develop students' information and technology skills, help all students meet the content goals in all subject areas, and assist high school students completing the culminating project and high school and beyond plans required for graduation under WAC 180-51-061.

AMENDATORY SECTION (Amending WSR 92-24-025, filed 11/24/92, effective 12/25/92)

WAC 180-46-055 Other sources. Library media centers should provide direct access to a wide range of print and electronic resources. When it is not feasible to provide resources at the building level, the use of sources beyond the building shall be considered ~~((as))~~ an alternate way of ~~((meeting standards))~~ providing access.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 180-46-010 Library media centers.
- WAC 180-46-015 Library media collections.
- WAC 180-46-030 Equipment and materials.
- WAC 180-46-035 Production.
- WAC 180-46-040 Facilities.
- WAC 180-46-045 Staff.
- WAC 180-46-050 Access.
- WAC 180-46-065 Program evaluation.

STATE BOARD OF EDUCATION

[Filed March 28, 2005, 7:58 a.m., effective April 28, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The amendments to WAC 180-20-101 bring the rule into compliance with the Washington State Department of Licensing (DOL) terminology for commercial driver licenses after a positive drug/alcohol test; the changes also bring the rule into compliance with the federal statute regarding refusal to take a drug/alcohol test.

Citation of Existing Rules Affected by this Order: Amending WAC 180-20-101.

Statutory Authority for Adoption: RCW 28A.160.210.

Adopted under notice filed as WSR 05-04-018 on January 24, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 18, 2006 [2005].

March 24, 2005

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 04-08-055, filed 4/2/04, effective 5/3/04)

WAC 180-20-101 Minimum qualifications of school bus drivers. (1) Every school bus driver must meet and continue to meet the following minimum requirements:

(a) Be at least twenty-one years of age.

(b) Have a valid driver's license or commercial driver's license, as required by law, issued by the state department of licensing.

(c) Have at least one year of experience as a driver of a truck or commercial vehicle requiring a special endorsement or, in the alternative, at least three years of experience as a driver of a passenger vehicle.

(d) Hold a current and valid first-aid card or equivalent which certifies that the applicant has completed a course in the basic principles of first aid.

(e) Submit to the school district a disclosure of all crimes against children or other persons and all civil adjudications in a dependency action or in a domestic relation action and all disciplinary board final decisions of sexual abuse or exploitation or physical abuse as required by RCW 43.43.834(2) and

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disclosure of all convictions which may be grounds for denial of authorization under (h), (i), and (j) of this subsection.

(f) Submit to a criminal record check according to chapter 28A.400 RCW which shows that no offenses have been committed which would be grounds for denial of an authorization.

(g) Shall not have misrepresented or concealed a material fact in obtaining a school bus driver's authorization or in reinstatement thereof in the previous five years.

(h) Shall not have had a driving license privilege suspended or revoked as a result of a moving violation as defined in WAC 308-104-160 within the preceding three years or have had their commercial driver's license disqualified, suspended or revoked within the preceding three years; a certified copy of the disqualification, suspension or revocation order issued by the department of licensing being conclusive evidence of the disqualification, suspension or revocation.

(i) Shall not have incurred three or more speeding tickets of ten miles per hour or more over the speed limit within the last thirty-six months.

(j) Shall not have been convicted of any misdemeanor, gross misdemeanor, or felony (including instances in which a plea of guilty or nolo contendere is the basis for the conviction) nor under a deferred prosecution under chapter 10.05 RCW where the conduct or alleged conduct is related to the occupation of a school bus driver, including but not limited to the following:

(i) Any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, sexual exploitation of a child under chapter 9.68A RCW; sexual offenses under chapter 9A.44 RCW where a minor is the victim; promoting prostitution of a minor under chapter 9A.88 RCW; the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction;

(ii) Any crime involving the use, sale, possession, or transportation of any controlled substance or prescription within the last seven years: Provided, That in the case of felony convictions, the applicable time limit shall be ten years;

(iii) Any crime involving driving when a driver's license is suspended or revoked, hit and run driving, driving while intoxicated, being in physical control of motor vehicle while intoxicated, reckless driving, negligent driving of a serious nature, vehicular assault or vehicular homicide, within the last three years;

(iv) Any crime against children or other persons as defined in RCW 43.43.830(5) when the date of the conviction or prison release, which ever is more recent, is within ten years of the date of the job application for felonies and within seven years for other crimes.

(k) Shall not have been found in any dependency action under RCW 13.34.030 to have sexually assaulted or exploited any minor or to have physically abused any minor, within the last seven years.

(l) Shall not have been found by a court in a domestic relation proceeding under Title 26 RCW, to have sexually abused or exploited any minor or to have physically abused any minor, within the last seven years.

(m) Shall not have been found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person, within the last seven years.

(n) Shall not have intentionally and knowingly transported public school students within the state of Washington within the previous five years with an expired, lapsed, surrendered, or revoked school bus driver's authorization in a position for which authorization is required under this chapter. Shall not have intentionally and knowingly transported public school students within the state of Washington within the previous five years with a suspended driver's license.

(o) Shall not have a serious behavioral problem which endangers the educational welfare or personal safety of students, teachers, bus drivers, or other colleagues. This subsection shall not be applied so as to deny, revoke, or suspend authorizations to any individual for the orderly exercise during off-duty hours of any rights guaranteed under the law to citizens generally, except where such conduct indicates a safety risk for the transportation of students.

(p) Shall not have refused to take a drug or alcohol test as required by the provisions of 49 C.F.R. 382 within the preceding three years. Provided, this requirement shall not apply to any refusal to take a drug or alcohol test prior to January 31, 2005.

(2) Every school bus driver must also meet and continue to meet the following requirements:

(a) Verification by a local school district that the person seeking a school bus driver authorization:

(i) Is physically able to maneuver and control a school bus under all driving conditions; and

(ii) Is physically able to use all hand/or foot operated controls and equipment found on state minimum specified school buses; and

(iii) Is physically able to perform daily routine school bus vehicle safety inspections and necessary emergency roadside services; and

(iv) Has sufficient strength and agility to move about in a school bus as required to provide assistance to students in evacuating the bus. The driver must be able to move from a seated position in a sixty-five passenger school bus, or the largest school bus the driver will be operating, to the emergency door, open the emergency door, and exit the bus through the emergency door, all within twenty-five seconds.

(b) Provide verification of passing a medical examination every twenty-four months in accordance with the standards established in 49 C.F.R. 391.41 through 391.49, of the Federal Motor Carrier Safety Regulations. School bus drivers must continue to meet these medical examination requirements during the time between examinations. This requirement does not prevent a school district from requesting a more frequent examination.

(c) Satisfactorily complete a school bus driver training course and each year thereafter, satisfactorily complete a school bus driver in-service training course.

**WSR 05-08-015**  
**PERMANENT RULES**  
**STATE BOARD OF EDUCATION**

[Filed March 28, 2005, 8:01 a.m., effective April 28, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposed changes to the rule will allow the State Board of Education to approve third party accrediting bodies to recommend schools for accreditation by the state board. The third party accrediting bodies would have to meet certain criteria to be approved by the state board.

Citation of Existing Rules Affected by this Order: Amending chapter 180-55 WAC.

Statutory Authority for Adoption: RCW 28A.150.220 (4), 28A.305.130(6), and 28A.305.140.

Adopted under notice filed as WSR 05-04-075 on February 1, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 18, 2005.

March 24, 2005

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 04-04-093, filed 2/3/04, effective 3/5/04)

**WAC 180-55-005 Purposes and authority.** (1) **Purposes.** The provision of school accreditation procedures by the state board of education is designed to serve the following purposes:

(a) Support the state board's long-term vision of a performance-based education system under WAC 180-51-001 by aligning school accreditation requirements to continuous improvement of student learning, achievement, and growth;

(b) Promote educational excellence and equity for every student through enhancement of the quality and effectiveness of the school's educational program in safe and supportive learning environments;

(c) Promote staff growth and commitment to the learning of every student;

(d) Build stronger links with families, parents, and the community by reaching consensus about educational expectations through family, parent, and community involvement;

(e) Provide a statement of accountability to the public;

(f) Assure that school districts, under the district policy on recognizing earned credits under WAC 180-51-050, shall

accept credits earned from schools or programs, accredited by the state board of education (~~(the Northwest Association of Schools)~~) or other accrediting body as may be recognized by the state board of education pursuant to WAC (~~(180-55-450)~~) 180-55-017; and

(g) Facilitate the sharing of effective schools practices and positive impacts on student learning through an external appraisal process.

(2) **Authority.** The authority for this chapter is RCW 28A.305.130(6).

**AMENDATORY SECTION** (Amending WSR 04-04-093, filed 2/3/04, effective 3/5/04)

**WAC 180-55-015 Definitions.** (1) An "accredited school" is a public or state board of education approved private school that meets statutory requirements and rules established by the state board of education, and one that has satisfactorily completed the accreditation procedures described by the state board of education pursuant to RCW 28A.305.130(6) and WAC 180-55-005 through (~~(180-55-032)~~) 180-55-020.

(2) "Approved private school" shall mean a school approved by the state board of education pursuant to chapter 28A.195 RCW and chapter 180-90 WAC.

(3) "Accredited" status shall be assigned to public or state board of education approved private schools that:

(a) Complete and meet fully state board of education requirements for accreditation as described in WAC 180-55-020, or;

(b) Participate and qualify in accordance with standards and procedures established by (~~(the Northwest Association of Schools (NAS))~~) accrediting bodies or processes recognized by the state board of education.

(4) "School improvement plan" shall mean the same as described under WAC 180-16-220 (2)(b) and (d).

(5) "Continuous improvement process" shall mean the ongoing process used by a school to monitor, adjust, and update its school improvement plan.

(6) "Self-review" shall mean the same as described under WAC 180-16-220 (2)(c).

(7) "Appraisal" shall mean an objective, external appraisal of a school's self-review activities and school improvement plan pursuant to WAC 180-55-020(5).

(8) "Recognized accrediting body" shall mean an organization recognized by the state board of education and listed on the state board website.

(9) "Recognized accrediting process" shall mean the state board of education process managed through the educational service districts.

**NEW SECTION**

**WAC 180-55-017 Criteria for state board of education recognition of accrediting bodies.** (1)(a) A recognized accrediting body shall meet the definition of such pursuant to WAC 180-55-015(8).

(b) Accrediting bodies recognized by the state board of education shall verify that standards for schools seeking accreditation through them meet or exceed the school accreditation standards pursuant to WAC 180-16-220.

(c) Accrediting bodies recognized by the state board of education for the specific purpose of accrediting state board approved private schools, prior to being considered by the state board for recognition, shall have their accreditation standards verified for compliance under (b) of this subsection by a private school advisory committee established by the superintendent of public instruction. If verified, the committee may recommend the accrediting body to the state board for recognition.

(d) A list of recognized accrediting bodies will be maintained on the website of the state board of education.

(2)(a) Public school districts must be approved by the state board of education prior to a school in the district being recommended by a state board of education recognized accrediting body for state accreditation consideration.

(b) Public schools may not seek accreditation through a sectarian affiliated accrediting body. Public schools may seek accreditation through a state board of education recognized accrediting body or process and be recommended for state accreditation consideration.

(c) Private schools must be approved by the state board of education prior to being recommended by a state board of education recognized accrediting body or process for state accreditation consideration.

#### WSR 05-08-017

##### PERMANENT RULES

#### UNIVERSITY OF WASHINGTON

[Filed March 28, 2005, 12:56 p.m., effective April 28, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend chapter 478-118 WAC, Parking and traffic rules of the University of Washington, Tacoma. These amendments clarify existing rules and provide additional definitions, rules for visitor parking, and expanded rules for bicycle and skateboard use.

Citation of Existing Rules Affected by this Order: Repealing WAC 478-118-510; and amending WAC 478-118-010, 478-118-020, 478-118-050, 478-118-060, 478-118-080, 478-118-100, 478-118-200, 478-118-210, 478-118-270, 478-118-400, 478-118-410, and 478-118-420.

Statutory Authority for Adoption: RCW 28B.10.560 and 28B.20.130.

Adopted under notice filed as WSR 05-03-071 on January 14, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 12, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 12, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 17, 2005.

Rebecca Goodwin Deardorff  
Director of Rules Coordination

### PART I

#### GENERAL INFORMATION AND DEFINITIONS

AMENDATORY SECTION (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

**WAC 478-118-010 Objectives of parking and traffic rules.** The objectives of these rules are:

- (1) To protect and control pedestrian and vehicular traffic on the campus of the University of Washington, Tacoma;
- (2) To assure access at all times for emergency vehicles and equipment;
- (3) To minimize traffic disturbances;
- (4) To facilitate the operation of the university by assuring access to its vehicles;
- (5) To allocate limited parking space for the most efficient use; ~~((and))~~
- (6) To protect state property; and
- (7) To encourage travel to the campus by means other than a single occupancy vehicle (SOV).

AMENDATORY SECTION (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

**WAC 478-118-020 Definitions.** The following definitions apply to this chapter:

- (1) Bicycle: Any device defined as a bicycle in chapter 46.04 RCW.
- (2) Campus: The campus of University of Washington, Tacoma.
- ~~((2))~~ (3) Employee: An employee of the university.
- ~~((3))~~ (4) Fee: A charge for the use of the permit issued.
- (5) Hours of operation: The hours of operation established by the university for a particular parking area, parking lot, or parking space.
- (6) Impoundment: The removal of a vehicle to a storage area by either a public safety officer or agent of the university.
- (7) Motorcycles and scooters: A motor vehicle designed to travel on not more than three wheels in contact with the ground, on which the driver rides astride the motor unit or power train and is designed to be steered with a handle bar. For the purposes of these rules, motorcycles, motorized bicycles, and motorized scooters are considered to be motor vehicles and are subject to all traffic and parking rules controlling motor vehicles.
- (8) Nonmotor/nonmotorized vehicle: A device other than a motor vehicle used to transport persons. Nonmotorized vehicles include, but are not limited to, bicycles, skateboards, rollerblades and rollerskates.
- (9) Operator or driver: Every person who drives or is in actual physical control of a motor vehicle or a nonmotorized vehicle.

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(10) Parking space: A space for parking one motor vehicle designated by: Lines painted on either side of the space, at the rear of the space, a wheelstop positioned in front of the space, a sign or signs, or other markings.

(11) Public safety officers: Employees of the university who are responsible for campus security, safety, and parking and traffic control.

~~((4))~~ (12) Registered owner: The person who has the lawful right of possession of a vehicle most recently recorded with any state department of licensing.

(13) Rollerskate/rollerblade: A device used to attach wheels to the foot or feet of a person.

(14) Skateboard: Any oblong board of whatever composition, with a pair of wheels at each end, which may be ridden by a person.

(15) Student: A person enrolled in the university.

~~((5))~~ (16) Traffic: Motorized and nonmotorized modes of transportation defined in chapter 46.04 RCW.

(17) University: The University of Washington, Tacoma, and collectively those responsible for its control and operations.

~~((6))~~ (18) Vehicle: ~~((An automobile, truck, motorcycle, motorized scooter, or bicycle.~~

~~(7))~~ Any motorized vehicle or nonmotorized vehicle.

(19) Visitor: A person who is neither an employee nor a student of the university.

**NEW SECTION**

**WAC 478-118-045 Liability of the university.** Except for vehicles that the university owns or operates, the university assumes no liability under any circumstances for vehicles on the campus.

**PART II  
PARKING AND TRAFFIC RULES**

**AMENDATORY SECTION** (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

**WAC 478-118-050 Permits required for vehicles on campus.** Except as provided in WAC 478-118-055, no person shall park or leave any vehicle (other than bicycles), whether attended or unattended, upon the campus unless the person first purchases a permit from the university or from the operator of the parking lot in which the vehicle is parked. Permission to park on campus will be shown by display of a valid permit, or (if a parking lot does not issue permits) by payment of the fee for parking.

(1) A valid permit is:

(a) A current vehicle permit displayed in accordance with WAC ~~((478-118-110))~~ 478-118-100. Vehicle permits are valid until revoked;

(b) A temporary permit authorized by the university and displayed in accordance with instructions. Temporary permits are valid through the date or time on the permit;

(c) A parking permit issued by a gate attendant and displayed on the vehicle in accordance with instructions; or

(d) A parking permit dispensed by machine at the campus and displayed in accordance with instructions.

(2) Parking permits are not transferable, except as provided in WAC 478-118-060 and 478-118-080.

(3) The university reserves the right to refuse to issue parking permits.

(4) This section does not apply to vehicles that the university owns or operates.

(5) The university may allow persons without permits to drive through the campus without parking.

(6) A public safety officer may require visitors to wait at the entrances to the campus when pedestrian or vehicular traffic congestion is above normal.

**NEW SECTION**

**WAC 478-118-055 Visitor parking.** (1) No permit shall be required for the following motor vehicles:

(a) Public safety and emergency vehicles while performing services;

(b) Marked taxis, tow trucks, commercial delivery; and media vehicles which have agreed to comply with university guidelines and received prior written approval of the university; and

(c) School buses and tour buses parking in spaces designated by the university.

(2) University departments may pay for all or part of the parking fees for their official visitors and guests based on the established fee schedule.

**AMENDATORY SECTION** (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

**WAC 478-118-060 Carpool and disability parking permits.** (1) Carpool permits may be issued to employees and students. One transferable permit will be issued by the university for each carpool. This permit is transferable only among the registered members of the carpool. This permit must be displayed in accordance with the instructions provided with the permit. A carpool is a group of two or more employees or students who commute to the campus in the same vehicle.

(2) The university provides parking for the disabled in accordance with the requirements of federal and state law ~~((including parking spots reserved for persons who display a state of Washington disabled driver permit)).~~

**AMENDATORY SECTION** (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

**WAC 478-118-080 Transfer of permits limited.** (1) Permit holders may transfer one valid permit between motor vehicles ~~((when used by the permit holder)).~~ Improper transfer of a permit shall include, but is not limited to, the wrongful sale, lending, or bad faith transfer of a parking permit.

(2) Permits displaying license plate numbers shall be ~~((used))~~ valid only in the vehicles whose license number ~~((is))~~ matches the number written on the permit.

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**AMENDATORY SECTION** (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

**WAC 478-118-100 Display of permits.** (1) Parking permits, other than hourly permits (receipts) dispensed from parking machines and motorcycle and scooter permits, shall be displayed either by hanging from the rear view mirror(;) or by placing face-up on the driver's side dashboard and shall be fully visible from the exterior of the motor vehicle.

(2) Hourly permits dispensed from parking machines are not required to be displayed on or in the vehicle.

(3) When applicable, the area designator (numeral, letter, or combination) shall be affixed to the vehicle permit and shall be fully visible from the exterior of the motor vehicle.

~~((3))~~ (4) Motorcycle and scooter ((permits)) license numbers shall be registered with the university. Motorcycle and scooter permits need not be displayed.

~~((4))~~ (5) When required to be displayed, permits not fully visible from the exterior of a motor vehicle are not valid and are subject to citation for no valid permit displayed.

**AMENDATORY SECTION** (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

**WAC 478-118-200 Parking fees.** The regents of the University of Washington shall adopt parking fees, specifying the charge per hour, day, quarter, ~~((and))~~ or year.

**AMENDATORY SECTION** (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

**WAC 478-118-210 Allocation of parking spaces.** The parking spaces available on ~~((the))~~ campus shall be allocated in a manner that will best attain the objectives of these rules.

During special occasions causing additional or heavy traffic and during emergencies, the university may impose additional traffic and parking policies to achieve the specified objectives of this chapter.

**AMENDATORY SECTION** (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

**WAC 478-118-270 Motorcycles(~~(-bicycles,)) and scooters.~~** (1) Motorcycles(~~(-bicycles,))~~ and scooters are subject to all traffic rules controlling other motor vehicles.

(2) Motorcycles and ~~((motorized))~~ scooters may only be parked in areas designated ((areas in addition to the regular parking lots)) for motorcycles.

(3) Motorcycles and ~~((motorized))~~ scooters are not permitted on paths, sidewalks, or authorized bicycle or pedestrian areas, or in buildings at any time.

~~((4)) Bicycles shall be parked in designated areas only. Improperly parked bicycles may be impounded and a citation and fine imposed upon the owner.~~

~~(5) No bicycles or foot propelled devices shall be operated in campus corridors, hallways, or buildings unless their use is required as part of the educational process in an authorized program, or authorized by campus personnel. A "foot propelled device" is a wheeled device designed or used for recreation or transportation, including, but not limited to, skateboards, roller skates, and roller blades.)~~

## NEW SECTION

### WAC 478-118-290 Bicycle parking and traffic rules.

(1) The primary aim of the bicycle control program is safety. This aim will be achieved by keeping bicycles out of buildings, away from building exits, and parking them off paths and sidewalks.

(2) Bicycles may be ridden any place where vehicles are permitted. They may be ridden on most sidewalks, though pedestrians always have the right of way. It shall be a violation of this section for any bicycle rider to fail to yield to pedestrians, or to ride a bicycle on paths, sidewalks, or streets where signs indicate such is prohibited. An audible signal or warning must be given by the bicyclist whenever there is any appreciable risk of injury to a pedestrian not otherwise aware of the presence of the bicycle.

(3) Bicycles operated on paths, sidewalks, and roadways shall be subject to all relevant state statutes regulating bicycle use. Violation of those statutes shall be considered a violation of this section.

(4) Bicycles shall be operated in a safe manner at all times on paths, sidewalks, and roadways. Riding at speeds too fast for conditions, weaving in and out of vehicular or pedestrian traffic, or similar unsafe actions shall be considered "negligent riding." Negligent riding shall be a violation of this section.

(5) Bicycles shall be parked only in bicycle racks. All bicycle owners are encouraged to secure their bicycles with a secure lock. At no time shall a bicycle be parked in a building, except where bicycle storage rooms are provided, near a building exit, on a path or sidewalk, in planted areas nor chained or otherwise secured to trees, lamp standards, railings, or sign posts.

(6) Moving a bicycle into any unauthorized area such as a building or construction zone is prohibited.

(7) Bicycle racks in campus areas are for parking and shall not be used for overnight storage.

(8) Impoundment for illegal parking.

(a) Bicycles parked in violation of subsections (5), (6), and (7) of this section will be subject to seizure and impoundment by the university.

(b) A bicycle abandoned or parked on university land for fourteen consecutive days or longer is presumed abandoned and is subject to seizure and impoundment by the university. A bicycle will not be considered abandoned when the owner/operator is unable to remove it and so notifies the campus safety and security office. A bicycle that has been obviously stripped or vandalized may be immediately impounded.

(c) Impounded bicycles will be stored by the campus safety and security office. Bicycles will be released at specified times and upon presentation of proof of ownership and payment of any fine that has been imposed. Owners of impounded bicycles, if identifiable, will be notified as soon as reasonably possible after impoundment and must reclaim their bicycle within fifteen consecutive days. Bicycles unclaimed after sixty consecutive days will be subject to disposal, including sale at public auction, in accordance with university property disposal rules.

(d) The university and its officers, agents, and employees shall not be liable for loss or damage of any kind resulting

from impoundment, storage, or sale of any item under this section.

(e) Impoundment or sale of any bicycle under this section shall not substitute for, nor release any person from liability for, damage to persons or property caused by the use of a bicycle.

#### NEW SECTION

**WAC 478-118-300 Skateboard rules.** (1) Skateboard use in pedestrian areas including, but not limited to, walkways, ramps, concourses, plazas, and staircases, and on internal university streets and loading areas on the campus is restricted solely to transporting an individual from one campus destination to another. Any recreational, athletic, or other exhibitional use of skateboards unrelated to transportation is strictly prohibited, unless expressly approved in advance by the committee on the use of university facilities, pursuant to chapter 478-136 WAC and use of university facilities policies and procedures.

(2) Skateboard use in violation of this section shall result in the following:

(a) For the first offense, the campus safety and security office will record the name of the individual and provide a written warning against further skateboard use in violation of this section. Individuals who cannot produce satisfactory identification will be given a receipt for their skateboard, which will be impounded by the campus safety and security office until they are able to return with the receipt and identification. There will be no impoundment fee.

(b) For a second offense, within twenty-four months of any previous offense or warning, the skateboard will be impounded for not less than forty-eight hours and the offender shall be subject to a fine and/or impoundment fee.

(c) For a third or subsequent offense, within twenty-four months of any previous two offenses, warnings, or combination thereof, the skateboard will be impounded for not less than thirty days and the offender shall be subject to a fine and impoundment fee.

(d) Impounded skateboards will be held by the campus safety and security office and released only during regular business hours to individuals with satisfactory identification.

(3) Skateboards impounded under this section which are unclaimed sixty consecutive days after the applicable minimum impoundment time period has elapsed will be presumed abandoned and be subject to disposal, including sale at public auction, in accordance with university property disposal rules.

(4) The university and its officers, agents, and employees shall not be liable for loss or damage of any kind resulting from impounding, storage, or sale of any item under this section.

(5) Impoundment or sale of any skateboard under this section shall not substitute for, nor release any person from liability for, damage to persons or property caused by use of a skateboard at the university.

### PART III TRAFFIC AND PARKING VIOLATIONS AND ENFORCEMENT

AMENDATORY SECTION (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

**WAC 478-118-400 Issuance of traffic and parking citations.** Upon probable cause to believe that a violation of these rules has occurred, a public safety officer or designated contractor may issue a citation setting forth the date, the approximate time, the locality, the nature of the violation, the permit number, license number, infraction, officer, and the amount of fine(s). The citation shall be served on the person responsible for the violation by: Attaching a copy of the citation to, or placing it prominently within, the vehicle allegedly involved in the violation; mailing a copy of the citation to the person responsible; or serving a copy of the citation personally on the person responsible.

AMENDATORY SECTION (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

**WAC 478-118-410 Fines and impounding.** (1) The current schedule of fines shall be published by the university and made available for review in the safety and security office.

(2) All fines must be paid as designated on the citation within twenty calendar days from the date of the citation. Fines must be delivered in person to the university's ((finance)) cashier office or postmarked on or before the due date specified in these rules to avoid additional penalties. If any citation has neither been paid nor appealed after twenty calendar days from the date of the citation, the university shall impose an additional fine of ten dollars per offense and may:

- (a) Withhold the violator's degrees, transcripts, grades, refunds, or credits until all fines are paid;
- (b) Delay registration for the following quarter;
- (c) Impound the violator's vehicle;
- (d) Deny future parking privileges to the violator; or
- (e) Refuse to issue keys to a violator who is an employee or student.

(3) In addition to imposing fines, public safety officers may impound or immobilize any vehicle parked on campus in violation of these rules. The expenses of impounding, immobilization, and storage shall be charged to the owner or operator, or both, of the vehicle and must be paid before the vehicle's release. Grounds for impounding vehicles shall include, but not be limited to, the following:

- (a) Blocking a roadway so as to impede the flow of traffic;
- (b) Blocking a walkway so as to impede the flow of pedestrian traffic;
- (c) Blocking a fire hydrant or fire lane;
- (d) Creating a safety hazard;
- (e) Blocking another legally parked vehicle;
- (f) Parking in a marked "tow-away" zone;
- (g) Leaving a vehicle unattended on campus for longer than two days;

(h) Failing to pay a fine imposed under this chapter; or

(i) Parking a nonuniversity vehicle in a spot reserved for university use.

Not more than twenty-four hours after impoundment of any vehicle (excluding bicycles and skateboards), the university shall mail a notice to the registered owner of the vehicle and to any other person who claims the right to possession of the vehicle, if those persons can be identified. The university shall not be liable for loss or damage of any kind resulting from impounding, immobilization, or storage. Impounding a vehicle does not remove the obligation for any fines associated with the violation.

(4) An accumulation of traffic violations by a student may be cause for discipline under the student conduct code of the university.

**AMENDATORY SECTION** (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

**WAC 478-118-420 Appeals of fines and impoundments.** (1) Except for skateboards, any impoundment or fine under this chapter may be appealed in writing within twenty calendar days from the date of the citation or the notice of impoundment. The notice of appeal must be addressed to the location indicated on the citation or notice of impoundment. The university will make appeal forms available at the university's (~~finance~~) cashier office. The notice of appeal must explain the reasons for contesting the citation or impoundment. If the person who files a notice of appeal desires an opportunity to make an oral statement in the appeal, the request to make an oral statement must be included in the notice of appeal.

(2) The hearing on the appeal shall be a brief adjudicative hearing as provided by RCW 34.05.482 et seq. If a request for an oral statement was made, the presiding officer or officers shall provide reasonable notice of the time and place for receiving the oral statement. The presiding officer (s) shall review the notice of appeal and provide a written decision to the person submitting the appeal within ten days of taking action. If the appeal is denied or modified to a warning, dismissal, reduction, or suspension, the decision shall include a brief statement of its reasons and information about the opportunity for further review. Any fine owed on a written decision that is not further appealed as provided in subsection (3) of this section shall be paid within twenty-one days after service of the decision.

(3) A person wishing to contest the written decision may request a review by contacting the designated university reviewing officer in writing within twenty-one days after service of the decision. The request for review shall explain why the decision was incorrect. The reviewing officer shall, within twenty days of the date of the request, review the matter and render a final written decision to uphold or modify (warning, dismissal, reduction, or suspension), which shall include a brief statement of its reasons and information about the opportunity to appeal the decision to the district court. Any final decision of the reviewing officer not appealed as provided in subsection (4) of this section shall be paid within ten days after service of the decision.

(4) A person wishing to appeal a final decision of the (~~citation hearing officer~~) reviewing officer to the district court may, within ten days of service of the final decision, file a written notice with the university's finance office. The written notice must be submitted on the "Notice of Appeal" form provided by the university. Documents relating to the appeal shall immediately be forwarded to the district court, which shall have jurisdiction to hear the appeal de novo. No appeal to the district court may be taken unless the citation has been contested as provided in subsections (2) and (3) of this section.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 478-118-510

Liability of the university.

### **WSR 05-08-018**

#### **PERMANENT RULES**

#### **UTILITIES AND TRANSPORTATION COMMISSION**

[Docket No. A-021178 and TO-030288, General Order No. R-518—Filed March 28, 2005, 1:09 p.m., effective March 31, 2005.]

#### **ORDER CORRECTING TEXT OF WAC 480-120-369(1) SUBMITTED FOR ADOPTION**

In the Matter of amending, adopting and repealing certain sections of chapters 480-90, 480-100, 480-110, and 480-120 WAC, amending and adopting certain sections of chapters 480-70 and 480-92 WAC; adopting chapter 480-73 WAC; amending WAC 480-121-063, and repealing WAC 480-146-350 and 480-146-360, relating to reporting of transactions between regulated utility and transportation companies and their subsidiaries.

1 On February 28, 2005, the Washington Utilities and Transportation Commission (commission) filed with the code reviser an order repealing, amending and adopting rules permanently in certain sections of the above captioned chapters of Title 480 WAC, relating to reporting of transactions between regulated utility and transportation companies and their subsidiaries. The commission took this action pursuant to RCW 80.01.040, 80.04.160, and 81.04.160. The order is filed at WSR 05-06-051. The effective date for the repeal, amendment, and adoption of the rules is March 31, 2005.

2 Recently, the commission learned that an intended deletion of a phrase from subsection (1) of WAC 480-120-369 as published at WSR 05-01-224, was erroneously included in the rule submitted for adoption. The phrase that should have been deleted from subsection (1) of WAC 480-120-369 is set out below in italics:

**WAC 480-120-369 Transferring cash or assuming obligations.** This section does not apply to a company classified as competitive pursuant to RCW 80.36.320, or to a local exchange company that serves less than two percent of the access lines in the state of Washington.

(1) At least five business days before a telecommunications company whose corporate/issuer rating is not in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc., or its subsidiary that is not rated investment grade or its subsidiary transfers cash to any of its affiliated interests or subsidiaries or assumes an obligation or liability of any of its affiliated interests or any of its subsidiaries, the company must report to the commission an estimate of the amount to be transferred and the terms of the transaction when the transaction will exceed thresholds as described in (a) or (b) of this subsection.

3 Failure to delete the phrase, *or its subsidiary that is not rated investment grade*, from the rule submitted to the code reviser with the adoption order constitutes an oversight. Accordingly the commission enters this order to correct the rule by deleting this phrase from WAC 480-120-369(1). A copy of the corrected rule is shown below as Appendix A.

DATED at Olympia, Washington, this 28th day of March, 2005.

Washington Utilities and Transportation Commission  
Mark H. Sidran, Chairman  
Patrick J. Oshie, Commissioner  
Philip B. Jones, Commissioner

**APPENDIX A**

**NEW SECTION**

**WAC 480-120-369 Transferring cash or assuming obligations.** This section does not apply to a company classified as competitive pursuant to RCW 80.36.320, or to a local exchange company that serves less than two percent of the access lines in the state of Washington.

(1) At least five business days before a telecommunications company whose corporate/issuer rating is not in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc., or its subsidiary transfers cash to any of its affiliated interests or subsidiaries or assumes an obligation or liability of any of its affiliated interests or any of its subsidiaries, the company must report to the commission an estimate of the amount to be transferred and the terms of the transaction when the transaction will exceed thresholds as described in (a) or (b) of this subsection.

(a) The company must report if the cumulative transactions to a subsidiary or affiliated interest for the prior twelve months exceed a threshold of five percent, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(b) When the threshold in (a) of this subsection has been reached, the company must report each subsequent transaction exceeding a threshold of one percent for the prior twelve-month period, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(2) The reporting requirements in subsection (1) of this section do not include payments for:

- (a) Federal and state taxes;
- (b) Goods, services, or commodities;

(c) Transactions, attributed to the regulated entity, previously approved or ordered by the commission, other regulatory agencies, or the court;

(d) Dividends to the extent the level of such dividends over a twelve-month period does not exceed the larger of:

- (i) Net income during such period; or
- (ii) The average level of dividends over the preceding three years; or

(e) Sweep or cash management accounts used to transfer funds to or from a subsidiary or affiliate as part of the customary and routine cash management functions between or among the company and its subsidiary or affiliate.

**WSR 05-08-027**

**PERMANENT RULES**

**DEPARTMENT OF LICENSING**

[Filed March 30, 2005, 10:20 p.m., effective April 30, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Implementation of HB 2313 that will begin regulating bail bond recovery agents.

Citation of Existing Rules Affected by this Order: Amending chapter 308-19 WAC.

Statutory Authority for Adoption: Chapter 18.185 RCW.

Adopted under notice filed as WSR 05-04-105 on February 2, 2005.

Changes Other than Editing from Proposed to Adopted Version: There are two minor clarifications made to WAC 308-19-101(5) and 308-19-140(5). Neither of these revisions changed the requirements or procedures as first proposed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 10, Amended 23, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 10, Amended 22, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 10, Amended 22, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 10, Amended 22, Repealed 0.

Date Adopted: March 30, 2005.

Andrea C. Archer  
Assistant Director

**AMENDATORY SECTION** (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-010 Promulgation—Authority.** The director of the department of licensing, state of Washington, pursuant to the authority vested in the director by chapter 18.185 RCW, does hereby promulgate the following rules

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and regulations relating to the licensing of bail bond agencies and bail bond agents and bail bond recovery agents.

**AMENDATORY SECTION** (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-020 Organization.** The department of licensing administers the Washington bail bond license law, chapter 18.185 RCW. Submissions and requests for information regarding bail bond agency licenses and bail bond agent and bail bond recovery agent licenses may be sent in writing to the Bail Bond Program, Business and Professions Division, Department of Licensing, P.O. Box 9649, Olympia, Washington 98507-9649.

**AMENDATORY SECTION** (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-030 Definitions.** (1) Words and terms used in these rules shall have the same meaning as each has under chapter 18.185 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning. Also see RCW 18.185.010 for other definitions.

(2) "Principal partner" means the partner who is the qualified agent of a bail bond agency and who exercises operational control over the agency.

(3) "Bail bond" means the contract between the defendant, the surety and/or the court to insure the appearance of the accused before the court(s) at such time as the court may direct. These bonds may require annual renewal.

(4) "Property bond agent" means a surety that posts security in the form of personal or real estate for compensation to assure the appearance of a defendant.

(5) "Surety" as it relates to bail bonds, means the depositor/owner of cash if a cash bail bond, the property owner(s) if a property bond, the insurance company if a corporate surety bond, that guarantees performance of the bail bond contract for compensation.

(6) "Principal/defendant" means the accused, for whom a bail bond may be obtained.

(7) "Exonerate" means the discharging of the bail bond by the court.

(8) "Indemnitor" means the person placing security with an agency/agent, to secure the agency against loss for the release of a defendant(s) on a bail bond.

(9) "Clients" means defendants and indemnitors.

(10) "Affidavit" means a written statement made under oath as provided in RCW 10.19.160.

(11) "Indemnity agreement" means the contract signed by the indemnitor that states the obligations the indemnitor(s) is/are assuming.

(12) "Collateral receipt" means an accurate description of the security given to an indemnitor by the receiving agency's agent, in its fiduciary capacity, listing all collateral given as security for a bail bond and held by the agency/agent until the bail bond is exonerated by the court or a forfeiture occurs. The receipt shall name the owner of the collateral, the defendant, and the bond number, and specify the terms for redemption of the collateral including any fees charged for storage.

(13) "Surrender form" means the form used to return to custody a defendant for violation of bond conditions, and the indemnitor's withdrawal from a bail bond with an affidavit in accordance with RCW 10.19.160, or a letter of forfeiture from a court in accordance to the bail contract.

(14) "Letter of forfeiture" means a notice in varied forms, sent to a bail bond agency/branch office, advising the agency/branch office that a defendant who has secured a bail bond with that agency has failed to appear on a given date in a given court in accordance with RCW 10.19.090. The court has made a demand for the surrender of the defendant, or payment of the face amount of the bond by a given date.

(15) "Letter of demand" means any form of notice to the indemnitor/defendant that the collateral placed in trust has come under jeopardy because of a failure to appear or violation of bail.

(16) "Corporate surety bail bonds" means a bail bond contract that is guaranteed by a domestic, foreign or alien insurance company which has been qualified to transact surety insurance business in Washington state by the insurance commissioner.

(17) "Build-up fund" (also known as "BUF fund" or "escrow fund" or "trust fund") means that percentage of money obtained from collected premiums paid by the agent to the corporate surety company for the purpose of indemnifying the corporate surety from loss caused by the agent.

(18) "Endorsement" means that a bail bond agent or bail bond qualified agent licensee has met all licensing requirements for a bail bond recovery agent license and is authorized to perform the duties of both a bail bond agent and a bail bond recovery agent. Such licenses shall be issued by the department and will clearly state the dual purpose of the license.

**AMENDATORY SECTION** (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-100 ((How do I apply)) Applying for a bail bond agent license((?)).** ~~((An applicant for a bail bond agent license must first meet the requirements stated in the bail bond agents law, RCW 18.185.020:))~~ After the applicant meets the requirements of RCW 18.185.020 he/she shall:

(1) Complete an application for a license on a form provided by the department of licensing.

(2) Inform the department if he/she has an insurance surety license and with what company he ((ø)) she is affiliated.

(3) Pay a fee or fees as listed in WAC 308-19-130.

#### NEW SECTION

**WAC 308-19-101 Applying for a bail bond recovery agent license or endorsement to a bail bond agent license.** An applicant for a bail bond recovery agent license endorsement must first meet the requirements stated in the bail bond agents law, RCW 18.185.020, and be in good standing with the department. The following materials must be submitted by all applicants for a bail bond recovery agent license or endorsement:

(1) A bail bond recovery agent license or endorsement application completed in full;

(2) Proof that the applicant directly submitted the completed fingerprint card and fees to the Washington state patrol;

(3) A copy of high school diploma or GED or proof of three years experience in the bail industry;

(4) If applicant is retired or separated from a local or state police department, or a branch of the armed forces trained to carry out the duties of a peace officer within the last six years, submit proof to the department describing length of service, duties and date of retirement or separation or; if applicant is not retired or separated from a local or state police department, or a branch of the armed forces trained to carry out the duties of a peace officer within the last six years, the applicant must submit a certificate or transcript showing the applicant has completed a course consisting of not less than four hours of study which includes the following:

(a) Civil and criminal law:

(i) State statutes relating to bail regulations;

(ii) Constitutional law;

(iii) Procedures for exoneration and surrendering defendants into custody;

(iv) Civil liability;

(v) Civil rights of persons who are detained in custody. The knowledge in law may be accomplished through self-study. Self-study applicants must submit a written statement attesting to their knowledge in the subjects as stated in this section.

(b) Procedures for field operations, including, but not limited to:

(i) Use of force and degrees of force;

(ii) Safety techniques;

(iii) Entering and searching buildings;

(iv) Custody and transportation of prisoners including persons who are mentally ill or under the influence of alcohol or drugs;

(v) Defensive tactics;

(vi) Power of arrest;

(vii) Contracts;

(viii) Powers of a bail bond recovery agent;

(c) The basic principles of identifying and locating defendants. Public records and confidentially; surveillance.

(5) Proof of firearm training shall be submitted by applicants who intend to carry a firearm while engaging in the business of a bail bond recovery agent, or while traveling to or from such business. Such proof may be established by submission of a firearm certification issued by the criminal justice training commission.

(6) Proof of training certification in the following tools: Taser X/M26, baton either expandable, straight stick, or side handle, and oleo capsicum resin sprays or foams rated at 100,000 to 2,000,000 Scoville Heat Units.

(7) Return completed applications to:

Department of Licensing  
Bail Bond Program  
P.O. Box 9048  
Olympia, WA 98507-9048

(8) Pay a fee or fees as listed in WAC 308-19-130.

(9) After the department receives the completed application and fees, a notification regarding examination dates and

times will be mailed to the address of the applicant by the department.

#### NEW SECTION

**WAC 308-19-102 Submitting fingerprint cards to the Washington state patrol for a criminal history background check.** Every applicant for a bail bond recovery agent license or endorsement shall have a fingerprint criminal history background check conducted.

(1) The department shall provide fingerprint cards to all applicants.

(2) Applicants shall be fingerprinted by a law enforcement agency on a fingerprint card provided by the department and pay any fees required by the law enforcement agency providing the fingerprinting service.

(3) Applicants shall submit the completed fingerprint card to the Washington state patrol with the appropriate fees charged under WAC 446-20-600, Fees. Checks or money orders made payable to the Washington state patrol, identification and criminal history section, shall be mailed with the fingerprint card to P.O. Box 42633, Olympia, Washington 98504-2633.

(4) Results of the background checks will be sent directly to the department.

(5) If the fingerprint card is rejected by Washington state patrol or the Federal Bureau of Investigation, the applicant will be notified by the department that the applicant must be reprinted and resubmit the fingerprint card to the Washington state patrol with the rejected cards and the attached reject slip.

AMENDATORY SECTION (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-105 (~~How do I apply~~) Applying for a bail bond agency license(~~?~~). To qualify for a bail bond agency license (~~you must~~) the applicant shall:**

~~((1) Meet and))~~ Complete the requirements of the bail bond agent license and; ~~((prove your))~~

(1) Submit to the department proof of work experience as required under RCW 18.185.030 (1)(b).

(a) Work related experience shall include: Bail bonds, insurance, trust accounts, receiving collateral in a fiduciary capacity, and forms of underwriting.

~~((If you))~~ (b) Applicants who do not have the required work experience ((you must)) shall train and pass an examination ((that shall follow the training and examination requirements)) as stated under Part D, WAC 308-19-300.

(2) Complete an application for an agency license on a form provided by the department of licensing.

(3) Pay a fee or fees as required by WAC 308-19-130.

(4) Obtain a bond for the main office as required by RCW 18.185.070.

(5) The applicant shall disclose the surety(s) name, address, the attorney in fact, and whose name the build-up fund is in.

If the applicant changes their corporate surety, the applicant shall immediately advise the department.

(6) If the applicant provides security in the form of real property, the applicant shall advise the department of the

names of the court(s) that have given approval for the placing of property bonds.

(7) Sole proprietorships shall act as the qualified agent of the agency without the payment of additional license fees.

(8) Partnerships or limited partnership applicants shall each apply, qualify and furnish their addresses to the director.

When a license is issued to a partnership, the principal partner shall act as the qualified agent of the agency without the payment of additional license fees.

(9) Applicants representing a corporation shall furnish a copy of the articles of incorporation, and a list of officers and departments and their addresses to the director.

When an agency license is issued to a corporation, the manager, officer, or chief operating officer shall act as the qualified agent of the agency without the payment of additional license fees.

(10) If the applicant represents a foreign corporation, he/she shall furnish a copy of its articles of incorporation, and a list of its officers and departments and their addresses to the department.

AMENDATORY SECTION (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

WAC 308-19-107 (~~What are the requirements and~~) Responsibilities of the qualified agent(?). The qualified agent shall be responsible for all transactions, recordkeeping, and the employees of each office he or she is licensed as the qualified agent.

(~~If the agency or branch agency is to be a corporate surety or property agency, the agency, or branch agency qualified agent shall disclose the surety(s) name, address, the attorney in fact, and in whose name the build-up fund is in.~~)

~~If an agency changes or takes another corporate surety, the director shall be advised immediately by the qualified agent.~~

~~If the agency provides security in the form of real property, the qualified agent shall advise the director of the names of the court(s) that have given approval for the placing of property bonds.~~

~~If the applicant for qualified agent represents a corporation, he or she shall furnish a copy of the articles of incorporation, and a list of officers and directors and their addresses to the director.~~

~~If the applicant for a qualified agent represents a foreign corporation, he or she shall furnish a copy of its articles of incorporation, and a list of its officers and directors and their addresses to the director.~~

~~If the applicant is a partnership or limited partnership, each partner shall apply, qualify and furnish their addresses to the director.~~

~~When an agency license is issued to a sole proprietorship, the owner shall act as the qualified agent of the agency without the payment of additional license fees.~~

~~When an agency license is issued to a corporation, the manager, officer, or chief operating officer shall act as the qualified agent of the agency without the payment of additional license fees.~~

~~When a license is issued to a partnership the principal partner shall act as the qualified agent of the agency without~~

the payment of additional license fees.)) Under 18.185.010 (5), a qualified agent is "an owner, sole proprietor, partner, manager, officer, or chief operating officer of a corporation who meets the requirements set forth in this chapter for obtaining a bail bond agency license." The qualified agent essentially serves as "manager" of the bail bond agency, and is responsible for all bail bond transactions conducted by the bail bond agents employed by the agency. See RCW 18.185.100 (qualified agent shall keep required records and ensure safekeeping of collateral or security); RCW 18.185.-220 (every branch office must have a qualified agent serving as manager);

Each branch office must be managed by a qualified agent. A qualified agent may serve as a qualified agent of multiple offices. Although the qualified agent remains ultimately responsible for bail bond transactions, a qualified agent is permitted to delegate managerial functions to licensed bail bond agents. However, a qualified agent may not delegate managerial or supervisory functions to unlicensed staff because such functions necessarily involve participation in the sale or issuance of bail bonds.

Allowing unlicensed staff to participate in the sale or issuance of bail bonds could lead to charges of aiding or abetting unlicensed activity in violation of RCW 18.185.110(10) and 18.235.130(9).

Any agency going out of business in the state of Washington shall continue to be obligated on all outstanding bonds until the director receives notification from the jurisdiction in which the agency/branch offices are located that all bonds have been exonerated and the department of licensing has received no complaints from indemnitor about the return of collateral. The director may require an audit of the closing agency at any time upon notification of the closing of the agency.

AMENDATORY SECTION (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

WAC 308-19-110 (~~How do I apply~~) Applying for a bail bond agency branch office license(?). A licensed bail bond agency may establish a branch office by meeting the following requirements.

(1) Each branch office shall have a licensed qualified agent.

(2) Complete an application form provided by the department of licensing.

(3) Pay the fee or fees as required under WAC 308-19-130.

AMENDATORY SECTION (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

WAC 308-19-120 **Bail bond recovery agent, bail bond agency, branch office and agent license applications—Conditions.** Any person desiring to obtain a bail bond recovery agent, bail bond agency, bail bond branch office or bail bond agent license shall make application on a form prescribed by the director and pay a fee as prescribed by WAC 308-19-130.

**AMENDATORY SECTION** (Amending WSR 02-07-067, filed 3/18/02, effective 7/1/02)

**WAC 308-19-130 Bail bond recovery agent, bail bond agency, branch office and bail bond agent fees.** The following fees for a one-year period shall be charged by business and professions division of the department of licensing:

<b>Title of Fee</b>	<b>Fee</b>
<b>Bail bond agency/branch office:</b>	
Application	\$1,000.00
License renewal	800.00
Late renewal with penalty	1,000.00
<del>((Certification of records</del>	<del>25.00))</del>
<b>Bail bond agent:</b>	
Original license	400.00
License renewal	250.00
Late renewal with penalty	350.00
<del>((Certification of records</del>	<del>25.00))</del>
Change of qualified agent	200.00
<u>Original endorsement to the bail bond agent license</u>	<u>50.00</u>
<u>Endorsement renewal</u>	<u>65.00</u>
<u>Endorsement renewal with penalty</u>	<u>100.00</u>
<b>Bail bond recovery agent license:</b>	
<u>Original license</u>	<u>300.00</u>
<u>License renewal</u>	<u>350.00</u>
<u>Late renewal with penalty</u>	<u>450.00</u>
<b>Examinations:</b>	
<u>Reexamination fee</u>	<u>25.00</u>

**AMENDATORY SECTION** (Amending WSR 04-01-021, filed 12/8/03, effective 1/12/04)

**WAC 308-19-140 ~~((When will my license expire and how do I renew my license?))~~ Renewal and expiration of licenses and endorsements.** (1) Licenses and endorsements issued to bail bond agents, bail bond agencies, branch offices, or bail bond recovery agents expire one year from the date of issue.

(2) ~~((Licenses issued to bail bond agencies expire on December 31 each year.))~~ Licenses and endorsements must be renewed each year on or before the date ~~((established herein))~~ of expiration and a renewal ~~((license))~~ fee as prescribed by the director in WAC 308-19-130 must be paid.

(3) If the application for a license or endorsement renewal is not received by the director on or before the renewal date, a penalty fee as prescribed by the director in WAC 308-19-130 shall be paid. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

(4) A license or endorsement shall be ~~((cancelled))~~ cancelled if an application for a renewal of that license or endorsement is not received by the director within one year from the date of expiration. A person may obtain a new license or endorsement by satisfying the procedures and qual-

ifications for licensing, including the successful completion of any current examination and education requirements.

(5) ~~((No agent or agency shall engage in the sale or issuance of bail bonds if their license has expired.))~~ No bail bond agent, or bail bond agency shall engage in the sale or issuance of bail bonds if their license has expired. No bail bond recovery agent shall perform the duties of a bail bond recovery agent if his/her license has expired.

(6) When the director receives verification that a bail bond agency license has expired or has been revoked or suspended, the director shall advise correction centers.

**AMENDATORY SECTION** (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-150 ~~((What happens to my agent license when I leave the bail bond agency I work for?))~~ Cancellation of employment.** (1) A person licensed as a bail bond agent may perform duties and activities as licensed only under the direction and supervision of a licensed qualified agent and as a representative of a bail bond agency.

(2) Either the agency or agent may cancel this relationship. The agency's qualified agent must send a written notice of the cancellation to the department of licensing immediately and include the agent's license held by the agency. Notice of cancellation shall be provided by signature of the agency's qualified agent on the surrendered license. The cancellation date shall be the postmark date or date the license is hand delivered to the department. If the license held by the agency cannot be surrendered to the department because the license has been lost, the qualified agent shall complete and submit an affidavit of lost license on a form approved by the department explaining why the license has been lost and for how long the license has not been on display.

**AMENDATORY SECTION** (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-160 ~~((What happens to my bail bond agent license when I am not working?))~~ Inactive licenses.**

(1) Any license issued under chapter 18.185 RCW, and not otherwise revoked or suspended shall be deemed "inactive" at any time it is delivered to the director. Until reissued, the holder of an inactive license shall be deemed to be unlicensed.

(2) An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with chapter 18.185 RCW.

(3) An inactive license may not be renewed. The inactive license will be ~~((cancelled))~~ cancelled if not activated by the expiration date. To obtain a new license the person must satisfy the procedures and qualifications for initial licensing, including the successful completion of any examination and education requirements.

(4) The provisions of chapter 18.185 RCW relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed.

PERMANENT

**AMENDATORY SECTION** (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-200** (~~Where do I keep the agency and agent licenses for my bail bond business?~~) **Location of license documents.** Licenses and endorsements of all bail bond agency and bail bond agents shall be kept in the office located at the address appearing on the license.

**AMENDATORY SECTION** (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-210** (~~What do I need to do if I move my business?~~) **Change of address.** The qualified agent of a bail bond agency shall notify the department of any change of location and mailing address of the agency office within ten working days by filing a completed change of address form approved or provided by the department.

**AMENDATORY SECTION** (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-220** (~~What are my~~) **Responsibilities as a licensee in addition to the other obligations and responsibilities outlined in chapter 18.185 RCW and chapter 308-19 WAC**(~~(?)~~). It is the responsibility of each and every licensee to obtain a copy of and be knowledgeable of and keep current with the rules implementing chapter 18.185 RCW.

**AMENDATORY SECTION** (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-230** (~~What if my bail bond agency or a bail bond agent is the subject of a~~) **Criminal complaint or action**(~~(?)~~). Every licensee shall notify in writing, within twenty days after service or knowledge thereof, the office of the bail bond program, business and professions division, department of licensing of any criminal complaint, information, indictment, or conviction (including a plea of guilty or nolo contendere) in which the licensee is named as a defendant.

**AMENDATORY SECTION** (Amending WSR 02-07-067, filed 3/18/02, effective 7/1/02)

**WAC 308-19-240** (~~What records are a~~) **Bail bond agency and branch office required** (~~(to keep?)~~) **records.** The following requirements and prohibitions apply to all records and documents required to be maintained by chapter 18.185 RCW, or in these rules:

(1) They shall be maintained in accordance with generally accepted accounting practices.

(2) No person shall make any false or misleading statement, or make false or misleading entry, or willfully fail to make any entry required to be maintained or made, in any such record or document.

(3) No person shall willfully fail to produce any such record or document for inspection by the department.

(4) The minimum records the qualified agent or principal partner of a bail bond agency shall be required to keep are:

- (a) Bank trust account records;
- (b) Duplicate receipt book or receipt journal;
- (c) Prenumbered checks;
- (d) Check register or cash disbursement journal;
- (e) Validated bank deposit slips;
- (f) Reconciled bank monthly statement (client liability vs bank statement);
- (g) All (~~cancelled~~)  **canceled** checks;
- (h) All voided checks;
- (i) "Client information" which includes defendant's name, application, dates of transactions, amount received, amount disbursed, current balance, check number, item(s) covered, indemnitor's agreement, and indemnity agreements, premium receipts, collateral receipt(s), letter(s) of forfeiture or surrender form(s), letter(s) of demand and affidavit(s), if surrendered before a forfeiture has occurred, and any written information or communication that may have influence on the bail bond or collateral placed for the bail bond;

(j) A transaction folder or file containing a copy of all agreements, invoices, billings, and related correspondence for each transaction;

(k) Records or description of all collaterals, securities, or monetary instruments received or held in the bail bond business transactions;

(l) Records of training and/or continuing education for each bail bond agents employed in that agency;

(m) Records of exoneration of all bail bond transactions which include: (i) Court, citation or case number (ii) date of issuance of the bail (iii) the defendant's name, address and telephone number (iv) amount of the bond (~~(vii)~~) (v) name of the court (~~(viii)~~) (vi) date of exoneration of the bond.

(5) The above records shall be maintained for a minimum period of three years.

(6) All funds and monetary instruments received by the agency from customers or clients in business transactions shall be deposited into the trust account within three working days of receipt.

(7) All money spent on behalf of a client must be deposited in and disbursed from the agent's collateral trust account, including advances, loans or money from the agency's business account to the collateral trust account to pay expenses.

(8) The bail bond agent must secure an invoice or billing from any party who provides a service on behalf of the defendant and must include the cost for the service, a description of the service provided, and the service provider's name, address, telephone number, and UBI number (Uniform Business Identifier).

(9) Bail bond agents must secure an affidavit from any party who purchases or takes possession of collateral being liquidated. The affidavit must state the name, address and telephone number of the party(ies) acquiring the property along with a complete description of the property, serial number or other unique identifying number, and the dollar value of the collateral being liquidated with an explanation of how the dollar value was estimated.

(10) If the bail bond agent or agency provides other services to the indemnitor or client, the firm must provide full disclosure in writing of the agent's relationship with any persons providing such services, and prior disclosure of fees charged. The written disclosure must be maintained in the cli-

ent's transaction file for a minimum period of three years. For purposes of this section, "other services" shall mean services unrelated to the issuance and posting of bail.

(11) The bail bond agent must provide each indemnitor or client a receipt for all personal property. The bail bond agent shall keep a duplicate of all receipts. The receipt will include:

- (a) Date of receipt;
- (b) Complete description of the property to include serial numbers or other unique identifying numbers;
- (c) Signature of the bail bond agent; and
- (d) A file or case number the receipt relates to.

(12) The bail bond agent shall maintain an individual ledger card to post all bank charges of any nature, including credit card charges. Accrued interest shall be posted to the individual ledger card. If bank charges exceed the interest earned, causing the trust account to be lower than client liability, the bail bond agent shall immediately deposit funds into the trust account to bring the trust account into balance. For purposes of this subsection, "immediately" shall mean within one banking day after the bail bond agent receives notice that the trust account is lower than client liability. All interest accruing on the trust bank account must be withdrawn at least once monthly.

(13) Contracts as described in RCW 18.185.270(2) between the bail bond agent and the bail bond recovery agent.

AMENDATORY SECTION (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

WAC 308-19-250 ((Is a bail bond agency subject to))  
Bail bond agency audits and inspections((?)). All records required to be maintained by a qualified agent of a bail bond agency by chapter 18.185 RCW, or these rules, together with any other business or other types of records of a licensee which may be related to the bail bond activity, together with any personal property which may be the subject of, or related to, a bail bond business transaction shall be subject to inspection and audit at any reasonable time, with or without notice upon demand by the department of licensing, for the purposes of determining compliance or noncompliance with the provisions of chapter 18.185 RCW, and these rules.

If records requested by the department are not immediately available because they are not physically present upon the premises at the time the demand is made, they shall be procured and produced to the department as soon as possible, but in any event within twenty-four hours, by the licensee.

A reasonable time for the conduct of such inspection and audit shall be:

(1) If the records or items to be inspected or audited are located anywhere upon a premise any portion of which is open for business or to the public (or members and guests), then at any time the premises are so open, or at which they are usually open; or

(2) If the records or items to be inspected or audited are not located upon a premise set out in subsection (1) of this section, then any time between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.

AMENDATORY SECTION (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

WAC 308-19-300 ((What are the)) Prelicense training and examination requirements for bail bond agents, bail bond agency, and qualified bail bond agent license applicants((?)). (1) The training and examination requirements for bail bond agent license applicants under RCW 18.185.060, shall include, at a minimum:

- (a) Four hours of training in the following subjects:
  - (i) Bail bond licensing laws;
  - (ii) Court procedures relating to bail bonds;
  - (iii) Criminal procedure, Title 10 RCW;
  - (iv) Contracts and bail bond agreements;
  - (v) Preparation of promissory notes, mortgages, deeds of trust, assignments and other documents affecting property;
  - (vi) Care and storage of personal property;
  - (vii) Forfeiture of collateral, judgements and collection;
  - (viii) Washington Insurance Code, Title 48 RCW;
  - (ix) Laws relating to notary publics, chapter 42.44 RCW;
  - (x) Contact with clients, courts and law enforcement;
  - (xi) Sexual harassment.

(b) A licensed qualified agent shall certify on each bail bond agent's license application that the training required in this section has been completed.

(2) The examination requirement for bail bond agency or qualified bail bond agent license applicants under RCW 18.185.030 (1)(a), shall include, as a minimum:

- (a) All of the subjects as listed in subsection (1)(a) of this section; and
- (b) At a minimum, the following subjects:
  - (i) Recordkeeping and filing;
  - (ii) Business licensing, taxation and related reporting and recordkeeping requirements.
  - (iii) Personnel management;
  - (iv) Laws relating to employment;
  - (v) The Americans with Disabilities Act;

(3) The examination for bail bond agency or qualified bail bond agent license applicants shall consist of a minimum of fifty questions covering the subjects listed above in subsection (2)(a) and (b) of this section. A score of eighty-five percent must be achieved in order to pass the examination. Applicants who fail to achieve an eighty-five percent score will be required to wait a minimum of fourteen days before reexamination.

(4) The director will certify training and examination programs for bail bond qualified agents and bail bond agents license applications.

(5) Every bail bond agent shall present to the director a letter stating training they have received while working as a trainee for an agency, including the name of the principal instructor before the director issues the person a bail bond license. This letter shall be signed by the qualified agent and shall also include a statement that the qualified agent is aware that they are taking responsibility for the agent.

NEW SECTION

WAC 308-19-305 Minimum prelicense training requirements and exceptions for bail bond recovery agents. (1) Applicants for a license or an endorsement as a

bail bond recovery agent must complete not less than four hours of a course of self-study, training and/or certification in the following subjects, except as otherwise provided in this section.

(a) Prelicense training in civil or criminal law can be achieved through public or private instruction or self-study and must include the following training topics:

- (i) State statutes relating to bail regulations;
- (ii) Constitutional law;
- (iii) Procedures for surrendering defendants into custody;
- (iv) Procedures for exoneration;
- (v) Civil liability;
- (vi) Civil rights of persons who are detained in custody;
- (vii) Basic principles of identifying and locating defendants to include public records and confidentially, and surveillance;
- (viii) Contracts;
- (ix) Powers of a bail bond recovery agent;

(b) Prelicense training in procedures for field operations can be achieved through public or private instruction and must include the following training and certifications:

(i) Training in use of force and degrees of force, including verbal, Taser X/M26, baton either expandable, straight stick, or side handle, and oleo capsicum resin sprays or foams rated at 100,000 to 2,000,000 Scoville Heat Units.

(ii) Certification in the following defensive tools, Taser X/M26, baton either expandable, straight stick, or side handle, and oleo capsicum resin sprays or foams rated at 100,000 to 2,000,000 Scoville Heat Units within twelve months of applying for a license or endorsement;

- (iii) Safety techniques;
- (iv) Entering and searching buildings;
- (v) The custody and transportation of prisoners including persons who are violent, emotionally disturbed or under the influence of alcohol, or drugs;
- (vi) Defensive tactics;
- (vii) Application of restraints/handcuffing procedures;
- (viii) All applicants shall obtain firearm training from an approved trainer, or applicants intending to carry a firearm as a bail bond recovery agent shall obtain and keep current firearm certification from the criminal justice training commission.

(2) In place of completing the prelicense training in procedures for field operations established in subsection (1) of this section required under RCW 18.185.260, an applicant may submit proof to the department that he/she has completed a course of training required by a municipal, state or federal law enforcement agency or a branch of the armed forces to carry out the duties of a peace officer within the past six years.

(3) Applicants may submit proof of previously meeting prelicense training requirements in procedures for field operations in subsection (1) of this section between May 1, 2005, and July 1, 2005. The purpose of this rule is to allow applicants advance notice whether or not the applicant will be required to take additional training before the license requirements are in effect on January 1, 2006. The proof must be submitted in writing and include: The applicant's name, address and telephone number, the name, address, and tele-

phone number of the training facility attended, a copy of the training curriculum which the applicant received training in, including the number of hours devoted to each topic, and documentation of certification of training accomplishments related to the training requirements set forth in subsection (1) of this section. The department will issue written notification to the applicant, stating acceptance of the prelicense training received, or a written notification and explanation for the department's denial of the prelicense training received.

(4) The training the applicant receives should prepare the applicant to achieve a passing score on the written examination administered under chapter 18.185 RCW.

#### NEW SECTION

**WAC 308-19-310 Prelicense examination requirements for bail bond recovery agents.** Each applicant for a bail bond recovery agent license or endorsement shall pass an examination demonstrating their knowledge and proficiency in all of the training requirements set forth in WAC 308-19-305. The examination shall consist of fifty questions. Applicants shall correctly answer thirty-five examination questions to pass the examination. Applicants who fail to achieve a passing score will be required to wait a minimum of seven days before reexamination and pay the required reexamination fee.

#### NEW SECTION

**WAC 308-19-315 Study guide for the prelicense bail bond recovery agent examination.** All of the information listed below can be found on the internet. Public libraries offer free access to the use of the internet. Applicants may also access this study guide on the department's internet website and will link directly to the study resource material.

- (1) Chapter 18.185 RCW.
- (2) Chapter 9.73 RCW Privacy.
- (3) Chapter 42.17 RCW (sections 250 through 348) Public disclosure.
- (4) Title 9A RCW (chapters 04, 08, 16, 36, 40, 42, 46, 50, 52, 56, 60, 68, 72, 76, 82) Washington state criminal code.
- (5) Chapter 10.19 RCW Appearance bonds.
- (6) Chapter 10.88 RCW Uniform Criminal Extradition Act.
- (7) Chapter 9.41 RCW Firearms and dangerous weapons.
- (8) Federal Privacy Act (5 U.S.C. 552A).
- (9) Freedom of Information Act (5 U.S.C. 552).
- (10) Fair Credit Reporting Act (15 U.S.C. 1681).
- (11) Federal Wiretapping Act (18 U.S.C.).
- (12) Gramm-Leach-Bliley Act.
- (13) Title 28 of the U.S. Code.
- (14) Chapter 35.20 RCW Municipal courts.
- (15) Title 2 RCW Courts of records.
- (16) Title 3 RCW District courts/courts of limited jurisdictions.
- (17) Title 4 RCW Civil procedures.
- (18) Taylor vs. Taintor.
- (19) Washington criminal justice training commission use of force continuum.

NEW SECTION

**WAC 308-19-320 Minimum education requirements for bail bond recovery agents.** All applicants for a bail bond recovery agent license or endorsement shall have a minimum of a high school education or GED or a minimum of three years of full-time, verifiable experience in the bail bond industry.

AMENDATORY SECTION (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-400** (~~What is a~~) **Brief adjudicative proceeding**(~~(?)~~). The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:

(1) Whether an applicant for a license meets the minimum criteria for a license to practice as a bail bond recovery agent, bail bond agency, qualified agent, branch office or bail bond agent in this state and the department proposes to deny the application;

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department;

(3) Whether an education course or curriculum meets the criteria for approval when approval by the department is required or authorized by statute or rule;

(4) Whether a license holder requesting renewal has submitted all required information and whether a license holder meets minimum criteria for renewal; and

(5) Whether a license holder has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship.

AMENDATORY SECTION (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-410** (~~What~~) **Records** (~~(are)~~) **used in a brief adjudicative proceeding**(~~(?)~~). (1) The preliminary record with respect to an application for an original or renewal license or for approval of an education course or curriculum shall consist of:

(a) The application for the license, renewal, or approval and all associated documents;

(b) All documents relied upon by the department in proposing to deny the license, renewal, or approval; and

(c) All correspondence between the applicant for license, renewal, or approval and the department regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the department regarding compliance with the final order or agreement; and

(d) All documents relied upon by the department showing that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a federally or state-guaranteed educational loan or service-conditional scholarship shall consist of:

(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed educational loan or service-conditional scholarship; or

(b) A written release, if any, issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

AMENDATORY SECTION (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-420** (~~How is~~) **Conducting a brief adjudicative proceeding** (~~(conducted?)~~). (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative proceedings shall not have personally participated in the decision, which resulted in the request for a brief adjudicative proceeding.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ department expertise as a basis for the decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

AMENDATORY SECTION (Amending WSR 00-01-061, filed 12/13/99, effective 1/13/00)

**WAC 308-19-430 False or misleading advertising.** (~~((1) The department has authority to discipline bail bonds agents for advertising that is false, fraudulent or misleading, RCW 18.185.110(5). Every advertisement by a licensee that solicits or advertises business shall contain the name of the business exactly as stated on the bail bond agency license, the physical address of the business as stated on the bail bond agency license and, the bail bond agency license number. For purposes of providing the business name and telephone number only, single line telephone directory listings are not required to include the license number.~~)

(2) No bail bond agency shall use fictitious names in any advertising, or telephone directory.)) (1) Every advertisement by a licensee that solicits or advertises business shall contain the name of the business exactly as stated on the bail bond agency license, and the physical address of the business as stated on the bail bond agency license, and the bail bond agency license number. A licensed bail bond agency may advertise under a registered trade name of the licensee provided that the registered trade name is stated exactly as documented with the state of Washington master license service. Licensees under this chapter must notify the department in writing, of any registered trade names intended for use in future advertising.

(2) Telephone book directory listings that are for the purpose of providing the business name, address, and telephone number only, are not required to include the license number.

(3) The department has authority to discipline bail bond agents for advertising that is false, fraudulent or misleading. RCW 18.185.110(5) and 18.235.130(3).

#### NEW SECTION

**WAC 308-19-445 Contract requirements between the bail bond agent and the bail bond recovery agent.** The purpose of the contract as required in RCW 18.185.270 is to provide information to the public and law enforcement officers to clarify authority and to identify the parties involved during the act of locating and apprehending a fugitive. The contract is to administrate the transfer of information regarding the identity of the fugitive.

(1) There shall be an individual contract on a form provided by the department between the bail bond agent and the bail bond recovery agent for each fugitive.

(2) A bail bond agent shall provide a bail bond recovery agent a copy of each individual contract on a form provided by the department.

(3) The contract form provided by the department shall not prevent a bail bond agent or a bail bond recovery agent from having additional contracts or agreements for conducting the course of their business transaction.

(4) The bail bond agent shall provide to the bail bond recovery agent a photograph of the fugitive if one is available.

(5) The original signed contract shall be kept by the bail bond agency for at least three years and be made available upon request by the department.

(6) Facsimile signatures shall be as effective as if originals.

#### NEW SECTION

**WAC 308-19-450 Planned forced entry—Procedure requirements.** When the apprehension of a fugitive defendant meets the definition of RCW 18.185.010(12) Planned forced entry, the bail bond recovery agent shall follow the procedure requirements in RCW 18.185.300.

In addition to the minimum notification requirements of RCW 18.185.300, the notification to law enforcement must provide any prior known risk factors of which the bail bond recovery agent is aware including knowledge regarding any warrants.

#### NEW SECTION

##### **WAC 308-19-455 Bail bond recovery agent badge.**

The approved badge for bail bond recovery agents is a round gold star burst with a round blue ribbon with gold letters stating bail bond recovery agent. The center of the badge displays a picture of the liberty bell and lady justice. If the license number is attached beneath the badge, the department issued license number shall be used.

#### NEW SECTION

##### **WAC 308-19-460 Firearms certification procedure through criminal justice training commission.**

Individuals licensed as a bail bond recovery agent who carry a firearm while performing the duties of a bail bond recovery agent shall be required to successfully complete a prescribed course of instruction from a certified instructor of the Washington State Criminal Justice Training Commission located at 19010 1st Avenue South, Burien, Washington 98140 - Telephone: 206-835-7300.

#### **WSR 05-08-056**

##### **PERMANENT RULES**

##### **DEPARTMENT OF FISH AND WILDLIFE**

[Order 05-53—Filed March 30, 2005, 3:08 p.m., effective April 30, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend coastal pilchard experimental fishery rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-20-010, 220-88C-030, 220-88C-040, and 220-88C-050.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 05-03-117 on January 19, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-88C-030: Rewrite subsection (3) to read:

(3) For 2005, the director may offer temporary permits valid for the 2005 season only, provided that:

(a) The total number of permits offered by the director, including 2005 temporary permits, shall not exceed twenty-five.

(b) 2005 temporary permits may be issued only to a person who can demonstrate by valid Washington fish receiving tickets that pilchard were landed under the person's emerging commercial fishery license in 2000, 2001, and 2002, the person has not previously held a coastal pilchard experimental fishery permit and the person has submitted a completed 2005 temporary permit application to the department by June 1, 2005.

(c) A vessel must be designated on the 2005 temporary permit application, and only one 2005 temporary permit application per person or vessel will be allowed.

In subsection (4), change "October 31st" to "November 30."

WAC 220-88C-040: Rewrite subsection (6) to read:

(6) It is unlawful to deliver more than ten percent of a pilchard landing for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products or by-products for purposes other than human consumption or fishing bait.

Add new subsections (7) and (8): (7) It is unlawful to deliver more than one pilchard landing per calendar day.

(8) Once a delivery has commenced at a processing plant, all fish onboard the vessel must be offloaded at that plant.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 22, 2005.

J. P. Koenings  
Director  
by Larry Peck

AMENDATORY SECTION (Amending Order 04-94, filed 4/29/04, effective 5/30/04)

**WAC 220-88C-030 Eligibility to participate in the coastal pilchard fishery.** (1) ~~((Beginning 2004, a coastal pilchard experimental fishery permit will be issued only to a natural person who:~~

~~(a) Held such a permit the previous year;~~

~~(b) Has purchased an emerging commercial fisheries license by April 1st; and~~

~~(c) As of April 1st has no outstanding observer fees owed to the department.~~

~~(2) Beginning 2005,))~~ A coastal pilchard experimental fishery permit will be issued only to a natural person who:

(a) Held such a permit the previous year;

(b) Can demonstrate by valid Washington fish receiving tickets that at least forty metric tons cumulative weight of pilchard taken from Pacific Ocean waters were landed under the person's emerging commercial fishery license during the previous two calendar years;

(c) Has purchased an emerging commercial fisheries license by April 1st; and

(d) As of December 1st of the previous licensing year has no outstanding observer fees owed to the department.

~~((3))~~ (2) Coastal pilchard experimental fishery permits may be revoked by the director, and future permits denied by the director, for failure to comply with conditions specified in the permits or violation of other commercial fishing rules,

and shall be revoked if the emerging commercial fishery license is suspended. A coastal pilchard experimental fishery permit will not be renewed if the emerging commercial fishery license is revoked or future fishing privileges of the licensee are suspended.

~~((4) If less than twenty permits are issued to persons who meet the permit renewal requirements specified in subsection (1) of this section))~~ (3) For 2005, the director may offer ~~((replacement))~~ temporary permits valid for the 2005 season only, provided that:

(a) The total number of permits issued by the director, including ~~((replacement))~~ 2005 temporary permits, shall not exceed twenty-five.

(b) ~~((Replacement))~~ 2005 temporary permits ~~((shall))~~ may be issued only to a person~~((s))~~ who can demonstrate by valid Washington fish receiving tickets that ~~((a minimum of forty metric tons (cumulative round weight) of))~~ pilchard were landed under the person's emerging commercial fishery license in 2000, 2001, and 2002, the person has not previously held a coastal pilchard experimental fishery permit and ~~((who have))~~ the person has submitted a completed ~~((replacement))~~ 2005 temporary permit application to the department by June 1, ~~((2004))~~ 2005.

(c) ~~((If more than twenty five persons meet the criteria specified in (b) of this subsection, replacement permits will be issued to persons with the highest cumulative landings during the qualifying period, in descending order, until twenty five permits are issued))~~ A vessel must be designated on the 2005 temporary permit application, and only one 2005 temporary permit application per person or vessel will be allowed.

~~((5))~~ (4) Coastal pilchard experimental fishery permits are only valid for the year issued and expire on ~~((October 31st))~~ November 30 of the year issued with the expiration of the emerging commercial fishery license.

~~((6))~~ (5) Permit holders must designate a vessel to be used in the coastal pilchard emerging commercial fishery at least forty-eight hours before their first pilchard fishing trip of each season. Once designated, permit holders may not change vessel designation for the remainder of the season, except in an emergency and then only if allowed by the director. The same vessel may not be designated on more than one emerging commercial fishery license and accompanying coastal pilchard experimental fishery permit.

AMENDATORY SECTION (Amending Order 04-94, filed 4/29/04, effective 5/30/04)

**WAC 220-88C-040 Coastal pilchard fishery—Seasons and lawful catch.** (1) The coastal pilchard fishery season is open to purse seine fishing May ~~((1st))~~ 1 through ~~((October 31))~~ November 30 only. Fishing under an experimental commercial fishery permit for pilchard is closed within three miles of shore.

(2) It is unlawful to retain any species taken incidental to pilchard in the coastal pilchard fishery except anchovy, mackerel, and market squid (*Logligo opalescens*). Any salmon encircled in the purse seine must be released prior to completion of the set, and no salmon may be landed on the fishing vessel.

(3) ~~((The)) It is unlawful to transfer ((of)) pilchard catch from one fishing vessel to another ((is prohibited)).~~

(4) ~~It is unlawful to fail to have legal purse seine gear ((must be)) aboard the vessel making ((the)) a pilchard landing.~~

(5) ~~It is unlawful to fail to deliver pilchard landings ((must be delivered)) to a shoreside processing facility.~~

~~(6) It is unlawful to deliver more than ten percent of a pilchard landing for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products or by-products for purposes other than human consumption or fishing bait.~~

~~(7) It is unlawful to deliver more than one pilchard landing per calendar day.~~

~~(8) Once a delivery has commenced at a processing plant, all fish onboard the vessel must be offloaded at that plant.~~

AMENDATORY SECTION (Amending Order 03-111, filed 6/4/03, effective 7/5/03)

**WAC 220-88C-050 Coastal pilchard fishery—Observer and sampler coverage, logbook requirements.**

(1) As a condition of the experimental commercial fishery permit, participants in the coastal pilchard fishery are required to have on-board observers for any pilchard fishing effort~~((, and are required to have observer coverage for one-half of the vessel trips. Fishers may elect to use either department provided observers, or National Marine Fisheries certified observers, but must notify the department of their irrevocable decision on which type of observer to use at least 48 hours before their first pilchard fishing trip of the season. NMFS certified observers must have completed a department training session. Department provided observer coverage will be made available to fishers who agree to reimburse the department at a rate of \$100 per landing, whether or not the vessel trip was observed. Payment for department provided observer coverage is due by the tenth day of the following month for the previous month's landings, and failure to make timely payment will result in revocation of the experimental commercial fishery permit))~~ at the request of the department.

