

**WSR 14-11-090****PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Behavioral Health and Service Integration Administration)

[Filed May 21, 2014, 7:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-16-103.

Title of Rule and Other Identifying Information: Amending WAC 388-865-0511 Evaluation and treatment facility certification, 388-877-0300 Agency licensure—General information, 388-877-0305 Agency licensure—Application, 388-877-0335 Agency licensure and program-specific certification—Denials, suspensions, revocations, and penalties, 388-877-0365 Agency licensure and program-specific certification—Fee requirements, 388-877-0420 Agency administration—Policies and procedures, 388-877-0620 Clinical—Individual service plan, 388-877-0640 Clinical—Record content, 388-877-0650 Clinical—Access to clinical records, 388-877A-0180 Optional outpatient mental health services requiring program-specific certification—Psychiatric medication services, 388-877A-0195 Optional outpatient mental health services requiring program-specific certification—Less restrictive alternative (LRA) support services, 388-877A-0240 Crisis mental health services—Outreach services, 388-877A-0280 Crisis mental health services—Emergency involuntary detention services, 388-877A-0300 Recovery support services requiring program-specific certification—General, 388-877B-0110 Chemical dependency detoxification services—Agency staff requirements, 388-877B-0200 Chemical dependency residential treatment services—General, 388-877B-0220 Chemical dependency residential treatment services—Clinical record content and documentation requirements, 388-877B-0310 Chemical dependency outpatient treatment services—Agency staff requirements, 388-877B-0370 Chemical dependency outpatient treatment services requiring program-specific certification—Chemical dependency counseling required under RCW 46.61.5056, 388-877B-0550 Chemical dependency assessment only services requiring program-specific certification—DUI assessment services, and 388-877B-0640 Chemical dependency information and assistance services requiring program-specific certification—Information and crisis services.

Hearing Location(s): Office Building 2, Lookout Room, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on July 22, 2014, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 23, 2014.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov), fax (360) 664-6185, by 5 p.m. on July 22, 2014.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by July 8, 2014, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [jennisha.johnson@dshs.wa.gov](mailto:jennisha.johnson@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments update sections in chapters 388-877, 388-877A, and 388-877B WAC which contain the department's new rules for licensing agencies as behavioral health agencies and certifying the behavioral health services the agencies choose to provide. WAC 388-865-0511 is also updated. The purpose of these amendments is to respond and make changes due to comments received from stakeholders on the existing rules; to provide clarification and updates to language; to correct a cross-reference; and to make minor "housekeeping" corrections.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 43.20A.550, 74.04.050, 74.08.090, chapters 70.02, 71.24 RCW.

Statute Being Implemented: RCW 43.20A.550, 74.04.050, 74.08.090, chapters 70.02, 71.24 RCW.

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: Kathy Sayre, P.O. Box 45330, Olympia, WA 98504-5330, (360) 725-1342; Implementation and Enforcement: Pete Marburger, P.O. Box 45330, Olympia, WA 98504-5330, (360) 725-1513.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

**Small Business Economic Impact Statement**

**SUMMARY OF PROPOSED RULES:** The division of behavioral health and recovery (DBHR) of the department of social and health services (the department) is proposing to amend WAC 388-865-0511 and sections in chapters 388-877, 388-877A, and 388-877B WAC.

The proposed rules:

- Add correct reference to address for mailing in agency licensure applications, etc.
- Clarify that an agency licensure application must include information regarding the facility being appropriate for the purposes intended.
- Clarify language and make "housekeeping" changes.
- Clarify that agency closure rules in WAC 388-877-0300 include retaining and managing individuals' clinical records for any behavioral health service provided.
- Delete subsection language in WAC 388-877-0335 (1) which is duplicative of the language in subsection (2).
- Remove initial and annual certification bed fee language (evaluation and treatment (E&T) facility) from WAC 388-877-0365 (outpatient) and place it in WAC 388-865-0511 (inpatient); add cross-references to clarify.
- Add "psychiatric advanced registered nurse practitioner (ARNP) with prescriptive authority" to WAC 388-877A-0180.

- Add documentation requirements in WAC 388-877A-0280(12) regarding designated mental health professionals (DMHP) who evaluate an individual in crisis and determine if involuntary services are required.
- Add "Applied behavior analysis (ABA) services" to the list of recovery support services requiring program-specific certification in WAC 388-877A-0300 (2).
- Clarify how an agency must direct staff to complete and submit reports.
- Clarify an individual's plan must be updated weekly to reflect any changes in the individual's status and progress toward goals.
- Remove language that chemical dependency counseling required subject to RCW 46.61.5056 requires program-specific certification.
- Add language that when an assessment finding does not result in a substance use disorder diagnosis, the assessment must also include a referral to alcohol and drug information school; add documentation and referral requirements and that an individual must be informed of the results of an assessment.

**INVOLVEMENT OF STAKEHOLDERS AND SMALL BUSINESSES:** The department recently adopted new chapters 388-877, 388-877A, 388-877B, and 388-877C WAC and subsequently provided stakeholder and provider trainings throughout the state in eight community locations. During some of these training sessions on the new rules, stakeholders and DBHR trainers identified language that requires amendments in order to clarify and update policy, and requires correction of typographical errors, duplicative language and obsolete references.

The department filed a CR-101 (preproposal statement of inquiry) under WSR 13-16-103 on August 7, 2013. Copies of the CR-101 were sent to tribal leaders and all stakeholders and providers listed in DBHR's listserv data base.

In March 2014, the department sent a draft of the rules to all interested parties who contacted the department with an interest to participate in reviewing the proposed rule. The department provides a response to each comment received.

**SMALL BUSINESS ECONOMIC IMPACT STATEMENT (SBEIS) – DETERMINATION OF NEED:** Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses and it outlines the information that must be included in an SBEIS. The statute defines small businesses as those business entities that employ fifty or fewer people and are independently owned and operated.

Preparation of an SBEIS is required when a proposed rule has the potential of placing a disproportionate economic impact on small businesses. The statute outlines information that must be included in an SBEIS.

These rules apply to behavioral health agencies that provide chemical dependency treatment services and/or outpatient mental health treatment services. These businesses fall under the North American Industry Classification System (NAICS) codes:

- 622210 – Psychiatric and substance abuse hospitals.

- 623220 – Residential substance abuse facilities.
- 621420 – Outpatient substance abuse and mental health centers.
- 623220 – Residential mental health facilities.

The department previously determined that there were one hundred twenty-six existing for-profit chemical dependency treatment agencies that meet the criteria for small businesses under RCW 19.85.020. Subsequently, the department decided to consider economic impacts on all for-profit and publicly funded department-certified chemical dependency treatment agencies. Therefore, the industry analysis includes five hundred eighty certified chemical dependency treatment agencies. The department further determined there are about one hundred eighty business entities that provide mental health treatment services at more than four hundred specific locations. Of the estimated one thousand services sites providing chemical dependency and mental health treatment services, about one hundred sixty business organizations maintain both a certificate for chemical dependency treatment services and mental health treatment services.

**EVALUATION OF PROBABLE COSTS AND PROBABLE BENEFITS:** The department has determined these rules meet the definition of significant legislative rules under RCW 34.05.328 (5)(c)(iii) because they make "significant amendments to, a policy or regulatory program."

As required by RCW 34.05.328 (1)(d), the department has analyzed the probable costs and probable benefits of the proposed amendments, taking into account both the qualitative and quantitative costs and benefits. The department's analysis shows the costs and benefits of the proposed rule to those impacted by the rule. Impacted groups include behavioral health agencies owned by nonprofit businesses, for-profit businesses, public nonprofit providers, and tribal programs that provide DBHR-certified chemical dependency services and/or DBHR-certified outpatient mental health services.

**Costs:** Under chapter 19.85 RCW, the department has considered annual costs to small businesses that are fifty dollars or more per client. The department's analysis revealed that there are no costs or minimal costs for the proposed rules that will affect treatment services provided at approximately one thousand sites that meet the definition of a small business.

**Mitigating Costs:** Costs are determined to be minor under chapter 19.85 RCW. For the rules of the department, "minor cost" means cost per business that is less than fifty dollars of annual cost per client or other appropriate unit of service.

The department has staff available to answer any questions an agency may have in order to implement these rules.

**Benefits:** The benefits to the implementation of these rules include individual care, programmatic, administrative, and improved cross-systems collaboration.

The amended rules assure consistency with policy in other sections in chapters 388-877A and 388-877B WAC pertaining to program-specific requirements.

The amendments update and clarify department rules for licensed behavioral health agencies and helps provide standardization of documentation requirements to program-specific behavioral health services programs.

The rules benefit agencies by updating and clarifying requirements and assuring requirements are consistent for all agencies and program-specific services.

**CONCLUSION:** The department has given careful consideration to the impact of the proposed rules on small businesses. To comply with the Regulatory Fairness Act (chapter 19.85 RCW), the department has analyzed impacts on small businesses. The department has determined the costs to be minor and has determined the probable benefits outweigh the probable costs.

Please contact Kathy Sayre if you have any questions at (360) 725-1342, toll-free 1-877-301-4557, or e-mail [atkathy.sayre@dshs.wa.gov](mailto:atkathy.sayre@dshs.wa.gov).

A copy of the statement may be obtained by contacting Kathy Sayre, Rules Manager, P.O. Box 45330, Olympia, WA 98504-5330, phone (360) 725-1342, fax (360) 725-2280, e-mail [kathy.sayre@dshs.wa.gov](mailto:kathy.sayre@dshs.wa.gov).

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kathy Sayre, P.O. Box 45330, Olympia, WA 98504-5330, phone (360) 725-1342, fax (360) 725-2280, e-mail [kathy.sayre@dshs.wa.gov](mailto:kathy.sayre@dshs.wa.gov).

May 15, 2014  
Katherine I. Vasquez  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 09-02-030, filed 12/30/08, effective 1/30/09)

**WAC 388-865-0511 Evaluation and treatment facility certification and fee requirements.** To obtain and maintain certification to provide inpatient evaluation and treatment services under chapter 71.05 and 71.34 RCW, a facility must (~~meet the following requirements~~):

- (1) Be licensed by the department of health as:
  - (a) A hospital as defined in chapter 70.41 RCW;
  - (b) A psychiatric hospital as defined in chapter 246-322 WAC;
  - (c) A mental health inpatient evaluation and treatment facility consistent with chapter 246-337 WAC; or
  - (d) A mental health child long-term inpatient treatment facility consistent with chapter 246-337 WAC.

(2) Be approved by the regional support network, or the (~~mental health~~) department's division of behavioral health and recovery (DBHR). Child long-term inpatient treatment facilities can only be approved by (~~the mental health division~~) DBHR.

(3) Successfully complete a provisional and annual on-site review conducted by (~~the mental health division~~) DBHR to determine facility compliance with the minimum standards of this section and chapters 71.05 and 71.34 RCW.

(4) Pay the following certification fees:

- (a) Ninety dollars initial certification fee, per bed; then
- (b) Ninety dollars annual certification fee, per bed.

(5) Include the fees specified in subsection (4) of this section with the initial application, renewal application, or with requests for other services.

(a) Payment of fees must be made by check, bank draft, electronic transfer, or money order, payable to the department of social and health services, and mailed to the aging

and disability services finance office at the address listed on the applicable application packet or form.

(b) The department may refund one-half of the application fee if an application is withdrawn before certification or denial.

(c) Fees will not be refunded when DBHR denies, revokes or suspends certification.

(6) For behavioral health agency licensing fees, program-specific certification fees, and other fees charged by the department, see WAC 388-877-0365.

**AMENDATORY SECTION** (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

**WAC 388-877-0300 Agency licensure—General information.** The department licenses agencies to provide behavioral health treatment services. To gain and maintain licensure, an agency must meet the requirements of chapter 388-877 WAC, applicable local and state rules, and state and federal statutes. In addition, the agency must meet the applicable specific program requirements of chapter 388-877A WAC for mental health, chapter 388-877B WAC for chemical dependency, and/or chapter 388-877C WAC for problem and pathological gambling.

(1) An agency currently accredited by a national accreditation agency recognized by and having a current agreement with the department may be eligible for licensing through deeming. See WAC 388-877-0310.

(2) Initial applications and renewal forms for behavioral health agency licensure or certification may be downloaded at <http://www.dshs.wa.gov/dbhr/daforms.shtml>. Completed application packets, forms, and requests for deeming or other services should be mailed to (~~the Division of Behavioral Health and Recovery, P.O. Box 45320, Olympia, WA 98504-5320~~) the aging and disability services finance office at the address listed on the applicable application packet or form.

(3) An agency must report to the department any changes that occur following the initial licensing or certification process. The department may request a copy of additional disclosure statements or background inquiries if there is reason to believe that offenses specified under RCW 43.43.830 have occurred since the original application was submitted.

(4) The department may grant an exemption or waiver from compliance with specific licensing or program certification requirements if the exemption does not violate an existing state, federal, or tribal law.

(a) To request an exemption to a rule in this chapter, the agency must:

- (i) Submit the request in writing to the department;
- (ii) Assure the exemption request does not jeopardize the safety, health, or treatment of an individual; and
- (iii) Assure the exemption request does not impede fair competition of another service agency.

(b) The department approves or denies an exemption request in writing and requires the agency to keep a copy of the decision.

(c) Appeal rights under WAC 388-877-0370 do not apply to exemption to rule decisions.

(5) In the event of an agency closure or the cancellation of a program-specific certification, the agency must provide each individual currently being served:

(a) Notice of the agency closure or program cancellation at least thirty days before the date of closure or program cancellation;

(b) Assistance with relocation; and

(c) Information on how to access records to which the individual is entitled.

(6) If an agency certified to provide ~~((chemical dependency and/or problem and pathological gambling services))~~ any behavioral health service closes, the agency must ensure all individual clinical records are kept and managed for at least six years after the closure before destroying the records in a manner that preserves confidentiality. In addition:

(a) The closing agency must notify the division of behavioral health and recovery (DBHR) that the agency will do one of the following:

(i) Continue to retain and manage all individual clinical records ~~((; provide the method of contact, such as a telephone number and/or electronic address, and provide the mailing and street address where the records will be stored))~~; or

(ii) Arrange for the continued storage and management of all individual clinical records. ~~((In this case, the agency must:~~

~~(A) Enter into a specific qualified service organization agreement, authorized by 42 C.F.R. Part 2B, with a division of behavioral health and recovery licensed agency or entity; and~~

~~(B) Notify the division of behavioral health and recovery))~~

(b) The closing agency must notify DBHR in writing ((of) and include the name of the licensed agency or entity storing and managing the records, provide the method of contact, such as a telephone number, and/or electronic address, and provide the mailing and street address where the records will be stored.

(c) When a closing agency that has provided chemical dependency services arranges for the continued storage and management of clinical records by another entity, the closing agency must enter into a specific qualified services organization agreement with a DBHR licensed agency or other entity. See 42 C.F.R. Part 2, Subpart B.

(d) When ((the)) any agency or entity storing and maintaining individual clinical records receives an authorized request for a record, the record must be provided to the requester within a reasonable period of time.

**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 13-12-054, filed 5/31/13, effective 7/1/13)

**WAC 388-877-0305 Agency licensure—Application.** To apply for licensure to provide any behavioral health service, an agency must submit an initial application that is signed by the agency's administrator.

(1) The application must include the following:

(a) A copy of the agency's master business license that authorizes the organization to do business in Washington state;

(b) A list of the specific program services for which the agency is seeking certification;

(c) A copy of the report of findings from a criminal background check of the administrator and any owner of five percent or more of the organizational assets;

(d) The physical address of any agency operated facility where behavioral health services will be provided;

(e) A statement assuring the agency meets American Disability Act (ADA) standards and that the facility is ~~((appropriate for providing the proposed services;))~~;

(i) Suitable for the purposes intended;

(ii) Not a personal residence; and

(iii) Approved as meeting all building and safety requirements.

(f) A copy of the policies and procedures specific to the agency;

(g) A staff roster, including each staff member's license under department of health (DOH) rules for professional standards and licensing if credentials are required for the position;

(h) A copy of a current DOH residential treatment facility certificate if the agency is providing chemical dependency residential treatment or mental health residential treatment; and

(i) Payment of associated fees.

(2) The department conducts an on-site review as part of the initial licensing or certification process (see WAC 388-877-0320).

**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 13-12-054, filed 5/31/13, effective 7/1/13)

**WAC 388-877-0335 Agency licensure and program-specific certification—Denials, suspensions, revocations, and penalties.** (1) The department will deny issuing or renewing an agency's license or specific program certification(s), place an agency on probation, or suspend, or revoke an agency's license or specific program certification for any of the following reasons:

(a) The agency fails to meet requirements in this chapter.

(b) The agency fails to cooperate or disrupts department representatives during an on-site survey or complaint investigation.

(c) The agency fails to assist the department in conducting individual interviews with individuals or staff members.

(d) The agency owner or agency administrator:

(i) Had a license or specific program certification issued by the department subsequently denied, suspended, or revoked;

(ii) Was convicted of child abuse or adjudicated as a perpetrator of substantiated child abuse;

(iii) Was convicted of abuse of a vulnerable adult or adjudicated as a perpetrator of substantiated abuse of a vulnerable adult;

(iv) Obtained or attempted to obtain a health provider license, certification, or registration by fraudulent means or misrepresentation;

(v) Committed, permitted, aided or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180;

(vi) Demonstrated cruelty, abuse, negligence, misconduct, or indifference to the welfare of a patient or displayed acts of discrimination;

(vii) Misappropriated patient (individual) property or resources;

(viii) Failed to meet financial obligations or contracted service commitments that affect patient care;

(ix) Has a history of noncompliance with state or federal rules in an agency with which the applicant has been affiliated;

(x) Knowingly, or with reason to know, made a false statement of fact or failed to submit necessary information in:

(A) The submitted application or materials attached; or

(B) Any matter under department investigation.

(xi) Refused to allow the department access to view records, files, books, or portions of the premises relating to operation of the program;

(xii) Willfully interfered with the preservation of material information or attempted to impede the work of an authorized department representative;

(xiii) Is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in transactions involving certain federal funds (this also applies to any person or business entity named in the agency's application for licensure or certification);

(xiv) Does not meet criminal background check requirements;

(xv) Fails to provide satisfactory application materials; or

(xvi) Advertises the agency as certified when licensing or certification has not been granted, or has been revoked or canceled.

(e) The department determines there is imminent risk to consumer health and safety.

(f) The agency's licensure or specific program certification is in probationary status and the agency fails to correct the noted health and safety deficiencies within the agreed-upon time frames.

~~((g) The agency voluntarily cancels licensure or certification.~~

~~(h) The agency fails to pay the required license or certification fees.~~

~~(i) The agency stops providing the services for which the agency is certified.~~

~~(j) The agency changes ownership without notifying the department.~~

~~(k) The agency relocates without notifying the department.)~~

(2) The department may deny issuing or renewing an agency's license or specific program certification, place an agency on probation, or suspend or revoke an agency's

license or specific program certification for any of the following reasons:

(a) The agency voluntarily cancels licensure or certification.

(b) The agency fails to pay the required license or certification fees.

(c) The agency stops providing the services for which the agency is certified.

(d) The agency fails to notify the department before changing ownership.

(e) The agency fails to notify the department before relocating its licensed location.

(3) The department sends a written notice to deny, suspend, revoke, or modify the licensure or certification status (see RCW 43.20A.205) that includes the reason(s) for the decision and the agency's right to appeal a department decision (refer to WAC 388-877-0370).

(4) If an agency fails to comply with the requirements of this chapter, the department may:

(a) Assess fees to cover costs of added licensing and program-specific certification activities, including when the department determines a corrective action is required due to a complaint or incident investigation;

(b) Stop referral(s) of an individual who is a program recipient of a state and/or federally-funded program; and

(c) Notify the county alcohol and drug coordinator, regional support network (RSN) and/or local media of stopped referrals, suspensions, revocations, or nonrenewal of the agency's license or program-specific certification(s).

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

**WAC 388-877-0365 Agency licensure and program-specific certification—Fee requirements.** (1) Payment of licensing and specific program certification fees required under this chapter must be included with the initial application, renewal application, or with requests for other services.

(2) Payment of fees must be made by check, bank draft, electronic transfer, or money order made payable to the department.

(3) The department may refund one-half of the application fee if an application is withdrawn before certification or denial.

(4) Fees will not be refunded when licensure or certification is denied, revoked, or suspended.

(5) The department charges the following fees for approved chemical dependency treatment programs:

Application Fees for Agency Certification for Approved Chemical Dependency Treatment Programs	
New agency application	\$1,000
Branch agency application	\$500
Application to add one or more services	\$200

Application Fees for Agency Certification for Approved Chemical Dependency Treatment Programs	
Application to change ownership	\$500
Initial and Annual Certification Fees for Detoxification, Residential, and Nonresidential Services	
Detoxification and residential services	\$100 per licensed bed, per year, for agencies not renewing certification through deeming
	\$50 per licensed bed, per year, for agencies renewing certification through deeming per WAC 388-877-0310
Nonresidential services	\$750 per year for agencies not renewing certification through deeming
	\$200 per year for agencies certified through deeming per WAC 388-877-0310
Complaint/Critical Incident Investigation Fees	
All agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

(6) Agency providers must annually complete a declaration form provided by the department to indicate information necessary for establishing fees and updating certification information. Required information includes, but is not limited to:

(a) The number of licensed detoxification and residential beds; and

(b) The agency provider's national accreditation status.

(7) The department charges the following fees for approved mental health treatment programs:

Initial Licensing Application Fee for Mental Health Treatment Programs	
Licensing application fee	\$1,000 initial licensing fee
<del>((Initial and Annual Certification Fees))</del>	
<del>((Evaluation and treatment (E&amp;T) bed fees))</del>	<del>((90 initial certification fee, per bed))</del>
	<del>((90 annual certification fee, per bed))</del>
Initial and Annual Licensing Fees for Agencies not Deemed	
Annual service hours provided:	Initial and annual licensing fees:
0-3,999	\$728
4,000-14,999	\$1,055

15,000-29,999	\$1,405
30,000-49,999	\$2,105
50,000 or more	\$2,575
Annual Licensing Fees for Deemed Agencies	
Deemed agencies licensed by DBHR	\$500 annual licensing fee
Complaint/Critical Incident Investigation Fee	
All residential and nonresidential agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

(8) Agencies providing nonresidential mental health services must report the number of annual service hours provided based on the division of behavioral health and recovery's (DBHR's) current published "Service Encounter Reporting Instructions for RSN's" and the "Consumer Information System (CIS) Data Dictionary for RSN's". These publications are available at: <http://www.dshs.wa.gov/dbhr/mhpublications.shtml>.

(a) Existing licensed agencies must compute the annual services hours based on the most recent state fiscal year.

(b) Newly licensed agencies must compute the annual service hours by projecting the service hours for the first twelve months of operation.

(9) For inpatient evaluation and treatment facility initial and annual certification bed fees charged by the department, see WAC 388-865-0511.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

**WAC 388-877-0420 Agency administration—Policies and procedures.** Each agency licensed by the department to provide any behavioral health service must develop, implement, and maintain administrative policies and procedures to meet the minimum requirements of this chapter. The policies and procedures must demonstrate the following, as applicable:

(1) **Ownership.** Documentation of the agency's governing body, including a description of membership and authorities, and documentation of the agency's:

(a) Articles and certificate of incorporation and bylaws if the owner is a corporation;

(b) Partnership agreement if the owner is a partnership; or

(c) Sole proprietorship if one person is the owner.

(2) **Licensure.** A copy of the agency's master business license that authorizes the organization to do business in Washington state that:

(a) Includes the entity's name, firm name, or registered trade name; and

(b) Lists all addresses where the entity performs services.

(3) **Organizational description.** An organizational description detailing all positions and associated licensure or certification, updated as needed.

(4) **Agency staffing and supervision.** Documentation that shows the agency has staff members:

(a) Adequate in number to provide program-specific certified services to serve the agency's caseload of individuals; and

(b) Who provide treatment in accordance to regulations relevant to their specialty or specialties and registration, certification, licensing, and trainee or volunteer status.

(5) **Interpreter services for individuals with Limited English Proficiency (LEP) and individuals who have sensory disabilities.** Documentation that demonstrates the agency's ability to provide or coordinate services for individuals with LEP and individuals who have sensory disabilities.

(a) Certified interpreters or other interpreter services must be available for individuals with limited English speaking proficiency and individuals who have sensory disabilities; or

(b) The agency must have the ability to effectively provide, coordinate or refer individuals in these populations for appropriate assessment or treatment.

(6) **Reasonable access for individuals with disabilities.** A description of how reasonable accommodations will be provided to individuals with disabilities.

(7) **Nondiscrimination.** A description of how the agency complies with all state and federal nondiscrimination laws, rules, and plans.

(8) **Fee schedules.** A copy of the agency's current fee schedules for all services must be available on request.

(9) **Funding options for treatment costs.** A description of how the agency works with individuals to address the funding of an individual's treatment costs, including a mechanism to address changes in the individual's ability to pay.

(10) **State and federal rules on confidentiality.** A description of how the agency implements state and federal rules on individuals' confidentiality consistent with the service or services being provided.

(11) **Reporting and documentation of suspected abuse, neglect, or exploitation.** A description how the agency directs staff to report and document suspected abuse, neglect, or exploitation of a child or vulnerable adult consistent with chapters 26.44 and 74.34 RCW.

(12) **Protection of youth.** Documentation of how the agency addresses compliance with program-specific rules and the protection of youth participating in group or residential treatment with adults.

(13) **Completing and submitting reports.** A description of how the agency directs staff to:

(a) Complete and submit in a timely manner, all reports required by entities such as the courts, department of corrections, department of licensing, and the department of social and health services; and

(b) Include a copy of the report(s) in the clinical record and document the date submitted.

(14) Reporting the death of an individual seeking or receiving services. A description of how the agency directs staff to report to the department or Regional Support Network (RSN), as applicable, within one business day the death

of any individual which occurs on the premises of a licensed agency.

~~((14))~~ (15) **Reporting critical incidents.** A description of how the agency directs staff to report to the department or RSN, as applicable, within one business day any critical incident that occurs involving an individual, and actions taken as a result of the incident.

~~((15))~~ (16) **A smoking policy.** Documentation that a smoking policy consistent with ~~((the Washington Clean Indoor Air Act,))~~ Chapter 70.160 RCW (smoking in public places), is in ((place)) effect.

~~((16))~~ (17) **Outpatient evacuation plan.** For a nonresidential agency, an evacuation plan for use in the event of a disaster or emergency that addresses:

(a) Different types of disasters or emergencies;

(b) Placement of posters showing routes of exit;

(c) The need to mention evacuation routes at public meetings;

(d) Communication methods for individuals, staff, and visitors, including persons with a visual or hearing impairment or limitation;

(e) Evacuation of mobility impaired individuals; and

(f) Evacuation of children if child care is offered.

~~((17))~~ (18) **Individual rights.** A description of how the agency has individual participation rights and policies consistent with WAC 388-877-0600.

~~((18))~~ (19) **Individual complaints and grievances.** A description of how the agency addresses an individual's complaint and/or grievance.

**AMENDATORY SECTION** (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

**WAC 388-877-0620 Clinical—Individual service plan.** Each agency licensed by the department to provide any behavioral health service is responsible for an individual's service plan as follows:

(1) The individual service plan must:

(a) Be completed or approved by a professional appropriately credentialed or qualified to provide mental health, chemical dependency, and/or problem and pathological gambling services.

(b) Address age, gender, cultural, strengths and/or disability issues identified by the individual or, if applicable, the individual's parent(s) or legal representative.

(c) Be in a terminology that is understandable to the individual and the individual's family.

(d) Document that the plan was mutually agreed upon and a copy was provided to the individual.

(e) Demonstrate the individual's participation in the development of the plan.

(f) Document participation of family or significant others, if participation is requested by the individual and is clinically appropriate.

(g) Be strength-based.

(h) Contain measurable goals or objectives, or both.

(i) Be updated to address applicable changes in identified needs and achievement of goals and objectives.

(2) If the individual service plan includes assignment of work to an individual, the assignment must have therapeutic value and meet all the requirements in (1) of this section.

(3) When required by law, the agency must notify the required authority of a violation of a court order or nonparticipation in treatment, or both.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

**WAC 388-877-0640 Clinical—Record content.** Each agency licensed by the department to provide any behavioral health service is responsible for an individual's clinical record content. The clinical record must include:

(1) Documentation the individual received a copy of counselor disclosure requirements ~~((established under RCW 18.19.060))~~ as required for the counselor's credential.

(2) Demographic information.

(3) An initial assessment.

(4) Documentation of the individual's response when asked if:

(a) The individual is under department of corrections (DOC) supervision.

(b) The individual is under civil or criminal court ordered mental health or chemical dependency treatment.

(c) There is a court order exempting the individual participant from reporting requirements. A copy of the court order must be included in the record if the participant claims exemption from reporting requirements.

(5) Documentation that the agency met all the following requirements when an individual informs the agency that the individual is under supervision by DOC due to a less restrictive alternative or DOC order for treatment:

(a) The agency notified DOC orally or in writing. The agency must confirm an oral notification with a written notice by electronic mail or fax.

(b) The agency obtained a copy of the court order from the individual and placed it in the record when the individual has been given relief from disclosure by the committing court.

(c) When appropriate, the agency requested an evaluation by a designated mental health professional when the provider becomes aware of a violation of the court-ordered treatment and the violation concerns public safety.

(6) The initial and any subsequent individual service plan that include:

(a) All revisions to the plan, consistent with the service(s) the individual receives; and

(b) Documentation of objective progress towards established goals as outlined in the plan.

(7) Documentation the individual was informed of applicable federal and state confidentiality requirements.

(8) Documentation of confidential information that has been released without the consent of the individual under:

(a) RCW 70.02.050 ~~((, 71.05.390, and 71.05.630, and))~~;

(b) ((the)) The Health Insurance Portability and Accountability Act (HIPAA); and

(c) RCW 70.02.230 and 70.02.240 if the individual received mental health treatment services.

(9) Documentation that any mandatory reporting of abuse, neglect, or exploitation consistent with chapters 26.44 and 74.34 RCW has occurred.

(10) If treatment is not court-ordered, documentation of informed consent to treatment by the individual or individual's parent, or other legal representative.

(11) If treatment is court-ordered, a copy of the ~~((detention or involuntary treatment))~~ order.

(12) Documentation of coordination of care, as needed.

(13) Documentation of all service encounters.

(14) Medication records, if applicable.

(15) Laboratory reports, if applicable.

(16) Properly completed authorizations for release of information, if applicable.

(17) Copies of applicable correspondence.

(18) Discharge information.

(19) A copy of any report required by entities such as the courts, department of corrections, department of licensing, and the department of social and health services, and the date the report was submitted.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

**WAC 388-877-0650 Clinical—Access to clinical records.** Each agency licensed by the department to provide any behavioral health service must:

(1) Provide access to an individual's clinical record at the request of the individual or, if applicable, the individual's designated representative, and/or legal representative. The agency must:

(a) Review the clinical record before making the record available in order to identify and remove:

(i) Any material confidential to another person, agency, or provider; and

(ii) Reports not originated by the agency.

(b) Make the clinical record available to the requester within fifteen days of the request.

(c) Allow appropriate time and privacy for the review.

(d) Have a clinical staff member available to answer questions.

(e) ~~((Charge))~~ Assure the charge for ((copying)) duplicating or searching the record is at a rate not higher than the "reasonable fee" as defined in RCW 70.02.010((+2)).

(f) Meet the individual clinical record system criteria in WAC 388-877-0630.

(2) Make an individual's clinical record available to department staff as required for department program review.

(3) If the agency maintains electronic individual clinical records, the agency must:

(a) Make the clinical record available in paper form; and

(b) Meet the criteria in (1) and (2) of this section.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

**WAC 388-877A-0180 Optional outpatient mental health services requiring program-specific certification—Psychiatric medication services.** Psychiatric medication services are a variety of activities related to prescribing and/or administering medication, including monitoring an indi-

vidual for side effects and changes as needed. Psychiatric medication services are optional outpatient mental health services that require program-specific certification by the department's division of behavioral health and recovery. These services may only be provided with one of the outpatient mental health services in WAC 388-877A-0100(2). An agency providing psychiatric medication services:

(1) Must ensure medical direction and responsibility are assigned to a:

(a) ~~((physician))~~ Physician who is licensed to practice under chapter 18.57 or 18.71 RCW, and is board-certified or board-eligible in psychiatry~~((-)); or~~

(b) Psychiatric advanced registered nurse practitioner (ARNP) with prescriptive authority.

(2) Must ensure that the services are provided by a prescriber licensed by department of health who is practicing within the scope of that practice.

(3) Must ensure that all medications administered by staff practicing within the scope of their practice.

(4) Must have a process by which the medication prescriber informs the individual, and/or the legally responsible party, and, as appropriate, family members, of the potential benefits and side effects of the prescribed medication(s).

(5) Must review prescribed medications at least every three months.

(6) Must complete an inventory every three months of all medication stored.

(7) Must ensure that all medications maintained by the agency are safely and securely stored, including assurance that:

(a) Medications are kept in locked cabinets within a well-lit, locked and properly ventilated room;

(b) Medications kept for individuals on medication administration or self-administration programs are clearly labeled and stored separately from medication samples kept on site;

(c) Medications marked "for external use only" are stored separately from oral or injectable medications;

(d) Refrigerated food or beverages used in the administration of medications are kept separate from the refrigerated medications by the use of trays or other designated containers;

(e) Syringes and sharp objects are properly stored and disposed of;

(f) Refrigerated medications are maintained at the required temperature; and

(g) Outdated medications are disposed of in accordance with the regulations of the state board of pharmacy and no outdated medications are retained.

(8) Must ensure that the individual clinical record contains the following documentation:

(a) The individual was informed of the benefits and possible side effects of each prescribed medication.

(b) The effects, interactions, and side effects the staff observe or the individual reports spontaneously or as the result of questions from staff members.

(c) Clinical notes that include:

(i) The name and signature of the prescribing ~~((psychiatric advanced registered nurse practitioner (ARNP), board-eligible psychiatrist, or physician));~~

(A) Physician who is licensed to practice under chapter 18.57 or 18.71 RCW, and is board-certified or board-eligible in psychiatry; or

(B) Psychiatric ARNP with prescriptive authority;

(ii) The name and purpose of each medication prescribed;

(iii) The dosage, frequency, and method of giving each medication;

(iv) Identification of medications requiring laboratory monitoring and a frequency schedule for monitoring;

(v) The reasons for changing or stopping any medication; and

(vi) The dates the medication was prescribed, reviewed and renewed, as applicable.

(d) That any written orders to administer/discontinue a medication are generated by a licensed health care provider, within the scope of the provider's practice, and that:

(i) Written, dated orders are signed by the licensed prescriber within twenty-four hours; and

(ii) Telephone orders are reviewed and signed off on by the ordering licensed health care provider, within the scope of the provider's practice, within twenty-four hours and include:

(A) Documentation that clearly demonstrates emergency circumstances that required a phone order;

(B) The name and signature of the individual authorized by department of health whose scope of practice includes taking ~~((physician's))~~ orders over the telephone; and

(C) The time, date and exact details of the telephone order.

(9) May utilize a physician or ARNP without board eligibility in psychiatry if unable to employ or contract with a psychiatrist. In this case, the agency must ensure that:

(a) Psychiatrist consultation is provided to the physician or ARNP at least monthly; and

(b) A psychiatrist is accessible to the physician or ARNP for emergency consultation.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

**WAC 388-877A-0195 Optional outpatient mental health services requiring program-specific certification—Less restrictive alternative (LRA) support services.** Less restrictive alternative (LRA) support services are optional outpatient mental health services that require program-specific certification by the department's division of behavioral health and recovery. These services are provided to individuals on a less restrictive alternative court order. An agency agrees to provide or monitor the provision of court-ordered services, including psychiatric and medical components of community support services. An agency providing court-ordered LRA support services must:

(1) Ensure and document that the agency:

(a) Maintains written procedures for managing assaultive and/or self-destructive individual behavior; and

(b) Provides training to staff members on appropriate interventions.

(2) Have a written policy and procedure that allows for the referral of an individual to an involuntary treatment facil-

ity (~~twenty-four hours a day, seven days a week~~) twenty-four hours a day, seven days a week.

(3) Have a written policy and procedure for an individual who requires involuntary detention that includes procedures for:

(a) Contacting the designated mental health professional (DMHP) regarding revocations or extension of an LRA; and

(b) The transportation of an individual, in a safe and timely manner, for the purpose of:

(i) Evaluation; or

(ii) Evaluation and detention.

(4) Ensure a committed individual is advised of their rights under chapter 71.05 or 71.34 RCW, as applicable, and that the individual has the right:

(a) To receive adequate care and individualized treatment;

(b) To make an informed decision regarding the use of antipsychotic medication and to refuse medication beginning twenty-four hours before any court proceeding that the individual has the right to attend;

(c) To maintain the right to be presumed competent and not lose any civil rights as a consequence of receiving evaluation and treatment for a mental disorder;

(d) Of access to attorneys, courts, and other legal redress;

(e) To have the right to be told statements the consumer makes may be used in the involuntary proceedings; and

(f) To have all information and records compiled, obtained, or maintained in the course of treatment kept confidential as described in chapters 70.02, 71.05, and 71.34 RCW.

(5) Include in the clinical record a copy of the less restrictive alternative court order and a copy of any subsequent modification.

(6) Ensure the development and implementation of an individual service plan which addresses the conditions of the less restrictive alternative court order and a plan for transition to voluntary treatment.

(7) Ensure that the individual receives psychiatric medication services for the assessment and prescription of psychotropic medications appropriate to the needs of the individual. These services must be provided:

(a) At least one time every seven days for the initial fourteen days following release from inpatient treatment for an individual on a ninety-day or one hundred eighty-day less restrictive alternative court order, unless the individual's attending physician or psychiatric advanced registered nurse practitioner (ARNP) determines another schedule is more appropriate and documents the new schedule and the reason(s) in the individual's clinical record.

(b) At least one time every thirty days for an individual on a ninety-day or one hundred eighty-day less restrictive alternative court order, unless the individual's attending physician or psychiatric ARNP determines another schedule is more appropriate and documents the new schedule and the reason(s) in the individual's clinical record.

(8) Keep a record of the periodic evaluation by a mental health professional of each committed individual for release from, or continuation of, an involuntary treatment order. Evaluations must occur at least every thirty days for both

ninety-day and one hundred eighty-day commitments and include documentation of assessment and rationale:

(a) For requesting a petition for an additional period of less restrictive treatment under an involuntary treatment order; or

(b) Allowing the less restrictive court order expire without an extension request.

**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 13-12-053, filed 5/31/13, effective 7/1/13)

**WAC 388-877A-0240 Crisis mental health services—Outreach services.** Crisis outreach services are face-to-face intervention services provided to assist individuals in a community setting. A community setting can be an individual's home, an emergency room, a nursing facility, or other private or public location. An agency providing crisis outreach services must:

(1) Provide crisis telephone screening.

(2) Have staff available (~~twenty-four hours a day, seven days a week~~) twenty-four hours a day, seven days a week to respond to a crisis.

(3) Ensure face-to-face outreach services are provided by a mental health professional, or a staff member under the supervision of a mental health professional with documented training in crisis response.

(4) Ensure services are provided in a setting that provides for the safety of the individual and agency staff members.

(5) Have a protocol for requesting a copy of an individual's crisis plan (~~twenty-four hours a day, seven days a week~~) twenty-four hours a day, seven days a week.

(6) Require that staff member(s) remain with the individual in crisis in order to provide stabilization and support until the crisis is resolved or a referral to another service is accomplished.