~~(2) ((In order to allow sufficient time for observer coverage and sampling efforts, fishers must notify the department's sardine hotline during normal business hours at least 48 hours before the first vessel trip and at least 24 hours before each subsequent trip. Fishers must provide name and contact phone number, time and location of departure, and estimated time and location of landing.))~~ Up to 500 sardine per vessel trip may be retained by WDFW samplers for biological information.

(3) All persons who obtain an experimental commercial fishery permit for the coastal pilchard fishery must complete a department-issued logbook, and the logbook is required to be returned to the department by ~~((November))~~ January 15th of the following year ~~((of issuance))~~. Failure to submit the logbook will cause the person to be ineligible for a permit in the following season.

AMENDATORY SECTION (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

**WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other food fish and shellfish.** (1) It shall be unlawful to take, fish for, possess or transport for any purpose food fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the commission or director, unless otherwise provided.

(3) It shall be lawful to fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided; that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

Pacific halibut	<i>(Hippoglossus stenolepis)</i>
Pacific herring (except as prescribed in WAC 220-49-020)	<i>(Clupea harengus pallasii)</i>
Salmon	
Chinook	<i>(Oncorhynchus tshawytscha)</i>
Coho	<i>(Oncorhynchus kisutch)</i>
Chum	<i>(Oncorhynchus keta)</i>
Pink	<i>(Oncorhynchus gorbuscha)</i>
Sockeye	<i>(Oncorhynchus nerka)</i>
Masu	<i>(Oncorhynchus masu)</i>
<u>Pilchard</u>	<i>(Sardinops sagax)</i>

Except as provided for in WAC 220-88C-040

(4) It shall be unlawful for any person to fish for food fish or shellfish while in possession in the field of food fish or shellfish that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked.

(a) Shellfish pot, bottom fish pot, set line and set net gear must be marked with a buoy to which shall be affixed in a visible and legible manner the department approved and registered buoy brand issued to the license, provided that:

(i) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

PERMANENT

(ii) When two or more shellfish pots are attached to a common ground line the number of pots so attached must be clearly labeled on the required buoy.

(b) It is unlawful to operate any gill net, attended or unattended, unless there is affixed, within five feet of each end of the net, a buoy, float, or some other form of marker, visible on the corkline of the net, on which shall be marked in a visible, legible and permanent manner the name and gill net license number of the fisher.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided; that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department, provided further that it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47° 20' from August 15 through November 30 except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department.

(8) It shall be unlawful for any person taking or possessing food fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington or the Pacific Ocean for any purpose to fail to submit such food fish or shellfish for inspection by authorized representatives of the department.

(9) It shall be unlawful for any person licensed by the department to fail to make or return any report required by the department relative to the taking, selling, possessing, transporting, processing, freezing and storing of food fish or shellfish whether taken within the jurisdiction of the state of Washington or beyond or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for or possess or to injure, kill or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, shoot, snag, snare, dip net, harass, spear, stone or otherwise molest, injure, kill or destroy any food fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) It shall be lawful to use a dip net or club in the landing of food fish taken by personal-use angling unless otherwise provided and it shall be lawful to use a gaff in the landing of tuna, halibut and dogfish in all catch record card areas.

(b) It shall be lawful to use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the food fish or shellfish while sorting commercial catches during the act of discarding those fish that are not going to be retained.

(c) It shall be lawful to use a spear in underwater spear fishing as provided for in WAC 220-56-160.

(d) It shall be lawful to use a spear to take carp as provided for in WAC 220-56-280.

(e) It shall be lawful to snag herring, smelt, anchovies, pilchard, sand lance, and squid when using forage fish jigger gear or squid jigs.

(f) It shall be lawful to shoot halibut when landing them with a dip net or gaff.

(12) It shall be unlawful to take or possess for any purpose any food fish or shellfish smaller than the lawful minimum size limits. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish and it shall be unlawful to allow undersized salmon entangled in commercial nets to pass through a power block or onto a power reel or drum.

(13) It shall be unlawful to possess aboard any vessel engaged in commercial fishing or having commercially-caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, length, weight, or sex limit is prescribed for said species and it is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species.

(14) It shall be unlawful in any area to use, operate or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department.

(15) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director, or to perform any act not specifically authorized in said document or in the regulations of the commission or director.

(16) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting food fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director.

(17) It shall be unlawful to test commercial fishing gear except as follows:

(a) Bellingham Bay - inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances in waters 10 fathoms and deeper.

(b) Boundary Bay - north of a line from Birch Point to Point Roberts and south of the international boundary in waters 10 fathoms and deeper during times not under IPSFC control.

(c) San Juan Channel - within a 1 mile radius of Point Caution during times not under IPSFC control.

(d) Port Angeles - inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - within a 2 mile radius of the entrance to Everett breakwater in waters 10 fathoms and deeper.

(f) Central Puget Sound - between lines from Meadow Point to Point Monroe and Skiff Point to West Point in waters 50 fathoms and deeper.

(g) East Pass - between lines from Point Robinson true east to the mainland and from Dash Point to Point Piner in waters 50 fathoms and deeper.

(h) Port Townsend - westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Codends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fish and wildlife enforcement office in Olympia prior to testing.

(18) It is unlawful for any person or corporation either licensed by the department or bringing food fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from food fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other food fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

(19) It is unlawful for any person to possess live bottom fish taken under a commercial fishery license.

(20) It is unlawful for any person to use chemical irritants to harvest fish, shellfish or unclassified marine invertebrates except as authorized by permit issued by the department.

#### WSR 05-08-060

#### PERMANENT RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed March 31, 2005, 8:34 a.m., effective May 1, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: 45 C.F.R. 303.32(a) lists the required state laws for a valid state plan under Title IV-D of the Social Security Act; 45 C.F.R. 303.32 (c)(2) provides that the state must have a rule requiring the IV-D agency to send a National Medical Support Notice to an employer within two days of entry of the noncustodial parent into the state directory of new hires. 45 C.F.R. 303.30 lists the requirements for Division of Child Support (DCS) to provide information regarding child support orders with medical support obliga-

tions, and health insurance coverage information, to the Title XIX agency, which is the DSHS Medical Assistance Administration. Additionally, 45 C.F.R. 303.31 requires the IV-D agency to communicate with the Title XIX agency. The department is authorized under RCW 74.20A.310 to adopt child support rules as may become necessary to entitle the state to participate in federal funds, unless such rules would be expressly prohibited by law. Adopting new WAC 388-14A-4119 How soon after a noncustodial parent is listed in the state directory of new hires must the division of child support send a national medical support notice to the employer? and 388-14A-4180 When must the division of child support communicate with the DSHS medical assistance administration?

Statutory Authority for Adoption: RCW 74.20A.310.

Other Authority: 45 C.F.R. 303.32, 45 C.F.R. 303.30, 45 C.F.R. 303.31.

Adopted under notice filed as WSR 05-05-082 on February 15, 2005.

Changes Other than Editing from Proposed to Adopted Version: Changed text in WAC 388-14A-4180(3) as follows:

(3) DCS must periodically communicate with MAA ((regarding)) to determine if there have been any lapses (stops and starts) in the NCP's health insurance coverage for Medicaid applicants.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 2, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: March 25, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

#### NEW SECTION

**WAC 388-14A-4119 How soon after a noncustodial parent is listed in the state directory of new hires must the division of child support send a national medical support notice to the employer?** The division of child support (DCS) must send a national medical support notice (NMSN) to the employer of a noncustodial parent (NCP) within two business days of the date the NCP's information is entered into the state directory of new hires (SDNH).

NEW SECTION

**WAC 388-14A-4180 When must the division of child support communicate with the DSHS medical assistance administration?** (1) The division of child support (DCS) must inform the DSHS medical assistance administration (MAA) of the existence of a new or modified court or administrative order for child support when the order includes a requirement for medical support. MAA is the part of DSHS which provides services for the state of Washington under Title XIX of the federal Social Security Act.

(2) DCS must provide MAA with the following information:

(a) Title IV-A case number, Title IV-E foster care case number, Medicaid number or the individual's Social Security Number;

(b) Name of the noncustodial parent (NCP);

(c) Social Security Number of the NCP;

(d) Name and Social Security Number of the child(ren) named in the order;

(e) Home address of the NCP;

(f) Name and address of the NCP's employer;

(g) Information regarding the NCP's health insurance policy; and

(h) Whether the child(ren) named in the order are covered by the policy.

(3) DCS must periodically communicate with MAA to determine if there have been any lapses (stops and starts) in the NCP's health insurance coverage for Medicaid applicants.

**WSR 05-08-061****PERMANENT RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed March 31, 2005, 8:37 a.m., effective May 1, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To remove unnecessary barriers for clients to access services from CUP (chemical-using pregnant women) providers.

Citation of Existing Rules Affected by this Order: Amending WAC 388-533-0710, 388-533-0720, and 388-533-0730.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.800.

Adopted under notice filed as WSR 05-05-085 on February 15, 2005.

A final cost-benefit analysis is available by contacting Todd Slettvet, DSHS/MAA, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 725-1626, fax (360) 664-4371, e-mail sletttd@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: March 25, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-11-008, filed 5/5/04, effective 6/5/04)

**WAC 388-533-0710 Chemical-using pregnant (CUP) women program—Client eligibility.** (1) To be eligible for the chemical-using pregnant (CUP) women program, a woman must meet all of the following conditions:

(a) Be pregnant; and

(b) ~~((Be referred and/or approved by an Alcohol and Drug Addiction Treatment and Support Act (ADATSA) assessment agency; and~~

(e)) Be eligible for Medicaid.

(2) Clients meeting the eligibility criteria in WAC ~~((388-533-710(1)))~~ 388-533-0710(1) who are enrolled in an MAA managed care plan are eligible for CUP services outside their plan, except Washington Medicaid Integration Partnership clients. CUP services delivered outside the managed care plan are reimbursed and subject to the same program rules as apply to nonmanaged care clients.

(3) Clients receiving three-day or five-day detoxification services through the department are not eligible for the CUP women program.

AMENDATORY SECTION (Amending WSR 04-11-008, filed 5/5/04, effective 6/5/04)

**WAC 388-533-0720 Chemical-using pregnant (CUP) women program—Provider requirements.** (1) The medical assistance administration (MAA) pays only those providers who:

(a) Have been approved by MAA to provide chemical-using pregnant (CUP) women program services;

(b) Have been certified as chemical dependency service providers by the division of alcohol and substance abuse (DASA) as prescribed in chapter 388-805 WAC;

(c) Meet the hospital standards prescribed by the Joint Commission on Accreditation of Healthcare Organizations (JCACHO);

(d) Meet the general provider requirements in chapter 388-502 WAC; and

(e) Are not licensed as an institution for mental disease (IMD) under Centers for Medicare and Medicaid (CMS) criteria.

(2) CUP women program service providers are required to:

(a) Report any changes in their certification, level of care, or program operations to the MAA CUP women program manager;

(b) Have written policies and procedures that include a working statement describing the purpose and methods of treatment for chemical-using/abusing pregnant women;

(c) Provide guidelines and resources for current medical treatment methods by specific drug and/or alcohol type;

(d) Have linkages with state and community providers to ensure a working knowledge exists of current medical and substance abuse resources; and

(e) Ensure that ~~((an Alcohol and Drug Addiction Treatment and Support Act (ADATSA) or))~~ a chemical dependency assessment of the client has been completed:

(i) By ~~((an ADATSA assessment agency))~~ a chemical dependency professional as defined in chapter 246-811 WAC;

(ii) Using the latest criteria of the American Society of Addiction Medicine (ASAM); and

(iii) No earlier than six months before, and no later than five days after, the client's admission to the CUP women program.

**AMENDATORY SECTION** (Amending WSR 04-11-008, filed 5/5/04, effective 6/5/04)

**WAC 388-533-0730 Chemical-using pregnant (CUP) women program—Covered services.** (1) The medical assistance administration (MAA) pays for the following covered services for a pregnant client and her fetus under the chemical-using pregnant (CUP) women program:

(a) Primary acute detoxification/medical stabilization;

(b) Secondary subacute detoxification/medical stabilization; and

(c) Rehabilitation treatment and services as determined by the provider.

(2) The maximum length of treatment per inpatient stay that MAA will pay for is twenty-six days, unless additional days have been preauthorized by the MAA CUP women program manager.

~~(3) ((If a client leaves or is discharged from an inpatient treatment program and then returns, the provider must obtain authorization from the MAA CUP women program manager to allow the client to either:~~

~~(a) Complete the original twenty-six day treatment plan;~~

~~(b) Begin a new twenty-six day treatment plan.~~

(4)) If a client's pregnancy ends before inpatient treatment is completed, a provider may continue the client's treatment through the twenty-sixth day.

ments include an office name change and reporting unit name change as well as several small wording revisions that clarify and make language consistent in the rules without changing their effect.

Citation of Existing Rules Affected by this Order: Amending WAC 478-04-030, 478-116-145, 478-116-161, 478-116-311, 478-116-431, 478-250-050, and 478-250-060.

Statutory Authority for Adoption: RCW 28B.20.130 for all sections; additionally: For WAC 478-04-030 is RCW 34.05.330; for WAC 478-116-145, 478-116-161, 478-116-311, and 478-116-431 is RCW 28B.10.560; and for WAC 478-250-050 and 478-250-060 is chapter 34.05 RCW, RCW 42.17.260 and 42.17.290.

Adopted under notice filed as WSR 05-02-025 on December 29, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 7, Repealed 0.

Date Adopted: March 28, 2005.

Rebecca Goodwin Dearthoff  
Director of Rules Coordination

**AMENDATORY SECTION** (Amending WSR 03-24-046, filed 11/26/03, effective 12/27/03)

**WAC 478-04-030 Meetings of the board of regents.**

(1) Regular meetings. Regular meetings of the board shall be held pursuant to a schedule established yearly by resolution of the board. Meetings of the board will be held in the Walker-Ames Room of Kane Hall on the campus in Seattle, Washington, or at such other place as the board may direct from time to time. The president of the board, with the concurrence of a majority of the members of the board, may cancel any regular meeting. All such regular meetings will be conducted in conformance with the laws of the state of Washington governing such meetings.

The board shall give no less than twenty-four hours notice of cancellation of a regular meeting.

(2) Special meeting. The president of the university, the president of the board, or any six members of the board may call a special meeting at any time. Not less than twenty-four hours before any special meeting, the secretary shall have notified each member of the board by written notice of the time, place, and the business to be transacted at the meeting. Such notice shall be distributed and posted in accordance with the laws of the state governing such meetings. The presence of a regent at the meeting or the regent's written waiver

WSR 05-08-064

PERMANENT RULES

UNIVERSITY OF WASHINGTON

[Filed March 31, 2005, 8:59 a.m., effective May 1, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Make housekeeping amendments to various Title 478 WAC, University of Washington rules. Amend-

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of notice filed with the secretary shall constitute a waiver of receiving written notice of the meeting. When the meeting is called to deal with an emergency involving injury or damage, or the likelihood of injury or damage, to persons or property, and the time requirements for notice provided for above would be impractical and increase the likelihood of such injury or damage, such required notice may be dispensed with and the secretary shall notify each member of the board by the best means possible under the circumstances.

(3) Notice of agenda for regular meeting. Not less than four days before any regular meeting, the secretary shall mail to each member of the board a reminder of the regular meeting and a preliminary agenda setting forth the matters which are to be considered at the meeting.

(4) Addenda to the agenda at regular or special meetings. Addenda to the agenda of either a regular or a special meeting may be permitted at the commencement of or during such meeting, except that final disposition shall not be taken on addenda to the agenda of a special meeting unless notice as required by applicable law has been given.

(5) Quorum. A majority of the entire board shall be necessary to constitute a quorum at all regular meetings and special meetings.

(6) Order of business. The following shall be the order of business at each regular meeting of the board:

- Report of the president of the board;
- Report of the president of the university;
- Consent agenda (including approval of minutes);
- Reports of standing committees of the board;
- Reports of special committees of the board; and
- Any other business that may properly come before the board.

The following shall be the order of business at each special meeting of the board:

- Reading of notice of meeting;
- The special business for which the meeting was called; and
- Any other business that may properly come before the board.

The order of business of the board may be changed or suspended at any meeting by a majority of the regents present. An item shall be removed from the consent agenda by request of any regent.

(7) Minutes. The minutes of all regular and special meetings of the board shall be kept by the secretary. Such minutes, following approval, shall be open to public inspection in the office of the secretary of the board of regents during regular university business hours.

(8) Public meetings. Regular and special meetings of the board of regents and committees thereof as required by applicable law shall be open to the public, except for executive sessions which may be held as permitted by applicable law. Board members may appear at any meeting through a telephone or video-conferencing device that permits communications with all other persons at the meeting. Persons wishing to appear before the board to make a presentation shall comply with the procedures as specified in subsection (11) of this section.

(9) Committee of the whole meetings. Meetings of the board as a committee of the whole may be held before regular

or special meetings of the board or at such time and such place as the president of the board may direct from time to time.

(10) Executive sessions. During any regular or special meeting of the board, the board may hold an executive session to discuss matters as permitted in applicable laws of the state of Washington.

(11) Communications to and appearance before the board. Any persons who wish to communicate to the board or appear before the board shall do so as follows:

(a) Communications to the board. Any person who wishes to bring a matter to the attention of the board may do so by submitting such communication in writing to the secretary of the board of regents. The secretary shall bring such written communications to the attention of the president of the board and the president of the university for direction as to response and/or transmittal to the board.

(b) Appearance before the board. The meetings of the board of regents are intended for presentation of agenda items by the chairs of the respective standing committees and by the president of the university for discussion and action by the members of the board. Public testimony on agenda items, or on other relevant items which any person may wish to call to the attention of the board, may be taken by the appropriate standing committee or by the committee of the whole. The chair of each committee shall have the discretion to limit the time and order of appearances as deemed desirable for a fair presentation of views consistent with the other business before the committee. In an unusual case, this subsection may be waived by the president of the board or by any other six members of the board.

(c) Petition to board for promulgation, amendment, or repeal of rule. Persons having an interest in the promulgation, amendment, or repeal of a "rule" as defined in RCW 34.05.010 may submit a written petition to the ~~((administrative procedures office, rules coordinator for the University of Washington))~~ university's rules coordination office. Any petition so submitted shall contain the name and address of the petitioner or petitioners, a description of the persons on whose behalf the petition is presented if it is presented in a representative capacity, a statement of the interest of the petitioner and/or the persons on whose behalf it is presented, and a statement of the reasons supporting the petition. If the petition is for the promulgation of a rule, it shall contain the proposed rule. If the petition is for an amendment of an existing rule, it shall contain the rule with the proposed deletions lined out and proposed additions underlined or italicized. If the petition is for the repeal of a rule, it shall contain a copy of the rule proposed to be repealed. The petition shall be considered by the board at the first regular meeting held not less than thirty days after the date the petition was submitted to the ~~((administrative procedures))~~ rules coordination office, provided that the board may consider the petition at any earlier regular or special meeting of the board.

Within sixty days after submission of a petition to the ~~((administrative procedures))~~ rules coordination office that is for the promulgation, amendment, or repeal of a "rule," as defined in RCW 34.05.010, the board shall either deny the petition in writing or initiate rule-making procedures in accordance with RCW 34.05.330.

(12) Rules of procedure. *Robert's Rules of Order*, latest revised edition, shall govern all meetings of the board and its committees except where such rules of order are superseded by the bylaws of the board of regents or standing orders of the board. Any member of the board may make a motion which need not be seconded in order to bring the subject of the motion before the board for action.

**AMENDATORY SECTION** (Amending WSR 04-13-086, filed 6/17/04, effective 8/16/04)

**WAC 478-116-145 Night and swing permits.** (1) Night and swing permits allow for parking within the period of time printed on the permit. Parking on Saturday is allowed in unrestricted areas unless otherwise reserved for event parking as authorized by parking services.

(2) Gate-issued or machine-issued ((evening)) night permits are valid only until 7:30 a.m. of the following day.

(3) Night permit holders who purchase gatehouse parking weekdays between 2:30 p.m. and 4:00 p.m., will be charged the night extension rate.

**AMENDATORY SECTION** (Amending WSR 04-13-086, filed 6/17/04, effective 8/16/04)

**WAC 478-116-161 Parking fee payment.** Regardless of payment method used, payment for a parking permit is the sole responsibility of the permit holder and failure to pay the parking permit fee is grounds for recall under WAC 478-116-184 (1)(d). The permit holder remains responsible for payment of parking fees until the permit is returned or expires. Payment for a parking permit may be made in one of the following ways:

(1) By cash, by Husky Card debit account ((~~debit~~)), and by check or money order payable to the University of Washington. In the case of payment by Husky Card debit account ((~~debit~~)), any previously uncollected fees will be charged to Husky Card accounts when sufficient balances become available.

(2) Permanent faculty and staff members regularly receiving University of Washington semimonthly paychecks may pay for a permit by payroll deduction.

(a) Deductions will be taken from the semimonthly paycheck for the current period and for all previous parking periods not yet collected. Persons selecting this plan must complete a payroll deduction authorization form online or in person in addition to the appropriate parking permit application.

(b) Deductions are terminated by completing a payroll deduction termination form and returning any unexpired permit.

**AMENDATORY SECTION** (Amending WSR 04-13-086, filed 6/17/04, effective 8/16/04)

**WAC 478-116-311 Motor vehicle fines and penalties.** The following schedule of fines for violation of the rules listed below is hereby established:

OFFENSE	MAXIMUM FINE
01 Obstructing traffic or pedestrian movements . . . . . WAC 478-116-245	\$ 35.00
02 Enter/exit without paying . . . . . WAC 478-116-251	25.00
03 Failure to lock ignition and/or set brakes . . . . . WAC 478-116-281	15.00
04 Improper display of vehicle permit. . . . . WAC 478-116-223	12.00
05 Permit not registered to this vehicle . . . . . WAC 478-116-227	5.00
06 Occupying more than one stall or space. . . . . WAC 478-116-271	20.00
07 Parking in restricted parking area. . . . . WAC 478-116-251	35.00
08 Parking in prohibited area. . . . . WAC 478-116-253	35.00
09 Parking on planted areas. . . . . WAC 478-116-261	25.00
10 Parking out of assigned area. . . . . WAC 478-116-261	15.00
11 Parking over posted time limit . . . . . WAC 478-116-251	30.00
12 Parking with no valid permit displayed . . . . . WAC 478-116-201	30.00
13 Parking at expired meter. . . . . WAC 478-116-211	30.00
14 Parking outside cycle area . . . . . WAC 478-116-221	10.00
15 Parking in space/area not designated for parking. . . . . WAC 478-116-261	25.00
16 Parking while privilege suspended . . . . . WAC 478-116-184	100.00
17 Use of forged/stolen vehicle permit . . . . . WAC 478-116-184 and 478-116-227	250.00
18 Use of revoked permit. . . . . WAC 478-116-231	100.00
19 Unauthorized overnight parking of a motor home. . . . . WAC 478-116-125	50.00
20 (( <del>Impound</del> )) <u>Impoundment</u> . . . . . WAC 478-116-291	At cost
21 Other violations of the university parking and traffic rules . . . . .	25.00
22 Parking in space designated for disability or wheelchair. . . . . WAC 478-116-255	250.00

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OFFENSE	MAXIMUM FINE
23 Penalty for failure to pay fine, respond, or comply with final decision of citation hearing office within time limits . . . . .	25.00
WAC 478-116-520	

AMENDATORY SECTION (Amending WSR 04-13-086, filed 6/17/04, effective 8/16/04)

**WAC 478-116-431 Notice and redemption of impounded vehicles.** (1) Not more than one business day after impoundment of any vehicle, the University of Washington police department shall mail a notice to the registered owner of the vehicle, as may be disclosed by the vehicle license number, if such be obtainable, and to any other person who claims the right to possession of the vehicle, if such a claim is known to an officer, agent or employee of the University of Washington police department who has knowledge of the impoundment. The notice shall be mailed to the registered owner at the address provided by the Washington state department of licensing or the corresponding agency of any other state or province. If a police officer who has knowledge of the impoundment has reason to believe that an owner, or one who claims to be an owner, is residing or in custody at some different address which is known to the officer, a copy of the notice shall be mailed or personally delivered to such owner or claimant in a manner designed, as nearly as may be practicable, to give actual notice to the owner. The notice shall contain the full particulars of the impoundment, redemption, and an opportunity to contest the propriety of the impoundment as provided in WAC 478-116-541.

Similar notice shall be given to each person who seeks to redeem an impounded vehicle. If a vehicle is redeemed prior to the mailing of notice, the notice need not be mailed.

(2) Motor vehicles impounded shall be redeemed only under the following circumstances:

(a) Only the registered owner who has a valid driver's license or person authorized by the registered owner who has a valid driver's license and who produces proof of authorization and signs a receipt (~~therefore~~) for it, may redeem an impounded motor vehicle.

(b) Any person so redeeming a motor vehicle impounded shall pay the cost of such impoundment (towing and storage), together with such fines as are outstanding against the vehicle if impoundment was made pursuant to WAC 478-116-401 prior to redemption, except as provided in (c) of this subsection.

(c) Any person seeking to redeem a motor vehicle impounded under WAC 478-116-401, 478-116-411 or 478-116-421 has a right to contest the validity of impoundment or the amount of towing and storage charges and shall have the motor vehicle released upon requesting a review as provided in WAC 478-116-541, and paying any outstanding fines, towing and storage charges.

(3) In addition to any other penalty which may be imposed as a result of actions described in subsection (2)(c) of this section, campus parking privileges shall be suspended until all such debts are paid.

AMENDATORY SECTION (Amending WSR 01-11-136, filed 5/23/01, effective 6/23/01)

**WAC 478-250-050 University rules coordination.** (1) (~~University rules~~) Coordination of university rules shall be conducted by the (~~administrative procedures~~) rules coordination office, which reports to the office of the (~~vice president for university relations~~) vice-provost.

(2) The director of the (~~administrative procedures~~) rules coordination office shall have knowledge of the subjects of rules being proposed or prepared within the university, maintain the records of any such action, and respond to public inquiries about possible, proposed, or existing rules and the identity of university personnel developing, reviewing, or commenting on them.

AMENDATORY SECTION (Amending WSR 97-14-004, filed 6/19/97, effective 7/20/97)

**WAC 478-250-060 Rule indexing.** (1) Content. The university (~~administrative procedures~~) rules coordination office shall maintain an index of final orders, declaratory orders, interpretive statements, and policy statements, as defined by RCW 42.17.260(5), issued after June 30, 1990, by the board of regents of the University of Washington, the president of the University of Washington, or their designees.

(2) Form. The index shall reference final orders, declaratory orders, interpretive statements, or policy statements by one or more of the following classifications: Date of implementation, organizational unit, or subject matter.

**WSR 05-08-070**

**PERMANENT RULES**

**DEPARTMENT OF REVENUE**

[Filed March 31, 2005, 3:50 p.m., effective May 1, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To determine the amount of forest excise tax due, a harvester must determine the volume of logs that he or she has harvested. The department has adopted industry standards of scaling to make these determinations. For logs harvested in western Washington, the department has used the standards established by the Northwest Log Rules Advisory Group. Because this group had not adopted similar standards for harvests in eastern Washington, the current rule requires the use of scaling guidelines prepared by the United States Forest Service (USFS) for that area of the state.

Recently, the Northwest Log Rules Advisory Group adopted standards applicable to eastside logging. The amended rule replaces the USFS rules with the newer industry-standard eastside log sealing rules developed by the Northwest Log Rules Advisory Group. The only exception is that the department will continue to require timber harvested in stumpage value areas 6 and 7 to be scaled according to the taper rules in effect at the point of origin.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-610 Definitions and 458-40-680 Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions.

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Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 84.33.096.

Adopted under notice filed as WSR 04-24-102 on December 1, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: March 31, 2005.

Janis P. Bianchi, Manager  
Interpretations and  
Technical Advice Unit

**AMENDATORY SECTION** (Amending WSR 02-21-005, filed 10/3/02, effective 11/3/02)

**WAC 458-40-610 Timber excise tax—Definitions.** (1) **Introduction.** The purpose of WAC 458-40-610 through 458-40-690 is to prescribe the policies and procedures for the taxation of timber harvested from public and private forest lands as required by RCW 84.33.010 through 84.33.096.

Unless the context clearly requires otherwise, the definitions in this rule apply to WAC 458-40-610 through 458-40-690. In addition to the definitions found in this rule, definitions of technical forestry terms may be found in *The Dictionary of Forestry*, 1998, edited by John A. Helms, and published by the Society of American Foresters.

(2) **Codominant trees.** Trees whose crowns form the general level of the main canopy and receive full light from above, but comparatively little light from the sides.

(3) **Competitive sales.** The offering for sale of timber which is advertised to the general public for sale at public auction under terms wherein all qualified potential buyers have an equal opportunity to bid on the sale, and the sale is awarded to the highest qualified bidder. The term "competitive sales" includes making available to the general public permits for the removal of forest products.

(4) **Cord measurement.** A measure of wood with dimensions of 4 feet by 4 feet by 8 feet (128 cubic feet).

(5) **Damaged timber.** Timber where the stumpage values have been materially reduced from the values shown in the applicable stumpage value tables due to damage resulting from fire, blow down, ice storm, flood, or other sudden unforeseen causes.

(6) **Dominant trees.** Trees whose crowns are higher than the general level of the main canopy and which receive full light from the sides as well as from above.

(7) **Harvest unit.** An area of timber harvest, defined and mapped by the harvester before harvest, having the same stumpage value area, hauling distance zone, harvest adjustments, harvester, and harvest identification. The harvest identification may be a department of natural resources forest practice application number, public agency harvesting permit number, public sale contract number, or other unique identifier assigned to the timber harvest area prior to harvest operations. A harvest unit may include more than one section, but harvest unit may not overlap a county boundary.

(8) **Harvester.** Every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use. The term "harvester" does not include persons performing under contract the necessary labor or mechanical services for a harvester. In cases where the identity of the harvester is in doubt, the department of revenue will consider the owner of the land from which the timber was harvested to be the harvester and the one liable for paying the tax.

The definition above applies except when the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use. When a governmental entity described above fells, cuts, or takes timber, the harvester is the first person, other than another governmental entity as described above, acquiring title to or a possessory interest in such timber.

(9) **Harvesting and marketing costs.** Only those costs directly and exclusively associated with harvesting the timber from the land and delivering it to the buyer. The term includes the costs of slash disposal required to abate extreme fire hazard. Harvesting and marketing costs do not include the costs of reforestation, permanent road construction, or any other costs not directly and exclusively associated with the harvesting and marketing of the timber. The actual harvesting and marketing costs must be used in all instances where documented records are available. When the taxpayer is unable to provide documented proof of such costs, the deduction for harvesting and marketing costs is thirty-five percent of the gross receipts from the sale of the logs.

(10) **Hauling distance zone.** An area with specified boundaries as shown on the statewide stumpage value area and hauling distance zone maps contained in WAC 458-40-640, having similar accessibility to timber markets.

(11) **Legal description.** A description of an area of land using government lots and standard general land office subdivision procedures. If the boundary of the area is irregular, the physical boundary must be described by metes and bounds or by other means that will clearly identify the property.

(12) **Log grade.** Those grades listed in the *"Official Log Scaling and Grading Rules"* developed and authored by the Northwest Log Rules Advisory Group (Advisory Group). "Utility grade" means logs that do not meet the minimum requirements of peeler or sawmill grades as defined in the *"Official Log Scaling and Grading Rules"* published by the Advisory Group but are suitable for the production of firm useable chips to an amount of not less than fifty percent of the

gross scale; and meeting the following minimum requirements:

- (a) Minimum gross diameter—two inches.
  - (b) Minimum gross length—twelve feet.
  - (c) Minimum volume—ten board feet net scale.
  - (d) Minimum recovery requirements—one hundred percent of adjusted gross scale in firm useable chips.
- (13) **Lump sum sale.** Also known as a cash sale or an installment sale, it is a sale of timber where all the volume offered is sold to the highest bidder.
- (14) **MBF.** One thousand board feet measured in Scribner Decimal C Log Scale Rule.
- (15) **Noncompetitive sales.** Sales of timber in which the purchaser has a preferential right to purchase the timber or a right of first refusal.
- (16) **Other consideration.** Value given in lieu of cash as payment for stumpage, such as improvements to the land that are of a permanent nature. Some examples of permanent improvements are as follows: Construction of permanent roads; installation of permanent bridges; stockpiling of rock intended to be used for construction or reconstruction of permanent roads; installation of gates, cattle guards, or fencing; and clearing and reforestation of property.
- (17) **Permanent road.** A road built as part of the harvesting operation which is to have a useful life subsequent to the completion of the harvest.
- (18) **Private timber.** All timber harvested from privately owned lands.
- (19) **Public timber.** Timber harvested from federal, state, county, municipal, or other government owned lands.
- (20) **Remote island.** An area of land which is totally surrounded by water at normal high tide and which has no bridge or causeway connecting it to the mainland.
- (21) **Scale sale.** A sale of timber in which the amount paid for timber in cash and/or other consideration is the arithmetic product of the actual volume harvested and the unit price at the time of harvest.
- (22) **Small harvester.** A harvester who harvests timber from privately or publicly owned forest land in an amount not exceeding two million board feet in a calendar year.
- (23) **Species.** A grouping of timber based on biological or physical characteristics. In addition to the designations of species or subclassifications defined in Agriculture Handbook No. 451 Checklist of United States Trees (native and naturalized) found in the state of Washington, the following are considered separate species for the purpose of harvest classification used in the stumpage value tables:
- (a) **Other conifer.** All conifers not separately designated in the stumpage value tables. See WAC 458-40-660.
  - (b) **Other hardwood.** All hardwoods not separately designated in the stumpage value tables. See WAC 458-40-660.
  - (c) **Special forest products.** The following are considered to be separate species of special forest products: Christmas trees (various species), posts (various species), western redcedar flatsawn and shingle blocks, western redcedar shake blocks and boards.
  - (d) **Chipwood.** All timber processed to produce chips or chip products delivered to an approved chipwood destination that has been approved in accordance with the provisions of

WAC 458-40-670 or otherwise reportable in accordance with the provisions of WAC 458-40-670.

(e) **Small logs.** All conifer logs harvested in stumpage value areas 6 or 7 generally measuring seven inches or less in scaling diameter, purchased by weight measure at designated small log destinations that have been approved in accordance with the provisions of WAC 458-40-670. Log diameter and length is measured in accordance with ((USFS scaling rules)) the Eastside Log Scaling Rules developed and authored by the Northwest Log Rules Advisory Group, with length not to exceed twenty feet.

(f) **Sawlog.** For purposes of timber harvest in stumpage value areas 6 and 7, a sawlog is a log having a net scale of not less than 33 1/3% of gross scale, nor less than ten board feet and meeting the following minimum characteristics: Gross scaling diameter of five inches and a gross scaling length of eight feet.

(g) **Piles.** All logs sold for use or processing as piles that meet the specifications described in the most recently published edition of the *Standard Specification for Round Timber Piles (Designation: D 25)* of the American Society for Testing and Materials.

(h) **Poles.** All logs sold for use or processing as poles that meet the specifications described in the most recently published edition of the *National Standard for Wood Poles—Specifications and Dimensions (ANSI 05.1)* of the American National Standards Institute.

(24) **Stumpage.** Timber, having commercial value, as it exists before logging.

(25) **Stumpage value.** The true and fair market value of stumpage for purposes of immediate harvest.

(26) **Stumpage value area (SVA).** An area with specified boundaries which contains timber having similar growing, harvesting and marketing conditions.

(27) **Taxable stumpage value.** The value of timber as defined in RCW 84.33.035(7), and this chapter. Except as provided below for small harvesters and public timber, the taxable stumpage value is the appropriate value for the species of timber harvested as set forth in the stumpage value tables adopted under this chapter.

(a) **Small harvester option.** Small harvesters may elect to calculate the excise tax in the manner provided by RCW 84.33.073 and 84.33.074. The taxable stumpage value must be determined by one of the following methods as appropriate:

(i) **Sale of logs.** Timber which has been severed from the stump, bucked into various lengths and sold in the form of logs has a taxable stumpage value equal to the actual gross receipts for the logs, less any costs associated with harvesting and marketing the timber.

(ii) **Sale of stumpage.** When standing timber is sold and harvested within twenty-four months of the date of sale, its taxable stumpage value is the actual purchase price in cash and/or other consideration for the stumpage for the most recent sale prior to harvest. If a person purchases stumpage, harvests the timber more than twenty-four months after purchase of the stumpage, and chooses to report under the small harvester option, the taxable stumpage value is the actual gross receipts for the logs, less any costs associated with har-

vesting and marketing the timber. See WAC 458-40-626 for timing of tax liability.

(b) **Public timber.** The taxable stumpage value for public timber sales is determined as follows:

(i) **Competitive sales.** The taxable stumpage value is the actual purchase price in cash and/or other consideration. The value of other consideration is the fair market value of the other consideration; provided that if the other consideration is permanent roads, the value is the appraised value as appraised by the seller. If the seller does not provide an appraised value for roads, the value is the actual costs incurred by the purchaser for constructing or improving the roads. Other consideration includes additional services required from the stumpage purchaser for the benefit of the seller when these services are not necessary for the harvesting or marketing of the timber. For example, under a single stumpage sale's contract, when the seller requires road abandonment (as defined in WAC 222-24-052(3)) of constructed or reconstructed roads which are necessary for harvesting and marketing the timber, the construction and abandonment costs are not taxable. Abandonment activity on roads that exist prior to a stumpage sale is not necessary for harvesting and marketing the purchased timber and those costs are taxable.

(ii) **Noncompetitive sales.** The taxable stumpage value is determined using the department of revenue's stumpage value tables as set forth in this chapter. Qualified harvesters may use the small harvester option.

(iii) **Sale of logs.** The taxable stumpage value for public timber sold in the form of logs is the actual purchase price for the logs in cash and/or other consideration less appropriate deductions for harvesting and marketing costs. Refer above for a definition of "harvesting and marketing costs."

(iv) **Defaulted sales and uncompleted contracts.** In the event of default on a public timber sale contract, wherein the taxpayer has made partial payment for the timber but has not removed any timber, no tax is due. If part of the sale is logged and the purchaser fails to complete the harvesting, taxes are due on the amount the purchaser has been billed by the seller for the volume removed to date. See WAC 458-40-628 for timing of tax liability.

(28) **Thinning.** Timber removed from a harvest unit located in stumpage value area 1, 2, 3, 4, 5, or 10:

(a) When the total volume removed is less than forty percent of the total merchantable volume of the harvest unit prior to harvest; and

(b) The harvester leaves a minimum of one hundred undamaged, evenly spaced, dominant or codominant trees per acre of a commercial species or combination thereof.

**AMENDATORY SECTION** (Amending WSR 03-22-099, filed 11/5/03, effective 12/6/03)

**WAC 458-40-680 Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions.** (1) **Introduction.** The acceptable log scaling and grading standard for stumpage value areas 1, 2, 3, 4, 5, and 10 is the Scribner Decimal C log rule as described in the most current edition of the "Official Log Scaling and Grading Rules" developed and authored by the

Northwest Log Rules Advisory Group. The acceptable log scaling standard for stumpage value areas 6 and 7 is the Scribner Decimal C log rule described in the most current edition of the "~~((National Forest))~~ Eastside Log Scaling Handbook" (~~((FSH 2409-11))~~) as published by the ~~((United States Forest Service. Lodgepole pine harvested in stumpage value areas 6, 7, or 10 must be scaled using a one inch taper allowance per log segment))~~ Northwest Log Rules Advisory Group, except that timber harvested in stumpage value areas 6 and 7 must be scaled using the current regional taper rules at the point of origin.

(2) **Special services scaling.** Special services scaling as described in the "Official Log Scaling and Grading Rules" developed and authored by the Northwest Log Rules Advisory Group may not be used for tax reporting purposes without prior written approval of the department of revenue.

(3) **Sample scaling.** Sample scaling may not be used for tax reporting purposes without prior written approval of the department of revenue. To be approved, sample scaling must be in accordance with the following guidelines:

(a) Sample selection, scaling, and grading must be conducted on a continuous basis as the unit is harvested.

(b) The sample must be taken in such a manner to assure random, unbiased sample selection in accordance with accepted statistical tests of sampling.

(c) The sample used to determine total volume, species, and quality of timber harvested for a given reporting period must have been taken during that period.

(d) Sample frequency must be large enough to meet board foot variation accuracy limits of plus or minus two and five-tenths percent standard error at the ninety-five percent confidence level.

(e) Harvesters, or a purchaser with an approved sample scaling method, must maintain sufficient supporting documentation to allow the department of revenue to verify source data, and test statistical reliability of sample scale systems.

(f) Exceptions: Sampling designs and accuracy standards other than those described herein may only be used with the prior written approval of the department of revenue.

(4) **Conversions to Scribner Decimal C Scale.** The following definitions, tables, and conversion factors must be used in determining taxable volume for timber harvested that was not originally scaled by the Scribner Decimal C Log Rule. Conversion methods other than those listed are not to be used for tax reporting purposes without prior written approval of the department of revenue. Harvesters who wish to use a method of conversion other than those listed below must obtain written approval from the department of revenue before harvesting. Purchasers may obtain written approval of a sample scaling method from the department of revenue. The department will maintain a list of purchasers with an approved sample scaling method. A harvester may obtain this list and a summary of the approved method for specific purchasers from the department of revenue. If a harvester has not obtained approval of a sample scaling method before harvesting, the harvester may use a purchaser's approved sample scaling method. If the harvester, or purchaser, fails to use an approved sample scaling method or other method of conversion approved by these rules to set the purchase price, the department will establish its own method, as the circum-

stances require, to determine a reasonable estimate of the volume of timber sold.

(a) **Weight measurement.** If the sole unit of measure used to set the purchase price for logs from harvest units that meet the definition of the lowest quality code for each species was weight, and the harvester does not use an approved method of sample scaling to determine volume for the stumpage value tables, the following tables must be used for converting to Scribner Decimal C. If weight is the sole measure used for a harvest unit with quality codes other than the lowest, the department will establish its own method, as the circumstances require, to determine a reasonable estimate of the volume of timber sold. Harvesters must keep records to substantiate the species and quality codes reported. For tax reporting purposes, a ton equals 2,000 pounds.

(Stumpage Value Areas 1, 2, 3, 4, 5, & 10) BOARD FOOT WEIGHT SCALE FACTORS (TONS/MBF)				
Species	Quality code			
	1	2	3	4
Douglas-fir <sup>1</sup>	NA	NA	NA	7.50
Western Hemlock <sup>2</sup>	NA	NA	NA	8.25
Western Redcedar <sup>3</sup>	7.0			
Red Alder <sup>4</sup>	NA	7.8		
Chipwood	9.0			

- <sup>1</sup> Includes Douglas-fir, Western Larch, and Sitka Spruce.
- <sup>2</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and other conifers not separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- <sup>3</sup> Includes Alaska-cedar.
- <sup>4</sup> Maple, Black Cottonwood and other hardwoods.

Species	Quality code	
	1	2
Chipwood	9.0	
Small Logs	6.50	

- <sup>1</sup> Includes Western Larch.
- <sup>2</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and other conifers not separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- <sup>3</sup> Includes Alaska-cedar.

(b) **Cord measurement.** For the purposes of converting cords into Scribner volume:

(i) In stumpage value areas 1, 2, 3, 4, 5, and 10 logs with an average scaling diameter of 8 inches and larger must be converted to Scribner volume using 400 board feet per cord. Logs having an average scaling diameter of less than 8 inches must be converted to Scribner volume using 330 board feet per cord.

(ii) In stumpage value areas 6 and 7 logs with an average scaling diameter of 8 inches and larger must be converted to Scribner volume using 470 board feet per cord. Logs having an average scaling diameter of less than 8 inches must be converted to Scribner volume using 390 board feet per cord.

(iii) A cord of Western Redcedar shake or shingle blocks must be converted to Scribner volume using 600 board feet per cord.

(c) **Cants or lumber from portable mills.** To convert from lumber tally to Scribner volume:

(i) In stumpage value areas 1, 2, 3, 4, 5, and 10 multiply the lumber tally for the individual species by 75%, and round to the nearest one thousand board feet (MBF); or

(ii) In stumpage value areas 6 and 7 multiply the lumber tally for the individual species by 88%, and round to the nearest one thousand board feet (MBF).

(d) **Log scale conversion.** Timber harvested in stumpage value areas 1, 2, 3, 4, 5, and 10 and which has been scaled by methods and procedures published in the "(National Forest) Eastside Log Scaling Handbook" ((FSH 2409-11)) must have the volumes reported reduced by eighteen percent. Timber harvested in stumpage value areas 6 and 7 and which has been scaled by methods and procedures published in the "Official Log Scaling and Grading Rules" developed and authored by the Northwest log rules advisory group, must have the volumes reported increased by eighteen percent.

(e) **Timber pole and piling volume tables.** Harvesters of poles must use the following tables to determine the Scribner board foot volume for each pole length and class:

(Stumpage Value Areas 6 & 7) BOARD FOOT WEIGHT SCALE FACTORS (TONS/MBF)		
Species	Quality code	
	1	2
Ponderosa Pine	NA	6.50
Douglas-fir <sup>1</sup>	5.50	
Lodgepole Pine	6.0	
Western Hemlock <sup>2</sup>	5.50	
Englemann Spruce	4.50	
Western Redcedar <sup>3</sup>	4.50	

Total Scribner Board Foot Volume Stumpage Value Areas 1, 2, 3, 4, 5, and 10																	
Length	Pole Class <sup>1</sup>															Piling Class <sup>2</sup>	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
20							50	50	40	40	30	30	20	20	20	80	70
25							60	60	50	50	40	40	30	30	30	100	90
30							110	70	60	60	50	50	40	40		130	110
35					160	160	130	100	80	80	60	60	50			130	110
40			240	200	180	180	150	120	120	90	70	60				150	120
45	380	340	340	280	230	230	190	150	120	120	90	90				150	120

PERMANENT

Total Scribner Board Foot Volume Stumpage Value Areas 1, 2, 3, 4, 5, and 10																	
Length	Pole Class <sup>1</sup>															Piling Class <sup>2</sup>	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
50	430	370	370	300	260	260	210	160	140	140	100					160	140
55	470	410	410	330	280	280	230	180	150	150						180	150
60	540	470	470	410	340	340	290	220	190	190						190	160
65	610	520	520	420	380	380	320	260	210	210						210	180
70	650	560	560	480	400	400	350	270	230	230						230	190
75	700	600	600	520	520	520	440	290	250							230	200
80	820	700	700	600	600	540	440	360	290							250	210
85	910	800	800	660	660	660	570	490	360							260	210
90	1080	930	930	820	820	690	590	490	400							260	220
95	1170	1000	1000	870	870	750	640	540								290	240
100	1190	1030	1030	900	900	760	660	550								310	250
105	1310	1160	1160	1000	1000	860	740	610								330	270
110	1370	1220	1220	1050	1050	910	780	650								380	300
115	1440	1280	1280	1100	1100	960	860	680								400	310
120	1660	1460	1460	1300	1300	1140	970	820								500	400
125	1840	1600	1600	1410	1410	1250	1080	930									
130	1920	1680	1680	1490	1490	1310	1120	970									

<sup>1</sup> Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976, under American National Standard Institute, Inc. codified ANSI 05.1-1972.

<sup>2</sup> Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

Total Scribner Board Foot Volume Stumpage Value Areas 6 and 7																	
Length	Pole Class <sup>1</sup>															Piling Class <sup>2</sup>	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
20							70	60	50	50	30	30	20	20	20	90	70
25							80	70	50	50	40	40	30	30	20	100	80
30							110	90	60	60	50	50	50	40		130	110
35					190	160	140	100	100	70	60	60	50			140	100
40				240	240	200	170	120	110	100	70	70				140	100
45	390	330	330	270	270	220	180	150	110	110	80	70				150	110
50	460	390	390	340	340	280	240	190	150	150	120					190	150
55	510	430	430	370	360	300	250	190	150	150						190	150
60	610	530	530	440	440	380	310	240	200	200						240	200
65	650	570	570	490	480	410	350	280	220	220						240	200
70	750	650	650	550	470	470	410	320	260	260						260	210
75	810	700	700	600	600	500	440	340	270							270	220
80	960	830	830	710	710	610	510	420	340							220	220
85	1020	870	870	760	760	640	550	450	360							300	240
90	1110	970	970	840	840	720	620	500	420							280	280
95	1160	1010	1010	870	870	740	640	510								360	280
100	1380	1210	1210	1060	1060	910	780	650								360	280
105	1430	1250	1250	1100	1100	940	820	690								400	300
110	1580	1390	1390	1220	1220	1070	920	770								460	340
115	1660	1470	1470	1280	1280	970	810	680								470	360
120	1880	1680	1680	1480	1480	1290	1130	950								560	450
125	1910	1690	1690	1490	1490	1140	970	810									
130	2170	1920	1920	1710	1710	1510	1320	1140									

<sup>1</sup> Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976, under American National Standard Institute, Inc. codified ANSI 05.1-1972.

<sup>2</sup> Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

PERMANENT

**WSR 05-08-078****PERMANENT RULES****DEPARTMENT OF AGRICULTURE**

[Filed April 1, 2005, 11:18 a.m., effective May 2, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule establishes department procedures for conducting commodity commission elections for advisory votes, marketing order referenda, and board member selection, specifically addressing how the department will handle unsigned ballot-mailing envelopes submitted by voters.

Statutory Authority for Adoption: RCW 15.65.047 and 15.66.055.

Adopted under notice filed as WSR 05-05-098 on February 16, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: April 1, 2005.

Valoria H. Loveland  
Director

**Procedural Rules for Administrative Function  
for Commodity Commissions Elections**

**NEW SECTION**

**WAC 16-501-525 Unsigned ballot envelopes: Advisory votes, referenda, and board member elections.** The director of the department of agriculture is responsible for administering elections for advisory votes, marketing order referenda and board member selection as required in chapters 15.65 and 15.66 RCW.

(1) The Department will mail ballots to those eligible to vote in each election according to the terms of the applicable statute and marketing order. Each voter will be provided an official ballot, instructions for voting, a security envelope and return ballot-mailing envelope with a "Certificate of Eligibility" (certification) printed on the reverse side of the envelope.

(2) After casting its vote in the election, an eligible voter must place the ballot in the security envelope. The security envelope is then to be placed in the ballot-mailing return envelope with the certification on the reverse side. To validate its ballot, the voter is required to complete, sign and date the certification.

(3) In the event a ballot is submitted to the Department and the certification is not signed and dated in accordance

with the instructions contained on the outside of the ballot-mailing return envelope or the ballot is returned in a different envelope without a certification, the Department shall process the ballot and the ballot-mailing return envelope as follows, if the Department is able to ascertain the identity of the eligible voter from the envelope:

(a) The Department will not open the ballot-mailing return envelope, but will make a copy of the reverse side of the ballot-mailing return envelope with the printed certification. The original ballot-mailing return envelope will be held by the Department.

(b) The Department will provide the eligible voter with a copy of the ballot-mailing return envelope with the certification and require the voter to sign the copy of the certification and mail it back to the Department so that it is received not later than the date specified in the correspondence accompanying the certification.

(c) The Department shall advise the voter about the correct procedures for completing the unsigned certification and that, in order for the ballot to be counted, the voter must sign and date the copy of the certification, and mail it back to the Department so that it does not arrive later than the specified date.

(d) The signed certification must be received by the Department within fourteen (14) calendar days from the date the copy of the certification was mailed to the voter as evidenced by the United States mail date stamp, for the voter's ballot to be validated.

(e) If the Department does not receive the signed certification with the requested information within the specified timeframe, the original ballot-mailing envelope will not be opened nor will the ballot it contains be counted. The unopened ballot-mailing envelope will be set aside and retained in accordance with the appropriate records retention schedule.

(4) A record shall be kept of the date on which the Department mailed the copy of the certification to the eligible voter, the date on which the voter signed the certification and the date that the Department received the certification. That record will be retained in accordance with applicable records retention schedules for ballots.

(5) Only validated ballots will be included in a ballot count.

(6) This rule applies to elections and run-offs required by statute that are conducted after the effective date of this rule. However, subsections (3) and (4) do not apply in an election once any election ballots have been counted or in a run-off election once any run-off election ballots have been counted.

(7) This rule does not apply if the recount period specified in the applicable statute has expired.

**WSR 05-08-093**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)

[Filed April 1, 2005, 3:47 p.m., effective May 2, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 388-519-0110 Spenddown of excess income for the medically needy program, is amended to add that unpaid medical expenses as well as paid medical expenses can be used to reduce spenddown due to excess income during the base period. This rule will keep Washington state in compliance with federal regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 388-519-0110.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Adopted under notice filed as WSR 05-05-083 on February 15, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: March 31, 2005.

Andy Fernando, Manager  
 Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-519-0110 Spenddown of excess income for the medically needy program.** (1) The person applying for MN medical coverage chooses a three month or a six month base period for spenddown calculation. The months must be consecutive calendar months unless one of the conditions in subsection (4) of this section apply.

(2) A person's base period begins on the first day of the month of application, subject to the exceptions in subsection (4) of this section.

(3) A separate base period may be made for a retroactive period. The retroactive base period is made up of the three calendar months immediately prior to the month of application.

(4) A base period may vary from the terms in subsections (1), (2), or (3) of this section if:

(a) A three month base period would overlap a previous eligibility period; or

(b) A client is not or will not be resource eligible for the required base period; or

(c) The client is not or will not be able to meet the TANF-related or SSI-related requirement for the required base period; or

(d) The client is or will be eligible for categorically needy (CN) coverage for part of the required base period; or

(e) The client was not otherwise eligible for MN coverage for each of the months of the retroactive base period.

(5) The amount of a person's "spenddown" is calculated by the department. The MN countable income from each month of the base period is compared to the MNIL. The excess income from each of the months in the base period is added together to determine the "spenddown" for the base period.

(6) If income varies and a person's MN countable income falls below the MNIL for one or more months, the difference is used to offset the excess income in other months of the base period. If this results in a spenddown amount of zero dollars and cents, see WAC 388-519-0100(5).

(7) Once a person's spenddown amount is known, their qualifying medical expenses are subtracted from that spenddown amount to determine the date of eligibility. The following medical expenses are used to meet spenddown:

(a) First, Medicare and other health insurance deductibles, coinsurance charges, enrollment fees, or copayments;

(b) Second, medical expenses which would not be covered by the MN program;

(c) Third, hospital expenses paid by the person during the base period;

(d) Fourth, hospital expenses, regardless of age, owed by the applying person;

(e) Fifth, other medical expenses, potentially payable by the MN program, which have been paid by the applying person during the base period; and

(f) Sixth, other medical expenses, potentially payable by the MN program which are owed by the applying person.

(8) If a person meets the spenddown obligation at the time of application, they are eligible for MN medical coverage for the remainder of the base period. The beginning date of eligibility would be determined as described in WAC 388-416-0020.

(9) If a person's spenddown amount is not met at the time of application, they are not eligible until they present evidence of additional expenses which meets the spenddown amount.

(10) To be counted toward spenddown, medical expenses must:

(a) Not have been used to meet a previous spenddown; and

(b) Not be the confirmed responsibility of a third party. The entire expense will be counted unless the third party confirms its coverage within:

(i) Forty-five days of the date of the service; or

(ii) Thirty days after the base period ends; and

(c) Meet one of the following conditions:

(i) Be an unpaid liability at the beginning of the base period and be for services for:

(A) The applying person; or

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(B) A family member legally or blood-related and living in the same household as the applying person.

(ii) Be for medical services (~~((received and))~~) either paid (~~((for))~~) or unpaid and incurred during the base period; or

(iii) Be for medical services (~~((received and))~~) paid (~~((for))~~) and incurred during a previous base period if that client payment was made necessary due to delays in the certification for that base period.

(11) An exception to the provisions in subsection (10) of this section exists. Medical expenses the person owes are applied to spenddown even if they were paid by or are subject to payment by a publicly administered program during the base period. To qualify, the program cannot be federally funded or make the payments of a person's medical expenses from federally matched funds. The expenses do not qualify if they were paid by the program before the first day of the base period.

(12) The following medical expenses which the person owes are applied to spenddown. Each dollar of an expense or obligation may count once against a spenddown cycle that leads to eligibility for MN coverage:

(a) Charges for services which would have been covered by the department's medical programs as described in chapter 388-529 WAC, less any confirmed third party payments which apply to the charges; and

(b) Charges for some items or services not typically covered by the department's medical programs, less any third party payments which apply to the charges. The allowable items or services must have been provided or prescribed by a licensed health care provider; and

(c) Medical insurance and Medicare copayments or coinsurance (premiums are income deductions under WAC 388-519-0100(4)); and

(d) Medical insurance deductibles including those Medicare deductibles for a first hospitalization in sixty days.

(13) Medical expenses may be used more than once if:

(a) The person did not meet their total spenddown amount and did not become eligible in that previous base period; and

(b) The medical expense was applied to that unsuccessful spenddown and remains an unpaid bill.

(14) To be considered toward spenddown, written proof of medical expenses must be presented to the department. The deadline for presenting medical expense information is thirty days after the base period ends unless good cause for delay can be documented.

(15) Once a person meets their spenddown and they are issued a medical identification card for MN coverage, newly identified expenses cannot be considered toward that spenddown. Once the application is approved and coverage begins the beginning date of the certification period cannot be changed due to a clients failure to identify or list medical expenses.

## WSR 05-08-094

### PERMANENT RULES

### DEPARTMENT OF HEALTH

[Filed April 1, 2005, 4:06 p.m., effective May 2, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rule has been reviewed and redrafted to improve its clarity, note changes in reporting, and update Advisory Committee on Immunization Practice (ACIP) recommendations on childhood and adolescent immunization. In 2003, the State Board of Health determined that current language could be made more clear. Since the rule's original adoption in 1997, new technology makes it possible to consider a single reporting date and electronic filing for schools, preschools, and childcare centers. In addition, the ACIP has revised the childhood and adolescent immunization schedule yearly.

Citation of Existing Rules Affected by this Order: Amending WAC 246-100-166.

Statutory Authority for Adoption: RCW 28A.210.140.

Adopted under notice filed as WSR 05-04-113 on February 2, 2005.

A final cost-benefit analysis is available by contacting Karen Arbogast, P.O. Box 47830, Olympia, WA 98504, phone (360) 236-3540, fax (360) 236-3590, e-mail Karen.Arbogast@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: March 30, 2005.

Craig McLaughlin  
Executive Director  
State Board of Health

AMENDATORY SECTION (Amending WSR 96-04-079, filed 2/7/96, effective 3/9/96)

**WAC 246-100-166 Immunization of child care and school children against certain vaccine-preventable diseases.** (1) (~~Definitions for purposes of this section:~~

~~(a) "Certificate of immunization status (CIS) form" means a form provided by the department labeled DOH 348-013, including data entry spaces for immunization information including:~~

- (i) Name of child or student,
- (ii) Birth date,
- (iii) Gender,
- (iv) Type of vaccine,

(v) Date of each dose of vaccine received specifying day, month, and year;

(vi) Signature of parent, legal guardian, or adult in loco parentis, and

(vii) Documented exemptions, if applicable and as specified in subsection (5) of this section.

(b)) Purpose. Under the authority of RCW 43.20.050 and 28A.210.140, the state board of health is empowered to adopt rules to establish immunization requirements upon entry into school and child care. The following rule improves the public health of Washington by preventing vaccine-preventable disease outbreaks.

(2) Definitions. The words and phrases in this section have the following meanings:

(a) Certificate of immunization status (CIS) means:

(i) A certificate of immunization status form approved by the department; or

(ii) A CHILD profile immunization record; or

(iii) Any other immunization form approved by the department.

(b) "Chief administrator" means:

(i) The person with the authority and responsibility for ((the immediate supervision of the)) supervising the immediate operation of a school((;)) or child care ((center;)); or

(ii) A ((designee of the chief administrator assigned)) person designated in writing ((to carry out the requirements of RCW 28A.210.160 through)) by the statutory or corporate board of directors of the school district or school((;)); or

(iii) In the absence of the above, a person or persons with the authority and responsibility for supervising the general ((supervision of the)) operation of the school district ((or school)).

(c) "Child" means any person regardless of age admitted to ((any child care center, preschool, kindergarten, or grades one through twelve program of education in)):

(i) Any public school district((;)); or

(ii) Any private school or private institution subject to approval by the state board of education or described in RCW 28A.305.130 and 28A.195.010 through 28A.195.060((;)); or

(iii) Any ((licensed)) child care ((facility which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours subject to licensure by the department of social and health services as described in chapter 74.15 RCW)) center.

(d) (("Full immunization" means vaccinated in accordance with schedules and immunizing agents approved by the state board of health in WAC 246-100-166 against:

(i) Diphtheria;

(ii) Tetanus;

(iii) Pertussis or whooping cough;

(iv) Measles or rubeola;

(v) Rubella;

(vi) Mumps;

(vii) Poliomyelitis;

(viii) Haemophilus influenzae type b disease, and

(ix) Hepatitis b, after September 1, 1997.

(e)) "Child care center" means any licensed facility or center that regularly provides care of children for periods of less than twenty-four hours per day subject to licensure by the

department of social and health services as described in chapter 74.15 RCW.

(e) "Conditional status" is a type of immunization status where a child is not fully immunized under (g) of this subsection and is in the process of completing the required immunizations for his/her age.

(f) "Exemption" is a type of immunization status where a child is not fully immunized under (g) of this subsection and meets school and child care documentation requirements under subsection (4)(b)(i) of this section.

(g) "Full immunization" or "fully immunized" is an immunization status where a child has been vaccinated at ages and intervals consistent with the National Immunization Guidelines, with immunizing agents against:

(A) Diphtheria;

(B) Tetanus;

(C) Pertussis (whooping cough);

(D) Poliomyelitis;

(E) Measles (rubeola);

(F) Mumps;

(G) Rubella;

(H) Hepatitis B; and

(I) Haemophilus influenzae type B disease.

(h) "Immunizing agent((s))" means any vaccine or other ((biologic)) immunologic drug licensed and approved by the United States Food and Drug Administration (FDA), or meeting World Health Organization (WHO) requirements, for immunization of persons against((:

(i) Diphtheria, tetanus, pertussis (DTP, DT, Td);

(ii) Measles;

(iii) Mumps;

(iv) Poliomyelitis, types I, II, and III (TOPV, IPV);

(v) Rubella;

(vi) Haemophilus influenzae type b vaccine (Hib); and

(vii) Hepatitis b.

(f)) vaccine-preventable diseases.

(i) "Local health officer" means the individual appointed under chapter 70.05 RCW as the health officer for the local health department, or appointed under chapter 70.08 RCW as the director of public health of a combined city-county or combined county health district.

(j) "National Immunization Guidelines" means the schedule for the immunization described in the "Recommended Childhood and Adolescent Immunization Schedule: United States—((January 1995,)) 2005" approved by the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).

((g)) (k) "Parent" means ((a person who is)), for the purposes of signature requirements in this rule:

(i) The mother, father, legal guardian, or any adult in loco parentis of a child seventeen years of age or younger; or

(ii) A person eighteen years of age or older; or

(iii) An emancipated minor.

((h) "Transfer student" means a student previously enrolled in grades kindergarten through twelve moving from one school district or system to another at any time during the school year, excluding students transferring within a district or system when the school transfers records within the district.

(2) Full immunization schedule. Each child care center, preschool, and school shall establish and maintain requirements for full immunization of children attending child care and preschool through grade twelve.

(3) For child care and preschool children, full immunization means a child received age appropriate vaccines as enumerated in the National Immunization Guidelines as defined in subsection (1) of this section.

(4) For a child entering kindergarten or first grade (school entry level), full immunization means a child received age appropriate vaccines as enumerated in the National Immunization Guidelines as defined in subsection (1) of this section.

For transfer students and those above kindergarten or first grade, full immunization means a child received age appropriate vaccines consistent with the National Immunization Guidelines as defined in subsection (1) of this section (not required of persons eighteen years of age and older).

(5) Conditions for child care, preschool, and school attendance when a child is not fully immunized:

(a) When a child lacks full immunization, the child care center, preschool, or school shall require satisfactory progress toward full immunization (conditional status) as a condition of school attendance including:

(i) Documented proof of start or continuance of child's schedule of immunization;

(ii) Assurance the scheduled immunization is consistent with the national immunization guidelines defined in subsection (1) of this section;

(iii) Notification of child's parent(s) of when the schedule must be completed; and

(iv) Exclusion of child from attendance as described in subsection (9) of this section if child has not received required immunizations on schedule and if sufficient time has elapsed (one month from date due) for completion of next dose.

(6) Schools, preschools, and child care centers shall require documented proof related to immunization including:

(a) Completion of a certificate of immunization status (CIS) form by a parent as documented proof of:

(i) Full immunization, or

(ii) Initiation or continuation of a schedule (conditional status), or

(iii) Exemption.

(b) Information from a written personal immunization record, as the source of the immunization data entered on the CIS form (substitution of a personal immunization record for a CIS form is prohibited);

(c) Acceptance of only the CIS form (no other state or local immunization forms) from new enrollees registering in kindergarten through grade twelve;

(d) In addition to current CIS form, acceptance of previous CIS forms, or locally developed forms approved by the department indicating the month and year of each immunization as the official immunization status for children enrolled prior to September 1, 1979.

(7) Schools, preschools, and child care centers shall accept medical exemptions and:

(a) Require a signature of a licensed medical doctor (M.D.), doctor of osteopathy (D.O.), doctor of naturopathy

(N.D.), physician assistant, or nurse practitioner practicing within the limits of the medical or nurse practice acts to certify medical reasons to defer one or more immunizations on the CIS form;

(b) Admit children and keep on file a CIS form for children with:

(i) Temporary exemption from immunization for medical reasons if the required immunizations are received upon expiration of the exemption, or

(ii) Permanent exemptions.

(c) Include a statement on the CIS form informing the parent that should an outbreak of vaccine preventable disease for which the child is exempted occur, the child may be excluded from school or child care for the duration of the outbreak by order of the local health department as described in subsection (9) of this section; and

(d) Keep on file a list of children so exempted and transmit the list to the local health department if requested.

(8) Schools, preschools, and child care centers shall:

(a) Allow a parent to exempt his/her child from the required immunizations for religious, philosophical, or personal objections when the CIS form indicates:

(i) Type or exemption, and

(ii) Signature of parent.

(b) Keep on file a CIS form for each child so enrolled;

(c) Include a statement on the CIS form informing the parent that should an outbreak of vaccine preventable disease for which the child is exempted occur, the child may be excluded from school for the duration of the outbreak by order of the local health department as described in subsection (9) of this section; and

(d) Keep on file a list of children so exempted and transmit the list to the local health department if requested.

(9) Schools, preschools, and child care centers shall exclude children from school as follows:

(a) Exclude any child from school for failure to provide a completed CIS form as defined in subsection (1) of this section before or on the child's first day of attendance consistent with procedures required by the state board of education, Title 180 WAC;

(b) Exclude from attendance any child in a child care center for failure to provide a completed CIS form as defined in subsection (1) of this section before or on the child's first day of attendance;

(c) The chief administrator shall retain records on excluded children for at least three years including:

(i) Name;

(ii) Address, and

(iii) Date of exclusion.

(d) A health officer may exclude children from school, preschool, and child care attendance in the event of a child's exposure to a disease according to chapter 246-110 WAC, including children presenting proof of:

(i) Initiation of a schedule of immunization;

(ii) Medical exemption;

(iii) Religious exemption;

(iv) Philosophical exemption, or

(v) Personal exemption.

(10) Schools, preschools, and child care centers shall maintain records and require:

(a) A completed CIS form retained in the files for every child enrolled;

(b) Return of original CIS form or a legible copy to the parent in the event of the child's withdrawal or transfer from school (withholding a record for any reason, including non-payment of school, preschool, or child care fees is prohibited);

(e) Access to immunization records by agents of the state or local health department for each child enrolled.

(11) Persons or organizations administering immunizations, either public or private, shall:

(a) Furnish each person immunized, or his or her parent, with a written record of immunization containing information required by the state board of health; and

(b) Provide immunizations and records in accordance with chapter 246-100 WAC.

(12) Chief administrators of schools, preschools, and child care centers shall forward a written annual report to the department and local health department on the immunization status of children as follows:

(a) For schools: By November 1 of each year on forms provided by the department (except in the event of a late school opening when the report is due thirty days after the first day of school);

(b) For preschools and child care centers: By February 1 of each year on forms provided by the department.)) (1) "School" means a facility, site, or campus for programs of education as defined in RCW 28A.210.070 to include preschool and kindergarten through grade twelve.

(3) Documentation of immunization status required by schools and child care center.

(a) Schools and child care centers shall require documented proof of immunization status in the form of a CIS.

(b) The CIS form must include:

(i) Name of child or student;

(ii) Birth date;

(iii) Type of vaccine(s) administered;

(iv) Month, day, and year of each dose of vaccine received;

(v) Documentation of immunization status to indicate:

(A) Full immunization under subsection (2)(g) of this section; or

(B) Conditional status under subsection (2)(e) of this section; or

(C) Exemption under subsection (2)(f) of this section;

(vi) Notice to parents that if an outbreak of vaccine-preventable disease for which the child is exempted occurs, the child may be excluded from school or child care for the duration of the outbreak;

(vii) Parent signature.

(4) Duty of schools and child care centers.

(a) Schools and child care centers shall require a CIS form, signed by parents, for new enrollees registering for admission into kindergarten through grade twelve or child care as a requirement of admission.

(b) Full immunization is required upon admission unless:

(i) Parent(s) sign and submit a CIS form indicating a medical exemption.

(A) A permanent medical exemption is allowed when a signature of a licensed medical doctor (M.D.), a doctor of osteopathy (O.D.), doctor of naturopathy (N.D.), physician assistant (P.A.), or nurse practitioner (A.R.N.P.), acting within the scope of practice, certifies medical reasons to defer or forego one or more immunizations required for full immunization under subsection (2)(g) of this section.

(B) If immunizations are deferred on a temporary basis, the student must receive the required immunizations upon expiration of the exemption.

(ii) Parent(s) sign and submit a CIS form indicating a religious or philosophical, or personal exemption.

(iii) Parent(s) sign and submit a CIS form indicating conditional status if there is evidence of satisfactory progress toward full immunization, including:

(A) Documentation of start or continuance towards full immunization status;

(B) Documentation that immunizations received are consistent with the National Immunization Guidelines defined in subsection (2)(j) of this section; and

(C) Documentation of when the next immunization is due.

(c) Schools and child care centers maintenance of child immunization records:

(i) Schools and child care centers shall keep a department approved CIS for each enrolled child.

(ii) Schools and child care centers shall keep a list of children with medical, religious, philosophical, or personal exemptions.

(iii) The chief administrator shall retain records for at least three years on a child who is excluded from school under this section. The record must include the child's name, address, and date of exclusion.

(d) Schools and child care centers shall transmit the list of children with medical, religious, philosophical, or personal exemptions to the local health department upon request.

(e) A school or child care center shall return the department approved CIS or a legible copy to the parent if the child is withdrawn from school or child care or transferred from the school.

(f) A school or child care center may not withhold a child's department approved CIS for any reasons, including nonpayment of school child care fees.

(g) A school or child care center shall provide access to immunization records to agents of the state or local health department of each child enrolled.

(h) The chief administrator of a school or child care center shall submit a school immunization status report under chapter 28A.210 RCW either electronically on the internet or on the school immunization status report provided by the department. The report must be:

(i) Submitted to the department by November 1 of each year;

(ii) If a school opens after October 1, the report is due thirty days from the first day of school.

(5) Persons or organizations administering immunizations, either public or private shall:

(a) Furnish each person immunized, or his or her parent, with a written record of immunization containing information required by the state board of health; and

(b) Provide immunizations and records in accordance with chapter 246-100 WAC.

(6) A school or child care center shall exclude a child if one or more of the following applies:

(a) Parent(s) fail to provide a completed CIS form on or before the child's first day of attendance. Schools must use procedures consistent with Title 180 WAC.

(b) A child admitted under conditional status has not received the required immunization(s) within one month from the date due for completion of the next dose.

(c) A child has been admitted under a medical exemption and the particular vaccine for which the exemption was granted is no longer contraindicated and the child has not received the immunization within one month from the due date for completion of the next dose.

(7) A local health officer may exclude a child from school or child care under chapter 246-110 WAC during an outbreak of a vaccine-preventable disease if the child has not been fully immunized against that disease due to:

(a) Medical exemption;

(b) Conditional status;

(c) Religious exemption;

(d) Philosophical exemption; or

(e) Personal exemption.

#### WSR 05-08-097

#### PERMANENT RULES

#### DEPARTMENT OF SERVICES FOR THE BLIND

[Filed April 4, 2005, 11:46 a.m., effective May 5, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose is to provide vocational rehabilitation services to blind citizens of Washington state, with the goal of competitive employment outcomes. The changes to rule are necessary to:

- Comply with revisions to the federal Rehabilitation Act of 1973 as it currently exists or is hereafter amended.
- Comply with rule changes to chapter 74.18 RCW.

Citation of Existing Rules Affected by this Order: Chapter 67-25 WAC. Repealed: Repeals and revises WAC series pertaining to extended evaluation due to changes in statute and establishment of a new rule "trial work experience;" and repealing of one WAC pertaining to an administrative review to match RCW and revising WAC pertaining to fair hearing to include mediation as an option. Amended: Changes definition of "blind person" to match RCW.

Statutory Authority for Adoption: Chapter 74.18 RCW.

Adopted under notice filed as WSR 05-03-116 on January 19, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 49, Repealed 14.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 4, 2005.

Ellen Drumheller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

**WAC 67-25-005 Definitions.** (1) "Act" or "the law," except when context indicates otherwise, means the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.), as amended.

(2) "Applicant" means an individual who has submitted to the department an application or letter requesting vocational rehabilitation services in accordance with WAC 67-25-010.

(3) "Appropriate modes of communication" means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed captioned videos, specialized telecommunications services and audio recordings, Brailled and large print materials, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.

(4) "Assessment" means one or more of the following as appropriate in each case:

(a) ~~((A preliminary))~~ An assessment to determine eligibility of an individual with a disability for vocational rehabilitation services in accordance with WAC 67-25-020;

(b) A comprehensive ~~((vocational))~~ assessment ~~((of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and needs, including the need for supported employment services, in the most integrated setting possible, consistent with the individual's informed choice. The assessment will be used to determine, with the individual, the employment objective to be achieved, and a detailed plan of services needed to attain an employment outcome;~~

~~((c))~~ An extended evaluation, for a total period not exceeding eighteen months, if there is a question about the applicant's ability to benefit in terms of an employment outcome from vocational rehabilitation services due to severity of the disability.

~~((4))~~, in accordance with WAC 67-25-255, to determine with the individual the employment outcome to be achieved, and a detailed plan of services needed to obtain the employment outcome;

(c) Assignment for order of priority, in accordance with WAC 67-25-460, if the department is unable to serve all eligible individuals;

(d) Trial work experience and extended evaluation, in accordance with WAC 67-25-065 and 67-25-070, if there is a question about the applicant's ability to benefit in terms of an employment outcome from vocational rehabilitation services due to the significance of his or her disability.

(5) "Blind person" means a person who:

(a) Has no vision or whose vision with corrective lenses is so limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by individuals with normal vision;

(b) Has an eye condition of a progressive nature which may lead to blindness; or

(c) Is blind for purposes of the business enterprise program in accordance with RCW 74.18.200.

(6) "Client assistance program (CAP)" means a program, authorized under ((Section 112 of)) the act, which assists individuals with disabilities to receive vocational rehabilitation services by providing information and advocacy.

~~((5) "Community rehabilitation program" means a program that provides directly or facilitates the provision of one or more vocational rehabilitation services which enable individuals with disabilities to maximize opportunities for employment, including career advancement. Services include:~~

~~(a) Medical, psychiatric, psychological, social, and vocational services provided under one management;~~

~~(b) Testing, fitting, or training in the use of prosthetic and orthotic devices;~~

~~(c) Recreational therapy;~~

~~(d) Physical and occupational therapy;~~

~~(e) Speech, language and hearing therapy;~~

~~(f) Psychiatric, psychological and social services, including positive behavior management;~~

~~(g) Assessment for determining eligibility and vocational rehabilitation needs;~~

~~(h) Rehabilitation technology;~~

~~(i) Job development, placement, and retention services;~~

~~(j) Evaluation or control of specific disabilities;~~

~~(k) Assessment and training in adaptive skills of blindness;~~

~~(l) Extended employment;~~

~~(m) Psychosocial rehabilitation services;~~

~~(n) Supported employment services and extended services;~~

~~(o) Services to family members when necessary for the vocational rehabilitation of the participant;~~

~~(p) Personal assistance services; or~~

~~(q) Services similar to those described in (a) through (p) of this subsection.~~

(6) "Competitive employment" means work that:

(a) In the competitive labor market is performed on a full-time or part-time basis in an integrated setting; and

(b) For which an individual is compensated at or above the minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled.

(7) "Department of services for the blind" means the legal authority in its entirety:

~~(a) "Advisory council" means the members appointed by the governor as the vocational rehabilitation advisory council.~~

~~(b) "Department" means the agency which carries out the operations of the Washington department of services for the blind.~~

~~(8)) (7) "Competitive employment" means work:~~

~~(a) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and~~

~~(b) For which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.~~

~~(8) "Customer" means any individual with a disability:~~

~~(a) Who has been found eligible for vocational rehabilitation services from the department; and~~

~~(b) For whom services have not been denied or terminated by the department.~~

~~(9) "Department" means the Washington department of services for the blind.~~

~~(10) "Director," except when the context indicates otherwise, means the director of the department of services for the blind.~~

~~((9) "Eligible" or "eligibility certification," when used in relation to an individual's qualification for vocational rehabilitation services, means a certification that:~~

~~(a) The individual is legally blind or has a visual impairment which alone or combined with other disabilities results in a substantial impediment to employment; and~~

~~(b) Vocational rehabilitation services are required for the individual to prepare for, enter, engage in, or retain gainful employment.~~

~~(10) "Employment outcome" means entering or retaining:~~

~~(a) Full-time or, if appropriate, part-time competitive employment (including supported employment) in the integrated labor market;~~

~~(b) Self-employment;~~

~~(c) Business enterprises;~~

~~(d) Homemaking;~~

~~(e) Farm or family work (including work for which payment is in kind rather than in cash);~~

~~(f) Extended employment; or~~

~~(g) Other employment consistent with the participant's abilities, capabilities, interests, and informed choice, as supported by an assessment for determining vocational rehabilitation needs in accordance with WAC 67-25-255 and 67-25-257.)~~

(11) "Eligible individual" means an applicant for vocational rehabilitation services who meets eligibility requirements in accordance with WAC 67-25-030.