(7) Resolve the crisis in the least restrictive manner possible.

(8) Have a written plan for training, staff back-up, information sharing, and communication for staff members who respond to a crisis in an individual's private home or in a non-public setting.

(9) Ensure that a staff member responding to a crisis is able to be accompanied by a second trained individual when services are provided in the individual's home or other non-public location.

(10) Ensure that any staff member who engages in home visits is provided by their employer with a wireless telephone, or comparable device for the purpose of emergency communication as described in RCW 71.05.710.

(11) Provide staff members who are sent to a private home or other private location to evaluate an individual in crisis, prompt access to information about any history of dangerousness or potential dangerousness on the individual they are being sent to evaluate that is documented in a crisis plan(s) or commitment record(s). This information must be made available without unduly delaying the crisis response.

(12) Have a written protocol that allows for the referral of an individual to a voluntary or involuntary treatment facility (~~(twenty-four hours a day, seven days a week)~~) twenty-four hours a day, seven days a week.

(13) Have a written protocol for the transportation of an individual in a safe and timely manner, when necessary.

(14) Document all crisis response contacts, including:

(a) The date, time, and location of the initial contact.

(b) The source of referral or identity of caller.

(c) The nature of the crisis.

(d) Whether the individual has a crisis plan and any attempts to obtain a copy.

(e) The time elapsed (~~(form)~~) from the initial contact to the face-to-face response.

(f) The outcome, including:

(i) The basis for a decision not to respond in person;

(ii) Any follow-up contacts made; and

(iii) Any referrals made, including referrals to emergency medical services.

(g) The name of the staff person(s) who responded to the crisis.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

**WAC 388-877A-0280 Crisis mental health services—Emergency involuntary detention services.** Emergency involuntary detention services are services provided by a designated mental health professional (DMHP) to evaluate an individual in crisis and determine if involuntary services are required.

An agency providing emergency involuntary detention services must:

(1) Ensure that services are provided by a DMHP.

(2) Ensure staff members are available (~~(twenty-four hours a day, seven days a week)~~) twenty-four hours a day, seven days a week.

(3) Ensure staff members utilize the protocols for DMHPs required by RCW 71.05.214.

(4) Have a written agreement with a certified inpatient evaluation and treatment facility to allow admission of an individual (~~(twenty-four hours a day, seven days a week)~~) twenty-four hours a day, seven days a week.

(5) Have a plan for training, staff back-up, information sharing, and communication for a staff member who responds to a crisis in a private home or a nonpublic setting.

(6) Ensure that a DMHP is able to be accompanied by a second trained individual when responding to a crisis in a private home or a nonpublic setting.

(7) Ensure that a DMHP who engages in a home visit to a private home or a nonpublic setting is provided by their employer with a wireless telephone, or comparable device, for the purpose of emergency communication as described in RCW 71.05.710.

(8) Provide staff members, who are sent to a private home or other private location to evaluate an individual in crisis, prompt access to information about any history of dangerousness or potential dangerousness on the individual they are being sent to evaluate that is documented in a crisis

plan(s) or commitment record(s). This information must be made available without unduly delaying the crisis response.

(9) Require that a mental health professional remain with the individual in crisis in order to provide stabilization and support until the crisis is resolved or referral to another service is accomplished.

(10) Have a written protocol for the transportation of an individual, in a safe and timely manner, for the purpose of medical evaluation or detention.

(11) Ensure that when a peace officer or DMHP escorts an individual to a facility, the DMHP takes reasonable precautions to safeguard the individual's property including:

(a) Safeguarding the individual's property in the immediate vicinity of the point of apprehension;

(b) Safeguarding belongings not in the immediate vicinity if there may be possible danger to those belongings; and

(c) Taking reasonable precautions to lock and otherwise secure the individual's home or other property as soon as possible after the individual's initial detention.

(12) Document services provided to the individual, and other applicable information. At a minimum this must include:

(a) That the individual was advised of their rights in accordance with RCW 71.05.360.

(b) That if the evaluation was conducted in a hospital emergency department or inpatient unit, it occurred in accordance with the timelines required by RCW 71.05.050, 71.05.153, and 71.34.710.

(c) That the DMHP conducting the evaluation considered both of the following when evaluating the individual:

(i) The imminent likelihood of serious harm or imminent danger because of being gravely disabled (see RCW 71.05.153); and

(ii) The likelihood of serious harm or grave disability that does not meet the imminent standard for the emergency detention (see RCW 71.05.150).

(d) That the DMHP documented consultation with any examining emergency room physician as required by RCW 71.05.154.

(e) If the individual was not detained:

(i) A description of the disposition and follow-up plan; and

(ii) Documentation that the minor's parent was informed of their right to request a court review of the DMHP's decision not to detain the minor under RCW 71.34.710, if the individual is a minor thirteen years of age or older.

~~((f))~~ (f) If the individual was detained, a petition for inpatient detention must include the following:

(i) The circumstances under which the person's condition was made known.

(ii) Evidence, as a result of the DMHP's personal observation or investigation, that the actions of the person for which application is made constitute a likelihood of serious harm, or that the individual is gravely disabled.

(iii) Evidence that the individual will not voluntarily seek appropriate treatment.

(iv) Consideration of all reasonably available information from credible witnesses, to include family members, landlords, neighbors, or others with significant contact and

history of involvement with the individual, and records, as required by RCW 71.05.212.

(v) Consideration of the individual's history of judicially required, or administratively ordered, anti-psychotic medications while in confinement when conducting an evaluation of an offender under RCW 72.09.370.

~~((e))~~ (g) Documentation that the individual, or the individual's guardian or conservator, received a copy of the following:

- (i) Notice of detention;
- (ii) Notice of rights; and
- (iii) Initial petition.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

**WAC 388-877A-0300 Recovery support services requiring program-specific certification—General.** The rules in this section apply to behavioral health agencies that provide one or more recovery support services that require program-specific certification by the department's division of behavioral health and recovery. The definitions in WAC 388-877-0200 also apply to these services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, and chapter 388-877C WAC no later than September 1, 2013.

(1) Recovery support services are intended to promote an individual's socialization, recovery, self-advocacy, development of natural support, and maintenance of community living skills.

(2) Recovery support services requiring program-specific certification include:

- (a) Employment services (see WAC 388-877A-0330);
- (b) Peer support services (see WAC 388-877A-0340);
- (c) Wraparound facilitation services (see WAC 388-877A-0350); ~~((and))~~
- (d) Medication support services (see WAC 388-877A-0360); and

(e) Applied behavior analysis (ABA) services (see WAC 388-877A-0370).

(3) An agency providing any recovery support service requiring program-specific certification must:

- (a) Be licensed by the department as a behavioral health agency.
- (b) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in chapter 388-877 WAC.
- (c) Have policies and procedures to support and implement the:
  - (i) General requirements in chapter 388-877 WAC; and
  - (ii) Applicable program-specific requirements.

(4) An agency that provides any recovery support service requiring program-specific certification may operate through an agreement with a behavioral health agency certified for an outpatient mental health service listed in WAC 388-877A-0100(2). The agreement must specify the responsibility for initial assessments, the determination of appropriate services,

individual service planning, and the documentation of these requirements.

(5) When providing any recovery support service requiring program-specific certification, an agency must:

- (a) Have an assessment process to determine the appropriateness of the agency's services, based on the individual's needs and goals.
- (b) Refer an individual to a more intensive level of care when appropriate.
- (c) With the consent of the individual, include the individual's family members, significant others, and other relevant treatment providers, as necessary to provide support to the individual.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

**WAC 388-877B-0110 Chemical dependency detoxification services—Agency staff requirements.** In addition to meeting the agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, an agency providing chemical dependency detoxification services must ensure:

(1) All chemical dependency assessment and counseling services are provided by a chemical dependency professional (CDP), or a CDP trainee (CDPT) under the supervision of an approved supervisor.

(2) There is a designated clinical supervisor who:

- (a) Is a CDP;
- (b) Has documented competency in clinical supervision;
- (c) Is responsible for monitoring the continued competency of each CDP in assessment, treatment, continuing care, transfer, and discharge. The monitoring must include a semi-annual review of a sample of the clinical records kept by the CDP; and
- (d) Has not committed, permitted, aided or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180.

(3) Each staff member providing detoxification services to an individual, with the exception of licensed staff members and CDPs, completes a minimum of forty hours of documented training before being assigned individual care duties. This personnel training must include the following topics:

- ~~((i))~~ (a) Chemical dependency;
- ~~((ii))~~ (b) Infectious diseases, to include hepatitis and tuberculosis (TB); and
- ~~((iii))~~ (c) Detoxification screening, admission, and signs of trauma.

(4) Each CDPT has at least one approved supervisor who meets the qualifications in WAC 246-811-049. An approved supervisor must decrease the hours of individual contact by twenty percent for each full-time CDPT supervised.

(5) Each staff member that provides individual care has a copy of an initial TB screen or test and any subsequent screenings or testing in their personnel file.

(6) All staff members are provided annual training on the prevention and control of communicable disease, blood borne pathogens, and TB. The training must be documented in the personnel file.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

**WAC 388-877B-0200 Chemical dependency residential treatment services—General.** The rules in WAC 388-877B-0200 through 388-877B-0280 apply to behavioral health agencies that provide chemical dependency residential treatment services. The definitions in WAC 388-877-0200 also apply to chemical dependency residential treatment services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, chapter 388-877C WAC no later than September 1, 2013.

(1) Residential treatment services provide chemical dependency treatment for an individual and include room and board in a facility with ~~((twenty-four hours a day))~~ twenty-four hours a day supervision.

(2) Residential treatment services require additional program-specific certification by the department's division of behavioral ~~((health))~~ health and recovery and include:

(a) Intensive inpatient services (see WAC 388-877B-0250);

(b) Recovery house treatment services (see WAC 388-877B-0260);

(c) Long-term residential treatment services (see WAC 388-877B-0270); and

(d) Youth residential services (see WAC 388-877B-0280).

(3) An agency providing residential treatment services must:

(a) Be a facility licensed by department of health (DOH) and meet the criteria under one of the following DOH chapters:

(i) Hospital licensing regulations (chapter 246-320 WAC);

(ii) Private psychiatric and alcoholism hospitals (chapter 246-322 WAC);

(iii) Private alcohol and chemical dependency hospitals (chapter 246-324 WAC); or

(iv) Residential treatment facility (chapter 246-337 WAC);

(b) Be licensed by the department as a behavioral health agency;

(c) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in chapter 388-877 WAC, Behavioral health services administrative requirements; and

(d) Have policies and procedures to support and implement the:

(i) General requirements in chapter 388-877 WAC; and

(ii) Specific applicable requirements in WAC 388-877B-0200 through 388-877B-0280.

(4) An agency must:

(a) Use patient placement criteria (PPC) for admission, continued services, and discharge planning and decisions.

(b) Provide education to each individual admitted to the treatment facility on:

(i) Alcohol, other drugs, and/or chemical dependency;

(ii) Relapse prevention;

(iii) Blood borne pathogens; and

(iv) Tuberculosis (TB).

(c) Provide education or information to each individual admitted on:

(i) Emotional, physical, and sexual abuse;

(ii) Nicotine addiction; and

(iii) The impact of chemical use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of chemical use during pregnancy.

(d) Maintain a list or source of resources, including self-help groups, and referral options that can be used by staff to refer an individual to appropriate services.

(e) Screen for the prevention and control of tuberculosis.

(f) Limit the size of group counseling sessions to no more than twelve individuals.

(g) Have written procedures for:

(i) Urinalysis and drug testing, including laboratory testing; and

(ii) How agency staff members respond to medical and psychiatric emergencies.

(5) An agency that provides services to a pregnant woman must:

(a) Have a written procedure to address specific issues regarding the woman's pregnancy and prenatal care needs; and

(b) Provide referral information to applicable resources.

(6) An agency that provides an assessment to an individual under RCW 46.61.5056 must also meet the requirements for driving under the influence (DUI) assessment providers in WAC 388-877B-0550.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

**WAC 388-877B-0220 Chemical dependency residential treatment services—Clinical record content and documentation requirements.** In addition to the general clinical record content requirements in WAC 388-877-0640, an agency providing chemical dependency residential treatment services must maintain an individual's clinical record.

(1) The clinical record must contain:

(a) Documentation the individual was informed of the federal confidentiality requirements and received a copy of the individual notice required under 42 C.F.R. Part 2.

(b) Documentation that the individual received a copy of the rules and responsibilities for treatment participants, including the potential use of interventions or sanction.

(c) Justification for the change in the level of care when transferring an individual from one certified treatment service to another within the same agency, at the same location.

(d) Documentation of progress notes in a timely manner and before any subsequent scheduled appointments of the same type of service session or group type occur, or documentation as to why this did not occur. Progress notes must include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it.

(e) When an individual is transferring to another service provider, documentation that copies of documents pertinent to the individual's course of treatment were forwarded to the new service provider to include:

(i) The individual's demographic information; and  
 (ii) The diagnostic assessment statement and other assessment information to include:

(A) Documentation of the HIV/AIDS intervention.

(B) Tuberculosis (TB) screen or test result.

(C) A record of the individual's detoxification and treatment history.

(D) The reason for the individual's transfer.

(E) Court mandated, department of correction supervision status or the agency's recommended follow-up treatment.

(F) A discharge summary and continuing care plan.

(f) Documentation that a staff member(s) met with each individual at the time of discharge, unless the individual left without notice, to:

(i) Determine the appropriate recommendation for care and finalize a continuing care plan.

(ii) Assist the individual in making contact with necessary agencies or services.

(iii) Provide and document the individual was provided with a copy of the plan.

(g) Documentation that the discharge summary was completed within seven working days of the individual's discharge from the agency, which includes the date of discharge and a summary of the individual's progress toward each individual service plan goal.

(2) In addition to the requirements in (1) of this section, an agency must ensure the following for each individual service plan. The individual service plan must:

(a) Be personalized to the individual's unique treatment needs.

(b) Be initiated with at least one goal identified by the individual during the initial assessment or at the first service session following the assessment.

(c) Include individual needs identified in the diagnostic and periodic reviews, addressing:

(i) All substance use needing treatment, including tobacco, if necessary;

(ii) Patient bio-psychosocial problems;

(iii) Treatment goals;

(iv) Estimated dates or conditions for completion of each treatment goal; and

(v) Approaches to resolve the problem.

(d) Document approval by a chemical dependency professional (CDP) if the staff member developing the plan is not a CDP.

(e) Document that the plan was updated to reflect any changes in the individual's treatment needs, ~~((or as requested by the individual, at least once per month for the first three months, and at least quarterly thereafter))~~ status, and progress towards goals, or as requested by the individual, at least weekly.

(f) Document that the plan has been reviewed with the individual.

**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 13-12-053, filed 5/31/13, effective 7/1/13)

**WAC 388-877B-0310 Chemical dependency outpatient treatment services—Agency staff requirements.** In addition to meeting the agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, an agency providing chemical dependency outpatient treatment services must ensure:

(1) All chemical dependency assessment and counseling services are provided by a chemical dependency professional (CDP), or a department of health-credential CDP trainee (CDPT) under the supervision of an approved supervisor.

(2) There is a designated clinical supervisor who:

(a) Is a CDP;

(b) Has documented competency in clinical supervision;

(c) Is responsible for monitoring the continued competency of each CDP in assessment, treatment, continuing care, transfer, and discharge. The monitoring must include a semi-annual review of a sample of the clinical records kept by the CDP; and

(d) Has not committed, permitted, aided or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180.

~~((4))~~ (3) Each chemical dependency professional trainee has at least one approved supervisor who meets the qualifications in WAC 246-811-049. An approved supervisor must decrease the hours of individual contact by twenty percent for each full-time CDPT supervised.

~~((5))~~ (4) Each staff member that provides individual care has a copy of an initial TB screen or test and any subsequent screenings or testing in their personnel file.

~~((6))~~ (5) All staff members are provided annual training on the prevention and control of communicable disease, blood borne pathogens and TB, and document the training in the personnel file.

**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 13-12-053, filed 5/31/13, effective 7/1/13)

**WAC 388-877B-0370 Chemical dependency outpatient treatment services (~~requiring program specific certification~~)—Chemical dependency counseling (~~required under~~) subject to RCW 46.61.5056.** Chemical dependency outpatient treatment services provided to an individual convicted of driving under the influence or physical control under RCW 46.61.5056 are subject to the requirements in this section ~~(, and require program specific certification by the department's division of behavioral health and recovery)~~. An agency providing outpatient treatment services subject to RCW 46.61.5056 must ensure treatment is completed as follows:

(1) Treatment during the first sixty days must include:

(a) Weekly group or individual chemical dependency counseling sessions according to the individual service plan.

(b) One individual chemical dependency counseling session of not less than thirty minutes duration, excluding the

time taken for a chemical dependency assessment, for each individual, according to the individual service plan.

(c) Alcohol and drug basic education for each individual.

(d) Participation in self-help groups for an individual with a diagnosis of substance dependence. Participation must be documented in the individual's clinical record.

(e) The balance of the sixty-day time period for individuals who complete intensive inpatient chemical dependency treatment services must include, at a minimum, weekly outpatient counseling sessions according to the individual service plan.

(2) The next one hundred twenty days of treatment includes:

(a) Group or individual chemical dependency counseling sessions every two weeks according to the individual service plan.

(b) One individual chemical dependency counseling session of not less than thirty minutes duration, every sixty days according to the individual service plan.

(c) Referral of each individual for ongoing treatment or support, as necessary, using PPC, upon completion of one hundred eighty days of treatment.

(3) For an individual who is assessed with insufficient evidence of a substance use disorder, a chemical dependency professional (CDP) must refer the individual to alcohol/drug information school.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

**WAC 388-877B-0550 Chemical dependency assessment only services requiring program-specific certification—DUI assessment services.** Driving under the influence (DUI) assessment services are diagnostic services requested by a court to determine an individual's involvement with alcohol and other drugs and to recommend a course of action.

(1) A behavioral health agency certified for chemical dependency assessment only services may choose to provide optional program-specific DUI assessment services. Optional DUI assessment services require additional program-specific certification by the department's division of behavioral health and recovery.

(2) An agency providing DUI assessment services, as defined in chapter 46.61 RCW, must ensure:

(a) The assessment is conducted in person.

(b) The individual has a summary included in the assessment that evaluates the individual's:

(i) Blood or breath alcohol level and other drug levels, or documentation of the individual's refusal at the time of the arrest, if available; and

(ii) Self-reported driving record and the abstract of the individual's legal driving record.

(3) ~~((That when))~~ When the assessment findings do not result in a substance use disorder diagnosis, the assessment must also ~~((includes))~~ include:

(a) A copy of the police report;

(b) A copy of the court originated criminal case history; ~~((and))~~

(c) The results of a urinalysis or drug testing obtained at the time of the assessment; and

(d) A referral to alcohol and drug information school.

(4) ~~((That the assessment contains documentation of the attempts to obtain))~~ If the information in subsection (3)(a) through (d) of this section ~~((if it))~~ is required and not readily available, the record must contain documentation of attempts to obtain the information.

(5) ~~((The assessment includes a referral to alcohol and drug information school))~~ Upon completion of the DUI assessment, the individual must be:

(a) Informed of the results of the assessment; and

(b) Referred to the appropriate level of care according to patient placement criteria (PPC).

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

**WAC 388-877B-0640 Chemical dependency information and assistance services requiring program-specific certification—Information and crisis services.** Chemical dependency information and crisis services provide an individual assistance or guidance related to the abuse of addictive substances, ~~((twenty-four hours a day))~~ twenty-four hours a day by telephone or in-person. Information and crisis services require program-specific certification by the department's division of behavioral health and recovery. An agency providing information and crisis services must:

(1) Have services available to any individual ~~((twenty-four hours a day, seven days a week))~~ twenty-four hours a day, seven days a week.

(2) Ensure each staff member completes forty hours of training that covers the following areas before assigning the staff member unsupervised duties:

(a) Chemical dependency crisis intervention techniques; and

(b) Alcoholism and drug abuse.