(12) "Employment outcome" means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market, supported employment (WAC 67-25-436), or any other type of employment in an integrated setting, including self-employment, telecommuting, business enterprises, or business ownership, that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. This definition

also includes employment as a homemaker and employment as an unpaid family worker in accordance with procedures to be established by the department for determining the applicability of these outcomes for eligible individuals.

(13) "Employment service provider" means a program that provides directly or facilitates the provision of one or more vocational rehabilitation services, which enable individuals with disabilities to maximize opportunities for employment, including career advancement. Services include:

(a) Medical, psychiatric, psychological, social, and vocational services provided under one management;

(b) Testing, fitting, or training in the use of prosthetic and orthotic devices;

(c) Recreational therapy;

(d) Physical and occupational therapy;

(e) Speech, language and hearing therapy;

(f) Psychiatric, psychological and social services, including positive behavior management;

(g) Assessment for determining eligibility and vocational rehabilitation needs;

(h) Rehabilitation technology;

(i) Job development, placement, and retention services;

(j) Evaluation or control of specific disabilities;

(k) Assessment and training in adaptive skills of blindness;

(l) Extended employment;

(m) Psychosocial rehabilitation services;

(n) Supported employment services and extended services;

(o) Services to family members when necessary for the vocational rehabilitation of the customer;

(p) Personal assistance services; or

(q) Services similar to those described in (a) through (p) of this subsection.

(14) "Extended employment" means work in a nonintegrated or sheltered setting for a public or private agency or organization that provides compensation in accordance with the Fair Labor Standards Act. The department will only support extended employment as an intermediate step toward competitive employment.

(15) "Individual with a disability" for purposes of this chapter means an individual who:

(a) Has a physical or mental impairment which results in a substantial impediment to employment; and

(b) Can benefit in terms of an employment outcome from vocational rehabilitation services.

~~((12) "Individual with a severe disability" means an individual:~~

~~(a) Who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self care, self direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;~~

~~(b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and~~

~~(c) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head~~

~~injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, specific learning disabilities, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs.~~

~~(13) "Individual's representative" means a parent, guardian, family member, advocate, or other representative authorized by the participant.~~

~~(14)) (16) "Individual's representative" means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual's representative.~~

(17) "Informed choice" means the process by which an individual receiving vocational rehabilitation services from the department makes decisions about rehabilitation goals and the services and service providers necessary to reach those goals. Informed choice places primary responsibility for action and decision making with the individual, with support of a vocational rehabilitation counselor. Individuals have a right to make informed choices relating to:

(a) Assessment services in accordance with WAC 67-25-020, 67-25-255, and 67-25-257;

(b) Options for developing the individualized plan for employment in accordance with WAC 67-25-260;

(c) Vocational rehabilitation services and service providers in accordance with WAC 67-25-350; and

(d) Employment outcome and work setting.

(18) "Integrated setting" means a setting typically found in the community in which an individual with a disability, including those with the most ((severe)) significant disabilities in accordance with WAC 67-25-060, interact((s)) with nondisabled individuals, other than service providers, to the same extent that nondisabled individuals in comparable settings interact with other persons.

~~((15) "Legal blindness" means a physical impairment defined as:~~

~~(a) Central visual acuity of 20/200 or less in the better eye with correcting lenses; or~~

~~(b) A field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance of no greater than 20°.~~

(16) "Medical consultant" means a physician, licensed pursuant to chapters 18.57 and 18.71 RCW, employed by the department to provide consultation to vocational rehabilitation counselors and rehabilitation teachers concerning the medical aspects of rehabilitation, usually reviewing and discussing medical problems of individual participants.

(17) "Ophthalmic consultant" means a physician, licensed pursuant to chapters 18.57 and 18.71 RCW specializing in diseases of the eye, employed by the department to provide consultation to vocational rehabilitation counselors and rehabilitation teachers regarding procedures and prognosis relating to eye conditions.

(18) "Participant" means any individual with a disability:

~~(a) Who has applied for vocational rehabilitation services from the department; and~~

~~(b) For whom services have not been denied or terminated by the department.~~

~~(19) "Physical or mental impairment" means an injury, disease, or other disorder that materially reduces, or if not treated will probably result in materially reducing, mental or physical functioning. The term "physical impairment" includes legal blindness and/or visual impairment.~~

~~(20) "Rehabilitation teacher" (RT) means an employee of the department who has responsibility to:~~

~~(a) Provide or supervise the provision of all vocational rehabilitation services to participants with a vocational objective of homemaker; and~~

~~(b) Provide adaptive skills of blindness assessment and training to all vocational rehabilitation participants as needed.~~

~~(21) "Rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.~~

~~(22)) (19) "Residence" or "residency" means, for purposes of this chapter, voluntarily living in the state for other than temporary reasons at the time of application.~~

~~((23) "Special modes of communication" means specialized media systems for individuals with disabilities including:~~

~~(a) Interpreters, open and closed captioned videos, and use of specialized services such as telecommunication devices and relay services for individuals who are deaf or hearing impaired;~~

~~(b) Materials in Braille, large print, or audio recordings for individuals who are blind; and~~

~~(c) Special materials for individuals who are deaf-blind.~~

~~(24)) (20) "Statewide workforce investment system" means a system described in section 111 (d)(2) of the Workforce Investment Act of 1998.~~

~~(21) "Substantial impediment to employment" means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, communication and other related factors) ((which impedes an individual's occupational performance, by hindering or by preventing him or her from obtaining, retaining, or preparing for)) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with ((his or her capacities and abilities)) the individual's abilities and capabilities.~~

~~((25) "Visual impairment" for purposes of this chapter, means a physical condition defined as follows:~~

~~(a) Visual acuity in the best eye between 20/200 and 20/70 with correction; or~~

~~(b) Angle of vision subtends between 20x and 30x; or~~

~~(c) Severe functional visual problem; or~~

~~(d) A progressive condition which ultimately will lead to a visual impairment or to legal blindness.~~

~~(26)) (22) "Vocational rehabilitation counselor" ((VRC)) means ((an)) a qualified employee of the department who has direct responsibility for providing or supervising the provision of all ((vocational)) rehabilitation services to ((a participant)) customers.~~

~~((27)) (23) "Vocational rehabilitation services" means any goods or services necessary for a ((participant)) customer to achieve an employment outcome((--See)) provided in accordance with WAC 67-25-350 ((for description and limitations--)).~~

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-010 Application for services.** (1) Any individual who is ((legally)) blind ((or who has a visual impairment)), as defined in WAC 67-25-005, may apply for vocational rehabilitation services, including any individual who has previously applied for, has previously received, or has previously been denied such services.

(2) Any individual who is ((legally)) blind ((or who has a visual impairment)) seeking to obtain vocational rehabilitation services from the department shall submit a written letter or application for services to the department, or shall request vocational rehabilitation services on an intake form at a WorkSource center operated under the statewide workforce investment system.

(3) The written letter or application for services shall be signed and dated by the individual requesting services or, if appropriate, by the individual's representative, and shall include:

(a) The applicant's name and address;

(b) The applicant's disability; and

(c) The applicant's Social Security number.

(4) The department shall not provide vocational rehabilitation services to any individual who has failed to submit a signed((-)) and dated letter or application containing the above information.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-015 Initial interview.** (1) An applicant for vocational rehabilitation services shall be interviewed personally by a vocational rehabilitation counselor ((or other appropriate staff member as soon as possible)) within ten working days upon receipt of an application by the department.

(2) The interviewer shall:

(a) Explain to the applicant the nature and operation of the vocational rehabilitation program as it relates to the applicant;

(b) Specifically inform the applicant of the right to appeal any eligibility decision made by the department on his or her behalf through((--Administrative appeal in accordance with WAC 67-25-560;)) mediation and fair hearing in accordance with WAC 67-25-570((-and judicial review));

(c) Inform the applicant of his or her right of confidentiality of information possessed by the department and conditions for its release in accordance with WAC 67-25-550;

(d) Provide to the applicant a description of client assistance program services; and

(e) Obtain information from the applicant necessary to determine his or her eligibility for vocational rehabilitation services in accordance with WAC 67-25-020 and 67-25-030.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-020 ((Preliminary)) Assessment for eligibility determination.** (1) ~~((A preliminary))~~ An assessment shall be conducted for each applicant to determine whether:

(a) The individual is ~~((legally))~~ blind ~~((or has a visual impairment))~~ as defined in WAC 67-25-005, which alone or combined with other disabilities results in a substantial impediment to employment; and

(b) Vocational rehabilitation services are required for the ~~((individual))~~ applicant to prepare for, enter, engage in, or retain an employment outcome consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(2) If the department is operating under an order of priority, in accordance with WAC 67-25-460, the assessment must also include information to be used for determination of priority for service.

(3) The ((preliminary)) assessment shall, to the maximum extent possible, be based on a review of existing data in accordance with confidentiality requirements in WAC 67-25-550. The assessment shall, where appropriate, include information provided by the ((individual)) applicant or the ((individual's)) applicant's family, education records, information used by the Social Security Administration, ((and)) determinations made by other agencies, and observations of the vocational rehabilitation counselor and other appropriate staff members.

(((3))) (4) To the extent existing data do not describe the current functioning of the individual or are unavailable, insufficient, or inappropriate to make an eligibility determination, the assessment may include provision of vocational rehabilitation services necessary to determine whether the ((individual)) applicant is eligible. Services provided for this purpose may include trial work experience or extended evaluation in accordance with WAC 67-25-065 and 67-25-070. The department will provide assistance to the applicant, if necessary, to assure that the applicant is prepared to make an informed choice in the selection of services needed to make an eligibility decision.

(((4))) (5) The ((preliminary)) assessment must include an appraisal of the current visual condition and prognosis of the applicant based on ophthalmological or optometric findings.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-025 Eligibility for services.** (1) The department shall determine whether an individual is eligible for vocational rehabilitation services within sixty days after receipt of an application for services, unless((:

~~((a) The department notifies the individual that)),~~ exceptional and unforeseen circumstances beyond the control of

the department preclude completion of the determination within sixty days, ((and the individual agrees that an extension of time is warranted); or

~~((b) An extended evaluation as described in WAC 67-25-070 is required to determine eligibility))~~ in which case, the department will notify the applicant.

(2) The ((department shall utilize results of the preliminary assessment and)) applicant must agree to an extension of eligibility determination or, must agree to participate in trial work experience or extended evaluation ((if required) to determine)) in accordance with WAC 67-25-065 and 67-25-070. If the applicant does not agree to an extension of the eligibility determination or does not agree to participate in trial work experience or extended evaluation, the applicant will be determined ineligible for vocational rehabilitation services and the case service record will be closed in accordance with WAC 67-25-055.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-030 Eligibility for services—Criteria.** (1) Eligibility shall be based only upon ~~((evidence))~~ determination by a vocational rehabilitation counselor that:

(a) The individual is ~~((legally))~~ blind ~~((or has a visual impairment)),~~ as defined in WAC 67-25-005((-which));

~~((b))~~ (b) The blindness alone or combined with other disabilities constitutes or results in a substantial impediment to employment; and

~~((c))~~ (c) Vocational rehabilitation services are required for the individual to prepare for, enter, engage in, or retain an employment outcome consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(2) Any applicant who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act and meets the criteria in subsection (1)(a) of this section is presumed eligible for vocational rehabilitation services and is considered to be an individual with a significant disability as defined in WAC 67-25-060.

(3) If an individual is blind, and the individual's disability results in a substantial impediment to employment, it shall be presumed that ((an)) the individual ((with a disability)) can benefit in terms of an employment outcome from vocational rehabilitation services, unless, the department can demonstrate by clear and convincing evidence, in accordance with WAC 67-25-065, that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the ((severity)) significance of his or her disability.

(((3))) (4) Eligibility requirements are applied without regard to the race, color, sex, religion, national origin, creed, marital status, or age of the applicant.

(((4))) (5) No individual or group of individuals shall be found ineligible solely on the basis of the type of disability.

(((5))) (6) No individual shall be found ineligible based on requirements for duration of residence.

(((6))) (7) No individual shall be found ineligible solely on the basis of lack of U.S. citizenship. However, before the department will pay for vocational rehabilitation services,

including assessment services, the applicant must provide copies of documents requested by the department that verify his or her immigration and naturalization status, and verify his or her identity. If the applicant is not a United States citizen, his or her legal work status must also be verified. The department will provide services, including assessment services, only to applicants who meet at least one of the following conditions: United States citizenship; permanent residency status in the United States; or when a valid work permit has been issued.

~~((7))~~ (8) Eligibility requirements are applied without regard to the particular service needs or anticipated cost of services required by an applicant or the income level of an applicant or applicant's family.

~~((8))~~ (9) An individual who is blind or who has a visual disability which does not result in an impediment to employment, but who may have other disabilities which might result in impediments to employment, may be referred to other service providers or may be provided services through a cooperative plan with other service providers, such as, division of vocational rehabilitation, division of developmental disabilities, and WorkSource centers established under the statewide workforce investment system.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-050 Certification for decision of eligibility ~~((or ineligibility))~~.** ~~((1))~~ There shall be a certification of eligibility if the ~~((individual))~~ applicant meets the requirements specified in WAC 67-25-030. The certification shall be dated and signed by ~~((the))~~ a vocational rehabilitation counselor ~~((or other appropriate staff member))~~.

~~(2) If the individual is determined ineligible for vocational rehabilitation services, there shall be a certification of ineligibility which shall be dated and signed by the vocational rehabilitation counselor or other appropriate staff member).~~

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-055 Eligibility determination—Notice to applicant.** (1) The applicant shall be notified in writing, using ~~((special))~~ appropriate modes of communication ~~((or))~~, and in the individual's native language if necessary, of the action taken on eligibility or ineligibility.

(2) The ~~((individual))~~ applicant shall be advised of the right to appeal any eligibility decision made by the department ~~((on his or her behalf))~~ concerning the applicant including: The procedure ~~((for administrative review in accordance with WAC 67-25-560;))~~ to request mediation and fair hearing in accordance with WAC 67-25-570; and ~~((judicial review;))~~ a description of client assistance program services ~~((shall also be provided))~~.

(3) If ~~((the))~~ an applicant is determined ineligible for vocational rehabilitation services, the notice shall clearly specify how he or she failed to meet the eligibility criteria set forth in WAC 67-25-030.

(4) If the applicant is determined eligible for vocational rehabilitation services, the notice shall clearly specify the date of eligibility certification.

(5) If the vocational rehabilitation counselor determines that an applicant is not eligible for vocational rehabilitation services, the rehabilitation counselor will provide the individual with information and referral to other agencies or organizations that may provide services to meet the individual's employment related needs.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-056 Ineligibility determination—Review.** (1) After twelve months, and annually thereafter, if requested by the individual or by the individual's representative, the department shall ~~((initiate))~~ complete a review of an ineligibility determination ~~((within twelve months))~~ that is based on a finding that the individual is incapable of achieving an employment outcome, unless:

- (a) The individual has refused the review;
- (b) The individual is no longer present in the state; or
- (c) His or her whereabouts are unknown.

(2) ~~((Ineligibility determinations not requiring a review shall include a clear statement as to why the case does not require a review.~~

~~((3) If services have been provided under an individualized written rehabilitation program, in accordance with WAC 67-25-260, a determination of ineligibility based on evidence that the individual is incapable of achieving an employment outcome, in accordance with WAC 67-25-280, shall be reviewed annually if requested by the individual, or if appropriate, the individual's representative.~~

~~((4))~~ The individual, or if appropriate, the individual's representative, shall be given an opportunity to participate in any review and reconsideration of eligibility.

AMENDATORY SECTION (Amending Order 83-08, filed 12/15/83)

**WAC 67-25-060 Criteria for ~~((the severely handicapped))~~ significant disability and most significant disability.** ~~((A severely handicapped individual is a handicapped individual;))~~ (1) An individual with a significant disability is an individual:

(a) Who has a severe physical or mental disability which seriously limits his ~~((r))~~ or her functional capacities (mobility, communication, self-care, self-direction, work tolerance or work skills) in terms of ~~((employability))~~ achieving an employment outcome; ~~((and~~

~~((2))~~ (b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

~~((3))~~ (c) Who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia

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and end-stage renal disease, or other disability or combination of disabilities determined on the basis of an ~~((evaluation))~~ assessment of rehabilitation ~~((potential))~~ needs to cause comparable substantial functional limitation.

(2) An individual with a most significant disability is an individual:

(a) Who has three or more functional limitations (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) related to employment; and

(b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time.

## NEW SECTION

**WAC 67-25-065 Trial work experience.** (1) Trial work experience is a process of providing assessment and related vocational rehabilitation services to an applicant with significant disabilities, for the limited purpose of collecting information necessary to make an eligibility determination, if there is concern that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the significance of his or her disability.

(2) Trial work experience will be provided for a customer in an individualized plan for employment, if necessary, to assess his or her capability to continue benefiting, in terms of an employment outcome, from vocational rehabilitation services due to the significance of his or her disability.

(3) Trial work experience allows the individual to explore his or her abilities, capabilities, and capacities to perform in a realistic work situation, while addressing identified barriers to employment through the provision of appropriate vocational rehabilitation services, including supported employment, on-the-job training, rehabilitation technology and personal assistance services in order to accommodate the rehabilitation needs of the individual during the trial work experience.

(4) A written plan, including periodic assessments, must be developed to determine the individual's abilities, capabilities, and capacities, to perform in work situations through use of trial work experiences. The individualized plan for employment, developed in accordance with WAC 67-25-260, must be inactivated while the individual is involved in the trial work experience.

(5) Trial work experience may take place more than once and may extend as long as necessary to determine that:

(a) There is sufficient evidence that the individual can benefit from vocational rehabilitation services and achieve an employment outcome, and is eligible to receive or to continue to receive vocational rehabilitation services; or

(b) There is clear and convincing evidence (a high degree of certainty) based on functional and situational assessments, that the individual cannot benefit from vocational rehabilitation services and achieve an employment outcome, due to the significance of his or her disability, and is not eligible or no longer eligible for vocational rehabilitation services.

(6) If a trial work experience is provided, it must occur in a variety of work environments, include an appropriate range

of tasks, must occur in the most integrated settings possible and be consistent with the individual's informed choice and rehabilitation needs.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-070 Extended evaluation.** (1) If an applicant or customer with significant disabilities is unable to participate in a trial work experience or if options for trial work experience have been exhausted before the vocational rehabilitation counselor is able to make the determination of eligibility, an extended evaluation must be conducted. The purpose of the extended evaluation is ((the process of providing assessment and related vocational rehabilitation services to an applicant for the limited purpose of)) to obtain information necessary to make an eligibility ((determination, if there is concern that the individual is incapable)) decision or to determine if trial work experience can be utilized. Extended evaluation involves provision of one or more vocational rehabilitation services designed to assess whether the applicant or customer is capable of benefiting ((in terms of an employment outcome)) from or capable of continuing to benefit from vocational rehabilitation services ((due to the severity of his or her disability. Extended evaluation is provided only when an eligibility determination can not be made within the usual procedure)) in terms of an employment outcome.

(2) A written plan, including periodic assessments, must be developed to determine the individual's abilities, capabilities, and capacities, to perform in work situations through the use of extended evaluation. The individualized plan for employment, developed in accordance with WAC 67-25-260, must be inactivated while the individual is involved in extended evaluation. Only those services considered necessary for making the eligibility or continuing eligibility decision may be provided. Vocational rehabilitation services provided during extended evaluation must be provided in the most integrated setting possible, consistent with the informed choice and rehabilitation needs of the applicant or customer.

(3) Extended evaluation shall be terminated when the department has sufficient information to make the eligibility or continuing eligibility decision.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-077 Certification ~~((for))~~ of trial work experience or extended evaluation ~~((to determine an individual's ability to benefit in terms of an employment outcome from vocational rehabilitation services)).~~ ~~(((1) Prior to, and as a basis for providing an))~~ If an applicant or customer is offered an opportunity for trial work experience or extended evaluation ~~((to determine an individual's ability to benefit in terms of an employment outcome from vocational rehabilitation services))~~ in accordance with WAC 67-25-065 or 67-25-070, there shall be a certification ~~((that the individual meets))~~ of eligibility ~~((criteria))~~ for the services specified ~~((in WAC 67-25-075)).~~ The certification shall be dated and signed by ~~((the))~~ a vocational rehabilitation counselor ~~((or other appropriate staff member.~~**

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~~(2) The participant shall receive written notification of the eligibility determination for extended evaluation using special modes of communication or the individual's native language if necessary.~~

~~(3) The participant shall be advised of the right to appeal any decision made by the department on his or her behalf, including: The procedure for administrative review. A copy will be given to the individual with information regarding appeal rights, in accordance with WAC ((67-25-560; fair hearing in accordance with WAC)) 67-25-570((;)), and ((judicial review. A description of)) information about the client assistance program ((services shall also be provided)) (CAP).~~

**AMENDATORY SECTION** (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

**WAC 67-25-255 Comprehensive assessment.** (1) To the extent possible, current data including: That provided by the customer and his or her family; information available from other programs and providers such as schools and the Social Security Administration; and information utilized for the determination of eligibility, must be used to determine the employment outcome and the nature and scope of vocational rehabilitation services to be included in the individualized plan for employment, in accordance with WAC 67-25-260. If additional data is necessary, there ((shall)) must be a comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capacities, interests, informed choice, and the need((s of the participant)) for supported employment services of the customer conducted in the most integrated setting possible((, consistent with the informed choice of the individual)).

(2) The comprehensive assessment must be limited to information necessary to identify the rehabilitation needs and develop the ((rehabilitation program)) individualized plan for employment with the individual, and may, if necessary, include:

(a) A comprehensive analysis of pertinent medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors affecting the employment and rehabilitation needs of the individual;

(b) An analysis of the individual's personality, interests, interpersonal skills, intelligence and related functions, educational achievements, work experience, vocational aptitudes, personal ((and social)), cultural, environmental, and recreational adjustments, and employment opportunities;

(c) ((An appraisal of the individual's patterns of)) Work in a real job situation or use of other available data to evaluate or develop work behaviors and capacities necessary to achieve an employment outcome. This includes an appraisal of the customer's pattern of work behaviors and identification of services needed to acquire occupational skills and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance;

(d) Assessment of the need for the provision of rehabilitation technology ((services to an individual with a disability)) to develop the capacities of the individual to perform in

a work environment, including in an integrated setting, to the maximum extent feasible((;)), consistent with the individual's informed choice.

~~(3) ((The comprehensive assessment shall, to the maximum extent possible and appropriate, be based on existing information provided by the individual and by the individual's family in accordance with confidentiality requirements.)) Information pertaining to conditions or circumstances, such as criminal record, INS identity and work status that restricts the type of employment the customer can legally perform must be disclosed to the department prior to development of the individualized plan for employment.~~

(4) If a customer desires an employment outcome in a field that customarily requires a background check as a condition of employment, the department must obtain a criminal history background check verifying that the customer is not excluded from employment in the field or specific job prior to development of the individualized plan for employment.

(5) If the department becomes aware of a condition or circumstance that may affect the customer's ability to achieve an employment outcome after the individualized plan for employment has been developed, the vocational rehabilitation counselor will conduct necessary assessment services, including trial work experience or extended evaluation, in accordance with WAC 67-25-065 and 67-25-070, to determine whether the customer is capable of achieving the employment outcome identified in the individualized plan for employment.

(6) If a customer declines to authorize the release of information or to participate in vocational rehabilitation services necessary to collect pertinent information for development of an appropriate individualized plan for employment, the vocational rehabilitation counselor will close the case service record.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-257 Assessment—Adaptive skills of blindness.** (1) ((There shall be an)) As a part of the assessment to determine vocational rehabilitation service needs, there must be a determination of each individual's use of and ability to benefit from adaptive skills of blindness. Rehabilitation objectives and service needs identified with the ((individual)) customer during this assessment process shall be incorporated into the individualized ((written rehabilitation program)) plan for employment.

(2) Adaptive skills of blindness assessment include, as appropriate in each case:

- (a) Communications, including braille and keyboarding;
- (b) Personal management;
- (c) Orientation and mobility;
- (d) Home management;
- (e) Activities of daily living;
- (f) Personal adjustment to blindness, and((/or)) if applicable, adjustment to other disabilities;
- (g) Ability to benefit from rehabilitation technology; and
- (h) Use of residual vision and ability to benefit from low vision devices and related training.

AMENDATORY SECTION (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

**WAC 67-25-260 Individualized (~~written rehabilitation program~~) plan for employment.** (1) The individualized (~~written rehabilitation program~~) plan for employment is a written agreement that documents important decisions made between the customer and a vocational rehabilitation counselor concerning the customer's employment outcome including responsibilities agreed upon by the department and the customer, and the vocational rehabilitation services to be provided.

(2) The customer must be actively involved in developing the individualized plan for employment including making meaningful and informed choices about the selection of the employment outcome, intermediate objectives, the vocational rehabilitation services provided, service providers, settings, and methods of procuring services.

(3) The employment outcome the customer chooses must be consistent with the information and results of the assessment of the individual's vocational rehabilitation needs.

(4) The department supports customers to achieve an employment outcome as defined in WAC 67-25-005. If a customer chooses another type of employment outcome, the department will, to the extent possible, refer the customer to other programs or organizations that may offer the type of employment that the customer desires.

(5) The individualized plan for employment must be agreed upon and signed by the customer, or as appropriate, the individual's representative, and a vocational rehabilitation counselor.

(6) The individualized plan for employment shall be designed to achieve the employment (~~objective~~) outcome of the (~~participant~~) customer consistent with the unique strengths, resources, priorities, concerns, abilities, (~~and~~) capabilities, and interests of the individual. To the extent possible, consistent with the informed choice of the individual, the (~~program~~) plan shall include placement in an integrated setting.

(~~2~~) (7) The (~~program~~) plan shall include:

(a) The individual's long-term (~~vocational goal~~) employment outcome based on the assessment for determining vocational rehabilitation needs and the career interests of the individual;

(b) Specific and measurable intermediate rehabilitation objectives to achieve the (~~vocational goal~~) employment outcome, based on the assessment for determining vocational rehabilitation needs;

(c) Specific vocational rehabilitation services to be provided to achieve the intermediate rehabilitation objectives;

(d) Projected initiation dates and the anticipated duration of each service;

(e) Objective criteria, and an evaluation procedure and schedule to determine whether goals and objectives are being achieved;

(f) The views of the individual, in the words of the individual, or, as appropriate, in the words of the individual's representative, describing how he or she was informed about and involved in choosing among alternative goals, objectives,

services, providers, and methods used to procure or provide services, including alternatives in integrated settings;

(g) How, to the maximum extent possible, information will be provided to the individual, or if appropriate, to the individual's representative, in his or her native language (~~or~~) if necessary, and using (~~special~~) appropriate modes of communication;

(h) Terms and conditions for provision of vocational rehabilitation services, including:

(i) Responsibilities (~~of the individual in implementing the program~~) the customer has agreed to, including steps the customer will take to achieve the employment outcome, and services the customer agrees to apply for and use that are available at no cost from another program;

(ii) The extent to which goods and services shall be provided in integrated settings, consistent with the informed choices of the individual;

(iii) The extent to which comparable services and benefits, in accordance with WAC 67-25-360, are available to the individual under any other program;

(iv) The entity or entities that will provide services and the process and setting to be used to provide or procure services;

(~~4~~) (v) Assessment of the (~~expected~~) need for post-employment services (~~and, if appropriate, extended services, including provision for reassessment of these needs~~), in accordance with WAC 67-25-444, prior to closing the (~~individual's successful rehabilitation~~) case service record, of a customer who has achieved an employment outcome and, if appropriate, a statement of how post-employment services are to be arranged or provided using comparable services and benefits, in accordance with WAC 67-25-360;

(~~4~~) (vi) Information regarding the right to appeal any decision made by the department on behalf of the individual (~~by the department~~) including the procedure for (~~administrative review~~) mediation, fair hearing, and judicial review, in accordance with WAC 67-25-570;

(~~4~~) (vii) A description of client assistance program services; and

(~~4~~) (viii) The basis on which the individual is determined to have achieved an employment outcome.

(8) An individualized plan for employment that includes a supported employment outcome, in accordance with WAC 67-25-436 must also document:

(a) The supported employment services to be provided by the department;

(b) Extended services or natural supports that are likely to be needed;

(c) The source of extended services or, to the extent that it is not possible to identify the source of extended services when the plan is developed, a description of the basis for concluding that there is a reasonable expectation that those sources will become available;

(d) A goal for the number of hours per week the customer is expected to work and a plan to monitor the customer's progress toward meeting that expectation;

(e) A description of how the services on the individualized plan for employment are to be coordinated with other individualized plans established under other federal or state services;

(f) If job skills training is provided, the individualized plan for employment must reflect that the training is provided on-site; and

(g) Placement in an integrated setting for the maximum number of hours possible based on the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the customer.

(9) Transition students who are determined eligible for vocational rehabilitation services must have an individualized plan for employment prior to leaving school. An individualized plan for employment for a transition student who is receiving special education services should be coordinated, to the extent possible, with the individualized education plan of the individual in terms of identified goals, objectives, and services.

AMENDATORY SECTION (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

WAC 67-25-270 Individualized (~~written rehabilitation program~~) plan for employment—Participation of the ((individual)) customer. (1) A customer or, as appropriate, the individual's representative may develop all or part of the individualized (~~written rehabilitation program (IWRP) shall be jointly developed, agreed upon, and signed by~~) plan for employment:

(a) ((The participant, or as appropriate, the participant's representative; and)) Independently, without any assistance from the department or another entity;

(b) ((The)) With assistance from a vocational rehabilitation counselor ((or other appropriate staff members)) employed by the department;

(c) With assistance from a vocational rehabilitation counselor who is not employed by the department but who meets the minimum qualifications for a vocational rehabilitation counselor as established by the department; and

(d) Other resources such as a representative, family member, advocate, or other individual.

(2) ((Participants must take an active role in their own rehabilitation programs, including making meaningful and informed choices about the selection of vocational goals, intermediate objectives, the vocational rehabilitation services they receive, service providers, and methods of procuring services.)) The department shall provide, as appropriate to each customer, information to assist the individual or the individual's representative in developing the individualized plan for employment, including:

(a) Information describing the full range of components that must be included in an individualized plan for employment;

(b) Information on assistance available for completing required forms; and

(c) Additional information that the customer requests or the department determines to be necessary for development of the individualized plan for employment.

(3) The department will provide assistance to customers who choose to develop their individualized plan for employment with someone other than a department vocational rehabilitation counselor, and will identify individuals, to the extent possible, who may be of help in that process. How-

ever, the department will not pay fees or other expenses associated with obtaining assistance from such individuals.

(4) Substantive changes to the ((IWRP)) individualized plan for employment must ((also)) be jointly made and agreed upon by the ((participant)) customer and ((staff members)) the department vocational rehabilitation counselor.

((4)) (5) A copy of the individualized (~~written rehabilitation program~~) plan for employment and copies of any revisions and ((addendums)) amendments shall be provided ((in)), using appropriate ((alternative format, in the individual's native language)) modes of communication, to the ((participant)) customer or, as appropriate, to the individual's representative.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-275 Individualized (~~written rehabilitation program~~) plan for employment—Annual review. (1) The individualized (~~written rehabilitation program~~) plan for employment shall be reviewed as necessary but at least annually. The ((participant)) customer, or if appropriate, the individual's representative, shall be given an opportunity to review the ((program)) plan and jointly redevelop and agree to its terms.

(2) ((The)) Services shall be modified as needed and incorporated into the ((program)) plan.

(3) If ((the vocational objective of the participant changes)) it is determined that the employment outcome of the customer will be changed, the new ((program)) plan shall not take effect until agreed upon and signed by the ((participant)) customer, or if appropriate, the individual's representative, and the vocational rehabilitation counselor.

(4) If a ((participant's)) customer's vision is restored so that he or she is not ((legally)) blind ((or has no visual impairment, and)), as defined in WAC 67-25-005, further services shall be limited to those identified in an assessment of vocational rehabilitation service needs in accordance with WAC 67-25-255. If ((he or she)) the customer has ((no)) other ((disability)) disabilities, which result((s)) in an impediment to employment, ((further services shall be limited to those already identified in)) the ((individualized written rehabilitation program)) individual will be referred to the appropriate organization for assistance.

(5) The individualized plan for employment review may be conducted with a qualified vocational rehabilitation counselor who is not employed by the department. However, in such cases, the department vocational rehabilitation counselor shall have final signature authority on the review and any changes to the plan.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-280 Individualized (~~written rehabilitation program~~) plan for employment—Termination due to ineligibility. (1) The services under an individualized (~~written rehabilitation program~~) plan for employment shall be terminated if it is determined, based on clear and convincing evidence in accordance with WAC 67-25-065, that the individual is incapable of achieving ((a vocational goal)) an

employment outcome and is therefore ~~((not))~~ no longer eligible for vocational rehabilitation services.

(2) A decision to terminate the ~~((program))~~ plan shall only be made with participation of the ~~((individual))~~ customer, or as appropriate, the individual's representative.

(3) The views of the ~~((individual))~~ customer, or the individual's representative, concerning the decision shall be documented in the ~~((program))~~ plan.

(4) Rationale for the decision must be documented as part of the ~~((program))~~ plan including any assessment results from a trial work experience or extended evaluation in accordance with WAC 67-25-065 and 67-25-070.

(5) When ~~((an individual))~~ a customer is determined ineligible for vocational rehabilitation services, there shall be a ~~((certification,))~~ written notification dated and signed by the vocational rehabilitation counselor ~~((or other appropriate staff member,))~~ placed in the ~~((individual's file))~~ customer's case service record, and a copy shall be provided to the customer or to the individual's representative.

(6) The ~~((participant))~~ customer shall be notified of the opportunity for review and reconsideration of the decision ~~((within twelve months))~~ in accordance with WAC 67-25-056.

(7) The individual will be provided with a description of services and a referral to other programs available from the statewide workforce investment system, including information about services available at a local WorkSource center, that may address the individual's training or employment related needs, and will be referred to local extended employment providers if the ineligibility determination is based on a finding that the individual is incapable of achieving an employment outcome.

(8) Upon termination, the customer, or as appropriate, the individual's representative, will be informed in writing, using appropriate modes of communication and the individual's native language if necessary, of the right to appeal any eligibility decision made by the department on his or her behalf through mediation and fair hearing in accordance with WAC 67-25-570. The customer shall also be provided information on services available from the client assistance program.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-284 Individualized ~~((written rehabilitation program))~~ plan for employment—Termination for reasons other than ineligibility.** (1) Vocational rehabilitation services provided under an individualized ~~((written rehabilitation program))~~ plan for employment shall be terminated prior to completion if a ~~((participant))~~ customer:

(a) Has died;

(b) Cannot be located by the department after reasonable efforts to do so;

(c) Has been institutionalized under circumstances which preclude provision of services for a substantial or indefinite period of time;

(d) Has moved to another jurisdiction and the department is unable to continue provision of services;

(e) Declines to accept or utilize vocational rehabilitation services after reasonable efforts have been made to encourage participation.

(2) A decision to terminate services for any reason described in subsection (1) of this section does not require a review and reconsideration ~~((within))~~ after twelve months pursuant to WAC 67-25-056.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-325 Services available from other agencies.** Vocational rehabilitation funds shall not be expended to purchase services for a ~~((participant))~~ customer when another agency has primary responsibility for providing the needed service.

**AMENDATORY SECTION** (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

**WAC 67-25-350 Vocational rehabilitation—Services provided.** Based on the vocational rehabilitation needs of each ~~((eligible participant shall be provided))~~ customer, the department will make the following vocational rehabilitation services~~((identified during the preliminary and comprehensive vocational assessments,))~~ available to assist the customer in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice~~((necessary for the individual to achieve an appropriate employment outcome. Services may include))~~:

(1) ~~((to determine the individual's skills, abilities, interests, priorities,))~~ Assessment for determining eligibility in accordance with WAC 67-25-020, and order of priority for services in accordance with WAC 67-25-460;

(2) ~~((and how these relate to selection of meaningful employment))~~ Assessment for determining vocational rehabilitation needs in accordance with WAC 67-25-255 and 67-25-257;

~~((2))~~ (3) Vocational rehabilitation counseling and guidance including information and support services to assist an individual in exercising informed choice in accordance with WAC 67-25-380;

~~((3))~~ (4) Referral and related services to help ~~((participants))~~ the individual secure needed services from other agencies, including other partners in the statewide workforce investment system and referral to the client assistance program;

~~((4))~~ (5) Physical and mental restoration services in accordance with WAC 67-25-384;

~~((5))~~ (6) Vocational and other training in accordance with WAC 67-25-388, 67-25-390, 67-25-394, 67-25-396, and 67-25-398, subject to limitations in WAC 67-25-360;

~~((6))~~ (7) Maintenance related to the provision of vocational rehabilitation services in accordance with WAC 67-25-400;

~~((7))~~ (8) Transportation ~~((in connection with))~~ related to the provision of vocational rehabilitation services in accordance with WAC 67-25-404;

~~((8))~~ (9) Services to family members in accordance with WAC 67-25-408;

~~((9))~~ (10) Interpreter and ~~((note-taking))~~ translation services ~~((for individuals who are deaf and tactile interpreting services for individuals who are deaf-blind))~~ in accordance with WAC 67-25-412;

~~((10))~~ (11) Reader~~((driver))~~ services in accordance with WAC 67-25-408;

~~((11))~~ (12) Assessment and training in adaptive skills of blindness in accordance with WAC 67-25-257 and 67-25-398;

~~((12) Recruitment and training services to develop new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other public service employment in accordance with WAC 67-25-440;))~~

(13) Job search and placement assistance, and job retention services in accordance with WAC 67-25-440;

(14) Supported employment services in accordance with WAC 67-25-436;

(15) Personal assistance services, including training in managing, supervising, and directing these services in accordance with WAC 67-25-418;

(16) Post-employment services in accordance with WAC 67-25-444;

(17) Occupational licenses, tools, equipment, initial stocks, and supplies in accordance with WAC 67-25-448;

(18) Rehabilitation technology and telecommunications services in accordance with WAC 67-25-448;

(19) Transition services for students in accordance with WAC 67-25-399;

(20) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources to the extent those resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome; and

(21) Other goods and services necessary for the ~~((partie-~~ customer ~~ipant))~~ to achieve an employment outcome in accordance with WAC 67-25-452.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-360 Vocational rehabilitation services—Comparable services and benefits.** (1) Consideration of comparable services and benefits is required by Section 101 (a)(8) of the act. Therefore, this section prevails over all other sections describing conditions under which vocational rehabilitation services shall be provided.

(2) Comparable services and benefits include~~((s))~~ any financial or other resource for which a ~~((partie-~~ customer ~~ipant))~~ is legally qualified, or entitled, or meets the criteria for obtaining without undue contingencies. The resource must be an organized, ongoing form of service provision or financial assistance, whether public or private. It must be free or may require a deductible, co-insurance feature, token payment or personal claim.

(3) ~~((Participants))~~ Customers are required to apply for and accept comparable services and benefits which they are entitled to receive before vocational rehabilitation funds can be expended, except as provided in subsections (5) and (6) of this section.

(4) ~~The vocational rehabilitation counselor((s and rehabilitation teachers have))~~ has an obligation to inform ~~((partie-~~ customers ~~ipants))~~ of known sources for comparable services and benefits and shall assist with application for these services when necessary.

(5) The following services are provided without consideration of comparable services and benefits:

(a) Assessment in accordance with WAC 67-25-020, 67-25-055 and 67-25-057;

(b) Counseling and guidance in accordance with WAC 67-25-380;

(c) Referral;

(d) ~~((Vocational and other))~~ Training services including ~~((personal and vocational adjustment))~~ work skills building and work readiness training, books, and other training materials~~((, except that no training in institutions of higher education (universities, colleges, community colleges, vocational schools, technical institutes, or hospital schools of nursing) shall be paid for with vocational rehabilitation funds unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for training))~~ in accordance with WAC 67-25-388, 67-25-394, 67-25-396, 67-25-398;

(e) Placement services in accordance with WAC 67-25-440;

(f) Rehabilitation technology services in accordance with WAC 67-25-448;

(g) Services listed in (a) through (f) of this subsection as post-employment services in accordance with WAC 67-25-444.

(6) Determination of comparable services and benefits shall not be required if:

(a) Utilization of such a service would delay provision of vocational rehabilitation services to an individual determined to be at extreme medical risk, based on medical evidence provided by ~~((an appropriate,))~~ a qualified medical professional, indicating a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously; or

(b) An immediate job placement would be lost due to a delay resulting from utilization of comparable services and benefits.

(7) The following services may be provided only after consideration of comparable services and benefits:

(a) Physical and mental restoration services in accordance with WAC 67-25-384;

(b) Maintenance in accordance with WAC 67-25-400;

(c) Transportation in accordance with WAC 67-25-404;

(d) Services to family members in accordance with WAC 67-25-408;

(e) Interpreter and ~~((note-taking services for individuals who are deaf and tactile interpreting services for individuals who are deaf-blind))~~ translation services in accordance with WAC 67-25-412;

(f) Reader services in accordance with WAC 67-25-416;

(g) Training at institutions of higher education in accordance with WAC 67-25-388 and 67-25-390;

(h) Supported employment services in accordance with WAC 67-25-436;

(i) Personal assistance services in accordance with WAC 67-25-418;

(j) Post-employment services, in accordance with WAC 67-25-444, except as specified in subsection (5) of this section;

(k) Occupational licenses, tools, equipment, initial stocks and supplies in accordance with WAC 67-25-448;

(l) Transition services for students in accordance with WAC 67-25-299;

(m) Other goods and services not specified in this section.

(8) Consideration of comparable services and benefits shall be documented in the ~~((participant's))~~ customer's case services record ((of services- Documentation)) and shall include sources of assistance considered, whether the ~~((participant))~~ customer applied, acceptable reasons for failure to apply, outcome of application, and basis for the decision to expend vocational rehabilitation funds for services described in subsection (7) of this section.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-380 Vocational rehabilitation services— Counseling and guidance.** (1) ~~((Counseling and guidance is a necessary component of vocational rehabilitation to help each participant develop work skills, a strong self-image, and the adaptive skills of blindness needed to achieve an employment outcome.~~

~~((2)))~~ Counseling and guidance services, based on needs of the ~~((participant))~~ individual, shall be available throughout all phases of the rehabilitation process to assist the participant with:

(a) Adjustment to blindness and other disabilities; understanding the importance of developing and using adaptive skills of blindness; and, identifying strategies to overcome negative social attitudes regarding disability;

(b) Identifying his or her unique strengths, resources, priorities, concerns, abilities, and capabilities related to planning for and achieving an employment outcome;

(c) Identifying and overcoming potential barriers to achieving an employment outcome including ~~((impairment))~~ disability-related, personal, and social factors;

(d) Selecting ~~((a vocational goal))~~ an employment outcome consistent with his or her abilities, capabilities, and interests;

(e) Obtaining and utilizing resource information to make meaningful and informed choices regarding selection of vocational rehabilitation goals, objectives, services, and providers;

(f) Overcoming potential barriers and achieving an employment outcome through development of skills such as: Study and work habits; grooming; management of finances; preparation for job interviews and tests; self-advocacy; and effective interpersonal relationships.

~~((3))~~ (2) Counseling and guidance services may also be provided to:

(a) Assist family members to effectively participate in the rehabilitation process;

(b) Assist prospective employers to develop positive attitudes regarding hiring and accommodating individuals who are blind ~~((or visually impaired))~~.

~~((4))~~ (3) Counseling and guidance shall be provided without consideration of comparable services and benefits ~~((pursuant to))~~ in accordance with WAC 67-25-360.

**AMENDATORY SECTION** (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

**WAC 67-25-384 Vocational rehabilitation services— Physical and mental restoration services.** (1) Physical and mental restoration services shall be provided to a ~~((participant))~~ customer under an individualized ~~((written rehabilitation program))~~ plan for employment when the vocational rehabilitation counselor ~~((or rehabilitation teacher, in consultation with the medical or ophthalmic consultant as appropriate,))~~ determines that such services are likely, within a reasonable period of time, to substantially correct or modify a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment for the ~~((participant))~~ customer.

(2) All authorized physical and mental restoration services shall be provided by qualified ~~((physicians, dentists, or other health professionals licensed in the state))~~.

(3) When receiving physical and mental restoration services, the ~~((participant))~~ customer may choose the physician or other health professional and appropriate facilities ~~((from those licensed in the state))~~. Service providers and facilities ~~((may, but are not required to,))~~ should, to the maximum extent appropriate, be selected from those who will accept reimbursement in accordance with the Washington State Department of ((Social)) Labor and ((Health Services)) Industries Schedule of Maximum Allowances and Program Descriptions.

(4) Physical and mental restoration services may be provided to ~~((a participant))~~ an applicant or customer during ~~((extended evaluation))~~ trial work experience or extended evaluation, in accordance with WAC 67-25-065 and 67-25-070, if it is necessary to stabilize or halt progression of a chronic illness for purposes of determining eligibility or continued eligibility.

(5) Physical and mental restoration services include but are not limited to:

(a) Surgical and therapeutic treatment;

(b) Diagnosis and treatment for mental or emotional disorders;

(c) Dental treatment;

(d) Nursing services;

(e) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;

(f) Convalescent or nursing home care;

(g) Drugs and supplies;

(h) Prosthetic, ~~((orthoptie))~~ orthopedic or other assistive devices;

(i) Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by qualified medical practitioners;

(j) Podiatry;

(k) Physical therapy;

(l) Occupational therapy(;

~~(m) Medical or medically related social work services;~~

~~(n) Speech or hearing therapy;~~

~~(o) Special services for the treatment of individuals with end-stage renal disease, including transplantation and dialysis, artificial kidneys, and supplies;~~

~~(p) Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services, or that are inherent in the condition under treatment)).~~

(6) Physical and mental restoration services shall be provided only after consideration of comparable services and benefits except as specified in WAC 67-25-360.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-388 Vocational rehabilitation services—General training provisions.** (1) The individualized (~~written rehabilitation program~~) plan for employment may include any organized form of instruction providing the knowledge and skills necessary for a ((~~participant~~)) customer to perform competitively in an occupation and achieve an employment outcome. Knowledge and skills may be acquired through training in an institution, on the job, by correspondence, by tutors, or through a combination of these methods. Training may be given for any occupation, except as prohibited in subsection (2) of this section.

(2) Article IX of the Washington state Constitution forbids use of public funds to assist an individual in the pursuit of a career or degree in theology or related areas.

(3) Programs or schools used to provide training shall ((~~generally~~)) be limited to those which are accredited, licensed, or approved either by a legal authority, or are recognized as adequate by the professional or trade group with which they are associated.

(4) The department may provide books, tools and other training materials and shall periodically establish guidelines for determining the provision of these services.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-390 Vocational rehabilitation services—Training—Institutions of higher education.** (1) Training at a university, college, community college, vocational school, technical institute, or hospital school of nursing may be provided if necessary to achieve the employment ((~~objective~~)) outcome agreed upon by the ((~~participant~~)) customer and vocational rehabilitation counselor except as prohibited in accordance with WAC 67-25-388.

(2) No training or training services in institutions of higher education shall be ((funded in accordance with WAC 67-25-360)) paid for with vocational rehabilitation funds

unless the customer has applied for financial aid and other grant assistance from other sources to pay for the training in whole or in part. If the customer has applied for financial aid and is waiting for the results, and denial of training funds by the department would result in interruption or delay of the progress of the customer toward achieving his or her employment outcome, the vocational rehabilitation counselor may pay training costs on an interim basis until the results of the financial aid application is known.

(3) ((~~Participants~~)) A customer may attend private or out-of-state institutions of higher education in preparation for an employment outcome; however, financial assistance shall be limited to the tuition amount at the University of Washington or the actual cost, whichever is less. Exceptions may be made when required training is not available, or if other significant factors preclude the ((~~participant~~)) customer from attending an available training program at a public institution of higher education in the state.

(4) The department may provide financial assistance to a ((~~participant~~)) customer wishing to obtain a post-graduate degree when the training is necessary to achieve the individual's employment ((~~objective~~)) outcome. However, financial assistance shall not be provided to a ((~~participant~~)) customer pursuing a graduate program for the sole purpose of achieving upward mobility unless it can be determined that the customer is not currently employed in work that is consistent with his or her unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and the individual requires vocational rehabilitation services to prepare for, secure, retain, or regain employment of this nature.

(5) A ((~~participant~~)) customer receiving training at an institution of higher education must meet established scholastic standards required by the program ((~~of his or her choice~~)). If the ((~~participant's~~)) customer's grades fall below minimum standards, it shall be necessary, through assessment, counseling, and planning with the ((~~participant~~)) customer, to revise the individualized ((~~written rehabilitation program~~)) plan for employment including the possible selection of a new employment ((~~objective~~)) outcome.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-394 Vocational rehabilitation services—Training—On-the-job.** (1) On-the-job training (OJT) is training service((s)) an employer provides to a customer, after the individual is placed in a job, to assist the customer to learn the skills needed to perform the work. On-the-job training may be provided ((when necessary)) as a vocational rehabilitation service to achieve the ((participant's)) customer's employment ((objective)) outcome.

(2) OJT services shall be provided as a program of organized training resulting in employment of the customer, giving ((a participant)) the individual the opportunity to learn an occupation under actual conditions of commercial, industrial, or other on-the-job employment. The department will pay for the training costs, and the employer is responsible for costs related to employment.

(3) OJT services shall be provided to a ~~((participant))~~ customer only when the vocational rehabilitation counselor establishes that the following conditions have been ~~((or shall be))~~ met:

(a) The training program has been prepared in advance and outlined in detail;

(b) The ~~((participant's))~~ customer's training will follow a definite schedule of specified operations, instructions, and practices which will insure well-rounded preparation for the ~~((participant's))~~ customer's selected occupation;

(c) A mutual understanding has been reached between the trainee—~~((participant))~~ customer, the trainer—employment training provider, and the vocational rehabilitation counselor regarding the ~~((participant's))~~ customer's employment training plan including: Length of the training period; financial arrangements; and operations and skills to be learned;

(d) The employer agrees to closely supervise the ~~((participant's))~~ customer's work and shall submit regular reports on the ~~((participant's))~~ customer's progress and performance to the vocational rehabilitation counselor;

(e) The training program meets any requirements for licensing in the trade or occupation in which the ~~((participant))~~ customer is to be employed;

(f) The employment training program for the ~~((participant))~~ customer is acceptable to other employees of the training provider.

(4) A business or industrial establishment utilized by the department to provide OJT services shall:

(a) Have personnel qualified with appropriate knowledge, skills, and personality to provide instruction;

(b) Have sufficiently diversified operations and adequate, suitable materials and equipment to insure a trainee thorough preparations and training within the scope and limits of his or her occupational objective;

(c) Ensure that training ~~((VR participants))~~ vocational rehabilitation customers is only incidental to the business activity of the facility;

(d) Ensure that the training program shall be consistent with the informed choice of the customer, and designed to assist him or her to achieve an employment outcome in an integrated setting.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-396 Vocational rehabilitation services—Training—~~((Vocational adjustment))~~ Work skill building.** (1) ~~((Vocational adjustment))~~ Work skill building and related employment training services may be provided to a ~~((participant))~~ customer through ~~((a community rehabilitation program))~~ an employment service provider. This option may be appropriate if a ~~((participant))~~ customer is not ready for, or does not wish to receive training in an integrated setting.

(2) ~~((Vocational adjustment))~~ Work skill building training may be provided to assist the ~~((participant))~~ customer with:

(a) Understanding the meaning, value, and demands of work;

(b) Developing appropriate attitudes, habits, and work behaviors; and ~~((or))~~

(c) Developing functional capacities necessary to achieve an optimum employment outcome.

(3) Prior to provision of ~~((vocational adjustment training))~~ work skill building, there shall be an assessment of the individual's patterns of work behavior, and the services needed for him or her to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, social skills, and behavior patterns suitable for successful job performance.

(4) ~~((Vocational adjustment training))~~ Work skill building shall meet the following criteria:

(a) The training program shall be outlined in detail and agreed upon by the ~~((participant))~~ customer, or if appropriate, his or her representative, the vocational rehabilitation counselor, and the ~~((community rehabilitation program))~~ employment service provider, and shall include: Anticipated length of training; methods to be used; and objectives to be achieved.

(b) The training program shall, consistent with the informed choice of the ~~((participant))~~ customer, be designed to assist him or her to achieve an employment outcome in an integrated setting.

(c) The ~~((community rehabilitation program))~~ employment service provider agrees to ~~((assess))~~ closely supervise the ~~((participant's))~~ customer's training and submit regular reports on the customer's progress and ~~((shall submit reports))~~ performance to the vocational rehabilitation counselor.

(d) The ~~((community rehabilitation program))~~ employment service provider is certified by the department of social and health services division of vocational rehabilitation to provide ~~((vocational adjustment))~~ work skill building training.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-398 Vocational rehabilitation services—Training—Adaptive skills of blindness.** (1) Adaptive skills of blindness are those skills necessary for individuals who are blind ~~((or visually impaired))~~ to function independently ~~((in as))~~, distinguished from the vocational skills necessary to perform a specific occupation. Adaptive skills include:

(a) Communications, including Braille and keyboarding;

(b) Personal management;

(c) Orientation and mobility;

(d) ~~((Personal))~~ Adjustment to blindness;

(e) Home management;

(f) Activities of daily living;

(g) Use of rehabilitation technology; and

(h) Use of residual vision and related devices.

(2) Training in adaptive skills of blindness shall be provided to a ~~((participant))~~ customer in accordance with standards established by the department for instruction of the specific adaptive skill.

(3) Training in adaptive skills of blindness may be provided to a ~~((participant))~~ customer under an individualized ~~((written rehabilitation program))~~ plan for employment in

accordance with WAC ((67-25-080 and)) 67-25-260, or during the assessment to determine rehabilitation needs in accordance with WAC 67-25-257.

(4) The department ((shall)) may operate and maintain an orientation and training center as a structured setting to provide assessment and training in adaptive skills of blindness for ((participants)) customers.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-399 Vocational rehabilitation services—Transition services for students.** (1) Transition services are a coordinated set of outcome-based activities ((which directly)) for blind students, age fourteen to twenty-one, designed to facilitate ((the smooth and efficient movement of a student who is blind or visually impaired from the K through 12 public or private education system to the vocational rehabilitation program. This includes any activity or program designed to introduce the student to a wide variety of available occupational choices, or to provide the student with work experience opportunities)) school to employment.

(2) ((Transition services)) Activities shall be ((provided, when appropriate, to any)) based on the individual student's ((who is blind or visually impaired, age fourteen or older, who is enrolled in a public or private school)) needs, taking into account the student's preferences and interests. Activities shall include instruction, community experience, functional assessment, employment development, instruction in daily living skills, and development of other post-school adult living objectives. Additional activities may include post-secondary education, vocational training, integrated employment (including supported employment), adult services, and independent living.

(3) ((Transitioning students shall, to the extent necessary and appropriate, receive a thorough assessment of their abilities, interests and rehabilitation needs in the following areas:

(a) Adaptive skills of blindness;

(b) Social and interpersonal skills;

(c) ~~Vocational exploration and work experience.~~) Students, age sixteen to twenty-one, who choose to seek an employment outcome will be referred to the vocational rehabilitation program.

(4) ((A transition plan or the pre-vocational component of a student's individualized education plan (IEP), with specific goals and objectives based on the assessment, shall be developed for each student. Services shall be planned jointly by the student, the family, and department staff. Maximum efforts shall be made to coordinate all services with the local school district.

(5) Transition services may include, but are not limited to:

(a) Counseling and guidance for participants and their parents/representatives;

(b) Training in specific areas identified through the needs assessment after all other resources and approaches to remediation have been explored and found to be unobtainable;

~~(e) Conferences and workshops for participants, parents/representatives, education personnel and vocational rehabilitation counselors;~~

~~(d) Information and referral;~~

~~(e) Advocacy for the rights of all students who are blind or visually impaired to assure equal and appropriate access to the same educational, recreational, cultural and social opportunities as their sighted peers.)~~ Case management activities for students who apply for vocational rehabilitation services will be coordinated between the child and family program of the department and the vocational rehabilitation program until the student leaves the K-12 school system.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-400 Vocational rehabilitation services—Maintenance.** (1) Maintenance for living expenses may be provided only when these expenses are in excess of the normal subsistence expenses of a ((participant)) customer, and only when necessary for the individual to participate in services under an individualized ((written rehabilitation program)) plan for employment. Maintenance includes monetary support for food, shelter, clothing and other subsistence items.

(2) Maintenance shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

(3) Individuals with emergency needs for shelter, food, financial support, etc. will be referred to community sources who may provide these services.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-404 Vocational rehabilitation services—Transportation.** (1) Transportation services for travel and related expenses may be authorized ((for travel and related expenses)) if necessary for ((a participant)) an applicant or a customer to receive any vocational rehabilitation service.

(2) Transportation may include:

(a) Fares or travel costs associated with using public or private ((conveyances)) vehicle;

(b) Food and ((/or)) lodging while in travel status;

(c) Wages, travel, and related expenses for ((an)) a driver, attendant or aide if the services of that person are necessary for the ((participant)) customer to travel;

(d) Relocation and moving expenses, if necessary for the vocational rehabilitation of the individual.

(3) Transportation services shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-408 Vocational rehabilitation services—Services to family members.** (1) A family member is an individual:

(a) Who is a relative or guardian of a ~~((participant))~~ customer, or who lives in the same household as a ~~((participant))~~ customer;

(b) Who is integrally involved in the vocational ~~((adjustment or))~~ rehabilitation of the ~~((participant))~~ customer; and

(c) Whose receipt of vocational rehabilitation services would further the vocational ~~((adjustment or))~~ rehabilitation of the ~~((participant))~~ customer.

(2) Services provided to family members may include any vocational rehabilitation services available to ~~((participants))~~ customers in accordance with WAC ~~((67-25-085 and))~~ 67-25-350. However, the services must be directly related to the vocational rehabilitation of the ~~((participant))~~ customer. Family members of any age may be served.

(3) A vocational rehabilitation service provided to family members shall be terminated when it no longer substantially contributes to the vocational rehabilitation of the ~~((participant))~~ customer.

(4) Services to family members shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-412 Vocational rehabilitation services—Interpreter ~~((services for individuals who are deaf))~~ and translations services.** (1) Interpreter services ~~((shall be provided for a participant))~~ include sign language or oral interpretation services for individuals who ~~((is))~~ are deaf, or ~~((for the individual's representative if appropriate, during all phases of the rehabilitation process including during any administrative appeal, fair hearing, and judicial review))~~ hard of hearing and tactile interpretation services for individuals who are deaf-blind.

~~((2))~~ (a) Interpreter services must be provided by qualified personnel.

(b) Interpreter services shall be authorized, to the maximum extent possible, in accordance with the department of social and health services schedule of maximum allowances and program descriptions.

~~((3))~~ Interpreter services shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360. (2) Translation services are provided to non-English speaking individuals, and for the individual's representative if appropriate, during all phases of the rehabilitation process including mediation, fair hearing, and judicial review.

(a) Translation services include oral translation of English into the primary language of an individual.

(b) Upon request, the following written communication shall be translated into the primary language of an applicant or customer:

- (i) Application for services;
- (ii) Notification of eligibility or ineligibility;
- (iii) Individualized plan for employment;
- (iv) Notification of case closure;
- (v) Notification of annual review, if appropriate; and
- (vi) Any notice requiring a response or a signature from an individual to continue receiving services.

(c) The department shall translate the Washington Administrative Code (WAC) regarding VR services or service providers into the primary language of an applicant or customer upon his or her request.

(d) Translation services shall be authorized in accordance with procedures and fee schedules established by the department.

(3) Vocational rehabilitation expenditures for interpreter or translation services for applicants and customers will be authorized in accordance with WAC 67-25-360.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-416 Vocational rehabilitation services—Reader services.** (1) Reader services may be provided to an applicant or customer when necessary to ~~((complete an intermediate objective under an individualized written rehabilitation program or, during assessment if necessary to))~~ the provision of other vocational rehabilitation services.

(2) Reader services consist of orally reading ~~((ink))~~ print material to the blind ~~((participant))~~ customer which is not available ~~((in an))~~ through other appropriate ~~((alternative format))~~ modes of communication.

(3) If reader services are necessary beyond the initial stages of employment, the department shall, if desired by the individual, assist him or her to negotiate with the employer for reader services as a reasonable accommodation.

(4) Reader services shall be purchased in accordance with the department's procedures ~~((for purchase of reader services))~~ and shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

~~((5))~~ Participants shall be encouraged through counseling and guidance to use reader services efficiently and effectively.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-418 Vocational rehabilitation services—Personal assistance services.** (1) Personal assistance services ~~((may be))~~ include a range of services provided by at least one person to assist ~~((a participant))~~ an individual with ~~((on the job or related))~~ a disability to perform daily living activities ~~((that)),~~ on or off the job, the individual typically would perform if he or she did not have a disability, and will not be able to perform even after receiving adaptive skills training. This includes personal attendant services: Personal services that an attendant performs for an individual with a disability, including, but not limited to, bathing, feeding, dressing, providing mobility and transportation. These services shall, to the extent appropriate and desired by the ~~((participant))~~ customer, include training in managing, supervising, and directing personal assistance services.

(2) Personal assistance services may be provided, if necessary, for the ~~((participant))~~ customer to achieve an employment outcome, and shall be provided only while the ~~((participant))~~ customer is receiving other vocational rehabilitation services.

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~~(3) ((Provision of)) The case service record must document how personal assistance services ((under an individualized written rehabilitation program is contingent on an assurance that ongoing services)) will be ((available for the individual at)) provided after the completion of ((the)) vocational rehabilitation ((program)) services or, to the extent that it is not possible to identify how personal assistance services will be provided when the individualized plan for employment is developed, there must be a description of the basis for concluding that there is a reasonable expectation that resources will become available.~~

(4) Personal assistance services are provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-432 Vocational rehabilitation services—Rehabilitation technology and telecommunications.** (1) Rehabilitation technology is the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address barriers confronted by ((participants)) customers in education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(2) The department ((maintains an assistive technology program to coordinate provision of)) will provide, as appropriate, rehabilitation technology services throughout all phases of the vocational rehabilitation process for ((participants)) customers. Services include:

- (a) Assessment to determine rehabilitation technology needs;
- (b) Job site and training site analysis including testing and research;
- (c) Rehabilitation engineering services;
- (d) Comprehensive training in the use of assistive technology devices;
- (e) Procurement, installation and follow-up related to assistive technology devices.

(3) Any assistive technology device requiring an individualized prescription or fitting must be provided by a professional who meets any ((state)) licensing or certification requirements to fill the prescription or to perform the fitting. Aids and devices not requiring individual fittings must meet engineering and safety standards recognized by experts in the field.

(4) Telecommunications services include telecommunication devices and relay services for individuals who are deaf or hearing-impaired. Telecommunications shall be utilized as necessary for service delivery.

(5) Rehabilitation technology services shall be provided without consideration of comparable services and benefits pursuant to WAC 67-25-360.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-436 Vocational rehabilitation services—Supported employment services and extended services.**

(1) Supported employment is competitive employment in an integrated setting ((for a participant with a severe disability)), consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, with ongoing support services for customers with the most significant disabilities who need((s)) intensive, ongoing support to perform in a work setting. ((Typically, competitive employment has not traditionally occurred for these individuals or, has been interrupted or intermittent due to a severe disability.))

(2) A customer may be employed in an extended employment setting in which he or she is working toward competitive employment as a planned step in the process of completing an employment outcome in supported employment. While the customer is working toward competitive employment, he or she may be certified to be paid subminimum wages, consistent with provisions of the Fair Labor Standards Act, based on his or her productivity.

(3) An individual shall be eligible to receive supported employment services if:

(a) The individual is eligible for vocational rehabilitation services in accordance with WAC 67-25-030;

(b) The individual needs intensive supported employment services from the department and ongoing services from other resources to perform competitive work due to the nature and ((severity)) significance of his or her disabilities; and

(c) Supported employment is an appropriate ((rehabilitation objective)) employment outcome for the individual based on a comprehensive assessment of his or her rehabilitation needs in accordance with WAC 67-25-255.

~~((3))~~ (4) A ((participant)) customer with ((a vocational objective)) an employment outcome of supported employment may receive any vocational rehabilitation service described in WAC 67-25-350. ((Supported employment services typically include as appropriate:

(a) Individualized assessment in addition to the comprehensive assessment of rehabilitation needs;

(b) Intensive job skill training at the work site provided by skilled job trainers;

(c) Job development and placement;

(d) Interpersonal skills training;

(e) Regular observation or supervision of the individual;

(f) Follow-up services including regular contact with the employer, the individual, the individual's representative, and other appropriate professionals to reinforce and stabilize the job placement;

(g) Facilitation of natural supports at the worksite; and

(h) Other services similar to those in (a) through (g) of this subsection.

~~(4))~~ (5) Supported employment must occur in an integrated work setting for the maximum number of hours possible, based on the unique strengths, resources, interests, concerns, abilities, and capabilities of the ((participant)) customer with ((severe)) significant disabilities. An integrated setting, in the context of supported employment, is one where:

(a) Most coworkers are not disabled and the ((participant)) customer is not part of a work group of individuals with disabilities; or

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(b) Most coworkers are not disabled, and if a job site as described in (a) of this subsection is not possible, the ~~((participant))~~ customer is part of a small work group of not more than eight individuals with disabilities; or

(c) If there are no coworkers, or the only coworkers are members of a small work group of not more than eight individuals all of whom have disabilities, the ~~((participant))~~ customer has regular contact with nondisabled individuals (other than personnel providing support services) in the immediate work setting.

~~((5) The participant must be paid wages consistent with the Fair Labor Standards Act. Subminimum wages may be paid in accordance with the act, depending on the severity of the individual's disability and the nature of training and support services available to the individual.)~~

(6) The department shall provide intensive training and support services during the first eighteen months of supported employment to facilitate the ~~((participant's))~~ customer's adjustment at the worksite and determine the need for extended services from other resources. Additional services beyond eighteen months may be authorized ~~((as an exception to policy))~~ with supervisory approval based on ~~((strong))~~ evidence that additional ongoing support is needed to stabilize the individual in employment. If such evidence is not available, the department must close the case. Support must include:

(a) ~~((Worksite visits and observation provided at least twice per month; and))~~ Ongoing assessment of the customer's employment situation, or under special circumstances or request of the customer, an assessment regarding the customer's employment situation that takes place away from the worksite to: Determine what is needed to maintain job stability; and coordinate services or provide specific intensive services that are needed at or away from the customer's worksite to assist the individual in maintaining job stability.

(b) ~~((If appropriate and desired by the participant, off-site monitoring which must include two face-to-face meetings with the participant and one contact with the employer each month.))~~ Intensive job skill training for the customer at the job site by skilled job trainers.

(c) Job development, job placement and job retention services.

(d) Social skills training.

(e) Regular observations or supervision.

(f) Follow-up services such as regular contacts with the customer's employer, the customer, or the customer's representative, and other appropriate individuals to help strengthen and stabilize the job placement.

(g) Facilitation of natural supports at the worksite.

(h) Other services similar to services described in (a) through (g) of this subsection.

(i) Any other vocational rehabilitation services.

(7) The ~~((participant))~~ customer shall transition to extended services after receiving supported employment services from the vocational rehabilitation program. Extended services are ongoing support services and other appropriate services needed to support and maintain the ~~((participant))~~ customer in supported employment. Long-term funding for extended services may be provided through cooperative agreements with public agencies, nonprofit agencies or orga-

nizations; employers; natural supports; and any resource other than federal vocational rehabilitation funds.

(8) An individualized ~~((written rehabilitation program for))~~ plan for employment with an employment outcome of supported employment must specify the expected extended services needed and, must identify the source, including natural supports, of extended services. If the source of extended services cannot be identified when the individualized ~~((written rehabilitation program))~~ plan for employment is developed, supported employment services shall be initiated ~~((if documentation supports a reasonable expectation that such sources will become available within six months))~~ while resources to provide extended services are sought.

(9) A ~~((participant))~~ customer with ~~((a vocational objective))~~ an employment outcome of supported employment may receive post-employment services in accordance with WAC 67-25-444 when the services to be provided are not the responsibility of the extended services provider.

(10) The department shall provide transitional employment services as supported employment services for a ~~((participant))~~ customer with a ~~((severe))~~ significant disability due to mental illness. Transitional employment is a series of temporary competitive job placements in integrated work settings with ongoing support services. In transitional employment, ongoing support services must include continuing sequential job placements until job permanency is achieved.

(11) Supported employment services are provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-440 Vocational rehabilitation services—Placement.** (1) Placement services shall be provided to a ~~((participant))~~ customer under an individualized ~~((written rehabilitation program))~~ plan for employment to assist the individual with obtaining and retaining appropriate employment consistent with his or her ~~((vocational objective))~~ employment outcome.

(2) The department and ~~((participant))~~ customer shall be mutually responsible to find and secure suitable employment for the individual. The individualized ~~((written rehabilitation program))~~ plan for employment shall describe the nature and scope of placement services to be provided by the department, and the participant's responsibility to actively and independently conduct job-seeking efforts.

(3) Placement services include the following range of activities:

(a) Job development and employer relations (which may or may not be on behalf of a specific ~~((participant))~~ customer);

(b) Job task analysis to determine how a person who is blind ~~((or visually impaired))~~ can be accommodated in a position;

(c) Job-seeking skills training to prepare a ~~((participant))~~ customer for employment;

(d) Communication and negotiation with a variety of employment resources and other community resources

regarding employment of people who are blind (~~or visually impaired~~);

(e) Work skill building, counseling, and other follow-up and follow along services to stabilize the (~~participant~~) customer in employment until the (~~placement goal~~) employment outcome has been satisfactorily achieved.

(4) Placement services may be provided using the following methods:

(a) Vocational rehabilitation counselors (~~shall deliver placement services to participants as a primary function and the principal focus of their professional responsibilities and activities~~) employed by the department.

(b) An employee specializing in business relations may provide placement services through communication and negotiation with a variety of employers and community resources, regarding employment of people who are blind (~~or visually impaired~~).

(c) No-cost placement resources in the community such as (~~the state department of employment security~~) one-stop WorkSource centers, projects with industry, (~~private industry council~~), and other entities shall be utilized whenever possible.

(d) Placement services may be purchased when it is in the (~~participant's~~) customer's vocational interests, when the department's services are not otherwise available, or when placement is offered by (~~a vendor~~) an employment service provider as part of a service package.

(5) Placement services shall be terminated when the (~~participant~~) customer has been provided vocational rehabilitation services, in accordance with an individualized (~~written rehabilitation program~~) plan for employment, which have enabled the individual to obtain and retain employment in an integrated setting consistent with his or her capacities and abilities for at least (~~sixty~~) ninety days.

(6) (~~If a participant is placed in extended employment (formerly extended sheltered employment) in a community rehabilitation program, his or her status shall be reviewed and reevaluated by the department at least annually. The department shall make maximum efforts to place these individuals in competitive employment, including supported employment, or in training for competitive employment consistent with the informed choice of the individual or the individual's representative if appropriate.~~)

(7) Placement services shall be provided without consideration of comparable services and benefits in accordance with WAC 67-25-360.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-444 Vocational rehabilitation services—Post-employment services.** (1) Post-employment services may be provided to a (~~participant~~) customer, subsequent to achieving an employment outcome, if necessary for the (~~participant~~) customer to maintain, regain, or advance in employment consistent with the individual's abilities, capabilities, and interests.

(2) Post-employment services are intended to provide short-term intervention related to the established (~~rehabilitation objective~~) employment outcome. Accordingly, post-

employment services do not require a new determination of eligibility, and may be provided as long as the established individualized (~~written rehabilitation program~~) plan for employment and necessary documentation are available and pertinent.

(3) Post-employment services include all vocational rehabilitation services identified in WAC 67-25-350 and are subject to any conditions affecting provision of that vocational rehabilitation service.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-446 Vocational rehabilitation—Services to groups.** (1) The department may provide the following vocational rehabilitation services to groups of individuals:

(a) Establishment, development, or improvement of a public or other nonprofit (~~community rehabilitation program~~) employment service provider providing services that promote integration and competitive employment.

(b) Development and implementation of services that enhance the use of (~~special~~) modes of communication (~~and~~) or telecommunications for individuals with disabilities.

(c) Technical assistance and support services, such as job site modification and other reasonable accommodations, for businesses not subject to Title I of the Americans with Disabilities Act of 1990 that are seeking to employ individuals with disabilities.

(d) Establishment of small business enterprises, operated by individuals with the most (~~severe~~) significant disabilities under supervision of the department, including, management services and supervision, and the acquisition of vending facilities, equipment, initial stocks, and supplies.

(e) Other services that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized (~~written rehabilitation program~~) plan for employment of any one individual.

(2) Services to groups are provided in accordance with department procedures for the provision of these services.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-448 Vocational rehabilitation services—Occupational licenses, tools, equipment, initial stocks and supplies.** (1) Goods and services described in this section may be provided only under an individualized (~~written rehabilitation program~~) plan for employment when necessary for the (~~participant~~) customer to achieve an (~~appropriate~~) employment outcome. (~~Initial stocks and supplies may be provided only when a participant enters a self-employment business.~~) The department will pay for a customer to be bonded if the employment he or she is entering requires a bond and the customer supplies all necessary information to the bonding firm.

(2) Occupational licenses (~~include any~~) are licenses, permits, or certificates showing that the individual meets certain standards, has accomplished certain achievements, or has paid dues, fees, or has other written authority required by a state, city, or other government unit (~~for~~) that qualifies the

individual to ~~((enter an occupation or))~~ engage in a business, specific trade, or other work.

(3) Occupational tools include those customarily required for a worker to perform efficiently on the job, and which ~~((are normally provided by))~~ workers in the same or similar trade or profession are normally provided. These may include specialized tools adapted to accommodate the individual's disability.

(4) Occupational equipment includes occupational fixtures normally found in places of business. These include machinery, and appliances that are usually stationary during utilization. However, self-powered vehicles may also be provided.

(5) Initial stocks include the initial inventory of merchandise or goods necessary for a participant to enter self-employment. It may also include the initial purchase of live-stock as a base stock, and stocks of seed, fertilizer, fuel, etc., for farming or agricultural self-employment.

(6) Initial supplies include expendable items necessary for the ~~((participant))~~ customer to carry out day-to-day business operations, and which are consumed on the premises in the course of the ~~((participant's))~~ customer's self-employment business or in a business enterprise location.

(7) Purchase, accountability, legal title, insurance, maintenance, and other considerations regarding provision of goods and services described in this section are addressed in the department's procedures governing their provision.

(8) Goods and services described in this section shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-452 Vocational rehabilitation services provided—Other goods and services.** (1) Other goods and services not described in this chapter may be provided to a ~~((participant))~~ customer when necessary to determine the individual's eligibility for services and rehabilitation needs, or when necessary for the individual to achieve an appropriate employment outcome.

(2) Other goods and services, except those required for assessment of the individual, shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

**AMENDATORY SECTION** (Amending WSR 01-21-073, filed 10/18/01, effective 11/18/01)

**WAC 67-25-460** ~~((What if the department of services for the blind (DSB) vocational rehabilitation (VR) program does not have sufficient resources to serve all eligible individuals?))~~ Order of priority. (1) The purpose of an order of priority is to establish an equitable and organized system which, when resources are not sufficient to meet the demand for services, gives the first priority to those eligible ~~((VR participants))~~ vocational rehabilitation customers who meet the definition of ~~((("))most ((severely)) significantly disabled,((("))~~ in accordance with WAC ((67-25-470(1))) 67-25-460.

~~((2))~~ ((In the event that sufficient funds or other resources are not available to serve all VR eligible individuals, DSB will use a prioritized order, as established in subsection (3) of this section, for selection of individuals to develop and carry out an individualized plan for employment (IPE) supported by expenditure of VR funds.

~~((3))~~ When the order of priority is in effect, eligible individuals will be assigned to one of two priority categories:

(a) First priority: New eligible ~~((participants))~~ customers who meet the definition of ~~((("))most ((severely)) significantly disabled,((("))~~ most ((severely)) significantly disabled.((("))

(b) Second priority: New eligible ~~((participants))~~ customers who do not meet the definition of ~~((("))most ((severely)) significantly disabled,((("))~~ most ((severely)) significantly disabled.((("))

(3) The director shall decide when to implement an order of priority, if necessary, and will determine which priority categories will be open or closed for the development of new individualized plans for employment. In the event sufficient funds or other resources become available to serve all eligible individuals, the order of priority will be revoked by the director.

(4) Eligible individuals can develop and carry out an ~~((IPE))~~ individualized plan for employment based on:

(a) The priority of the category to which they are assigned ~~((, and whether or not that category is open for development of new IPEs.))~~ ;

(b) ~~((And,))~~ Whether or not that category is open for development of new plans; and

(c) The order in which they applied for ((DSB)) vocational rehabilitation services as indicated by the date of application.

~~((5))~~ ((Individuals who are receiving services under an IPE at the time an order of priority is implemented will continue to receive services as planned. They are not subject to the order of priority and are not a category within that order.

~~((6))~~ Customers will be placed in the highest priority category for which they are qualified. The date of application will be used whenever it is determined that a waiting list is required for a category.