(3) Ensure a chemical dependency professional (CDP), or a CDP trainee (CDPT) under supervision of a CDP, is available or on staff ~~((twenty-four hours a day))~~ twenty-four hours a day.

(4) Have at least one approved supervisor that meets the qualifications in WAC 246-811-049, if services are provided by a CDPT or other certified or licensed counselor in training to become a CDP. The supervisor must decrease the number of individual contact hours for each full-time CDPT under their supervision.

(5) Maintain a current directory of all certified chemical dependency service providers in the state.

(6) Maintain a current list of local resources for legal, employment, education, interpreter, and social and health services.

(7) Maintain records of each individual contact, including:

(a) The name, age, sex, and ethnic background of the individual.

(b) The presenting problem.

(c) The outcome.

(d) A record of any referral made.

(e) The signature of the person handling the case.

**WSR 14-12-076**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed June 3, 2014, 9:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-19-067, 13-15-122, 13-15-121 and 12-08-063.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-406-0005, 388-406-0035, 388-406-0045, 388-418-0005, 388-424-0010, 388-424-0015, 388-436-0030, 388-450-0015, 388-450-0025, 388-450-0040, 388-450-0156, 388-450-0170, 388-472-0005, and 388-473-0010.

Hearing Location(s): Office Building 2, Lookout Room, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on July 22, 2014, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 23, 2014.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on July 22, 2014.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by July 8, 2014, TTY (360) 664-6178 or (360) 664-6094 or by e-mail jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The community services division is proposing amendments via the regular rule-making process to the above referenced fourteen WACs. The department is proposing amendments to remove medical references, support the creation of the housing and essential needs (HEN) referral program, and remove references to the Alcohol and Drug Addiction Treatment and Support Act (ADATSA).

Reasons Supporting Proposal: Proposed amendments are currently in effect via emergency adoption (WSR 14-10-042 filed on April 30, 2014). WAC 388-406-0055 and 388-450-0162 that are in effect via the emergency filing, are not included in this rule filing as they are part of other permanent rule filings.

2E2SHB 1738, Laws of 2011, designated the health care authority (HCA) as the single state agency responsible for the administration and supervision of Washington's medical assistance programs. HCA recodified medical assistance program rules to Title 182 WAC. Accordingly, the department must eliminate corresponding rules and medical references under Title 388 WAC. Proposed amendments also support the creation of the new HEN referral program created under SHB 2069 and to remove references related to ADATSA. The legislature did not appropriate funds for ADATSA in the new biennium budget. ADATSA-related medical care services recipients will be medicaid eligible under the Affordable Care Act effective January 1, 2014. Additional amendments spell out the acronym, ABD, identifying it as the aged, blind, or disabled program.

Statutory Authority for Adoption: SHB 2069, Laws of 2013; 2E2SHB 1738, chapter 15, Laws of 2011; the 2013 biennial budget and RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030, 41.05.021, 74.09.035, and 74.09.530.

Statute Being Implemented: SHB 2069, Laws of 2013; 2E2SHB 1738, chapter 15, Laws of 2011; the 2013 biennial budget.

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: Erik Peterson, 712 Pear Street S.E., Olympia, WA 98501, (360) 725-4622.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rule amendments do 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 RCW 34.05.328 (5)(b)(vii) which states in part, "this 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."

May 29, 2014  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-406-0005 Can I apply for cash(~~(or medical)~~) or Basic Food?** (1) You can apply for any benefit the department offers, including cash assistance(~~(or medical assistance)~~) or Basic Food.

(2) You must meet certain eligibility requirements in order to receive a program benefit.

(3) You can apply for someone else if you are:

(a) A legal guardian, caretaker, or authorized representative applying for:

(i) A dependent child; or

(ii) An incapacitated person(~~(or~~

~~someone who is deceased)~~).

(b) Applying for someone who cannot apply for some other reason. We may ask why the applicant is unable to apply on their own behalf.

(4) (~~If you get supplemental security income (SSI), you do not need to apply for medical benefits. We automatically open medical benefits for you.~~

~~(5))~~ A person or agency may apply for aged, blind, or disabled (ABD) cash (~~(or medical assistance)~~) for you if:

(a) You temporarily live out-of-state; and

(b) You are a Washington state resident.

~~((6))~~ (5) When you are confined or incarcerated in a Washington state public institution, you may apply for cash (~~(or medical assistance)~~) if you meet the following criteria:

(a) You are confined by or in the following public institutions:

(i) Department of corrections;

- (ii) City or county jail; or
- (iii) Institution for mental diseases (IMD).

(b) Staff at the public institution provide medical records including diagnosis by a mental health professional that you have a mental disorder (as defined in the Diagnostic and Statistical Manual of Psychiatric Disorders, most recent edition) that affects your thoughts, mood or behavior so severely that it prevents you from performing any kind of work.

~~((7) We will make an eligibility determination for medical assistance prior to your release from confinement and will authorize medical benefits upon your release from confinement when you:~~

- ~~(a) Meet the criteria of subsection (6) in this section; and~~
- ~~(b) Were receiving medicaid immediately before confinement or within the five years prior to confinement.~~

~~(8) If you meet the criteria in subsection (6) but did not receive medicaid within the five years prior to confinement, the department will process your request for medical assistance within the time frames in WAC 388-406-0035.~~

~~(9) If you are applying for assistance for a youth leaving incarceration in a juvenile rehabilitation administration or county juvenile detention facility, you may apply for assistance within forty five days prior to release. We will process your application for medical assistance when we receive it, and if eligible, we will authorize medical benefits upon the youth's release from confinement.)~~

AMENDATORY SECTION (Amending WSR 12-06-070, filed 3/6/12, effective 4/6/12)

**WAC 388-406-0035 How long does the department have to process my application?** (1) We must process your application as quickly as possible. We must respond promptly to your application and to any information you give us. We cannot delay processing your request by using the time limits stated in this section as a waiting period for determining eligibility.

(2) Unless your eligibility determination is delayed for good cause under WAC 388-406-0040, we process your application for benefits within thirty calendar days, except:

~~(a) ((If you are pregnant, we must process your application for medical within fifteen working days;~~

~~(b)) If you are applying for aged, blind, or disabled (ABD) cash assistance, ((alcohol or drug addiction treatment (ADATSA), or medical assistance)) or a referral to the housing and essential needs (HEN) program, we must process your application within forty-five calendar days unless there is good cause as described in WAC 388-406-0045(~~and~~~~

~~(c) If you are applying for medical assistance that requires a disability decision, we must process your application within sixty calendar days)).~~

(3) For calculating time limits, "day one" is the date following the date:

(a) The department received your application for benefits under WAC 388-406-0010;

(b) Social Security gets a request for food benefits from a Basic Food assistance unit in which all members either get or are applying for supplemental security income (SSI);

(c) You are released from an institution if you get or are authorized to get SSI and request Basic Food through Social Security prior to your release.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-406-0045 Is there a good reason my application for cash ((or medical)) assistance has not been processed?** If your application for cash ((or medical)) assistance is not processed within the time limits under WAC 388-406-0035, the department must decide if there is a good reason for the delay. This good reason is also called "good cause."

(1) We do not have a good reason for not processing your application for TANF or SFA within thirty days if:

(a) We did not give or send you a notice of what information we needed to determine your eligibility within twenty days from the date of your application;

(b) We did not give or send you a notice that we needed additional information or action within five calendar days of the date we learned that more information was needed to determine eligibility;

(c) We did not process your application within five calendar days from getting the information needed to decide eligibility; and

(d) We decide good cause exists but do not document our decision in the case record on or before the time limit for processing the application ends.

(2) We do have a good reason for not processing your application timely if:

(a) You do not give us the information or take an action needed for us to determine eligibility;

(b) We have an emergency beyond our control; or

(c) There is no other available verification for us to determine eligibility and the eligibility decision depends on information that has been delayed such as:

(i) Medical documentation;

(ii) For cash assistance, extensive property appraisals; or

(iii) Out-of-state documents or correspondence.

~~(3) ((For medical assistance, good cause exists only when the department otherwise acted promptly at all stages of the application process.~~

~~(4)) For aged, blind, or disabled (ABD) cash assistance, or a referral to the housing and essential needs (HEN) program, good cause exists if you apply when you are confined in a Washington state public institution as defined in WAC 388-406-0005 (6)(a).~~

AMENDATORY SECTION (Amending WSR 12-04-051, filed 1/30/12, effective 3/1/12)

**WAC 388-418-0005 How will I know what changes to report?** (1) You must report changes to the department based on the kinds of assistance you receive. We inform you of your reporting requirements on letters we send you about your benefits. Follow the steps below to determine the types of changes you must report:

~~((1)) (a) If you receive ((assistance from any of the programs listed in subsection (1), you must report changes for people in your assistance unit under chapter 388-408 WAC, based on the first program you receive benefits from.~~

(a) If you receive ~~long term care~~ benefits such as a home and community based waiver (Basic, Basic Plus, CORE, Community Protection, COPEs, New Freedom, Medically Needy), care in a medical institution (nursing home, hospice care center, state veterans home, ICF/MR, RHC) or hospice, you must tell us if you have a change of:

- (i) Residence;
- (ii) Marital status;
- (iii) Living arrangement;
- (iv) Income;
- (v) Resources;
- (vi) Medical expenses; and
- (vii) If we allow you expenses for your spouse or dependents, you must report changes in their income or shelter cost.

(b) If you receive medical benefits based on age, blindness, disability (SSI related medical), or ADATSA benefits, you need to tell us if:))

- ((i) You move;
- (ii) A family member moves into or out of your home;
- (iii) Your resources change; or
- (iv) Your income changes. This includes the income of you, your spouse or your child living with you.

(e) If you receive)) cash benefits, you need to tell us if:

- (i) You move;
- (ii) Someone moves out of your home;
- (iii) Your total gross monthly income goes over the:
  - (A) Payment standard under WAC 388-478-0033 if you receive ABD cash; or
  - (B) Earned income limit under WAC 388-478-0035 and 388-450-0165 for all other programs;
- (iv) You have liquid resources more than four thousand dollars; or
- (v) You have a change in employment. Tell us if you:
  - (A) Get a job or change employers;
  - (B) Change from part-time to full-time or full-time to part-time;
  - (C) Have a change in your hourly wage rate or salary; or
  - (D) Stop working((; or
  - (E) See WAC 182-504-0100 for medical care services reporting requirements)).

receive ABD cash; or

(B) Earned income limit under WAC 388-478-0035 and 388-450-0165 for all other programs;

(iv) You have liquid resources more than four thousand dollars; or

(v) You have a change in employment. Tell us if you:

- (A) Get a job or change employers;
- (B) Change from part-time to full-time or full-time to part-time;
- (C) Have a change in your hourly wage rate or salary; or
- (D) Stop working((; or
- (E) See WAC 182-504-0100 for medical care services reporting requirements)).

(D) Stop working((; or

(E) See WAC 182-504-0100 for medical care services reporting requirements)).

((d)) (b) If you are a relative or nonrelative caregiver and receive cash benefits on behalf of a child in your care but not for yourself or other adults in your household, you need to tell us if:

- (i) You move;
- (ii) The child you are caring for moves out of the home;
- (iii) Anyone related to you or to the child you are caring for moves into or out of the home;
- (iv) There is a change in the earned or unearned income of anyone in your child-only means-testing assistance unit, as defined in WAC 388-450-0162 (3)(b). You do not need to report changes in earned income for your dependent children who are in school full-time (see WAC 388-450-0070).
- (v) There is a change in the recipient child's earned or unearned income (see WAC 388-450-0070 for how we count the earned income of a child);
- (vi) The recipient child has liquid resources more than four thousand dollars;
- (vii) A recipient child in the home becomes a foster child; or

(v) There is a change in the recipient child's earned or unearned income (see WAC 388-450-0070 for how we count the earned income of a child);

(vi) The recipient child has liquid resources more than four thousand dollars;

(vii) A recipient child in the home becomes a foster child; or

(viii) You legally adopt the recipient child.

((e) If you receive ~~family medical~~ benefits, you need to tell us if:

- (i) You move;
- (ii) A family member moves out of your home; or
- (iii) If your income goes up or down by one hundred dollars or more a month and you expect this income change will continue for at least two months.))

(2) If you do not receive cash assistance ((from any of the programs listed in subsection (1))), but you do receive Basic Food benefits ((from any of the programs listed in subsection (2))), you must report changes for the people in your assistance unit under chapter 388-408 WAC((, based on all the benefits you receive.

(a) If you receive ~~Basic Food~~ benefits, you)). You need to tell us if:

((i) If you)) (a) Your household is a categorically eligible household as defined under WAC 388-414-0001, tell us if your total gross monthly income is more than two hundred percent of the federal poverty level; or

((ii)) (b) For all other households tell us if your total monthly income is more than the maximum gross monthly income as described in WAC 388-478-0060; or

((iii)) (c) Anyone who receives food benefits in your assistance unit and who must meet work requirements under WAC 388-444-0030 has their hours at work go below twenty hours per week.

((b) If you receive ~~children's medical~~ benefits, you need to tell us if:

- (i) You move; or
- (ii) A family member moves out of the house.

(e) If you receive ~~pregnancy medical~~ benefits, you need to tell us if:

- (i) You move; or
- (ii) You are no longer pregnant.

(d) If you receive ~~other medical~~ benefits, you need to tell us if:

- (i) You move; or
- (ii) A family member moves out of the home.))

**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 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-424-0010 Citizenship and alien status—Eligibility for TANF((, ~~medicaid, and CHIP~~)).** (1) To receive temporary assistance for needy families (TANF)((; ~~medicaid, or children's health insurance program (CHIP) benefits~~)), an individual must meet all other eligibility requirements and be one of the following as defined in WAC 388-424-0001:

- (a) A United States (U.S.) citizen;
- (b) A U.S. national;
- (c) An American Indian born outside the U.S.;
- (d) A "qualified alien";
- (e) A victim of trafficking; or
- (f) A Hmong or Highland Lao.

(2) A "qualified alien" who first physically entered the U.S. before August 22, 1996 as described in WAC 388-424-0006(1) may receive TANF(~~(, medicaid, and CHIP)~~).

(3) A "qualified alien" who first physically entered the U.S. on or after August 22, 1996 cannot receive TANF(~~(, medicaid, or CHIP)~~) for five years after obtaining status as a qualified alien unless the criteria in WAC 388-424-0006(4) are met.

(4) ~~((A lawfully present "nonqualified alien" child or pregnant woman as defined in WAC 388-424-0001 who meet residency requirements as defined in WAC 388-468-0005 may receive medicaid or CHIP.~~

~~(5))~~ An alien who is ineligible for TANF(~~(, medicaid or CHIP)~~) because of the five-year bar or because of their immigration status may be eligible for:

(a) Emergency benefits as described in WAC 388-436-0015 (consolidated emergency assistance program) ~~((and WAC 388-438-0110 (alien medical program)))~~; or

(b) State-funded cash ~~((or chemical dependency benefits))~~ as described in WAC 388-424-0015 (state family assistance (SFA), and aged, blind, or disabled (ABD) cash(~~(, and the Alcohol and Drug Addiction Treatment and Support Act (ADATSA))~~), and medical benefits as described in WAC 182-503-0532; or

~~(c) Pregnancy medical benefits for noncitizen women as described in WAC 388-462-0015(3); or~~

~~(d) State funded apple health for kids as described in WAC 388-505-0210(5)).~~

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-424-0015 Immigrant eligibility restrictions for the state family assistance, ABD cash(~~(, )~~) and PWA(~~(, and ADATSA)~~) programs.** (1) To receive state family assistance (SFA) benefits, you must be:

(a) A "qualified alien" as defined in WAC 388-424-0001 who is ineligible for TANF due to the five-year bar as described in WAC 388-424-0006(3); or

(b) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005, including a noncitizen American Indian who does not meet the criteria in WAC 388-424-0001.

(2) To receive aged, blind, or disabled (ABD) cash or pregnant women assistance (PWA) benefits, you must be:

(a) A U.S. citizen;

(b) A U.S. national;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien" or similarly defined lawful immigrant such as victim of trafficking as defined in WAC 388-424-0001; or

(e) A nonqualified alien described in WAC 388-424-0001 who:

(i) Has verified their intent to stay in the United States indefinitely; and

(ii) The United States Immigration and Customs Enforcement is not taking steps to enforce their departure.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-436-0030 How does my eligibility for other possible cash benefits impact my eligibility for CEAP? (1)** You are ineligible for CEAP if you, or a household member, are eligible for any of the following programs:

(a) TANF or SFA, unless the family has had its case grant terminated due to WAC 388-310-1600;

(b) Pregnant women assistance (PWA);

(c) RCA;

(d) Aged, blind, or disabled (ABD) cash;

(e) Supplemental security income (SSI);

~~((f) Medical assistance for those applicants requesting help for a medical need;~~

~~((g))~~ (f) Food assistance for those applicants requesting help for a food need;

~~((h))~~ (g) Housing assistance from any available source for those applicants requesting help for a housing need;

~~((i))~~ (h) Unemployment compensation, veteran's benefits, industrial insurance benefits, Social Security benefits, pension benefits, or any other source of financial benefits the applicant is potentially eligible to receive.

(2) The department may require the applicant, or anyone in the assistance unit, to apply for and take any required action to receive benefits from programs described in the above subsection (1)(a) through (h).

(3) The department may not authorize CEAP benefits to any household containing a member who is:

(a) Receiving cash benefits from any of the following programs:

(i) TANF/SFA;

(ii) PWA;

(iii) RCA;

(iv) DCA; or

(v) ABD cash.

(b) Receiving reduced cash benefits for failure to comply with program requirements of TANF/SFA, or RCA.

(4) The department may authorize CEAP to families reapplying for TANF/SFA who are not eligible for TANF cash benefits under WAC 388-310-1600 until they complete the four week participation requirement.

AMENDATORY SECTION (Amending WSR 12-08-002, filed 3/21/12, effective 4/21/12)

**WAC 388-450-0015 What types of income are not used by the department to figure out my benefits?** This section applies to cash assistance(~~(, children's, family, or pregnancy medical,))~~ and basic food benefits.

(1) There are some types of income we do not count to figure out if you can get benefits and the amount you can get. Some examples of income we do not count are:

(a) Bona fide loans as defined in WAC 388-470-0045, except certain student loans as specified under WAC 388-450-0035;

(b) Federal income tax refunds and earned income tax credit (EITC) payments in the month received;

(c) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

(d) Federal twenty-five dollar supplemental weekly unemployment compensation payment authorized by the American Recovery and Reinvestment Act of 2009;

(e) Title IV-E and state foster care maintenance payments if you choose not to include the foster child in your assistance unit;

(f) Energy assistance payments;

(g) Educational assistance we do not count under WAC 388-450-0035;

(h) Native American benefits and payments we do not count under WAC 388-450-0040;

(i) Income from employment and training programs we do not count under WAC 388-450-0045;

(j) Money withheld from a benefit to repay an overpayment from the same income source. For Basic Food, we **do not** exclude money that is withheld because you were overpaid for purposely not meeting requirements of a federal, state, or local means tested program such as TANF/SFA, aged, blind, or disabled (ABD) cash assistance, pregnant women assistance (PWA), and SSI;

(k) Legally obligated child support payments received by someone who gets TANF/SFA benefits;

(l) One-time payments issued under the Department of State or Department of Justice Reception and Replacement Programs, such as Voluntary Agency (VOLAG) payments; and

(m) Payments we are directly told to exclude as income under state or federal law.

(n) ~~((For cash and Basic Food))~~ Payments made to someone outside of the household for the benefits of the assistance unit using funds that are not owed to the household;

(o) **For Basic Food only:** The total monthly amount of all legally obligated current or back child support payments paid by the assistance unit to someone outside of the assistance unit for:

(i) A person who is not in the assistance unit; or

(ii) A person who is in the assistance unit to cover a period of time when they were not living with the member of the assistance unit responsible for paying the child support on their behalf.