(6) Customers will be notified in writing of their category status when they are notified of their eligibility, as well as of the conditions pertaining to that category:

(a) Whether the category is open or closed.

(b) Their position on any existing waiting list.

(7) The only services to individuals in a closed order of priority category will be information and referral services. These individuals will not receive counseling and guidance, assessment and training, placement, or other ((VR)) vocational rehabilitation services until their category is reopened and they come off the waiting list.

(8) Customers will be notified of the right to appeal the category decision, in accordance with WAC 67-25-570, and of their responsibility to notify the department if their situation changes in a way that may affect their priority category placement.

(9) Individuals who are receiving services under an individualized plan for employment at the time an order of priority is implemented will continue to receive services as planned. They are not subject to the order of priority and are not a category within that order.

(10) The order of priority will not affect the provision of services needed to determine eligibility for vocational rehabilitation services, WAC 67-25-010 through 67-25-030.

**AMENDATORY SECTION** (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

**WAC 67-25-540 Individualized (~~written rehabilitation program~~) plan for employment—Successful rehabilitation.** (1) An individual shall be considered successfully rehabilitated when he or she has maintained an employment outcome for at least ninety days that is:

- (a) The result of services provided under an individualized (~~written rehabilitation program~~) plan for employment;
- (b) Commensurate with the individual's unique strengths, priorities, concerns, abilities, capabilities, interests, and informed choice; and
- (c) (~~As often as~~) Whenever possible, employment achieved is competitive as defined by being in the competitive labor market, performed on a full-time or part-time basis in an integrated setting, and the individual is compensated at or above the minimum wage, and (~~that~~) the individual's wage and level of benefits are not less than that paid by the employer for the same or similar work performed by nondisabled individuals;

(d) In the most integrated setting possible, consistent with the individual's informed choice; and

(e) Considered to be a satisfactory employment outcome by both the (~~participant~~) customer and vocational rehabilitation counselor(~~, who also agree~~) with agreement that the (~~participant~~) customer is performing (~~satisfactorily~~) satisfactorily on the job.

(2) The individual shall be notified of the termination decision and appeal procedures in accordance with WAC (~~67-25-288~~) 67-25-545.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-545 Notification of termination.** The department shall provide written notification(~~(-using special modes of communication if appropriate,))~~ to every individual who has applied for services, in the individual's primary language if necessary, and using appropriate modes of communication, when a determination is made to terminate services to the individual. The written notice shall specify in detail the reasons for the (~~department's~~) decision to terminate services and shall clearly inform the (~~participant~~) individual of (~~his or her~~) the right to (~~(an administrative review, a) mediation and fair hearing~~(~~, and judicial review of the decision~~)) in accordance with WAC 67-25-570. A description of client assistance program services shall also be provided.

**AMENDATORY SECTION** (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

**WAC 67-25-550 Confidential information—Protection, use and release.** (1) Confidential information refers to all documented and undocumented personal information, including lists of names and photographs, about any past or present (~~participant~~) applicant or customer in the vocational

rehabilitation program, given or made available to the department, its representatives, or its agents in the course of the administration of the program.

(2) (~~Participants~~) customers, their representatives as appropriate, service providers, cooperating agencies, and interested persons shall be informed of the confidentiality of personal information and policies governing its use. This information shall be provided to the (~~participant~~) applicant or customer, and to the individual's representative in the individual's (~~native~~) primary language if necessary, (~~in the~~) using appropriate (~~(alternative format, or using special)~~) modes of communication (~~(if appropriate)~~), and shall include:

- (a) Identification of the authority under which information is collected;
- (b) Explanation of the principal purposes for which the department intends to use or release information;
- (c) Explanation of whether providing requested information is mandatory or voluntary and the effects of not providing requested information;
- (d) Identification of those situations where the department requires or does not require informed written consent of the individual before information may be released; and
- (e) Identification of other agencies to which information is routinely released.

(3) All personal information must be used only for purposes directly connected with the administration of the vocational rehabilitation program. Personal information shall not be shared with an organization, agency or individual not having official responsibility for administration of the program, except as provided for in subsection (6) of this section.

(4) Except as provided in (a) and (b) of this subsection, the department shall, upon receipt of a written request by a (~~participant~~) customer, release all information in that individual's record, to the individual or the individual's representative within fifteen working days.

(a) Medical, psychological, or other information that the department determines may be harmful to the individual may not be released directly to the individual, but must be provided to the individual's representative or to a qualified medical or psychological professional or to a person appointed by the court to act as that individual's representative.

(b) Personal information obtained from service providers and cooperating agencies under assurances that the information shall not be further divulged may be released only under conditions established by the other agency or organization except as provided in subsections (5) and (6) of this section.

(5) The (~~participant~~) customer may request that misleading or inaccurate information in (~~the individual's~~) his or her record of services be amended and (~~to have the~~) that such request for amendment be documented in the individual's (~~file~~) record.

(6) Personal information may be released to an organization, agency, or individual for purposes of audit, evaluation, or research directly connected with administration of the vocational rehabilitation program, such as the department's (~~advisory~~) rehabilitation council or for purposes that would significantly improve the quality of life for (~~participants~~) customers, and only if the organization, agency, or individual assures that:

(a) Information shall be used only for the purposes for which it is being provided;

(b) Information shall be released only to persons officially connected with the audit, evaluation, or research;

(c) Information shall not be released to the ((participant)) customer;

(d) Information shall be managed in a manner to safeguard confidentiality; and

(e) The final product shall not reveal any personal identifying information without the informed written consent of the ((participant)) customer or the individual's representative.

(7) The department may release personal information to other agencies and programs under the following conditions:

(a) Upon receiving the informed written consent of the ((participant)) customer, or, the individual's representative if appropriate, the department may release personal information to another agency or organization only to the extent that the information may be released to the ((participant)) customer, and only to the extent that the agency or organization demonstrates that the information requested is necessary for its program.

However, medical or psychological information that the department determines may be harmful to the individual may be released if the agency or organization assures the department that information shall be used only for the purpose for which it is being provided and shall not be released to the ((participant)) customer.

(b) The department shall release personal information if required by federal law or regulation.

(c) The department shall release personal information in response to investigations in connection with law enforcement, fraud, or abuse, unless expressly prohibited by federal or state laws or regulations, or in response to judicial order.

(d) The department may release personal information to protect the participant or others if the individual poses a threat to his or her safety or to the safety of others.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-570 ((Fair hearing.)) Resolving a disagreement about vocational rehabilitation services.** (1) ((Any participant who feels aggrieved by or is otherwise dissatisfied with any decision or action by the department or its agents concerning the provision or denial of vocational rehabilitation services or is dissatisfied with the results of an administrative review, may request from the department, and shall thereupon be granted, a fair hearing. A participant who desires a fair hearing shall request the hearing within sixty days after the date of the decision or action by the department which is the basis for the request for fair hearing.

(2) A request for fair hearing shall be sent to the Director, Department of Services for the Blind, 521 East Legion Way, Olympia, WA 98504 4093, who shall forward it to the office of administrative hearings within five working days.

(3) The office of administrative hearings shall appoint an administrative law judge and shall schedule a fair hearing within forty five days after receiving the request.

(4) The individual, or the individual's representative shall be given an opportunity to:

~~(a) Present additional evidence, information, and witnesses to the administrative law judge;~~

~~(b) Be represented by counsel or other appropriate advocate;~~

~~(c) Examine all witnesses and other relevant sources of information and evidence.~~

~~(5) Within thirty days after completion of the hearing, the administrative law judge shall make an initial decision based on provisions of the approved state plan, the act, and federal and state vocational rehabilitation regulations and policies, and shall provide to the individual, or the individual's representative, and to the director of the department a full written report of the findings and grounds for the decision.~~

~~(6) The director shall notify the participant or the individual's representative in writing within twenty days after receiving the administrative law judge's decision that:~~

~~(a) The decision is accepted as the final determination; or~~

~~(b) The director has decided to review the initial decision of the administrative law judge.~~

~~(7) If the director fails to provide notice in accordance with subsection (6) of this section, the administrative law judge's decision becomes a final decision.~~

~~(8) The director shall not overturn or modify a decision, or part of a decision, of an administrative law judge that supports the position of the individual unless the director concludes, based on clear and convincing evidence that one or more of the following criteria apply:~~

~~(a) The initial decision appears arbitrary or capricious;~~

~~(b) The initial decision does not appear to be supported by substantial evidence;~~

~~(c) The administrative law judge has not given adequate consideration to: Federal statute and regulations; the department state plan; the department policies and procedures; options in service delivery authorized by federal statute; restrictions on service provision specified by federal statute; or, other state or federal policies.~~

~~(9) If the director decides to review the decision of the administrative law judge, the participant, or the individual's representative, shall be given opportunity to submit additional evidence and information relevant to the final decision.~~

~~(10) Within thirty days after providing notice of intent to review the administrative law judge's decision, the director shall make a final decision, and shall provide to the individual, or the individual's representative, a full written report of the findings and grounds for the decision.~~

~~(11) A participant who is dissatisfied with the final result of the fair hearing may file a petition for reconsideration with the office of administrative hearings in accordance with RCW 34.05.470, or the individual may file a petition for review in superior court.~~

~~(12) The department shall not suspend, reduce, or terminate any services being provided under an individualized written rehabilitation program pending a final determination of any administrative review or fair hearing, unless the individual, or the individual's representative so requests, or the department has evidence that the services were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual.~~

(13) Communication with the participant or the individual's representative during any administrative review, fair hearing or judicial review shall be conducted in a language reasonably expected to be understood by the individual including use of special modes of communication as appropriate.)) If at any time during the vocational rehabilitation process, the department makes a decision relating to the provision of vocational rehabilitation services that a customer does not agree with, the customer or the customer's representative has the right to use one or more of the following options to resolve the issue:

(a) Talk to the vocational rehabilitation counselor or to the counselor's supervisor to resolve the disagreement;

(b) Ask for help or information from the client assistance program;

(c) Request mediation; and/or

(d) Request a fair hearing.

(2) Efforts to reach agreement with the vocational rehabilitation counselor or supervisor will not be used to deny or delay mediation or a fair hearing.

(3) Mediation is voluntary and must be agreed to by both the customer and the department. Mediation is not used to deny or delay a fair hearing. A customer may request both mediation and a fair hearing at the same time. If agreement is:

(a) Reached during mediation, the fair hearing is canceled.

(b) Not reached during mediation, the fair hearing is held as scheduled.

(4) Mediation is conducted by a trained mediator who knows the laws and rules about vocational rehabilitation services and who does not work for the department. The mediator does not make case service decisions.

(5) During mediation, the mediator:

(a) Allows each party to present information or evidence;

(b) Helps each party listen to and understand the other party's position;

(c) Reviews and explains any laws that apply; and

(d) Facilitates an agreement, if possible, between the parties.

(6) If agreement is reached during mediation, the department will provide a written statement of the agreement to the customer. Agreements made through mediation are not legally binding.

(7) The customer may choose to be represented by a family member, advocate or other individual at the mediation meeting.

(8) The department schedules mediation sessions in a timely manner at a convenient location to all parties.

(9) The department pays for costs related to mediation, except costs related to a representative or attorney engaged by the customer.

(10) The department will pay for vocational rehabilitation services necessary for the customer to participate in mediation, such as transportation or child care.

(11) Information discussed during mediation is kept confidential and may not be used in a later hearing or civil proceeding, if one is held. Before beginning a mediation session, all parties must sign a statement of confidentiality.

(12) A fair hearing is a proceeding as outlined under the Administrative Procedure Act, chapter 34.05 RCW and Chapter 388-02 WAC. An administrative law judge who works for the office of administrative hearings holds a fair hearing.

(13) A customer who does not agree with a decision made by the Department about eligibility or vocational rehabilitation services may ask for a fair hearing within twenty days of that decision.

(14) To ask for a fair hearing, the customer must send a written request to the office of administrative hearings. The written request must include:

(a) The customer's name, address, and telephone number;

(b) A written statement about the decision and the reasons for disagreement; and

(c) Any other information that supports the customer's position.

(15) The office of administrative hearings must hold a formal hearing within sixty days of receipt of written request for a hearing, unless:

(a) The customer or the department ask for a delay; and

(b) There is a reasonable cause for the delay.

(16) After the customer submits a request for a fair hearing, the department will offer the customer a prehearing meeting. The prehearing is optional for the customer and can be conducted in person, by telephone, or by another method agreeable to both parties. The purpose of the prehearing meeting is to:

(a) Clarify the decision with which the customer disagrees;

(b) Provide copies of laws, rules or other information to be presented in the fair hearing;

(c) Explain how the fair hearing is conducted; and

(d) Settle the disagreement, if possible.

(17) During the formal hearing, the customer and the department may present information, witnesses and/or documents to support their position.

(18) The customer may choose to be represented by an attorney, a relative, or someone else;

(19) The administrative law judge makes a decision after:

(a) Hearing all of the information presented;

(b) Reviewing any documents submitted; and

(c) Reviewing relevant federal and state laws and regulations.

(20) The office of administrative hearings sends a written report of the findings and decisions to the customer and to the department within thirty days of the formal hearing.

(21) The office of administrative hearings decision is final and the department must implement the decision.

(22) If a customer does not agree with the office of administrative hearings decision, the individual may pursue civil action through superior court to review that decision.

(23) The department will not suspend, reduce, or terminate services to a customer while waiting for a formal hearing decision, unless the department believes the customer:

(a) Provided false information to obtain vocational rehabilitation services; or

(b) Committed fraud or other criminal action to obtain vocational rehabilitation services.

**AMENDATORY SECTION** (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

**WAC 67-25-590** ~~((Client))~~ **Case service records.** The department shall maintain for each ~~((participant))~~ applicant or eligible individual a record of services that includes, to the extent pertinent, the following documentation:

(1) If an applicant has been determined ineligible:

(a) ~~((A written and dated statement of ineligibility signed by the appropriate staff member;~~

~~(b)))~~ Documentation specifying reasons for the ineligibility determination; and

~~((e)))~~ (b) Documentation of a review of the determination ((not later than)) in twelve months after the determination was made, except as provided in WAC 67-25-056.

(2) When an ~~((individual))~~ applicant is determined eligible:

(a) A written and dated statement of eligibility signed by the ~~((appropriate staff member))~~ vocational rehabilitation counselor; and

(b) Supporting rationale for the determination, including documentation from the assessment for determining eligibility, in accordance with WAC 67-25-020.

(3) If it is determined that ~~((an extended evaluation))~~ a trial work experience or an extended evaluation for an individual with a ~~((severe))~~ significant disability is necessary to make an eligibility determination in accordance with WAC 67-25-065 and 67-25-070:

(a) A written and dated statement of this determination signed by the ~~((appropriate staff member))~~ vocational rehabilitation counselor;

(b) Supporting documentation, including the determination that the individual is an individual with a ~~((severe))~~ significant disability; and

(c) Documentation of periodic assessments in accordance with WAC ~~((67-25-100))~~ 67-25-065 and 67-25-070.

(4) The individualized ~~((written rehabilitation program))~~ plan for employment for the ~~((individual))~~ customer in accordance with WAC 67-25-260 ~~((, 67-25-270, and 67-25-275)).~~

(5) Documentation from the assessment for determining vocational rehabilitation needs in accordance with WAC 67-25-255 and 67-25-257 to support:

(a) The determination of the ~~((long term vocational goal))~~ employment outcome and intermediate rehabilitation objectives for the individual; and

(b) The nature and scope of services needed to achieve the intermediate objectives and ~~((long term goal))~~ employment outcome.

(6) Documentation of how the ~~((individual))~~ customer was provided information necessary to make informed choices in selecting the ~~((long term vocational goal))~~ employment outcome, intermediate rehabilitation objectives, rehabilitation services, and providers of services identified in the individualized ~~((written rehabilitation program))~~ plan for employment.

(7) Documentation of how the ~~((individual))~~ customer was provided information regarding the level of integration

of service provision and job placement options. ~~((If the individualized written rehabilitation program provides for services or a job placement in a nonintegrated setting, a justification for that nonintegrated setting.))~~

(8) If physical and mental restoration services ~~((are))~~ were provided, in accordance with WAC 67-25-384, documentation supporting the determination that the clinical status of the ~~((individual is))~~ customer was stable or slowly progressive.

(9) Documentation supporting any decision to provide services to family members in accordance with WAC 67-25-408.

(10) Documentation of the individual's participation in the cost of any vocational rehabilitation services.

(11) Documentation of the individual's eligibility for and use of any comparable services and benefits in accordance with WAC 67-25-360.

(12) Documentation that the individual has been advised of the confidentiality of all personal information, and that any information about the individual has been released with the individual's informed written consent, in accordance with WAC 67-25-550.

(13) Documentation of the reason for terminating services to ~~((an individual,))~~ a customer, in accordance with WAC 67-25-545, and, if the ~~((individual))~~ customer was determined rehabilitated, the basis for that determination in accordance with WAC 67-25-540.

(14) Documentation of any plans to provide post-employment services after the employment outcome has been achieved, the basis on which these plans were developed, and a description of services provided and outcomes achieved in accordance with WAC 67-25-444.

(15) Documentation concerning any action and decision resulting from a request for ~~((administrative review or))~~ a fair hearing in accordance with WAC ~~((67-25-560 or))~~ 67-25-570.

(16) If ~~((an individual))~~ a customer has been provided vocational rehabilitation services under an individualized ~~((written rehabilitation program))~~ plan for employment, but after the initiation of these services he or she has been determined no longer capable of achieving an employment outcome, documentation of any reviews of this determination in accordance with WAC 67-25-056.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 67-25-075	Extended evaluation—Eligibility criteria.
WAC 67-25-080	Extended evaluation—Individualized written rehabilitation program.
WAC 67-25-085	Extended evaluation—Services provided.
WAC 67-25-090	Extended evaluation—Services not provided.

WAC 67-25-095	Extended evaluation—Duration of services.
WAC 67-25-100	Extended evaluation—Assessment.
WAC 67-25-110	Extended evaluation—Termination.
WAC 67-25-288	Individualized written rehabilitation program—Termination—Notification of rights.
WAC 67-25-300	Purpose of vocational rehabilitation.
WAC 67-25-326	Services to special groups of individuals with disabilities.
WAC 67-25-395	Vocational rehabilitation services—Training—College and trade school.
WAC 67-25-470	How will DSB determine whether a person meets the definition of "most severely disabled"?
WAC 67-25-480	How will DSB implement an order of priority?
WAC 67-25-560	Administrative review.

## WSR 05-08-099

## PERMANENT RULES

UTILITIES AND TRANSPORTATION  
COMMISSION

[Docket No. UW-040375, General Order No. R-519—Filed April 4, 2005, 1:13 p.m., effective May 5, 2005]

In the matter of amending WAC 480-110-205 Application of rules and 480-110-255 Jurisdiction, relating to jurisdictional revenue threshold for investor-owned water companies.

**1 STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 05-04-063, filed with the code reviser on January 31, 2005. The commission brings this proceeding pursuant to RCW 80.01.040, 80.04.160, and 80.04.010.

**2 STATEMENT OF COMPLIANCE:** This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

**3 DATE OF ADOPTION:** The commission adopts this rule on the date that this order is entered.

**4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325 requires that the commission prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must include the identification of the reasons for adopting the rule, a sum-

mary of the comments received regarding the proposed rule, and responses reflecting the commission's consideration of the comments.

**5** The commission often includes a discussion of those matters in its rule adoption order. In addition, most rule-making proceedings involve extensive work by commission staff that includes summaries in memoranda of stakeholder comments, commission decisions, and staff recommendations in each of those areas.

**6** In this docket, to avoid unnecessary duplication, the commission designates the discussion in this order as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda presented at the adoption hearing, and at the open meetings where the commission considered whether to begin a rule making, and whether to propose adoption of specific language. Together, the documents provide a complete and concise explanation of the agency actions and its reasons for taking those actions.

**7 REFERENCE TO AFFECTED RULES:** This rule making amends the following sections of the Washington Administrative Code:

**WAC 480-110-205 Application of rules,** consistent with the amendments to WAC 480-110-255, amendments to this section increase the jurisdictional threshold related to revenue for water companies to \$471.

**WAC 480-110-255 Jurisdiction,** increases the maximum average annual revenue per customer jurisdictional threshold for water companies to reflect the latest final implicit price deflator of the U.S. Department of Commerce at the time of adoption. The amendment raises the revenue threshold from \$429 to \$471, pursuant to RCW 80.04.010.

Clarifies that the accounting methodology for computing the revenue threshold is based on *billed* revenues, rather than *paid* revenues.

**8 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:** The commission filed a preproposal statement of inquiry (CR-101) on April 7, 2004, at WSR 04-08-132.

**9 ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT:** The statement advised interested persons that the commission was considering entering a rule making to consider amendment of rules relating to the maximum average annual revenue per customer jurisdictional threshold for water companies in WAC 480-110-255. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by submitting an article describing the rule making that was published in the Department of Health, Office of Drinking Water, June 2004 newsletter. The commission posted the relevant rule-making information on its internet web site at <http://www.wutc.wa.gov>.

**10 WRITTEN COMMENTS:** Pursuant to the notice, the commission invited written comments. The commission received written comments from Patrick C. Roe of MacKaye Harbor Water Company, Gary Hall of Hall Engineering Associates, and Richard Finnigan, attorney.

**11 NOTICE OF PROPOSED RULE MAKING:** The commission filed a notice of proposed rule making (CR-102) on Jan-

uary 31, 2005, at WSR 05-04-063. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 05-04-063 at 9:30 a.m., Wednesday, March 16, 2005, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

**12 COMMENTERS (WRITTEN COMMENTS):** The commission received no written comments on the CR-102 proposal.

**13 RULE-MAKING HEARING:** The rule proposal was considered for adoption, pursuant to the notice, at a rule-making hearing scheduled during the commission's regularly scheduled open public meeting on March 16, 2005, before Chairman Mark Sidran, Commissioner Patrick Oshie, and Commissioner Philip Jones. Danny Kermode of commission staff, Patrick Roe of MacKaye Harbor Water Company, and Drew Noble, an operator of water systems, presented oral comments at the rule-making hearing.

**14 ORAL COMMENTS:** Mr. Patrick Roe of MacKaye Harbor Water Company voiced his support for the rule proposal. Mr. Drew Noble, a water system operator for fifteen years, commented in opposition to the proposed amendment of WAC 480-110-255 that would raise the jurisdictional threshold for water companies.

**15 SUGGESTIONS FOR CHANGE THAT ARE ACCEPTED OR REJECTED:** In this section the commission responds to comments made on the proposed rules. In each response we indicate whether we made a change in the adopted rules based upon the comment, or whether we adhered to the language in the proposed rule.

**16** Mr. Drew Noble expressed concern that the public interest would be better served if all water systems were regulated. He related his experience as an operator of systems that fall under the threshold. He mentioned that without commission oversight, some smaller unregulated water companies do not provide needed maintenance and improvements to their water systems. He stressed that customers would be better served if the commission regulated these water systems.

**17** The commission is bound by statute to regulate only those water systems that exceed the jurisdictional revenue threshold set forth in RCW 80.04.010, as adjusted for inflation. The commission recognizes that there may be circumstances where it is not in the public interest to raise the revenue threshold. Such circumstances appear to have been contemplated by the legislature in RCW 80.04.010, when it gave the commission the discretion to increase the revenue figure annually by rule. Based on the rule-making record before us, we find an increase in the revenue threshold appropriate.

**18 COMMISSION ACTION:** After considering all of the information regarding this proposal, the commission finds and concludes that it should amend the rules as proposed in the CR-102 notice at WSR 05-04-063, with the changes described below.

**19 CHANGES FROM PROPOSAL:** After reviewing the entire record, the commission adopts the CR-102 proposal with the following changes from the text notices at WSR 05-04-063.

#### **WAC 480-110-205 Application of rules.**

**20** The commission stated in its notice of proposed rule making (CR-102), that the proposed threshold amount of \$468 may change at the time of adoption based on the latest final implicit price deflator of the Department of Commerce. Accordingly, the threshold revenue amount is changed from four hundred sixty-eight dollars to four hundred seventy-one dollars to reflect the March 30, 2005, release of the fourth quarter 2004 final implicit price deflator index.

**21** The word *receive* is deleted from the last sentence of this section to clarify that the accounting methodology is based on accrual basis revenues.

#### **WAC 480-110-255 Jurisdiction.**

**22** The commission stated in its notice of proposed rule making (CR-102), that the proposed threshold amount of \$468 may change at the time of adoption based on the latest final implicit price deflator of the Department of Commerce. Accordingly, the threshold revenue amount is changed from four hundred sixty-eight dollars to four hundred seventy-one dollars to reflect the March 30, 2005, release of the fourth quarter 2004 final implicit price deflator index.

**23 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** In reviewing the entire record, the commission determines that WAC 480-110-205 Application of rules, and 480-110-255 Jurisdiction, should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

#### **ORDER**

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

#### **THE COMMISSION ORDERS:**

**24** WAC 480-110-205 Application of rules, and 480-110-255 Jurisdiction, are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

**25** This order and the rules set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 1st day of April, 2005.

Washington Utilities and Transportation Commission

Mark H. Sidran, Chairman  
 Patrick J. Oshie, Commissioner  
 Philip B. Jones, Commissioner

**AMENDATORY SECTION** (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-205 Application of rules.** The rules in this chapter apply to any water company that distributes, sells, or supplies water, and that meets requirements for commission regulation or jurisdiction under RCW 80.04.010 and WAC 480-110-255. This includes investor-owned water companies that meet the jurisdictional threshold of serving one hundred or more customers or ~~((receive))~~ have average revenue of more than four hundred ~~((twenty-nine))~~ seventy-one dollars ~~((or more))~~ per customer per year.

**AMENDATORY SECTION** (Amending General Order No. R-473, Docket No. UW-991634, filed 8/21/00, effective 9/21/00)

**WAC 480-110-255 Jurisdiction.** (1) The commission only regulates investor-owned water companies that:

(a) Own, operate, control, or manage one or more water systems; except that control or management does not include management by a satellite management agency as defined in chapter 70.116 RCW if the satellite management agency is not an owner of the water company.

(b) Meet jurisdictional thresholds of one hundred or more customers, or ~~((receive))~~ have average revenue of more than four hundred ~~((twenty-nine))~~ seventy-one dollars per customer per year.

If a water company serves customers	and <del>((receives))</del> <u>has</u> average annual revenue per customer	commission regulation
99 or less	<u>\$471 or less</u> <del>((than \$429))</del>	No
99 or less	<del>(((\$429 or))</del> <u>more than \$471</u>	Yes
100 or more	<u>\$471 or less</u> <del>((than \$429))</del>	Yes
100 or more	<del>(((\$429 or))</del> <u>more than \$471</u>	Yes

(2) The commission does not regulate the following providers of water service:

- (a) Cities, towns, or counties.
- (b) Public utility districts.
- (c) Water districts.
- (d) Local improvement districts.
- (e) Homeowner associations, cooperatives and mutual corporations, or similar entities that provide service only to their owners or members.
- (f) Homeowner associations, cooperatives and mutual corporations, or similar entities that provide service to nonmembers unless they serve one hundred or more nonmembers, or charge nonmembers more than four hundred

~~((twenty-nine))~~ seventy-one dollars average annual revenue per nonmember.

(g) Entities or persons that provide water only to their tenants as part of the business of renting or leasing.

This may include:

- (i) Apartment buildings.
- (ii) Mobile home parks.
- (iii) Manufactured home rental communities.
- (iv) Office complexes.
- (v) Commercial or industrial parks.

(3) To determine jurisdiction, the commission considers only those customers receiving water. The commission does not consider customers who do not receive water, such as customers who have paid:

- (a) Water-availability letter fees.
- (b) Standby charges.
- (c) System-readiness fees.
- (d) Ready-to-serve charges.

(4) To calculate the average annual revenue per customer, the commission considers only the charges that water-receiving customers ~~((pay on a monthly))~~ are billed on a recurring basis, other than contributions in aid of construction. For example, this includes money ~~((paid))~~ billed for flat-rate service or the metered base-charge and all usage charges.

(a) The commission does not include charges ~~((paid-by))~~ billed to customers who do not receive water, such as:

- (i) Water availability letter fees.
- (ii) Standby charges.
- (iii) System-readiness fees.
- (iv) Ready-to-serve charges.

(b) The commission does not consider contributions in aid of construction in determining jurisdiction. These contributions can be money, services or property. Payments can be made in a lump sum or financed over time. Examples of contributions in aid of construction include payments for:

- (i) Connection to system.
- (ii) Meter installation.
- (iii) System buy-in.
- (iv) Facilities charges.
- (v) Assessments for capital plant and equipment.

(5) The following example shows how to calculate the average annual revenue per customer for two hypothetical customers. The data for each customer are provided at the end of the example:

(a) Select the most recent twelve consecutive months.

Example: February ~~((1999))~~ 2004 through January ~~((2000))~~ 2005.

(b) For each customer who received water service during the twelve-month period, add the amount the customer ~~((paid to))~~ was billed by the water company for items other than contribution in aid of construction items.

Example: Customer A ~~((paid))~~ billed \$340.  
 Customer B ~~((paid))~~ billed \$283.

(c) For each customer who received water service during the twelve-month period, add the number of months the customer received water service.

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Example: Customer A received water service for twelve months.  
Customer B received water service for nine months.

Customer B	+	<u>9</u>
Total Months Received Water Service During the Twelve-Month Period		21

(d) Total the amount ((paid-by)) billed the customers during the twelve-month period.

(f) Calculate the "Average Monthly Revenue Per Customer": Divide the "Total ((Paid)) Billed During the Twelve-Month Period" by the "Total Months Received Water Service During the Twelve-Month Period."

Example:

	<u>((Paid-to)) Billed by the Water Company During the Twelve-Month Period</u>
Customer A	\$340
Customer B	+ \$283
Total ((Paid)) <u>Billed</u> During Twelve-Month Period	\$623

Example:

Total ((Paid)) <u>Billed</u> During the Twelve-Month Period		\$623
Total Months Received Water Service During the Twelve-Month Period	+	<u>21</u>
Average Monthly Revenue Per Customer		\$29.67

(e) Total the number of months each customer received water service.

(g) Calculate the "Average Annual Revenue Per Customer": Multiply the "Average Monthly Revenue Per Customer" times 12 months.

Example:

	<u>Number of Months Received Water Service During the Twelve-Month Period</u>
Customer A	12

(A) Average Monthly Revenue Per Customer		\$29.67
Months in a Year	x	<u>12</u>
(B) Average Annual Revenue Per Customer		\$356.04

DATA USED IN THE EXAMPLE  
TO CALCULATE  
AVERAGE ANNUAL REVENUE PER CUSTOMER

Example—  
Customer A

	<u>Standby Charge</u>	<u>Ready-to-Serve Charge</u>	<u>Connection Charge</u>	<u>Facilities Charge</u>	<u>Meter Base Charge</u>	<u>Meter Usage Charge</u>
<u>Receive Water Service</u>	No	No	Yes	Yes	Yes	Yes
<u>Contribution in Aid of Construction</u>	No	No	Yes	Yes	No	No

<u>Year</u>	<u>Month</u>				<u>Total ((Paid)) Billed</u>
((1997)) 2004	February				\$24
((1997)) 2004	March		\$20	\$4	\$25
((1997)) 2004	April		\$20	\$5	\$22
((1997)) 2004	May		\$20	\$2	\$30
((1997)) 2004	June		\$25	\$5	\$31
((1997)) 2004	July		\$25	\$6	\$37
((1997)) 2004	August		\$25	\$12	\$31
((1997)) 2004	September		\$25	\$6	\$29
			\$25	\$4	

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<del>((1997))</del> <u>2004</u>	October				\$25	\$4	\$29	
<del>((1997))</del> <u>2004</u>	November				\$25	\$3	\$28	
<del>((1997))</del> <u>2004</u>	December				\$25	\$2	\$27	
<del>((1998))</del> <u>2005</u>	January				<u>\$25</u>	<u>\$2</u>	<u>\$27</u>	
		\$0	\$0	\$0	\$0	\$285	\$55	\$340
	Number of months service					12		
						Not Receiving Water		\$0
						Receiving Water - Contribution in Aid of Construction		\$0
						Receiving Water - Other than Contribution in Aid of Construction		<u>\$340</u>
						Total customer ( <del>paid</del> ) <u>billed</u> during period		\$340

**DATA USED IN THE EXAMPLE  
TO CALCULATE  
AVERAGE ANNUAL REVENUE PER CUSTOMER**

**Example—  
Customer B**

	<u>Standby Charge</u>	<u>Ready-to-Serve Charge</u>	<u>Connection Charge</u>	<u>Facilities Charge</u>	<u>Meter Base Charge</u>	<u>Meter Usage Charge</u>		
<u>Receive Water Service</u>	No	No	Yes	Yes	Yes	Yes		
<u>Contribution in Aid of Construction</u>	No	No	Yes	Yes	No	No		
							<u>Total</u>	
<u>Year</u>							<u>((Paid))</u>	
<u>Month</u>							<u>Billed</u>	
<del>((1997))</del> <u>2004</u>	February	\$7					\$7	
<del>((1997))</del> <u>2004</u>	March	\$7					\$7	
<del>((1997))</del> <u>2004</u>	April		\$12				\$12	
<del>((1997))</del> <u>2004</u>	May			\$300	\$4,500	\$25	\$5	
<del>((1997))</del> <u>2004</u>	June					\$25	\$4	
<del>((1997))</del> <u>2004</u>	July					\$25	\$3	
<del>((1997))</del> <u>2004</u>	August					\$25	\$12	
<del>((1997))</del> <u>2004</u>	September					\$25	\$10	
<del>((1997))</del> <u>2004</u>	October					\$25	\$15	
<del>((1997))</del> <u>2004</u>	November					\$25	\$5	
<del>((1997))</del> <u>2004</u>	December					\$25	\$2	
<del>((1998))</del> <u>2005</u>	January					<u>\$25</u>	<u>\$2</u>	
		\$14	\$12	\$300	\$4,500	\$225	\$58	
	Number of months service					9		
						Not Receiving Water		\$26
						Receiving Water - Contributions in Aid of Construction		\$4,800
						Receiving Water - Other than Contribution in Aid of Construction		<u>\$283</u>
						Total customer ( <del>paid</del> ) <u>billed</u> during period		\$5,109

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(h) To ensure that all customers are treated equitably, the commission will impute the same rates to any customers receiving free or reduced service that apply to other customers receiving comparable service on the same system.

**WSR 05-08-110**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed April 5, 2005, 12:10 p.m., effective June 1, 2005]

Effective Date of Rule: June 1, 2005.

Purpose: The purpose of this rule making is to correct the inconsistency between chapter 70.74 RCW, Washington State Explosive Act, and chapter 296-52 WAC, Safety standards for possession and handling of explosives. The rule making changed the licensing requirements from two years to one year, in order to be consistent with the RCW. We also incorporated recommendations from the FBI regarding bomb technicians, and made housekeeping changes throughout the rule.

Citation of Existing Rules Affected by this Order: Amending WAC 296-52-60130 Definitions, 296-52-61020 License fees, 296-52-61045 License terms, 296-52-62010 Dealer applicant information, 296-52-63010 Applicant information, 296-52-64005 Responsibility to obtain a blaster's license, 296-52-64040 List C qualifications, 296-52-64050 Blaster license applicant information, 296-52-64090 Blaster license renewal, 296-52-64095 List A and B renewal qualifications, 296-52-64100 List C renewal qualifications, 296-52-65005 Responsibility to obtain a manufacturer's license, 296-52-65010 Manufacturer applicant information, 296-52-66005 Responsibility to obtain a storage license, 296-52-66010 Storage applicant information, 296-52-67080 Drilling, 296-52-67165 Fixed location mixing, 296-52-69020 Storage facilities, 296-52-70005 Type 1 magazines: Permanent storage facilities, 296-52-70010 Building construction for type 1 magazines, 296-52-70015 Igloos, army-type structures, tunnels, and dugouts, 296-52-70020 Type 2 magazines: Portable field storage, 296-52-70025 Construction for type 2 magazines, 296-52-70030 Type 3 magazines: Indoor storage facilities, 296-52-70040 Construction for type 3 magazines, 296-52-70045 Type 4 magazines: Blasting agent, low explosives, or electric detonator storage facilities, 296-52-70050 Construction for type 4 magazines, 296-52-70055 Type 5 magazines: Blasting agent storage facilities, 296-52-70060 Construction for type 5 magazines, 296-52-71020 Storage with division 1.1, 1.2, or 1.3 explosives, 296-52-71080 Storage, and 296-52-725 Appendix B, sample format for a blast record.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Adopted under notice filed as WSR 05-01-171 on December 21, 2004.

Changes Other than Editing from Proposed to Adopted Version: As a result of written and oral comments received, the following sections were changed: WAC 296-52-60130.

- Changed wording from BATF to ATF to reflect stakeholder suggestion.
- Changed the definition of "ATF" to include explosives.
- Changed the definition of "manufacturer" to match that of the ATF.

WAC 296-52-65005.

- Changed proposed wording to reflect stakeholder suggestion.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 32, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 32, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 32, Repealed 0.

Date Adopted: April 5, 2005.

Judy Schurke  
Acting Director

**AMENDATORY SECTION** (Amending WSR 03-06-073, filed 3/4/03, effective 8/1/03)

**WAC 296-52-60130 Definitions. Alien means any person who is not a citizen or national of the United States.**

**American Table of Distances** means the American Table of Distances for Storage of Explosives as revised and approved by Institute of the Makers of Explosives (IME).

**Approved storage facility** means a facility for the storage of explosive materials which is in compliance with the following chapter:

- Storage licensing (WAC 296-52-660)
- Storage of explosive materials (WAC 296-52-690)
- Magazine construction (WAC 296-52-700).

**ATF means the Bureau of Alcohol, Tobacco, Firearms and Explosives.**

**Attend** means the physical presence of an authorized person who stays in view of the explosives.

**Authorized, approved, or approval** means authorized, approved, or approval by:

- The department
- Any other approving agency
- An individual as specified in this chapter.

**Authorized agent** means a person delegated by a licensed purchaser, who possesses a basic knowledge of explosives handling safety, to order and receive explosives on the purchaser's behalf.

**Authorized agent list** means a current list of agents the purchaser has authorized to order or receive explosives on their behalf.

**Authorized person** means a person approved or assigned by an employer, owner, or licensee to perform a specific type of duty or be at a specific location at the job site.

**Barricades**

• **Barricade** means effectively screening a building containing explosives by means of a natural or artificial barrier from a magazine, another building, a railway, or highway.

• **Artificial barricade** means a barricade of such height that a straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine or other building or to a point twelve feet above the center of a railway or highway shall pass through such barrier, an artificial mound or properly revetted wall of earth with a minimum thickness of three feet.

• **Natural barricade** means any natural hill, mound, wall, or barrier composed of earth, rock, or other solid material at least three feet thick.

~~((B.A.T.F. means the Bureau of Alcohol, Tobacco, and Firearms.))~~

**Blast area** means the area of a blast that is effected by:

- Flying rock missiles
- Gases
- Concussion.

**Blast pattern** means the plan of the drill holes laid out and a display of the burden distance, spacing distance, and their relationship to each other.

**Blast site** means the area where explosive material is handled during loading and fifty feet in all directions from loaded blast holes or holes to be loaded.

**Blaster** means a person trained and experienced in the use of explosives and licensed by the department.

**Blaster in charge** means a licensed blaster who is:

• Fully qualified, by means of training and experience in explosives use

• Adequately trained, experienced, and capable of recognizing hazardous conditions throughout the blast area

• In charge of:

– The blast process  
– All aspects of explosives and blasting agent storage, handling, and use as recommended by the manufacturer and as required by this chapter

• In a position of authority:

– To take prompt corrective action in all areas of the blast operation

– Over all other blasters at the blast area

**Blasting agent** means any material or mixture consisting of a fuel and oxidizer:

• That is intended for blasting

• Not otherwise defined as an explosive

• If the finished product, as mixed for use or shipment, cannot be detonated by means of a number 8 test blasting cap when unconfined

– A number 8 test blasting cap is one containing two grams of a mixture of eighty percent mercury fulminate and twenty percent potassium chlorate, or a blasting cap of equivalent strength. An equivalent strength cap comprises 0.40-0.45 grams of PETN base charge pressed in an aluminum shell with bottom thickness not to exceed 0.03 of an inch, to a specific gravity of not less than 1.4 g/cc., and primed with standard weights of primer depending on the manufacturer

**Blockholing** means the breaking of boulders by firing a charge of explosives that has been loaded in a drill hole.

**Competent person** means a person who:

• Is capable of identifying existing hazardous and the forecasting of hazards of working conditions which might be unsanitary or dangerous to personnel or property

• Has authorization to take prompt corrective action to eliminate such hazards.

**Consumer fireworks** means:

• Any small firework device:

– Designed to produce visible effects by combustion

– That must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission (Title 16 CFR, Parts 1500 and 1507),

• A small device designed to produce audible effects which include, but are not limited to:

– Whistling devices

– Ground devices containing 50 mg or less of explosive materials

– Aerial devices containing 130 mg or less of explosive materials

**Note:** Fused set pieces containing components, which, together, exceed 50 mg of salute powder are not included.

**Conveyance** means any unit used for transporting explosives or blasting agents, including, but not limited to:

• Trucks

• Trailers

• Rail cars

• Barges

• Vessels.

**Day box** means a box which:

• Is a temporary storage facility for storage of explosive materials

• Is not approved for unattended storage of explosives

• May be used at the worksite during working hours to store explosive materials, provided the day box is:

– Constructed as required (WAC 296-52-70065, Explosives day box),

– Marked with the word "explosives"

– Used in a manner that safely separates detonators from other explosives

– Guarded at all times against theft

**Dealer** means any person who purchases explosives or blasting agents for the sole purpose of resale and not for use or consumption.

**Detonating cord** means a round flexible cord containing a center core of high explosive and used to initiate other explosives.

**Detonator** means any device containing any initiating or primary explosive that is used for initiating detonation and includes, but is not limited to:

• Electric detonators of instantaneous and delay types

• Detonators for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous delay detonators which use detonating cord, shock tube, or any other replacement for electric leg wires.

**Discharge hose** means a hose with an electrical resistance high enough to limit the flow of stray electric currents to safe levels, but not high enough to prevent drainage of static electric charges to the ground. Hose not more than 2 megohms resistance over its entire length and of not less than 5,000 ohms per foot meets the requirement.

**Display fireworks** means large fireworks:

- Designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, and include, but are not limited to:
  - Salutes containing more than 2 grains (130 mg) of explosive materials
  - Aerial shells containing more than 40 grams of pyrotechnic compositions
  - Other display pieces, which exceed the limits of explosive materials for classification as "consumer fireworks"
  - Fused set pieces containing components, which together exceed 50 mg of salute powder

**Electric detonator** means a blasting detonator designed for and capable of detonation by means of electric current.

**Electric blasting circuitry** consists of these items:

- **Bus wire.** An expendable wire used in parallel or series, or in parallel circuits, which are connected to the leg wires of electric detonators.
- **Connecting wire.** An insulated expendable wire used between electric detonators and the leading wires or between the bus wire and the leading wires.
- **Leading wire.** An insulated wire used between the electric power source and the electric detonator circuit.
- **Permanent blasting wire.** A permanently mounted insulated wire used between the electric power source and the electric detonator circuit.

**Electric delay detonators** means detonators designed to detonate at a predetermined time after energy is applied to the ignition system.

**Electronic detonator** means a detonator that utilizes stored electrical energy as a means of powering an electronic timing delay element/module that provides initiation energy for firing the base charge.

**Emulsion** means an explosive material containing:

- Substantial amounts of oxidizer dissolved in water droplets, surrounded by an immiscible fuel
- Droplets of an immiscible fuel surrounded by water containing substantial amounts of oxidizer.

**Explosives** means:

- Any chemical compound or mechanical mixture:
  - Commonly intended or used for the purpose of producing an explosion
  - That contains any oxidizing and combustible units or other ingredients in proportions, quantities or packing that an ignition by fire, friction, concussion, percussion, or detonation of any part of the compound or mixture may cause sudden generation of highly heated gases resulting in gaseous pressures capable of producing destructive effects on contiguous objects or of destroying life or limb
- All material classified as Division 1.1, 1.2, 1.3, 1.4, 1.5, or 1.6 explosives by U.S. DOT
- For the purposes of public consumer use, the following are not considered explosives unless they are possessed or used for a purpose inconsistent with small arms use or other legal purposes:
  - Small arms ammunition
  - Small arms ammunition primers
  - Smokeless powder, not exceeding fifty pounds
  - Black powder, not exceeding five pounds

**Explosive actuated power devices** means any tool or special mechanized device, which is activated by explosives and does not include propellant actuated power devices.

**Explosives classifications.** Explosives classifications include, but are not limited to:

- Division 1.1 and Division 1.2 explosives (possess mass explosion or detonating hazard):
    - Dynamite
    - Nitroglycerin
    - Picric acid
    - Lead azide
    - Fulminate of mercury
    - Black powder (exceeding 5 pounds)
    - Detonators (in quantities of 1,001 or more)
    - Detonating primers
  - Division 1.3 explosives (possess a minor blast hazard, a minor projection hazard, or a flammable hazard):
    - Propellant explosives
    - Smokeless powder (exceeding fifty pounds)
  - Division 1.4 explosives:
    - Explosives that present a minor explosion hazard
    - Includes detonators that will not mass detonate in quantities of 1,000 or less
  - Division 1.5 explosives:
    - Explosives with a mass explosion hazard but are so insensitive that there is little probability of initiation
    - ANFO and most other blasting agents are in this division
  - Division 1.6 explosives:
    - Explosives that are extremely insensitive and do not have a mass explosion hazard
- Explosives exemption.** The exemption for small arms ammunition, small arms ammunition primers, smokeless powder, not exceeding fifty pounds, and black powder, not exceeding five pounds:
- Applies to public consumer use only
  - Does not apply to the employer employee relationship covered under the Washington Industrial Safety and Health Act.

**Explosives international markings.**

- The department will accept U.S. DOT and/or ((BATF)) ATF international identification markings on explosives and/or explosives containers or packaging
- This exception is under the authority of RCW 70.74.020(3) and in lieu of Washington state designated markings (as defined by RCW 70.74.010(4) (Division 1.1, 1.2, and 1.3) and required by RCW 70.74.300).

**Explosives manufacturing building** means any building or structure, except magazines:

- Containing explosives where the manufacture of explosives, or any processing involving explosives, is conducted
- Where explosives are used as a component part or ingredient in the manufacture of any article or device.

**Explosives manufacturing plant** means all lands with buildings used:

- In connection with the manufacturing or processing of explosives
- For any process involving explosives
- For the storage of explosives

• To manufacture any article or device where explosives are used as a component part or ingredient in the article or device.

**Fireworks** means any composition or device:

- Designed to produce a visible or an audible effect by combustion, deflagration, or detonation
- Which meets the definition of "consumer fireworks" or "display fireworks."

**Forbidden or not acceptable explosives** means explosives which are forbidden or not acceptable for transportation by common carriers by rail freight, rail express, highway, or water in accordance with the regulations of the Federal Department of Transportation (DOT).

**Fuel** means a substance, which may react with oxygen to produce combustion.

**Fuse (safety)**. See "safety fuse."

**Fuse lighters** means special devices used for the purpose of igniting safety fuses.

**Handler** means any individual who handles explosives or blasting agents for the purpose of transporting, moving, or assisting a licensed blaster in loading, firing, blasting, or disposal.

**Note:** This does not include employees of a licensed manufacturer engaged in manufacturing process, drivers of common carriers, or contract haulers.

**Hand loader** means any person who engages in the non-commercial assembly of small arms ammunition for personal use; specifically, any person who installs new primers, powder, and projectiles into cartridge cases.

**Highway** means roads, which are regularly and openly traveled by the general public and includes public streets, alleys, roads, or privately financed, constructed, or maintained roads.

**Improvised device** means a device, which is:

- Fabricated with explosives
- Fabricated with destructive, lethal, noxious, pyrotechnic, or incendiary chemicals, and designed, or has the capacity to disfigure, destroy, distract, and harass.

**Inhabited building** means:

- A building which is regularly occupied, in whole or in part, as a habitat for human beings
- Any church, schoolhouse, railroad station, store, or other building where people assemble.

**Note:** This does not mean any building or structure occupied in connection with the manufacture, transportation, storage, or use of explosives.

**Low explosives** means explosive materials, which can be caused to deflagrate when, confined. This includes:

- Black powder, safety fuses, igniters, igniter cords, fuse lighters, and display fireworks defined as Division 1.2 or Division 1.3 explosives by U.S. DOT (49 CFR Part 173).

**Note:** This does not apply to bulk salutes.

**Magazine** means any building, structure, or container approved for storage of explosive materials.

**Note:** This does not apply to an explosive manufacturing building.

**Manufacturer** means any person(~~(, partnership, firm, company, or corporation who manufactures explosives or blasting agents, or use any process involving explosives as a component part in the manufacture of any device, article, or product))~~ engaged in the business of manufacturing explosive

materials for purposes of sale or distribution or for his or her own use.

**EXEMPTIONS:** The following exemptions are restricted to materials and components, which are not classified (by U.S. ~~(DOT)~~ DOT) as explosives until after they are mixed. With this restriction, the definition of manufacturer *does not* include:

- Inserting a detonator into a cast booster or a stick of high explosive product to make a primer for loading into a blast hole
- The act of mixing on the blast site, either by hand or by mechanical apparatus, binary components, ammonium nitrate, fuel oil, and/or emulsion products to create explosives for immediate down blast hole delivery.

**Misfire** means the complete or partial failure of an explosive charge to explode as planned.

**Mudcap** (also known as bulldozing and dobbing) means covering the required number of cartridges that have been placed on top of a boulder with a three or four-inch layer of mud, which is free from rocks or other material that could cause a missile hazard.

**Nonelectric delay detonator** means a detonator with an integral delay element in conjunction with and capable of being detonated by a:

- Detonation impulse
- Signal from miniaturized detonating cord
- Shock tube.

**Oxidizer** means a substance that yields oxygen readily to stimulate the combustion of organic matter or other fuel.

**Permanent magazines** means magazines that:

- Are fastened to a foundation
- Do not exceed permanent magazine capacity limits (RCW 70.74.040)
- Are approved and licensed
- Are left unattended.

**Person** means any individual, firm, partnership, corporation, company, association, person or joint stock association or trustee, receiver, assignee, or personal representative of that entity.

**Person responsible**, for an explosives magazine, means:

- The person legally responsible for a magazine that actually uses the magazine
- The person is responsible for the proper storage, protection, and removal of explosives, and may be the owner lessee, or authorized operator.

**Portable (field) magazines** means magazines that are:

- Designed to be unattended
- Not permanently fastened to a foundation
- Constructed or secured to make sure they cannot be lifted, carried, or removed easily by unauthorized persons
- Limited to the capacity of explosives required for efficient blasting operation
- Approved and licensed.

**Possess** means the physical possession of explosives in one's hand, vehicle, magazine, or building.

**Primary blasting** means the blasting operation that dislodged the original rock formation from its natural location.

**Primer** means a unit, package, cartridge, or container of explosives inserted into or attached to a detonator or detonating cord to initiate other explosives or blasting agents.

**Propellant actuated power device** means any tool, special mechanized device, or gas generator system, which is actuated by a propellant and releases and directs work through a propellant charge.

**Public utility transmission systems** means:

- Any publicly owned systems regulated by:
  - The utilities and transportation commission
  - Municipalities
  - Other public regulatory agencies, which include:
    - Power transmission lines over 10 kV, telephone cables, or microwave transmission systems
    - Buried or exposed pipelines carrying water, natural gas, petroleum, or crude oil or refined products and chemicals

**Purchaser** means any person who buys, accepts, or receives explosives or blasting agents.

**Pyrotechnics**, commonly referred to as fireworks, means any combustible or explosive compositions or manufactured articles designed and prepared for the purpose of producing audible or visible effects.

**Qualified person** means a person who has successfully demonstrated the ability to solve or resolve problems relating to explosives, explosives work, or explosives projects by:

- Possession of a recognized degree or certificate
- Professional standing
- Extensive knowledge, training, and experience.

**Railroad** means any type of railroad equipment that carries passengers for hire.

**Safety fuse (for firing detonators)** means a flexible cord containing an internal burning medium by which fire is conveyed at a continuous and uniform rate.

**Secondary blasting** means using explosives, mudcapping, or blockholing to reduce oversize material to the dimension required for handling.

**Shock tube** means a small diameter plastic tube:

- Used for initiating detonators
- That contains a limited amount of reactive material so energy, transmitted through the tube by means of a detonation wave, is guided through and confined within the walls of the tube.

**Small arms ammunition** means any shotgun, rifle, pistol, or revolver cartridge, and cartridges for propellant actuated power devices and industrial guns.

**Note:** This does not mean military type ammunition containing explosive bursting incendiary, tracer, spotting, or pyrotechnic projectiles.

**Small arms ammunition primers** means small percussion sensitive explosive charges encased in a detonator or capsule used to ignite propellant power or percussion detonators used in muzzle loaders.

**Smokeless powder** means solid chemicals or solid chemical mixtures that function by rapid combustion.

**Special industrial explosive devices** means explosive actuated power devices and propellant-actuated power devices.

**Special industrial explosives materials** means shaped materials and sheet forms and various other extrusions, pellets, and packages of high explosives, which include:

- Dynamite
- Trinitrotoluene (TNT)

- Pentaerythritol tetranitrate (PETN)
- Hexahydro-1, 3, 5-trinitro-s-triazine (RDX)
- Other similar compounds used for high-energy-rate forming, expanding, and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

**Springing** means the creation of a pocket in the bottom of a drill hole by the use of a moderate quantity of explosives so that larger quantities of explosives may be inserted.

**Sprung hole** means a drilled hole that has been enlarged by a moderate quantity of explosives to allow for larger quantities of explosives to be inserted into the drill hole.

**Stemming** means a suitable inert incombustible material or device used to confine or separate explosives in a drill hole or cover explosives in mudcapping.

**Trailer** means semi-trailers or full trailers, as defined by U.S. DOT, which are:

- Built for explosives
- Loaded with explosives
- Operated in accordance with U.S. DOT regulations.

**U.S. DOT** means the United States Department of Transportation.

**Vehicle** means any car, truck, tractor, semi-trailer, full trailer, or other conveyance used for the transportation of freight.

**Water-gels or emulsion explosives.** These explosives:

- Comprise a wide variety of materials used for blasting. Two broad classes of water-gels are those which:
  - Are sensitized by material classed as an explosive, such as TNT or smokeless powder
  - Contain no ingredient classified as an explosive which are sensitized with metals, such as aluminum, or other fuels
  - Contain substantial proportions of water and high proportions of ammonium nitrate, some ammonium nitrate is in the solution in the water, and may be mixed at an explosives plant, or the blast site immediately before delivery into the drill hole.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-61020 License fees.** Applicable license fees must be included with new or renewal explosives license applications.

<b>Type of License</b>	<b>Fee</b>
Dealer's License	((50.00)) <u>25.00</u>
Purchaser's License	((10.00)) <u>5.00</u>
Blaster's License	((10.00)) <u>5.00</u>
Manufacturer's License	((50.00)) <u>25.00</u>
Storage License	(See table below)

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Explosive Materials STORAGE LICENSE FEES RCW 70.74.140 applies			
EXPLOSIVES  Maximum Weight (pounds) of explosives permitted in each magazine or mobile site.	DETONATORS  Maximum Number of detonators permitted in each magazine or mobile site.	FEE (for each magazine or mobile site)	
		Annual	<del>((Every Two Years))</del> <u>Permanent Storage License for Two Years</u>
200	133,000	10.00	20.00
1,000	667,000	25.00	50.00
5,000	3,335,000	35.00	70.00
10,000	6,670,000	45.00	90.00
50,000	33,350,000	60.00	120.00
300,000	200,000,000	75.00	150.00

**Note:** License fees will not be refunded when a license is revoked or suspended for cause.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-61045 License terms.** All licenses, including storage licenses, are valid for ~~((two))~~ one year(s) from the date of issue, unless revoked or suspended by the department prior to the expiration date.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-62010 Dealer applicant information.** The dealer applicant must:

- Give the reason they want to participate in the business of dealing in explosives
- Provide information required by WAC ~~((296-52-610, Explosives licensing))~~ 296-52-61010, License applicants must provide this information
- Provide other pertinent information required by the department.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-63010 Applicant information.** Applicants must provide the following information to the department:

- The reason explosives or blasting agents will be used
- The location where explosives or blasting agents will be used
- The kind of explosives or blasting agents to be used
- The amount of explosives or blasting agents to be used
- An explosives storage plan:
  - Documenting proof of ownership of a licensed storage magazine
- OR
- With a signed authorization to use another person's licensed magazine
- OR
- With a signed statement certifying that the explosives will not be stored

- An authorized agent list, if the purchaser chooses to authorize others to order or receive explosives on their behalf
- The identity and current license of the purchaser's blaster
- Information required by WAC ~~((296-52-610, Explosives licensing))~~ 296-52-61010, License applicants must provide this information
- Any other pertinent information requested by the department.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-64005 Responsibility to obtain a blaster's license.** No one may conduct a blasting operation without a valid blaster's license issued by the department.

**Note:** A blaster's license is not required for a "hand loader."

**Blaster license classifications table.** The following information shows classification for blasting licenses.

- **Classification list assignment.** Classification list assignment is determined by the use of single or multiple series charges; and the knowledge, training, and experience required to perform the type of blasting competently and safely.
  - **Multiple list applications.** When an applicant wants to apply for multiple classifications and the classifications desired are from two or more classification table lists:
    - All classifications must be requested on the application
    - Qualifying documentation for all classifications being applied for must be included in the applicant's resume (WAC 296-52-64050, Applicant information). Training and experience may fulfill qualification requirements in multiple classifications.
  - **Request classifications not lists.** Applicants must request specific classifications (not list designations) on their blaster application. Licenses are not issued or endorsed for Classification Table lists A, B, or C.
  - **License additions.** To add a classification to an existing license, see WAC 296-52-64085, Changes to a blaster's license classification.

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License Classifications Table					
LIST A		LIST B		LIST C	
AG	Agriculture	DE	Demolition	<del>((LE))</del> BT	<del>((Law Enforcement*))</del> Bomb Technician*
AV	Avalanche Control	SB	Surface Blasting*	UL	Unlimited*
ED	Explosives Disposal*	UB	Underground Blasting		
FO	Forestry*	UW	Underwater Blasting		
<del>LE</del>	<del>Law Enforcement*</del>				
IO	Industrial Ordnance				
SE	Seismographic				
TS	Transmission Systems				
WD	Well Drilling				

\* Detailed classification information.

• **Bomb technician.** Disposal of bombs, illegal fireworks and explosive devices.

• **Explosives disposal.** Disposal of explosive materials by licensed blasters.

• **Forestry.** Includes logging, trail building, and tree topping.

• **Law enforcement.** ~~((Law enforcement bomb disposal and illegal fireworks and explosives disposal.))~~ Diversionsary devices (stingers) and tactical entry.

• **Surface blasting.** Includes construction, quarries, and surface mining.

• **Unlimited.** Includes all classifications except underground blasting and law enforcement.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-64040 List C qualifications.** (1) **Unlimited classification.** To be considered for unlimited classification, the applicant must submit a detailed resume documenting:

• Experience in the majority of the classifications in Lists A and B

• A minimum of five years of continuous full time blasting experience in the explosives industry where blasting has been the applicant's primary responsibility during the previous five years.

(2) ~~((Law enforcement.))~~ **Bomb technician.** To be considered for a ~~((law enforcement))~~ bomb technician classification, the applicant must ~~((submit a certificate of graduation from the FBI Redstone Arsenal Training Center at Redstone, Alabama.))~~:

• Submit a copy of the certificate of graduation from the FBI Hazardous Devices School (HDS) basic course in Redstone, Alabama.

• Submit a copy of the applicant's FBI Bomb Technician Certification identification card. The FBI Bomb Technician Certification card must bear a date that indicates that it is current at the time of application.

• Submit a letter from the applicant's law enforcement agency's head (chief or sheriff) stating that the applicant is a full-time employee assigned to perform bomb technician duties as part of an FBI accredited bomb squad.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-64050 Blaster license applicant information.** An applicant for a blaster's license must provide the following information to the department:

• The application must be signed by the blasting course instructor and the qualified blaster the applicant trained under

• A detailed resume of blasting training and experience

• Satisfactory evidence of competency in handling explosives

• Information required by WAC ~~((296-52-610, Explosive licensing))~~ 296-52-61010, License applicants must provide this information.

**Note:** The department may request additional information for the classification being applied for upon review of a blaster's resume.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-64090 Blaster license renewal.** The following requirements are for license renewal:

• General applicant qualifications, WAC 296-52-64020, General qualifications, apply.

• Renewal qualifications include the requirements of WAC 296-52-64090 License renewal, through WAC 296-52-64100, List C renewal qualifications.

• Training, experience, and responsibility requirements must be accrued during the ~~((two))~~ one year~~((s))~~ before the application is submitted.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-64095 List A and B renewal qualifications.** The following requirements are for List A and B renewal qualifications:

(1) An application for a license renewal must include documentation of:

• Blasting experience, by providing a minimum of ~~((two))~~ one blast record~~((s))~~

OR

• Successful completion of ~~((sixteen))~~ eight hours of basic blaster's classroom training. The blasting course instructor must witness the submitted documentation.

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(2) List A or B applicants who do not meet the minimum classification qualifications must pass a written exam administered by the department.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-64100 List C renewal qualifications.** The following requirements are for List C renewal qualifications:

(1) **Unlimited classification.** To be considered for a renewal of an unlimited license, an applicant must submit a detailed resume documenting:

- Experience in the majority of classification in List A and B
- Full-time blasting experience in the explosives industry, where blasting has been the applicant's primary responsibility.

~~(2) ((Law enforcement classification. To be considered for a renewal of the law enforcement classification, an applicant must submit a detailed resume documenting:))~~ **Bomb technician.** To be considered for a renewal of the bomb technician classification, an applicant must:

- Have continuous employment as a law enforcement bomb technician accrued during the previous ((two)) year(s)

~~((Successful completion of sixteen hours of bomb technician classroom training. The course instructor must sign the submitted documentation.))~~ • Submit a copy of their FBI Bomb Technician Certification identification card bearing the name of the person making application and an expiration date that indicates that the card is current and valid as of the date of renewal

• Submit a letter from the applicant's law enforcement agency's head (chief or sheriff) stating that the applicant is a full-time employee assigned to perform bomb technician duties as part of an FBI accredited bomb squad.

**Note:** • If the applicant's card has expired at the time of renewal, they need to show that they are enrolled in the next available course at Redstone, Alabama.

**AMENDATORY SECTION** (Amending WSR 03-10-037, filed 4/30/03, effective 5/24/03)

**WAC 296-52-65005 Responsibility to obtain a manufacturer's license.** Any person, firm, partnership, corporation, or public agency wanting to manufacture explosives or blasting agents, or use any process involving explosives as a component part in the manufacture of any device, article, or product must have a valid manufacturer's license from the department and a valid ((user)) permit or license issued by the ATF.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-65010 Manufacturer applicant information.** The manufacturer applicant must provide the following information to the department:

- The reason the applicant wants to manufacture explosives

- The manufacturing or processing location
- The kind of explosives manufactured, processed, or used
- The distance that the explosives manufacturing building is located, or intended to be located, from other buildings, magazines, inhabited buildings, railroads, highways, and public utility transmission systems
- A site plan. The site plan must:
  - Include the distance each manufacturing building is located from:
    - ◆ Other buildings on the premises where people are employed
    - ◆ Other occupied buildings on adjoining property
    - ◆ Buildings where customers are served
    - ◆ Public highways
    - ◆ Utility transmission systems
  - Demonstrate compliance with:
    - ◆ Applicable requirements of the Washington State Explosives Act
    - ◆ The separation distance requirements of this chapter
      - Identify and describe all natural or artificial barricades used to influence minimum required separation distances
      - Identify the nature and kind of work being performed in each building
      - Specify the maximum amount and kind of explosives or blasting agents to be permitted in each building or magazine at any one time
- Information required by WAC ((296-52-610, Explosive licensing)) 296-52-61010, License applicants must provide this information
- Other pertinent information required by the department.

**AMENDATORY SECTION** (Amending WSR 03-10-037, filed 4/30/03, effective 5/24/03)

**WAC 296-52-66005 Responsibility to obtain a storage license.** Any person, firm, partnership, corporation, or public agency wanting to store explosive materials must have a valid license from the department((and a valid user permit or license issued by the ATF)).

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-66010 Storage applicant information.** Applicants must provide the following information to the department:

- The address or a legal description of the existing or proposed magazine or mobile storage site must be clearly identified
- The reason explosive materials will be stored
- The kind of explosives or blasting agents that will be stored
- The maximum quantity of explosive materials that are or will be stored
- Identify the total weight, in pounds, of all explosive materials to be stored on site
- The distance that the magazine is located or intended to be located from other magazines, inhabited buildings, explo-

sives manufacturing buildings, railroads, highways, and public utility transmission systems

- How long the storage license is needed
- Information required by WAC ((296-52-610, ~~Explosive Licensing~~) 296-52-61010, License applicants must provide this information)
- Any other pertinent information requested by the department.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-67080 Drilling. (1) Unexploded charges.**

- (a) Drilling cannot begin:
    - (i) When there is danger of drilling into a charged or mis-fired hole.
    - (ii) Until all remaining butts of old holes are examined for unexploded charges.
  - (b) Unexploded charges must be re-fired before work proceeds.
  - (2) **Distance limits during drilling.** Blasters cannot load or use explosives closer than:
    - (a) The length of the steel being used for drilling(+-)
    - OR**
    - (b) Within fifty feet of drilling operations, whichever is greater.
  - (3) **Prior to loading drill holes.**
    - (a) Holes must be checked prior to loading to determine depth and conditions.
    - (b) Drill holes that have contained explosives or blasting agents cannot be deepened.
    - (c) Drill holes must be large enough to allow unobstructed or free insertion of explosive cartridges.
  - (4) **Enlarging or springing a drill hole.**
    - (a) A drill hole cannot be sprung when it is near a loaded hole.
    - (b) A minimum of two hours must pass after a charge has exploded in a drill hole that was enlarged or "sprung," before loading another charge of explosives into the hole.
- Note:** You do not have to wait two hours if the sprung hole is thoroughly wet down with water before it is loaded.
- (c) Flashlight batteries cannot be used as a power source for springing holes.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-67165 Fixed location mixing. (1) Buildings.**

- (a) **Locations.**
  - (i) **Separation distance tables.** Buildings or other facilities used for manufacturing emulsions and water-gels must meet the separation distance requirements of Table H-21 for:
    - (A) Inhabited buildings
    - (B) Passenger railroads
    - (C) Public highways
  - (ii) **Determining distance.** When determining the distances separating highways, railroads, and inhabited buildings from potential explosions (Table H-20), the sum of all masses that may propagate (i.e., lie at distances less than

specified in Table H-22) from either individual or combined donor masses are included in the sum. However, when ammonium nitrate must be included, only fifty percent of its weight must be used because of its reduced blast effects.

(b) **Construction.** Buildings used for the manufacture of water-gels or emulsions must:

- (i) Be constructed of noncombustible material or sheet metal on wood studs.
- (ii) Have mixing plant floors made of nonabsorbent materials, such as concrete.
- (iii) Be well ventilated.
- (c) **Heat sources.** Heating units that are designed to be independent of the combustion process within the heating unit, may be used within processing buildings or compartments if they:

- (i) Have temperature and safety controls

**AND**

- (ii) Are located away from combustible materials and the finished product.

- (d) **Internal combustion engines.**

- (i) **Location.** All internal combustion engines used for electric power generation must be:

- (A) Located outside the mixing plant building

**OR**

- (B) Properly ventilated and isolated by a firewall

- (ii) **Exhaust systems.** Engine exhaust systems must be located to prevent spark emissions from becoming a hazard to any materials, in or near the plant.

~~((f))~~ **(e) Fuel oil storage.**

- (i) **Facilities.** Fuel oil storage facilities must be:

- (A) Independent structures

- (B) Located away from the manufacturing building

- (ii) **Surrounding area.** In order to prevent oil from draining toward a manufacturing building in the event of a tank rupture, the surrounding grounds must slope away from the building.

- (2) **Storage of water-gel and emulsion ingredients.**

- (a) **Explosive ingredients.** Ingredients must be stored with compatible materials.

- (b) **Nitrate water solutions.**

- (i) Nitrate water solutions can be stored in tank cars, tank trucks, or fixed tanks without quantity or distance limitations.

- (ii) Spills or leaks which may contaminate combustible materials must be cleaned up immediately.

- (c) **Metal powders.** Metal powders, for example, aluminum, must be:

- (i) Kept dry

**AND**

- (ii) Stored in containers or bins that are moisture resistant or weather tight.

- (d) **Solid fuels.** Solid fuels must be used in a way that minimizes dust explosion hazards.

- (e) **Peroxides and chlorates.** Peroxides and chlorates cannot be used.

- (3) **Mixing equipment.** Mixing equipment must comply with these requirements:

- (a) **Design.** The design of processing equipment, including mixers, pumps, valves, conveying, and other related equipment, must:

(i) Be compatible with the relative sensitivity of other materials being handled.

(ii) Minimize the possibility of frictional heating, compaction, overloading, and confinement.

(iii) Prevent the introduction of foreign objects or materials.

(iv) Be designed to permit regular and periodic flushing, cleaning, dismantling, and inspection.

(b) **Handling procedures.** Equipment handling procedures must be designed to prevent the introduction of foreign objects or materials.

(c) **Housekeeping.**

(i) A cleaning and collection system for dangerous residues must be provided.

(ii) The mixing, loading, and ingredient transfer areas, where residues or spilled materials may accumulate, must be cleaned periodically.

(d) **Electrical equipment.** Electrical equipment must:

(i) Comply with the requirements of WAC 296-800-280, Basic electrical rules, including wiring, switches, controls, motors, and lights.

(ii) Have appropriate overload protection devices for all electric motors and generators.

(iii) Be electrically bonded with electrical generators, motors, proportioning devices, and all other electrical enclosures.

(iv) Have grounding conductors effectively bonded to:

(A) The service entrance ground connection

OR

(B) All equipment ground connections in a manner to provide a continuous path to ground

(4) **Mixing facility fire prevention.** Mixing facilities must comply with these fire prevention requirements:

(a) All direct sources of heat must only come from units located outside of the mixing building.

(b) A daily visual inspection must be made of the mixing, conveying, and electrical equipment to make sure they are in good operating condition.

(c) A systematic maintenance program must be conducted on a regular schedule.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-69020 Storage facilities.** Explosives, except as specified in WAC 296-52-69015, and detonators in quantities of more than one thousand must be stored in permanent ((Class)) **Type 1** magazines or approved and licensed magazines.

**Note 1:** Components storage.

~~((Any two components when mixed, and become capable of detonation by a #6 detonator, must be stored in separate locked containers or a licensed, approved magazine.))~~ Any two components which when mixed and become capable of detonation by a #8 detonator must be stored in a licensed approved magazine. Each component of two component explosives when unmixed must be stored in separate locked containers.

**Note 2:** Electro magnetic radiation precautions.

Blasting operations or storage of electrical detonators are prohibited in the area of operation radio frequency (RF) transmitter stations except where the clearances (WAC 296-52-67060,

Extraneous electricity and radio frequency (RF) transmitters) can be observed.

**Note 3:** Detonators, electric detonators, detonating primers, and primed cartridges.

Detonators, electric detonators, detonating primers, and primed cartridges cannot be stored together or in the same magazine with other explosives.

**Note 4:** Ammonium perchlorate rocket motors.

~~((Ammonium perchlorate rocket motors in weighing more than 62.5 grams but not more than 50 pounds total weight explosives, may be stored in an attached garage of a single family residence if the living area is separated by a fire wall with a one-hour minimum fire resistance.))~~ Ammonium perchlorate rocket motors in 62.5 grams amounts or greater, but not to exceed fifty pounds in total weight of explosives, may be stored in an attached garage of a single-family residence if the living area is separated by a fire wall with one-hour minimum fire resistance.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-70005 ((Class)) **Type 1** magazines: Permanent storage facilities.** A ((Class)) **Type 1** storage facility must be:

• A permanent structure such as:

– A building

– An igloo

– An army-type structure

– A tunnel

OR

– A dugout

• Bullet resistant, fire resistant, weather resistant, theft resistant, and well ventilated.

**AMENDATORY SECTION** (Amending WSR 03-06-073, filed 3/4/03, effective 8/1/03)

**WAC 296-52-70010 Building construction for ((Class)) **Type 1** magazines.** All building-type storage facilities must:

• Be constructed of masonry, wood, metal, or a combination of these materials

• Have no openings except for entrances and ventilation

• Have the ground around the facility slope away for drainage

(1) **Wall construction.**

(a) **Masonry wall construction.** Masonry wall construction must:

• Consist of brick, concrete, tile, cement block, or cinder block

• Be at least eight inches thick

(b) **Hollow masonry construction.** Hollow masonry construction must:

• Have all hollow spaces filled with well tamped coarse dry sand

OR

• Have weak concrete (a mixture of one part cement to eight parts sand with enough water to dampen the mixture) while tamping in place

AND

• Have interior walls covered with a nonsparking material

**(c) Fabricated metal wall construction.**

• Metal wall construction must be securely fastened to a metal framework and consist of one of the following types of metal:

- Sectional sheets of steel (at least number 14 gauge)

OR

- Aluminum (at least number 14 gauge)

• Metal wall construction must:

– Be lined with brick, solid cement blocks, and hardwood at least four inches thick or material of equivalent strength

– Have a minimum of six-inch sand fill between interior and exterior walls

– Have interior walls constructed of or covered with a nonsparking material

**(d) Wood frame wall construction.**

• Exterior wood walls must be covered with iron or aluminum at least number 26 gauge

• Inner walls, made of nonsparking materials must be constructed with a space:

– A minimum of six inches between the outer and inner walls

AND

– Filled with coarse dry sand or weak concrete

**(2) Floors.** Floors must be:

(a) Constructed of a nonsparking material.

(b) Strong enough to hold the weight of the maximum quantity to be stored.

**(3) Foundation.**

• Foundations must be constructed of brick, concrete, cement block, stone, or wood posts

• If piers or posts are used instead of a continuous foundation, the space under the building must be enclosed with metal

**(4) Roof.**

(a) Roofs must be covered with no less than number 26 gauge iron or aluminum fastened to a 7/8-inch sheathing, except for buildings with fabricated metal roofs.

(b) If it is possible for a bullet to be fired directly through the roof at such an angle that it would strike a point below the top of the inner walls, storage facilities must be protected by one of the following two methods:

• A sand tray must be:

– Located at the top of the inner wall covering the entire ceiling area, except the area necessary for ventilation.

– Lined with a layer of building paper.

– Filled with at least four inches of coarse dry sand.

• A fabricated metal roof must be constructed of 3/16-inch plate steel lined with four inches of hardwood or material of equivalent strength. For each additional 1/16-inch of plate steel, the hardwood or material of equivalent strength lining may be decreased one inch.

**(5) Doors and hinges.**

(a) All doors must be constructed of 1/4-inch plate steel and lined with two inches of hardwood or material of equivalent strength.

(b) Hinges and hasps must be installed so they cannot be removed when the doors are closed and locked by:

- Welding
- Riveting

OR

• Bolting nuts on the inside of the door

**(6) Locks.**

(a) Each door must be equipped with:

• Two mortise locks

• Two padlocks fastened in separate hasps and staples

• A combination of a mortise lock and a padlock

• A mortise lock that requires two keys to open

OR

• A three-point lock

(b) Padlocks must:

• Have a minimum of five tumblers

• Have a case hardened shackle at least 3/8 inches in diameter

• Be protected with a minimum of 1/4-inch steel hoods, constructed to prevent sawing or lever action on the locks, hasps, and staples

**Note:** These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be operated from the outside.

**(7) Ventilation.**

• A two-inch air space must be left around ceilings and the perimeter of floors, except in doorways

• Foundation ventilators must be at least four inches by six inches

• Vents in the foundation, roof, or gables must be screened and offset

**(8) Exposed metal.**

• Sparking metal construction cannot be exposed below the tops of walls in storage facilities

• All nails must be blind nailed, countersunk, or nonsparking.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-70015 Igloos, army-type structures, tunnels, and dugouts.** These storage facilities must:

• Be constructed of reinforced concrete, masonry, metal, or a combination of these materials

• Have an earth mound covering of at least twenty-four inches on the top, sides, and rear unless the magazine meets the requirements of WAC 296-52-70010 (4)(b), Building construction for roofs

• Have interior walls and floors covered with a nonsparking material

• Be constructed according to the requirements of WAC 296-52-70005, ((Class)) **Type 1** magazines: Permanent storage facilities, through WAC 296-52-70060, Construction.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-70020 ((Class)) Type 2 magazines: Portable field storage.** A ((Class)) **Type 2** storage facility must:

• Be a box, trailer, semi-trailer, or other mobile facility. When an unattended vehicular magazine is used, the wheels must be removed or it must be effectively immobilized by kingpin locking devices or other methods approved by the department

- Be bullet resistant, fire resistant, weather resistant, theft resistant, and well ventilated
- Be a minimum of one cubic yard
- Be supported to prevent direct contact with the ground
- Have the ground around the magazine slope away for drainage or provide for other adequate drainage.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-70025 Construction for ((Class)) Type 2 magazines. (1) Exterior, doors, and top openings.**

(a) The exterior and doors must be constructed of at least 1/4-inch steel and lined with a minimum of ~~((two))~~ three-inch hardwood.

(b) Magazines with top openings must have lids with water resistant seals or lids that overlap the sides by a minimum of one inch when closed.

(2) **Hinges and hasps.** Hinges and hasps must be installed so they cannot be removed when the doors are closed and locked by:

- Welding
- Riveting

**OR**

- Bolting nuts on the inside of the door

(3) **Locks.**

(a) Each door must be equipped with:

- Two mortise locks
- Two padlocks fastened in separate hasps and staples
- A combination of mortise lock and a padlock
- A mortise lock that requires two keys to open

**OR**

- A three-point lock

(b) Padlocks must have:

- A minimum of five tumblers and a case hardened shackle with a minimum of 3/8-inch diameter
- A minimum of 1/4-inch steel hoods constructed to prevent sawing or lever action on the locks, hasps, and staples

**Note:** These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be operated from the outside.

(4) **Ventilation.**

- A two-inch air space must be left around ceilings and the perimeter of floors, except at doorways
- Foundation ventilators must be at least four inches by six inches
- Vents in the foundation, roof, or gables must be screened and offset

(5) **Exposed metal.**

- Sparking metal cannot be exposed below the top of walls in the storage facilities
- All nails must be blind nailed, countersunk, or nonsparking

**Note:** The following are nonmandatory construction alternatives for magazine exteriors:

- All steel and wood dimensions shown are actual thickness
- The manufacturer's represented thickness may be used to meet the concrete block and brick dimensions.

3/16

- 3/16-inch steel lined with an interior of 4-inch hardwood.

- 3/16-inch steel lined with:  
An interior of 7 inches of softwood

**OR**

- 6 3/4 inches of plywood.

- 3/16-inch steel lined with:  
An intermediate layer of 3-inch hardwood

**AND**  
An interior lining of 3/4-inch plywood.  
1/8

- 1/8-inch steel lined with an interior of 5-inch hardwood.

- 1/8-inch steel lined with an interior of 9-inch softwood.
- 1/8-inch steel lined with:

An intermediate layer of 4-inch hardwood

**AND**  
An interior lining of 3/4-inch plywood.

- 1/8-inch steel lined with:

A first intermediate layer of 3/4-inch plywood.

A second intermediate layer of 3 5/8 inches well-tamped dry sand

**OR**

Sand/cement mixture.

An interior lining of 3/4-inch plywood.

- 5/8-inch steel lined with an interior of any type of non-sparking material.

- 1/2-inch steel lined with an interior of at least 3/8-inch plywood.

- 3/8-inch steel lined with an interior of 2-inch hardwood.

- 3/8-inch steel lined with an interior of:  
3 inches softwood

**OR**

2 1/4 inches of plywood.

- 1/4-inch steel lined with:

An interior of 5 inches of softwood

**OR**

5 1/4 inches of plywood.

- Any type of structurally sound fire resistant material lined with:

An intermediate layer of 4-inch solid concrete block

**OR**

4-inch solid brick or concrete

**AND**

An interior lining of 1/2-inch plywood placed securely against the masonry lining.

- Standard 8-inch concrete block with voids filled with well tamped sand/cement mixture.

- Standard 8-inch solid brick.

- Any type of structurally sound fire resistant material lined with an intermediate 6-inch space filled with:

Well tamped dry sand

**OR**

Well tamped sand/cement mixture.

- Any type of fire resistant material lined with:

A first intermediate layer of 3/4-inch plywood,

A second intermediate layer of 3 5/8-inch well tamped dry sand

**OR**

Sand/cement mixture,

A third intermediate layer of 3/4-inch plywood,

A fourth intermediate layer of 2-inch hardwood

OR

14 gauge steel and an interior lining of 3/4-inch plywood,

8-inch thick solid concrete.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-70030 ((Class)) Type 3 magazines: Indoor storage facilities.**

- Detonators in quantities of one thousand or less

- Ammonium perchlorate rocket motors in 62.5 gram amounts or greater, but not to exceed fifty pounds in total weight of explosives.

OR

- Diversionary devices intended for law enforcement use only, but not to exceed fifty pounds in total weight of explosives.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-70040 Construction for ((Class)) Type 3 magazines.** (1) Sides, bottoms, and covers must be constructed with a minimum of number 12 gauge metal and lined with a nonsparking material.

(2) Hinges and hasps must be attached so they cannot be removed from the outside.

(3) One steel padlock, which does not need to be protected by a steel hood, having a minimum of five tumblers and a case hardened shackle of a minimum of 3/8-inch diameter is sufficient for locking purposes.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-70045 ((Class)) Type 4 magazines: Blasting agent, low explosive, or electric detonator storage facilities.** A ((Class)) Type 4 storage facility must:

- Be a building, an igloo, an army-type structure, a tunnel, a dugout, a box, a trailer, semi-trailer, or other mobile facility

- Be fire resistant, weather resistant, and theft resistant

- Have the ground around the facility slope away for drainage

- Have the wheels removed or effectively immobilized by kingpin locking devices or other methods approved by the department, when an unattended vehicular magazine is used.

**Note:** Test results show that electric detonators are not affected by sympathetic detonation. Therefore, a ((Class)) Type 4 storage facility meets the necessary requirements for storage of electric detonators.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-70050 Construction for ((Class)) Type 4 magazines.** (1) These magazines must be constructed of masonry, metal covered wood, fabricated metal, or a combination of these materials.

(2) **Foundations.** Foundations must be constructed of:

- Brick
- Concrete
- Cement block
- Stone
- Metal

OR

- Wood posts

(3) The space under the building must be enclosed with fire resistant material, if piers or posts replace continuous foundation.

(4) The walls and floors must be made or covered with a nonsparking material or lattice work.

(5) Doors must be metal or solid wood covered with metal.

(6) Hinges and hasps must be installed so they cannot be removed when the doors are closed and locked by:

- Welding
- Riveting

OR

- Bolting nuts on the inside of the door

(7) **Locks.**

(a) Each door must be equipped with:

- Two mortise locks
- Two padlocks fastened in separate hasps and staples
- A combination of a mortise lock and a padlock
- A mortise lock that requires two keys to open

OR

- A three-point lock

(b) Padlocks must:

- Have a minimum of five tumblers
- Have a case hardened shackle of a minimum of 3/8-inch diameter
- Be protected with a minimum of 1/4-inch steel hoods constructed to prevent sawing or lever action on the locks, hasps, and staples.

**Note:** These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be operated from the outside.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-70055 ((Class)) Type 5 magazines: Blasting agent storage facilities.** A ((Class)) Type 5 storage facility must:

- Be a building, an igloo, an army-type structure, a tunnel, a dugout, a box, or a trailer, semi-trailer, or other mobile facility

- Be weather resistant and theft resistant

- Have the ground around the facility slope away for drainage

- Have the wheels removed or be effectively immobilized by kingpin locking devices or other methods approved by the department, when the unattended vehicular magazine is used.

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-70060 Construction for ((Class)) Type 5 magazines.** (1) Doors must be constructed of solid wood or metal.

(2) Hinges and hasps must be installed so they cannot be removed when the doors are closed and locked by:

- Welding
- Riveting

OR

- Bolting nuts on the inside of the door

(3) **Locks.**

(a) Each door must be equipped with:

- Two mortise locks
- Two padlocks fastened in separate hasps and staples
- A combination of a mortise lock and a padlock
- A mortise lock that requires two keys to open

OR

- A three-point lock

(b) Padlocks must have:

- A minimum of five tumblers
- A case hardened shackle of a minimum of 3/8-inch diameter

• Padlocks must be protected with a minimum of 1/4-inch steel hoods constructed to prevent sawing or lever action on the locks, hasps, and staples.

**Note:** Trailers, semi-trailers, and similar vehicular magazines. Each door may be locked with one 3/8-inch diameter steel padlock and does not need to be protected by a steel hood, if the door hinges and lock hasp are securely fastened to the magazine and to the doorframe. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be operated from the outside.

**AMENDATORY SECTION** (Amending WSR 03-06-073, filed 3/4/03, effective 8/1/03)

**WAC 296-52-71020 Storage with Division 1.1, 1.2, or 1.3 explosives.** Small arms ammunition cannot be stored with Division 1.1, 1.2, or 1.3 explosives. ~~((Unless the storage facility is adequate for Division 1.1, 1.2, or 1.3 storage, small arms ammunition cannot be stored there.))~~

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-71080 Storage.** (1) **Private residence.** No more ~~((then))~~ than five pounds of black powder is permitted. No restrictions apply.

(2) **Private car.** No more ~~((then))~~ than five pounds of black powder is permitted. No restrictions apply.

(3) **Dealer's warehouse.** No more ~~((then))~~ than twenty-five pounds of black powder is permitted. Black powder must be stored in an appropriate container or cabinet, which is securely locked.

(4) **Magazine.** Quantities of black powder, as used in muzzleloading firearms, in excess of twenty-five pounds must be stored in licensed magazines (see Storage licensing, WAC 296-52-660, Storage of explosive materials, WAC 296-52-690, and Magazine construction, WAC 296-52-700).

**AMENDATORY SECTION** (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

**WAC 296-52-725 Appendix B, sample format for a blast record, nonmandatory.**

**Note:** The sample blast record format is nonmandatory, but the information shown in the sample is required per WAC 296-52-67010(8), Blast records.

((STRICKEN GRAPHIC))

**SAMPLE FORMAT FOR A BLAST RECORD**

*(Minimum Record Requirements)*

Blast/Record Date \_\_\_\_\_ Blast # \_\_\_\_\_ Time of Blast: \_\_\_\_\_  AM  PM

Employer: \_\_\_\_\_

Blast-Site Location: \_\_\_\_\_

Blast Crew Members:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

General Weather Conditions (Clouds & Ceiling, Humidity, Wind Speed/Direction, Temperature, etc.):  
\_\_\_\_\_  
\_\_\_\_\_

**Type & Condition of Rock Blasted:**

Number of Boreholes \_\_\_\_\_ Diameter \_\_\_\_\_ in. Depth \_\_\_\_\_ ft. Backfill \_\_\_\_\_  
Borehole Water Depth \_\_\_\_\_ Burden \_\_\_\_\_ ft. Spacing \_\_\_\_\_  
Number of Rows \_\_\_\_\_ Stemming \_\_\_\_\_ ft. Stemming Material \_\_\_\_\_  
Non-Standard Pattern Details: \_\_\_\_\_

**MAKE, TYPE, and AMOUNT  
Of Explosives Used**

\_\_\_\_\_ lb  
**Total Pounds in Blast =** \_\_\_\_\_ lb

**DETONATORS**

Electric  Nonel  
Manufacturer \_\_\_\_\_  
Length \_\_\_\_\_  
Delay Periods \_\_\_\_\_  
# of Units \_\_\_\_\_  
 Cord \_\_\_\_\_

Maximum boreholes per delay \_\_\_\_\_ Maximum loaded pounds per delay \_\_\_\_\_

Number of decks per borehole \_\_\_\_\_ Weight of explosives per deck \_\_\_\_\_

Distance, direction, and address of closest structure from blast site \_\_\_\_\_ ft.

Distance: \_\_\_\_\_ ft. Direction: \_\_\_\_\_ Address: \_\_\_\_\_

Calculated scaled distance  $W = (D/(55/60/65))^2 =$  \_\_\_\_\_ maximum lb. Per delayed allowed in (USBM)

Distance, direction, and address of seismographs from the blast site.

Distance: \_\_\_\_\_ ft. Direction: \_\_\_\_\_ Address: \_\_\_\_\_

Calibration dates of seismographs used:

Number \_\_\_\_\_ Date \_\_\_\_\_ Number \_\_\_\_\_ Date \_\_\_\_\_

Method used to measure distances (Laser RF, Optical RF, GPS, Tape, Wheel, Map)?

\_\_\_\_\_ Other Method: \_\_\_\_\_

\_\_\_\_\_  
((STRICKEN GRAPHIC))

PERMANENT

((STRICKEN GRAPHIC \_\_\_\_\_

# BLASTING RECORD

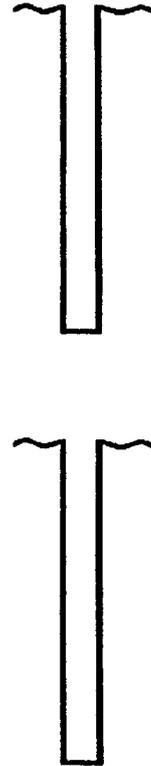
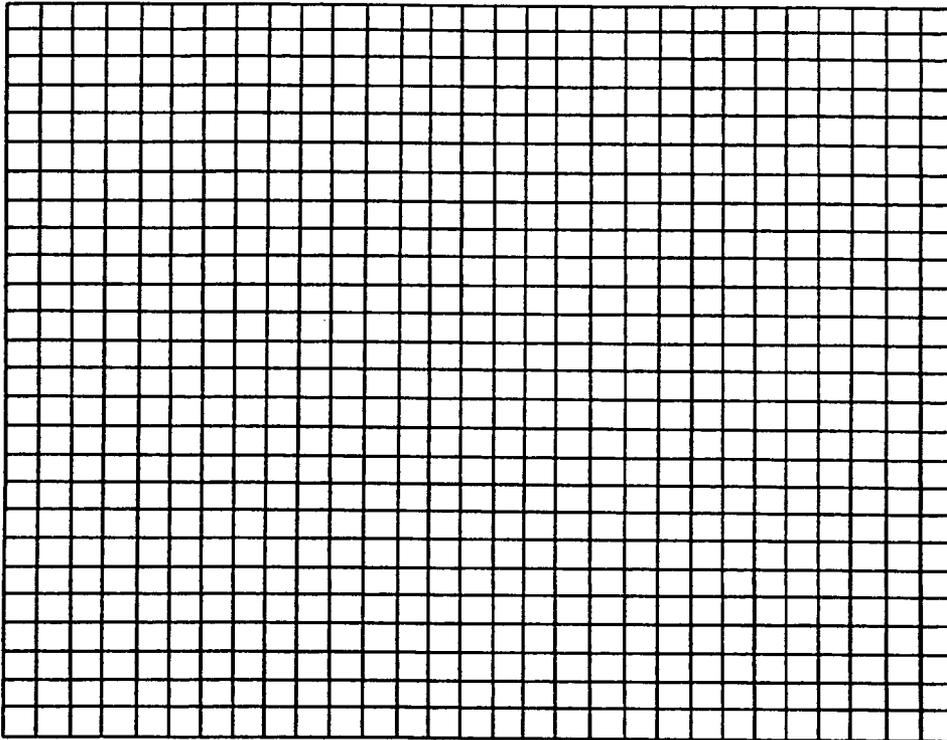
## SKETCH OF BLAST LAYOUT

IDENTIFY SHOT LOCATION BY STATION OR BY DIRECTION AND DISTANCE TO KNOWN STRUCTURE OR OBJECT.  
SHOW NORTH ARROW. SHOW DELAY NUMBER BY HOLE AND WIRING/CORD/TUBING HOOKUP.

BLAST LOCATION &  
BLAST NUMBER \_\_\_\_\_

DATE: \_\_\_/\_\_\_/\_\_\_

TYPICAL HOLES



SHOW: Depth, Stemming, Decks, Water, Primer Locations, Subdrilling, etc.

BLAST COMMENTS including fragmentation, muckpile configuration, and flyrock (use additional paper if needed)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE (Blaster in charge): \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
STRICKEN GRAPHIC))

PERMANENT

**SAMPLE FORMAT FOR A BLAST RECORD**

*(Minimum Record Requirements)*

**Blast/Record Date** \_\_\_\_\_ **Blast #** \_\_\_\_\_ **Time of Blast** \_\_\_\_\_  AM  PM

**Employer:** \_\_\_\_\_

**Blast-Site Location:** \_\_\_\_\_

**Blast Crew Members:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**General Weather Conditions (Clouds & Ceiling, Humidity, Wind Speed/Direction, Temperature, etc.):**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Type & Condition of Rock Blasted:**

Number of Boreholes _____	Diameter _____ in.	Depth _____ ft.	Backfill _____
Borehole Water Depth _____	Burden _____ ft.	Spacing _____	
Number of Rows _____	Stemming _____ ft.	Stemming Material _____	

**Non-Standard Pattern Details:** \_\_\_\_\_

**MAKE, TYPE and AMOUNT  
Of Explosives Used**

_____	_____ lb.

**DETONATORS**

Electric  None

Manufacturer \_\_\_\_\_  
Length \_\_\_\_\_  
Delay Periods \_\_\_\_\_  
# of Units \_\_\_\_\_

**Total Pounds in Blast** = \_\_\_\_\_ lb.  Cord \_\_\_\_\_

**Maximum boreholes per delay** \_\_\_\_\_ **Maximum loaded pounds per delay** \_\_\_\_\_

**Number of decks per borehole** \_\_\_\_\_ **Weight of explosives per deck** \_\_\_\_\_

**Distance, direction, and address of closest structure from blast site** \_\_\_\_\_ ft.

Distance: \_\_\_\_\_ ft. Direction: \_\_\_\_\_ Address: \_\_\_\_\_

**Calculated scaled distance  $W = (D/(55/60/65))^2 =$**  \_\_\_\_\_ **Maximum lb. Per delay allowed in (USBM)**

**Distance, direction, and address of seismographs from the blasts site.**

Distance: \_\_\_\_\_ ft. Direction: \_\_\_\_\_ Address: \_\_\_\_\_

**Calibration dates of seismographs used:**

Number \_\_\_\_\_ Date \_\_\_\_\_ Number \_\_\_\_\_ Date \_\_\_\_\_

**Method used to measure distances (Laser RF, Optical RF, GPS, Tape, Wheel, Map)?**

Other Method: \_\_\_\_\_

PERMANENT

# BLASTING RECORD

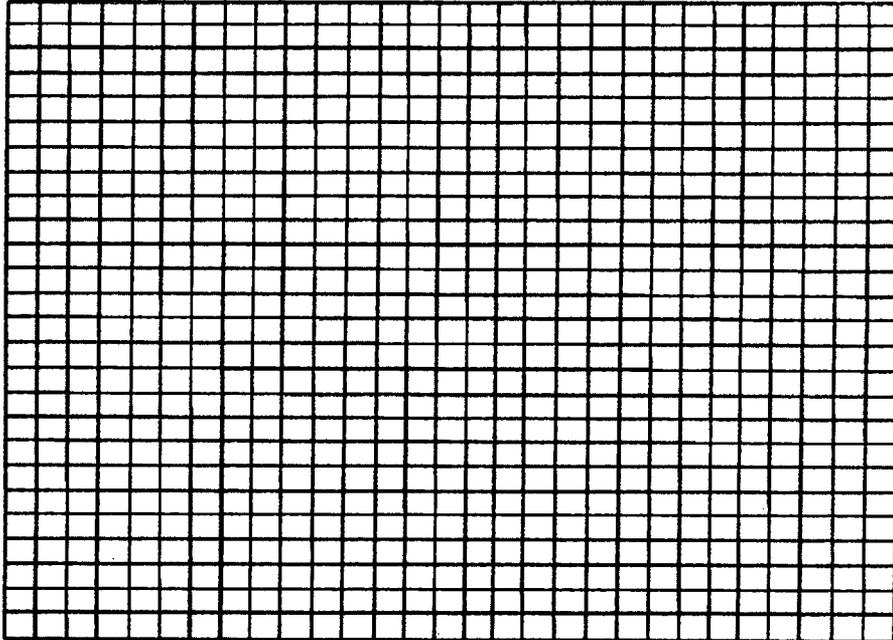
## SKETCH OF BLAST LAYOUT

IDENTIFY SHOT LOCATION BY STATION OR BY DIRECTION AND DISTANCE TO KNOWN STRUCTURE OR OBJECT. SHOW NORTH ARROW. SHOW DELAY NUMBER BY HOLE AND WIRING/CORD/TUBING HOOKUP.

BLAST LOCATION & BLAST NUMBER \_\_\_\_\_

DATE: \_\_\_/\_\_\_/\_\_\_

TYPICAL HOLES



SHOW: Depth, Stemming, Duds, Water, Primer Locations, Sighting, etc.

BLAST COMMENTS including fragmentation, muckpile configuration, and flyrock (use additional paper if needed)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE (Blaster in charge): \_\_\_\_\_ Date: \_\_\_\_\_

License Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

PERMANENT

**WSR 05-08-124**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed April 5, 2005, 4:22 p.m., effective June 1, 2005]

Effective Date of Rule: June 1, 2005.

Purpose: Amending WAC 388-410-0001 What is a cash/medical assistance overpayment? and 388-416-0005 How long can I get Basic Food?, to reflect department policy regarding establishing certification periods for Basic Food as well as overpayments for cash and medical programs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-410-0001 and 388-416-0005.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Adopted under notice filed as WSR 05-05-081 on February 15, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: March 31, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-05-010, filed 2/6/04, effective 3/8/04)

**WAC 388-410-0001 What is a cash/medical assistance overpayment?** (1) An overpayment is any cash or medical assistance paid that is more than the assistance unit was eligible to receive.

(2) There are two types of cash/medical overpayments:

(a) Intentional overpayments, presumed to exist (~~when the client~~) if you willfully or knowingly:

(i) (~~Fails to report within twenty days a change in circumstances that affects eligibility~~) Fail to report a change you must tell us about under WAC 388-418-0005 within the timeframes under WAC 388-418-0007; or

(ii) (~~Misstates or fails~~) Misstate or fail to reveal a fact affecting eligibility as specified in WAC 388-446-0001.

(b) Unintentional overpayments, which includes all other client-caused and all department-caused overpayments.

(3) If you request a fair hearing and the fair hearing decision is in favor of the department, then:

(a) Some or all of the continued assistance you get before the fair hearing decision must be paid back to the department (see WAC 388-418-0020); and

(b) The amount of assistance you must pay back will be limited to sixty days of assistance, starting with the day after the department receives your hearing request.

(4) If you receive child support payments directly from the noncustodial parent, you must turn these payments over to the division of child support (DCS). These payments are not cash assistance overpayments.

**AMENDATORY SECTION** (Amending WSR 04-19-134, filed 9/21/04, effective 10/1/04)

**WAC 388-416-0005 How long can I get Basic Food?**

(1) The length of time the department determines your assistance unit (AU) is eligible to get Basic Food is called a certification period. The department may certify your AU for up to:

(a) **Six months** if your AU:

(i) Includes an able-bodied adult without dependents (ABAWD) who receives Basic Food in your AU and your AU does not live in an exempt area as described in WAC 388-444-0030;

(ii) Includes a person who receives ADATSA benefits as described in chapter 388-800 WAC;

(iii) Is considered homeless under WAC 388-408-0050; or

(iv) Includes a migrant or seasonal farmworker as described under WAC 388-406-0021.

(b) **Twenty-four months** if ~~(everyone)~~ all adults in your AU ((is) are elderly persons or individuals with disabilities and no one in your AU has earned income ((or cash assistance)).

(c) **Twelve months** if your AU does not meet any of the conditions for six or twenty-four months.

(2) If your AU is homeless ~~or~~ includes an ABAWD when you live in a nonexempt area, we may shorten your certification period.

(3) We terminate your Basic Food benefits when:

(a) We get proof of a change that makes your AU ineligible; or

(b) We get information that your AU is ineligible; and

(c) You do not provide needed information to verify your AU's circumstances.

**WSR 05-08-132**

**PERMANENT RULES**

**DEPARTMENT OF PERSONNEL**

[Filed April 6, 2005, 9:36 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules address the Washington State Combined Fund Drive.

Statutory Authority for Adoption: Chapter 41.06 RCW. Adopted under notice filed as WSR 05-01-245 on December 22, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

PERMANENT

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 16, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 16, Amended 0, Repealed 0.

Date Adopted: January 26, 2005.

Eva Santos  
Director

## Chapter 357-55 WAC

### Combined Fund Drive

#### NEW SECTION

**WAC 357-55-010 What is the purpose of the Combined Fund Drive rules?** The Combined Fund Drive rules are adopted to implement a charitable CFD campaign for the efficient, long-term collection of voluntary state employee and public retiree contributions to qualifying, not-for-profit organizations. The state hopes that a uniform policy for fund raising will encourage generosity in voluntary contributions for the qualified participating organizations and federations.

#### NEW SECTION

**WAC 357-55-020 What is the intent of the Combined Fund Drive rules?** The intent of the CFD rules is to:

- (1) Lessen the burdens of government and of local communities in meeting the needs of human health and welfare;
- (2) Provide a convenient channel through which state employees and public agency retirees may contribute to the efforts of the participating organizations and federations providing services in the community or region where the employees and public agency retirees live and work and overseas;
- (3) Minimize both the disruption of the state work place and the costs to taxpayers caused by multiple charitable fund drives; and
- (4) Ensure that participating organizations and federations are fiscally responsible in the uses of the moneys so raised.

#### NEW SECTION

**WAC 357-55-030 Is the Combined Fund Drive campaign authorized to collect contributions in state workplaces?** The CFD campaign is the only authorized formal solicitation of Washington state employees in the workplace on behalf of participating not-for-profit organizations and federations.

#### NEW SECTION

**WAC 357-55-040 Do the Combined Fund Drive rules apply to collection of gifts in kind?** The rules in chapter 357-55 WAC do not apply to the collection of gifts-in-kind, such as food, clothing and toys.

#### NEW SECTION

**WAC 357-55-110 What definitions apply to this chapter of the civil service rules?** The following definitions apply to chapter 357-43 WAC:

- (1) **CFD:** Washington State Combined Fund Drive.
- (2) **CFD campaign:** The annual period of organized solicitation of state employees and public agency retirees. This solicitation is conducted to obtain voluntary contributions, donations and charitable commitments to be allocated to approved, not-for-profit participating organizations and federations, during the ensuing year of contributions.
- (3) **CFD committee:** The Washington state combined fund drive (CFD) committee described in WAC 357-55-215.
- (4) **Federation:** A public or private not-for-profit umbrella organization made up of five or more individual member organizations approved by the CFD committee to participate in the CFD campaign.
- (5) **Local presence:** Demonstration of direct and substantial presence in the local CFD campaign community through:

(a) The availability of services, such as examinations, treatments, inoculations, preventive care, counseling, training, scholarship assistance, transportation, feeding, institutionalization, shelter, and clothing to persons working or residing in the local CFD campaign community; or

(b) The presence within the local CFD campaign community, or within reasonable commuting distance thereof, of a facility at which services may be obtained, such as an office, clinic, mobile unit, field agency, or direct provider, or specific demonstrable effects of research, such as personnel or facilities engaged therein or specific local applications thereof; or

(c) The availability to persons working or residing in the local CFD campaign community of communication with the voluntary charitable agency by means of home visits, transportation, or telephone calls, provided by the voluntary agency at no charge to the recipient or beneficiary of the service.

(d) When approved by the CFD committee, any not-for-profit federation or charitable organization, whose services are provided exclusively or in substantial preponderance overseas, and which meets all the criteria set forth in these rules except for the requirement of local presence, will be eligible to be a participating federation or participating organization.

(6) **Overseas:** Areas outside of the District of Columbia and the fifty states of the United States of America.

(7) **Participating organization:** A public 170 (c)(1) or private 501 (c)(3) not-for-profit organization whose application is approved by the CFD committee to participate in the CFD campaign.

(8) **State employer:** Washington state agencies and higher education institutions and related boards.

(9) **Year of contributions:** The annual calendar year for collection of the voluntary payroll deductions for charitable contributions authorized by state employees and public agency retirees pursuant to these rules. The normal, full annual calendar year of contributions will begin with January and end with the ensuing December.

#### NEW SECTION

**WAC 357-55-210 What is the committee's name that is authorized in accordance with RCW 41.04.033 through RCW 41.04.039 and RCW 41.04.230 and Executive Order EO 01-01?** The committee will be known as the Washington state combined fund drive committee and referred to in these rules as the CFD committee.

#### NEW SECTION

**WAC 357-55-215 What does the CFD committee do?** A CFD committee is established to conduct a single, annual, consolidated effort to secure funds for distribution to not-for-profit organizations engaged in charitable, public health, public welfare and social services, environmental or arts purposes.

#### NEW SECTION

**WAC 357-55-220 How are members of the CFD committee appointed?** The CFD committee must be composed of not more than twelve members appointed by the governor for three year terms. Appointments must be consistent with Executive Order 01-01. Compensation and reimbursement for CFD Committee members will be as provided in WAC 357-55-280.

#### NEW SECTION

**WAC 357-55-225 When will the CFD committee meet?** The CFD Committee will meet to conduct necessary business, elect a chairperson annually, and elect such other officers as may be needed.

#### NEW SECTION

**WAC 357-55-230 What is a quorum for the CFD committee?** Fifty percent of the appointed members will constitute a quorum for the conduct of business for the CFD committee. A majority vote of the quorum will be needed to carry a motion.

#### NEW SECTION

**WAC 357-55-235 What are the CFD committee's responsibilities for a charity drive?** The CFD Committee will organize and effect one solicitation effort for charitable donations each year.

#### NEW SECTION

**WAC 357-55-240 What are the CFD committee's responsibilities for standards and criteria to participate**

**in the fund drive?** The CFD Committee will establish standards and criteria for participation in the fund drive. The standards and criteria will be incorporated into the application printed and distributed by the CFD Committee. Changes in the standards and criteria will be made only after 60 days notice is given by the CFD Committee.

#### NEW SECTION

**WAC 357-55-245 Who completes, evaluates and approves the application printed and distributed by the CFD committee?** The application which is distributed by the CFD committee will be completed and submitted by those not-for-profit organizations and federations seeking approval to participate in the CFD campaign.

The CFD Committee will evaluate each completed application, based on the established standards and criteria, and will determine which not-for-profit organizations or federations are approved to participate in the annual CFD campaign.

#### NEW SECTION

**WAC 357-55-250 Who develops the official CFD campaign and publicity materials?** The CFD Committee will develop the official CFD campaign and publicity materials. The CFD committee may contract for marketing services to develop the CFD campaign material in a manner that is consistent with RCW 41.04.0332.

#### NEW SECTION

**WAC 357-55-255 Who determines the CFD committee's administrative expenses and how are they recovered?** The CFD Committee will determine its reasonable administrative expenses to conduct the CFD campaign and recover those expenses.

#### NEW SECTION

**WAC 357-55-260 Who establishes the process for handling and depositing employee contributions?** The CFD Committee will establish a procedure for CFD staff to collect, process and deposit individual employee contributions during the annual fundraising. Contributions from fundraising efforts will be deposited into the CFD account in the custody of the state Treasurer according to state laws.

WSR 05-08-133

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed April 6, 2005, 9:37 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules address the Washington State Combined Fund Drive.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-01-240 on December 22, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 24, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 24, Amended 0, Repealed 0.

Date Adopted: January 26, 2005.

Eva Santos  
Director

#### NEW SECTION

**WAC 357-55-265 Who establishes staff and volunteer positions and other groups?** The CFD Committee will establish staff and volunteer positions and committees as necessary to assist in the annual CFD campaign. An organizational chart is available from the CFD Committee through the Department of Personnel, P.O. Box 47500, Olympia WA 98504-7500.

#### NEW SECTION

**WAC 357-55-270 Who engages the CFD program manager and what are the responsibilities of the program manager?** The CFD Committee will engage a CFD program manager to exercise general supervision over all operations of the CFD and strive to take necessary steps for the achievement of CFD campaign objectives. The CFD program manager establishes and maintains the official list of agency, higher education institutions and local CFD campaign committee volunteers and the geographical area each covers. The CFD program manager will forward all disputes to the CFD committee for resolution.

#### NEW SECTION

**WAC 357-55-275 How may contributions intended for an organization or federation that is decertified be handled?** The CFD committee will direct that payments originally pledged to an organization or federation that has been decertified, is in receivership, has filed for or been placed in bankruptcy, or has been or is in the process of being dissolved, will be returned to donors. If the CFD committee determines it is not feasible to return such funds to donors, it will determine the appropriate disposition of the funds.

#### NEW SECTION

**WAC 357-55-280 Do members of the CFD committee receive a salary and expense reimbursement?** Members of the CFD committee, who are state employees, will serve

without additional salary, but will be reimbursed by their state employers for travel, lodging and meals in accordance with state law and regulations. Public retirees, who qualify, will receive normal travel, lodging and meal expenses reimbursed or paid by the CFD Committee.

#### NEW SECTION

**WAC 357-55-285 When may the CFD committee enter into contracts?** The CFD committee may enter into contracts and partnerships with a private institution, persons, firms or corporations for the benefit of the beneficiaries of the CFD. The CFD committee may also engage in advertising activities for the support of the administrative duties of the CFD. However, CFD activities will not result in the direct commercial solicitation of state employees or in a benefit or advantage that would violate one or more provisions of chapter 42.52 RCW, the state ethics law.

#### NEW SECTION

**WAC 357-55-310 May state employees volunteer to serve as CFD campaign executives?** Agency directors, elected officials, and higher education presidents may allow employees the opportunity to serve as CFD campaign executives to assist in the conduct of the CFD campaign. The CFD campaign executive opportunity is a rotational assignment that develops leadership, communication, and teamwork skills that will benefit the employing organization upon the employee's return. Those appointed as CFD campaign executives remain on the payroll of their employing organization during this assignment.

#### NEW SECTION

**WAC 357-55-320 May state agencies and higher education institutions use state resources to support the CFD campaign?** State agencies and higher education institutions, at their discretion, are authorized to use reasonable state resources to support, promote, and conduct the annual combined fund drive campaign within their organization. Reasonable uses are not excessive in volume or frequency as determined by the agency director or institution president.

#### NEW SECTION

**WAC 357-55-330 What is the role of the Department of Personnel with the CFD committee?** The department of personnel will provide the administrative support for the operation of the CFD Committee.

#### NEW SECTION

**WAC 357-55-410 How may state employers establish a local CFD campaign?** Each state employer may establish local CFD campaigns within the geographical area it covers.

Each state employer and local county committee may develop promotional and fundraising events, provide training and recognition to CFD local coordinators, develop marketing plans, supervise CFD campaign executives, and expend state or CFD funds to conduct the local CFD campaign.

NEW SECTION

**WAC 357-55-415 When does the annual CFD campaign occur?** The annual CFD campaign begins on September 1 and ends on December 15. Each year the director of each state agency and president of each higher education institution may determine the time period of the CFD campaign within the September 1 to December 15 timeframe.

Each annual CFD campaign normally is conducted for a seven-week period. However in unusual circumstances, the individual state employers may extend the seven-week period as local conditions require. The CFD campaign will not extend beyond December 15. In extraordinary circumstances, the CFD committee may consider granting approval for solicitations at other times.

NEW SECTION

**WAC 357-55-420 May state employers grant permission for participating organizations to share information during work hours?** State employers may grant permission to participating organizations and federations to distribute material related to the CFD campaign during work hours. During the CFD campaign, participating organizations may distribute or orally share bonafide educational materials describing their services or programs. All CFD participating organizations must be given an equal opportunity for communication in a state employer's local CFD campaign. The local state employer may grant sharing of oral information by participating organizations if the agency or institution determines such communication is not disruptive to the local state office or institution.

This section will not be construed to require a state employer to distribute or arrange for oral or written information other than the official CFD campaign and publicity material.

NEW SECTION

**WAC 357-55-425 What campaign events may occur during work hours within the campaign calendar?** Solicitations of employees will be conducted during work hours using methods that permit true voluntary giving. Solicitations will reserve to the individual the option of disclosing any gift or keeping it confidential to the extent confidentiality is permitted by law. Campaign kick-offs, recognition events, awards and other non-solicitation events to build support for the CFD are encouraged.

Special CFD fundraising events, such as drawings, auctions, bake sales, carnivals, athletic events, or other activities not specifically provided for in these rules are permitted 30 days prior to and during the annual CFD campaign when approved, in advance, by the state employer.

At the discretion of each state employer, state employees may be authorized to attend CFD promotional and fundraising events on state work time

NEW SECTION

**WAC 357-55-430 Who may be solicited?** Employees and public agency retirees may be solicited for contributions

using payroll deduction, checks, money orders, credit cards, cash or electronic methods.

NEW SECTION

**WAC 357-55-510 How are campaign expenses recovered?** The CFD committee will recover from the gross receipts of the CFD campaign, or state appropriations, its reasonable administrative expenses to conduct the CFD campaign. The CFD committee will approve an annual budget to determine the administrative fee to be charged to the beneficiaries of the CFD.

NEW SECTION

**WAC 357-55-515 May fundraising expenses be deducted from donations?** Fundraising expenses will not be taken or deducted from donations collected during a fundraising event. These fundraising expenses may be paid by the state agency or higher education institution and, then, upon request and submission of proper documentation, reimbursed by the CFD.

NEW SECTION

**WAC 357-55-520 How are campaign expenses divided?** The CFD campaign expenses will be shared proportionately by all the participating not-for-profit organizations and federations reflecting their individual percentage share of gross CFD campaign receipts.

NEW SECTION

**WAC 357-55-610 How does the CFD committee determine eligibility?** The CFD Committee will use the information supplied under this chapter and the standards and criteria set forth in the application form, to determine which not-for-profit organizations and federations are eligible to participate in annual CFD campaigns.

NEW SECTION

**WAC 357-55-615 What notice does the CFD committee provide if an organization is not eligible?** If a not-for-profit organization or federation is determined not to be eligible, the CFD committee will provide written notice of its determination, including a description of the determination made, the date and by whom it was made, the basis for the determination, and the procedure for requesting reconsideration.

NEW SECTION

**WAC 357-55-620 What is the process to request reconsideration of noneligibility?** The following process will be used for requests for reconsideration of noneligibility:

(1) Within fifteen calendar days after receiving notice of noneligibility, an affected organization or federation may submit a written request for reconsideration to the CFD committee. Requests for reconsideration and any supporting materials must be based solely on new or additional informa-

tion that was not available to the CFD committee at the time the initial determination was made.

(2) Within thirty calendar days of receiving the request for reconsideration, the CFD committee will issue a written decision. The CFD committee's reconsideration decision is final.

(3) The CFD committee may extend the time periods established in this section if it determines there is good cause to do so.

(4) Any written requests or notices made under this section will be deemed received three business days after deposited in the United States mail, properly stamped and addressed.

#### NEW SECTION

**WAC 357-55-625 May a participating organization be decertified or disqualified from participating in the combined fund drive?** Once approved for participation, any participating organization or federation may be decertified and disqualified from participation in the combined fund drive campaign by majority vote of the CFD committee for one or more of the following reasons:

(1) Failing to comply with the rules contained in this chapter;

(2) Filing an application to participate in the state combined fund drive campaign which contains false or intentionally misleading information; or

(3) Receiving an annual contribution pledge from an annual CFD campaign of two hundred fifty dollars or less.

#### NEW SECTION

**WAC 357-55-630 What notice does the CFD committee provide when a decertification decision is made?** The CFD committee will provide written notice of the decertification decision, including a description of the determination made, the date and by whom it was made, the basis for the determination, and the procedure for requesting reconsideration.

#### NEW SECTION

**WAC 357-55-635 When is decertification of an organization effective?** Decertification is effective on the first day of the following year's CFD campaign. A decertified organization or federation is disqualified from participating in the CFD campaign as of that effective date.

#### NEW SECTION

**WAC 357-55-640 When will payments of contributions cease for a decertified organization?** Payments of contributions to a decertified organization or federation will cease on the last day of the current year's CFD campaign. Payments received after that date, but originally pledged to an organization or federation that is decertified, will be disbursed as directed by the CFD committee.

#### NEW SECTION

**WAC 357-55-645 May requests be made for reconsideration of a decertification decision?** Requests for reconsideration of a decertification decision will be governed by the procedures set forth for reconsideration of eligibility in WAC 357-55-620.

#### **WSR 05-08-134**

##### **PERMANENT RULES**

#### **DEPARTMENT OF PERSONNEL**

[Filed April 6, 2005, 9:38 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule defines the term "separation" in Title 357 WAC.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-01-244 on December 22, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: January 26, 2005.

Eva Santos  
Director

#### NEW SECTION

**WAC 357-01-301 Separation.** Separation from employment for nondisciplinary purposes.

#### **WSR 05-08-135**

##### **PERMANENT RULES**

#### **DEPARTMENT OF PERSONNEL**

[Filed April 6, 2005, 9:39 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules explain how a general government employee's seniority date is determined after July 1, 2005.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-01-242 on December 22, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: January 26, 2005.

Eva Santos  
Director

#### NEW SECTION

**WAC 357-46-055 How is a general government employee's seniority date determined?** (1) For a full-time general government employee, the seniority date is the employee's most recent date of hire into state service as adjusted for any period of leave without pay which exceeds 15 consecutive calendar days except when the leave without pay is taken for:

- (a) Military leave as provided in WAC 357-31-370;
- (b) Compensable work-related injury or illness leave;
- (c) Government service leave not to exceed two years and one month;
- (d) Educational leave, contingent upon successful completion of the coursework; and/or
- (e) Reducing the effects of layoff.
- (f) When an employee is on leave without pay for more than 15 consecutive calendar days and the absence is not due to one of the reasons listed above, the employee's seniority date must be moved forward in an amount equal to the number of calendar days on leave without pay.

(2) For a part-time general government employee, the seniority date is calculated by determining the number of actual hours worked and/or in paid status. Time spent in leave without pay status is not credited unless the leave without pay is taken for:

- (a) Military leave as provided in WAC 357-31-370;
- (b) Compensable work-related injury or illness leave;
- (c) Government service leave not to exceed two years and one month;
- (d) Educational leave, contingent upon successful completion of the coursework; and/or
- (e) Reducing the effects of layoff.

#### NEW SECTION

**WAC 357-46-056 How does a general government employee's seniority as of June 30, 2005 transfer under Title 357 WAC?** A general government employee's unbroken service date as of June 30, 2005 will become the employee's seniority date as of July 1, 2005. From July 1,

2005 forward, any adjustments to the seniority date for leave without pay must be in accordance with WAC 357-46-055.

#### WSR 05-08-136

#### PERMANENT RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 6, 2005, 9:39 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules address definitions that apply to chapter 357-31 WAC, Holidays and leave; holidays and sick leave.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-01-249 on December 22, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 357-31-010, as a result of discussions with stakeholders it was determined that the language be changed in this section to address general government employees in subsection (1) and higher education employees in subsection (2).

WAC 357-31-130 [(1)](e), as a result of discussions with stakeholders, reference to WAC 357-31-295, 357-31-300, and 357-31-305 has been added.

WAC 357-31-130 (2)(b), as a result of discussions with stakeholders it was determined that reference to WAC 357-31-255 be added.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 32, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 32, Amended 0, Repealed 0.

Date Adopted: January 26, 2005.

Eva Santos  
Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-09 issue of the Register.

#### WSR 05-08-137

#### PERMANENT RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 6, 2005, 9:40 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

**Purpose:** These rules address vacation leave, bereavement leave, suspended operations and absence of an employee due to a family care emergency.

**Statutory Authority for Adoption:** Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-01-250 on December 22, 2004.

**Changes Other than Editing from Proposed to Adopted Version:** WAC 357-31-180, as a result of discussions with stakeholders it was determined that the language "which exceeds fifteen (15) consecutive calendar days," be added.

WAC 357-31-205, as a result of discussions with stakeholders it was determined that the word "may" in the question should be changed to "must."

WAC 357-31-295, as a result of discussions with stakeholders it was determined that the word "which" in the question should be changed to "any."

**Number of Sections Adopted in Order to Comply with Federal Statute:** New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; **Recently Enacted State Statutes:** New 29, Amended 0, Repealed 0.

**Number of Sections Adopted at Request of a Nongovernmental Entity:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted on the Agency's Own Initiative:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted Using Negotiated Rule Making:** New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; **or Other Alternative Rule Making:** New 29, Amended 0, Repealed 0.

Date Adopted: January 26, 2005.

Eva Santos  
Director

#### NEW SECTION

**WAC 357-31-165 At what rate do employees accrue vacation leave?** (1) Full-time employees accrue vacation leave at the following rates:

- (a) During the first year of continuous state employment - 12 days (8.0 hours per month);
- (b) During the second year of continuous state employment - 13 days (8 hours, 40 minutes per month);
- (c) During the third and fourth years of continuous state employment - 14 days (9 hours, 20 minutes per month);
- (d) During the fifth, sixth, and seventh years of total state employment - 15 days (10 hours per month);
- (e) During the eighth, ninth, and tenth years of total state employment - 16 days (10 hours, 40 minutes per month);
- (f) During the eleventh year of total state employment - 17 days (11 hours, 20 minutes per month).
- (g) During the twelfth year of total state employment - 18 days (12 hours per month).
- (h) During the thirteenth year of total state employment - 19 days (12 hours, 40 minutes per month).
- (i) During the fourteenth year of total state employment - 20 days (13 hours, 20 minutes per month).

(j) During the fifteenth year of total state employment - 21 days (14 hours per month).

(k) During the sixteenth and succeeding years of total state employment - 22 days (14 hours, 40 minutes per month).

(2) Higher education employers may establish accrual rates that exceed the rates listed in subsection (1) of this section.

(3) The following applies for purposes of computing the rate of vacation leave accrual:

(a) as an elected official or in a judicial appointment is credited.

(b) Employment exempt by the provisions of WAC 357-04-040, 357-04-045, 357-04-050, 357-04-055 is not credited.

(c) Each contract year, or equivalent, of full-time faculty and/or administrative exempt employment with a higher education employer is credited as one (1) year of qualifying service.

(d) Exempt employment with a general government employer is credited, other than that specified in WAC 357-04-055 which is excluded.

#### NEW SECTION

**WAC 357-31-170 At what rate do part-time employees accrue vacation leave?** (1) Part-time general government employees accrue vacation leave credits on a pro rata basis in accordance with WAC 357-31-125.

(2) Part-time higher education employees accrue on the same pro rata basis that their appointment bears to a full-time appointment.

#### NEW SECTION

**WAC 357-31-175 Do employees accrue vacation leave if they have taken leave without pay during the month?** (1) Full-time general government employees who are in pay status for less than eighty (80) nonovertime hours in a month do not earn a monthly accrual of vacation leave.

(2) Full-time and part-time higher education employees who have more than ten (10) working days of leave without pay in a month do not earn a monthly accrual of vacation leave.

#### NEW SECTION

**WAC 357-31-180 When an employee has taken leave without pay during the month is the employee's rate of accrual adjusted for the leave without pay?** Leave without pay taken for military leave of absence without pay or for scheduled mandatory periods of leave without pay for employees in cyclic year positions do not affect the rate at which employees accrue vacation leave. For all other periods of leave without pay, the following applies:

(1) When a general government employee takes leave without pay which exceeds fifteen (15) consecutive calendar days, the employee's anniversary date and unbroken service date are adjusted in accordance with WAC 357-31-345. These adjustments affect the rate at which an employee accrues vacation leave.

(2) When a higher education employee takes more than ten (10) working days of leave without pay, that month does not qualify as a month of employment under WAC 357-31-165.

#### NEW SECTION

**WAC 357-31-185 When and how does an employee request the use of vacation leave?** All requests for vacation leave must be made in accordance with the employer's leave policy.

#### NEW SECTION

**WAC 357-31-190 When can an employee start to use accrued vacation leave?** An employee (part-time or full-time) must complete six (6) months of continuous state employment before he/she can use vacation leave.

#### NEW SECTION

**WAC 357-31-195 Can an employee use vacation leave before it is accrued?** An employee is not entitled to use vacation leave in advance of its accrual.

#### NEW SECTION

**WAC 357-31-200 When must an employer grant the use of vacation leave?** An employee's request to use vacation leave must be approved under the following conditions:

- (1) As a result of the employee's serious health condition.
- (2) To care for a spouse, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition.
- (3) To care for a minor/dependent child with a health condition that requires treatment or supervision.
- (4) For parental leave as provided in WAC 357-31-460.

In accordance with the employer's leave policy, approval may be subject to verification that the condition exists.

#### NEW SECTION

**WAC 357-31-205 What must an employer consider in granting the use of vacation leave?** When considering requests for vacation leave, the employer must consider the needs of the employee but may require that leave be taken when it will least interfere with the operational needs of the employer.

#### NEW SECTION

**WAC 357-31-210 What is the maximum number of hours of vacation leave that an employee can accumulate?** Vacation leave may be accumulated to a maximum of thirty (30) working days (240 hours). Exceptions to this maximum are described in WAC 357-31-215.

#### NEW SECTION

**WAC 357-31-215 When may vacation leave be accumulated above the maximum two hundred forty (240) hours?** There are two circumstances in which vacation leave may be accumulated above the maximum of thirty (30) working days (240 hours).

(1) If an employee's request for vacation leave is denied by the employer, and the employee is close to the maximum vacation leave (240 hours), the employer must grant an extension for each month that the employer defers the employee's request for vacation leave. The employer must maintain a statement of necessity justifying the extension.

(2) As an alternative to subsection (1), employees may also accumulate vacation leave in excess of two hundred forty (240) hours as follows:

(a) An employee may accumulate the vacation leave days between the time thirty (30) days is accrued and his/her next anniversary date of state employment.

(b) Leave accumulated above two hundred forty (240) hours must be used by the next anniversary date and in accordance with the employer's leave policy. If such leave is not used before the employee's anniversary date, the excess leave is automatically lost and considered to have never existed.

(c) Any leave accumulated above two hundred forty (240) hours without a statement of necessity between anniversary dates must not, regardless of circumstances, be deferred by the employer by a statement of necessity as described in (1) above. For example:

On June 15, an employee is assigned to work on a special project. It is expected that the assignment will last six months. Due to an ambitious timeline and strict deadlines, the employee will not be able to take any vacation leave during that time. On June 15, the employee's vacation leave balance is 260 hours. The employee accrues 10 hours monthly and his/her anniversary date is October 16. If a statement of necessity is filed in June, his/her leave accrual for the four months between June and October will be deferred and not lost as long as the employee uses those 40 deferred hours by his/her next anniversary date (October 16 of the following year). The hours of excess vacation leave the employee has on June 15 (20 hours) will not be deferred and will be lost if not used by the approaching anniversary date (October 16 of the present year).

#### NEW SECTION

**WAC 357-31-220 What must be included in the statement of necessity for excess vacation leave?** At a minimum, a statement of necessity for excess vacation leave must include all of the following:

- (1) The date on which the statement of necessity was authorized;
- (2) Justification of denial of the employee's leave request;
- (3) Date upon which the employee will be able to resume leave usage;
- (4) The employee's total leave balance on his/her anniversary date;
- (5) The employee's accrual rate; and

(6) The employee's leave balance at the time of the request.

#### NEW SECTION

**WAC 357-31-225 When employees separate from state service, are they entitled to a lump sum payment of unused vacation leave?** (1) When an employee who has completed six (6) continuous months of employment separates from service by reason of resignation with adequate notice, layoff, trial service reversion, separation, dismissal, retirement, or death, the employee is entitled to a lump sum payment of unused vacation leave. The payment is computed by using the formula published by the office of financial management. No contributions are to be made to the department of retirement systems (DRS) for lump sum payment of excess vacation leave accumulated under the provisions of WAC 357-31-215(2), nor shall such payment be reported to the DRS as compensation.

(2) General government permanent employees may defer the payment of accumulated vacation leave to which they are entitled for a period of thirty (30) calendar days in any of these circumstances:

(a) If the separation resulted from a layoff, trial service reversion, or conclusion of a project or nonpermanent appointment and there is a reasonable probability of re-employment, or

(b) If the separation resulted from an employee returning to a classified position from an exempt position under the provision of RCW 41.06.070.

#### NEW SECTION

**WAC 357-31-230 When can an employee use accrued compensatory time?** (1) Employees must request to use accrued compensatory time in accordance with the employer's leave policy. When considering employees' requests, employers must consider the work requirements of the department and the wishes of the employee.

(2) An employee must be granted the use of accrued compensatory time to care for a spouse, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition, or to care for a minor/dependent child with a health condition that requires treatment or supervision. In accordance with the employer's leave policy, approval of the employee's request to use accrued compensatory time may be subject to verification that the condition exists.

(3) Compensatory time off may be scheduled by the employer during the final sixty (60) days of a biennium.

(4) Employers may require that accumulated compensatory time be used before vacation leave is approved, except in those instances where this requirement would result in loss of accumulated vacation leave.

#### NEW SECTION

**WAC 357-31-235 May an employee use leave if the employee sustains a work-related injury or illness that is compensable under the state workers' compensation law?** An employee who sustains a work related injury or illness

that is compensable under the workers' compensation law may choose to receive time-loss compensation exclusively, use accrued paid leave exclusively, or combine time loss compensation and accrued paid leave.

#### NEW SECTION

**WAC 357-31-240 What happens if an employee uses accrued sick leave during a period when he/she is receiving time loss compensation?** An employee who uses accrued sick leave during a period when the employee receives time-loss compensation must have his/her payment for sick leave reduced by the amount of time-loss compensation received by the employee. Until eligibility for workers' compensation is determined by the department of labor and industries, the employer may pay full sick leave; however, the employee must return any overpayment to the employer when the salary adjustment is determined.

#### NEW SECTION

**WAC 357-31-245 What happens if an employee uses accrued vacation leave, accrued compensatory time, or receives holiday pay during a period when he/she is receiving time loss compensation?** An employee who uses accrued vacation leave, accrued compensatory time, or receives holiday pay during a period when he/she is receiving time loss compensation is entitled to time-loss compensation and full pay for vacation leave, compensatory time, and holiday pay.

#### NEW SECTION

**WAC 357-31-250 Are employees entitled to paid bereavement leave?** (1) If an employee's family member or household member dies, the employee is entitled to three (3) days of paid bereavement leave. An employee may request less than three (3) days of paid bereavement leave.

(2) In accordance with the employer's leave policy, the employer may require verification of the family member's or household member's death.

(3) In addition to paid bereavement leave, the employer may approve an employee's request to use paid leave (accrued compensatory time, sick leave, vacation leave, and/or a personal holiday) or to take leave without pay for purposes of bereavement.

#### NEW SECTION

**WAC 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather?** When the employer determines inclement weather conditions exist, the employer's leave policy governs the order in which accrued leave and compensatory time may be used to account for the time an employee is absent from work due to the inclement weather. The employer's policy must allow the use of accrued vacation leave, accrued sick leave up to a maximum of three (3) days in any calendar year, and the use of leave without pay in lieu of paid leave at the request of the employee.

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NEW SECTION

**WAC 357-31-260** When may an agency head or institution president suspend operations? When it is determined that public safety, health, or property is jeopardized due to emergency conditions, the agency head or institution president may suspend operations for the entire agency, higher education institution, related board, or any portion of the organization, in accordance with the employer's suspended operations procedure.

NEW SECTION

**WAC 357-31-265** What is the effect of suspended operations on employees who are not required to work during the closure? At a minimum, employees not required to work during suspended operations must be allowed to use their personal holiday, accrued vacation leave, accrued compensatory time, or leave without pay to account for the time lost due to the closure. If an employer's suspended operations procedure allows, employees may also be released without a loss in pay or given a reasonable opportunity to make up work time lost as a result of the suspended operations. For overtime eligible employees, compensation for making up lost work time must be granted on a compensatory time basis at not less than straight time nor more than time and one-half, and must be part of the employer's suspended operations procedures. The amount of compensation earned under this section must not exceed the amount of salary lost by the employee due to suspended operation.

NEW SECTION

**WAC 357-31-270** When an employer has suspended operations, how are employees who are required to work during the closure affected? Employees required to work during the closure must receive their regular rate of pay for work performed during the period of suspended operations. Overtime worked during the closure must be compensated in accordance with chapter 357-28 WAC. The employer may petition the director for approval of a special premium pay allowance due to hazardous working conditions encountered by employees required to work during the period of suspended operations.

NEW SECTION

**WAC 357-31-275** What must be included in the employer's suspended operations procedure? Each employer must develop a suspended operations procedure. The procedure must at a minimum address all of the following:

- (1) How employees will be notified of suspended operations.
- (2) What happens when prior notification has not been given and employees are released until further notice after reporting to work.
- (3) How employees who are not required to work during suspended operations are affected.

NEW SECTION

**WAC 357-31-280** How long can operations be suspended? The period of suspended operations must not exceed fifteen (15) calendar days without director approval.

NEW SECTION

**WAC 357-31-285** Is an employer required to authorize the absence of an employee for family care emergencies? Absence because of an employee's inability to report for or continue scheduled work due to a family care emergency:

(1) Must be authorized for care of the employee's spouse, household member or the employee's/spouse's child, parent or grandparent up to the limits specified in WAC 357-31-300.

(2) May be authorized for care of others in accordance with the employer's leave policy.

NEW SECTION

**WAC 357-31-290** What qualifies as a family care emergency? The employer's leave policy must define what qualifies as a family care emergency. At a minimum, the employer's definition must include:

(1) Minor/dependent child care emergencies such as unexpected absence of regular care provider, unexpected closure of child's school, or unexpected need to pick up child at school earlier than normal.

(2) Elder care emergencies such as the unexpected absence of a regular care provider or unexpected closure of an assisted living facility.

NEW SECTION

**WAC 357-31-295** What type of leave may employees use for family care emergencies? (1) After an employee has used all accrued compensatory time, the employee may choose any of following leave categories to use to account for time away from work for family care emergencies:

- (a) Vacation leave.
- (b) Sick leave in accordance with WAC 357-31-130.
- (c) Leave without pay.
- (d) Personal holiday.

(2) Use of any of these leave categories is dependent on the employee's eligibility to use that leave.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

**WAC 357-31-300** Is there a limit to how much leave can be used for a family care emergency? (1) For purposes of family care emergencies, each calendar year an employee must be allowed to use up to three (3) work days of:

- (a) Vacation leave,
- (b) Sick leave, and
- (c) Leave without pay.

(2) At the employer's discretion, additional leave in excess of three (3) days for each category of leave may be granted.

#### NEW SECTION

**WAC 357-31-305 Is advance approval required for an employee to take time off for a family care emergency?** No advance approval is required for an employee to take time off for a family care emergency; however, the employee must notify the employer at the beginning of the absence. In accordance with the employer's leave policy, the employee may be required to provide verification of the need to take leave and that the situation was such that advance notice was not possible.

### WSR 05-08-138

#### PERMANENT RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 6, 2005, 9:41 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules address leave for jury duty service, leave when an employee has received a subpoena, and for other miscellaneous reasons. These rules also address leave without pay, military leave, and medical expense plans.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-01-248 on December 22, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 357-31-330(7), as a result of discussions with stakeholders it was determined that the reference to WAC 357-31-250 be removed.

WAC 357-31-355, it was determined through discussion with stakeholders that the sentence regarding military leave of absence be removed from this subsection.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 13, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 13, Amended 0, Repealed 0.

Date Adopted: January 26, 2005.

Eva Santos  
Director

#### NEW SECTION

**WAC 357-31-310 If an employee is required to report for jury duty service, must the employee be granted a leave of absence with pay?** The employer must grant a leave of absence with pay when an employee is required to report for jury duty service. Employers may require documentation or verification of jury service.

#### NEW SECTION

**WAC 357-31-315 May employees keep compensation received for serving as a member of a jury?** Employees are allowed to keep any compensation they receive for serving as a member of a jury in addition to their regular pay.

#### NEW SECTION

**WAC 357-31-320 If an employee has received a subpoena, must the employee be granted a leave of absence with pay?** The employer must grant a leave of absence with pay for the employee to respond to a subpoena when:

(1) The employee has been subpoenaed on the employer's behalf; or

(2) The subpoena is for a legal proceeding which is unrelated to the personal or financial matters of the employee.

#### NEW SECTION

**WAC 357-31-325 Must an employer grant leave with pay for other miscellaneous reasons such as to take a state examination?** (1) Leave with pay must be granted to an employee:

(a) To allow an employee to receive assessment from the employee advisory service; or

(b) When an employee is scheduled to take an examination or participate in an interview for a position with a state employer during scheduled work hours.

(i) Employers may limit the number of occurrences or the total amount of paid leave that will be granted to an employee to participate in an interview or take an examination during scheduled work hours.

(ii) Employers may deny an employee's request to participate in an interview or take an examination during scheduled work hours based upon operational necessity.

(2) An employer may grant leave with pay for an employee to perform civil duties including but not limited to fire fighting, search and rescue efforts or donating blood. In the department of natural resources, leave with pay equivalent to one regular workshift may be allowed for the purpose of rest and recuperation after ten (10) consecutive calendar days performing emergency work under an incident command system, defined in RCW 38.52.010.

#### NEW SECTION

**WAC 357-31-330 For what reasons may an employer authorize leave without pay?** Leave without pay may be allowed for any of the following reasons in accordance with the employer's leave policy:

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(1) For any reason leave with pay may be granted, as long as the conditions for leave with pay are met;

(2) Educational leave;

(3) Leave for government service in the public interest;

(4) Military leave of absence as required by WAC 357-31-370;

(5) Parental leave as required by WAC 357-31-460;

(6) Family care emergencies as required by WAC 357-31-295;

(7) Bereavement or condolence;

(8) Absence due to inclement weather as provided in WAC 357-31-255;

(9) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC 357-19-295;

(10) Serious health condition of an eligible employee's child, spouse, or parent as required by WAC 357-31-525;

(11) Leave taken voluntarily to reduce the effect of an employer's layoff;

(12) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability; or

(13) Employees receiving time loss compensation.

#### NEW SECTION

**WAC 357-31-335 How long can an employee remain on leave without pay?** The employer determines the length of time an employee may remain on leave without pay. The employer's leave policy must address any limitations on the length of time for which leave without pay will be approved.

#### NEW SECTION

**WAC 357-31-340 When an employee returns from authorized leave without pay, what position will he/she be returned to?** Employees returning from authorized leave without pay must be employed in the same position or a similar position in the same class and in the same geographical area, provided that such return to employment is not in conflict with rules relating to layoff.

#### NEW SECTION

**WAC 357-31-345 How does leave without pay affect a general government employee's anniversary date, unbroken service date and periodic increment date?** (1) For a general government employee, the anniversary date, unbroken service date, and periodic increment date is adjusted for any period of leave without pay which exceeds fifteen (15) consecutive calendar days except when the leave without pay is taken for:

(a) Military leave of absence without pay as provided in WAC 357-31-370;

(b) Compensable work-related injury or illness leave;

(c) Government service leave not to exceed two (2) years and one (1) month;

(d) Educational leave, contingent upon successful completion of the coursework; and/or

(e) Voluntarily reducing the effect of an employer's layoff.

(2) When an employee is on leave without pay for more than fifteen (15) consecutive calendar days and the absence is not due to one of the reasons listed above, the employee's anniversary date, unbroken service date and periodic increment date must be moved forward in an amount equal to the number of calendar days on leave without pay.

#### NEW SECTION

**WAC 357-31-350 How does leave without pay affect a general government employee's seniority date?** WAC 357-46-055 describes how leave without pay affects a general government employee's seniority date.

#### NEW SECTION

**WAC 357-31-355 How does leave without pay affect the duration of an employee's probationary period or trial service period?** If an employee uses leave without pay for an entire workshift while serving a probationary period or trial service period, the probationary period or trial service period is extended by one work day for each workshift of leave without pay.

#### NEW SECTION

**WAC 357-31-360 Must employees who have been ordered to active duty or active training duty be granted paid military leave?** (1) Employees must be granted military leave with pay not to exceed fifteen (15) working days during each year, beginning October 1st and ending the following September 30th, in order to report for active duty or to take part in active training duty in the Washington National Guard or the Army, Navy, Air Force, Coast Guard, or Marine Corps reserves of the United States or any organized reserve or armed forces of the United States.

(2) Military leave with pay is in addition to any vacation and sick leave to which an employee is entitled and does not reduce benefits, performance ratings, privileges, or pay.

(3) During paid military leave, the employee must receive the normal base salary.

(4) Employees required to appear during working hours for a physical examination to determine physical fitness for military service must receive full pay for the time required to complete the examination.

#### NEW SECTION

**WAC 357-31-370 In addition to paid military leave, must an employee be granted a military leave of absence without pay?** (1) Employees must be granted a military leave of absence without pay for service in the uniformed services of the United States or the state, and to reinstatement as provided in chapter 73.16 RCW.

(2) No adjustments are made to the seniority date, anniversary date, unbroken service date, vacation leave accrual rate, or periodic increment date while an employee is on paid military leave or a military leave of absence without pay or any combination thereof.

NEW SECTION

**WAC 357-31-375 What provisions exist for employees to participate in medical expense plans?** (1) Employers may provide a medical expense plan to eligible employees that provides for reimbursement of medical expenses. Instead of cash out of sick leave at retirement as provided in WAC 357-31-150(2), employers may deposit equivalent funds in a medical expense plan for eligible employees. The medical expense plan must meet the requirements of the Internal Revenue Code.

(2) Medical expense plans must be implemented only after consultation with affected groups of employees.

(3) As a condition of participation, the medical expense plan must require that each covered eligible employee sign an agreement with the employer. The agreement must include the following provisions.

(a) A provision to hold the employer harmless should the United States government find that the employer or the employee is indebted to the United States as a result of:

(i) The employee not paying income taxes due on the equivalent funds placed into the plan, or

(ii) The employer not withholding or deducting a tax, assessment, or other payment on funds placed into the plan as required by federal law.

(b) A provision to require each covered eligible employee to forfeit remuneration for accrued sick leave at retirement if the employee is covered by a medical expense plan and the employee refuses to sign the required agreement.

(4) Each medical expense plan offered by an agency must apply to all eligible employees in any one of the following groups:

(a) Employees in a state agency or higher education institution;

(b) Employees in a major organizational subdivision of a state agency or higher education institution;

(c) Employees at a major operating location of a state agency or higher education institution;

(d) Classified employees in a bargaining unit established by the Public Employees Relations Commission;

(e) Another group of employees defined by the employer that is not designed to provide an individual-employee choice regarding participation in a medical expense plan.

(5) The following definitions are used for the medical expense plan:

(a) "Eligible employees" means all employees in a designated group in (4) of this section.

(b) "Covered eligible employee" means an eligible employee who is in a group for which the employer has established a medical expense plan.

(6) An established medical expense plan must be applicable to all retirements of covered eligible employees within a calendar year. The medical expense plan may be discontinued in any future year, but once discontinued it may not be reinstated for the same group of eligible employees within the same calendar year as it was discontinued.

## WSR 05-08-139

## PERMANENT RULES

## DEPARTMENT OF PERSONNEL

[Filed April 6, 2005, 9:43 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules address the state leave sharing program.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-01-247 on December 22, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 357-31-385, as a result of discussions with stakeholders, this WAC number was filed but not adopted. A withdrawal has been filed.

WAC 357-31-440, it was determined through discussion with stakeholders that part of the last sentence in the second paragraph regarding employees called to service in the uniformed services be removed from the section.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 16, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 16, Amended 0, Repealed 0.

Date Adopted: January 26, 2005.

Eva Santos  
Director

PERMANENT

NEW SECTION

**WAC 357-31-380 What is the purpose of the state leave sharing program?** The purpose of the state leave sharing program is to permit state employees, at no significantly increased cost to the state for providing leave, to come to the aid of another state employee who has been called to service in the uniformed services or who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment.

NEW SECTION

**WAC 357-31-390 What criteria does an employee have to meet to be eligible to receive shared leave?** An employee may be eligible to receive shared leave if the agency head or higher education institution president has determined the employee meets the following criteria:

## (1) The employee:

(a) suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature; or

(b) The employee has been called to service in the uniformed services.

(2) The illness, injury, impairment, condition, or call to service has caused, or is likely to cause, the employee to:

(a) Go on leave without pay status; or

(b) Terminate state employment.

(3) The employee's absence and the use of shared leave are justified.

(4) The employee has depleted or will shortly deplete his or her:

(a) Personal holiday, accrued vacation leave, and accrued sick leave if the employee qualifies under subsection (1)(a) of this section; or

(b) Personal holiday, accrued vacation leave, and paid military leave allowed under RCW 38.40.060 if the employee qualifies under subsection (1)(b) of this section.

(5) The employee has abided by employer rules regarding:

(a) Sick leave use if the employee qualifies under subsection (1)(a) of this section; or

(b) Military leave if the employee qualifies under subsection (1)(b) of this section.

(6) If the illness or injury is work-related and the employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if the employee qualifies under subsection (1)(a) of this section.

**NEW SECTION**

**WAC 357-31-395 What definitions apply to shared leave?** (1) "Employee" means any employee who is entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained.

(2) "Employee's relative" normally must be limited to the employee's spouse, child, grandchild, grandparent, or parent.

(3) "Severe" or "extraordinary" condition is defined as serious or extreme and/or life threatening.

(4) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(5) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the President of the United States in time of war or national emergency.

**NEW SECTION**

**WAC 357-31-400 How much shared leave may an employee receive?** The employer determines the amount of leave, if any, which an employee may receive under these rules. However, an employee must not receive more than two hundred sixty-one (261) days of shared leave and a nonpermanent employee who is eligible to use accrued leave or personal holiday may not use shared leave beyond the expected end date of the appointment.

Employers are encouraged to consider other methods of accommodating the employee's needs such as modified duty, modified hours, flex-time, or special assignments in place of shared leave.

**NEW SECTION**

**WAC 357-31-405 What documentation may an employee seeking shared leave be required to submit?** (1) For employees seeking shared leave under WAC 357-31-390 (1)(a), the employer may require the employee to submit a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition before the employer approves or disapproves the request.

(2) For employees seeking shared leave under WAC 357-31-390 (1)(b), the employer may require the employee to submit a copy of the military orders verifying the employee's required absence before the employer approves or disapproves the request.

**NEW SECTION**

**WAC 357-31-410 May employees donate leave to employees in other agencies, institutions of higher education, or related higher education boards?** Leave donated under the civil service rules and shared leave statutes may be transferred from employees of one employer to an employee of the same employer or, with the approval of the heads of both employers, to an employee of another state employer.

**NEW SECTION**

**WAC 357-31-415 Can donated leave be used for any purpose?** Vacation leave, sick leave, or all or part of a personal holiday transferred from a donating employee under these rules must be used solely for the purpose stated in WAC 357-31-380.

**NEW SECTION**

**WAC 357-31-420 What rate of pay is the employee receiving shared leave paid?** The receiving employee is paid his/her regular rate of pay. Therefore, the value of one (1) hour of shared leave may cover more or less than one (1) hour of the recipient's salary.

**NEW SECTION**

**WAC 357-31-425 What types of leave can an employee donate for the purposes of the state leave sharing program?** An employee may donate vacation leave, sick

leave, or all or part of a personal holiday to another employee for purposes of the state leave sharing program under the following conditions:

(1) Vacation leave: The donating employee's employer approves the employee's request to donate a specified amount of vacation leave to an employee authorized to receive shared leave and the full-time employee's request to donate leave will not cause his/her vacation leave balance to fall below eighty (80) hours after the transfer. For part-time employees, requirements for vacation leave balances are prorated.

(2) Sick leave: The donating employee's employer approves the employee's request to donate a specified amount of sick leave to an employee authorized to receive shared leave and the employee's request to donate leave will not cause his/her sick leave balance to fall below one hundred seventy-six (176) hours after the transfer.

(3) Personal holiday: The donating employee's employer approves the employee's request to donate all or part of his or her personal holiday to an employee authorized to receive shared leave.

Any portion of a personal holiday that is accrued, donated as shared leave, and then returned during the same calendar year to the donating employee, may be taken by the donating employee.

#### NEW SECTION

**WAC 357-31-430 How will shared leave be administered?** The calculation of the recipient's leave value must be in accordance with applicable office of financial management policies, regulations, and procedures. The dollar value of the leave is converted from the donor to the recipient. The leave received is coded as shared leave and is maintained separately from all other leave balances.

#### NEW SECTION

**WAC 357-31-435 Must employees use their own leave before using shared leave?** Employees who qualify for shared leave under WAC 357-31-390 (1)(a) must first use all compensatory time, personal holiday, sick leave, and vacation leave that they have accrued before using shared leave. Employees who qualify under WAC 357-31-390 (1)(b) must use all of their accrued vacation leave and paid military leave allowed under RCW 38.40.060 before using shared leave.

#### NEW SECTION

**WAC 357-31-440 How must employees who are receiving shared leave be treated during their absence?** An employee using shared leave under these rules continues to be classified as a state employee and receives the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued vacation leave or sick leave.

Employees who, during their probationary period or trial service period, go on shared leave must have their probationary period or trial service period extended by the number of calendar days they are on shared leave.

#### NEW SECTION

**WAC 357-31-445 What happens to leave that was donated under the state leave sharing program and was not used by the recipient?** (1) Any shared leave not used by the recipient during each incident/occurrence as determined by the employer must be returned to the donor(s).

The remaining shared leave must be returned to the donors and reinstated to the respective donors' appropriate leave balances based on each employee's current salary rate at the time of the reversion. The shared leave returned must be returned in accordance with office of financial management policies.

(2) Unused shared leave may not be cashed out by a recipient.

#### NEW SECTION

**WAC 357-31-450 Must an employee who receives shared leave repay the value of the leave that he or she used?** An employee who uses leave that is donated under the state leave sharing program is not required to repay the value of the leave that he or she used.

#### NEW SECTION

**WAC 357-31-455 What records must an employer maintain pertaining to the state leave sharing program?** Agencies must maintain records which contain sufficient information to provide for any state review.

### WSR 05-08-140

#### PERMANENT RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 6, 2005, 9:44 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules address parental leave, the Family and Medical Leave Act, and recognition leave.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-01-246 on December 22, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 357-31-465, it was determined through discussions with stakeholders that this section be updated to include "at least" and also include "during the previous twelve-month period."

WAC 357-31-485, it was determined through discussions with stakeholders that the question be changed to address parental leave exceeding the provisions of WAC 357-31-525 and to delete the first paragraph and add the language "parental leave" to the second paragraph.

WAC 357-31-490, as a result of discussions with stakeholders it was determined that the language "a minimum of" be added to this section.

WAC 357-31-510, as a result of discussions with stakeholders it was determined that the language "family and medical" be removed from this section.

WAC 357-31-530, as a result of discussions with stakeholders it was determined that language be added to this section to provide examples of paid time off.

WAC 357-31-555, as a result of discussions with stakeholders it was determined that the language be added to this section addressing employee's responsibility for any existing employee-paid premiums.

WAC 357-31-565(1), as a result of discussions with stakeholders it was determined that the language be added in this section stating that recognition leave is not transferable between employers.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 22, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 22, Amended 0, Repealed 0.

Date Adopted: January 26, 2005.

Eva Santos  
Director

#### NEW SECTION

**WAC 357-31-460 For what purposes must parental leave be granted?** (1) Employers must grant parental leave to employees for purposes of:

(a) The birth and care of a newborn child of the employee; or

(b) Placement of a child with the employee for adoption or foster care.

(2) Parental leave must be taken during the first year following the child's birth or placement of the child with the employee for adoption or foster care.

#### NEW SECTION

**WAC 357-31-465 Who qualifies for parental leave?** Only permanent employees or employees who have worked for the state for at least twelve (12) months and for at least one thousand two hundred fifty (1250) hours during the previous twelve-month period qualify for parental leave.

#### NEW SECTION

**WAC 357-31-470 How and when can an employee request to be off work on parental leave?** The employee must submit a written request for parental leave in accordance with the employer's leave policy. The employee must provide not less than thirty (30) days' notice, except when a child's birth or placement requires leave to begin in less than

thirty (30) days, in which case the employee must provide notice as soon as is practicable.

#### NEW SECTION

**WAC 357-31-475 How long can an employee request to be off work for parental leave?** Employees are entitled to request six (6) months of parental leave for the purposes specified WAC 357-31-460. Employers may only deny requests for that portion of the parental leave that exceeds the provisions of WAC 357-31-525. The only basis for denial is operational necessity. Employers may approve requests for more than six (6) months of parental leave.

#### NEW SECTION

**WAC 357-31-480 Is parental leave in addition to any leave for sickness or temporary disability because of pregnancy and/or childbirth?** Under RCW 49.78.005, the family leave required by U.S.C. 29.2612 (a)(1)(A) and (B) of the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) must be in addition to any leave for sickness or temporary disability because of pregnancy or childbirth as provided in WAC 357-31-500.

#### NEW SECTION

**WAC 357-31-485 If an employee's request for parental leave exceeds the provisions of WAC 357-31-525, how and when must an employer respond to an employee's request for parental leave?** If the employee's parental leave request is for time off which exceeds the provisions of WAC 357-31-525, the employer must respond in writing to the employee's request within ten (10) working days of the receipt of the request. If the leave is denied, the employer must provide a rationale supporting the operational necessity.

#### NEW SECTION

**WAC 357-31-490 Will time off for parental leave be paid or unpaid?** (1) Parental leave may be a combination of vacation leave, personal holiday, compensatory time, and leave of absence without pay. Sick leave may be used if the criteria in WAC 357-31-130 are met. The combination and use of paid and unpaid leave during a parental leave is at the employee's choice.

(2) If necessary while on approved parental leave, the employee must be allowed to use a minimum of eight (8) hours per month of the accrued paid leave identified in subsection (1) of this section during a parental leave of absence without pay to provide for continuation of benefits as provided by the public employees' benefits board. The employer designates when during the month paid leave will be interspersed to maintain benefits.

#### NEW SECTION

**WAC 357-31-495 Will time off for parental leave be designated under the Family and Medical Leave Act?** Employers may designate a total of twelve (12) work weeks of accrued paid leave or leave without pay for purposes of

parental leave as family and medical leave under the Family and Medical Leave Act. These twelve (12) weeks are in addition to any paid or unpaid leave the employee is eligible for and takes for sickness or temporary disability due pregnancy or childbirth.

#### NEW SECTION

**WAC 357-31-500 When must disability leave due to pregnancy and/or childbirth be granted?** Leave of absence must be granted for the period of time that a permanent employee is sick or temporarily disabled because of pregnancy and/or childbirth.

#### NEW SECTION

**WAC 357-31-505 How does an employee request disability leave due to pregnancy and/or childbirth?** The employee must submit a written request for disability leave due to pregnancy and/or childbirth in accordance with the employer's leave policy.

#### NEW SECTION

**WAC 357-31-510 Is the employee required to provide the employer with medical certification during disability leave due to pregnancy and/or childbirth?** In accordance with the employer's leave policy, the employee may be required to submit medical certification or verification for the period of disability leave due to pregnancy and/or childbirth.