~~((p) For medical assistance: Only the portion of income used to repay the cost of obtaining that income source.~~

~~(2) For children's, family, or pregnancy medical, we also do not count any insurance proceeds or other income you have recovered as a result of being a Holocaust survivor.)~~

AMENDATORY SECTION (Amending WSR 12-06-070, filed 3/6/12, effective 4/6/12)

**WAC 388-450-0025 What is unearned income?** This section applies to cash assistance(;) and food assistance(;) ~~and medical programs for families, children, and pregnant women).~~

(1) Unearned income is income you get from a source other than employment or self-employment. Some examples of unearned income are:

(a) Railroad retirement;

(b) Unemployment compensation;

(c) Social Security benefits (including retirement benefits, disability benefits, and benefits for survivors);

(d) Time loss benefits as described in WAC 388-450-0010, such as benefits from the department of labor and industries (L&I); or

(e) Veteran Administration benefits.

(2) For food assistance we also count the total amount of cash benefits due to you before any reductions caused by your failure (or the failure of someone in your assistance unit) to perform an action required under a federal, state, or local means-tested public assistance program, such as TANF/SFA, ABD assistance, PWA, and SSI.

(3) When we count your unearned income, we count the amount you get before any taxes are taken out.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-450-0040 Native American benefits and payments.** This section applies to TANF/SFA, RCA, PWA, ABD cash, ~~((medical))~~ and food assistance programs.

(1) The following types of income are not counted when a client's benefits are computed:

(a) Up to two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act, P.L. 92-203 and 100-241;

(b) Income received from Indian trust funds or lands held in trust by the Secretary of the Interior for an Indian tribe or individual tribal member. Income includes:

(i) Interest; and

(ii) Investment income accrued while such funds are held in trust.

(c) Income received from Indian ~~((judgement))~~ judgment funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134 as amended by P.L. 97-458 and 98-64. Income includes:

(i) Interest; and

(ii) Investment income accrued while such funds are held in trust.

(d) Up to two thousand dollars per individual per calendar year received from leases or other uses of individually owned trust or restricted lands, P.L. 103-66;

(e) Payments from an annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup Tribe member upon reaching twenty-one years of age; and

(f) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member.

(2) Other Native American payments and benefits that are excluded by federal law are not counted when determining a client's benefits. Examples include but are not limited to:

(a) White Earth Reservation Land Settlement Act of 1985, P.L. 99-264, Section 16;

(b) Payments made from submarginal land held in trust for certain Indian tribes as designated by P.L. 94-114 and P.L. 94-540; and

(c) Payments under the Seneca Nation Settlement Act, P.L. 101-503(~~;~~ and

~~(d) For medical assistance, receipt of money by a member of a federally recognized tribe from exercising federally protected rights or extraction of protected resources, such as fishing, shell fishing, or selling timber, is considered conversion of an exempt resource during the month of receipt. Any amounts remaining from the conversion of this exempt resource on the first of the month after the month of receipt will remain exempt if the funds were used to purchase another exempt resource. Any amounts remaining in the form of countable resources (such as in checking or savings accounts) on the first of the month after receipt, will be added to other countable resources for eligibility determinations).~~

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-450-0156 When am I exempt from deeming?** (1) If you meet any of the following conditions, you are **permanently** exempt from deeming and we do not count your sponsor's income or resources against your benefits:

(a) The Immigration and Nationality Act (INA) does not require you to have a sponsor. Immigrants who are not required to have a sponsor include those with the following status with United States Citizenship and Immigration Services (USCIS):

- (i) Refugee;
- (ii) Parolee;
- (iii) Asylee;
- (iv) Cuban/Haitian entrant; or
- (v) Special immigrant from Iraq or Afghanistan.

(b) You were sponsored by an organization or group as opposed to an individual;

(c) You do not meet the alien status requirements to be eligible for benefits under chapter 388-424 WAC;

(d) You have worked or can get credit for forty qualifying quarters of work under Title II of the Social Security Act. We do not count a quarter of work toward this requirement if the person working received TANF, food stamps, Basic Food, SSI, CHIP, ~~((or))~~ nonemergency medicaid benefits, or Washington Apple Health coverage. We count a quarter of work by the following people toward your forty qualifying quarters:

(i) Yourself;

(ii) Each of your parents for the time they worked before you turned eighteen years old (including the time they worked before you were born); and

(iii) Your spouse if you are still married or your spouse is deceased.

(e) You become a United States (U.S.) Citizen;

(f) Your sponsor is dead; or

(g) If USCIS or a court decides that you, your child, or your parent was a victim of domestic violence from your sponsor and:

- (i) You no longer live with your sponsor; and
- (ii) Leaving your sponsor caused your need for benefits.

(2) You are exempt from the deeming process while you are in the same AU as your sponsor(;

~~(3) For children and pregnancy medical programs, you are exempt from sponsor deeming requirements).~~

~~((4))~~ (3) For Basic Food, you are exempt from deeming while you are under age eighteen.

~~((5))~~ (4) For state family assistance, aged, blind, or disabled (ABD) cash, pregnant women assistance (PWA)~~((;))~~ and state-funded Basic Food benefits, ~~((and state-funded medical assistance for legal immigrants))~~ you are exempt from the deeming process if:

(a) Your sponsor signed the affidavit of support more than five years ago;

(b) Your sponsor becomes permanently incapacitated; or

(c) You are a qualified alien according to WAC 388-424-0001 and you:

(i) Are on active duty with the U.S. armed forces or you are the spouse or unmarried dependent child of someone on active duty;

(ii) Are an honorably discharged veteran of the U.S. armed forces or you are the spouse or unmarried dependent child of an honorably discharged veteran;

(iii) Were employed by an agency of the U.S. government or served in the armed forces of an allied country during a military conflict between the U.S. and a military opponent; or

(iv) Are a victim of domestic violence and you have petitioned for legal status under the Violence Against Women Act.

~~((6))~~ (5) If you, your child, or your parent was a victim of domestic violence, you are exempt from the deeming process for twelve months if:

(a) You no longer live with the person who committed the violence; and

(b) Leaving this person caused your need for benefits.

~~((7))~~ (6) If your AU has income at or below one hundred thirty percent of the federal poverty level (FPL), you are exempt from the deeming process for twelve months. This is called the "indigence exemption." You may choose to use this exemption or not to use this exemption in full knowledge of the possible risks involved. See risks in subsection (9) below. For this rule, we count the following as income to your AU:

(a) Earned and unearned income your AU receives from any source; and

(b) Any noncash items of value such as free rent, commodities, goods, or services you receive from an individual or organization.

~~((8))~~ (7) If you use the indigence exemption, and are eligible for a federal program, we are required by law to give the United States attorney general the following information:

(a) The names of the sponsored people in your AU;

(b) That you are exempt from deeming due to your income;

(c) Your sponsor's name; and

(d) The effective date that your twelve-month exemption began.

~~((9))~~ (8) If you use the indigence exemption, and are eligible for a state program, we do not report to the United States attorney general.

~~((10))~~ (9) If you choose not to use the indigence exemption:

(a) You could be found ineligible for benefits for not verifying your sponsor's income and resources; or

(b) You will be subject to regular deeming rules under WAC 388-450-0160.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-450-0170 Does the department provide an earned income deduction as an incentive for persons who receive TANF/SFA to work?** This section applies to TANF/SFA, RCA((;)) and PWA((; and medical programs for children, pregnant women, and families except as specified under WAC 388-450-0210)).

- (1) If a client works, the department only counts some of the income to determine eligibility and benefit level.
- (2) We only count fifty percent of your monthly gross earned income. We do this to encourage you to work.
- (3) If you pay for care before we approve your benefits, we subtract the amount you pay for those dependent children or incapacitated adults who get cash assistance with you.
  - (a) The amount we subtract is:
    - (i) Prorated according to the date you are eligible for benefits;
    - (ii) Cannot be more than your gross monthly income; and
    - (iii) Cannot exceed the following for each dependent child or incapacitated adult:

Dependent Care Maximum Deductions

Hours Worked Per Month	Child Two Years of Age & Under	Child Over Two Years of Age or Incapacitated Adult	
0 - 40	\$ 50.00	\$ 43.75	
41 - 80	\$ 100.00	\$ 87.50	
81 - 120	\$ 150.00	\$ 131.25	
121 or More	\$ 200.00	\$ 175.00	

- (b) In order to get this deduction:
  - (i) The person providing the care must be someone other than the parent or stepparent of the child or incapacitated adult; and
  - (ii) You must verify the expense.

AMENDATORY SECTION (Amending WSR 12-06-070, filed 3/6/12, effective 4/6/12)

**WAC 388-472-0005 What are my rights and responsibilities?** For the purposes of this chapter, "we" and "us" refer to the department and "you" refers to the applicant or recipient.

- (1) If you apply for or get cash, a referral to the housing and essential needs (HEN) program, or food ((or medical)) assistance benefits you have the right to:
  - (a) Have your rights and responsibilities explained to you and given to you in writing;
  - (b) Have us explain the legal use of DSHS benefits to you;

(c) Be treated politely and fairly no matter what your race, color, political beliefs, national origin, religion, age, gender, disability or birthplace;

(d) Request benefits by giving us an application form using any method listed under WAC 388-406-0010. You can ask for and get a receipt when you give us an application or other documents;

(e) Have your application processed as soon as possible. Unless your application is delayed under WAC 388-406-0040, we process your application for benefits within thirty days, except:

- (i) If you are eligible for expedited services under WAC 388-406-0015, you get food assistance within seven days. If we deny you expedited services, you have a right to ask that the decision be reviewed by the department within two working days from the date we denied your request for expedited services;
  - (ii) ((If you are pregnant and otherwise eligible, you get medical within fifteen working days;
  - (iii)) Aged, blind, or disabled (ABD) assistance, or ((alcohol or drug addiction treatment (ADATSA), or medical assistance)) referral to the housing and essential needs (HEN) program, may take up to forty-five days((; and
  - (iv) ((iii) Medical assistance requiring a disability decision may take up to sixty days)).

(f) Be given at least ten days to give us information needed to determine your eligibility and be given more time if you ask for it. If we do not have the information needed to decide your eligibility, then we may deny your request for benefits;

(g) Have the information you give us kept private. We may share some facts with other agencies for efficient management of federal and state programs;

(h) Ask us not to collect child support ((or)) (which includes medical support, as defined in WAC 388-14A-1020) if you fear the noncustodial parent may harm you, your children, or the children in your care;

(i) Ask for extra money to help pay for temporary emergency shelter costs, such as an eviction or a utility shutoff, if you get TANF;

(j) Get a written notice, in most cases, at least ten days before we make changes to lower or stop your benefits;

(k) Ask for an administrative hearing if you disagree with a decision we make. You can also ask a supervisor or administrator to review our decision or action without affecting your right to a fair hearing;

(l) Have interpreter or translator services given to you at no cost and without delay;

(m) Refuse to speak to a fraud investigator. You do not have to let an investigator into your home. You may ask the investigator to come back at another time. Such a request will not affect your eligibility for benefits; and

(n) Get help from us to register to vote.

(2) If you get cash((;)) or food((; or medical)) assistance, you are responsible to:

- (a) Tell us if you are ((pregnant, in need of immediate medical care;)) experiencing an emergency such as having no money for food, or facing an eviction so we can process your request for benefits as soon as possible;

(b) Report the following expenses so we can decide if you can get more food assistance:

- (i) Shelter costs;
- (ii) Child or dependent care costs;
- (iii) Child support that is legally obligated;
- (iv) Medical expenses; and
- (v) Self-employment expenses.

(c) Report changes as required under WAC 388-418-0005 and 388-418-0007.

(d) Give us the information needed to determine eligibility;

(e) Give us proof of information when needed. If you have trouble getting proof, we help you get the proof or contact other persons or agencies for it;

(f) Cooperate in the collection of child support (~~(or medical support)~~) unless you fear the noncustodial parent may harm you, your children, or the children in your care;

(g) Apply for and get any benefits from other agencies or programs prior to getting cash assistance from us;

(h) Complete reports and reviews when asked;

(i) Look for, get, and keep a job or participate in other activities if required for cash or food assistance;

(j) (~~Give your Provider One services card to your medical care provider;~~)

~~(k))~~ Cooperate with the quality control review process;

~~((H))~~ (k) Keep track of your EBT card for cash and food assistance and keep your personal identification number (PIN) secure. If you receive multiple replacement EBT cards, this may trigger an investigation to determine if you are trafficking benefits as described under WAC 388-412-0046 (2)(d); and

~~((m))~~ (l) Use your cash and food assistance benefits only as allowed under WAC 388-412-0046.

(3) If you are eligible for necessary supplemental accommodation (NSA) services under chapter 388-472 WAC, we help you comply with the requirements of this section.

**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 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-473-0010 What are ongoing additional requirements and how do I qualify?** "Ongoing additional requirement" means a need beyond essential food, clothing, and shelter needs and is necessary to help you continue living independently.

(1) We may authorize ongoing additional requirement benefits if you are active in one of the following programs:

- (a) Temporary assistance for needy families (TANF), or tribal TANF;
- (b) State family assistance (SFA);
- (c) Pregnant women assistance (PWA);
- (d) Refugee cash;
- (e) Aged, blind, or disabled (ABD) cash assistance; or
- (f) Supplemental security income (SSI).

(2) You apply for an ongoing additional requirement benefit by notifying staff who maintain your cash (~~(or medi-~~

~~cal))~~ assistance that you need additional help to live independently.

(3) We authorize ongoing additional requirement benefits only when we determine the item is essential to you. We make the decision based on proof you provide of:

(a) The circumstances that create the need; and

(b) How the need affects your health, safety and ability to continue to live independently.

(4) We authorize ongoing additional requirement benefits by increasing your monthly cash assistance benefit.

(5) We use the following review cycle table to decide when to review your need for the additional benefit(s).

REVIEW CYCLE	
Program	Frequency (Months)
TANF/RCA	6 Months
ABD	12 Months
SSI	24 Months
All	Any time need or circumstances are expected to change

(6) Monthly payment standards for ongoing additional requirements are described under WAC 388-478-0050.

**WSR 14-13-038**

**PROPOSED RULES**

**EASTERN WASHINGTON UNIVERSITY**

[Filed June 10, 2014, 12:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-07-118.

Title of Rule and Other Identifying Information: Adopting chapter 172-90 WAC, Student academic integrity, to codify rules related to academic integrity for students of Eastern Washington University.

Hearing Location(s): Eastern Washington University, Main Campus, Showalter Hall, Room 201, Cheney, WA 99004, on July 28, 2014, at 11:00 a.m.

Date of Intended Adoption: September 26, 2014.

Submit Written Comments to: University Policy Administrator, 214 Showalter Hall, Cheney, WA 99004, e-mail tlutey@ewu.edu, fax (509) 359-7036, by July 25, 2014.

Assistance for Persons with Disabilities: Contact Trent Lutey by July 25, 2014, (509) 359-6322.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules are needed to formalize university standards and processes for handling incidents of academic dishonesty.

Statutory Authority for Adoption: RCW 28B.35.120 (12).

Statute Being Implemented: Not applicable.

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

Name of Agency Personnel Responsible for Drafting: Trent Lutey, 214 Showalter, Cheney, WA 99004, (509) 359-

6322; Implementation and Enforcement: Laurie Connelly, 214 Showalter, Cheney, WA 99004, (509) 359-2371.

No small business economic impact statement has been prepared under chapter 19.85 RCW. WAC revision does not impose a disproportionate impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Chapter 172-121 WAC is not considered a significant legislative rule by Eastern Washington University.

June 10, 2014

Trent Lutey  
University Policy Administrator

## Chapter 172-90 WAC

### STUDENT ACADEMIC INTEGRITY

#### NEW SECTION

**WAC 172-90-010 General.** These rules establish standards for student academic integrity at Eastern Washington University (EWU). EWU expects the highest standards of academic integrity of its students. Academic integrity is the responsibility of both students and instructors. The university supports the instructor in setting and maintaining standards of academic integrity. Academic integrity is the foundation of a fair and supportive learning environment for all students. Personal responsibility for academic performance is essential for equitable assessment of student accomplishments. Charges of violations of academic integrity are reviewed through a process that allows for student learning and impartial review.

These rules apply to all EWU instructors, staff, and students admitted to the university, including conditional or probationary admittance, and to all departments and programs, in all locations, including online. These rules provide procedures for resolving alleged violations by students. All academic integrity review proceedings are brief adjudicative proceedings and shall be conducted in an informal manner.

#### NEW SECTION

**WAC 172-90-020 Responsibilities.** (1) Vice-provosts: The vice-provosts responsible for undergraduate and graduate education, or their designees, have primary responsibility for the university academic integrity program. The vice-provosts shall:

- (a) Oversee the academic integrity program;
- (b) Appoint the chair and members of the academic integrity board (AIB);
- (c) Maintain a system for academic integrity reporting and recordkeeping;
- (d) Serve as the final authority in administering the academic integrity program;
- (e) Maintain all academic integrity records per Washington state records retention standards;
- (f) Coordinate academic integrity training for instructors and students, as needed or requested; and
- (g) Develop and/or facilitate development of academic integrity program support resources, including guides, procedures, web presence, training materials, presentations, and similar resources.

(2) Academic integrity board (AIB): The academic integrity board is a standing committee of the faculty organization. The academic integrity board is responsible for administering and managing academic integrity functions.

(a) The AIB shall:

- (i) Promote academic integrity at EWU;
- (ii) Review academic integrity cases, make determinations as to whether a violation occurred, and impose academic and/or institutional sanctions;
- (iii) Assist vice-provosts in development of academic integrity program support resources;
- (iv) Respond, as appropriate, to campus needs related to the academic integrity program;
- (v) Coordinate AIB activities with the vice-provosts; and
- (vi) Continually assess academic integrity process outcomes to ensure equitability of sanctions vis-à-vis violations.

(b) The AIB is appointed by the vice-provosts (jointly), based on recommendations from represented groups (e.g., colleges, library, ASEWU). Board composition or membership may be modified to support university needs with the consent of the vice-provosts and approval of the provost. At a minimum, AIB membership will include:

(i) Two members from each college, one primary and one alternate. Both must hold or have held instructor rank. The primary and alternate must be from different academic departments. The alternate shall serve when a case involves an instructor in the primary member's own department. The alternate may also serve when the primary member is not available. One of the primary members shall also be designated as vice-chair.

(ii) One member representing EWU libraries.

(iii) One student member representing ASEWU.

(iv) One chair (does not vote except to break a tie).

(c) The AIB holds regular meetings every two weeks at fixed times and reviews cases at these meetings. AIB reviews are held in abeyance during holidays, academic breaks, and other times when no classes are scheduled. AIB reviews may be canceled in other circumstances with the consent of the AIB chair. Any member who is unavailable shall inform the AIB chair who will arrange for a replacement.

(d) A quorum shall consist of three voting members plus the chair/vice-chair.

(3) Instructors shall:

(a) Know and follow the academic integrity rules and policies of the university;

(b) Include, in each course syllabus, a reference to university academic integrity standards and a clear statement that suspected violations will be handled in accordance with those standards;

(c) Hold students responsible for knowing these rules;

(d) Foster an environment where academic integrity is expected and respected;

(e) Endeavor to detect and properly handle violations of academic integrity; and

(f) Support and comply with the determinations of the AIB.

(4) Students shall:

(a) Demonstrate behavior that is honest and ethical in their academic work; and

(b) Know and follow the academic integrity rules and policies of the university.

#### NEW SECTION

**WAC 172-90-030 Standard of proof.** The standard of proof for cases of academic integrity violations is a preponderance of the evidence which is satisfied when the evidence indicates that it is more likely than not that the accused person actually committed the violation.

#### NEW SECTION

**WAC 172-090-040 Privacy.** Individual information in academic integrity matters is protected under the Family Educational Rights and Privacy Act (FERPA). The protection and release of such information shall be as provided for in chapter 172-191 WAC, Student Education Records.