#### NEW SECTION

**WAC 357-31-515 Will time off during the period of disability leave due to pregnancy and/or childbirth be paid?** Disability leave due to pregnancy and/or childbirth may be a combination of sick leave, vacation leave, personal holiday, compensatory time, and leave without pay. The combination and use of paid and unpaid leave must be per the choice of the employee.

#### NEW SECTION

**WAC 357-31-520 How does the Family and Medical Leave Act of 1993 and the Family Care Law interact with the civil service rules?** Benefits provided through state laws and civil service rules must not be diminished or withheld in complying with the Family and Medical Leave Act of 1993.

#### NEW SECTION

**WAC 357-31-525 What is an employee entitled to under the Family and Medical Leave Act of 1993?** (1) The Family and Medical Leave Act of 1993 (29 USC 2601 et seq) and its implementing rules, 29 CFR Part 825, provide that an eligible employee must be granted, during a twelve-month period, a total of twelve (12) work weeks of absence when one or more of the following conditions exist:

- (a) As a result of the employee's serious health condition;
- (b) To care for an employee's parent, spouse, or minor/dependent child who has a serious health condition; and/or

(c) To provide care to an employee's newborn, adopted or foster child as provided in WAC 357-31-460.

(2) For general government employers, the twelve-month period in subsection (1) above is a rolling twelve (12) months measured from the date an employee begins leave under the Family and Medical Leave Act of 1993. Higher education employers must define within their family and medical leave policy how the twelve (12) months is measured

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined?** In accordance with 29 CFR Part 825, an eligible employee is an employee who has worked for the state for at least twelve (12) months and for at least one thousand two hundred fifty (1,250) hours during the previous twelve-month period. Paid time off such as vacation leave, sick leave, holidays, the personal holiday, compensatory time off, or shared leave is not counted towards the one thousand two hundred and fifty (1,250) hour eligibility requirements.

#### NEW SECTION

**WAC 357-31-535 Who designates absences which meet the criteria of the Family and Medical Leave Act?** The employer designates absences which meet the criteria of the Family and Medical Leave Act. Paid or unpaid leave, excluding compensatory time, used for that designated absence must be counted towards the twelve (12) weeks of the Family and Medical Leave Act entitlement.

#### NEW SECTION

**WAC 357-31-540 Who chooses if an employee will use paid leave or leave without pay for absences granted under the Family and Medical Leave Act?** The employee may choose to use appropriate accrued paid leave or leave without pay for absence granted in accordance with the Family and Medical Leave Act. Use of accrued paid leave and leave without pay must be in accordance with the civil service rules.

#### NEW SECTION

**WAC 357-31-545 Under the Family and Medical Leave Act, can an employee request an intermittent or reduced schedule?** Employee absence granted for the purpose of WAC 357-31-525 (1)(a) and (b) must be granted on an intermittent or reduced schedule at the employee's request when medically necessary.

#### NEW SECTION

**WAC 357-31-550 When an employee returns from an absence designated as FMLA, what position will the employee return to?** Following absence designated as FMLA the employee must be returned to the same or equivalent position held prior to the absence.

NEW SECTION

**WAC 357-31-555 Must employers continue health insurance benefits when an employee is on leave designated as FMLA?** The employer must continue an eligible employee's existing employer-paid health insurance benefits during paid or unpaid leave granted in accordance with the Family and Medical Leave Act. The employee is responsible for any existing employee-paid premiums necessary to maintain health insurance benefits.

NEW SECTION

**WAC 357-31-560 Must the employer have a family and medical leave policy?** Each employer must develop and disseminate a policy specifying the procedures, required information, and time frames for employees to request and use leave in accordance with the state laws, the civil service rules, and the Family and Medical Leave Act of 1993 law and regulations found in 29 CFR Part 825.

NEW SECTION

**WAC 357-31-565 May employers grant paid leave for purposes of recognition?** Employers who have received performance management confirmation may grant employees up to five (5) days of paid leave within a twelve-month period to recognize outstanding accomplishments or the achievement of pre-defined work goals by individual employees or units. Leave granted under this provision:

- (1) Is not payable upon layoff, dismissal, separation, or resignation or transferable between employers;
- (2) Must be used within twelve (12) months of the leave being granted; and
- (3) Must be used before the employee uses vacation leave.

PERMANENT

**WSR 05-07-058**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed March 11, 2005, 3:27 p.m., effective March 11, 2005]

Effective Date of Rule: March 11, 2005.

Purpose: To adopt rules for the reimbursement of bariatric surgery.

Citation of Existing Rules Affected by this Order: Amending WAC 388-531-0150, 388-531-0200, 388-531-0250, 388-531-0650, 388-531-1600, 388-550-2800, and 388-550-4400.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Recent studies of gastric bypass surgeries in Washington show an increased likelihood of complications. Specifically for Medical Assistance Administration (MAA) clients following gastric bypass surgery, recent statistics shows a 2.1% in-hospital mortality rate (compared to 0.9% for all other patients in Washington state) and a 3.6% thirty-day mortality rate following the surgery (compared to 1.7% for all other Washington state patients). The mortality rates for MAA clients in both instances are more than double that of other patients. The national mortality rate from peer-reviewed literature for gastric bypass surgery is between 0% and 1%.

Because evidence shows that surgeon experience and competence is one of the most important factors in predicting the likelihood of complications, rules are needed immediately to establish standards for selection of surgeons and hospitals performing gastric bypass surgery for MAA clients. Rules are also needed immediately to establish medical necessity criteria and pre- and postoperative requirements for clients that would further prevent the likelihood of complications.

This continues the emergency rule that is currently in effect under WSR 04-23-054 while MAA completes the permanent rule-making process begun under WSR 04-12-093. MAA anticipates filing the permanent rule proposal (CR-102 notice) in June 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 7, Repealed 0.

Date Adopted: March 7, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

**WAC 388-531-0150 Noncovered physician-related services—General and administrative.** (1) Except as provided in WAC 388-531-0100 and subsection (2) of this section, MAA does not cover the following:

- (a) Acupuncture, massage, or massage therapy;
- (b) Any service specifically excluded by statute;
- (c) Care, testing, or treatment of infertility, frigidity, or impotency. This includes procedures for donor ovum, sperm, womb, and reversal of vasectomy or tubal ligation;
- (d) Cosmetic treatment or surgery, except for medically necessary reconstructive surgery to correct defects attributable to trauma, birth defect, or illness;
- (e) Experimental or investigational services, procedures, treatments, devices, drugs, or application of associated services, except when the individual factors of an individual client's condition justify a determination of medical necessity under WAC 388-501-0165;
- (f) Hair transplantation;
- (g) Marital counseling or sex therapy;
- (h) More costly services when MAA determines that less costly, equally effective services are available;
- (i) Vision-related services listed as noncovered in chapter 388-544 WAC;
- (j) Payment for body parts, including organs, tissues, bones and blood, except as allowed in WAC 388-531-1750;
- (k) Physician-supplied medication, except those drugs administered by the physician in the physician's office;
- (l) Physical examinations or routine checkups, except as provided in WAC 388-531-0100;
- (m) Routine foot care. This does not include clients who have a medical condition that affects the feet, such as diabetes or arteriosclerosis obliterans. Routine foot care includes, but is not limited to:
  - (i) Treatment of mycotic disease;
  - (ii) Removal of warts, corns, or calluses;
  - (iii) Trimming of nails and other hygiene care; or
  - (iv) Treatment of flat feet;
- (n) Except as provided in WAC 388-531-1600, weight reduction and control services, procedures, treatments, devices, drugs, products, gym memberships, equipment for the purpose of weight reduction, or the application of associated services.
  - (o) Nonmedical equipment; and
  - (p) Nonemergent admissions and associated services to out-of-state hospitals or noncontracted hospitals in contract areas.
- (2) MAA covers excluded services listed in (1) of this subsection if those services are mandated under and provided to a client who is eligible for one of the following:

EMERGENCY

- (a) The EPSDT program;
- (b) A Medicaid program for qualified **Medicare** beneficiaries (QMBs); or
- (c) A waiver program.

**AMENDATORY SECTION** (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

**WAC 388-531-0200 Physician-related services requiring prior authorization.** (1) MAA requires **prior authorization** for certain services. Prior authorization includes **expedited prior authorization (EPA)** and **limitation extension (LE)**. See WAC 388-501-0165.

(2) The EPA process is designed to eliminate the need for telephone prior authorization for selected admissions and procedures.

(a) The provider must create an authorization number using the process explained in MAA's physician-related billing instructions.

(b) Upon request, the provider must provide supporting clinical documentation to MAA showing how the authorization number was created.

(c) Selected nonemergent admissions to contract hospitals require EPA. These are identified in MAA billing instructions.

(d) Procedures requiring expedited prior authorization include, but are not limited to, the following:

- (i) Bladder repair;
- (ii) Hysterectomy for clients age forty-five and younger, except with a diagnosis of cancer(s) of the female reproductive system;
- (iii) Outpatient magnetic resonance imaging (MRI) and magnetic resonance angiography (MRA);
- (iv) Reduction mammoplasties/mastectomy for geynecomastia; and
- (v) Strabismus surgery for clients eighteen years of age and older.

(3) MAA evaluates new technologies under the procedures in WAC 388-531-0550. These require prior authorization.

(4) Prior authorization is required for the following:

- (a) Abdominoplasty;
- (b) All inpatient hospital stays for **acute physical medicine and rehabilitation (PM&R)**;
- (c) Cochlear implants, which also:
  - (i) For coverage, must be performed in an ambulatory surgery center (ASC) or an inpatient or outpatient hospital facility; and
  - (ii) For reimbursement, must have the invoice attached to the claim;
- (d) Diagnosis and treatment of eating disorders for clients twenty-one years of age and older;
- (e) Osteopathic manipulative therapy in excess of MAA's published limits;
- (f) Panniculectomy;
- (g) ~~((Surgical procedures related to weight loss or reduction))~~ **Bariatric surgery (see WAC 388-531-1600)**; and
- (h) Vagus nerve stimulator insertion, which also:
  - (i) For coverage, must be performed in an inpatient or outpatient hospital facility; and

(ii) For reimbursement, must have the invoice attached to the claim.

(5) MAA may require a second opinion and/or consultation before authorizing any elective surgical procedure.

(6) Children six year of age and younger do not require authorization for hospitalization.

**AMENDATORY SECTION** (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

**WAC 388-531-0250 Who can provide and bill for physician-related services.** (1) The following enrolled providers are eligible to provide and bill for physician-related medical services which they provide to eligible clients:

- (a) Advanced registered nurse practitioners (ARNP);
- (b) Federally qualified health centers (FQHCs);
- (c) Health departments;
- (d) Hospitals currently licensed by the department of health;
- (e) Independent (outside) laboratories **CLIA** certified to perform tests. See WAC 388-531-0800;
- (f) Licensed radiology facilities;
- (g) Medicare-certified ambulatory surgery centers;
- (h) Medicare-certified rural health clinics;
- (i) Providers who have a signed agreement with MAA to provide screening services to eligible persons in the EPSDT program;
- (j) Registered nurse first assistants (RNFA); and
- (k) Persons currently licensed by the state of Washington department of health to practice any of the following:

- (i) Dentistry (refer to chapter 388-535 WAC);
- (ii) Medicine and osteopathy;
- (iii) Nursing;
- (iv) Optometry; or
- (v) Podiatry.

(2) MAA does not reimburse for services performed by any of the following practitioners:

- (a) Acupuncturists;
- (b) Christian Science practitioners or theological healers;
- (c) Counselors;
- (d) Herbalists;
- (e) Homeopaths;
- (f) Massage therapists as licensed by the Washington state department of health;
- (g) Naturopaths;
- (h) Sanipractors;
- (i) Those who have a master's degree in social work (MSW), except those employed by an FQHC or who have prior authorization to evaluate a client for bariatric surgery;
- (j) Any other licensed or unlicensed practitioners not otherwise specifically provided for in WAC 388-502-0010; or

(k) Any other licensed practitioners providing services which the practitioner is not:

- (i) Licensed to provide; and
  - (ii) Trained to provide.
- (3) MAA reimburses practitioners listed in subsection (2) of this section for physician-related services if those services are mandated by, and provided to, clients who are eligible for one of the following:

- (a) The EPSDT program;
- (b) A Medicaid program for qualified Medicare beneficiaries (QMB); or
- (c) A waiver program.

**AMENDATORY SECTION** (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

**WAC 388-531-0650 Hospital physician-related services not requiring authorization when provided in MAA-approved centers of excellence or hospitals authorized to provide the specific services.** MAA covers the following services without prior authorization when provided in MAA-approved centers of excellence. MAA issues periodic publications listing centers of excellence. These services include the following:

- (1) All transplant procedures specified in WAC 388-550-1900;
- (2) Chronic pain management services, including outpatient evaluation and inpatient treatment, as described under WAC 388-550-2400. See also WAC 388-531-0700;
- (3) Sleep studies including but not limited to polysomnograms for clients one year of age and older. MAA allows sleep studies only in outpatient hospital settings as described under WAC 388-550-6350. See also WAC 388-531-1500; and
- (4) Diabetes education, in a DOH-approved facility, per WAC 388-550-6300(± and
- (5) ~~MAA approved structured weight loss programs. See also WAC 388-531-1600).~~

**AMENDATORY SECTION** (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

**WAC 388-531-1600 (~~Structured weight loss physician-related services~~) Bariatric surgery.** (~~MAA covers structured outpatient weight loss only through an MAA-approved program~~) (1) The medical assistance administration (MAA) covers medically necessary bariatric surgery for eligible clients.

(2) Bariatric Surgery must be performed in a hospital with a bariatric surgery program, and the hospital must be:

(a) Located in the state of Washington or approved border cities (see WAC 388-501-0175); and

(b) Meet the requirements of WAC 388-550-2301.

(3) If bariatric surgery is requested or prescribed under the EPSDT program, MAA evaluates it as a covered service under EPSDT's standard of coverage that requires the service to be:

- (a) Medically necessary;
- (b) Safe and effective; and
- (c) Not experimental.

(4) MAA authorizes payment for bariatric surgery and bariatric surgery-related services in three stages:

(a) Stage one - initial assessment of client;

(b) Stage two - evaluations for bariatric surgery and successful completion of a weight loss regimen; and

(c) Stage three - bariatric surgery.

**Stage one - initial assessment**

(5) Any MAA provider who is licensed to practice medicine in the state of Washington may examine a client

requesting bariatric surgery to ascertain if the client meets the criteria listed in subsection (6) of this section.

(6) The client meets the preliminary conditions of stage one when:

(a) The client is between twenty-one and fifty-nine years of age;

(b) The client has a body mass index (BMI) of thirty-five or greater;

(c) The client is not pregnant. (Pregnancy within the first two years following bariatric surgery is not recommended. When applicable, a Family Planning consultation is highly recommended prior to bariatric surgery.);

(d) The client is diagnosed with one of the following:

(i) Diabetes mellitus;

(ii) Degenerative joint disease of a major weight bearing joint(s) (the client must be a candidate for joint replacement surgery if weight loss is achieved); or

(iii) Other rare co-morbid conditions (such as pseudo tumor cerebri) in which there is medical evidence that bariatric surgery is medically necessary and that the benefits of bariatric surgery outweigh the risk of surgical mortality; and

(e) The client has an absence of other medical conditions such as multiple sclerosis (MS) that would increase the client's risk of surgical mortality or morbidity from bariatric surgery.

(7) If a client meets the criteria in subsection (6) of this section, the provider must request prior authorization from MAA before referring the client to stage two of the bariatric surgery authorization process. The provider must attach a medical report to the request for prior authorization with supporting documentation that the client meets the stage one criteria in subsections (5) and (6) of this section.

(8) MAA evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions when medically necessary, under the standards for covered services in WAC 388-501-0165.

**Stage two - evaluations for bariatric surgery and successful completion of a weight loss regimen**

(9) After receiving prior authorization from MAA to begin stage two of the bariatric surgery authorization process, the client must:

(a) Undergo a comprehensive psychosocial evaluation performed by a psychiatrist, licensed psychiatric ARNP, or licensed independent social worker with a minimum of two years postmasters' experience in a mental health setting. Upon completion, the results of the evaluation must be forwarded to MAA. The comprehensive psychosocial evaluation must include:

(i) An assessment of the client's mental status or illness to:

(A) Evaluate the client for the presence of substance abuse problems or psychiatric illness which would preclude the client from participating in presurgical dietary requirements or postsurgical lifestyle changes; and

(B) If applicable, document that the client has been successfully treated for psychiatric illness and has been stabilized for at least six months and/or has been rehabilitated and is free from any drug and/or alcohol abuse and has been drug and/or alcohol free for a period of at least one year.

(ii) An assessment and certification of the client's ability to comply with the postoperative requirements such as life-long required dietary changes and regular follow-up.

(b) Undergo an internal medicine evaluation performed by an internist to assess the client's preoperative condition and mortality risk. Upon completion, the internist must forward the results of the evaluation to MAA.

(c) Undergo a surgical evaluation by the surgeon who will perform the bariatric surgery (see subsection (13) of this section for surgeon requirements). Upon completion, the surgeon must forward the results of the surgical evaluation to MAA and to the licensed medical provider who is supervising the client's weight loss regimen (refer to WAC 388-531-1600 (9)(d)(ii)).

(d) Under the supervision of a licensed medical provider, the client must participate in a weight loss regimen prior to surgery. The client must, within one hundred and eighty days from the date of MAA's stage one authorization, lose at least five percent of his or her initial body weight. If the client does not meet this weight loss requirement within one hundred and eighty days from the date of MAA's authorization, MAA will cancel the authorization. The client or the client's provider must reapply for prior authorization from MAA to restart stage two. For the purpose of this section, "initial body weight" means the client's weight at the first evaluation appointment.

(i) The purpose of the weight loss regimen is to help the client achieve the required five percent loss of initial body weight prior to surgery and to demonstrate the client's ability to adhere to the radical and lifelong behavior changes and strict diet that are required after bariatric surgery.

(ii) The weight loss regimen must:

(A) Be supervised by a licensed medical provider who has a core provider agreement with MAA;

(B) Include monthly visits to the medical provider;

(C) Include counseling twice a month by a registered dietician referred to by the treating provider or surgeon; and

(D) Be at least six months in duration.

(iii) Documentation of the following requirements must be retained in the client's medical file. Copies of the documentation must be forwarded to MAA upon completion of stage two. MAA will evaluate the documentation and authorize the client for bariatric surgery if the stage two requirements were successfully completed.

(A) The provider must document the client's compliance in keeping scheduled appointments and the client's progress toward weight loss by serial weight recordings. Clients must lose at least five percent loss of initial body weight and must maintain the five percent weight loss until surgery;

(B) For diabetic clients, the provider must document the efforts in diabetic control or stabilization;

(C) The registered dietician must document the client's compliance (or noncompliance) in keeping scheduled appointments, and the client's weight loss progress;

(D) The client must keep a journal of active participation in the medically structured weight loss regimen including the activities under (d)(iii)(A), (d)(iii)(B) if appropriate, and (d)(iii)(C) of this subsection.

(10) If the client fails to complete all of the requirements of subsection (9) of this section, MAA will not authorize stage three - bariatric surgery.

(11) If the client is unable to meet all of the stage two criteria, the client or the client's provider must reapply for prior authorization from MAA to re-enter stage two.

**Stage three - bariatric surgery**

(12) MAA may withdraw authorization of payment for bariatric surgery at any time up to the actual surgery if MAA determines that the client is not complying with the requirements of this section.

(13) A surgeon who performs bariatric surgery for medical assistance clients must:

(a) Have a signed core provider agreement with MAA;

(b) Have a valid medical license in the state of Washington; and

(c) Be affiliated with a bariatric surgery program that meets the requirements of WAC 388-550-2301.

(14) For hospital requirements for stage three-bariatric surgery, see WAC 388-530-2301.

**AMENDATORY SECTION** (Amending WSR 04-19-113, filed 9/21/04, effective 10/22/04)

**WAC 388-550-2800 Inpatient payment methods and limits.** (1) The department reimburses hospitals for Medicaid inpatient hospital services using the rate setting methods identified in the department's approved state plan that includes:

<b>Method</b>	<b>Used for</b>
Diagnoses related group (DRG) negotiated conversion factor	Hospitals participating in the Medicaid hospital selective contracting program under waiver from the federal government
DRG cost-based conversion factor	Hospitals not participating in or exempt from the Medicaid hospital selective contracting program
Ratio of costs-to-charges (RCC)	Hospitals or services exempt from DRG payment methods
Single case rate	<b>Bariatric surgery</b>
Fixed per diem rate	Acute physical medicine and rehabilitation (Acute PM&R) Level B facilities and long-term acute care (LTAC) hospitals
Cost settlement	MAA-approved critical access hospitals (CAHS)

(2) The department's annual aggregate Medicaid payments to each hospital for inpatient hospital services provided to Medicaid clients will not exceed the hospital's usual and customary charges to the general public for the services (42 CFR § 447.271). The department recoups annual aggregate Medicaid payments that are in excess of the usual and customary charges.

(3) The department's annual aggregate payments for inpatient hospital services, including state-operated hospitals,

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will not exceed the estimated amounts that the department would have paid using Medicare payment principles.

(4) When hospital ownership changes, the department's payment to the hospital will not exceed the amount allowed under 42 U.S.C. Section 1395x (v)(1)(O).

(5) Hospitals participating in the medical assistance program must annually submit to the medical assistance administration:

(a) A copy of the hospital's HCFA 2552 Medicare Cost Report; and

(b) A disproportionate share hospital application.

(6) Reports referred to in subsection (5) of this section must be completed according to:

(a) Medicare's cost reporting requirements;

(b) The provisions of this chapter; and

(c) Instructions issued by MAA.

(7) The department requires hospitals to follow generally accepted accounting principles unless federally or state regulated.

(8) Participating hospitals must permit the department to conduct periodic audits of their financial and statistical records.

(9) The department reimburses hospitals for claims involving clients with third-party liability insurance:

(a) At the lesser of either the DRG:

(i) Billed amount minus the third-party payment amount;

or

(ii) Allowed amount minus the third-party payment amount; or

(b) The RCC allowed payment minus the third-party payment amount.

**AMENDATORY SECTION** (Amending WSR 01-16-142, filed 7/31/01, effective 8/31/01)

**WAC 388-550-4400 Services—Exempt from DRG payment.** (1) Except when otherwise specified, inpatient services exempt from the diagnosis-related group (DRG) payment method are reimbursed by the RCC payment method described in WAC 388-550-4500.

(2) Subject to the restrictions and limitations in this section, the department exempts the following services for Medicaid clients from the DRG payment method:

(a) Neonatal services for DRGs 602-619, 621-628, 630, 635, and 637-641.

(b) Acquired immunodeficiency syndrome (AIDS)-related inpatient services for those cases with a reported diagnosis of AIDS-related complex and other human immunodeficiency virus infections. These services are also exempt from the DRG payment method when funded by the department through the general assistance programs(~~(-medically indigent program,))~~) and any other state-only administered program.

(c) Alcohol or other drug detoxification services when provided in a hospital having a detoxification provider agreement with the department to perform these services. These services are also exempt from the DRG payment method when funded by the department through the general assistance programs(~~(-medically indigent program,))~~) and any other state-only administered program.

(d) Hospital-based intensive inpatient detoxification, medical stabilization, and drug treatment services provided to chemically dependent pregnant women (CUP program) by a certified hospital. These are Medicaid program services and are not funded by the department through the general assistance programs(~~(-medically indigent program,))~~) or any other state-only administered program.

(e) Acute physical medicine and rehabilitation services provided in MAA-approved rehabilitation hospitals and hospital distinct units, and services for physical medicine and rehabilitation patients. Rehabilitation services provided to clients under the general assistance programs(~~(-medically indigent program,))~~) and any other state-only administered program are also reimbursed through the RCC payment method.

(f) Psychiatric services provided in nonstate-owned psychiatric hospitals and designated distinct psychiatric units of hospitals.

(g) Chronic pain management treatment provided in department-approved pain treatment facilities.

(h) Administrative day services. The department reimburses administrative days based on the statewide average Medicaid nursing facility per diem rate, which is adjusted annually each November 1. The department applies this rate to patient days identified as administrative days on the hospital's notice of rates. Hospitals must request an administrative day designation on a case-by-case basis.

(i) Inpatient services recorded on a claim that is grouped by MAA to a DRG for which MAA has not published an all patient DRG relative weight, except that claims grouped to DRGs 469 and 470 will be denied payment. This policy also applies to covered services paid through the general assistance programs(~~(-medically indigent program,))~~) and any other state-only administered program.

(j) Organ transplants that involve the heart, kidney, liver, lung, allogeneic bone marrow, autologous bone marrow, or simultaneous kidney/pancreas. These services are also exempt from the DRG payment method when funded by MAA through the general assistance programs(~~(-medically indigent program,))~~) and any other state-only administered program.

(k) Bariatric surgery performed in hospitals that meet the criteria in WAC 388-550-2301. MAA pays hospitals for bariatric surgery on a single case rate basis.

(3) Inpatient services provided through a managed care plan contract are reimbursed by the managed care plan.

#### NEW SECTION

**WAC 388-550-2301 Hospital and medical criteria requirements for bariatric surgery.** (1) The medical assistance administration (MAA) pays a hospital for bariatric surgery and bariatric surgery-related services only when:

(a) The client qualifies for bariatric surgery by successfully completing all requirements under WAC 388-531-1600;

(b) The client continues to meet the criteria to qualify for bariatric surgery under WAC 388-531-1600 up to the actual surgery date; and

(c) The hospital providing the bariatric surgery and bariatric surgery-related services meets the requirements in this section and other applicable WAC.

(2) A hospital must meet the following requirements in order to be reimbursed for bariatric surgery and bariatric surgery-related services provided to an eligible medical assistance client. The hospital must:

(a) Be located in Washington state or approved bordering cities (see WAC 388-501-0175) and have a current core provider agreement with MAA.

(b) Have an established bariatric surgery program in operation under which at least one hundred bariatric surgery procedures have been performed. The program must have been in operation for at least five years and be under the direction of an experienced board-certified surgeon. In addition, MAA requires the bariatric surgery program to:

(i) Have a mortality rate of two percent or less;

(ii) Have a morbidity rate of fifteen percent or less;

(iii) Document patient follow-up for at least five years postsurgery;

(iv) Have an average loss of at least fifty percent of excess body weight achieved by patients at five years postsurgery; and

(v) Have a re-operation or revision rate of five percent or less.

(c) Submit documents to MAA's Division of Medical Management that verify the performance requirements listed in this section. The hospital must receive approval from MAA prior to performing a bariatric surgery for a medical assistance client.

(3) MAA waives the program requirements listed in subsection (2)(b) of this section if the hospital participates in a statewide bariatric surgery quality assurance program such as the Clinical Outcomes Assessment Program (COAP).

(4) See WAC 388-531-1600(13) for requirements for surgeons who perform bariatric surgery.

(5) Authorization does not guarantee payment. Authorization for bariatric surgery and bariatric surgery-related services is valid only if:

(a) The client is eligible on the date of service; and

(b) The provider meets the criteria in this section and other applicable WAC to perform bariatric surgery and/or to provide bariatric surgery-related services.

#### WSR 05-07-075

#### EMERGENCY RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed March 14, 2005, 12:28 p.m., effective March 15, 2005]

Effective Date of Rule: March 15, 2005.

Purpose: The Division of Developmental Disabilities has received approval from the federal Centers for Medicare and Medicaid Services (CMS) to implement four home and community based service (HCBS) waivers, which replace the current community alternatives program (CAP) waiver.

These rules will clarify eligibility, provider qualifications and client appeal rights. This filing includes new WAC 388-825-125 through 388-825-165 and 388-825-300 through 388-825-400. These rules replace the emergency rules related to WAC 388-825-120 and new WAC 388-825-125 through 388-825-165 and 388-825-300 through 388-825-400 filed as WSR 04-23-084.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-825-170, 388-825-180, 388-825-190, 388-825-260, 388-825-262, 388-825-264, 388-825-266, 388-825-268, 388-825-270, 388-825-272, 388-825-276, 388-825-278, 388-825-280, 388-825-282 and 388-825-294; and amending WAC 388-825-120.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The approval of the HCBS waivers by CMS required the department to implement new rules by April 1, 2004, to protect the health and welfare of eligible clients by ensuring no interruption in services to current participants in the CAP waiver occurs, and to ensure a continuation of federal matching funds under 42 C.F.R. 441, Subpart G - Home and Community Based Services - Waiver Requirements.

These rules were filed on an emergency basis as WSR 04-08-020, 04-16-019, and 04-23-084 [04-23-084]. The department has filed a notice of intent to adopt permanent rules as WSR 03-20-103. Ongoing negotiations with CMS and the need to obtain extensive feedback from stakeholders have delayed the filing of proposed rules for adoption on a permanent basis until the negotiations are completed and the feedback is obtained.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 32, Amended 1, Repealed 15; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 32, Amended 1, Repealed 15.

Date Adopted: March 8, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-02-014, filed 12/29/03, effective 1/29/04)

**WAC 388-825-120** (~~(Adjudicative proceeding)~~)

**When can I appeal department decisions through a fair hearing process?** (1) Fair hearings are governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 71A.10.050, the rules in this chapter and by chapter 388-02 WAC. If any provision in this chapter conflicts with chapter 388-02 WAC, the provision in this chapter shall prevail.

(2) A client, former client, or applicant acting on the applicant's own behalf or through an authorized representative has the right to (~~(an adjudicative proceeding to contest the following department actions:~~

(a)) a fair hearing.

(3) You have the right to a fair hearing to dispute the following department actions:

(a) Denial or termination of eligibility or services set forth in WAC 388-825-030; (~~(and)~~) 388-825-035 and 388-845-4000;

(b) (~~(Development or modification of the individual service plan set forth in WAC 388-825-050;~~

(e)) Authorization, denial, reduction, or termination of (~~(services or funds paid directly to the client set forth in WAC 388-825-055 or)~~) payment of SSP set forth in chapter 388-827 WAC authorized by DDD;

(~~((d))~~) (c) Admission or readmission to, or discharge from, a residential habilitation center;

(~~((e))~~) (d) Refusal to abide by your request not to send notices to any other person;

(e) Refusal to consult with other persons involved in your life during the process of making the decision being disputed;

(f) A decision to move you to a different type of residential service;

(g) Denial or termination of the provider of your choice;

(h) An unreasonable delay to act on an application for eligibility or service;

(i) A claim the client, former client, or applicant owes an overpayment debt(;

(f) A decision of the secretary under RCW 71A.10.060 or 71A.10.070;

(g) A decision to change a client's placement from one category of residential services to a different category of residential services.

(2) ~~Adjudicative proceedings are governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 71A.10.050, the rules in this chapter, and by chapter 388-02 WAC. If any provision in this chapter conflicts with chapter 388-02 WAC, the provision in this chapter shall govern.~~

(3) ~~The applicant's application for an adjudicative proceeding shall be in writing and filed with the DSHS office of appeals within twenty-eight days of receipt of the decision the appellant wishes to contest.~~

(4) ~~The department shall not implement the following actions while an adjudicative proceeding is pending:~~

(a) ~~Termination of eligibility;~~

(b) ~~Reduction or termination of service, except when the action to reduce or terminate the service is based on the availability of funding and/or service; or~~

(c) ~~Removal or transfer of a client from a service, except when a condition in subsection (5)(f) of this section is present.~~

(5) ~~The department shall implement the following actions while an adjudicative proceeding is pending:~~

(a) ~~Denial of eligibility;~~

(b) ~~Development or modification of an individual service plan;~~

(c) ~~Denial of service;~~

(d) ~~Reduction or termination of service when the action to reduce or terminate the service is based on the availability of funding or service;~~

(e) ~~After notification of an administrative law judge's (or review judge) ruling that the appellant has caused an unreasonable delay in the proceedings; or~~

(f) ~~Removal or transfer of a client from a service when:~~

(i) ~~An immediate threat to the client's life or health is present;~~

(ii) ~~Service termination or transfer for a specific group of clients in order to meet the intent of and comply with sections 205 and 207, chapter 371, Laws of 2002;~~

(iii) ~~The client's service provider is no longer able to provide services due to:~~

(A) ~~Termination of the provider's contract;~~

(B) ~~Decertification of the provider;~~

(C) ~~Nonrenewal of provider's contract;~~

(D) ~~Revocation of provider's license; or~~

(E) ~~Emergency license suspension.~~

(iv) ~~The client, the parent when the client is a minor, or the guardian when the client is an adult, approves the decision.~~

(6) ~~When the appellant files an application to contest a decision to return a resident of a state residential school to the community, the procedures specified in RCW 71A.10.050(2) shall govern the proceeding. These procedures include:~~

(a) ~~A placement decision shall not be implemented during any period during which an appeal can be taken or while an appeal is pending and undecided unless the:~~

(i) ~~Client's or the client's representative gives written consent; or~~

(ii) ~~Administrative law judge (or review judge) after notice to the parties rules the appellant has caused an unreasonable delay in the proceedings.~~

(b) ~~The burden of proof is on the department; and~~

(e) ~~The burden of proof is whether the specific placement proposed by the department is in the best interests of the resident.~~

(7) ~~The administrative law judge shall issue an initial or final order within sixty days of the department's receipt of the application for an adjudicative proceeding. When a party files a petition for administrative review, allowed under WAC 388-02-0215 (4)(w)(x) and/or (y), the review order shall be made within sixty days of the department's receipt of the petition. The decision rendering time is extended by as many days as the proceeding is continued on motion by, or with the assent of, the appellant).~~

NEW SECTION

**WAC 388-825-125 How do I request a fair hearing?** Your notice of the department decision will include instructions on how to file an appeal, where to send it, and the length of time you have to file for a hearing.

NEW SECTION

**WAC 388-825-130 How long do I have to file a request for a fair hearing?** You have to request a fair hearing within ninety days of receipt of the notification of the decision you are disputing.

NEW SECTION

**WAC 388-825-135 What if I need help to request an appeal?** You may call the department staff person listed in your notification letter and tell them you want to appeal the decision. The department staff person will notify the office of administrative hearings on your behalf.

NEW SECTION

**WAC 388-825-140 Who else can help me appeal a department decision?** You can authorize anyone except an employee of the department to file an appeal on your behalf.

NEW SECTION

**WAC 388-825-145 Will the department decision go into effect if I appeal?** No action will be taken by the department until there is a final decision on your appeal to terminate eligibility; or reduce or terminate the payment of SSP set forth in chapter 388-827 WAC. Also, no action will be taken by the department until there is a final decision on your appeal to remove or transfer you to another residential service or terminate your provider of choice unless the circumstances described in WAC 388-825-150 (5) or (6) apply.

NEW SECTION

**WAC 388-825-150 When can the department proceed to take action during my appeal?** The department will proceed to take action if:

- (1) It is an eligibility denial and you are not currently an eligible client.
- (2) Your DDD eligibility has expired.
- (3) There is no longer funding for the service.
- (4) The service no longer exists in rule or statute.
- (5) The administrative law judge or review judge rules that you have caused unreasonable delay in the proceedings.
- (6) You are in imminent jeopardy.
- (7) Your provider is no longer qualified to provide services due to:
  - (a) A lack of a contract;
  - (b) Decertification;
  - (c) Revocation or suspension of a license; or
  - (d) Lack of required registration, certification, or licensure.
- (8) The parent of a person under the age of eighteen or the legal guardian approves the department's decision.

(9) Your appeal was not filed within twenty-eight days of the date you were notified of the department's decision.

NEW SECTION

**WAC 388-825-155 What are my appeal rights if I am appealing a decision to move me from a state residential habilitation center to the community?** The procedures in RCW 71A.10.050(2) govern the proceeding.

- (1) No action is taken until there is a final decision on the appeal unless you or your legal representative consent or the administrative law judge rules that you have caused an unreasonable delay in the proceedings.
- (2) The burden of proof is on the department.
- (3) The burden of proof is whether the proposed placement is in your best interest.

NEW SECTION

**WAC 388-825-160 When will a decision on my appeal be made?** The administrative law judge shall issue a hearing decision within ninety calendar days after the record is closed, in accordance with WAC 388-02-0515.

NEW SECTION

**WAC 388-825-165 Can I appeal the initial order of the administrative law judge?** You may file a petition for administrative review, allowed under WAC 388-02-0215.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-825-170	Community alternatives program (CAP).
WAC 388-825-180	Eligible persons.
WAC 388-825-190	Community alternatives program (CAP)—Services.

**INDIVIDUAL PROVIDER AND AGENCY PROVIDER QUALIFICATIONS**

NEW SECTION

**WAC 388-825-300 What is the purpose of WAC 388-825-300 through 388-825-400?** A client/legal representative may choose a qualified individual, agency, or licensed provider. The intent of WAC 388-825-300 through 388-825-400 is to describe:

- (1) Qualification for individuals and agencies providing DDD services in the client's residence or the provider's residence or other setting; and
- (2) Conditions under which the department will pay for the services of an individual provider or a home care agency provider or other provider.

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NEW SECTION

**WAC 388-825-305 What service providers are governed by the qualifications in these rules?** These rules govern individuals and agencies contracted with to provide:

- (1) Respite care services;
- (2) Companion home services;
- (3) Personal care services through the Medicaid Personal Care program or DDD HCBS Basic, Basic Plus, or CORE waivers;
- (4) Alternative living services; or
- (5) Attendant care services.

NEW SECTION

**WAC 388-825-310 What are the qualifications for providers?** (1) Individuals and agencies providing Medicaid personal care (chapter 388-71 and 388-72A WAC) and DDD HCBS waiver personal care (chapter 388-845 WAC) must meet the qualifications and training requirements in WAC 388-71-0500 through 388-71-05909.

(2) Individuals and agencies providing nonwaiver DDD home and community based services (HCBS) in the client's residence or the provider's residence or other setting must meet the requirements in WAC 388-825-300 through 388-825-400.

(3) Individuals and agencies providing HCBS waiver services must meet the provider qualifications in chapter 388-845 WAC for the specific service.

NEW SECTION

**WAC 388-825-315 What is your responsibility when you hire an individual respite care, attendant care or personal care provider?** You or your legal representative:

- (1) Have the primary responsibility for locating, screening, hiring, supervising, and terminating an individual respite care, attendant care or personal care provider;
- (2) Establish an employer/employee relationship with the individual provider; and
- (3) May receive assistance from the social worker/case manager or other resources in this process.

NEW SECTION

**WAC 388-825-316 How do I choose a companion home or alternative living provider?** You can choose a qualified companion home or alternative living provider contracted with DDD or refer your choice of provider to DDD for contracting if your provider does not have a contract with DDD.

NEW SECTION

**WAC 388-825-320 How does a person become an individual provider, companion home provider or an alternative living provider?** In order to become an individual provider, companion home provider or an alternative living provider, a person must:

- (1) Be eighteen years of age or older.

(2) Provide the social worker/case manager/designee with:

- (a) Picture identification; and
- (b) A Social Security card.
- (3) Complete and submit to the social worker/case manager/designee the department's criminal conviction background inquiry application, unless the provider is also the parent of the adult DDD client and exempted, per chapter 74.15 RCW.
  - (a) Preliminary results may require a thumbprint for identification purposes.
  - (b) An FBI fingerprint-based background check is required if the person has lived in the state of Washington less than three years.
  - (4) Provide references as requested.
  - (5) Complete orientation, if contracting as an individual provider.
  - (6) Sign a service provider contract to provide services to a DDD client.
  - (7) Meet additional requirements in WAC 388-825-355.

NEW SECTION

**WAC 388-825-325 What are required skills and abilities for individuals and agencies contracted to provide respite care, companion home services, personal care services through the Medicaid personal care program or the DDD HCBS Basic, Basic Plus or CORE waivers, alternative living services or attendant care services?** (1) As a provider of respite care, companion home services, personal care services through the Medicaid personal care program or the DDD HCBS basic, Basic Plus, or CORE waivers, alternative living services or attendant care services, you must be able to:

- (a) Adequately maintain records of services performed and payments received;
- (b) Read and understand the person's service plan. Translation services may be used if needed;
- (c) Be kind and caring to the DSHS client for whom services are authorized;
- (d) Identify problem situations and take the necessary action;
- (e) Respond to emergencies without direct supervision;
- (f) Understand the way your employer wants you to do things and carry out instructions;
- (g) Work independently;
- (h) Be dependable and responsible;
- (i) Know when and how to contact the client's representative and the client's case resource manager;
- (j) Participate in any quality assurance reviews required by DSHS;
- (2) If you are working with an adult client of DSHS as a provider of alternative living, attendant care or companion home services, you must also:
  - (a) Be knowledgeable about the person's preferences regarding the care provided;
  - (b) Know the resources in the community the person prefers to use and enable the person to use them;
  - (c) Know who the person's friends are and enable the person to see those friends; and

(d) Enable the person to keep in touch with his/her family as preferred by the person.

#### NEW SECTION

**WAC 388-825-330 What is required for agencies wanting to provide care in the home of a person with developmental disabilities?** (1) Agencies providing personal care services must be licensed as a home care agency or a home health agency through the department of health.

(2) If a residential agency certified per chapter 388-820 WAC wishes to provide Medicaid personal care or respite care in the client's home, the agency must have home care agency certification or a home health license.

#### NEW SECTION

**WAC 388-825-335 Is a background check required of a home care agency provider?** In order to be a home care agency provider, a person must complete the department's criminal conviction background inquiry application, which is submitted by the agency to the department. This includes an FBI fingerprint-based background check if the home care agency provider has lived in the state of Washington less than three years.

#### NEW SECTION

**WAC 388-835-340 What is required for a provider to provide respite or residential service in their home?** Unless you are related to the client, or the client lives in a companion home, respite or residential services must take place in a home licensed by DSHS. Services are limited to those age-specific services contained in your license.

#### NEW SECTION

**WAC 388-825-345 What "related" providers are exempt from licensing?** (1) Relatives of a specified degree are exempt from the licensing requirement and may provide out-of-home respite in their home.

(2) Relatives of specified degree include parents, grandparents, brother, sister, step-parent, step-brother, step-sister, uncle, aunt, first cousin, niece or nephew.

#### NEW SECTION

**WAC 388-825-355 Are there any educational requirements for individuals providing respite care, attendant care, personal care services, companion home services, or alternative living services?** (1) If you are an individual providing personal care services for adults, you must meet the training requirements in WAC 388-71-05665 through 388-71-05909.

(2) If you are an individual contracted to provide companion homes services or alternative living services, you must:

(a) Have a high school diploma or GED;

(b) Successfully complete DDD specialty training within the first six months of beginning service; and

(c) Complete ten hours of continuing education related to the job responsibilities each subsequent calendar year.

(3) If you provide personal care for children, or provide respite care, there is no required training but DDD retains the authority to require training of any provider.

#### NEW SECTION

**WAC 388-825-360 How does an individual terminate employment as a provider?** State law makes it a crime to abandon a vulnerable adult. "Abandon" means leaving a person without the means or ability to obtain any of the basic necessities of life.

(1) If an individual wishes to "quit" or terminate employment as a provider, the individual must give at least two weeks written notice to his/her employer, their representative (if applicable) and the DDD case manager.

(2) The individual will be expected to continue working until the termination date unless otherwise determined by DSHS.

#### NEW SECTION

**WAC 388-825-365 Are providers expected to report abuse, neglect, exploitation or financial exploitation?** Providers are expected to report any abuse or suspected abuse immediately to child protective services, adult protective services or local law enforcement and make a follow-up call to the person's case manager.

#### NEW SECTION

**WAC 388-825-370 What are the responsibilities of an individual or home care agency when employed to provide respite care, attendant care, personal care, companion home services or alternative living services to a client?** An individual or home care agency employed to provide respite care, attendant care, personal care, companion home services, or alternative living services must:

(1) Understand the client's individual service plan or plan of care that is signed by the client or legal representative and social worker/case manager, and translated or interpreted, as necessary, for the client and the provider;

(2) Provide the services as outlined on the client's service plan, within the scope of practice in WAC 388-71-0202 and 388-71-0203;

(3) Accommodate client's individual preferences and differences in providing care, within the scope of the service plan;

(4) Contact the client's representative and case manager when there are changes which affect the personal care and other tasks listed on the service plan;

(5) Observe the client for change(s) in health, take appropriate action, and respond to emergencies;

(6) Notify the case manager immediately when the client enters a hospital, or moves to another setting;

(7) Notify the case manager immediately if the client dies;

(8) Notify the department immediately when unable to staff/serve the client; and

(9) Notify the department when the individual or home care agency will no longer provide services. Notification to the client/legal guardian must:

- (a) Give at least two weeks' notice, and
- (b) Be in writing.

(10) Complete and keep accurate time sheets that are accessible to the social worker/case manager; and

(11) Comply with all applicable laws, regulations and contract requirements.

#### NEW SECTION

**WAC 388-825-375 When will the department deny payment for services of an individual or home care agency providing respite care, attendant care, personal care, companion home services or alternative living services?** (1) The department will deny payment for the services of an individual or home care agency providing respite care, attendant care, personal care, companion home services or alternative living services who:

(a) Is the client's spouse, per 42 C.F.R. 441.360(g), except in the case of an individual provider for a Chore services client. Note: For Chore spousal providers, the department pays a rate not to exceed the amount of a one-person standard for a continuing general assistance grant, per WAC 388-478-0030;

(b) Is providing services under this chapter to their natural/step/adoptive minor client aged seventeen or younger;

(c) Has been convicted of a disqualifying crime, under RCW 43.43.830 and 43.43.842 or of a crime relating to drugs as defined in RCW 43.43.830;

(d) Has abused, neglected, abandoned, or exploited a minor or vulnerable adult, as defined in chapter 74.34 RCW;

(e) Has had a license, certification, or a contract for the care of children or vulnerable adults denied, suspended, revoked, or terminated for noncompliance with state and/or federal regulations;

(f) Does not successfully complete the training requirements within the time limits required in WAC 388-71-05665 through 388-71-05909; or

(g) Is terminated by the client (in the case of an individual provider) or by the home care agency (in the case of an agency provider).

(2) The department will deny payment for the services of an individual or a home care agency providing companion home services or alternative living services to their natural/step/adoptive adult child.

(3) The department will deny payment for services of a legal representative appointed by the courts providing companion home services to the client for whom they are the legal representative.

(4) In addition, the department may deny payment to or terminate the contract of an individual provider as provided under WAC 388-71-0546, 388-71-0551, and 388-71-0556.

#### NEW SECTION

**WAC 388-825-380 When can the department reject the client's choice of an individual respite care, attendant care or personal care provider?** The department may reject a client's request to have a family member or other person

serve as his or her individual respite care, attendant care or personal care provider if the case manager has a reasonable, good faith belief that the person will be unable to appropriately meet the client's needs. Examples of circumstances indicating an inability to meet the client's needs could include, without limitation:

(1) Evidence of alcohol or drug abuse;

(2) A reported history of domestic violence, no-contact orders, or criminal conduct (whether or not the conduct is disqualifying under RCW 43.43.830 and 43.43.842);

(3) A report from the client's health care provider or other knowledgeable person that the requested provider lacks the ability or willingness to provide adequate care;

(4) Other employment or responsibilities that prevent or interfere with the provision of required services;

(5) Excessive commuting distance that would make it impractical to provide services as they are needed and outlined in the client's service plan.

#### NEW SECTION

**WAC 388-825-381 When can the department reject the client's choice of a companion home services or alternative living services provider?** The department can reject the client's choice of a companion home services or alternative living services provider for any reason listed in WAC 388-825-380 or when:

(1) The department has assessed the client to need more than forty hours of alternative living services, thereby requiring services be provided by a DDD certified supportive living agency per chapter 388-820 WAC; and/or

(2) The client's choice of companion home provider is the client's parent or court appointed legal representative unless the provider was contracted and paid to provide companion home services prior to February 2005.

#### NEW SECTION

**WAC 388-825-385 When can the department terminate or summarily suspend an individual respite care, attendant care, personal care, companion home services or alternative living services provider's contract?** The department may take action to terminate an individual respite care, attendant care, personal care, companion home services or alternative living services provider's contract if the provider's inadequate performance or inability to deliver quality care is jeopardizing the client's health, safety, or well-being. The department may summarily or immediately suspend the contract pending a hearing based on a reasonable, good faith belief that the client's health, safety, or well-being is in imminent jeopardy. Examples of circumstances indicating jeopardy to the client could include, without limitation:

(1) Domestic violence or abuse, neglect, abandonment, or exploitation of a minor or vulnerable adult;

(2) Using or being under the influence of alcohol or illegal drugs during working hours;

(3) Other behavior directed toward the client or other persons involved in the client's life that places the client at risk of harm;

(4) A report from the client's health care provider that the client's health is negatively affected by inadequate care;

(5) A complaint from the client or client's representative that the client is not receiving adequate care;

(6) The absence of essential interventions identified in the service plan, such as medications or medical supplies; and/or

(7) Failure to respond appropriately to emergencies.

NEW SECTION

**WAC 388-825-390** When can the department otherwise terminate an individual's contract to provide respite care, attendant care, personal care, companion home services or alternative living services? The department may otherwise terminate the individual's contract to provide respite care, attendant care, personal care, companion home services or alternative living services for default or convenience in accordance with the terms of the contract and to the extent that those terms are not inconsistent with these rules.

NEW SECTION

**WAC 388-825-395** What are the client's rights if the department denies, terminates, or summarily suspends an individual's contract to provide respite care, attendant care, personal care, companion home services or alternative living services? If the department denies, terminates, or summarily (immediately) suspends the individual's contract to provide respite care, attendant care, personal care, companion home services or alternative living services, the client has the right to:

(1) A fair hearing to appeal the decision, per chapter 388-02 WAC and WAC 388-825-120; and

(2) Receive services from another currently contracted individual or home care agency, or other options the client is eligible for, if a contract is summarily suspended.

(3) The hearing rights afforded under this section are those of the client, not the individual provider.

NEW SECTION

**WAC 388-825-396** Does the provider of respite care, attendant care, personal care, companion home services or alternative living services have a right to a fair hearing? (1) The hearing rights afforded under WAC 388-825-395(1) are those of the client.

(2) The provider of respite care, attendant care, personal care, companion home services or alternative living services does not have a right to a fair hearing.

NEW SECTION

**WAC 388-825-400** Self-directed care—Who must direct self-directed care? Self-directed care under chapter 74.39 RCW must be directed by an adult client for whom the health-related tasks are provided. The adult client is responsible to train the individual provider in the health-related tasks which the client self-directs.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-825-260 What are qualifications for individual service providers?
- WAC 388-825-262 What services do individuals provide for persons with developmental disabilities?
- WAC 388-825-264 If I want to provide services to persons with developmental disabilities, what do I do?
- WAC 388-825-266 If I want to provide respite care in my home, what is required?
- WAC 388-825-268 What is required for agencies wanting to provide care in the home of a person with developmental disabilities?
- WAC 388-825-270 Are there exceptions to the licensing requirement?
- WAC 388-825-272 What are the minimum requirements to become an individual provider?
- WAC 388-825-276 What are required skills and abilities for this job?
- WAC 388-825-278 Are there any educational requirements for individual providers?
- WAC 388-825-280 What are the requirements for an individual supportive living service (also known as a companion home) contract?
- WAC 388-825-282 What is "abandonment of a vulnerable adult"?
- WAC 388-825-284 Are providers expected to report abuse?

**WSR 05-08-006  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-54—Filed March 25, 2005, 2:04 p.m., effective March 29, 2005, 12:01 a.m.]

Effective Date of Rule: March 29, 2005, 12:01 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000H; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.12.047.

EMERGENCY

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Survey results show that adequate clams are available for harvest in the portion of Razor Clam Area 3 opened by this emergency rule. Washington Department of Health has certified clams from this area to be safe for human consumption. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 25, 2005.

J. P. Koenings  
Director

**NEW SECTION**

**WAC 220-56-36000H Razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

1. Effective 12:01 a.m. March 29 through 11:59 a.m. March 30, 2005, razor clam digging is allowed in that portion of Razor Clam Area 3 that is between Olympic National Park South Beach Campground access road (Kalaloch area, Jefferson County) and Browns Point (Kalaloch area, Jefferson County). Digging is allowed from 12:01 a.m. to 11:59 a.m. only.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. March 30, 2005:

WAC 220-56-36000H Razor clams—Areas and seasons.

**WSR 05-08-011**

**EMERGENCY RULES**

**STATE BOARD OF EDUCATION**

[Filed March 28, 2005, 7:50 a.m., effective March 28, 2005]

Effective Date of Rule: Immediately.

Purpose: All students entering a high school program in Washington state must be assigned a graduation year as required by Washington state administrative code and the federal No Child Left Behind Act. This rule change provides for the assignment of the graduation year for each student upon entering a high school program.

Citation of Existing Rules Affected by this Order: Amending WAC 180-51-035.

Statutory Authority for Adoption: Chapter 28A.230 RCW and RCW 28B.50.915.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: This is needed as transcript changes have to be ready to use immediately and to satisfy the requirements of the federal No Child Left Behind Act.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 18, 2005.

March 24, 2005

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 04-20-093, filed 10/5/04, effective 11/5/04)

**WAC 180-51-035 Applicable standards for graduation for students under age twenty-one—Applicable standards for graduation for students age twenty-one or older—Amendments to this chapter.** (1) All students entering a high school program in Washington state shall be assigned an expected graduation year as required by federal law and this section. Once students are assigned a graduation year, they will be aligned to the requirements for that specific graduating class and subject to the provisions of this section.

EMERGENCY

(a) Students shall be assigned an expected graduation year based on the year they commence 9th grade, or for out-of-district and out-of-state transfer students, based on local district policy: Provided, That the expected graduation year for students receiving special education services shall be assigned and based on an Individualized Education Program (IEP) team determination in the year in which the student turns sixteen.

(b) Students shall have the right and the obligation to meet the minimum graduation requirements in place for their expected graduation year designated at the time they enter a district high school, regardless of what year they actually graduate.

(2) A student under age twenty-one shall have the right to graduate in accordance with the standards in effect for the school of graduation for any year since such student commenced the ninth grade or the equivalent of a four-year high school program and until the student turns age twenty-one.

~~((2))~~ (3)(a) A student age twenty-one or older who earns a high school diploma through the adult high school completion option under WAC 180-51-053 shall be required to meet the state minimum graduation credit requirements under WAC 180-51-060 or 180-51-061, depending on when the student began their high school program. Such students shall not be required to meet the following state minimum graduation requirements under WAC 180-51-061: Certificate of academic achievement or certificate of individual achievement;

(b) The state board of education reserves the prerogative to determine if and when the waived requirements under (a) of this subsection shall be required to earn an adult high school completion diploma.

~~((3))~~ (4) All subsequent amendments to this chapter and all subsequent local standards shall apply prospectively to the students who enter the ninth grade or begin the equivalent of a four-year high school program subsequent to the amendments.

**WSR 05-08-021  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-56—Filed March 29, 2005, 3:26 p.m., effective March 29, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000Y; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets the sixth fishing period for winter salmon directed fisheries. Harvestable salmon and

sturgeon are available. Harvestable numbers of hatchery salmon are available and impacts to ESA listed fish are expected to be within the guidelines that have been established. The use of short soak times, and recovery boxes will aid in the survival of spring chinook and steelhead that are released. An interim management agreement signed in 2001 provides allocation of ESA impacts to upriver spring chinook to non-Indian fisheries, and Washington and Oregon fish and wildlife commissions have provided guidance on sharing of impacts between commercial and recreational fishers. Impacts in this fishery are consistent with the management agreement and the biological opinion provided by the National Marine Fisheries Service. This rule is consistent with actions of the Columbia River compact of January 28, 2005, and March 28, 2005, and conforms Washington and Oregon state rules. The select area fisheries in Deep River and Blind Slough/Knappa Slough are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. This rule is consistent with compact actions of January 28 and March 28, 2005, and conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 29, 2005.

J. P. Koenings  
Director

**NEW SECTION**

**WAC 220-33-01000Z Columbia River seasons below Bonneville.** Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 9:00 p.m. March 29 through 5:00 a.m. March 30, 2005

b) Gear: Drift gill nets only - 9 inch minimum and 9 3/4 inch maximum mesh. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. Net length not to exceed 150 fathoms.

c) Allowable Sale: Adipose fin-clipped salmon, sturgeon, and shad. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin.

d) Sanctuaries: Grays River, Gnat Creek, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

e) Miscellaneous Regulations:

1) At least one fisher on each boat must possess a tangle net certificate issued by either WDFW or ODFW. The certificate must be displayed to WDFW or ODFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

2) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

3) Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

4) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is a least 1 1/2 inches in diameter.

The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

5) All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box.

6) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

7) All fish placed in recovery boxes must be released to the river prior to landing or docking.

8) As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with Department observers or observers collecting data for the Department,

when notified by the observer of their intent to board the commercial vessel for observation and sampling during an open fishery.

9) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

f) Tangle net permit. Any individual meeting the qualifications of RCW 77.65.040(2) may obtain a tangle net certificate by attending and completing a WDFW- or ODFW sponsored workshop concerning live captive commercial fishing techniques. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2005.

g) Nothing in this section sets any precedent for any fishery after the 2005 spring chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2004 does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in spring 2006 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2005. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

### 2) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Gear: 7-inch minimum mesh through March 31 and 8-inch maximum mesh thereafter. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed.

b) Dates: Winter Season

7:00 p.m. Wednesday to 7:00 a.m. Thursday  
March 16 through March 17, 2005.

Spring Season

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays from April 21 until further notice.

After March 10, both Blind Slough and Knappa Slough are open.

c) Allowable Sale: Salmon, sturgeon, shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

### 3) Deep River Select Area

a) Area: From the markers at USCG navigation marker #16 upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays April 21 until further notice.

c) Gear: 8-inch maximum mesh size. Nets restricted to a maximum length of 100 fathoms and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, sturgeon and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000Y Columbia River gillnet seasons below Bonneville. (05-46)

### **WSR 05-08-048**

#### **EMERGENCY RULES**

#### **STATE BOARD OF EDUCATION**

[Filed March 30, 2005, 2:01 p.m., effective March 30, 2005]

Effective Date of Rule: Immediately.

Purpose: The proposed amendments to this rule will eliminate the reference to "performance indicators" which are no longer required for the professional certificate and replace them with "descriptions of practice." They also include some technical editing.

Citation of Existing Rules Affected by this Order: Amending WAC 180-78A-535.

Statutory Authority for Adoption: RCW 28A.410.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 16, 2005.

March 29, 2005

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 04-21-038, filed 10/15/04, effective 11/15/04)

**WAC 180-78A-535 Approval standard—Program design.** The following requirements shall govern the design of the professional certificate program:

(1) **Teacher.**

(a) To be eligible to apply for admission to a professional certificate program, a candidate shall hold a contract as a teacher in a public or a state board of education approved private school or state agency providing educational services for students and shall have completed provisional status with a school district under RCW 28A.405.220 or the equivalent with a state board of education-approved private school or state agency providing educational services for students or the candidate provides to the program a letter from the candidate's employing district, state board of education-approved private school, or state agency providing educational services for students, documenting the employer's support for the candidate's full admission to the professional certificate program: Provided, That a candidate for the professional teacher's certificate may enroll in and complete the preassessment seminar described in subsection (4)(a) of this section prior to admission to a professional certificate program.

(b) The professional certificate program must be available to all qualified candidates.

(c) Using the ~~((set of common performance indicators))~~ descriptions of practice related to the criteria for the professional certificate, as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without prior state board approval, the professional certificate program shall be developed by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar which considers input from the candidate's "professional growth team" (WAC 180-78A-505), the candidate's past experience, the context in which he/she teaches, information from past annual evaluations if the individual chooses, the candidate's personal and professional goals, his/her self-evaluation, and evidences of the candidate's impact on student learning.

The seminar will culminate in preparation and approval of the candidate's individual professional growth plan designed to provide the candidate with the knowledge and

skills needed to demonstrate successfully the standards and criteria required by WAC 180-78A-540.

A representative of the college/university and the candidate shall develop the professional growth plan to be reviewed and agreed upon after input from and consultation and "collaboration" (WAC 180-78A-010(9)) with his/her "professional growth team" (WAC 180-78A-010(10)).

The individual professional growth plan shall be based on:

(A) An analysis of the instructional context and teaching assignment(s) to determine strategies which the teacher should use to achieve a positive impact on student learning.

(B) An assessment of the candidate's ability to demonstrate successfully the professional certificate standards and criteria.

(C) Specifications of assistance and instructional components needed and any required course work.

(ii) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to "effective teaching" as defined in WAC 180-78A-540(1).

(iii) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to "professional development" as defined in WAC 180-78A-540(2).

(iv) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to (~~"leadership"~~) professional contributions as defined in WAC 180-78A-540(3).

(v) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance; positive impact on student learning; identification of future goals and professional/career interests; and specification of areas for continuing education and development. The candidate must provide multiple forms of evidence which shall include, but are not limited to, the (~~set of common performance indicators~~) descriptions of practice related to the criteria for the professional certificate as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without prior state board approval.

(vi) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for appropriate assistance and instruction.

(vii) No limits shall be placed on the number of times a candidate with a valid residency certificate may participate in the culminating seminar.

**(2) Principal/program administrator.**

(a) To be eligible to apply for (~~admission to~~) enrollment in a professional certificate program, a candidate shall hold a contract as an administrator for which the credential is

required in a public school or state board of education approved private school.

(b) The professional certificate program must be available to all qualified candidates.

(c) Using the six knowledge and skills standards, and the standards-based benchmarks as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without state board approval, the professional certificate program shall be developed by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar during which the professional growth plan shall be developed. The plan will be agreed upon after input from and consultation with his/her professional growth team (WAC 180-78A-010 (10)(b)). The individual professional growth plan shall be based on an assessment of the candidate's ability to demonstrate six standards at the professional certificate benchmark level (WAC 180-78A-270 (2)(b)), performance evaluation data, and an analysis of the administrative context and assignment.

(ii) Formalized learning opportunities, past and current experience, professional development opportunities, and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill, and performance at the professional certificate benchmark level, or above, on all standards as defined in WAC 180-78A-270 (2)(b).

(iii) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance; positive impact on student learning; development of a professional growth plan that includes the identification of future goals and professional/career interests as well as a five-year plan for professional development designed to meet the requirements for certificate renewal.

(e) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for assistance.

(f) No limit shall be placed on the number of times a candidate with a valid residency certificate may enroll in the culminating seminar.

**(3) Educational staff associate (ESA) - school counselor, school psychologist, school social worker.**

(a) To be eligible for (~~admission to~~) enrollment in a professional certificate program, a candidate shall be employed in his/her ESA role in a public school, a state board approved private school, or state agency providing educational services for students.

(b) The professional certificate must be available to all qualified candidates.

(c) Using the knowledge and skills standards in WAC 180-78A-270 (5), (7), and (9), and the standards-based benchmarks as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without state board approval, the professional certificate program shall be devel-

oped by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar during which the professional growth plan shall be developed. The plan will be agreed upon after input from and consultation with the ESA candidate's professional growth team (WAC 180-78A-010 (10)(c)). The individual's professional growth plan shall be based on an assessment of the candidate's ability to demonstrate the standards at the professional certificate benchmark level in the specific ESA role pursuant to WAC 180-78A-270 (5), (7), or (9).

(ii) Formalized learning opportunities, and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill, and performance at the professional certificate benchmark level, or above, on all standards in the specific ESA role as defined in WAC 180-78A-270 (5), (7), or (9).

(iii) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill, and performance; positive impact on student learning; and specification of areas for continuing education and development.

(e) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for assistance.

(f) No limit shall be placed on the number of times a candidate with a valid residency certificate may enroll in the culminating seminar.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 16, 2005.

March 29, 2005

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 05-04-056, filed 1/28/05, effective 2/28/05)

**WAC 180-78A-100 Existing approved programs.**

Chapter 180-78A WAC rules shall govern all policies related to programs upon adoption by the state board of education, which shall provide assistance to colleges and universities in the revision of their existing programs.

(1) All professional education programs shall be reviewed for approval under the 1997 program approval standards of chapter 180-78A WAC by August 31, 2000. Colleges and universities may permit individuals accepted into teacher preparation programs on or before August 31, 2000, to obtain certification by meeting requirements of programs approved under approval standards described in chapter 180-78 WAC if the individuals complete the program on or before August 31, 2003, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2003: Provided, That the state board of education or its designee may waive this deadline on a case-by-case basis.

(2) All principal/program administrator programs shall be reviewed for approval under the 2002 program approval standards of chapter 180-78A WAC by August 31, 2004. Colleges and universities may permit individuals accepted into principal/program administrator programs on or before August 31, 2004, to obtain ~~((certification))~~ a residency certificate by meeting requirements of programs approved under 1997 approval standards described in chapter 180-78A WAC if the individuals complete the program on or before August 31, 2006, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2006. Provided, That the state board of education or its designee may waive this deadline on a case-by-case basis.

(3) All school counselor, school psychologist, or school social worker programs shall be approved under the 2004 program approval standards of chapter 180-78A WAC by August 31, 2005. Colleges and universities may permit individuals accepted into the school counselor, school psychologist, or school social worker programs on or before August 31, 2005, to obtain ~~((certification))~~ a residency certificate by meeting requirements of programs approved under the 1997 approval standards described in chapter 180-78A WAC if the individuals complete the program on or before August 31, 2007, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2007. Provided that the state board of educa-

**WSR 05-08-049**

**EMERGENCY RULES**

**STATE BOARD OF EDUCATION**

[Filed March 30, 2005, 2:02 p.m., effective March 30, 2005]

Effective Date of Rule: Immediately.

Purpose: The proposed amendments to this rule will clarify the type of certificate which will be issued to applicants when they complete their programs.

Citation of Existing Rules Affected by this Order: Amending WAC 180-78A-100.

Statutory Authority for Adoption: RCW 28A.410.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

EMERGENCY

tion or its designee may waive this deadline on a case-by-case basis.

(4) Individuals who completed a principal/program administrator program on or before August 31, 2004, shall be granted an initial certificate if the preparing college or university verifies completion by December 31, 2004. Individuals who complete an educational staff associate program on or before August 31, 2005, shall be granted an initial certificate if the preparing college or university verifies completion by December 31, 2005.

(5) Institutions shall be given at least one year notification prior to a state board of education review for compliance with these standards: Provided, That if an institution requests a visit with less than a year's notice, the state board of education shall consider that request.

~~((5))~~ (6) The state board of education shall determine the schedule for such approval reviews and whether an on-site visit or other forms of documentation and validation shall be used for the purposes of granting approval under the 1997 program approval standards. In determining the schedule for site visits, the board shall take into consideration the partnership agreement between the state and the National Council for the Accreditation of Teacher Education (NCATE) as such agreement relates to the NCATE accreditation cycle and allow NCATE accredited colleges/universities to follow the NCATE schedule for their state site visit. Non-NCATE accredited colleges/universities shall have a state approval site visit every five years. The state board of education may require more frequent site visits at their discretion pursuant to WAC 180-78A-110(2).

~~((6))~~ (7) Each institution shall submit its program for review when requested by the state board of education to ensure that the program meets the state's program approval standards and to provide assessment data relative to the performance standards to the state board of education for the year prior to the site visit.

~~((7))~~ (8) Institutions seeking National Council for the Accreditation of Teacher Education, Council for Accreditation of Counseling and Related Education Programs, and National Association of School Psychologist accreditation may request from the state board of education approval for concurrent site visits which would utilize the same documentation with the exception of material submitted by the institution to the state for the professional education advisory boards and the accountability standards.

~~((8))~~ (9) In submitting a request for approval under these standards, the approved program shall provide a description of the criteria that the program will use to assess, in multiple ways, over time, its certification candidates' knowledge and skills, including, where appropriate, evidence related to positive impact on student learning. Based on the documentation submitted and/or an on-site visit, the state board of education shall grant approval or request specific revisions that need to be made in order to obtain state board of education approval.

## WSR 05-08-050

## EMERGENCY RULES

## STATE BOARD OF EDUCATION

[Filed March 30, 2005, 2:03 p.m., effective March 30, 2005]

Effective Date of Rule: Immediately.

Purpose: The proposed amendments provide that the five year validity period of the residency certificate will begin when the individual has completed provisional status employment in a public school or two years of successful experience in an approved private school or state institution providing educational services to students.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-145.

Statutory Authority for Adoption: RCW 28A.410.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 16, 2005.

March 29, 2005

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 04-21-040, filed 10/15/04, effective 11/15/04)

**WAC 180-79A-145 Levels of certificates, initial/residency and continuing/professional.** Two levels of certification may be issued.

(1) Through August 31, 2000, for teachers, through August 31, 2004, for administrators, and through August 31, 2005, for educational staff associates, the following levels of certificates will be issued: Provided, That after August 31, 2000, initial and continuing teachers' certificates, after August 31, 2004, initial and continuing principal and program administrator certificates, and after August 31, 2005, initial and continuing educational staff associate certificates will be issued only to previous Washington certificate holders, pursuant to WAC 180-79A-123:

(a) Initial certificate. The initial teacher certificate is valid for four years and the initial administrator and educational staff associate certificates are valid for seven years. Ini-

tial teacher certificates shall be subject to renewal pursuant to WAC 180-79A-250(1) and 180-79A-123. Initial administrator and educational staff associate certificates shall not be subject to renewal.

(b) Continuing certificate. The continuing certificate is valid on a continuing basis as specified in WAC 180-79A-250(3).

(2) The following levels of certificates will be issued to teachers, administrators, and educational staff associates commencing with the dates indicated below:

(a) Residency certificate. The residency certificate will be issued beginning September 1, 2000, to teachers, beginning September 1, 2004, to principal/program administrators, and no later than September 1, 2005, to educational staff associate school counselors, school psychologists, and school social workers.

(b) The residency certificate for principals, program administrators, and educational staff associates is valid for five years and shall be subject to renewal pursuant to WAC 180-79A-250 (2)(b) and (c).

~~((b))~~ (c) The first issue of a residency certificate for teachers employed in a school district or state agency that provides educational services for students shall be valid until the holder is no longer on provisional status. When the teacher for the first time in their career completes provisional status, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the teacher must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 (2)(a).

(d) The first issue of a residency certificate for teachers employed in a state approved private school shall be valid until the holder has completed two years of successful teaching. When the teacher for the first time in their career completes two years of successful teaching, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the teacher must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 (2)(a).

(e) The first issue of a residency certificate for principals, program administrators, and educational staff associates shall be valid until the holder has completed two successful years of service in the role. When the principal, program administrator, or educational staff associate for the first time in their career completes two years of successful service in a school district, state approved private school, or state agency, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the candidate must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 (2)(b) and (c).

(f) Professional certificate. The professional certificate will be issued beginning September 1, 2001, to teachers, beginning September 1, 2006, to principal/program administrators, and beginning September 1, 2007, to educational staff associate school counselors, school psychologists, and school social workers. The professional certificate is valid for five years and shall be subject to renewal pursuant to WAC 180-79A-250. Provided, That a professional teacher's certificate based on the possession of a valid teacher's certificate issued by the National Board for Professional Teaching Standards National Board Certification pursuant to WAC 180-79A-257

(3)(b) or 180-79A-206 (3)(a) shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

### WSR 05-08-051

#### EMERGENCY RULES

#### STATE BOARD OF EDUCATION

[Filed March 30, 2005, 2:03 p.m., effective March 30, 2005]

Effective Date of Rule: Immediately.

Purpose: The purpose of the amendment to this rule is to allow individuals whose initial certificate expired after August 31, 2000, but who met requirements for renewal or for continuing certificate, but did not apply prior to the expiration date, to apply once for a renewal or the continuing certificate by paying a \$100 late fee in addition to the certificate fee.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-123.

Statutory Authority for Adoption: RCW 28A.410.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 16, 2005.

Larry Davis  
Executive Director

**AMENDATORY SECTION** (Amending WSR 00-09-048, filed 4/14/00, effective 5/15/00)

**WAC 180-79A-123 Certificates—Previous standards.** (1) Certificates issued under previous standards which were issued for a specific term shall continue to be effective for that term.

(2) Certificates issued under previous standards which were issued for an indefinite period shall continue to be in effect.

(3) All persons who hold any standard teacher, administrator, or specialized personnel certificate issued under previous standards of the state board of education shall be issued a

continuing certificate at such time as it is necessary for them to reissue a standard certificate or on application and payment of the fee as specified in WAC 180-79A-130.

(4) Any person who holds a provisional principal's or provisional superintendent's certificate under previous standards of the state board of education shall be issued upon application, including payment of applicable fees, continuing administrative for the appropriate role and such certificates shall be subject to the continuing education requirements of chapter 180-85 WAC.

(5) Any person holding a provisional certificate as a school nurse under provisions of chapter 180-84 WAC shall be granted a continuing certificate.

(6) All persons who hold a valid initial certificate granted under previous standards of the state board of education shall be authorized to meet requirements for continuing certification as set forth in the relevant previous standards except as noted below in subsection (7) of this section.

(7) Any person with a valid initial teacher's certificate granted under previous standards of the state board of education may renew that certificate once after August 31, 2000. The individual shall meet requirements for and apply for the continuing certificate by the expiration date on the renewed certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for initial renewal or continuing certificate under the provisions of WAC 180-79A-250(1) prior to their expiration date, but whose initial certificate expired after August 31, 2000, because they applied for certification too late, may apply once for such renewal or continuing certificate and will be issued such certificate.

**WSR 05-08-052**  
**EMERGENCY RULES**  
**STATE BOARD OF EDUCATION**

[Filed March 30, 2005, 2:04 p.m., effective March 30, 2005]

Effective Date of Rule: Immediately.

Purpose: The proposed amendment to this rule increases the residency certificate fee from twenty-five to thirty-five dollars.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-130.

Statutory Authority for Adoption: RCW 28A.410.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 16, 2005.

March 29, 2005

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 02-04-018, filed 1/24/02, effective 2/24/02)

**WAC 180-79A-130 Fee for certification.** (1) In accordance with provisions of RCW 28A.410.060 and 28A.415.010, the fee for certificates which are valid for more than one year, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be as follows:

(a) The first issue of the residency certificate, thirty-five dollars;

(b) The continuing certificate, seventy dollars;

~~((b))~~ (c) The reinstatement, additional endorsement on the teaching certificate, duplicate certificates, substitute certificates, and certificates issued for the purpose of showing a name change, fifteen dollars; and

~~((e))~~ (d) Any other certificate or credential or any renewal thereof, five dollars for each year of validity:

~~((d))~~ (e) Provided, That the fee for all career and technical education certificates shall be one dollar;

(f) Provided, That a one-time late fee for a renewed initial or continuing certificate issued under the provisions of WAC 180-79A-123(7) for those whose initial certificate had already expired shall be one hundred dollars.

(2) The fee for any other certificate/credential, or for any renewal thereof, issued by the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be five dollars.

(3) Officials authorized to collect certification fees are educational service district superintendents, local school district superintendents, deans and directors of education at colleges and universities, or their designees. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.410.060. The fee shall not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issuance) by the superintendent of public instruction or his or her designee. Fees not refunded shall apply as credit toward certificate fees if such applicant reapplies within twenty-four months of the date of denial. Moneys accrued from certification fees within the boundaries of an educational service district shall be divided in the following manner:

(a) Local school districts employing more than one hundred teachers and other professional staff and collecting cer-

tification fees may retain one dollar of each fee in order to hold a professional training institute. If such district does not hold an institute, all such moneys shall be placed to the credit of the educational service district.

(b) No less than fifty percent of the funds accruing within the boundaries of an educational service district shall be used to support program activities related to statewide pre-certification professional preparation and evaluation.

(c) The remaining funds shall be used to support professional in-service training programs and evaluations thereof.

### WSR 05-08-053

#### EMERGENCY RULES

#### STATE BOARD OF EDUCATION

[Filed March 30, 2005, 2:05 p.m., effective March 30, 2005]

Effective Date of Rule: Immediately.

Purpose: The proposed amendment to this rule allows an individual to obtain a two-year renewal of the residency certificate if the individual is enrolled in a professional certificate program.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-250.

Statutory Authority for Adoption: RCW 28A.410.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 16, 2005.

March 29, 2005

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 04-21-040, filed 10/15/04, effective 11/15/04)

**WAC 180-79A-250 Initial/residency and continuing/professional certificates—Renewal, reinstatement, and continuing education requirements.** The following shall

apply to initial/residency and continuing/professional certificates issued pursuant to this chapter:

(1) Initial certificate.

An initial teacher certificate may be renewed for an additional three-year period on application and verification that the individual has completed all course work requirements from a regionally accredited institution of higher education as defined in WAC 180-78A-010(6) for continuing certification or has completed at least fifteen quarter credit hours (ten semester credit hours) since the certificate was issued or renewed. After August 31, 2000, provisions of WAC 180-79A-123 will apply.

(2) Residency certificate. Residency certificates shall be renewed under one of the following options:

(a) Teachers.

(i) Individuals who hold, or have held, a residency certificate and who qualify for ~~((admission to))~~ enrollment in a professional certificate program pursuant to WAC 180-78A-535 (1)(a) may have the certificate renewed for one additional two-year period upon verification by the professional certificate administrator that the candidate is enrolled in ~~((and is making satisfactory progress in))~~ a state approved professional certificate program.

(ii) Individuals who hold, or have held, residency certificates who do not qualify for ~~((admission to))~~ enrollment in a professional certificate program pursuant to WAC 180-78A-535 (1)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work (normally one hundred level or higher) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(iii) An individual who completes a national board certification assessment but does not earn national board certification, may use that completed assessment to renew the residency certificate for two years.

(iv) Individuals who complete the requirements in their school district professional growth plan may use that completed plan to maintain the continuing certificate or renew the professional certificate.

(b) Principals/program administrators.

(i) Individuals who hold, or have held, a residency certificate and who qualify for ~~((admission to))~~ enrollment in a professional certificate program pursuant to WAC 180-78A-535 (2)(a) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator ~~((in which))~~ that the candidate is enrolled ~~((, that the candidate is making satisfactory progress))~~ in a state approved professional certificate program.