**Reviser's note:** The above new section was filed by the agency as WAC 172-090-040. This section is placed among sections forming new chapter 172-90 WAC, and therefore should be numbered WAC 172-90-040. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

#### NEW SECTION

**WAC 172-90-050 Course drop/withdrawal suspended.** A student officially notified of charges of a violation of academic integrity may not drop or withdraw from the course while the matter is pending. Any attempt to drop or withdraw from a course under these circumstances will be considered a separate violation of these rules, unless the student is withdrawing for medical or military reasons, or other exceptional circumstances, as provided for in the university's registration policies.

If the student is found not responsible for violating academic integrity standards, the student will be permitted to withdraw from the course with a grade of "W" and with no financial penalty, regardless of the deadline for official withdrawal.

#### NEW SECTION

**WAC 172-90-060 Continuation in course.** A student may continue to attend and perform all expected functions within a course (take tests, submit papers, participate in discussions, and labs, etc.) while a charge of a violation of academic integrity is under review, even if the instructor's recommendation is a failing grade in the course, suspension or expulsion. Full status as an enrollee in a course may continue until a final sanction is imposed. A student may not continue to attend any course in which a final sanction of a failing grade has been imposed.

#### NEW SECTION

**WAC 172-90-070 Pending cases at end of term.** If a case cannot be resolved prior to the date that final grades must be reported, the instructor will assign a grade of "N." Upon resolution of the academic integrity process, the N grade will be modified accordingly.

#### NEW SECTION

**WAC 172-90-100 Violations and sanctions. (1) Violations:** Violations of academic integrity involve the use or attempted use of any method or technique enabling a student to misrepresent the quality or integrity of any of his or her work. Violations of academic integrity include, but are not limited to:

- (a) Plagiarism: Representing the work of another as one's own work;
- (b) Preparing work for another that is to be used as that person's own work;
- (c) Cheating by any method or means;
- (d) Knowingly and willfully falsifying or manufacturing scientific or educational data and representing the same to be the result of scientific or scholarly experiment or research; or
- (e) Knowingly furnishing false information to a university official relative to academic matters.

#### **(2) Classes of violations:**

(a) Class I violations are acts that are mostly due to ignorance, confusion and/or poor communication between instructor and class, such as an unintentional violation of the class rules on collaboration. Sanctions for class I offenses typically include a reprimand, educational opportunity, and/or a grade penalty on the assignment/test.

(b) Class II violations are acts involving a deliberate failure to comply with assignment directions, some conspiracy and/or intent to deceive, such as use of the internet when prohibited, fabricated endnotes or data, or copying answers from another student's test. Sanctions for class II offenses typically include similar sanctions as described for class I violations, as well as a course grade penalty or course failure.

(c) Class III violations are acts of violation of academic integrity standards that involve significant premeditation, conspiracy and/or intent to deceive, such as purchasing or selling a research paper. Sanctions for class III violations typically include similar sanctions as given for class I and II violations, as well as possible removal from the academic program and/or suspension or expulsion.

(3) **Sanctions:** A variety of sanctions may be applied in the event that a violation of academic integrity is found to have occurred. Sanctions are assigned based primarily on the class of the violation and whether or not the student has previously violated academic integrity rules. Suspension for violation of academic integrity standards will ordinarily take place immediately. Sanctions may be combined and may include, but are not limited to:

- (a) Verbal or written reprimand;
- (b) Educational opportunity, such as an assignment, research or taking a course or tutorial on academic integrity;
- (c) Grade penalty for the assignment/test;
- (d) Course grade penalty;
- (e) Course failure;
- (f) Removal from the academic program;
- (g) Suspension for a definite period of time; and
- (h) Expulsion from the university.

If a student was previously found to have violated an academic integrity standard, the sanction imposed for any subsequent violations should take into account the student's previous behavior. A subsequent violation may result in

either suspension for one or two full terms, excluding summer terms, or permanent expulsion from the university.

**(4) Sanctioning authorities:**

(a) Instructors may impose reprimands, educational opportunities, grade penalties, and/or course failure sanctions and may recommend more severe sanctions.

(b) The academic integrity board has the authority to impose the same sanctions as an instructor, or to modify any sanctions imposed by the instructor. In addition, the AIB may remove a student from the academic program, with the concurrence of the instructor and the department chair. The AIB may also refer the student to student rights and responsibilities with a recommendation for suspension or expulsion under the student conduct code.

(c) The student disciplinary council may impose suspension or expulsion, subject to the approval of the dean of students and the vice-president for student affairs.

NEW SECTION

**WAC 172-90-120 Initiation.** (1) **Reporting:** Each member of the university community is responsible for supporting academic integrity standards. Any person who suspects a violation of these rules is expected to report their suspicion to the course instructor or other appropriate university official.

A person who knowingly makes a false allegation that a violation of these rules has occurred, will be subject to disciplinary action as appropriate.

(2) **Authority:** The primary responsibility for bringing a charge of violating academic integrity standards rests with the instructor. Graduate assistants, teaching assistants, research assistants, student workers, exam proctors, online coordinators and any other persons who assist or support an instructor in teaching should report suspected violations of academic integrity standards to the instructor of record.

Instructors may be represented by their academic department chair in cases where the instructor is unavailable or otherwise unable to actively participate in the process.

(3) **Contact student:** If an instructor suspects that a violation has occurred, the instructor may elect to discuss the matter with the student prior to taking any other action.

(4) **Instructor action:** In response to a report or suspicion of violation of academic integrity standards, the instructor has the following options:

(a) Dismiss the matter: If the instructor concludes that there is no violation of these rules, the matter is over.

(b) Resolve internally: If the instructor believes that the student committed a class I violation of academic rules, the instructor may take one or more of the following actions without entering an official violation per subsection (5) of this section:

(i) Instruct the student on academic integrity standards and explain how the student failed to comply with those standards;

(ii) Allow the student to modify or redo the assignment; and/or

(iii) Provide the student with an educational opportunity to reiterate academic integrity (such as an assignment, research, course or tutorial on academic integrity).

Note: If an instructor intends to impose any sanction that will affect the student's course grade, he/she must initiate the academic integrity process; internal resolution may not be used in such cases.

If the student does not cooperate with the internal resolution, the instructor should initiate the formal academic integrity process.

(c) Initiate the academic integrity process: If the instructor believes that the student violated academic integrity standards and internal resolution is not appropriate, the instructor shall initiate the academic integrity process by reporting the violation to the vice-provost per institutional practice.

(5) **Report violation:** To initiate an academic integrity action, the instructor provides information regarding the violation to the vice-provost, including:

(a) A description of the alleged violation;

(b) A summary of any conversations the instructor has had with the student regarding the violation;

(c) The sanction(s) imposed and/or recommended by the instructor; and

(d) The method of resolution chosen by the instructor (i.e., summary process or AIB review).

When reporting the violation, the instructor may also submit documents (e.g., syllabus, test, essay, etc.) that are pertinent to the violation being reported. Alternatively, the instructor may elect to defer providing such documents unless or until the materials are later requested by the student, vice-provost, or the AIB.

Instructors must initiate this process within seven calendar days after becoming aware of the suspected violation. In cases where the student has agreed to certain conditions to resolve the matter internally, per subsection (4)(b) of this section, and the student has failed to comply with those conditions, the instructor may initiate the process up to seven calendar days after the student has failed to meet a resolution condition.

(6) **Vice-provost review.** After a violation has been reported, the vice-provost will determine whether the summary process or the AIB review process will be used.

In cases where the student has any prior violation, the vice-provost must process the case for AIB review under WAC 172-90-160.

NEW SECTION

**WAC 172-90-140 Summary process.** (1) **Initiation:** The summary process may be initiated when:

(a) The instructor and student both agree to the summary process; and

(b) The student has no prior violations of academic integrity.

(2) **Student notification:** The vice-provost will notify the student of the violation, proposed sanctions, and of their response options. Notification will be made to the student's official university e-mail address. If the student is no longer enrolled in the university, the vice-provost shall send the notification to the student's last known address. Notification will include:

(a) All information and documents provided by the instructor when the violation was reported;

(b) A description of the university's academic integrity rules and processes;

(c) A description of the student's options; and

(d) Contact information for the vice-provost's office where the student can request further information and assistance.

**(3) Student response options:**

(a) Concur: The student may accept responsibility for the stated violation and accept all sanctions imposed and/or recommended by the instructor. The student indicates their acceptance by following the instructions provided with the notification. The vice-provost will coordinate sanctioning with the instructor and/or the AIB as needed.

(b) Conference: The student may agree to meet with the instructor in order to discuss the alleged violation and/or proposed sanction(s). The instructor and student may discuss the matter by any means that is agreeable to both (e.g., in-person, telephonically, or via e-mail). The student shall contact the instructor to arrange a discussion time/method.

(i) In arranging a conference, the instructor shall make a reasonable effort to accommodate the student's preferences, but is not obligated to meet with the student outside of normal "office" hours. If the student and instructor cannot agree on a date/time to meet, the instructor may refer the matter to the AIB for review and board action.

(ii) During a conference, the instructor and student will attempt to reach an agreement regarding the allegation and sanction(s).

(iii) If the student and instructor come to an agreement, the instructor will inform the vice-provost of the outcome. The vice-provost will coordinate sanctioning with the instructor and/or the AIB as needed.

(iv) If the student and the instructor cannot come to an agreement, the instructor will inform the vice-provost and the matter will then be referred for AIB review and action.

(c) AIB review: The student may request that the matter be referred to the AIB for review and further action.

(d) Failure to respond: If the student does not respond to the notification within three instruction days, the vice-provost will send another notification to the student. Failure of the student to respond to the second notification within three instruction days will be treated as an admission of responsibility and acceptance of the proposed sanctions. The vice-provost will coordinate with the instructor to impose the appropriate sanction(s).

**NEW SECTION**

**WAC 172-90-160 AIB review process. (1) Initiation:** The AIB review process will be initiated when:

(a) The instructor or student requests AIB review;

(b) The instructor refers the matter to the AIB because the instructor and student could not agree to a conference date/time or did not reach an agreement during a conference; or

(c) The vice-provost initiates a violation process against a student for repeated violations of academic integrity standards.

(2) **Scheduling:** Within five instruction days of determining that an AIB review is in order, the vice-provost shall schedule a review for the next available meeting of the AIB.

(3) **Notification:** The vice-provost will notify the student, instructor, and AIB members. Notification will include:

(a) All information and documents provided by the instructor when the violation was reported;

(b) The date/time of the AIB review;

(c) Instructions on how to submit documents, statements, and other materials for consideration by the AIB;

(d) A clear statement that the AIB review is a closed process (no student, instructor or person other than the board is present at the review);

(e) A description of the specific rules governing the AIB review process;

(f) A description of the university's academic integrity rules and processes; and

(g) Contact information for the vice-provost's office where the student and/or instructor can request further information and assistance. Notifications will strongly encourage the student to contact the vice-provost to ensure that the student understands the process, the violation, and the potential sanctions.

(4) **Student and instructor response:** The student must respond to the AIB review notice within three instructional days. The student responds by submitting a written statement to the review board. The student may also include any relevant written documentation, written third-party statements, or other evidence deemed relevant to the student's interests. The student may submit materials by submitting them to the vice-provost.

The instructor also submits materials to the AIB by providing the materials to the vice-provost. If the instructor has not already done so, the instructor should submit the syllabus, the relevant test/assignment, and other materials that are pertinent to the violation.

Neither the student nor the instructor is permitted to attend the AIB review.

(5) **Failure to respond:** If the student does not respond to the notification of the AIB review within three instructional days, the vice-provost will send another notification to the student. Failure of the student to respond to the second notification within three instruction days will be treated as an admission of responsibility and acceptance of the proposed sanctions. The vice-provost will coordinate sanctioning with the instructor and/or the AIB as needed. If a recommended sanction requires AIB or higher level authority to impose, the AIB will proceed with a review.

(6) **Proceedings:** The board's responsibility is to review the statements and other materials provided by each party, review other relevant records, information, or materials, and make a determination as to whether the alleged academic integrity violation occurred. The board primarily reviews written evidence. The board may, at its discretion, consult with the instructor, the student or others as deemed appropriate or necessary. All evidence collected in this process will be made available to the student and/or instructor upon request.

(7) **Sanctions:** The board will determine what, if any, sanctions will be imposed. The board may impose the same sanctions assigned and/or recommended by the instructor, or

may impose greater or lesser sanctions. If the student has any previous violation(s) of academic integrity standards, the AIB may increase the sanction imposed to account for repeat offenses. The board may also refer the student to student rights and responsibilities with a recommendation for suspension or expulsion under the student conduct code.

(8) **Conclusion:** The board should conclude its review and issue a decision within thirty days after the violation was initially reported.

(9) **Requests for review:** Either the student or the instructor may request reconsideration by the vice-provost by submitting a request in writing to the vice-provost within twenty-one days after the board issues its written decision. The vice-provost shall allow the student and the instructor an opportunity to respond in writing to the student's request for review. The student and instructor's responses, if any, must be submitted within five instructional days of the request for review. After reviewing the responses and materials considered by the board, the vice-provost shall issue a decision in writing within twenty days of receipt of the request for review. The decision must include a brief statement of the reasons for the vice-provost's decision and notice that judicial review may be available. All decisions of the vice-provost are final and no appeals are permitted.

#### NEW SECTION

**WAC 172-90-180 Administration.** After the resolution process, the vice-provost will coordinate sanctions and administrative actions, including:

- (1) Notifying the parties of the results in writing;
- (2) Creating or updating the student's academic disciplinary record;
- (3) Updating academic integrity reporting and record-keeping systems;
- (4) Coordinating sanctioning; and
- (5) Referring cases to the student disciplinary council as needed.

#### NEW SECTION

**WAC 172-90-200 Failing grade.** A sanction of a failing course grade is recorded on the transcript as an "XF" and indicates a failure of the course due to violation of academic integrity standards. An XF is counted as a 0.0 for purposes of grade point average calculation.

(1) To petition to have an XF grade changed to an "F" (0.0), a student must submit a written request to the vice-provost. Requests will generally not be considered unless the following conditions are met:

- (a) At least one year has passed since the XF grade was entered;
- (b) The student has had no other violations of academic integrity standards; and
- (c) The student has successfully completed a university sponsored noncredit seminar on academic integrity; or, for a person no longer enrolled at the university, an equivalent educational activity as determined by the AIB.

(2) The vice-provost will review the case and may consult with the referring instructor or academic unit head who originally reported the violation(s). If the vice-provost denies

the request, the student may submit a new request one year later.

### WSR 14-13-042 PROPOSED RULES GRAYS HARBOR COLLEGE

[Filed June 10, 2014, 4:28 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-09-057.

Title of Rule and Other Identifying Information: Student rights and responsibilities revisions to college policy.

Hearing Location(s): Grays Harbor College Boardroom, on July 22, 2014, at 1:30 p.m.

Date of Intended Adoption: July 22, 2014.

Submit Written Comments to: Dr. Arlene Torgerson, Grays Harbor College, 1620 Edward P. Smith Drive, Aberdeen, WA 98520, e-mail atorgers@ghc.edu, fax (360) 538-4293, by July 21, 2014.

Assistance for Persons with Disabilities: Contact Holly Leonard by July 8, 2014, (360) 538-4068.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The changes are needed to be in compliance with the Violence Against Women Act and to update regulations within the institution to comply with both institutional and societal changes.

Reasons Supporting Proposal: Most of the changes are required by federal law and/or have been recommended by the assistant attorney general's office for higher education.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Rule is necessary because of federal law, 20 U.S.C. 1092 VAWA 2013 Amendments to Clery Act.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Dr. Arlene Torgerson, Grays Harbor College, Student Services, (360) 538-4066.

No small business economic impact statement has been prepared under chapter 19.85 RCW. It is not required or relevant to small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. There are no new costs to these changes.

June 10, 2014  
Arlene Torgerson  
Vice-President for  
Student Services

AMENDATORY SECTION (Amending WSR 10-17-031, filed 8/9/10, effective 9/9/10)

**WAC 132B-120-010 Definitions.** As used in this document the following words and phrases shall mean:

(1) "Board" shall mean the board of trustees of Community College District No. 2, state of Washington.

(2) "College" shall mean Grays Harbor College or any additional community college hereafter established within Community College District No. 2, state of Washington.

(3) "College facilities" shall mean and include any or all real property owned, rented, leased, controlled or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto. College facilities extend to affiliated web sites, distance learning classroom environments and agencies or institutions that have educational agreements with Grays Harbor College.

(4) "President" (~~shall mean the chief executive officer~~) is the president of the college appointed by the board of trustees. The president is authorized to delegate any of his or her responsibilities as set forth in this chapter as may be reasonably necessary.

(5) "Vice-president" (~~shall mean the vice-president for student services or in his/her absence, the vice-president for instruction~~) for student services" is the administrator responsible for implementing and enforcing the student conduct code. The vice-president is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary.

(6) "Faculty" shall mean any person employed on a full or part-time basis as a teacher, instructor, counselor, coach or librarian for the college or an affiliated institution. Includes faculty of other colleges (whether or not employed by GHC) that provide instruction to GHC students through distance education.

(7) "Student" shall mean and include any person who is enrolled in courses at or through the college ((or is in the process of applying for admission to the college)), whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students."

(8) "Employee" shall mean any classified, faculty, administrator, exempt, student worker or volunteer person of the college or an affiliated institution.

(9) "College community" shall mean all employees and students of the college.

(10) "College official" shall mean any person employed by the college performing assigned duties.

(11) "Disciplinary action" (~~shall mean any of the sanctions listed in WAC 132B-120-130.~~)

(12) "Sexual harassment" shall mean ~~unwelcome verbal or physical conduct of a sexual nature, unwelcome or unsolicited sexual advances or requests for sexual favors when:~~

(a) ~~Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic standing or employment;~~

(b) ~~Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or~~

(c) ~~Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or educational environment.~~

~~Examples of behaviors that may constitute harassment include but are not limited to: Repeated, offensive and unwelcome insults and/or jokes; pressure for dates or sex, if~~

~~unwelcome or repeated; repeated, unwelcome comments about an individual's body or clothing; persistent, unwelcome flirtation, advances and/or propositions of a sexual nature; deliberate and unwelcome touching, such as patting, hugging, pinching or repeated brushing against a person's body.~~

(13) ~~"Hazing" shall mean any method of initiation into a student organization or association or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education or post-secondary institution. Hazing does not include customary athletic events or other similar contests or competitions.~~

(14) ~~"Trespass" shall be defined in accordance with chapter 9A.52 RCW.~~

(15) ~~is the process by which discipline is imposed against a student for a violation of the student conduct code by the vice-president for student services.~~

(12) ~~"Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the vice-president for student services. Disciplinary appeals from a suspension in excess of ten instructional days or a dismissal/expulsion are heard by the student conduct committee. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings.~~

(13) ~~"Respondent" is the student against whom disciplinary action is being taken.~~

(14) ~~"Service" is the process by which a document is officially delivered to a party. Unless expressly specified otherwise, service upon a party shall be accomplished by:~~

(a) ~~Hand delivery of the document to the party; or~~

(b) ~~By sending the document by e-mail and by certified mail or first class mail to the party's last known address.~~

~~Service is deemed complete upon hand delivery of the document or upon the date the document is e-mailed and deposited into the mail.~~

(15) ~~"Filing" is the process by which a document is officially delivered to a school official responsible for facilitating a disciplinary review or a president officer. Unless expressly specified otherwise, filing shall be accomplished by:~~

(a) ~~Hand delivery of the document to the school official or school official's assistant; or~~

(b) ~~By sending the document by e-mail and first class mail to the recipient's college e-mail and office address.~~

~~Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified official or presiding officer.~~

(16) ~~"Business day" means a week day, excluding weekends and college holidays.~~

(17) ~~"Assembly" shall mean any activity engaged in by two or more persons the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons or group of persons.~~

((+6)) (18) ~~"RCW" shall mean the Revised Code of Washington.~~

AMENDATORY SECTION (Amending WSR 10-17-031, filed 8/9/10, effective 9/9/10)

**WAC 132B-120-030 Jurisdiction.** ~~((All rules herein adopted concerning student conduct and discipline shall apply to every student whenever said student is engaged in or present at any college-related activity whether occurring on or off of college facilities.))~~ The conduct code adopted herein applies to student conduct that occurs on college premises, at college-sponsored activities, and to off-campus student conduct that adversely affects the well-being of the college community and/or the pursuit of its objectives. Jurisdiction includes, but is not limited to, locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities.

Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. The vice-president for student services has sole discretion, on a case-by-case basis, to determine whether the code of student conduct will be applied to conduct occurring off campus.

The college may carry out disciplinary proceedings prior to, simultaneous with, or following civil or criminal proceedings in a court. The college cooperates with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators provided the conditions do not conflict with college rules or sanctions. ~~((The college is not a policing agent for students when they are not in college facilities but does reserve the right to take action if a student's behavior is determined to threaten the health, safety, and/or property of the college and the college community. The college has the sole discretion to determine what conduct occurring off campus adversely impacts the college and/or the pursuit of its objectives.))~~

AMENDATORY SECTION (Amending WSR 10-17-031, filed 8/9/10, effective 9/9/10)

**WAC 132B-120-040 ((Prohibited conduct.)) Authority.** ~~((Disciplinary action may be taken for a violation of any provision of this student code or for a violation of other college rules and regulations which may from time to time be properly enacted or for specific prohibited conduct including but not limited to the following:~~

~~(1) Smoking and use of tobacco products anywhere other than designated smoking areas.~~

~~(2) Using, possessing, consuming, or being under the influence of, or distributing any liquor as defined in RCW 66.04.010, as now or hereafter amended, when present at or engaged in any college sponsored activity with the exception~~

~~of sanctioned events approved by the president or designee and in compliance with state law.~~

~~(3) Using, possessing, distributing or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101, as now or hereafter amended, in a college facility or while participating in a college-related program.~~

~~(4) Engaging in lewd, indecent, or obscene behavior.~~

~~(5) Sexual misconduct of any kind including rape, indecent liberties, assault of a sexual nature, voyeurism or unwanted sexual contact;~~

~~(6) Where the student presents an imminent danger or causes unreasonable risk of harm to college property or to himself/herself or to others or to the education process of the college.~~

~~(7) Interference by force or violence with, or intimidation by threat of force or violence, of another student, employee or visitor who is in the peaceful discharge or conduct of his/her duties or studies (RCW 28B.10.570 through 28B.10.572).~~

~~(8) Disorderly or abusive behavior either physical or verbal which interferes with the rights of others or that obstructs or disrupts teaching, learning, research, services, activities or administrative functions.~~

~~(9)) The board of trustees, acting pursuant to RCW 28B.50.140(14), delegates to the president of the college the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice-president for student affairs or designee. The vice-president for student services shall serve as the principal investigator and administrator for alleged violations of this code.~~

Prohibited conduct. Prohibited student conduct for which the college may impose sanctions includes, but is not limited to, any of the following:

(1) Tobacco, electronic cigarettes and related products. The use of tobacco, electronic cigarettes and related products in any building owned, leased or operated by the college or in any location where such use is prohibited. "Related products" includes, but is not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco and snuff.

(2) Alcohol. The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law or at sanctioned events approved by the president or designee and in compliance with state law.

(3) Marijuana. The use, possession, delivery, sale, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(4) Being observably under the influence of any legend drug, narcotic drug or controlled substance as defined in chapters 69.41 and 69.50 RCW, as now or hereafter amended, or otherwise using, possessing, delivering, or selling any such drug or substance, except in accordance with a lawful prescription for that student by a licensed health care professional.

(5) Conduct which is disorderly, lewd, indecent, or obscene.

(6) Sexual violence. The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent; including, but not limited to, rape, sexual assault, sexual batter, sexual exploitation, gender- or sex-based stalking, and sexual coercion, regardless of the relationship between the perpetrator and the victim. The term further includes acts of dating or domestic violence. A person may be incapable of giving consent by reason of age, threat or intimidation, lack of opportunity to object, disability, drug or alcohol consumption or other cause.

(7) Sexual harassment. Conduct includes, but is not limited to, engaging in unwelcome sexual advances, requests for sexual favors, or other sexual conduct, including verbal, non-verbal, electronic or social media communication, or physical touching that would substantially interfere with a reasonable person's work or educational performance, or to create an intimidating, hostile or offensive educational environment.

(8) Other harassment. Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile or offensive environment for other campus community members.

Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media, and electronic communications.

(9) Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, stalking or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this subsection:

(a) Bullying is physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

(b) Stalking is intentional and repeated harassment or following of another person, which places that person in reasonable fear that the stalker intends to injure the person, another person, or the property of the person or another person, and the stalker either intends to frighten, intimidate, or harass the person, or knows or reasonably should know that the person is frightened, intimidated or harassed, even if the stalker lacks such an intent.

(10) Cyberstalking, cyberbullying or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's e-mail communications

directly or through spyware, sending threatening e-mails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's e-mail identity, nonconsensual recording of sexual activity and nonconsensual distribution of a recording of sexual activity.

(11) Participation in any activity which unreasonably disrupts the operations of the college or infringes on the rights of a member of the college community, or leads or incites another person to engage in such an activity.

(12) Obstruction or disruption of:

(a) Any instruction, learning environment, service, research, administration, disciplinary proceeding, or college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(13) Classroom conduct that seriously interferes with either the instructor's ability to conduct the class or the ability of other students to profit from the instructional program.

(a) Faculty have the authority to take appropriate action to maintain proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

(b) A faculty member may remove a student for the single class session in which disruptive conduct occurs. The instructor will report any such exclusion from the class to the vice-president for student services or designee who may initiate further conduct proceedings as provided in this procedure.

(c) The vice-president for student services or designee may set conditions for the student to meet upon return to the classroom or may enforce a continued removal from class pending an investigation. The student may appeal the disciplinary sanction according to appeal procedures.

~~((+H))~~ (14) Obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity.

(15) Breach of the peace.

(16) Discriminatory conduct which harms or adversely affects any member of the college community because of her/his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(17) Any person, thing or object brought into college facilities, without prior approval of an appropriate college official, that causes a disruption to the classroom or campus environment or causes a safety hazard.

~~((+H))~~ (18) Conducting or participating in an assembly ~~((which))~~ that violates the guidelines ~~((of assembly as defined in Section H E))~~ and procedures established in Administrative Procedure 516.03.

~~((+H))~~ (19) All forms of student academic dishonesty~~(:)~~ including, but not limited to, cheating, falsification, plagiarism or facilitating, aiding and abetting academic dishonesty or engaging in any conduct specifically prohibited by a faculty member in the course syllabus or class discussion.

(a) Cheating includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(d) This section shall not be construed as preventing an instructor from taking immediate disciplinary action as provided herein where the instructor is required to act upon such breach of academic dishonesty in order to preserve order and prevent disruptive conduct in the classroom.

~~((b))~~ (e) This section shall also not be construed as preventing an instructor from adjusting the student's grade on a particular project, paper, test, or class grade for academic dishonesty.

~~((13) Forgery of or unauthorized alteration of or access to any college document, record, funds or instrument of identification, including electronic hardware, software and records.~~

~~(14) Providing false information to the college or the intentional making of false statements and/or filing of false charges against the college and/or members of the college community.~~

~~(15) Theft from college premises and/or property; theft of property of a member of the college community on college premises; or possession of property stolen from college premises and/or a member of the college community while on college premises.~~

~~(16) Causing or attempting to cause physical damage to property owned, controlled or operated by the college or to property owned, controlled or operated by another person while said property is located on college facilities.~~

~~(17) Failure to comply with the direction of college employees acting in the legitimate performance of their duties.~~

~~(18) Refusal to provide positive identification and evidence of student enrollment to any college employee in the lawful discharge of said employee's duties.~~

~~(19) Possession, transportation or storage of any firearm(s), explosives, dangerous chemicals or other weapons, devices or substances which can be used to inflict bodily harm or to damage real or personal property. Weapons may include, but are not limited to, all firearms, pellet guns, sling-shots, martial arts devices, switchblade knives and clubs. This does not apply to commissioned police officers as prescribed by law.)~~

(20) Any other acts of dishonesty, such as, but not limited to:

(a) Forgery, alteration, submission of falsified documents or misuse of any college document, record or instrument of identification;

(b) Tampering with an election conducted by or for college students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee.

(21) Attempted or actual damage to, or theft or misuse of, real or personal property or money of the college or state; any student or college officer, employee or organization; any other person or organization; or possession of such property or money after it has been stolen.

(22) Failure to comply with the direction of college employees acting in the legitimate performance of their duties, including failure to properly identify oneself to such a person when requested to do so.

(23) Possession, holding, wearing, transporting, storage or presence of any firearm, explosive, dangerous chemical or other weapon, device or substance apparently capable of producing bodily harm or damage real or personal property, subject to the following exceptions:

(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties; or

(b) A student with a valid concealed weapons permit may store a pistol in his or her vehicle parked on campus in accordance with RCW 9.41.050, provided the vehicle is locked and the weapon is concealed from view; or

(c) The president may authorize possession of a weapon on campus upon a showing that the weapon is reasonably related to a legitimate pedagogical purpose.

(24) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

~~((21) Computer violations which include, but are not limited to:~~

~~(a) Gaining access, without authorization, to a computer system or network, or electronic data owned, used by, or affiliated with Grays Harbor College;~~

~~(b) Unauthorized use of another individual's account, identification or password;~~

~~(c) Use of computer facilities to interfere with the work of another student, faculty member, college employee or computer network operations;~~

~~(d) Use of computer facilities and/or resources to send or solicit obscene, abusive, bothersome, threatening or harassing messages;~~

~~(e) Use of college e-mail accounts to intentionally disseminate viruses, destructive, malicious or invasive programs;~~

~~(f) Use of college computers or systems for other than educational purposes;~~

~~(g) Use of college computer equipment to participate in illegal or unauthorized activities;~~

~~(h) Use of computing facilities and resources in violation of copyright laws;~~

~~(i) Violating any of the computer use policies in effect on campus.~~

~~(22) Sexual harassment as defined in Section IB12 of another student or employee.~~

~~(23) Any repeated intentional conduct directed at another student or employee that has the purpose or effect of creating a hostile, intimidating or disruptive learning or working environment. (This may include intentional,~~

~~repeated, unwelcome attempts to contact a student or employee.)~~

~~(24) Hazing in any form as described in RCW 28B.10.900.)~~

~~(25) Unauthorized possession, duplication, or other use of a key, keycard, code or other restricted means of access to college property, or unauthorized entry onto or into college property.~~

~~(26) Theft or misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:~~

~~(a) Unauthorized use of such resources or opening of a file, message or other item;~~

~~(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message or other item;~~

~~(c) Unauthorized use or distribution of someone else's password or other identification;~~

~~(d) Use of such time or resources to interfere with someone else's work;~~

~~(e) Use of such time or resources to send, display, or print an obscene, abusive, threatening, or harassing message, text, or image;~~

~~(f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;~~

~~(g) Use of such time or resources in violation of applicable copyright or other law;~~

~~(h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization;~~

~~(i) Use of college electronic resources to intentionally disseminate viruses, destructive, malicious or invasive programs;~~

~~(j) Failure to comply with the college's electronic use policy; or~~

~~(k) Illegal peer-to-peer file sharing or distribution of copyrighted works using campus resources. In addition to code of conduct sanctions, students may be subject to criminal and civil penalties if they engage in such unauthorized activity.~~

~~(27) Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm to any student.~~

~~(28) The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular trade, skill, craft or profession for which the student is taking courses or is pursuing as their educational goal or major.~~

~~((26) Harassment that involves intimidation or bothersome behavior directed toward another person because of, or related to that person's race, color, religion, gender, sexual orientation, ancestry, national origin, or mental, physical or sensory disability.~~

~~(27) Harassment, (including physical, verbal, graphic, written or electronic conduct) that is sufficiently severe, persistent or pervasive so as to threaten or limit the ability of a reasonable individual to work, study or participate in the activities of the college.~~

~~(28))~~ ~~(29) Entering or remaining in any closed college facility or entering after closing time of the college facility without permission of a college official.~~

~~((29))~~ ~~(30) Unauthorized use of college equipment, facilities or supplies. Use of college equipment, facilities, supplies, or computer systems for personal gain without proper authority.~~

~~((30))~~ ~~(31) Operation of any motor vehicle on college property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.~~

~~(32) Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:~~

~~(a) Failure to obey a subpoena;~~

~~(b) Falsification or misrepresentation of information;~~

~~(c) Disruption or interference with the orderly conduct of a proceeding;~~

~~(d) Interfering with someone else's proper participation in a proceeding;~~

~~(e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;~~

~~(f) Attempting to influence the impartiality of, or harassing or intimidating, a student conduct committee member;~~

~~(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code; or~~

~~(h) Retaliating against witnesses or accusers of prohibited conduct.~~

~~(33) Violation of any federal, state or local law, rule or regulation or other college rules or policies, including college traffic and parking rules.~~

~~(34) Intentionally encouraging, compelling, attempting, aiding, abetting, conspiring, hiring or being an accessory to ((any act prohibited by this code may be considered to be same as completed violations.~~

~~(31) Retaliating against witnesses or accusers of prohibited conduct.~~

~~(32))~~ ~~commit any of the foregoing acts of misconduct.~~

~~(35) Students who participate in any college sponsored or sanctioned international study program shall observe the following:~~

~~(a) The laws of the host country;~~

~~(b) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying;~~

~~(c) Any other agreements related to the student's study program in another county;~~

~~(d) The GHC standards of conduct for students.~~

~~((33))~~ ~~(36) Violation of federal, state or local law in college facilities or at college-sponsored or supervised activities.~~

~~((34) Violation of other published college policies, rules or regulations.)~~

AMENDATORY SECTION (Amending WSR 10-17-031, filed 8/9/10, effective 9/9/10)

**WAC 132B-120-065 Student rights.** The following rights are endorsed by the college for each student within the

limitations of statutory law and college policy which are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed rights of free inquiry, expression and peaceful assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs and services, subject to the limitations of RCW 28B.50.090 (3)(b), available space in the class, and meeting any required prerequisites.

(c) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate or disrespectful conduct, and all harassment, including sexual harassment.

(d) Students are protected from academic evaluation which is arbitrary, prejudiced or capricious. Students are responsible for meeting the standards of academic performance established by each of their instructors.

(2) Nondiscrimination. Students have the right not to be discriminated against on the basis of age, color, creed, disability, gender, marital status, national origin or ancestry, race, religion, sexual orientation, or veteran status.

(3) Due process. Students have the right of due process. No disciplinary action may be imposed without notice to the accused of the nature of the charges. A student accused of violating the code of conduct is entitled to procedural due process as set forth in the code.

(4) Campus speakers/invited guests. Recognized student organizations shall have the right to invite outside speakers and guests to campus subject to the availability of campus facilities, funding and compliance with college procedures. Student organizations are responsible for the conduct of their invited guests on or in college facilities and at functions sponsored by the college or recognized student organization.

(5) Right to assembly. Students shall have the right of assembly upon college facilities that are generally available to the public provided such assemblies(=

~~(a) Are conducted in an orderly manner;~~

~~(b) Do not unreasonably interfere with vehicular or pedestrian traffic;~~

~~(c) Do not unreasonably interfere with classes, scheduled meetings or ceremonies or regular functions of the college;~~

~~(d) Do not cause destruction or damage to college property;~~

~~(e) Are in compliance with procedures established in Administrative Procedure 516.03)) are in compliance with procedures established in Administrative Procedure 516.03 and other behavioral expectations outlined in the code of conduct.~~

(6) Distribution of materials. Handbills, leaflets, newspapers and similarly related materials may be distributed free of charge by any student or students, or by members of recognized student organizations, or by college employees on or in college facilities at locations specifically designated by the vice-president for student services; and are in compliance with procedures established in Administrative Procedure 516.03 provided such distribution does not interfere with the

ingress or egress of persons or interfere with the free flow of vehicular or pedestrian traffic.

Such handbills, leaflets, newspaper and related matter must bear identification as to the publishing agency and distributing organization or individual.

All nonstudents shall register with the vice-president for student services prior to the distribution of any handbill, leaflet, newspaper or related matter. Such distribution must not interfere with the free flow of vehicular or pedestrian traffic.

Any person or persons who violate any provisions of this rule relating to the distribution of materials will be subject to disciplinary action.

(7) Commercial activities. College facilities may not be used for commercial solicitation, advertising or promotional activities except when such activities clearly serve educational objectives, including but not limited to display of books of interest to the academic community or the display or demonstration of technical or research equipment, and when such commercial activities relate to educational objectives and are conducted under the sponsorship or at the request of the college, or the student government (ASGHC); provided that such solicitation does not interfere with or operate to the detriment of the conduct of college affairs or the free flow of vehicular or pedestrian traffic.

(8) Fund-raising. Students and student organizations have the right to engage in fund-raising activities subject to the approval of the vice-president for student services.

(9) Grievances. Students have the right to express and resolve misunderstandings, complaints and grievances according to the stated grievance procedures.

AMENDATORY SECTION (Amending WSR 04-01-100, filed 12/16/03, effective 1/16/04)

**WAC 132B-120-120 Disciplinary process.** (1) **Judicial authority.** The board of trustees, acting pursuant to RCW 28B.50.140(14), delegates to the president of the college the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice-president for student services or designee. The vice-president for student services(=) or designee, ((or in his/her absence, the vice-president for instruction of the college)) is responsible for initiating disciplinary proceedings for infractions of rules and regulations as outlined in the procedures. The vice-president for student services, or in his/her absence, the vice-president for instruction, may delegate this responsibility to members of their staff and they may also establish committees or other hearing bodies to advise or act for them in disciplinary matters.

(2) **Initiating the process.** ~~((Any infractions of college rules and regulations may be referred by any student or employee to the vice-president for student services, designee or in his/her absence the vice-president for instruction.))~~ Sexual harassment complaints or concerns may be directed to the vice-president for student services or human resources office.

(3) **Initiating disciplinary ((process)) action (except summary suspension).**

~~((a) The vice-president for student services and/or the vice-president for instruction or his/her designated representative will initiate disciplinary proceedings.~~

(b) Any student accused of violating any provision of the rules of conduct shall be called for an initial meeting and in order that any informality in disciplinary proceedings not mislead the student as to the seriousness of the matter under consideration, will be informed of what provision(s) of the rules of conduct he/she is charged with violating, and what appears to be the range of penalties, if any, which might result from disciplinary proceedings.

(c) After considering the evidence in a case and interviewing the student or students involved, the vice-president for student services or, in his/her absence, the vice-president for instruction or designee may take any of the following actions:

(i) Terminate the proceeding, exonerating the student or students.

(ii) Dismiss the case after providing whatever counseling and advice may be appropriate.

(iii) Impose verbal warning or reprimand not subject to student's right of appeal.

(iv) Impose additional disciplinary sanctions, subject to the student's right of appeal as described in this procedure. The student shall be notified in writing of the action taken, the reason for the decision and information about the appeals process.

(v) Refer the matter to the student conduct committee for appropriate action. The student shall be notified in writing that the matter has been referred to the committee.

(d) If the student fails to appear at the scheduled meeting without prior notification or evidence of extenuating circumstances, the vice-president may impose any sanctions authorized by this code.

(e) The written decision of the vice-president shall become final unless appealed.

(f) If a referral or an appeal is made to the student conduct committee, the committee shall hold a hearing, reach conclusions and may impose sanctions.)) (a) All disciplinary actions will be initiated by the vice-president for student services or designee. If that person is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complaint.

(b) The vice-president for student services shall initiate disciplinary action by notifying the respondent to attend a disciplinary meeting. At the meeting, the student will be presented with the allegations, the provisions of the conduct code the respondent is alleged to have violated; and the range of possible sanctions for the alleged violation. This information will be provided in writing, either at the meeting or within three business days of the meeting. The respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting, the student conduct officer may take disciplinary action based upon the available information.