(ii) Individuals who hold, or have held, residency certificates who do not qualify for ~~((admission to))~~ enrollment in a professional certificate program under WAC 180-78A-535 (2)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work, directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the residency certificate. Renewal

beyond one time requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) plus an internship approved by a college or university with a state board approved residency certificate program and taken since the issuance of the last residency certificate.

(c) School counselors, school psychologists, or school social workers.

(i) Individuals who hold a residency certificate and who qualify for ~~((admission to))~~ enrollment in a professional certificate program pursuant to WAC 180-78A-535(3) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator ~~((in which))~~ that the candidate is enrolled ~~((; that the candidate is making satisfactory progress))~~ in a state approved professional certificate program.

(ii) Individuals who hold, or have held, a residency certificate who do not qualify for admission to a professional certificate program under WAC 180-78A-535 (3)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work, directly related to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the residency certificate. Renewal for an additional five-year period requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9) completed since the issuance of the most recent residency certificate plus an internship approved by a college or university with a state board approved residency certificate program and taken since the issuance of the last residency certificate.

(d) Renewals based on conditions other than those described in WAC 180-79A-250 (2)(a) and (b) may be appealed to the state board of education, or its designated appeals committee. The following conditions apply to such appeals:

(i) Individuals who appeal shall present a rationale and evidence to support their request to have their residency certificates renewed.

(ii) The state board of education, or its designated appeals committee, in making its decision shall determine the length of the renewal and may establish specific conditions (such as course work requirements) as prerequisites for the reissuance of the residency certificate.

(3) Continuing certificate.

(a) The continuing certificates of holders who were eligible for such certificates prior to August 31, 1987, and who applied for such certificates prior to July 1, 1988, or who would have been eligible for such certificates prior to August 31, 1987, but for one of the three-year experience requirement and who complete such requirement and apply for such certificate prior to August 31, 1988, will be valid for life. Holders of valid continuing certificates affected by this subsection shall be entitled to have such certificate reissued and subject to the terms and conditions applicable to certification

at the time of reissuance including the continuing education requirements of chapter 180-85 WAC.

(b) All continuing certificates not affected by the exception stated in (a) of this subsection shall lapse if the holder does not complete the continuing education requirement, to include the filing requirement specified in chapter 180-85 WAC. To reinstate such a lapsed continuing certificate the individual must complete the requirements for reinstatement stated within chapter 180-85 WAC and must meet the conditions stated in WAC 180-79A-253.

(4) Professional certificate.

(a) Teachers.

(i) A valid professional certificate may be renewed for additional five year periods by the completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 WAC since the certificate was issued. An expired professional certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application. All continuing education credit hours shall relate to either (a)(i)(A) or (B) of this subsection: Provided, That both categories (a)(i)(A) and (B) of this subsection must be represented in the one hundred fifty continuing education credit hours required for renewal:

(A) One or more of the following three standards outlined in WAC 180-78A-540:

(I) Effective instruction.

(II) ~~((Leadership:))~~ Professional contributions.

(III) Professional development.

(B) One of the salary criteria specified in RCW 28A.415.023.

(I) Is consistent with a school-based plan for mastery of student learning goals as referenced in RCW 28A.320.205, the annual school performance report, for the school in which the individual is assigned;

(II) Pertains to the individual's current assignment or expected assignment for the subsequent school year;

(III) Is necessary to obtain an endorsement as prescribed by the state board of education;

(IV) Is specifically required to obtain advanced levels of certification; or

(V) Is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certified instructional staff.

(ii) Provided, That a professional certificate may be renewed based on the possession of a valid teaching certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(b) Principals/program administrators.

(i) A professional certificate may be renewed for additional five year periods for individuals employed as a principal, assistant principal or program administrator in a public school or state board approved private school by:

(A) Completion of a professional growth plan that is developed and approved with the superintendent, superintendent designee, or appointed representative (e.g., educational

service district personnel, professional association or organization staff, or peer from another district), and that documents formalized learning opportunities and professional development activities that:

- (I) Emphasize continuous learning;
- (II) Positively impact student learning;
- (III) Relate to the six standards and "career level" benchmarks defined in WAC 180-78A-270 (2)(b);
- (IV) Explicitly connect to the evaluation process;
- (V) Reflect contributions to the school, district, and greater professional community; and
- (VI) Identify areas in which knowledge and skills need to be enhanced.

(B) Verification of satisfactory performance evaluations for the five year periods; and

(C) Documented evidence of results of the professional growth plan on student learning.

(ii) Individuals not employed as a principal, assistant principal, or program administrator in a public school or state board approved private school may have their professional certificate renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the professional certificate. Renewal beyond one time requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) plus an internship approved by a college or university with a state board approved professional certificate program, and taken since the issuance of the last professional certificate.

(c) School counselors, school psychologists, or school social workers.

(i) A professional certificate may be renewed for additional five-year periods for individuals employed as a school counselor, school psychologist, or school social worker in a public school, state board approved private school, or in a state agency which provides educational services to students by:

(A) Completion of a professional growth plan that is developed and approved with the principal or principal designee, and that documents formalized learning opportunities and professional development activities that:

- (I) Emphasize continuous learning;
- (II) Positively impact student learning; and
- (III) Reflect contributions to the school, district, and greater professional community; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9).

(ii) Individuals not employed as a school counselor, school psychologist, or a school social worker in a public school or state board approved private school may have their professional certificate renewed for an additional five-year period by:

(A) Completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9).

## WSR 05-08-055

### EMERGENCY RULES

### DEPARTMENT OF FISH AND WILDLIFE

[Order 05-58—Filed March 30, 2005, 3:05 p.m., effective March 30, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-05000D; and amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules were adopted by the Pacific Fisheries Management Council and provide harvest of available stocks of bottom fish, while reserving brood stock for future fisheries. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 30, 2005.

J. P. Koenings  
Director  
by Larry Peck

**NEW SECTION**

**WAC 220-44-05000E Coastal bottom fish catch limits.** Notwithstanding the provisions of WAC 220-44-050, effective immediately until further notice: (1) It is unlawful to possess, transport through the waters of the state, or land into any Washington port bottom fish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63 in excess of the amounts or less than the minimum sizes, or in violation of any gear, handling or landing requirement, established by the Pacific Fisheries Management Council and published in the Federal Register, Volume 70, No. 60, published March 30, 2005. Therefore, persons must consult the federal regulations, which are incorporated by reference and made a part of Chapter 220-44 WAC. Where rules refer to the fishery management area, that area is extended to include Washington State waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Evan Jacoby at (360) 902-2930.

(a) Effective immediately until further notice, it is unlawful to possess, transport through the waters of the state, or land into any Washington port, walleye pollock taken with trawl gear from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63, except by trawl vessels participating in the directed Pacific whiting fishery and the directed coastal groundfish fishery.

(b) Effective immediately until further notice, it is unlawful for trawl vessels participating in the directed Pacific whiting and/or the directed coastal groundfish fishery to land incidental catches of walleye pollock greater than forty percent of their total landing by weight, not to exceed 10,000 pounds.

(2) At the time of landing of coastal bottom fish into a Washington port, the fish buyer receiving the fish is required to clearly mark on the fish receiving ticket, in the space reserved for dealer's use, all legally defined trawl gear aboard the vessel at the time of delivery. The three trawl gear types are: midwater trawl, roller trawl and small foot rope trawl (foot rope less than eight inches in diameter). The notation of the gear type(s) aboard the vessel is required prior to the signing of the fish receiving ticket by the vessel representative.

(3) Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottomfish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an Exempted Fishing Permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving ticket reporting bottomfish landed as part of any trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "NMFS Compensation Trip" on the fish receiving ticket in the space reserved for dealer's use.

The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-44-05000D Coastal bottomfish catch limits. (04-330)

**WSR 05-08-071  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-55—Filed March 31, 2005, 4:15 p.m., effective May 14, 2005]

Effective Date of Rule: May 14, 2005.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-28200G, 220-56-28200I and 232-28-61900J; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Retention season will allow harvest of white sturgeon that is consistent with the joint state management plan concerning lower Columbia River white sturgeon management and fisheries. Currently adopted fishery is expected to result in a catch that would exceed the catch guideline set forth in the joint state management plan. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 31, 2005.

J. P. Koenings  
Director

NEW SECTION

**WAC 220-56-28200I Sturgeon—Areas, seasons, limits and unlawful acts.** Notwithstanding the provisions of WAC 220-56-282 and WAC 232-28-619, effective immediately through April 30, 2005, the minimum size limit for sturgeon retention is 42 inches in the Columbia River and tributaries from the Wauna powerlines downstream to the Columbia River mouth.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-28200G Sturgeon—Areas, seasons, limits and unlawful acts. (04-323)

The following section of the Washington Administrative Code is repealed effective May 1, 2005:

WAC 220-56-28200I Sturgeon—Areas, seasons, limits and unlawful acts.

NEW SECTION

**WAC 232-28-61900J Exceptions to statewide rules—Sturgeon, Columbia and Deep rivers.** Notwithstanding the provisions of WAC 232-28-619:

## (1) Columbia River

(a) Effective May 14 through July 4, 2005, it is lawful to retain sturgeon caught in those waters of the Columbia River downstream of the Wauna powerline crossing at RM 40. Except, unlawful to retain sturgeon July 5 through July 23, 2005.

## (2) Deep River

(a) Effective May 14 through July 4, 2005, it is lawful to retain sturgeon caught in those waters of Deep River from mouth to town bridge. Except, unlawful to retain sturgeon July 5 through July 23, 2005.

(b) Effective May 14 through July 4, 2005, it is lawful to retain sturgeon caught in those waters of Deep River from town bridge upstream. Except, unlawful to retain sturgeon July 5 through July 23, 2005.

REPEALER

The following section of the Washington Administrative Code is repealed effective July 24, 2005:

WAC 232-28-61900J Exceptions to statewide rules—Sturgeon, Columbia and Deep rivers.

## WSR 05-08-072

## EMERGENCY RULES

DEPARTMENT OF  
FISH AND WILDLIFE

[Order 05-57—Filed March 31, 2005, 4:16 p.m., effective March 31, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900D and 232-28-61900K; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Rat Lake (including Mouse Pond) is scheduled for rehabilitation on May 10, 2005, requiring an extension of a previous rule change to continue no size/daily limit and to designate post-rehabilitation closure period. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 31, 2005.

J. P. Koenings  
Director

NEW SECTION

**WAC 232-28-61900K Exceptions to statewide rules—Rat Lake (Okanogan Co.)** Notwithstanding the provisions of WAC 232-28-619:

(a) Effective immediately through May 5, 2005, in those waters of Rat Lake (including waters of Mouse Pond) size and daily limit for game fish: none.

(b) Effective May 6 through June 30, 2005, it is unlawful to fish in those waters of Rat Lake (including waters of Mouse Pond)

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900D Exceptions to statewide rules—Rat Lake (Okanogan Co.)

The following section of the Washington Administrative Code is repealed effective July 1, 2005:

WAC 232-28-61900K Exceptions to statewide rules—Rat Lake (Okanogan Co.)

**WSR 05-08-073  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-59—Filed March 31, 2005, 4:16 p.m., effective March 31, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000Z; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets the seventh fishing period for winter salmon directed fisheries. Harvestable salmon and sturgeon are available. Harvestable numbers of hatchery salmon are available and impacts to ESA listed fish are expected to be within the guidelines that have been established. The use of short soak times, and recovery boxes will aid in the survival of spring chinook and steelhead that are released. An interim management agreement signed in 2001 provides allocation of ESA impacts to upriver spring chinook to non-Indian fisheries, and Washington and Oregon fish and wildlife commissions have provided guidance on sharing of impacts between commercial and recreational fishers. Impacts in this fishery are consistent with the management agreement and the biological opinion provided by the National Marine Fisheries Service. This rule is consistent with actions of the Columbia River compact of January 28, 2005, and March 30, 2005, and conforms Washington and Oregon state rules. The select area fisheries in Deep River and Blind Slough/Knappa Slough are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. This rule is consistent with compact actions

of January 28 and March 30, 2005, and conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 31, 2005.

J. P. Koenings  
Director

NEW SECTION

**WAC 220-33-01000A Columbia River seasons below Bonneville.** Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 10:00 p.m. March 31 through 6:00 a.m. April 1, 2005

b) Gear: Drift gill nets only - 4 1/4 inch maximum mesh. Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact. Monofilament gill nets are not allowed for the 4 1/4 inch mesh. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. There are no restrictions on the use of slackers or stringers to slacken the net vertically. There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline. Net length not to exceed 150 fathoms, except under the following exceptions:

An optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel must be a minimum of 5

feet in depth and not exceed 10 feet in depth as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submersed corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4 1/4 inch maximum mesh size tangle net. Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 175 fathoms. Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, must have two red corks at each end of the net, as well as the red corks under miscellaneous regulations.

c). Allowable Sale: Adipose fin-clipped salmon, sturgeon, and shad. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin

d). Sanctuaries: Grays River, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

e) Miscellaneous Regulations:

1) At least one fisher on each boat must possess a tangle net certificate issued by either WDFW or ODFW. The certificate must be displayed to WDFW or ODFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

2) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

3) Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

4) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is a least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers,

upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber

5) All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box.

6) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

7) All fish placed in recovery boxes must be released to the river prior to landing or docking.

8) As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with Department observers or observers collecting data for the Department, when notified by the observer of their intent to board the commercial vessel for observation and sampling during an open fishery.

9) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

f) Tangle net permit. Any individual meeting the qualifications of RCW 77.65.040(2) may obtain a tangle net certificate by attending and completing a WDFW- or ODFW sponsored workshop concerning live captive commercial fishing techniques. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2005.

g) Nothing in this section sets any precedent for any fishery after the 2005 spring chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2004 does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in spring 2006 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2005. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

2). Blind Slough/Knappa Slough Select Area

a) Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore

b). Gear: 8-inch maximum mesh. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed

c) Spring Season

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays from April 21 until further notice.

After March 10, both Blind Slough and Knappa Slough are open.

d). Allowable Sale: Salmon, sturgeon, shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

e). Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) Deep River Select Area

a) Area: From the markers at USCG navigation marker #16 upstream to the Highway 4 Bridge.

b) Dates: 7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays April 21 until further notice.

c) Gear: 8-inch maximum mesh size. Nets restricted to a maximum length of 100 fathoms and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, sturgeon and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000Z Columbia River gillnet seasons below Bonneville. (05-56)

**WSR 05-08-074  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-60—Filed March 31, 2005, 4:17 p.m., effective April 1, 2005]

Effective Date of Rule: April 1, 2005.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900L; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An emergency rule was implemented to allow the taking of hatchery origin steelhead for the 2004-05 season through March 31, 2005. This rule is necessary to extend the fishing opportunity for hatchery ori-

gin steelhead in the Ringold Area Bank Fishery through April 15, 2005. This rule was adopted by the Fish and Wildlife Commission as a permanent rule and will be in place for the 2005-06 season. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 31, 2005.

J. P. Koenings  
Director  
by Larry Peck

**NEW SECTION**

**WAC 232-28-61900L Exceptions to statewide rules—Columbia river (Ringold Area Bank Fishery).** Notwithstanding the provisions of WAC 232-28-619, it is unlawful to violate the following provision:

Columbia River waters adjacent to the Ringold Springs Rearing Facility from WDFW markers 1/4 mile downstream of the Ringold wasteway outlet to WDFW markers 1/2 mile upstream of Spring Creek. - Effective April 1, 2005 through April 15, 2005, open to bank angling only on the hatchery side of the river, to fish for and possess up to two hatchery steelhead per day.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 16, 2005:

WAC 232-28-61900L Exceptions to statewide rules—Columbia River (Ringold Area Bank Fishery)

**WSR 05-08-098  
EMERGENCY RULES  
SECRETARY OF STATE**

[Filed April 4, 2005, 12:17 p.m., effective April 4, 2005]

Effective Date of Rule: Immediately.

Purpose: The purpose of this rule making is to change the form for filing a voter registration challenge. The new form satisfies the requirements for an affidavit by including a space for the challenger to state the place that the affidavit

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was signed. This information is not included in the current voter registration form. The new form also requires the challenger to state the factual basis for the challenge.

Citation of Existing Rules Affected by this Order: Amending WAC 434-324-115.

Statutory Authority for Adoption: RCW 29A.08.850.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The Office of the Secretary of State anticipates the filing of thousands of voter registration challenges in the next ninety days that are based on citizenship. The Office of the Secretary of State has reason to believe that requiring each county auditor to conduct a voter registration challenge hearing on these challenges without prima facie evidence that the registrations are improper could violate Section 2 of the Voting Rights Act, 42 U.S.C. §1973 (a). Concerns in this regard have been expressed to the Office of the Secretary of State by representatives of the United States Department of Justice.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 4, 2005.

Steve Excell  
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

**WAC 434-324-115 Challenge of voter's registration.** All county auditors shall maintain a supply of, and furnish to the public on request, forms substantially similar to the sample included below for the purpose of allowing a registered voter to challenge the registration of another voter pursuant to RCW 29A.08.830. A copy of the form shall be sent to the voter, whose voter registration has been challenged and to the challenger pursuant to RCW 29A.08.840. The form shall be substantially similar to the following:

~~((VOTER'S REGISTRATION CHALLENGE FORM~~

~~TO PROPERLY EXECUTE THIS FORM IT IS NECESSARY TO CHECK THE APPROPRIATE SQUARE BELOW. A SUMMARY OF THE ADMINISTRATIVE PROCEDURES WHICH WILL BE FOL-~~

~~LOWED WITH RESPECT TO THIS VOTER REGISTRATION CHALLENGE MAY BE FOUND ON THE REVERSE SIDE OF THIS FORM.~~

REASON FOR CHALLENGE

- ~~The individual challenged is not a U.S. Citizen~~
- ~~The individual challenged is not at least 18 years old~~
- ~~The individual challenged is currently being denied his or her civil rights~~
- ~~The individual challenged does not reside at the address at which he or she is registered and his or her actual residence is as follows:~~

~~Note: State law (RCW 29A.08.830) requires that challenging party must provide the address at which the challenged party resides in order for a challenge based on residence to be considered.~~

PROVISIONS RELATING TO VOTING RESIDENCE

~~The State Constitution and state law provide that a voting residence shall not be lost if the voter is absent because of:~~

- ~~A. State or Federal employment, including military service~~
- ~~B. School attendance~~
- ~~C. Business outside the state~~
- ~~D. Confinement in prison~~

~~Note: Persons in the above categories have the legal right to continue to use their former residence for voting purposes and may continue to vote unless additional conditions or circumstances indicate they have forfeited that right in Washington. Any person instituting a voter registration challenge should be sure of the facts BEFORE signing the challenge affidavit.~~

AFFIDAVIT OF CHALLENGER

~~I, . . . ., declare, under penalty of perjury, that I am a registered voter, that I hereby challenge the voter's registration of . . . . for the reason indicated above. I also state that I have read the above stated provisions relating to voting residence and that, to the best of my knowledge and belief, the above named individual does not fall into any of the protected categories.~~

~~DATE~~

~~SIGNATURE OF CHALLENGER~~

~~VOTER'S REGISTRATION CHALLENGES  
A SUMMARY OF ADMINISTRATIVE PROCEDURES  
CHALLENGES FILED THIRTY OR MORE DAYS PRIOR TO A PRIMARY, SPECIAL OR GENERAL ELECTION~~

~~State law (RCW 29A.08.840) requires the county auditor to notify, by certified mail, any voter whose registration has been challenged.~~

EMERGENCY

The notification must be mailed to the address at which the challenged voter is registered, to any address provided by the challenger as required by RCW 29A.08.830, and to any other address that the auditor could reasonably expect the challenged voter might receive such notification.

Included with the notification must be a request that the voter appear at a hearing to be held within ten days of the mailing of the request, at the place and time specified, in order to assist the auditor in determining the validity of the challenge.

the person making the challenge must be provided with a copy of the notification and request mailed to the challenged voter.

If either the challenger or the challenged voter, or both, are unable to appear in person they may file affidavits, stating under oath the reasons they believe the challenge to be valid or invalid.

The county auditor shall determine the validity of the challenge based on his or her evaluation of the evidence presented by both parties to the challenge. The decision of the auditor is final, subject only to a petition for judicial review under chapter 34.05 RCW.

~~CHALLENGES FILED WITHIN THIRTY DAYS OF A PRIMARY, SPECIAL OR GENERAL ELECTION~~

State law (RCW 29A.08.830) provides that in the event the challenge is made within thirty days of an election, the voter and the precinct election officers within the voter's precinct are to be notified.

Both the challenged voter and the precinct election officers are also to be informed that in the event the voter attempts to vote at the ensuing election, he or she will be provided with a challenged ballot.

The validity of the challenge and the disposition of the challenged ballot will be determined by the county canvassing board and both the challenger and the challenged voter may either appear in person or submit affidavits in support of their respective positions.

In the event the challenged voter does not vote at the ensuing election, the challenge shall be processed in the same manner as challenges made more than thirty days prior to the election.

In the event the challenge is filed more than thirty days prior to a primary or election, the challenge shall be processed in the manner provided by RCW 29A.08.840. If the voter votes and returns his or her absentee ballot prior to the county auditor making his or her determination as to the validity of the challenge, the returned ballot shall be segregated from other absentee ballots and not processed until such a determination is made. In the event the challenge is made within thirty days of a primary or election and prior to the absentee ballots being separated from the return envelopes, the challenge and the returned ballot shall be forwarded to the canvassing board and processed in the manner provided by RCW 29A.08.820. If the challenge is made within thirty days of a primary or election but after the ballots have been separated from the

~~return envelopes, the challenge shall be processed by the county auditor in the manner provided by law for challenges made more than thirty days prior to the primary or election.))~~

VOTER REGISTRATION CHALLENGE FORM  
REASON FOR CHALLENGE

Check the appropriate box below.

- The individual challenged is not a U.S. Citizen.
- The individual challenged is not at least eighteen years old.
- The individual challenged is currently being denied his or her civil rights by reason of a felony conviction.
- The individual challenged has been judicially declared mentally incompetent.
- The individual challenged does not reside at the address at which he or she is registered to vote. Under Article VI, section 4, of the Washington State Constitution, a voting residence is not lost if the person is absent due to state or federal employment, military service, school attendance, confinement in prison, or engaged in navigation at sea. State law requires the person filing the challenge to provide the address at which the challenged voter actually resides:

\_\_\_\_\_

Voter Registration Address                      Actual Address

Please describe the factual basis for the voter registration challenge:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AFFIDAVIT OF CHALLENGER

I, \_\_\_\_\_ declare under penalty of perjury under the laws of the State of Washington that I am a registered voter in the State of Washington and that I hereby challenge the voter registration of \_\_\_\_\_. I have personal knowledge and belief that this person is not qualified to vote, or does not reside at the address given on his or her voter registration record and is also not protected by the provisions of Article VI, section 4, of the Washington State Constitution.

\_\_\_\_\_  
Signature of Challenger                      Date and Place Signed

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

PROCEDURES FOR FILING A  
VOTER REGISTRATION CHALLENGE

FORM

By statute, any registered voter may challenge the right to vote of any other registered voter, up until the day before an election, by filing the attached affidavit subject to the penalties of perjury. The challenger must declare that, to his or her personal knowledge and belief, the challenged voter is not qualified to vote or does not actually reside at the address given on his or her voter registration record.

EMERGENCY

If the challenge is based on residence, RCW 29A.08.830 requires the challenger to provide the address at which the challenged voter actually resides. The challenger must also declare that, to his or her personal knowledge and belief, the challenged voter is not protected by the provisions of Article VI, section 4, of the Washington State Constitution. This provision of the Washington State Constitution protects a voter from losing his or her voting residence if the absence is due to state or federal employment, military service, school attendance, confinement in prison, or engaged in navigation at sea.

Challenges may not be based on unsupported allegations or allegations by anonymous third parties.

#### **HEARING**

The County Auditor shall notify the challenged voter, by certified mail, that his or her voter registration has been challenged. The notice shall request that the challenged voter appear at a hearing to be held within 10 days, and shall state the date, time, and location of the hearing. The challenger shall be provided a copy of the notice.

If either the challenger or the challenged voter is unable to appear at the hearing, he or she may submit a reply by affidavit stating, under oath, the reasons he or she believes that the voter registration is valid or invalid.

The identity of the challenger, and any third person involved in the challenge, is public record and shall be announced at the time the challenge is made.

A challenged voter may properly transfer or reregister until three days before the election by applying personally to the County Auditor.

If a challenge is filed more than 30 days before an election, the County Auditor presides over the hearing and issues a decision. If the challenge is filed less than 30 days before an election, the County Canvassing Board presides over the hearing and issues a decision.

For more information, please contact your County Auditor.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 05-08-119  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-61—Filed April 5, 2005, 3:51 p.m., effective April 9, 2005, 12:01 a.m.]

Effective Date of Rule: April 9, 2005, 12:01 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-56-36000I; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or

general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 2 and those portions of Razor Clam Area 3 opened for harvest. Washington Department of Health has certified clams from these beaches to be safe for human consumption. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 4, 2005.

J. P. Koenings  
Director

#### **NEW SECTION**

**WAC 220-56-36000I Razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

(1) Effective 12:01 a.m. April 9 through 11:59 a.m. April 11, 2005, razor clam digging is allowed in Razor Clam Area 1 and Razor Clam Area 2. Digging is allowed from 12:01 a.m. to 11:59 a.m. only.

(2) Effective 12:01 a.m. April 9 through 11:59 a.m. April 11, 2005, razor clam digging is allowed in that portion of Razor Clam Area 3 that is between the Grays Harbor North Jetty and the southern boundary of the Quinault Indian Nation (Grays Harbor County). Digging is allowed from 12:01 a.m. to 11:59 a.m. only.

(3) It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. April 11, 2005:

WAC 220-56-36000I      Razor clams—Areas and seasons.

**WSR 05-08-002**

**NOTICE OF PUBLIC MEETINGS  
BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—March 24, 2005]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, April 14, 2005, 9:00 - 11:00 a.m., in the College Services Board Room on the Bellingham Technical College campus. Call 752-8334 for information.

**WSR 05-08-003**

**NOTICE OF PUBLIC MEETINGS  
COMMUNITY ECONOMIC  
REVITALIZATION BOARD**

[Memorandum—March 23, 2005]

All CERB meetings will be held on the third Thursday of every other month at the Host International Auditorium, Sea-Tac Airport, SeaTac, Washington.

**MEETING SCHEDULE FOR THE 2005-2007 BIENNIUM**

**2005 MEETINGS**

July 21, 2005  
September 15, 2005  
November 17, 2005

**APPLICATION DEADLINE**

June 6, 2005  
August 1, 2005  
October 3, 2005

**2006 MEETINGS**

January 19, 2006  
March 16, 2006  
May 18, 2006  
July 20, 2006  
September 21, 2006  
November 16, 2006

**APPLICATION DEADLINE**

December 5, 2006  
January 30, 2006  
April 3, 2006  
June 5, 2006  
August 7, 2006  
October 2, 2006

**2007 MEETINGS**

January 18, 2007  
March 15, 2007  
May 17, 2007

**APPLICATION DEADLINE**

December 4, 2006  
January 29, 2007  
April 2, 2007

**June 30, 2007 is the end of the 2005-2007 Biennium**

July 19, 2007  
September 20, 2007  
November 15, 2007

June 4, 2007  
August 6, 2007  
October 1, 2007

Generally, the meetings begin at 9:00 a.m. and are held at the Sea-Tac International Airport, Host International Auditorium.

**DIRECTIONS TO CERB MEETING LOCATIONS**

**HOST INTERNATIONAL AUDITORIUM, IN SEA-TAC AIRPORT:** CERB meetings are held in the Host International Auditorium located on the Mezzanine Level, accessed via elevator, behind the airport ticketing area.

**From Entering Parking Terminal:** Proceed up the parking carousel labeled with "Eva Air." In parking terminal, use the elevator with the "purple band" to Ticketing Level 4. Proceed to the "American West" ticketing area, take Elevator

#2 located on the left side of the corridor behind the American West ticketing up to the Mezzanine Level. From the Mezzanine Level turn left out of the elevator, right along the corridor to the Host International Auditorium. Look for yellow "CERB" signs.

**From In-Coming Flights:** Look for the "Seattle's Best," take the second exit corridor (on the right) from "Seattle's Best" to Elevator #2 to the Mezzanine level. From the Mezzanine Level, turn left out of the elevator, right along the corridor to the Host International Auditorium. Look for yellow "CERB" signs.

In accordance with Executive Order 79-03, the meeting site has been selected to be barrier free to the greatest extent feasible. Braille or taped agenda items for the visually impaired and interpreters for those with hearing impairments will be provided if requested at least ten working days in advance.

Any questions regarding the CERB meetings should be sent to Kate Rothschild, Community Economic Revitalization Board, CTED, 128 10th Avenue S.W., P.O. Box 42525, Olympia, WA 98504-2525.

If you have any questions, Kate Rothschild can be reached at (360) 725-4058 or by e-mail at KateR@cted.wa.gov.

**WSR 05-08-005**

**NOTICE OF PUBLIC MEETINGS  
CONVENTION AND TRADE  
CENTER**

[Memorandum—March 21, 2005]

**Revised Board Meeting Schedule**

The board of directors of the Washington State Convention and Trade Center has revised the board meeting schedule. The meeting that had been scheduled for May 17, 2005, is now canceled.

A board retreat has been added to the schedule for June 10-11, 2005. The June board retreat will take place at the Willows Lodge, 14580 N.E. 145th Street, Woodinville, WA 98072.

**Retreat Agenda:** The Friday program, June 10, will begin with meetings 8:30 a.m. through noon. Following a lunch break, meetings will continue 1:00 p.m. through 5:00 p.m. The agenda for Friday will include strategic planning sessions for fiscal year 2005-2006.

The Saturday program, June 11, will include a work session beginning at 8:30 a.m., to establish operating goals for the next fiscal year. A regular board meeting will follow the work session, beginning at 9:30 a.m. and concluding by noon.

No final action will be taken at this meeting. The retreat is open to the public.

MISC.

**WSR 05-08-007**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed March 25, 2005, 3:57 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-14 MAA.  
 Subject: Medicare Medicaid integration program (MMIP).

Effective Date: May 1, 2005.

Document Description: **Effective for dates of service on and after May 1, 2005**, clients sixty-five years of age and older who reside in King and Pierce counties, and who are eligible for both Medicare and Medicaid will be offered enrollment in a voluntary managed care program. This program will integrate medical and long-term care services using a contracted managed care organization, Evercare Premier.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Office of Rules and Publications, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2005"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [salmobl@dshs.wa.gov](mailto:salmobl@dshs.wa.gov).

March 24, 2005

Ann Myers, Manager

Rules and Publications Section

arranged with a minimum of ten working days notice, to Bruce Yasutake (LIHEAP) at TDD 1-800-833-6388.

If you have any questions or need additional information, please contact Bruce Yasutake at (360) 725-2866 or by e-mail at [brucey@cted.wa.gov](mailto:brucey@cted.wa.gov).

**WSR 05-08-023**  
**NOTICE OF PUBLIC MEETINGS**  
**LOTTERY COMMISSION**

[Memorandum—March 29, 2005]

**AMENDED WASHINGTON'S LOTTERY**  
**MAY COMMISSION MEETING**

The May 29, 2005, commission meeting has been changed to May 12, 2005. The meeting will begin at 10:00 a.m. and will be held at the Red Lion at the Park, West 303 North River Drive, Spokane, WA 98201.

**WSR 05-08-024**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**

[Memorandum—March 30, 2005]

**Department of Chemistry**  
**Faculty Meetings**  
**Seattle**

Meeting Date	Location (Building and Room #)	Time
1st /3rd Thursday of the month	CHB102	3:30 p.m.

**GPSS Finance and Budget Meeting Schedule**  
**for Spring Quarter**

April 1, 2005	Time 11 a.m.	Venue Hub 300
April 15, 2005	Time 11 a.m.	Venue Hub 300
April 29, 2005	Time 11 a.m.	Venue Hub 300
May 13, 2005	Time 11 a.m.	Venue Hub 300
May 27, 2005	Time 11 a.m.	Venue Hub 300
June 3 or June 10, 2005	Wrap-up session	Tentative

**WSR 05-08-025**  
**NOTICE OF PUBLIC MEETINGS**  
**SHORELINE COMMUNITY COLLEGE**

[Memorandum—March 25, 2005]

The board of trustees of Shoreline Community College will hold several special meetings throughout Spring Quarter 2005. The following is a list of special meeting dates and times:

Wednesday, April 13	4:00 to 5:30 p.m.	President's Office
Friday, April 22	12:30 to 2:00 p.m.	PUB (Building 900)
Wednesday, April 27	3:00 to 4:00 p.m.	Central Conference Room

**WSR 05-08-020**

**DEPARTMENT OF COMMUNITY,**  
**TRADE AND ECONOMIC DEVELOPMENT**

[Filed March 29, 2005, 1:50 p.m.]

The Washington State Department of Community, Trade and Economic Development (CTED) plans to hold a public hearing on the proposed Washington state detailed state plan for the 2006 low-income energy assistance program (LIHEAP).

The hearing will be held Thursday, June 23, 2005, at the Department of Community, Trade and Economic Development, 906 Columbia Street S.W., 5th Floor Conference Room, Olympia, WA 98504-8300. The LIHEAP hearing will begin at 10:00 a.m. and close at noon unless taking testimony requires more time.

Two typewritten copies of all oral testimony are requested. There will be a question and answer period. Written testimony will be accepted until 5:00 p.m., June 23, 2005.

Written testimony for the LIHEAP hearing should be sent to the attention of Bruce Yasutake, Department of Community, Trade and Economic Development, 906 Columbia Street S.W., P.O. Box 48300, Olympia, WA 98504-8300.

The LIHEAP plan is available in an alternate format upon request. Meetings sponsored by CTED shall be accessible to persons with disabilities. Accommodations may be

MISC.

Wednesday, May 11	4:00 to 5:30 p.m.	President's Office
Wednesday, May 25	3:00 to 4:00 p.m.	Central Conference Room
Wednesday, June 22	2:30 to 4:00 p.m.	Conference Room Lake Forest Park location (SCC@LFP)

Please call (206) 546-4552 or e-mail Michele Foley at [mfoley@shoreline.edu](mailto:mfoley@shoreline.edu) if you have further information.

**WSR 05-08-026**  
**DEPARTMENT OF ECOLOGY**

[Filed March 30, 2005, 9:26 a.m.]

**Announcement of Issuance of General Permit for Upland  
Fin-fish Hatching and Rearing Facilities**

**Introduction:** The Department of Ecology is reissuing the upland fin-fish hatching and rearing general permit. The previous permit was issued on April 17, 2000. The purpose of the permit is to control the discharge of pollutants from upland hatcheries into waters of the state. The permit implements the Federal Clean Water Act, the State Water Pollution Control Act and chapter 173-221A WAC, Wastewater discharge standards and effluent limitations. Dischargers who require coverage under this permit include all state and private hatcheries not located on tribal or federal land that produce more than 20,000 pounds of fish per year or feed more than 5,000 pounds per month. The permit also contains best management practices and effluent limitations and monitoring requirements necessary to protect state water quality. The public comment period closed April 1, 2005.

**Summary of Public Involvement Process:** On October 6, 2004, an announcement was published in WSR 04-19-088 to inform the public of the intention to update and reissue the upland fin-fish hatching and rearing general permit.

On February 2, 2005, the announcement was published in WSR 05-03-100 to inform the public that the revised draft permit and fact sheet were available for review and comment; and to specify the date and location of the public workshop and hearing on the proposed permit. The public notice was also published in five major newspapers and on ecology's website to inform the public that a draft of the proposed permit and fact sheet was available for review. These newspapers included the Vancouver Columbian, the Daily Journal of Commerce, the Bellingham Herald, the Yakima Herald Republic, and the Spokane Spokesman Review. An announcement was also mailed to all interested parties. A public workshop and hearing on the proposed permit was held in Lacey on March 22, 2005. The public comment period closed April 1, 2005.

**Final Determination:** A final determination to reissue this permit was made after Ecology evaluated all the written comments received during the public comment period. Minor modifications to the draft permit resulted from the written public comments. A copy of the final upland fin-fish hatching and rearing general permit will be sent to all permittees and all parties who submitted written comments.

**Appeal Procedures:** Pursuant to chapter 43.21B RCW, the terms and conditions of the permit may be appealed

within thirty days of receipt. An appeal must be filed with the Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903. In addition, a copy of this appeal must be served on the Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600. The procedures and requirements for the appeal process are contained in RCW 43.21B-310.

The terms and conditions of a general permit, as they apply to an individual discharger, are appealable within thirty days of the effective date of coverage of that discharger, in accordance with chapter 43.21B RCW. This appeal is limited to the general permit's applicability or nonapplicability to a specific discharger.

**How to Request Copies of the Permit:** Requests for copies of the final permit, fact sheet and responsiveness summary may be made by contacting Tricia Miller at the address below or by telephone at (425) 649-7201, or you can download copies from the website listed below:

Internet: [www.ecy.wa.gov/programs/wq/permits/](http://www.ecy.wa.gov/programs/wq/permits/)  
Contact: **Lori LeVander**  
Ecology: Water Quality Program  
Washington State Department of Ecology  
3190 160th Avenue S.E.  
Bellevue, WA 98008-5452  
(425) 649-7039  
e-mail [LLEV461@ecy.wa.gov](mailto:LLEV461@ecy.wa.gov)

**To Apply for Permit Coverage or Obtain Additional Information:**

**Southwest Regional Office**  
Water Quality Program  
P.O. Box 47775  
Olympia, WA 98504-7775  
Phone: (360) 407-6280

**Central Regional Office**  
Water Quality Program  
15 West Yakima Avenue, Suite 200  
Yakima, WA 98902-3401  
Phone: (509) 454-7869

**Northwest Regional Office**  
Water Quality Program  
3190 160th Avenue S.E.  
Bellevue, WA 98008-5452  
Phone: (425) 649-7201

**Eastern Regional Office**  
Water Quality Program  
North 4601 Monroe, Suite 202  
Spokane, WA 99205-1295  
Phone: (509) 456-6310

If you need this information in an alternate format, please contact ecology at (360) 407-6404. If you are a person with a speech or hearing impairment, call 711 or 1-800-833-6388 for TTY.

**WSR 05-08-057**  
**RULES COORDINATOR**  
**ENVIRONMENTAL HEARINGS OFFICE**

[Filed March 30, 2005, 4:25 p.m.]

I have appointed Administrative Appeals Judge Kay M. Brown, 4224 6th Avenue S.E., Building 2, RoweSix, P.O. Box 40903, Lacey, WA 98504-0903, phone (360) 459-6327, fax (360) 438-7699, e-mail eho@eho.wa.gov, website www.eho.wa.gov, as the rules coordinator for the Environmental Hearings Office. This agency is the umbrella agency for five separate boards: (1) The Pollution Control Hearings Board, (2) the Shorelines Hearings Board, (3) the Hydraulics Appeals Board, (4) the Forest Practice Appeals Board, and (5) the Environmental and Land Use Hearings Board. Judge Brown will be the rules coordinator for all five boards.

William H. Lynch  
 Director

**WSR 05-08-062**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON UNIVERSITY**

[Memorandum—March 28, 2005]

A joint meeting of the board of trustees of Eastern Washington University (EWU) and the board of trustees of Community College District VIII will be held on Friday, April 1, 2005, at the Bellevue Community College (BCC), 2000 Landerholm Circle S.E., Bellevue, WA in Room N201. The business session will begin at 2:30 p.m. The purpose of this meeting is to take action on a memorandum of understanding between EWU and BCC to establish "Eastern Washington University@Bellevue," an administrative headquarters for university operations on the BCC campus.

The EWU trustees will also convene in executive session in Room B201 at 4:30 p.m., with a brief open public meeting following at 5:30 p.m. (also in Room B201).

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling the President's Office, (509) 359-6598, voice (509) 359-2371, fax (509) 359-7036.

**WSR 05-08-065**  
**SECRETARY OF STATE**

[Filed March 31, 2005, 9:07 a.m.]

On February 25, 2005, our office filed a CR-103 form to permanently adopt a series of rules. However, there was a typo with regard to the statute named as providing authority for adoption. The listed statute was RCW 29A.04.210. The correct statute is RCW 29A.04.610.

This resulted in the incorrect statute being cited in the history portion of the rules. The amended rules that were affected are WAC 434-253-160, 434-253-043, 434-253-045, 434-253-047, and 434-253-049. The new sections that were

affected are WAC 434-253-048, 434-253-165, 434-253-203, 434-261-110, 434-262-203 and 434-262-204.

Steve Excell  
 Assistant Secretary of State

**WSR 05-08-068**  
**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF THE**  
**INTERAGENCY COMMITTEE**  
 (Salmon Recovery Funding Board)

[Memorandum—March 30, 2005]

**SRFB MEETING**  
 April 14 and 15, 2005  
 LaQuinta Inn and Conference Center  
 1425 East 27th Street  
 Tacoma, WA

If you need special accommodations to participate in this meeting, please notify us by April 7, 2005, at (360) 902-2636 or TDD (360) 902-1996.

**WSR 05-08-082**  
**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF THE**  
**INTERAGENCY COMMITTEE**

(Biodiversity Council)

[Memorandum—March 31, 2005]

The next public meeting of the Biodiversity Council (Executive Order #04-02) will be Wednesday, April 27, 2005, from 9:00 a.m. to 4:00 p.m. in Room 172 of the Natural Resources Building, 1111 Washington Street S.E., Olympia.

For further information, please contact Patty Dickason, Interagency Committee for Outdoor Recreation (IAC), (360) 902-3012.

The IAC schedules all public meetings at barrier free sites. Persons who need special assistance, such as large type materials, may contact Patty Dickason at the number listed above or by e-mail at pattyd@iac.wa.gov.

**WSR 05-08-083**  
**NOTICE OF PUBLIC MEETINGS**  
**HEALTH CARE AUTHORITY**  
 (Public Employees Benefits Board)

[Memorandum—March 31, 2005]

Following is the revised 2005 Public Employees Benefits Board (PEBB) meeting information.

Please contact Theresa Rush at (360) 923-2811, if you have any questions regarding the meeting schedule or need further information.

**2005 PEBB Board Meeting Schedule**

All meetings are held on Tuesdays and begin at 1:30 p.m. (unless otherwise noted).

1.	<b>March 8, 2005</b> <b>1:30 p.m. - 4:30 p.m.</b> Location: Lacey Community Center 6729 Pacific Avenue S.E. Lacey, WA
2.	<b>April 12, 2005 via TELEPHONE</b> <b>(revised to a teleconference)</b> <b>1:30 p.m. - 2:30 p.m.</b> Location: Health Care Authority 676 Woodland Square Loop S.E. Lacey, WA
3.	<b>May 17, 2005 (revised time to start at 2:00)</b> <b>2:00 p.m. - 4:30 p.m.</b> Location: Prime Hotel, SeaTac 18118 International Boulevard SeaTac, WA 98188
4.	<b>June 28, 2005</b> <b>1:30 p.m. - 4:30 p.m.</b> Location: Lacey Community Center 6729 Pacific Avenue S.E. Lacey, WA
5.	<b>July 12, 2005 - Tentative</b> <b>1:30 p.m. - 4:30 p.m.</b> Location: TBD
6.	<b>July 26, 2005 - Tentative</b> <b>1:30 p.m. - 4:30 p.m.</b> Location: TBD
7.	<b>August 2, 2005 - Tentative</b> <b>1:30 p.m. - 4:30 p.m.</b> Location: TBD
8.	<b>October 18, 2005 (planning session retreat)</b> <b>8:30 a.m. - 4:00 p.m.</b> Location: TBD
9.	<b>November 2, 2005 (telephone)</b> <b>1:30 p.m. - 4:30 p.m.</b>

If you are a person with a disability and need a special accommodation, please contact Theresa Rush, (360) 923-2811.

**WSR 05-08-084**  
**NOTICE OF PUBLIC MEETINGS**  
**CONSERVATION COMMISSION**  
[Memorandum—March 30, 2005]

**SPECIAL MEETING NOTICE**

WAC 135-04-020 provides that the Washington State Conservation Commission shall hold regular bimonthly

meetings on the third Thursday of the month at various locations in the state of Washington. The schedule for 2005 was adopted by the Conservation Commission at its September 16, 2004, meeting held in Sunnyside, Washington.

The Washington State Conservation Commission will hold a special meeting on Monday, April 18, 2005, from 9:00 a.m. until 10:00 a.m. This meeting will be held telephonically for the purpose of approving the fiscal year 06-07 live-stock funding distribution.

**WSR 05-08-101**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
[Memorandum—April 4, 2005]

**AMENDED NOTICE**

The regularly scheduled meeting of the board of trustees of Bellingham Technical College scheduled for April 14, 2005, has been cancelled. Call 752-8334 for information.

**WSR 05-08-107**  
**ATTORNEY GENERAL'S OFFICE**  
[Filed April 5, 2005, 10:03 a.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION**  
**WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by April 27, 2005. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 664-3027, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s):

MISC.

**05-04-01 Request by Edward Holm  
Thurston County Prosecutor**

1. If the governing body of a public facilities district (PFD) created before July 31, 2002, causes construction to be commenced on a regional center before January 1, 2004, thus meeting the requirements set forth in RCW 82.14.390 for collecting a sales and use tax, may additional projects that the district lawfully selects and causes to be commenced by the district after January 1, 2004, continue to collect the tax authorized by RCW 82.14.390 if the original regional center commenced prior to January 1, 2004, is no longer allocated any of the sales and use tax previously collected under RCW 82.14.390?

2. Would the interlocal agreements which contemplate the creation of more than one regional center that would commence construction after January 1, 2004, have an effect on the answer to this question?

**WSR 05-08-108**

**DEPARTMENT OF AGRICULTURE**

[Filed April 5, 2005, 11:35 a.m.]

**PUBLIC NOTICE FOR KNOTWEED CONTROL SEPA REVIEW**

LEGAL NOTICE: The Washington State Department of Agriculture proposes to fund knotweed control programs in Washington. A SEPA checklist has been completed for this evaluation. The public comment period will be open from April 20, 2005, to May 4, 2005. All documents can be viewed and downloaded from the Washington State Department of Agriculture's website <http://agr.wa.gov/PlantsInsects/Weeds/default.htm>. Paper copies are available upon request. Please send your request and comments to Brad Archbold, Pest Program, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2094, e-mail [barchbold@agr.wa.gov](mailto:barchbold@agr.wa.gov), or phone (360) 902-1853.

**WSR 05-08-117**

**DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed April 5, 2005, 3:06 p.m.]

NOTICE OF AVAILABILITY FOR PUBLIC REVIEW AND COMMENT OF WASHINGTON STATE DEPARTMENT OF FISH AND WILDLIFE (WDFW) HATCHERY AND GENETIC MANAGEMENT PLANS FOR COWLITZ RIVER SALMON AND TROUT HATCHERY PROGRAMS

(Memorandum—April 20, 2005)

Draft hatchery and genetic management plans (HGMPs) for fifteen Washington Department of Fish and Wildlife (WDFW) programs will be available on April 20, 2005, for a sixty-day public review and comment period. These include twelve anadromous programs and three resident trout plants made to the Tilton River, Skate Creek and Mayfield Lake. A number of HGMPs involve cooperative partnerships with local citizen organizations including Friends of the Cowlitz

and the Cowlitz Game and Anglers. Public comments, WDFW's response, and any resultant modifications to HGMPs will subsequently be posted on the WDFW website and provided to National Oceanic and Atmospheric Administration Fisheries (NOAA) for its consideration after the comment period.

The HGMPs describe, in a format prescribed by NOAA Fisheries, the operation of each program and the potential effects of each program on listed species. The draft HGMPs will be provided to NOAA Fisheries for consideration as significant conservation measures under subsection 4(d) of the Endangered Species Act.

Draft HGMPs may be accessed for review through one of the following means: (1) Electronically via the internet at the WDFW website (<http://wdfw.wa.gov/hat/hgmp>); or (2) in-person through a scheduled appointment at the WDFW office in Olympia, Washington. To schedule an appointment, or to obtain more information, please call (360) 902-2802 or (360) 902-2700.

WDFW will be accepting public comments on the draft HGMPs until June 20, 2005. Comments must be submitted in writing to Dr. Jeff Koenings, Director, WDFW, Attention: Andy Appleby, Fish Program, 600 Capitol Way North, Olympia, WA 98501-1091 or electronically through e-mail addressed to [HGMP@dfw.wa.gov](mailto:HGMP@dfw.wa.gov). All comments must be received by WDFW at the appropriate address or via WDFW's website by 5 p.m. Pacific Daylight Time on June 20, 2005.

This notice can also be found on the Washington State Register website at <http://slc.leg.wa.gov/>.

**WSR 05-08-144**

**OFFICE OF THE  
INSURANCE COMMISSIONER**

[Filed April 6, 2005, 11:43 a.m.]

**TECHNICAL ASSISTANCE ADVISORY**

T 2005 - 04

TO: All Health Carriers Issuing or Renewing Individual Health Benefit Plans.

SUBJECT: Individual Health Plan Premium Change due to Policyholder's Age Increase to the Next Higher Age Bracket.

DATE: April 6, 2005.

It has come to our attention that some carriers issuing or renewing individual health benefit coverage may be violating the law that limits the timing of rate increases for individual insurance premiums to one per year. Specifically, it appears that carriers are implementing rate increases midyear if the policyholder has a birthday that places him or her into the next higher age bracket premium. This practice causes some individual policyholders to receive a premium adjustment more frequently than annually if their birthday falls between two annual rate change effective dates.

RCW 48.20.028 (1)(f), 48.44.022 (1)(f) and 48.46.064 (1)(f) prohibit carriers from adjusting premiums more frequently than annually with a few exceptions. Increased age is not one of those exceptions. Therefore, for any policyholder whose birthday falls between two annual rate change dates,

the carrier must wait until the next annual rate change effective date to move the policyholder to a new age category.

If you have any questions about this TAA, please contact Lichiou Lee, ASA, MAAA, Health Actuary, at (360) 725-7128 or LichiouL@oic.wa.gov.



**Table of WAC Sections Affected**

**KEY TO TABLE**

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**Symbols:**

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

**Suffixes:**

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- \$ = Supplemental notice
- W = Withdrawal of proposed action
- X = Expedited rule making
- XA = Expedited adoption
- XR = Expedited repeal
- No suffix means permanent action

**WAC #** Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

**WSR #** Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

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16-218-035	NEW	05-07-150	16-239-0813	REP-P	05-07-120	16-303-200	AMD-P	05-08-142
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**TABLE**

Table of WAC Sections Affected

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16-414-050	REP-X	05-07-154	16-529-040	AMD	05-08-010	16-730-010	NEW-E	05-03-032
16-414-060	REP-X	05-07-154	16-529-050	AMD	05-08-010	16-730-015	NEW-E	05-03-032
16-414-065	NEW-X	05-07-154	16-529-060	AMD	05-08-010	16-730-020	NEW-E	05-03-032
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16-730-035	NEW-E	05-03-032	67-25-284	AMD	05-08-097	67-25-480	REP	05-08-097
16-730-040	NEW-E	05-03-032	67-25-288	REP-P	05-03-116	67-25-540	AMD-P	05-03-116
16-730-045	NEW-E	05-03-032	67-25-288	REP	05-08-097	67-25-540	AMD	05-08-097
16-730-050	NEW-E	05-03-032	67-25-300	REP-P	05-03-116	67-25-545	AMD-P	05-03-116
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51-54-0300	AMD-E	05-06-046	67-25-325	AMD	05-08-097	67-25-550	AMD	05-08-097
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51-54-0800	NEW-E	05-06-046	67-25-326	REP	05-08-097	67-25-560	REP	05-08-097
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67-25-005	AMD	05-08-097	67-25-350	AMD	05-08-097	67-25-570	AMD	05-08-097
67-25-010	AMD-P	05-03-116	67-25-360	AMD-P	05-03-116	67-25-590	AMD-P	05-03-116
67-25-010	AMD	05-08-097	67-25-360	AMD	05-08-097	67-25-590	AMD	05-08-097
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67-25-020	AMD	05-08-097	67-25-384	AMD	05-08-097	82-60-030	RECOD	05-04-072
67-25-025	AMD-P	05-03-116	67-25-388	AMD-P	05-03-116	82-60-031	RECOD	05-04-072
67-25-025	AMD	05-08-097	67-25-388	AMD	05-08-097	82-60-032	RECOD	05-04-072
67-25-030	AMD-P	05-03-116	67-25-390	AMD-P	05-03-116	82-60-033	RECOD	05-04-072
67-25-030	AMD	05-08-097	67-25-390	AMD	05-08-097	82-60-034	RECOD	05-04-072
67-25-050	AMD-P	05-03-116	67-25-394	AMD-P	05-03-116	82-60-035	RECOD	05-04-072
67-25-050	AMD	05-08-097	67-25-394	AMD	05-08-097	82-60-036	RECOD	05-04-072
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67-25-055	AMD	05-08-097	67-25-395	REP	05-08-097	82-60-038	RECOD	05-04-072
67-25-056	AMD-P	05-03-116	67-25-396	AMD-P	05-03-116	82-60-039	NEW	05-04-072
67-25-056	AMD	05-08-097	67-25-396	AMD	05-08-097	82-60-040	RECOD	05-04-072
67-25-060	AMD-P	05-03-116	67-25-398	AMD-P	05-03-116	82-60-050	RECOD	05-04-072
67-25-060	AMD	05-08-097	67-25-398	AMD	05-08-097	82-60-060	RECOD	05-04-072
67-25-065	NEW-P	05-03-116	67-25-399	AMD-P	05-03-116	82-60-070	RECOD	05-04-072
67-25-065	NEW	05-08-097	67-25-399	AMD	05-08-097	82-60-080	RECOD	05-04-072
67-25-070	AMD-P	05-03-116	67-25-400	AMD-P	05-03-116	82-60-100	RECOD	05-04-072
67-25-070	AMD	05-08-097	67-25-400	AMD	05-08-097	82-60-200	RECOD	05-04-072
67-25-075	REP-P	05-03-116	67-25-404	AMD-P	05-03-116	82-60-210	RECOD	05-04-072
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67-25-077	AMD	05-08-097	67-25-408	AMD	05-08-097	106-72-005	AMD	05-05-057
67-25-080	REP-P	05-03-116	67-25-412	AMD-P	05-03-116	106-72-015	AMD	05-05-057
67-25-080	REP	05-08-097	67-25-412	AMD	05-08-097	106-72-025	AMD	05-05-057
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67-25-085	REP	05-08-097	67-25-416	AMD	05-08-097	106-72-150	REP	05-05-057
67-25-090	REP-P	05-03-116	67-25-418	AMD-P	05-03-116	106-72-200	REP	05-05-057
67-25-090	REP	05-08-097	67-25-418	AMD	05-08-097	106-72-220	REP	05-05-057
67-25-095	REP-P	05-03-116	67-25-432	AMD-P	05-03-116	106-72-400	AMD	05-05-057
67-25-095	REP	05-08-097	67-25-432	AMD	05-08-097	106-72-410	REP	05-05-057
67-25-100	REP-P	05-03-116	67-25-436	AMD-P	05-03-116	106-72-420	REP	05-05-057
67-25-100	REP	05-08-097	67-25-436	AMD	05-08-097	106-72-430	REP	05-05-057
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67-25-110	REP	05-08-097	67-25-440	AMD	05-08-097	106-72-450	REP	05-05-057
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67-25-257	AMD	05-08-097	67-25-446	AMD	05-08-097	106-72-490	REP	05-05-057
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67-25-260	AMD	05-08-097	67-25-448	AMD	05-08-097	106-72-510	REP	05-05-057
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67-25-270	AMD	05-08-097	67-25-452	AMD	05-08-097	106-72-530	REP	05-05-057
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67-25-275	AMD	05-08-097	67-25-460	AMD	05-08-097	106-72-550	REP	05-05-057
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132C-120-040	AMD-P	05-06-029	132Z-112-080	NEW	05-06-003	139-03-060	REP-P	05-03-024
132C-120-050	AMD-P	05-06-029	132Z-112-090	NEW	05-06-003	139-03-060	REP	05-07-049
132C-120-060	AMD-P	05-06-029	132Z-112-100	NEW	05-06-003	139-03-075	NEW-P	05-03-024
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132H-142-015	NEW	05-07-069	137-59-060	NEW-W	05-05-071	173-400-070	AMD	05-03-033
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132H-142-060	NEW-P	05-04-061	139-02-080	AMD-P	05-03-025	173-400-113	AMD	05-03-033
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173-400-141	REP	05-03-033	173-546-080	NEW-P	05-06-117	180- 79A-250	AMD-E	05-08-053
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173-503-090	AMD-P	05-04-108	180- 46-035	REP-P	05-04-017	192- 35-030	NEW	05-02-094
173-503-100	AMD-P	05-04-108	180- 46-035	REP	05-08-013	192- 35-040	NEW	05-02-094
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173-505-050	NEW-P	05-05-094	180- 51-035	AMD-E	05-08-011	192-150-112	NEW-P	05-07-144
173-505-060	NEW-P	05-05-094	180- 51-035	AMD-P	05-08-012	192-150-113	NEW-P	05-07-144
173-505-070	NEW-P	05-05-094	180- 55-005	AMD-P	05-04-075	192-170-060	NEW-E	05-03-011
173-505-080	NEW-P	05-05-094	180- 55-005	AMD	05-08-015	192-170-060	NEW-P	05-07-144
173-505-090	NEW-P	05-05-094	180- 55-015	AMD-P	05-04-075	192-180-013	NEW-E	05-03-011
173-505-100	NEW-P	05-05-094	180- 55-015	AMD	05-08-015	192-180-014	NEW-P	05-07-144
173-505-110	NEW-P	05-05-094	180- 55-017	NEW-P	05-04-075	192-300-050	AMD-E	05-03-011
173-505-120	NEW-P	05-05-094	180- 55-017	NEW	05-08-015	192-310-030	AMD-E	05-03-011
173-505-130	NEW-P	05-05-094	180- 55-034	REP	05-04-016	192-320-005	NEW-E	05-03-011
173-505-140	NEW-P	05-05-094	180- 78A-100	AMD	05-04-056	192-320-010	NEW-E	05-03-011
173-505-150	NEW-P	05-05-094	180- 78A-100	AMD-P	05-08-037	192-320-020	NEW-E	05-03-011
173-505-160	NEW-P	05-05-094	180- 78A-100	AMD-E	05-08-049	196- 25-002	AMD-P	05-07-142
173-505-170	NEW-P	05-05-094	180- 78A-319	AMD-P	05-08-038	196- 25-040	AMD-P	05-07-142
173-505-180	NEW-P	05-05-094	180- 78A-505	AMD-P	05-08-039	199- 08-300	NEW	05-07-045
173-525	PREP	05-06-113	180- 78A-535	AMD-P	05-08-040	199- 08-305	NEW	05-07-045
173-526	PREP	05-06-114	180- 78A-535	AMD-E	05-08-048	199- 08-310	NEW	05-07-045
173-527	PREP	05-06-115	180- 79A-011	AMD-P	05-08-043	199- 08-315	NEW	05-07-045
173-528	PREP	05-06-116	180- 79A-030	AMD	05-04-055	199- 08-320	NEW	05-07-045
173-546-010	NEW-P	05-06-117	180- 79A-123	AMD-P	05-08-042	199- 08-325	NEW	05-07-045
173-546-020	NEW-P	05-06-117	180- 79A-123	AMD-E	05-08-051	199- 08-330	NEW	05-07-045
173-546-030	NEW-P	05-06-117	180- 79A-130	AMD-P	05-08-035	199- 08-335	NEW	05-07-045
173-546-040	NEW-P	05-06-117	180- 79A-130	AMD-E	05-08-052	199- 08-340	NEW	05-07-045
173-546-050	NEW-P	05-06-117	180- 79A-145	AMD-P	05-08-041	199- 08-345	NEW	05-07-045

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199-08-350	NEW	05-07-045	212-17-060	AMD-P	05-07-102	212-17-480	NEW-P	05-07-102
199-08-355	NEW	05-07-045	212-17-070	AMD-P	05-07-102	212-17-485	NEW-P	05-07-102
199-08-360	NEW	05-07-045	212-17-085	AMD-P	05-07-102	212-17-490	NEW-P	05-07-102
199-08-365	NEW	05-07-045	212-17-125	AMD-P	05-07-102	212-17-495	NEW-P	05-07-102
199-08-370	NEW	05-07-045	212-17-170	AMD-P	05-07-102	212-17-500	NEW-P	05-07-102
199-08-375	NEW	05-07-045	212-17-185	AMD-P	05-07-102	212-17-505	NEW-P	05-07-102
199-08-380	NEW	05-07-045	212-17-198	AMD-P	05-07-102	212-17-510	NEW-P	05-07-102
199-08-385	NEW	05-07-045	212-17-21503	AMD-P	05-07-102	212-17-515	NEW-P	05-07-102
199-08-390	NEW	05-07-045	212-17-21505	AMD-P	05-07-102	212-17-900	AMD-P	05-07-102
199-08-395	NEW	05-07-045	212-17-21507	AMD-P	05-07-102	212-80	PREP	05-07-101
199-08-400	NEW	05-07-045	212-17-21509	AMD-P	05-07-102	212-80-001	AMD	05-05-006
199-08-405	NEW-W	05-07-079	212-17-21511	AMD-P	05-07-102	212-80-005	AMD	05-05-006
199-08-410	NEW-W	05-07-079	212-17-21513	AMD-P	05-07-102	212-80-010	AMD	05-05-006
199-08-415	NEW-W	05-07-079	212-17-21515	AMD-P	05-07-102	212-80-015	AMD	05-05-006
199-08-420	NEW-W	05-07-079	212-17-21517	AMD-P	05-07-102	212-80-018	NEW	05-05-006
199-08-425	NEW	05-07-045	212-17-21519	AMD-P	05-07-102	212-80-023	RECOD	05-05-006
199-08-426	NEW-W	05-07-079	212-17-220	AMD-P	05-07-102	212-80-025	AMD	05-05-006
199-08-427	NEW-W	05-07-079	212-17-230	AMD-P	05-07-102	212-80-025	DECOD	05-05-006
199-08-428	NEW-W	05-07-079	212-17-235	AMD-P	05-07-102	212-80-028	RECOD	05-05-006
199-08-429	NEW-W	05-07-079	212-17-250	AMD-P	05-07-102	212-80-030	AMD	05-05-006
199-08-430	NEW	05-07-045	212-17-255	AMD-P	05-07-102	212-80-030	DECOD	05-05-006
199-08-435	NEW	05-07-045	212-17-260	AMD-P	05-07-102	212-80-033	RECOD	05-05-006
199-08-440	NEW	05-07-045	212-17-265	REP-P	05-07-102	212-80-035	AMD	05-05-006
199-08-445	NEW	05-07-045	212-17-270	AMD-P	05-07-102	212-80-035	DECOD	05-05-006
199-08-450	NEW	05-07-045	212-17-275	AMD-P	05-07-102	212-80-038	RECOD	05-05-006
199-08-455	NEW	05-07-045	212-17-280	AMD-P	05-07-102	212-80-040	AMD	05-05-006
199-08-460	NEW	05-07-045	212-17-285	AMD-P	05-07-102	212-80-040	DECOD	05-05-006
199-08-465	NEW	05-07-045	212-17-290	AMD-P	05-07-102	212-80-043	RECOD	05-05-006
199-08-470	NEW	05-07-045	212-17-295	AMD-P	05-07-102	212-80-045	AMD	05-05-006
199-08-475	NEW	05-07-045	212-17-300	AMD-P	05-07-102	212-80-045	DECOD	05-05-006
199-08-480	NEW	05-07-045	212-17-310	AMD-P	05-07-102	212-80-048	NEW	05-05-006
199-08-485	NEW	05-07-045	212-17-317	AMD-P	05-07-102	212-80-050	AMD	05-05-006
199-08-490	NEW	05-07-045	212-17-335	AMD-P	05-07-102	212-80-050	DECOD	05-05-006
199-08-495	NEW	05-07-045	212-17-342	NEW-P	05-07-102	212-80-053	RECOD	05-05-006
199-08-500	NEW	05-07-045	212-17-345	AMD-P	05-07-102	212-80-055	AMD	05-05-006
199-08-505	NEW	05-07-045	212-17-350	AMD-P	05-07-102	212-80-055	DECOD	05-05-006
199-08-510	NEW	05-07-045	212-17-352	AMD-P	05-07-102	212-80-058	RECOD	05-05-006
199-08-515	NEW	05-07-045	212-17-355	AMD-P	05-07-102	212-80-060	AMD	05-05-006
199-08-520	NEW	05-07-045	212-17-360	AMD-P	05-07-102	212-80-060	DECOD	05-05-006
199-08-525	NEW	05-07-045	212-17-365	NEW-P	05-07-102	212-80-063	RECOD	05-05-006
199-08-535	NEW-W	05-07-079	212-17-370	NEW-P	05-07-102	212-80-065	AMD	05-05-006
199-08-540	NEW	05-07-045	212-17-375	NEW-P	05-07-102	212-80-065	DECOD	05-05-006
199-08-545	NEW	05-07-045	212-17-380	NEW-P	05-07-102	212-80-068	RECOD	05-05-006
199-08-550	NEW	05-07-045	212-17-385	NEW-P	05-07-102	212-80-070	AMD	05-05-006
199-08-555	NEW	05-07-045	212-17-390	NEW-P	05-07-102	212-80-070	DECOD	05-05-006
199-08-565	NEW	05-07-045	212-17-395	NEW-P	05-07-102	212-80-073	RECOD	05-05-006
199-08-570	NEW	05-07-045	212-17-400	NEW-P	05-07-102	212-80-075	AMD	05-05-006
199-08-580	NEW	05-07-045	212-17-405	NEW-P	05-07-102	212-80-075	DECOD	05-05-006
204-41	PREP	05-08-115	212-17-410	NEW-P	05-07-102	212-80-078	RECOD	05-05-006
204-50	PREP	05-08-116	212-17-415	NEW-P	05-07-102	212-80-080	AMD	05-05-006
208-680A-040	AMD	05-03-038	212-17-420	NEW-P	05-07-102	212-80-080	DECOD	05-05-006
208-680E-025	NEW	05-03-038	212-17-425	NEW-P	05-07-102	212-80-083	RECOD	05-05-006
208-680F-020	AMD	05-03-038	212-17-430	NEW-P	05-07-102	212-80-085	AMD	05-05-006
208-680G-050	AMD	05-03-037	212-17-435	NEW-P	05-07-102	212-80-085	DECOD	05-05-006
212-17-025	AMD-P	05-07-102	212-17-440	NEW-P	05-07-102	212-80-088	RECOD	05-05-006
212-17-030	AMD-P	05-07-102	212-17-445	NEW-P	05-07-102	212-80-090	AMD	05-05-006
212-17-032	NEW-P	05-07-102	212-17-450	NEW-P	05-07-102	212-80-090	DECOD	05-05-006
212-17-035	AMD-P	05-07-102	212-17-455	NEW-P	05-07-102	212-80-093	RECOD	05-05-006
212-17-040	AMD-P	05-07-102	212-17-460	NEW-P	05-07-102	212-80-095	AMD	05-05-006
212-17-042	NEW-P	05-07-102	212-17-465	NEW-P	05-07-102	212-80-095	DECOD	05-05-006
212-17-050	AMD-P	05-07-102	212-17-470	NEW-P	05-07-102	212-80-098	RECOD	05-05-006
212-17-055	AMD-P	05-07-102	212-17-475	NEW-P	05-07-102	212-80-100	DECOD	05-05-006

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212-80-103	RECOD	05-05-006	220-33-01000Z	NEW-E	05-08-021	220-56-312	AMD-P	05-07-042
212-80-105	AMD	05-05-006	220-33-01000Z	REP-E	05-08-073	220-56-315	AMD	05-05-035
212-80-105	DECOD	05-05-006	220-33-04000W	REP-E	05-06-042	220-56-315	AMD-P	05-07-042
212-80-108	RECOD	05-05-006	220-33-04000X	NEW-E	05-06-042	220-56-320	AMD	05-05-035
212-80-110	AMD	05-05-006	220-33-04000X	REP-E	05-06-042	220-56-325	AMD	05-05-035
212-80-110	DECOD	05-05-006	220-44-05000D	REP-E	05-08-055	220-56-326	AMD	05-05-035
212-80-113	RECOD	05-05-006	220-44-05000E	NEW-E	05-08-055	220-56-330	AMD	05-05-035
212-80-115	AMD	05-05-006	220-48-01500V	NEW-E	05-05-090	220-56-330	AMD-P	05-07-042
212-80-115	DECOD	05-05-006	220-52-030	AMD	05-05-027	220-56-33000Q	REP-E	05-07-149
212-80-118	RECOD	05-05-006	220-52-04000F	REP-E	05-03-039	220-56-33000R	NEW-E	05-07-008
212-80-120	AMD	05-05-006	220-52-04000H	NEW-E	05-03-039	220-56-33000R	REP-E	05-07-149
212-80-120	DECOD	05-05-006	220-52-04000H	REP-E	05-06-034	220-56-33000S	NEW-E	05-07-149
212-80-123	RECOD	05-05-006	220-52-04000I	NEW-E	05-04-065	220-56-350	AMD	05-05-035
212-80-125	AMD	05-05-006	220-52-04000I	REP-E	05-04-065	220-56-35000U	REP-E	05-06-007
212-80-125	DECOD	05-05-006	220-52-04000J	NEW-E	05-06-034	220-56-35000V	NEW-E	05-06-007
212-80-128	RECOD	05-05-006	220-52-04000J	REP-E	05-07-060	220-56-36000E	NEW-E	05-02-047
212-80-130	AMD	05-05-006	220-52-04000K	NEW-E	05-07-060	220-56-36000E	REP-E	05-02-047
212-80-130	DECOD	05-05-006	220-52-04600A	NEW-E	05-06-034	220-56-36000F	NEW-E	05-04-064
212-80-135	AMD	05-05-006	220-52-04600A	REP-E	05-07-060	220-56-36000F	REP-E	05-04-064
212-80-135	DECOD	05-05-006	220-52-04600B	NEW-E	05-07-060	220-56-36000G	NEW-E	05-06-071
212-80-200	RECOD	05-05-006	220-52-04600R	REP-E	05-03-063	220-56-36000G	REP-E	05-06-071
212-80-205	RECOD	05-05-006	220-52-04600T	REP-E	05-04-065	220-56-36000H	NEW-E	05-08-006
212-80-210	NEW	05-05-006	220-52-04600W	REP-E	05-02-048	220-56-36000H	REP-E	05-08-006
212-80-215	NEW	05-05-006	220-52-04600X	NEW-E	05-03-063	220-56-36000I	NEW-E	05-08-119
212-80-220	NEW	05-05-006	220-52-04600X	REP-E	05-05-041	220-56-36000I	REP-E	05-08-119
212-80-225	NEW	05-05-006	220-52-04600Y	NEW-E	05-04-065	220-56-380	AMD	05-05-035
212-80-230	NEW	05-05-006	220-52-04600Z	NEW-E	05-05-041	220-69-236	AMD	05-05-035
212-80-235	NEW	05-05-006	220-52-04600Z	REP-E	05-06-034	220-69-26401	AMD	05-05-026
212-80-240	NEW	05-05-006	220-52-07100L	NEW-E	05-05-040	220-88C-030	AMD-P	05-03-117
212-80-245	NEW	05-05-006	220-52-07100L	REP-E	05-06-009	220-88C-030	AMD	05-08-056
212-80-250	NEW	05-05-006	220-52-07100M	NEW-E	05-06-009	220-88C-040	AMD-P	05-03-117
212-80-255	NEW	05-05-006	220-52-07100M	REP-E	05-07-010	220-88C-040	AMD	05-08-056
212-80-260	NEW	05-05-006	220-52-07100N	NEW-E	05-07-010	220-88C-050	AMD-P	05-03-117
212-80-265	NEW	05-05-006	220-52-07100N	REP-E	05-07-062	220-88C-050	AMD	05-08-056
220-20-010	AMD-P	05-03-117	220-52-07100P	NEW-E	05-07-062	222	AMD-S	05-04-007
220-20-010	AMD	05-08-056	220-52-07100P	REP-E	05-07-083	222-08-160	AMD-S	05-08-085
220-20-05100A	REP-E	05-03-013	220-52-07100Q	NEW-E	05-07-083	222-10-030	AMD-P	05-06-096
220-20-05100B	NEW-E	05-03-013	220-52-07100Q	REP-E	05-07-083	222-10-040	AMD-P	05-06-096
220-20-05100B	REP-E	05-03-013	220-52-07300Q	REP-E	05-03-068	222-12-010	AMD-S	05-08-085
220-32-05100G	REP-E	05-04-068	220-52-07300R	NEW-E	05-03-068	222-12-040	AMD-P	05-06-096
220-32-05100H	NEW-E	05-03-061	220-52-07300R	REP-E	05-05-039	222-12-045	AMD-P	05-06-096
220-32-05100H	REP-E	05-03-061	220-52-07300S	NEW-E	05-05-039	222-12-046	AMD-P	05-06-096
220-32-05100H	REP-E	05-04-068	220-52-07300S	REP-E	05-07-009	222-12-046	AMD-S	05-08-085
220-32-05100I	NEW-E	05-04-068	220-52-07300T	NEW-E	05-07-009	222-12-080	AMD-P	05-06-096
220-32-05100I	REP-E	05-04-068	220-52-07300T	REP-E	05-07-103	222-12-090	AMD-P	05-06-096
220-32-05100I	REP-E	05-07-084	220-56-115	AMD	05-05-035	222-12-090	AMD-S	05-08-085
220-32-05100J	NEW-E	05-07-084	220-56-118	AMD	05-05-035	222-16-010	AMD-P	05-06-096
220-33-01000A	NEW-E	05-08-073	220-56-128	AMD	05-05-035	222-16-010	AMD-S	05-08-085
220-33-01000S	NEW-E	05-05-091	220-56-129	AMD	05-05-035	222-16-030	AMD-P	05-06-096
220-33-01000S	REP-E	05-06-010	220-56-130	AMD	05-05-035	222-16-031	AMD-P	05-06-096
220-33-01000T	NEW-E	05-06-010	220-56-156	AMD	05-05-046	222-16-050	AMD-P	05-06-096
220-33-01000T	REP-E	05-06-072	220-56-25000H	NEW-E	05-06-008	222-16-070	AMD-P	05-06-096
220-33-01000U	NEW-E	05-06-072	220-56-27000W	REP-E	05-06-043	222-16-080	AMD-P	05-06-096
220-33-01000U	REP-E	05-07-005	220-56-27000X	NEW-E	05-06-043	222-20-010	AMD-P	05-06-096
220-33-01000V	NEW-E	05-07-005	220-56-27000X	REP-E	05-06-043	222-20-020	AMD-P	05-06-096
220-33-01000V	REP-E	05-07-026	220-56-282	AMD	05-05-035	222-20-040	AMD-P	05-06-096
220-33-01000W	NEW-E	05-07-026	220-56-28200G	REP-E	05-08-071	222-20-050	AMD-P	05-06-096
220-33-01000W	REP-E	05-07-043	220-56-28200H	NEW-E	05-06-006	222-20-060	AMD-P	05-06-096
220-33-01000X	NEW-E	05-07-043	220-56-28200I	NEW-E	05-08-071	222-20-075	NEW-P	05-06-096
220-33-01000X	REP-E	05-07-082	220-56-28200I	REP-E	05-08-071	222-21-030	AMD-P	05-06-096
220-33-01000Y	NEW-E	05-07-082	220-56-310	AMD	05-05-035	222-22-010	AMD-P	05-06-096
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222- 22-045	NEW-S	05-08-085	232- 28-61900F	NEW-E	05-07-077	246-100-208	AMD-P	05-06-123
222- 22-050	AMD-S	05-08-085	232- 28-61900F	REP-E	05-07-077	246-100-209	AMD-P	05-06-123
222- 22-060	AMD-S	05-08-085	232- 28-61900G	NEW-E	05-07-061	246-101-015	AMD	05-03-055
222- 22-070	AMD-P	05-06-096	232- 28-61900H	NEW-E	05-07-078	246-101-101	AMD	05-03-055
222- 22-070	AMD-S	05-08-085	232- 28-61900H	REP-E	05-07-078	246-101-201	AMD	05-03-055
222- 22-080	AMD-S	05-08-085	232- 28-61900I	NEW-E	05-07-148	246-101-301	AMD	05-03-055
222- 22-090	AMD-P	05-06-096	232- 28-61900I	REP-E	05-07-148	246-101-505	AMD-P	05-06-123
222- 22-090	AMD-S	05-08-085	232- 28-61900J	NEW-E	05-08-071	246-101-520	AMD-P	05-06-123
222- 23-020	AMD-P	05-06-096	232- 28-61900J	REP-E	05-08-071	246-130	PREP	05-06-119
222- 23-025	AMD-P	05-06-096	232- 28-61900K	NEW-E	05-08-072	246-140-001	NEW	05-04-112
222- 24-010	AMD-P	05-06-096	232- 28-61900K	REP-E	05-08-072	246-140-010	NEW	05-04-112
222- 24-051	AMD-P	05-06-096	232- 28-61900L	NEW-E	05-08-074	246-140-020	NEW	05-04-112
222- 30-020	AMD-P	05-06-096	232- 28-61900L	REP-E	05-08-074	246-247-035	NEW-P	05-08-019
222- 30-021	AMD-P	05-06-096	232- 28-61900Y	REP-E	05-03-062	246-260-031	AMD-X	05-03-057
222- 30-022	AMD-P	05-06-096	232-288-61900E	NEW-E	05-05-089	246-260-041	AMD-X	05-03-057
222- 30-023	AMD-P	05-06-096	232-288-61900E	REP-E	05-05-089	246-260-061	AMD-X	05-03-057
222- 30-025	AMD-P	05-06-096	236- 22-010	AMD	05-04-072	246-260-091	AMD-X	05-03-057
222- 30-050	AMD-P	05-06-096	236- 22-010	DECOD	05-04-072	246-260-131	AMD-X	05-03-057
222- 30-110	AMD-P	05-06-096	236- 22-020	AMD	05-04-072	246-260-171	AMD-X	05-03-057
222- 34-010	AMD-P	05-06-096	236- 22-020	DECOD	05-04-072	246-272-00101	REP-P	05-02-082
222- 34-020	AMD-P	05-06-096	236- 22-030	AMD	05-04-072	246-272-00501	REP-P	05-02-082
230- 04-142	AMD-P	05-07-118	236- 22-030	DECOD	05-04-072	246-272-01001	REP-P	05-02-082
230- 04-255	AMD-P	05-07-115	236- 22-031	AMD	05-04-072	246-272-02001	REP-P	05-02-082
230- 04-270	AMD-P	05-07-117	236- 22-031	DECOD	05-04-072	246-272-03001	REP-P	05-02-082
230- 08-130	AMD-P	05-07-119	236- 22-032	DECOD	05-04-072	246-272-04001	REP-P	05-02-082
230- 08-140	AMD-P	05-07-119	236- 22-033	DECOD	05-04-072	246-272-05001	REP-P	05-02-082
230- 08-150	AMD-P	05-07-119	236- 22-034	AMD	05-04-072	246-272-07001	REP-P	05-02-082
230- 08-160	AMD-P	05-07-119	236- 22-034	DECOD	05-04-072	246-272-08001	REP-P	05-02-082
230- 08-165	AMD-P	05-07-119	236- 22-035	DECOD	05-04-072	246-272-08001	REP-P	05-02-082
230- 12-305	AMD-P	05-07-119	236- 22-036	AMD	05-04-072	246-272-09001	REP-P	05-02-082
230- 12-310	AMD-P	05-07-119	236- 22-036	DECOD	05-04-072	246-272-09501	REP-P	05-02-082
230- 20-115	AMD-P	05-03-115	236- 22-037	AMD	05-04-072	246-272-11001	REP-P	05-02-082
230- 20-115	AMD	05-07-106	236- 22-037	DECOD	05-04-072	246-272-12501	REP-P	05-02-082
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232- 28-248	AMD-P	05-06-108	236- 22-060	DECOD	05-04-072	246-272-20501	REP-P	05-02-082
232- 28-266	AMD-P	05-06-108	236- 22-070	AMD	05-04-072	246-272-21501	REP-P	05-02-082
232- 28-271	AMD	05-02-046	236- 22-070	DECOD	05-04-072	246-272-22501	REP-P	05-02-082
232- 28-273	AMD-P	05-06-108	236- 22-080	AMD	05-04-072	246-272-23501	REP-P	05-02-082
232- 28-282	AMD-P	05-06-108	236- 22-080	DECOD	05-04-072	246-272-24001	REP-P	05-02-082
232- 28-284	NEW	05-02-046	236- 22-100	AMD	05-04-072	246-272-24001	REP-P	05-02-082
232- 28-291	AMD	05-02-046	236- 22-100	DECOD	05-04-072	246-272-25001	REP-P	05-02-082
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232- 28-333	AMD-P	05-06-108	236- 22-200	DECOD	05-04-072	246-272-27001	REP-P	05-02-082
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246-272A-0170	NEW-P	05-02-082	246-826-990	AMD-P	05-07-109	260-08-710	REP	05-05-049
246-272A-0175	NEW-P	05-02-082	246-828-990	AMD-P	05-07-109	260-08-720	REP	05-05-049
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246-272A-0210	NEW-P	05-02-082	246-834-250	AMD	05-06-118	260-08-740	REP	05-05-049
246-272A-0220	NEW-P	05-02-082	246-834-990	AMD-P	05-07-109	260-08-750	REP	05-05-049
246-272A-0230	NEW-P	05-02-082	246-836-990	AMD-P	05-07-109	260-08-760	REP	05-05-049
246-272A-0232	NEW-P	05-02-082	246-840-990	AMD-P	05-07-109	260-08-770	REP	05-05-049
246-272A-0234	NEW-P	05-02-082	246-841-990	AMD-P	05-07-109	260-08-780	REP	05-05-049
246-272A-0238	NEW-P	05-02-082	246-843-990	AMD-P	05-07-109	260-08-790	REP	05-05-049
246-272A-0240	NEW-P	05-02-082	246-845-990	AMD-P	05-07-109	260-08-800	REP	05-05-049
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246-272A-0450	NEW-P	05-02-082	246-918-990	AMD-P	05-07-109	260-34-035	NEW	05-07-066
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246-292-085	AMD	05-06-122	246-922-995	REP-P	05-07-109	260-34-045	NEW	05-07-066
246-292-090	AMD	05-06-122	246-924-990	AMD-P	05-07-109	260-34-050	REP-P	05-04-085
246-292-100	AMD	05-06-122	246-926-990	AMD-P	05-07-109	260-34-050	REP	05-07-066
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246-338-090	AMD	05-04-040	246-937-990	AMD-P	05-07-109	260-34-090	AMD	05-07-066
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246-809-990	AMD-P	05-07-109	251-06-072	NEW	05-04-042	260-34-150	REP-P	05-04-085
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246-812-990	AMD-P	05-07-109	260-08-671	NEW	05-05-049	260-34-160	REP	05-07-066
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246-815-990	AMD-P	05-07-109	260-08-675	NEW	05-05-049	260-34-170	REP	05-07-066
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260- 36	PREP	05-07-093	260- 70-670	REP	05-07-067	284- 17-228	NEW-P	05-03-110
260- 36-085	AMD-W	05-02-052	260- 70-670	REP-E	05-07-068	284- 17-228	NEW	05-07-091
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260- 36-120	AMD	05-05-047	260- 70-680	AMD	05-07-067	284- 17-230	AMD	05-07-091
260- 36-180	AMD-P	05-02-078	260- 70-680	AMD-E	05-07-068	284- 17-232	NEW-P	05-03-110
260- 36-180	AMD	05-05-043	260- 70-690	REP-P	05-04-086	284- 17-232	NEW	05-07-091
260- 36-200	AMD-P	05-05-048	260- 70-690	REP	05-07-067	284- 17-234	NEW-P	05-03-110
260- 56-030	REP	05-05-044	260- 70-690	REP-E	05-07-068	284- 17-234	NEW	05-07-091
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260- 60-300	AMD	05-07-063	260- 70-700	REP	05-07-067	284- 17-235	REP	05-07-091
260- 60-320	REP-P	05-03-028	260- 70-700	REP-E	05-07-068	284- 17-236	NEW-P	05-03-110
260- 60-320	REP	05-07-063	260- 70-720	AMD-P	05-04-086	284- 17-236	NEW	05-07-091
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260- 70-520	AMD-P	05-04-086	260- 70-720	AMD-E	05-07-068	284- 17-238	NEW	05-07-091
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260- 70-520	AMD-E	05-07-068	260- 70-730	AMD	05-07-067	284- 17-240	AMD	05-07-091
260- 70-530	AMD-P	05-04-086	260- 70-730	AMD-E	05-07-068	284- 17-242	NEW-P	05-03-110
260- 70-530	AMD	05-07-067	260- 72-050	NEW-P	05-02-077	284- 17-242	NEW	05-07-091
260- 70-530	AMD-E	05-07-068	260- 72-050	NEW	05-05-045	284- 17-244	NEW-P	05-03-110
260- 70-540	AMD-P	05-04-086	260- 75-030	AMD	05-05-042	284- 17-244	NEW	05-07-091
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260- 70-540	AMD-E	05-07-068	260- 84	AMD-P	05-04-083	284- 17-246	NEW	05-07-091
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260- 70-550	AMD	05-07-067	260- 84-010	REP-P	05-04-083	284- 17-252	NEW-P	05-03-110
260- 70-550	AMD-E	05-07-068	260- 84-010	REP	05-07-064	284- 17-252	NEW	05-07-091
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260- 70-600	AMD-P	05-04-086	260- 84-070	AMD	05-07-064	284- 17-262	NEW	05-07-091
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308- 19-220	AMD-P	05-04-105	308-108-100	AMD-W	05-08-106	315- 33A-010	AMD-E	05-04-019
308- 19-220	AMD	05-08-027	308-108-110	NEW-W	05-08-106	315- 33A-010	AMD-P	05-04-080
308- 19-230	AMD-P	05-04-105	308-108-120	NEW-W	05-08-106	315- 33A-010	AMD	05-07-100
308- 19-230	AMD	05-08-027	308-108-130	NEW-W	05-08-106	315- 33A-020	AMD-E	05-04-019
308- 19-240	AMD-P	05-04-105	308-108-140	NEW-W	05-08-106	315- 33A-020	AMD-P	05-04-080
308- 19-240	AMD	05-08-027	308-108-150	NEW-W	05-08-106	315- 33A-020	AMD	05-07-100
308- 19-250	AMD-P	05-04-105	308-108-160	NEW-W	05-08-106	315- 33A-030	AMD-E	05-04-019
308- 19-250	AMD	05-08-027	308-108-170	NEW-W	05-08-106	315- 33A-030	AMD-P	05-04-080
308- 19-300	AMD-P	05-04-105	308-108-180	NEW-W	05-08-106	315- 33A-030	AMD	05-07-100
308- 19-300	AMD	05-08-027	308-124A-460	PREP	05-03-041	315- 33A-040	AMD-E	05-04-019
308- 19-305	NEW-P	05-04-105	308-125-200	AMD-P	05-02-095	315- 33A-040	AMD-P	05-04-080
308- 19-305	NEW	05-08-027	308-125-200	AMD	05-05-097	315- 33A-040	AMD	05-07-100
308- 19-310	NEW-P	05-04-105	308-300-110	AMD	05-05-029	315- 33A-050	AMD-E	05-04-019
308- 19-310	NEW	05-08-027	314- 07-005	NEW	05-07-012	315- 33A-050	AMD-P	05-04-080
308- 19-315	NEW-P	05-04-105	314- 07-010	NEW	05-07-012	315- 33A-050	AMD	05-07-100
308- 19-315	NEW	05-08-027	314- 07-015	NEW	05-07-012	315- 33A-060	AMD-E	05-04-019
308- 19-320	NEW-P	05-04-105	314- 07-020	NEW	05-07-012	315- 33A-060	AMD-P	05-04-080
308- 19-320	NEW	05-08-027	314- 07-035	NEW	05-07-012	315- 33A-060	AMD	05-07-100
308- 19-400	AMD-P	05-04-105	314- 07-040	NEW	05-07-012	315- 33A-070	REP-E	05-04-019
308- 19-400	AMD	05-08-027	314- 07-045	NEW	05-07-012	315- 33A-070	REP-P	05-04-080
308- 19-410	AMD-P	05-04-105	314- 07-055	NEW	05-07-012	315- 33A-070	REP	05-07-100
308- 19-410	AMD	05-08-027	314- 07-065	NEW	05-07-012	315- 34-010	AMD-E	05-04-010
308- 19-420	AMD-P	05-04-105	314- 07-070	NEW	05-07-012	315- 34-010	AMD-P	05-04-081
308- 19-420	AMD	05-08-027	314- 07-080	NEW	05-07-012	315- 34-010	AMD-C	05-08-095
308- 19-430	AMD-P	05-04-105	314- 07-085	NEW	05-07-012	315- 34-020	AMD-E	05-04-010
308- 19-430	AMD	05-08-027	314- 07-090	NEW	05-07-012	315- 34-020	AMD-P	05-04-081

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315-34-020	AMD-C	05-08-095	332-120	PREP	05-02-073	357-31-145	NEW	05-08-136
315-34-030	AMD-E	05-04-010	332-120-040	AMD-P	05-08-067	357-31-150	NEW	05-08-136
315-34-030	AMD-P	05-04-081	332-130	PREP	05-02-073	357-31-155	NEW	05-08-136
315-34-030	AMD-C	05-08-095	332-130-020	AMD-P	05-08-067	357-31-160	NEW	05-08-136
315-34-040	AMD-E	05-04-010	332-130-060	AMD-P	05-08-067	357-31-165	NEW	05-08-137
315-34-040	AMD-P	05-04-081	332-130-070	AMD-P	05-08-067	357-31-170	NEW	05-08-137
315-34-040	AMD-C	05-08-095	352-28	PREP	05-06-125	357-31-175	NEW	05-08-137
315-34-050	AMD-E	05-04-010	356-10-060	AMD	05-04-043	357-31-180	NEW	05-08-137
315-34-050	AMD-P	05-04-081	356-10-065	NEW	05-04-043	357-31-185	NEW	05-08-137
315-34-050	AMD-C	05-08-095	357-01-173	NEW-P	05-08-128	357-31-190	NEW	05-08-137
315-34-057	AMD-E	05-04-010	357-01-255	NEW-W	05-02-061	357-31-195	NEW	05-08-137
315-34-057	AMD-P	05-04-081	357-01-301	NEW	05-08-134	357-31-200	NEW	05-08-137
315-34-057	AMD-C	05-08-095	357-16-110	AMD-P	05-08-131	357-31-205	NEW	05-08-137
315-34-060	AMD-E	05-04-010	357-19-025	AMD-P	05-08-131	357-31-210	NEW	05-08-137
315-34-060	AMD-P	05-04-081	357-19-080	AMD-P	05-08-131	357-31-215	NEW	05-08-137
315-34-060	AMD-C	05-08-095	357-19-115	AMD-P	05-08-131	357-31-220	NEW	05-08-137
315-34-070	REP-E	05-04-010	357-19-183	NEW-P	05-08-126	357-31-225	NEW	05-08-137
315-34-070	REP-P	05-04-081	357-19-184	NEW-P	05-08-126	357-31-230	NEW	05-08-137
315-34-070	REP-C	05-08-095	357-19-185	NEW-P	05-08-126	357-31-235	NEW	05-08-137
315-34-080	REP-E	05-04-010	357-19-186	NEW-P	05-08-126	357-31-240	NEW	05-08-137
315-34-080	REP-P	05-04-081	357-19-187	NEW-P	05-08-126	357-31-245	NEW	05-08-137
315-34-080	REP-C	05-08-095	357-19-188	NEW-P	05-08-126	357-31-250	NEW	05-08-137
315-34-090	REP-E	05-04-010	357-19-189	NEW-P	05-08-126	357-31-255	NEW	05-08-137
315-34-090	REP-P	05-04-081	357-19-191	NEW-P	05-08-126	357-31-260	NEW	05-08-137
315-34-090	REP-C	05-08-095	357-19-300	NEW-P	05-08-130	357-31-265	NEW	05-08-137
315-34-100	REP-E	05-04-010	357-19-301	NEW-P	05-08-130	357-31-270	NEW	05-08-137
315-34-100	REP-P	05-04-081	357-19-302	NEW-P	05-08-130	357-31-275	NEW	05-08-137
315-34-100	REP-C	05-08-095	357-19-303	NEW-P	05-08-130	357-31-280	NEW	05-08-137
315-36-010	REP-X	05-05-059	357-19-375	AMD-P	05-08-130	357-31-285	NEW	05-08-137
315-36-020	REP-X	05-05-059	357-19-388	AMD-P	05-08-131	357-31-290	NEW	05-08-137
315-36-030	REP-X	05-05-059	357-19-475	AMD-P	05-08-131	357-31-295	NEW	05-08-137
315-36-040	REP-X	05-05-059	357-28-070	AMD-P	05-08-131	357-31-300	NEW	05-08-137
315-36-050	REP-X	05-05-059	357-28-165	AMD-P	05-08-131	357-31-305	NEW	05-08-137
315-36-060	REP-X	05-05-059	357-28-300	AMD-P	05-08-131	357-31-310	NEW	05-08-138
315-36-070	REP-X	05-05-059	357-31-001	NEW	05-08-136	357-31-315	NEW	05-08-138
315-36-080	REP-X	05-05-059	357-31-005	NEW	05-08-136	357-31-320	NEW	05-08-138
315-36-090	REP-X	05-05-059	357-31-010	NEW	05-08-136	357-31-325	NEW	05-08-138
315-36-100	REP-X	05-05-059	357-31-015	NEW	05-08-136	357-31-330	NEW	05-08-138
315-36-110	REP-X	05-05-059	357-31-020	NEW	05-08-136	357-31-335	NEW	05-08-138
315-36-120	REP-X	05-05-059	357-31-025	NEW	05-08-136	357-31-340	NEW	05-08-138
315-36-130	REP-X	05-05-059	357-31-030	NEW	05-08-136	357-31-345	NEW	05-08-138
315-36-140	REP-X	05-05-059	357-31-035	NEW	05-08-136	357-31-350	NEW	05-08-138
315-36-150	REP-X	05-05-059	357-31-040	NEW	05-08-136	357-31-355	NEW	05-08-138
315-37-010	REP-X	05-03-060	357-31-045	NEW	05-08-136	357-31-360	NEW	05-08-138
315-37-020	REP-X	05-03-060	357-31-050	NEW	05-08-136	357-31-370	NEW	05-08-138
315-37-030	REP-X	05-03-060	357-31-055	NEW	05-08-136	357-31-375	NEW	05-08-138
315-37-040	REP-X	05-03-060	357-31-060	NEW	05-08-136	357-31-380	NEW	05-08-139
315-37-050	REP-X	05-03-060	357-31-065	NEW	05-08-136	357-31-385	NEW-W	05-08-125
315-37-060	REP-X	05-03-060	357-31-070	NEW	05-08-136	357-31-390	NEW	05-08-139
315-37-070	REP-X	05-03-060	357-31-075	NEW	05-08-136	357-31-395	NEW	05-08-139
315-37-080	REP-X	05-03-060	357-31-080	NEW	05-08-136	357-31-400	NEW	05-08-139
315-37-090	REP-X	05-03-060	357-31-090	NEW	05-08-136	357-31-405	NEW	05-08-139
315-37-100	REP-X	05-03-060	357-31-095	NEW	05-08-136	357-31-410	NEW	05-08-139
315-37-110	REP-X	05-03-060	357-31-100	NEW	05-08-136	357-31-415	NEW	05-08-139
315-37-120	REP-X	05-03-060	357-31-105	NEW	05-08-136	357-31-420	NEW	05-08-139
315-38	PREP	05-06-026	357-31-110	NEW	05-08-136	357-31-425	NEW	05-08-139
315-38-010	AMD-P	05-08-100	357-31-115	NEW	05-08-136	357-31-430	NEW	05-08-139
315-38-020	AMD-P	05-08-100	357-31-120	NEW	05-08-136	357-31-435	NEW	05-08-139
315-38-080	AMD-P	05-08-100	357-31-125	NEW	05-08-136	357-31-440	NEW	05-08-139
315-38-090	AMD-P	05-08-100	357-31-130	NEW	05-08-136	357-31-445	NEW	05-08-139
315-38-100	AMD-P	05-08-100	357-31-135	NEW	05-08-136	357-31-450	NEW	05-08-139
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357-31-460	NEW	05-08-140	357-55-415	NEW	05-08-133	357-58-240	NEW-P	05-04-089
357-31-465	NEW	05-08-140	357-55-420	NEW	05-08-133	357-58-245	NEW-P	05-04-089
357-31-470	NEW	05-08-140	357-55-425	NEW	05-08-133	357-58-250	NEW-P	05-04-089
357-31-475	NEW	05-08-140	357-55-430	NEW	05-08-133	357-58-255	NEW-P	05-04-089
357-31-480	NEW	05-08-140	357-55-510	NEW	05-08-133	357-58-260	NEW-P	05-04-089
357-31-485	NEW	05-08-140	357-55-515	NEW	05-08-133	357-58-265	NEW-P	05-04-089
357-31-490	NEW	05-08-140	357-55-520	NEW	05-08-133	357-58-270	NEW-P	05-04-089
357-31-495	NEW	05-08-140	357-55-610	NEW	05-08-133	357-58-275	NEW-P	05-04-089
357-31-500	NEW	05-08-140	357-55-615	NEW	05-08-133	357-58-280	NEW-P	05-04-089
357-31-505	NEW	05-08-140	357-55-620	NEW	05-08-133	357-58-285	NEW-P	05-04-089
357-31-510	NEW	05-08-140	357-55-625	NEW	05-08-133	357-58-290	NEW-P	05-04-089
357-31-515	NEW	05-08-140	357-55-630	NEW	05-08-133	357-58-295	NEW-P	05-04-089
357-31-520	NEW	05-08-140	357-55-635	NEW	05-08-133	357-58-300	NEW-P	05-04-089
357-31-525	NEW	05-08-140	357-55-640	NEW	05-08-133	357-58-305	NEW-P	05-04-089
357-31-530	NEW	05-08-140	357-55-645	NEW	05-08-133	357-58-310	NEW-P	05-04-089
357-31-535	NEW	05-08-140	357-58-005	NEW-P	05-04-087	357-58-315	NEW-P	05-04-089
357-31-540	NEW	05-08-140	357-58-010	NEW-P	05-04-087	357-58-320	NEW-P	05-04-089
357-31-545	NEW	05-08-140	357-58-015	NEW-P	05-04-087	357-58-325	NEW-P	05-04-089
357-31-550	NEW	05-08-140	357-58-020	NEW-P	05-04-087	357-58-330	NEW-P	05-04-089
357-31-555	NEW	05-08-140	357-58-025	NEW-P	05-04-087	357-58-335	NEW-P	05-04-089
357-31-560	NEW	05-08-140	357-58-030	NEW-P	05-04-087	357-58-340	NEW-P	05-04-089
357-31-565	NEW	05-08-140	357-58-035	NEW-P	05-04-087	357-58-345	NEW-P	05-04-089
357-43-045	NEW-W	05-02-062	357-58-040	NEW-P	05-04-087	357-58-350	NEW-P	05-04-089
357-46-053	NEW-P	05-08-129	357-58-045	NEW-P	05-04-087	357-58-355	NEW-P	05-04-089
357-46-055	NEW	05-08-135	357-58-050	NEW-P	05-04-087	357-58-360	NEW-P	05-04-089
357-46-056	NEW	05-08-135	357-58-055	NEW-P	05-04-087	357-58-365	NEW-P	05-04-089
357-46-057	NEW-P	05-08-127	357-58-060	NEW-P	05-04-087	357-58-370	NEW-P	05-04-089
357-46-058	NEW-P	05-08-127	357-58-065	NEW-P	05-04-087	357-58-375	NEW-P	05-04-089
357-46-060	AMD-P	05-08-131	357-58-070	NEW-P	05-04-087	357-58-380	NEW-P	05-04-089
357-46-063	NEW-P	05-08-128	357-58-075	NEW-P	05-04-087	357-58-385	NEW-P	05-04-089
357-46-064	NEW-P	05-08-128	357-58-080	NEW-P	05-04-087	357-58-390	NEW-P	05-04-089
357-46-065	NEW-P	05-08-128	357-58-085	NEW-P	05-04-087	357-58-395	NEW-P	05-04-089
357-46-066	NEW-P	05-08-128	357-58-090	NEW-P	05-04-087	357-58-400	NEW-P	05-04-089
357-46-067	NEW-P	05-08-128	357-58-095	NEW-P	05-04-087	357-58-405	NEW-P	05-04-091
357-46-068	NEW-P	05-08-128	357-58-100	NEW-P	05-04-087	357-58-410	NEW-P	05-04-091
357-46-095	AMD-P	05-08-131	357-58-105	NEW-P	05-04-087	357-58-415	NEW-P	05-04-091
357-46-110	AMD-P	05-08-131	357-58-110	NEW-P	05-04-087	357-58-420	NEW-P	05-04-091
357-55-010	NEW	05-08-132	357-58-115	NEW-P	05-04-087	357-58-425	NEW-P	05-04-091
357-55-020	NEW	05-08-132	357-58-120	NEW-P	05-04-088	357-58-430	NEW-P	05-04-091
357-55-030	NEW	05-08-132	357-58-125	NEW-P	05-04-088	357-58-435	NEW-P	05-04-091
357-55-040	NEW	05-08-132	357-58-130	NEW-P	05-04-088	357-58-440	NEW-P	05-04-091
357-55-110	NEW	05-08-132	357-58-135	NEW-P	05-04-088	357-58-445	NEW-P	05-04-091
357-55-210	NEW	05-08-132	357-58-140	NEW-P	05-04-088	357-58-450	NEW-P	05-04-091
357-55-215	NEW	05-08-132	357-58-145	NEW-P	05-04-088	357-58-455	NEW-P	05-04-091
357-55-220	NEW	05-08-132	357-58-150	NEW-P	05-04-088	357-58-460	NEW-P	05-04-091
357-55-225	NEW	05-08-132	357-58-155	NEW-P	05-04-088	357-58-465	NEW-P	05-04-091
357-55-230	NEW	05-08-132	357-58-160	NEW-P	05-04-088	357-58-470	NEW-P	05-04-091
357-55-235	NEW	05-08-132	357-58-165	NEW-P	05-04-088	357-58-475	NEW-P	05-04-091
357-55-240	NEW	05-08-132	357-58-170	NEW-P	05-04-088	357-58-480	NEW-P	05-04-091
357-55-245	NEW	05-08-132	357-58-175	NEW-P	05-04-088	357-58-485	NEW-P	05-04-091
357-55-250	NEW	05-08-132	357-58-180	NEW-P	05-04-088	357-58-490	NEW-P	05-04-091
357-55-255	NEW	05-08-132	357-58-185	NEW-P	05-04-088	357-58-495	NEW-P	05-04-091
357-55-260	NEW	05-08-132	357-58-190	NEW-P	05-04-088	357-58-500	NEW-P	05-04-090
357-55-265	NEW	05-08-133	357-58-195	NEW-P	05-04-088	357-58-505	NEW-P	05-04-090
357-55-270	NEW	05-08-133	357-58-200	NEW-P	05-04-088	357-58-510	NEW-P	05-04-090
357-55-275	NEW	05-08-133	357-58-205	NEW-P	05-04-088	357-58-515	NEW-P	05-04-090
357-55-280	NEW	05-08-133	357-58-210	NEW-P	05-04-088	357-58-520	NEW-P	05-04-090
357-55-285	NEW	05-08-133	357-58-215	NEW-P	05-04-088	357-58-525	NEW-P	05-04-090
357-55-310	NEW	05-08-133	357-58-220	NEW-P	05-04-088	357-58-530	NEW-P	05-04-090
357-55-320	NEW	05-08-133	357-58-225	NEW-P	05-04-088	357-58-535	NEW-P	05-04-090
357-55-330	NEW	05-08-133	357-58-230	NEW-P	05-04-088	357-58-540	NEW-P	05-04-090
357-55-410	NEW	05-08-133	357-58-235	NEW-P	05-04-088	357-58-545	NEW-P	05-04-090

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363-116-082	AMD	05-04-028	388- 25-0226	NEW-P	05-03-082	388- 71-0500	AMD-P	05-03-096
363-116-300	AMD-P	05-08-063	388- 25-0226	NEW	05-06-091	388- 71-0515	AMD-P	05-03-096
365-110-035	AMD-W	05-06-057	388- 25-0226	NEW-E	05-06-093	388- 71-0520	AMD-P	05-03-096
371- 08-305	AMD-E	05-05-005	388- 25-0227	NEW-P	05-03-082	388- 71-0540	AMD-P	05-03-096
371- 08-305	AMD-P	05-08-022	388- 25-0227	NEW	05-06-091	388- 71-05832	NEW-P	05-03-096
371- 08-335	AMD-E	05-05-005	388- 25-0227	NEW-E	05-06-093	388- 71-0600	REP-P	05-03-096
371- 08-335	AMD-P	05-08-022	388- 25-0228	NEW-P	05-03-082	388- 71-0605	REP-P	05-03-096
371- 08-345	AMD-E	05-05-005	388- 25-0228	NEW	05-06-091	388- 71-0610	REP-P	05-03-096
371- 08-345	AMD-P	05-08-022	388- 25-0228	NEW-E	05-06-093	388- 71-0613	REP-P	05-03-096
371- 08-445	AMD-P	05-08-022	388- 25-0229	NEW-P	05-03-082	388- 71-0615	REP-P	05-03-096
371- 08-450	AMD-P	05-08-022	388- 25-0229	NEW	05-06-091	388- 71-0620	REP-P	05-03-096
388	PREP	05-08-090	388- 25-0229	NEW-E	05-06-093	388- 71-0700	REP-P	05-03-096
388- 02-0215	PREP	05-06-081	388- 25-0230	REP-P	05-03-082	388- 71-0704	AMD-P	05-03-096
388- 14A	PREP	05-08-087	388- 25-0230	REP	05-06-091	388- 71-0706	AMD-P	05-03-096
388- 14A-2160	PREP	05-08-087	388- 25-0230	REP-E	05-06-093	388- 71-0708	AMD-P	05-03-096
388- 14A-3102	PREP	05-05-078	388- 25-0231	NEW-P	05-03-082	388- 71-0710	AMD-P	05-03-096
388- 14A-3120	PREP	05-05-078	388- 25-0231	NEW	05-06-091	388- 71-0716	AMD-P	05-03-096
388- 14A-3304	AMD-P	05-03-095	388- 25-0231	NEW-E	05-06-093	388- 71-0720	AMD-P	05-03-096
388- 14A-3304	AMD	05-07-059	388- 25-1000	NEW-P	05-06-086	388- 71-0734	AMD	05-02-064
388- 14A-3310	AMD-P	05-03-095	388- 25-1000	NEW-E	05-06-094	388- 71-0800	REP-P	05-03-096
388- 14A-3310	AMD	05-07-059	388- 25-1010	NEW-P	05-06-086	388- 71-0805	REP-P	05-03-096
388- 14A-3317	NEW-P	05-03-095	388- 25-1010	NEW-E	05-06-094	388- 71-0810	REP-P	05-03-096
388- 14A-3317	NEW	05-07-059	388- 25-1020	NEW-P	05-06-086	388- 71-0815	REP-P	05-03-096
388- 14A-3320	AMD-P	05-03-095	388- 25-1020	NEW-E	05-06-094	388- 71-0820	REP-P	05-03-096
388- 14A-3320	AMD	05-07-059	388- 25-1030	NEW-P	05-06-086	388- 71-0825	REP-P	05-03-096
388- 14A-3321	NEW-E	05-03-095	388- 25-1030	NEW-E	05-06-094	388- 71-0830	REP-P	05-03-096
388- 14A-3321	NEW	05-07-059	388- 25-1040	NEW-P	05-06-086	388- 71-0835	REP-P	05-03-096
388- 14A-4119	NEW-E	05-03-094	388- 25-1040	NEW-E	05-06-094	388- 71-0840	REP-P	05-03-096
388- 14A-4119	NEW-P	05-05-082	388- 25-1050	NEW-P	05-06-086	388- 71-0845	REP-P	05-03-096
388- 14A-4119	NEW	05-08-060	388- 25-1050	NEW-E	05-06-094	388- 71-0900	REP-P	05-03-096
388- 14A-4180	NEW-E	05-03-094	388- 71-0194	REP-P	05-03-096	388- 71-0905	REP-P	05-03-096
388- 14A-4180	NEW-P	05-05-082	388- 71-0202	REP-P	05-03-096	388- 71-0910	REP-P	05-03-096
388- 14A-4180	NEW	05-08-060	388- 71-0203	REP-P	05-03-096	388- 71-0915	REP-P	05-03-096
388- 14A-4304	AMD	05-07-087	388- 71-0205	REP-P	05-03-096	388- 71-0920	REP-P	05-03-096
388- 14A-5000	AMD-P	05-02-063	388- 71-0210	REP-P	05-03-096	388- 71-0925	REP-P	05-03-096
388- 14A-5000	AMD	05-06-014	388- 71-0215	REP-P	05-03-096	388- 71-0930	REP-P	05-03-096
388- 14A-5001	AMD-P	05-02-063	388- 71-0220	REP-P	05-03-096	388- 71-0935	REP-P	05-03-096
388- 14A-5001	AMD	05-06-014	388- 71-0225	REP-P	05-03-096	388- 71-0940	REP-P	05-03-096
388- 14A-5005	AMD-P	05-02-063	388- 71-0230	REP-P	05-03-096	388- 71-0945	REP-P	05-03-096
388- 14A-5005	AMD	05-06-014	388- 71-0235	REP-P	05-03-096	388- 71-0950	REP-P	05-03-096
388- 14A-5008	AMD-P	05-02-063	388- 71-0240	REP-P	05-03-096	388- 71-0955	REP-P	05-03-096
388- 14A-5008	AMD	05-06-014	388- 71-0245	REP-P	05-03-096	388- 71-0960	REP-P	05-03-096
388- 14A-5009	NEW-P	05-02-063	388- 71-0250	REP-P	05-03-096	388- 71-0965	REP-P	05-03-096
388- 14A-5009	NEW	05-06-014	388- 71-0255	REP-P	05-03-096	388- 71-1000	REP-P	05-03-096
388- 14A-5010	NEW-P	05-02-063	388- 71-0260	REP-P	05-03-096	388- 71-1005	REP-P	05-03-096
388- 14A-5010	NEW	05-06-014	388- 71-0400	REP-P	05-03-096	388- 71-1010	REP-P	05-03-096
388- 14A-7100	AMD-P	05-03-095	388- 71-0405	REP-P	05-03-096	388- 71-1015	REP-P	05-03-096
388- 14A-7100	AMD	05-07-059	388- 71-0410	REP-P	05-03-096	388- 71-1020	REP-P	05-03-096
388- 14A-7110	NEW-E	05-03-095	388- 71-0415	REP-P	05-03-096	388- 71-1025	REP-P	05-03-096
388- 14A-7110	NEW	05-07-059	388- 71-0420	REP-P	05-03-096	388- 71-1030	REP-P	05-03-096
388- 14A-7115	NEW-E	05-03-095	388- 71-0425	REP-P	05-03-096	388- 71-1035	REP-P	05-03-096
388- 14A-7115	NEW	05-07-059	388- 71-0430	REP-P	05-03-096	388- 71-1065	REP-P	05-03-096
388- 14A-7117	NEW-E	05-03-095	388- 71-0435	REP-P	05-03-096	388- 71-1070	REP-P	05-03-096
388- 14A-7117	NEW	05-07-059	388- 71-0440	REP-P	05-03-096	388- 71-1075	REP-P	05-03-096
388- 14A-7120	NEW-E	05-03-095	388- 71-0442	REP-P	05-03-096	388- 71-1080	REP-P	05-03-096
388- 14A-7120	NEW	05-07-059	388- 71-0445	REP-P	05-03-096	388- 71-1085	REP-P	05-03-096
388- 14A-8100	AMD-E	05-07-034	388- 71-0450	REP-P	05-03-096	388- 71-1090	REP-P	05-03-096
388- 14A-8600	NEW-E	05-03-095	388- 71-0455	REP-P	05-03-096	388- 71-1095	REP-P	05-03-096
388- 14A-8600	NEW	05-07-059	388- 71-0460	REP-P	05-03-096	388- 71-1100	REP-P	05-03-096
388- 25-0225	AMD-P	05-03-082	388- 71-0465	REP-P	05-03-096	388- 71-1105	REP-P	05-03-096
388- 25-0225	AMD	05-06-091	388- 71-0470	REP-P	05-03-096	388- 71-1110	REP-P	05-03-096



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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-106-0200	NEW-P	05-03-096	388-106-1050	NEW-P	05-03-096	388-450-0015	AMD	05-03-078
388-106-0210	NEW-P	05-03-096	388-106-1055	NEW-P	05-03-096	388-450-0020	PREP-W	05-02-068
388-106-0213	NEW-P	05-03-096	388-106-1100	NEW-P	05-03-096	388-450-0195	AMD-P	05-06-085
388-106-0220	NEW-P	05-03-096	388-106-1105	NEW-P	05-03-096	388-450-0200	AMD-E	05-03-079
388-106-0225	NEW-P	05-03-096	388-106-1110	NEW-P	05-03-096	388-450-0200	AMD	05-05-025
388-106-0230	NEW-P	05-03-096	388-106-1115	NEW-P	05-03-096	388-450A-0010	NEW-P	05-07-133
388-106-0235	NEW-P	05-03-096	388-106-1120	NEW-P	05-03-096	388-454	PREP	05-08-091
388-106-0300	NEW-P	05-03-096	388-106-1200	NEW-P	05-03-096	388-455	PREP	05-08-091
388-106-0305	NEW-P	05-03-096	388-106-1205	NEW-P	05-03-096	388-458	PREP	05-08-091
388-106-0310	NEW-P	05-03-096	388-106-1210	NEW-P	05-03-096	388-462-0015	AMD-P	05-03-081
388-106-0315	NEW-P	05-03-096	388-106-1215	NEW-P	05-03-096	388-462-0015	AMD	05-07-032
388-106-0320	NEW-P	05-03-096	388-106-1220	NEW-P	05-03-096	388-464	PREP	05-08-091
388-106-0325	NEW-P	05-03-096	388-106-1225	NEW-P	05-03-096	388-468	PREP	05-08-091
388-106-0330	NEW-P	05-03-096	388-106-1230	NEW-P	05-03-096	388-470	PREP	05-08-091
388-106-0335	NEW-P	05-03-096	388-106-1300	NEW-P	05-03-096	388-474-0012	AMD	05-07-031
388-106-0350	NEW-P	05-03-096	388-106-1305	NEW-P	05-03-096	388-475-0550	AMD-E	05-05-088
388-106-0355	NEW-P	05-03-096	388-106-1310	NEW-P	05-03-096	388-475-0700	AMD-E	05-05-088
388-106-0360	NEW-P	05-03-096	388-145-0100	AMD-P	05-07-134	388-475-0800	AMD-E	05-05-088
388-106-0400	NEW-P	05-03-096	388-145-0230	AMD-P	05-07-134	388-475-0820	AMD-E	05-05-088
388-106-0410	NEW-P	05-03-096	388-273-0035	AMD-E	05-06-024	388-475-0860	AMD-E	05-05-088
388-106-0415	NEW-P	05-03-096	388-273-0035	PREP	05-06-077	388-478	PREP	05-08-091
388-106-0420	NEW-P	05-03-096	388-290-0010	PREP	05-06-078	388-478-0070	AMD-P	05-02-091
388-106-0425	NEW-P	05-03-096	388-290-0025	PREP	05-06-078	388-478-0070	AMD	05-06-090
388-106-0430	NEW-P	05-03-096	388-290-0075	PREP	05-06-078	388-478-0075	PREP	05-07-095
388-106-0435	NEW-P	05-03-096	388-290-0095	PREP	05-06-078	388-478-0075	AMD-E	05-07-098
388-106-0500	NEW-P	05-03-096	388-290-0100	PREP	05-06-078	388-478-0080	AMD-P	05-02-091
388-106-0510	NEW-P	05-03-096	388-290-0105	PREP	05-06-078	388-478-0080	AMD	05-06-090
388-106-0515	NEW-P	05-03-096	388-290-0110	PREP	05-06-078	388-478-0085	PREP	05-07-095
388-106-0520	NEW-P	05-03-096	388-290-0120	PREP	05-06-078	388-478-0085	AMD-E	05-07-098
388-106-0525	NEW-P	05-03-096	388-290-0200	AMD-E	05-05-024	388-482	PREP	05-08-091
388-106-0530	NEW-P	05-03-096	388-290-0205	AMD-E	05-05-024	388-492	PREP	05-08-091
388-106-0535	NEW-P	05-03-096	388-295	PREP	05-08-059	388-492-0040	AMD-P	05-05-087
388-106-0600	NEW-P	05-03-096	388-296	PREP	05-07-131	388-492-0040	AMD	05-08-009
388-106-0610	NEW-P	05-03-096	388-296	PREP-W	05-08-058	388-492-0070	AMD-P	05-05-086
388-106-0615	NEW-P	05-03-096	388-310-0600	PREP	05-07-074	388-492-0070	AMD	05-08-008
388-106-0620	NEW-P	05-03-096	388-310-1400	AMD-P	05-08-121	388-501-0135	PREP	05-06-079
388-106-0625	NEW-P	05-03-096	388-400	PREP	05-08-091	388-501-0165	PREP	05-08-088
388-106-0630	NEW-P	05-03-096	388-406	PREP	05-08-091	388-501-0200	PREP-W	05-02-068
388-106-0650	NEW-P	05-03-096	388-408	PREP	05-08-091	388-503-0510	AMD	05-07-097
388-106-0655	NEW-P	05-03-096	388-410	PREP	05-08-091	388-513-1325	PREP-W	05-02-068
388-106-0700	NEW-P	05-03-096	388-410-0001	AMD-P	05-05-081	388-513-1340	PREP-W	05-02-068
388-106-0705	NEW-P	05-03-096	388-410-0001	AMD	05-08-124	388-513-1350	AMD-P	05-03-109
388-106-0710	NEW-P	05-03-096	388-412	PREP	05-08-091	388-513-1350	AMD	05-07-033
388-106-0715	NEW-P	05-03-096	388-412-0025	PREP	05-07-130	388-513-1380	AMD-P	05-03-109
388-106-0800	NEW-P	05-03-096	388-414	PREP	05-08-091	388-513-1380	AMD	05-07-033
388-106-0805	NEW-P	05-03-096	388-416-0005	AMD-P	05-05-081	388-515-1505	AMD	05-03-077
388-106-0810	NEW-P	05-03-096	388-416-0005	AMD	05-08-124	388-515-1505	PREP	05-06-084
388-106-0815	NEW-P	05-03-096	388-416-0015	PREP	05-05-079	388-515-1540	AMD-P	05-03-096
388-106-0900	NEW-P	05-03-096	388-418	PREP	05-08-091	388-515-1550	AMD-P	05-03-096
388-106-0905	NEW-P	05-03-096	388-418-0005	AMD-P	05-06-089	388-519-0110	AMD-P	05-05-083
388-106-0950	NEW-P	05-03-096	388-418-0007	AMD-P	05-08-120	388-519-0110	AMD-E	05-07-057
388-106-0955	NEW-P	05-03-096	388-418-0011	PREP	05-05-079	388-519-0110	AMD	05-08-093
388-106-1000	NEW-P	05-03-096	388-418-0011	AMD-P	05-06-088	388-530-1280	AMD-X	05-06-095
388-106-1005	NEW-P	05-03-096	388-418-0020	AMD-P	05-06-088	388-531-0150	AMD-E	05-07-058
388-106-1010	NEW-P	05-03-096	388-422	PREP	05-08-091	388-531-0150	AMD-P	05-07-135
388-106-1015	NEW-P	05-03-096	388-424	PREP	05-08-091	388-531-0200	AMD-E	05-07-058
388-106-1020	NEW-P	05-03-096	388-432	PREP	05-08-091	388-531-0200	AMD-P	05-07-135
388-106-1025	NEW-P	05-03-096	388-434	PREP	05-08-091	388-531-0250	AMD-E	05-07-058
388-106-1030	NEW-P	05-03-096	388-436	PREP	05-08-091	388-531-0250	AMD-P	05-07-135
388-106-1035	NEW-P	05-03-096	388-446	PREP	05-08-091	388-531-0650	AMD-E	05-07-058
388-106-1040	NEW-P	05-03-096	388-448	PREP	05-08-091	388-531-0650	AMD-P	05-07-135
388-106-1045	NEW-P	05-03-096	388-450	PREP	05-08-091	388-531-1600	AMD-E	05-07-058

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-531-1600	AMD-P	05-07-135	388-820-090	DECOD	05-05-077	388-820-690	DECOD	05-05-077
388-533-0710	AMD-P	05-05-085	388-820-100	DECOD	05-05-077	388-820-700	DECOD	05-05-077
388-533-0710	AMD	05-08-061	388-820-110	DECOD	05-05-077	388-820-710	DECOD	05-05-077
388-533-0720	AMD-P	05-05-085	388-820-120	DECOD	05-05-077	388-820-720	DECOD	05-05-077
388-533-0720	AMD	05-08-061	388-820-130	DECOD	05-05-077	388-820-730	DECOD	05-07-138
388-533-0730	AMD-P	05-05-085	388-820-140	DECOD	05-05-077	388-820-740	DECOD	05-05-077
388-533-0730	AMD	05-08-061	388-820-150	DECOD	05-05-077	388-820-750	DECOD	05-05-077
388-535-1070	AMD-P	05-03-080	388-820-160	DECOD	05-05-077	388-820-760	DECOD	05-07-138
388-535-1070	AMD	05-06-092	388-820-170	DECOD	05-05-077	388-820-770	DECOD	05-07-138
388-538	PREP	05-04-082	388-820-180	DECOD	05-05-077	388-820-780	DECOD	05-07-138
388-538-112	AMD-E	05-05-038	388-820-190	DECOD	05-05-077	388-820-790	DECOD	05-07-138
388-544-0010	NEW-P	05-08-092	388-820-200	DECOD	05-05-077	388-820-800	DECOD	05-07-138
388-544-0050	AMD-P	05-08-092	388-820-210	DECOD	05-05-077	388-820-810	DECOD	05-07-138
388-544-0100	AMD-P	05-08-092	388-820-220	DECOD	05-05-077	388-820-820	DECOD	05-07-138
388-544-0150	AMD-P	05-08-092	388-820-230	DECOD	05-05-077	388-820-830	DECOD	05-07-138
388-544-0200	REP-P	05-08-092	388-820-240	DECOD	05-05-077	388-820-840	DECOD	05-07-138
388-544-0250	AMD-P	05-08-092	388-820-250	DECOD	05-05-077	388-820-850	DECOD	05-07-138
388-544-0300	AMD-P	05-08-092	388-820-260	DECOD	05-05-077	388-820-860	DECOD	05-07-138
388-544-0350	AMD-P	05-08-092	388-820-270	DECOD	05-05-077	388-820-870	DECOD	05-07-138
388-544-0400	AMD-P	05-08-092	388-820-280	DECOD	05-05-077	388-820-880	DECOD	05-05-077
388-544-0450	AMD-P	05-08-092	388-820-290	DECOD	05-05-077	388-820-890	DECOD	05-05-077
388-544-0475	NEW-P	05-08-092	388-820-300	DECOD	05-05-077	388-820-900	DECOD	05-05-077
388-544-0500	AMD-P	05-08-092	388-820-310	DECOD	05-05-077	388-820-910	DECOD	05-05-077
388-544-0550	AMD-P	05-08-092	388-820-320	DECOD	05-05-077	388-820-920	DECOD	05-05-077
388-544-0600	AMD-P	05-08-092	388-820-330	DECOD	05-05-077	388-820-930	DECOD	05-05-077
388-546	PREP-W	05-02-068	388-820-340	DECOD	05-05-077	388-823-0010	NEW-P	05-04-057
388-550	PREP-W	05-08-086	388-820-350	DECOD	05-05-077	388-823-0020	NEW-P	05-04-057
388-550	PREP	05-08-089	388-820-360	DECOD	05-05-077	388-823-0030	NEW-P	05-04-057
388-550-2301	NEW-E	05-07-058	388-820-370	DECOD	05-05-077	388-823-0040	NEW-P	05-04-057
388-550-2301	NEW-P	05-07-135	388-820-380	DECOD	05-05-077	388-823-0050	NEW-P	05-04-057
388-550-2600	PREP	05-08-089	388-820-390	DECOD	05-05-077	388-823-0060	NEW-P	05-04-057
388-550-2800	AMD-E	05-07-058	388-820-400	DECOD	05-05-077	388-823-0070	NEW-P	05-04-057
388-550-2800	AMD-P	05-07-135	388-820-405	DECOD	05-05-077	388-823-0080	NEW-P	05-04-057
388-550-3000	AMD-P	05-07-096	388-820-410	DECOD	05-05-077	388-823-0090	NEW-P	05-04-057
388-550-3300	PREP	05-06-080	388-820-420	DECOD	05-05-077	388-823-0100	NEW-P	05-04-057
388-550-3800	AMD	05-06-044	388-820-430	DECOD	05-05-077	388-823-0105	NEW-P	05-04-057
388-550-4300	PREP	05-06-080	388-820-440	DECOD	05-05-077	388-823-0110	NEW-P	05-04-057
388-550-4400	AMD-E	05-07-058	388-820-450	DECOD	05-05-077	388-823-0120	NEW-P	05-04-057
388-550-4400	AMD-P	05-07-135	388-820-460	DECOD	05-05-077	388-823-0130	NEW-P	05-04-057
388-550-4600	PREP	05-06-080	388-820-470	DECOD	05-05-077	388-823-0140	NEW-P	05-04-057
388-550-4800	PREP	05-06-080	388-820-480	DECOD	05-05-077	388-823-0150	NEW-P	05-04-057
388-554-100	NEW	05-04-059	388-820-490	DECOD	05-05-077	388-823-0160	NEW-P	05-04-057
388-554-200	NEW	05-04-059	388-820-500	DECOD	05-05-077	388-823-0170	NEW-P	05-04-057
388-554-300	NEW	05-04-059	388-820-510	DECOD	05-05-077	388-823-0200	NEW-P	05-04-057
388-554-400	NEW	05-04-059	388-820-520	DECOD	05-05-077	388-823-0210	NEW-P	05-04-057
388-554-500	NEW	05-04-059	388-820-530	DECOD	05-05-077	388-823-0215	NEW-P	05-04-057
388-554-600	NEW	05-04-059	388-820-540	DECOD	05-05-077	388-823-0220	NEW-P	05-04-057
388-554-700	NEW	05-04-059	388-820-550	DECOD	05-05-077	388-823-0230	NEW-P	05-04-057
388-554-800	NEW	05-04-059	388-820-555	DECOD	05-05-077	388-823-0300	NEW-P	05-04-057
388-555	PREP-W	05-03-083	388-820-560	DECOD	05-05-077	388-823-0310	NEW-P	05-04-057
388-800	PREP	05-02-065	388-820-570	DECOD	05-05-077	388-823-0320	NEW-P	05-04-057
388-820-010	DECOD	05-05-077	388-820-580	DECOD	05-05-077	388-823-0330	NEW-P	05-04-057
388-820-020	DECOD	05-05-077	388-820-590	DECOD	05-05-077	388-823-0400	NEW-P	05-04-057
388-820-030	DECOD	05-05-077	388-820-600	DECOD	05-05-077	388-823-0410	NEW-P	05-04-057
388-820-040	DECOD	05-05-077	388-820-610	DECOD	05-05-077	388-823-0420	NEW-P	05-04-057
388-820-050	DECOD	05-05-077	388-820-620	DECOD	05-05-077	388-823-0500	NEW-P	05-04-057
388-820-056	DECOD	05-07-138	388-820-630	DECOD	05-05-077	388-823-0510	NEW-P	05-04-057
388-820-060	DECOD	05-05-077	388-820-640	DECOD	05-05-077	388-823-0515	NEW-P	05-04-057
388-820-070	DECOD	05-05-077	388-820-650	DECOD	05-05-077	388-823-0600	NEW-P	05-04-057
388-820-076	DECOD	05-05-077	388-820-660	DECOD	05-05-077	388-823-0610	NEW-P	05-04-057
388-820-080	DECOD	05-05-077	388-820-670	DECOD	05-05-077	388-823-0615	NEW-P	05-04-057
388-820-086	DECOD	05-05-077	388-820-680	DECOD	05-05-077	388-823-0700	NEW-P	05-04-057



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388-845-1900	NEW-E	05-04-020	390- 37-165	AMD	05-04-038	415-112-270	AMD-P	05-08-031
388-845-1905	NEW-E	05-04-020	390- 37-170	AMD	05-04-038	415-112-290	AMD-P	05-08-031
388-845-1910	NEW-E	05-04-020	390-37-175	AMD	05-04-038	415-112-300	AMD-P	05-08-031
388-845-2000	NEW-E	05-04-020	392-121	PREP	05-06-065	415-112-310	REP-P	05-08-031
388-845-2005	NEW-E	05-04-020	392-123-175	PREP	05-08-028	415-112-320	REP-P	05-08-031
388-845-2010	NEW-E	05-04-020	392-125	PREP	05-07-002	415-112-401	NEW-P	05-08-031
388-845-2100	NEW-E	05-04-020	392-126	PREP	05-06-027	415-112-402	NEW-P	05-08-031
388-845-2105	NEW-E	05-04-020	392-139	PREP	05-04-044	415-112-412	AMD-P	05-08-031
388-845-2110	NEW-E	05-04-020	392-140-900	PREP	05-08-029	415-112-444	REP-P	05-08-031
388-845-2200	NEW-E	05-04-020	392-140-901	PREP	05-08-029	415-112-445	REP-P	05-08-031
388-845-2205	NEW-E	05-04-020	392-140-902	PREP	05-08-029	415-112-450	REP-P	05-08-031
388-845-2210	NEW-E	05-04-020	392-140-903	PREP	05-08-029	415-112-460	REP-P	05-08-031
388-845-3000	NEW-E	05-04-020	392-140-904	PREP	05-08-029	415-112-470	REP-P	05-08-031
388-845-3005	NEW-E	05-04-020	392-140-905	PREP	05-08-029	415-112-541	AMD	05-03-006
388-845-3010	NEW-E	05-04-020	392-140-906	PREP	05-08-029	415-112-544	NEW-P	05-08-033
388-845-3015	NEW-E	05-04-020	392-140-907	PREP	05-08-029	415-112-705	AMD-P	05-08-030
388-845-3020	NEW-E	05-04-020	392-140-908	PREP	05-08-029	415-112-840	REP-P	05-08-033
388-845-3025	NEW-E	05-04-020	392-140-910	PREP	05-08-029	415-501-110	PREP	05-07-030
388-845-3030	NEW-E	05-04-020	392-140-911	PREP	05-08-029	434- 04-017	AMD-E	05-06-001
388-845-3035	NEW-E	05-04-020	392-140-912	PREP	05-08-029	434-230-175	NEW-E	05-05-033
388-845-3040	NEW-E	05-04-020	392-140-913	PREP	05-08-029	434-230-177	NEW-E	05-05-033
388-845-3045	NEW-E	05-04-020	392-168-110	AMD-P	05-06-066	434-253-043	AMD	05-06-035
388-845-3050	NEW-E	05-04-020	392-168-115	AMD-P	05-06-066	434-253-043	AMD	05-08-065
388-845-3055	NEW-E	05-04-020	392-168-120	REP-P	05-06-066	434-253-045	AMD	05-06-035
388-845-3060	NEW-E	05-04-020	392-168-125	AMD-P	05-06-066	434-253-045	AMD	05-08-065
388-845-3065	NEW-E	05-04-020	392-168-132	AMD-P	05-06-066	434-253-047	AMD	05-06-035
388-845-3070	NEW-E	05-04-020	392-168-135	AMD-P	05-06-066	434-253-047	AMD	05-08-065
388-845-3075	NEW-E	05-04-020	392-168-140	AMD-P	05-06-066	434-253-048	NEW	05-06-035
388-845-3080	NEW-E	05-04-020	392-168-145	AMD-P	05-06-066	434-253-048	NEW	05-08-065
388-845-3085	NEW-E	05-04-020	392-168-155	AMD-P	05-06-066	434-253-049	AMD	05-06-035
388-845-3090	NEW-E	05-04-020	392-168-160	REP-P	05-06-066	434-253-049	AMD	05-08-065
388-845-3095	NEW-E	05-04-020	392-168-165	REP-P	05-06-066	434-253-085	NEW-E	05-05-033
388-845-4000	NEW-E	05-04-020	392-168-167	REP-P	05-06-066	434-253-160	AMD	05-06-035
388-845-4005	NEW-E	05-04-020	392-168-170	REP-P	05-06-066	434-253-160	AMD	05-08-065
388-845-4010	NEW-E	05-04-020	392-168-180	AMD-P	05-06-066	434-253-165	NEW	05-06-035
388-845-4015	NEW-E	05-04-020	415- 02-140	AMD-P	05-08-034	434-253-165	NEW	05-08-065
388-850-035	AMD-P	05-05-084	415-103-275	NEW-P	05-08-030	434-253-203	NEW	05-06-035
388-850-045	AMD-P	05-05-084	415-104-111	AMD-P	05-08-033	434-253-203	NEW	05-08-065
388-865-0107	NEW-P	05-08-123	415-104-450	AMD-P	05-08-030	434-260-300	AMD	05-06-036
388-865-0150	AMD-P	05-08-123	415-108	PREP	05-06-040	434-261-045	NEW-E	05-05-033
388-865-0230	AMD-P	05-08-123	415-108-315	AMD-P	05-08-030	434-261-110	NEW	05-06-035
388-865-0335	AMD-P	05-08-122	415-108-436	NEW-P	05-08-032	434-261-110	NEW	05-08-065
388-865-0340	REP-P	05-08-122	415-108-728	AMD	05-03-001	434-262-203	NEW	05-06-035
388-865-0400	AMD-P	05-08-123	415-108-830	AMD-P	05-08-033	434-262-203	NEW	05-08-065
388-865-0453	NEW-P	05-08-123	415-110	PREP	05-06-041	434-262-204	NEW	05-06-035
390	PREP	05-04-037	415-110-315	AMD-P	05-08-030	434-262-204	NEW	05-08-065
390- 16-011	AMD	05-06-070	415-110-830	AMD-P	05-08-033	434-324-115	AMD-E	05-08-098
390- 16-012	AMD	05-06-070	415-111-310	PREP	05-04-011	434-333-010	AMD-E	05-05-033
390- 16-105	AMD-P	05-06-068	415-112-015	AMD-P	05-08-031	434-333-010	REP-P	05-05-034
390- 16-125	AMD-P	05-06-068	415-112-020	REP-P	05-08-031	434-333-013	NEW-E	05-05-033
390- 16-310	AMD	05-06-070	415-112-100	REP-P	05-08-031	434-333-015	AMD-E	05-05-033
390- 16-311	REP	05-06-070	415-112-119	AMD-P	05-08-031	434-333-015	REP-P	05-05-034
390- 17-310	AMD	05-04-039	415-112-120	AMD-P	05-08-031	434-333-020	AMD-E	05-05-033
390- 19-030	AMD-P	05-06-068	415-112-122	NEW-P	05-08-031	434-333-020	REP-P	05-05-034
390- 20-0101	AMD	05-06-070	415-112-125	AMD-P	05-08-031	434-333-025	AMD-E	05-05-033
390- 20-110	AMD	05-06-070	415-112-130	AMD-P	05-08-031	434-333-025	REP-P	05-05-034
390- 20-130	AMD-P	05-06-069	415-112-135	REP-P	05-08-031	434-333-030	REP-P	05-05-034
390- 24-010	AMD	05-06-070	415-112-145	AMD-P	05-08-031	434-333-035	AMD-E	05-05-033
390- 24-020	AMD	05-06-070	415-112-155	AMD	05-03-001	434-333-035	REP-P	05-05-034
390- 37-060	AMD-P	05-06-068	415-112-240	AMD-P	05-08-031	434-333-040	REP-P	05-05-034
390- 37-090	AMD-P	05-06-068	415-112-250	AMD-P	05-08-031	434-333-045	AMD-E	05-05-033

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434-333-050	AMD-E	05-05-033	434-333-220	NEW-E	05-05-033	434-335-460	NEW-P	05-05-034
434-333-050	REP-P	05-05-034	434-333-225	NEW-E	05-05-033	434-335-470	NEW-P	05-05-034
434-333-055	AMD-E	05-05-033	434-333-230	NEW-E	05-05-033	434-335-480	NEW-P	05-05-034
434-333-055	REP-P	05-05-034	434-333-235	NEW-E	05-05-033	434-335-490	NEW-P	05-05-034
434-333-060	AMD-E	05-05-033	434-333-240	NEW-E	05-05-033	434-335-500	NEW-P	05-05-034
434-333-060	REP-P	05-05-034	434-333-245	NEW-E	05-05-033	434-335-510	NEW-P	05-05-034
434-333-063	REP-P	05-05-034	434-333-250	NEW-E	05-05-033	434-335-520	NEW-P	05-05-034
434-333-065	AMD-E	05-05-033	434-333-255	NEW-E	05-05-033	434-335-530	NEW-P	05-05-034
434-333-065	REP-P	05-05-034	434-333-260	NEW-E	05-05-033	434-335-540	NEW-P	05-05-034
434-333-070	AMD-E	05-05-033	434-333-265	NEW-E	05-05-033	434-335-550	NEW-P	05-05-034
434-333-070	REP-P	05-05-034	434-333-270	NEW-E	05-05-033	434-335-560	NEW-P	05-05-034
434-333-075	AMD-E	05-05-033	434-333-275	NEW-E	05-05-033	434-335-570	NEW-P	05-05-034
434-333-075	REP-P	05-05-034	434-333-280	NEW-E	05-05-033	434-335-580	NEW-P	05-05-034
434-333-080	NEW-E	05-05-033	434-333-285	NEW-E	05-05-033	434-335-590	NEW-P	05-05-034
434-333-082	REP-P	05-05-034	434-333-290	NEW-E	05-05-033	434-335-600	NEW-P	05-05-034
434-333-085	AMD-E	05-05-033	434-333-295	NEW-E	05-05-033	434-335-610	NEW-P	05-05-034
434-333-085	REP-P	05-05-034	434-333-300	NEW-E	05-05-033	434-335-620	NEW-P	05-05-034
434-333-090	AMD-E	05-05-033	434-335-010	NEW-P	05-05-034	434-335-630	NEW-P	05-05-034
434-333-090	REP-P	05-05-034	434-335-020	NEW-P	05-05-034	434-335-640	NEW-P	05-05-034
434-333-095	AMD-E	05-05-033	434-335-030	NEW-P	05-05-034	446- 20-600	AMD	05-03-034
434-333-095	REP-P	05-05-034	434-335-040	NEW-P	05-05-034	446- 20-610	AMD-P	05-03-036
434-333-100	AMD-E	05-05-033	434-335-050	NEW-P	05-05-034	446- 20-610	AMD	05-07-141
434-333-100	REP-P	05-05-034	434-335-060	NEW-P	05-05-034	446- 20-630	AMD-P	05-03-035
434-333-105	AMD-E	05-05-033	434-335-070	NEW-P	05-05-034	446- 20-630	AMD	05-07-157
434-333-105	REP-P	05-05-034	434-335-080	NEW-P	05-05-034	446- 65-010	AMD	05-04-002
434-333-107	NEW-E	05-05-033	434-335-090	NEW-P	05-05-034	458- 12-342	PREP	05-06-017
434-333-110	AMD-E	05-05-033	434-335-100	NEW-P	05-05-034	458- 16-1000	NEW-E	05-04-047
434-333-110	REP-P	05-05-034	434-335-110	NEW-P	05-05-034	458- 16-1000	NEW-P	05-05-063
434-333-115	NEW-E	05-05-033	434-335-120	NEW-P	05-05-034	458- 20-100	PREP	05-07-156
434-333-120	AMD-E	05-05-033	434-335-130	NEW-P	05-05-034	458- 20-141	AMD	05-03-053
434-333-120	REP-P	05-05-034	434-335-140	NEW-P	05-05-034	458- 20-144	AMD	05-03-052
434-333-125	AMD-E	05-05-033	434-335-150	NEW-P	05-05-034	458- 20-168	AMD-P	05-06-019
434-333-125	REP-P	05-05-034	434-335-160	NEW-P	05-05-034	458- 20-177	AMD-P	05-06-018
434-333-127	REP-P	05-05-034	434-335-170	NEW-P	05-05-034	458- 20-17803	NEW	05-03-051
434-333-130	AMD-E	05-05-033	434-335-180	NEW-P	05-05-034	458- 20-190	AMD	05-03-002
434-333-130	REP-P	05-05-034	434-335-190	NEW-P	05-05-034	458- 20-191	REP	05-03-002
434-333-135	AMD-E	05-05-033	434-335-200	NEW-P	05-05-034	458- 20-194	PREP	05-06-124
434-333-135	REP-P	05-05-034	434-335-210	NEW-P	05-05-034	458- 20-196	AMD	05-04-048
434-333-140	AMD-E	05-05-033	434-335-220	NEW-P	05-05-034	458- 20-198	AMD	05-04-048
434-333-140	REP-P	05-05-034	434-335-230	NEW-P	05-05-034	458- 20-24001	PREP	05-05-061
434-333-145	AMD-E	05-05-033	434-335-240	NEW-P	05-05-034	458- 20-24001A	PREP	05-05-061
434-333-145	REP-P	05-05-034	434-335-250	NEW-P	05-05-034	458- 20-24003	PREP	05-05-062
434-333-150	AMD-E	05-05-033	434-335-260	NEW-P	05-05-034	458- 20-261	PREP	05-08-118
434-333-150	REP-P	05-05-034	434-335-270	NEW-P	05-05-034	458- 20-267	NEW-E	05-03-016
434-333-155	AMD-E	05-05-033	434-335-280	NEW-P	05-05-034	458- 20-268	NEW-E	05-03-017
434-333-155	REP-P	05-05-034	434-335-290	NEW-P	05-05-034	458- 20-99999	REP	05-03-002
434-333-160	AMD-E	05-05-033	434-335-300	NEW-P	05-05-034	458- 40-610	AMD	05-08-070
434-333-160	REP-P	05-05-034	434-335-310	NEW-P	05-05-034	458- 40-660	PREP	05-06-059
434-333-165	AMD-E	05-05-033	434-335-320	NEW-P	05-05-034	458- 40-680	AMD	05-08-070
434-333-165	REP-P	05-05-034	434-335-330	NEW-P	05-05-034	460- 24A-105	PREP	05-03-104
434-333-170	AMD-E	05-05-033	434-335-340	NEW-P	05-05-034	463- 60-382	RECOD-W	05-03-087
434-333-170	REP-P	05-05-034	434-335-350	NEW-P	05-05-034	463- 60-385	RECOD-W	05-03-087
434-333-175	AMD-E	05-05-033	434-335-360	NEW-P	05-05-034	463- 60-435	RECOD-W	05-03-087
434-333-175	REP-P	05-05-034	434-335-370	NEW-P	05-05-034	463- 60-525	RECOD-W	05-03-087
434-333-180	NEW-E	05-05-033	434-335-380	NEW-P	05-05-034	463- 60-625	RECOD-W	05-03-087
434-333-185	NEW-E	05-05-033	434-335-390	NEW-P	05-05-034	463- 60-645	RECOD-W	05-03-087
434-333-190	NEW-E	05-05-033	434-335-400	NEW-P	05-05-034	463- 60-655	RECOD-W	05-03-087
434-333-195	NEW-E	05-05-033	434-335-410	NEW-P	05-05-034	463- 60-665	RECOD-W	05-03-087
434-333-200	NEW-E	05-05-033	434-335-420	NEW-P	05-05-034	463- 60-675	RECOD-W	05-03-087
434-333-205	NEW-E	05-05-033	434-335-430	NEW-P	05-05-034	463- 60-680	RECOD-W	05-03-087
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463- 66-010	RECOD-W	05-03-087	478-116-145	AMD	05-08-064	480- 73-190	NEW	05-06-051
463- 70-080	RECOD-W	05-03-087	478-116-161	AMD	05-08-064	480- 73-210	NEW	05-06-051
463- 76-020	RECOD-W	05-03-087	478-116-311	AMD	05-08-064	480- 73-999	NEW	05-06-051
463- 76-030	RECOD-W	05-03-087	478-116-431	AMD	05-08-064	480- 80-123	AMD	05-03-031
463- 76-040	RECOD-W	05-03-087	478-118-010	AMD-P	05-03-071	480- 80-204	AMD	05-03-031
463- 76-050	RECOD-W	05-03-087	478-118-010	AMD	05-08-017	480- 80-206	AMD	05-03-031
463- 76-060	RECOD-W	05-03-087	478-118-020	AMD-P	05-03-071	480- 90-008	AMD	05-06-051
468- 38	AMD	05-04-053	478-118-020	AMD	05-08-017	480- 90-023	AMD	05-06-051
468- 38-001	NEW	05-04-053	478-118-045	NEW-P	05-03-071	480- 90-207	NEW	05-06-051
468- 38-005	NEW	05-04-053	478-118-045	NEW	05-08-017	480- 90-208	REP	05-06-051
468- 38-010	REP	05-04-053	478-118-050	AMD-P	05-03-071	480- 90-209	NEW	05-06-051
468- 38-020	REP	05-04-053	478-118-050	AMD	05-08-017	480- 90-218	REP	05-06-051
468- 38-030	AMD	05-04-053	478-118-055	NEW-P	05-03-071	480- 90-244	NEW	05-06-051
468- 38-040	REP	05-04-053	478-118-055	NEW	05-08-017	480- 90-245	NEW	05-06-051
468- 38-050	AMD	05-04-053	478-118-060	AMD-P	05-03-071	480- 90-248	NEW	05-06-051
468- 38-060	REP	05-04-053	478-118-060	AMD	05-08-017	480- 90-252	NEW	05-06-051
468- 38-070	AMD	05-04-053	478-118-080	AMD-P	05-03-071	480- 90-257	NEW	05-06-051
468- 38-071	AMD	05-04-053	478-118-080	AMD	05-08-017	480- 90-264	NEW	05-06-051
468- 38-073	NEW-P	05-07-085	478-118-100	AMD-P	05-03-071	480- 90-268	NEW	05-06-051
468- 38-075	AMD	05-04-053	478-118-100	AMD	05-08-017	480- 90-275	NEW	05-06-051
468- 38-080	AMD	05-04-053	478-118-200	AMD-P	05-03-071	480- 90-999	AMD	05-06-051
468- 38-095	NEW	05-04-053	478-118-200	AMD	05-08-017	480- 92-016	AMD	05-06-051
468- 38-100	AMD	05-04-053	478-118-210	AMD-P	05-03-071	480- 92-021	AMD	05-06-051
468- 38-110	REP	05-04-053	478-118-210	AMD	05-08-017	480- 92-050	AMD	05-06-051
468- 38-120	AMD	05-04-053	478-118-270	AMD-P	05-03-071	480- 92-055	NEW	05-06-051
468- 38-130	REP	05-04-053	478-118-270	AMD	05-08-017	480- 93	AMD-C	05-06-064
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468- 38-140	REP	05-04-053	478-118-290	NEW	05-08-017	480- 93-005	AMD-S	05-02-096
468- 38-155	NEW	05-04-053	478-118-300	NEW-P	05-03-071	480- 93-007	NEW-S	05-02-096
468- 38-160	REP	05-04-053	478-118-300	NEW	05-08-017	480- 93-008	NEW-S	05-02-096
468- 38-175	NEW	05-04-053	478-118-400	AMD-P	05-03-071	480- 93-009	NEW-S	05-02-096
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468- 38-190	REP	05-04-053	478-118-410	AMD-P	05-03-071	480- 93-012	NEW-S	05-02-096
468- 38-200	REP	05-04-053	478-118-410	AMD	05-08-017	480- 93-015	AMD-S	05-02-096
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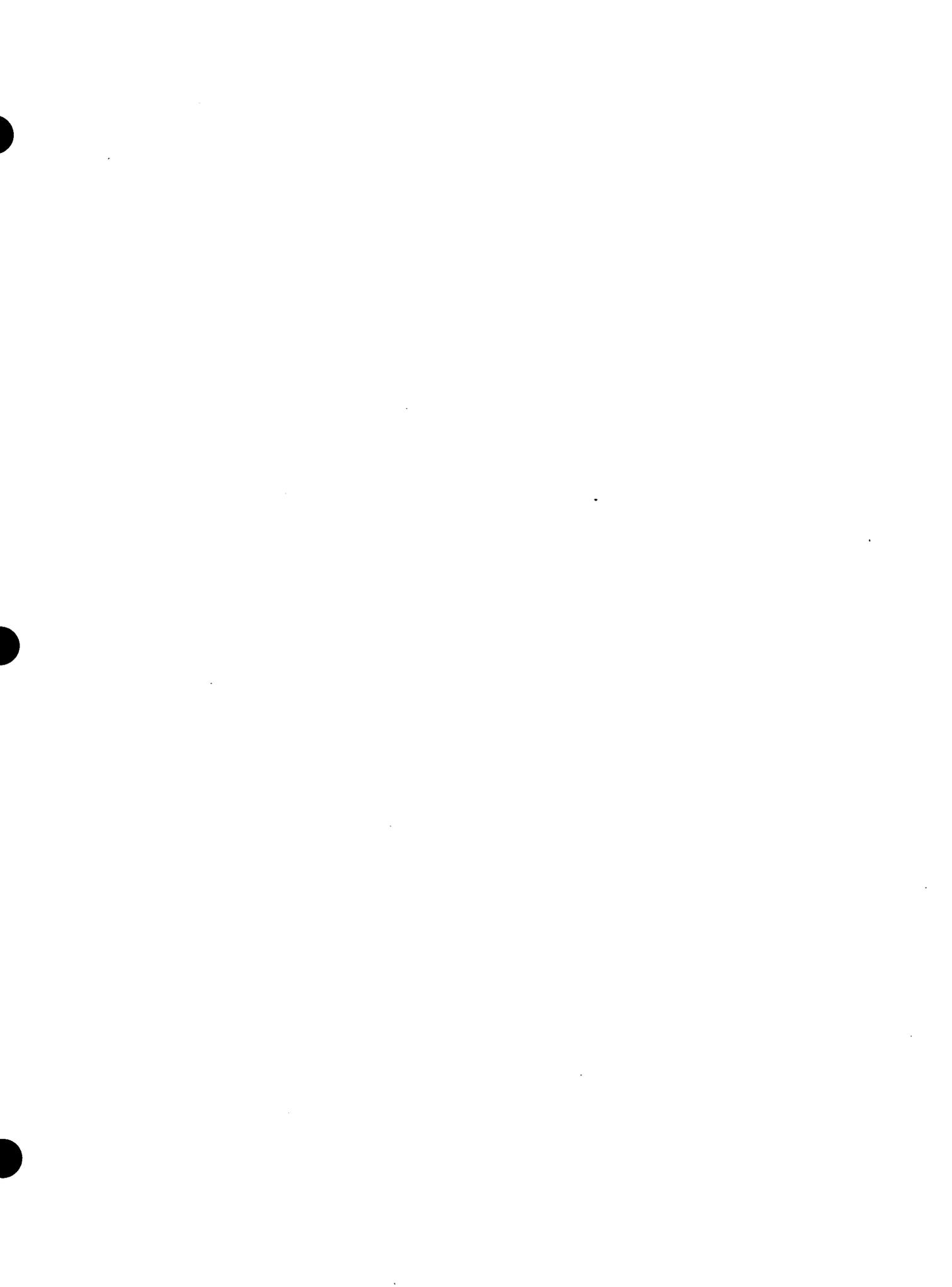
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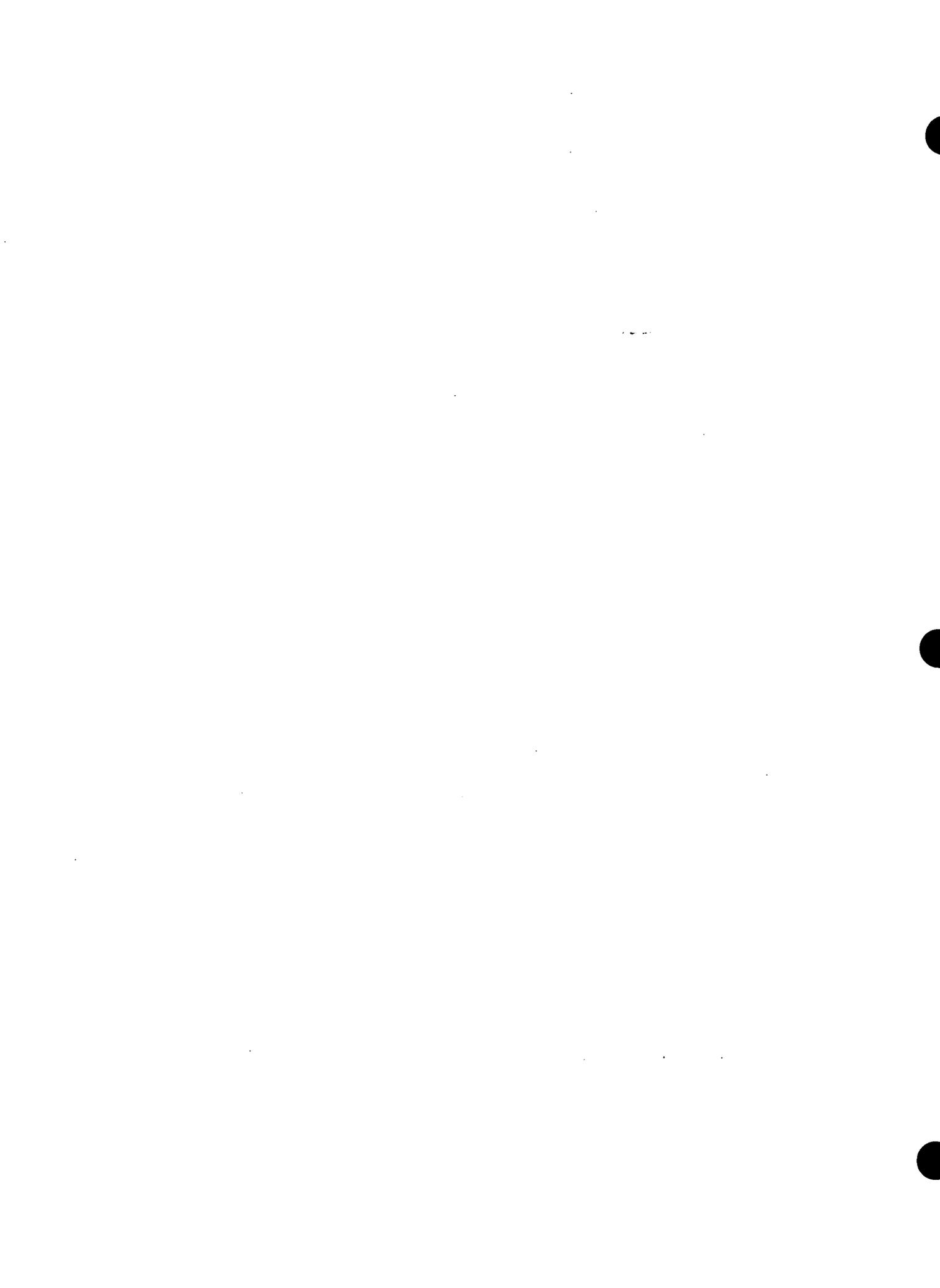














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