(c) Within ten business days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the vice-president for student services shall serve the respondent with a written decision setting forth the facts and conclusions supporting his or her decision, the specific student conduct code provisions found to have been violated, the disci-

pline imposed, if any, and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal.

(d) The vice-president may take any of the following disciplinary actions:

(i) Exonerate the respondent and terminate the proceedings;

(ii) Impose a disciplinary sanction(s), as described in WAC 132-120-130;

(iii) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

AMENDATORY SECTION (Amending WSR 10-17-031, filed 8/9/10, effective 9/9/10)

**WAC 132B-120-130 Sanctions.** ((Sanctions for violations of college regulations or conduct may be imposed independent of any action taken by civil authorities.)) In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution. In the case of minors, misconduct may be referred to parents or legal guardians.

More than one sanction may be imposed for any single violation as appropriate. Sanctions may include, but are not limited to:

(1) Disciplinary warning. ((Constitutes oral or written notice of violation of college rules and regulations.

(2)) A verbal statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) Written reprimand. Notice in writing that the student has violated one or more terms of the code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(3) Disciplinary probation. Formal action placing conditions and restrictions upon the student's continued attendance, depending upon the seriousness of the violation, and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Notice will be made in writing, specifying the period of probation and the conditions of the probation. ((As a condition of probation, the college may specify that it will impose more severe disciplinary sanctions against the student if the student is found to have violated any standards of conduct for students during the probationary period.

(3)) Probation may be for a limited period of time, or may be for the duration of the student's attendance at the col-

lege. A student who is on disciplinary probation may be deemed "not in good standing" with the college. If so, the student shall be subject to the following restrictions:

(a) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(b) Ineligible to represent the college to anyone outside the college community in any way, including representing the college.

(4) Restitution. ~~((Compensation for loss, damage, or injury to the appropriate party in the form of service, money, or material replacement.~~

(4)) Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(5) Disciplinary suspension. Dismissal from the college and termination from student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken. Access may be denied to all or part of college facilities.

(6) Professional evaluation. Referral for drug, alcohol, psychological or medical evaluation (at the student's expense) by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(7) Discretionary sanctions. These may include but are not limited to: Work assignments, service to college or community, class/workshop attendance or other discretionary assignments such as educational interventions intended as learning experiences.

~~((5) Assessment. The student may be required to have an assessment (at the student's expense), such as alcohol/drug or anger management by a certified professional, which includes a recommended treatment and assessment of ability to successfully participate in college.~~

~~(6) Education. The college may require the student to complete an educational project or attend sessions, at the student's expense, which address the student's conduct such as anger management or counseling.~~

(7)) (8) Loss of recognition. A student organization's recognition may be withheld permanently or for a specific period of time. Loss of recognition is defined as withholding college services or administrative approval for a student organization. Support may be withdrawn for use of information technology resources, funding, college facility use and rental and involvement in organizational activities.

~~((8)) (9) Loss of privileges. Loss of specific college privileges for a specified period of time. These may include~~

but are not limited to student activities, athletic events, drama or music performances, or club participation.

~~((9)) (10) No contact. Restriction from entering specific college areas and/or all forms of contact with certain person(s).~~

~~((10)) (11) No trespass. A student may be prohibited from entering upon or remaining upon college facilities and premises.~~

~~((11)) (12) Revocation of admission or degree. Admission to or a degree awarded from the college may be revoked for fraud, misrepresentation or for other serious violations committed by a student.~~

~~((12) Summary suspension:~~

~~(a) Temporary dismissal from the college for a period of time during which an investigation and/or formal disciplinary procedures are pending. Summary suspension is predicated upon a reasonable belief that the student presents an imminent danger to college property, to other students, to employees of the college or is of significant disruption to the educational process.~~

~~(b) During the period of summary suspension, the student may enter the college premises only to meet with the vice president for student services or a designee; to deliver a written appeal; to attend a hearing; or otherwise with special permission from the vice president for student services.~~

~~(c) At the end of the summary suspension period, the student shall be reinstated to prior status subject to any other disciplinary sanctions that may have been imposed. (See WAC 132B-120-130.)~~

~~(13) Suspension. Temporary dismissal from the college and termination of student status. A student suspended on the basis of conduct, which disrupted the orderly operation of the campus or any facility of the district, may be denied access to all or any part of college facilities.~~

~~(14) Expulsion. Permanent termination of student status from college.~~

~~Refund of fees for the quarter in which disciplinary action is taken shall be in accord with the college's refund policy. Fees paid in advance for subsequent quarters will be refunded.) (13) Dismissal. The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.~~

AMENDATORY SECTION (Amending WSR 10-17-031, filed 8/9/10, effective 9/9/10)

**WAC 132B-120-135 Summary suspension (~~procedures~~)).** ~~((1) Suspension may be imposed, if the vice president for student services or his/her designee(s) has cause to believe that any student:~~

~~(a) Has committed a felony or violated any provision of the code of conduct; and~~

~~(b) Presents an immediate danger to the health, safety or welfare of members of the GHC community; or~~

~~(c) If the student poses an ongoing threat of disruption of, or interference with, the operations of the college, that student may be summarily suspended.~~

~~(2) Notice. Any student who has been summarily suspended shall be served with written notice or verbal notice of the summary suspension. If such notice is made in writing, it shall be provided by certified mail and first class mail delivered to the student's last known address.~~

~~(3) The oral or written notice to the student shall include the reasons for summary suspension, duration of the summary suspension, and any possible additional disciplinary or corrective action that may be taken. The notification shall indicate that the student must appear before the vice president of student services for a summary suspension hearing at a time specified in the notice. If oral notice is given, written notice shall follow within two calendar days. In addition, the vice president for student services shall set a date for informal hearing of the summary suspension as soon as practicable.~~

~~(4) The student shall be given the opportunity to present written and/or oral evidence. The issue before the vice president for student services shall be whether reasonable cause exists to support and to continue the summary suspension.~~

~~(5) The vice president for student services shall issue a written decision within two days of the informal hearing.~~

~~(6) If a student who has been summarily suspended fails to appear for a summary suspension hearing, the vice president for student services may order the suspension to remain in place pending the final disposition of the disciplinary process as provided in this section.~~

~~(7) The student may request a de novo review of the informal hearing decision before the student conduct committee. Either party may request the review to be consolidated with any other disciplinary proceeding arising from the same matter.~~

~~(8) Nothing herein shall prevent faculty members from taking summary action as may be reasonably necessary to maintain order in the classroom and/or prevent substantial disruption to the educational process. Such summary action in the form of removal from the classroom may not exceed one day per episode. Any such summary action may be appealed to the vice president for student services for an informal hearing. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.~~

~~(2) The vice-president for student services may impose a summary suspension if there is probable cause to believe that the respondent:~~

~~(a) Has violated any provision of the code of conduct; and~~

~~(b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or~~

~~(c) Poses an ongoing threat of disruption of, or interference with, the operations of the college.~~

~~(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.~~

~~(4) The written notification shall be entitled "Notice of Summary Suspension" and shall include:~~

~~(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;~~

~~(b) The date, time, and location when the respondent must appear before the vice-president for student services for a hearing on the summary suspension; and~~

~~(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.~~

~~(5)(a) The vice-president for student services shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension. The hearing will be conducted as a brief adjudicative proceeding.~~

~~(b) During the summary suspension hearing, the issue before the vice-president for student services is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.~~

~~(c) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.~~

~~(d) If the student fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.~~

~~(e) As soon as practicable following the hearing, the vice-president for student services shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.~~

~~(f) To the extent permissible under applicable law, the vice-president for student services shall provide a copy of the decision to all persons or offices that may be bound or protected by it.~~

#### NEW SECTION

**WAC 132B-120-143 Brief adjudicative proceedings—Review of an initial decision.** (1) Brief adjudicative proceedings shall be conducted by the vice-president for student services. The vice-president for student services shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) Before taking action, the vice-president for student services shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the college's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The vice-president for student services shall serve an initial decision within seven business days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within twenty-one calendar days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) If the vice-president for student services upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

#### NEW SECTION

**WAC 132B-120-145 Brief adjudicative proceedings—Review of an initial decision** (1) An initial decision is subject to review by the president, provided the respondent files a written request for review with the vice-president for student services within twenty-one calendar days of service of the initial decision.

(2) The president shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within ten business days whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within ten business days after the request is submitted.

(5) If the president upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

AMENDATORY SECTION (Amending WSR 10-17-031, filed 8/9/10, effective 9/9/10)

**WAC 132B-120-155 Appeal(s of initial) from disciplinary action.** ((Any disciplinary action other than warning or reprimand may be appealed. All appeals must be made in writing and addressed to the vice-president for student services within seven calendar days of the college's giving notice of the disciplinary action.

~~Disciplinary action by any college employee may be appealed to, and shall be reviewed by, the vice-president for~~

~~student services, or in his/her absence, the vice-president for instruction or designee.~~

~~Disciplinary action by the vice-president for student services may be appealed to, and shall be reviewed by, the student conduct committee.~~

~~Disciplinary action by the student conduct committee may be appealed to and shall be reviewed by the college president or his/her designee.)~~ (1) The respondent may appeal a disciplinary action by filing a written notice of appeal with the vice-president for student services within twenty-one calendar days of service of the vice-president for student services' decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent and the vice-president for student services.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(7) The student conduct committee shall hear appeals from:

(a) The imposition of disciplinary suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the vice-president for student services, or the president.

(8) Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Written reprimands; and

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(9) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

AMENDATORY SECTION (Amending WSR 10-17-031, filed 8/9/10, effective 9/9/10)

**WAC 132B-120-170 Student conduct committee.** ((The student conduct committee, convened for that purpose, will hear, (de novo means that the matter will be considered anew as if it had not been heard before and as if no decision had been previously rendered), and make recommendations on all disciplinary cases referred to it by the appropriate authority or appealed to it by student(s). The committee will be composed of the following persons:

(1) A member appointed by the president of the college who shall serve as chair;

(2) Two members of the faculty, appointed by the president of the faculty association;

(3) Two representatives from the student body, appointed by the student government (ASGHC) president.

None of the above-named persons shall sit on any case in which he/she has a complaint or witness, in which he/she has a direct or personal interest, or in which he/she has acted previously in an advisory or official capacity. Decisions in this regard, including the selection of alternates, shall be made by the disciplinary committee as a whole.

In hearings before the committee, an assistant attorney general may be requested to assist the committee.) (1) The student conduct committee shall consist of five members:

(a) Two full-time students appointed by the student government;

(b) Two faculty members appointed by the president; and

(c) One administrative staff member (other than an administrator serving as a student conduct or conduct review officer) appointed by the president at the beginning of the academic year.

(2) The administrative staff member shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee. The chair shall receive training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee so long as one faculty member and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).

AMENDATORY SECTION (Amending WSR 10-17-031, filed 8/9/10, effective 9/9/10)

**WAC 132B-120-180 Student conduct committee procedures.** ((The student has a right to a fair and impartial hearing before the committee on any charge of misconduct resulting in disciplinary action other than warning or reprimand.

The committee chair shall establish general rules of procedures for conducting hearings. All proceedings of the committee will be conducted with reasonable dispatch and terminated as soon as fairness to all parties involved permits.

(1) The committee shall issue written notice of the date, time and place of the hearing, and the charges against the student consistent with RCW 34.05.434. This notice of hearing shall be provided no later than seven days prior to the date of the hearing. The notice may be amended at any time prior to the hearing, but if such amendment is prejudicial to the student's case, the hearing shall be rescheduled to a later date if so requested in writing by the student.

(2) The vice president for student services shall present evidence to the committee supporting the charges against the

student. The vice president for student services and the student (at his/her own expenses) have the right to be assisted by an advisor of their choice. The vice president for student services and the student are responsible for presenting their own information. Advisors are not permitted to address the board or participate directly in the hearing. An advisor may communicate only with the person he or she is advising. The board chair may call recesses to facilitate this communication. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the hearing. Delays are not normally allowed due to the scheduling conflicts of an advisor.

(3) If the student elects to choose and pay a duly licensed attorney admitted to practice in the state of Washington as the student's advisor, notice thereof must be tendered by the student to the vice president for student services at least five calendar days prior to the hearing.

(4) The vice president for student services, the student and the committee chair may arrange for witnesses to present pertinent information to the committee. Witnesses may provide written statements in lieu of their attendance at the hearing. The student is responsible for informing his/her witnesses of the time and place of the hearing. Witnesses provide information to, and answer questions from, the committee. To preserve the educational tone of the hearing and to avoid an adversarial environment, students may be required to direct questions to the chair, rather than to the witness directly. Questions concerning whether potential information may be received are resolved by the chair.

(5) Formal rules of process, procedure and technical rules of evidence, such as are applied in criminal or civil court, are not used in board proceedings. The student or his/her representative shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its sources; the student shall be entitled to present evidence in his/her own behalf and to question witnesses testifying against him/her as to factual matters subject to the conditions outlined above. The committee shall request the administration to provide the student a list of witnesses who will appear, and a description of any documentary or other physical evidence that will be presented at the hearing. The student shall have all authority which is possessed by the college to obtain information subject to FERPA regulations or to request the presence of witnesses or the production of other evidence relevant to the issues at the hearing.

(6) Only those matters presented at the hearing, in the presence of the student involved, will be considered in determining whether the student is guilty of the misconduct charged but the student's past record of conduct may be taken into account in formulating the committee's recommendation.

(7) Hearings are conducted in private. Admission of any persons other than the vice president for student services, the student, and their respective advisors is at the discretion of the committee chair.

(8) Questions related to the order of the proceedings are determined by the committee chair.

(9) The chairperson shall admit matters into evidence that reasonable persons would accept as having value in the

conduct of their affairs. Unduly repetitive or irrelevant evidence may be excluded.

(10) Failure on the part of the student(s) to appear or cooperate in the proceedings may result in default in accordance with RCW 34.05.440. The information in support of the complaint is presented and considered in the absence of the accused student. Failure of the student to cooperate may be taken into consideration by the committee in recommending penalties.

(11) The committee chair may accommodate concerns for the personal safety, well-being, or fears of confrontation during the hearing by providing separate facilities or by permitting participation by telephone, audio tape, written statement or other means.

(12) The committee may decide to uphold or modify sanctions in accordance with WAC 132B-120-130.

(13) There shall be a single verbatim record, such as a tape recording or transcript, of the information gathering portion of student conduct board hearings. Committee deliberations are not recorded. The record is the property of the college. Following the conclusion of the conduct proceeding, access to records of the case and hearing file will be kept in the office of the vice president for student services and limited to those designated by the college president. The accused student may make arrangements with the vice president to purchase a copy of the record.

(14) The burden of proof that guides the committee's decision is the preponderance of evidence, i.e., whether it is more likely than not that the accused student violated the standards of conduct for students.

(15) The student will be provided with a copy of the findings of fact and with the conclusions of the committee within ten calendar days from the final hearing date. If the college is not in session, this period may be extended for a reasonable period of time.)) (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW, and by the Model rules of procedure, chapter 10-08 WAC. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown.

(3) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request, filed at least five business days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third business day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of:

(a) The conduct officer's notification of imposition of discipline (or referral to the committee); and

(b) The notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer, upon request, shall provide reasonable assistance to the respondent in obtaining relevant and admissible evidence that is within the college's control.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) Each party may be accompanied at the hearing by a nonattorney assistant of his/her choice. A respondent may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the vice-president for student services. The committee will ordinarily be advised by an assistant attorney general. If the respondent is represented by an attorney, the vice-president for student services may also be represented by a second appropriately screened assistant attorney general.

#### NEW SECTION

**WAC 132B-120-181 Student conduct appeals committee hearings—Presentations of evidence.** (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

(a) Proceed with the hearing and issuance of its decision; or

(b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that he/she selects, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for

inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The vice-president for student services (unless represented by an assistant attorney general) shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

#### NEW SECTION

**WAC 132B-120-185 Student conduct committee—Initial decision.** (1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within twenty business days following the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's initial order shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the vice-president for student services, the committee shall identify and impose disciplinary sanction(s) or conditions (if any) as authorized in the student code. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the disciplinary sanction and/or conditions imposed by the vice-president for student services and/or impose additional disciplinary sanction(s) or conditions as authorized herein.

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

AMENDATORY SECTION (Amending WSR 10-17-031, filed 8/9/10, effective 9/9/10)

**WAC 132B-120-190 Appeal ~~((of the))~~ from student conduct committee's initial decision.** ~~((The student will be advised of his/her right to present within seven calendar days, a written statement of appeal to the president of the college before action is taken on the decision of the committee. In the case of a student under eighteen years of age, written notice of any action involving dismissal or disciplinary probation may be sent to the parents or guardian of the student.~~

~~If the student concludes that the action of the disciplinary committee is inappropriate, the student may appeal the matter to the president of the college. The president of the college or~~

~~his/her designated representative, after reviewing the case, including the report of the committee and any statements filed by the student, shall either indicate his/her approval of the conclusions of the committee by sustaining its decision, shall give directions as to what other disciplinary action shall be taken by modifying its decision or shall nullify previous sanctions imposed by reversing its decision. The president shall then notify the official who initiated the proceedings, the student and the committee chair. The decision of the president is final.))~~ (1) A respondent who is aggrieved by the findings or conclusions issued by the student conduct committee may appeal the committee's initial decision to the president by filing a notice of appeal with the president's office within twenty-one calendar days of service of the committee's initial decision. Failure to file a timely appeal constitutes a waiver of the right and the initial decision shall be deemed final.

(2) The notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain argument why the appeal should be granted. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the notice of appeal.

(3) The president shall provide a written decision to all parties within twenty business days after receipt of the notice of appeal. The president's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.

(4) The president may, at his or her discretion, suspend any disciplinary action pending review of the merits of the findings, conclusions, and disciplinary actions imposed.

(5) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

#### **DISCIPLINE PROCEDURES FOR CASES INVOLVING ALLEGATIONS OF SEXUAL MISCONDUCT**

#### NEW SECTION

**WAC 132B-120-300 Supplemental sexual misconduct procedures.** Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial disciplinary decision-making process and to appeal any disciplinary decision.

Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct by a student. In such cases, these procedures shall supplement the student disciplinary procedures in WAC 132B-120-005 through 132B-120-060. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall prevail.

#### NEW SECTION

**WAC 132B-120-305 Supplemental definitions.** The following supplemental definitions shall apply for purposes

of student conduct code proceedings involving allegations of sexual misconduct by a student:

(1) A "complainant" is an alleged victim of sexual misconduct, as defined in subsection (2) of this section.

(2) "Sexual misconduct" is prohibited sexual- or gender-based conduct by a student including, but not limited to:

(a) Sexual activity for which clear and voluntary consent has not been given in advance;

(b) Sexual activity with someone who is incapable of giving valid consent because, for example, she or he is underage, sleeping or otherwise incapacitated due to alcohol or drugs;

(c) Sexual harassment;

(d) Sexual violence which includes, but is not limited to, sexual assault, domestic violence, intimate violence, and sexual- or gender-based stalking;

(e) Nonphysical conduct such as sexual- or gender-based digital media stalking, sexual- or gender-based online harassment, sexual- or gender-based cyberbullying, nonconsensual recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity.

#### NEW SECTION

**WAC 132B-120-310 Supplemental complaint process (sexual misconduct).** The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student.

(1) The college's Title IX compliance officer shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of the investigation shall be used to conduct any disciplinary proceeding conducted in accordance with this chapter.

(2) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(3) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety and welfare of the complainant or other members of the college community or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(4) The vice-president for student services, prior to initiating disciplinary action, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions (if any) that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.

(5) The student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the

respondent. The notice will also inform the complainant of his or her appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure that prompt notice of the protective disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection is given.

#### NEW SECTION

**WAC 132B-120-315 Supplemental appeal rights.** (1) The following actions by the vice-president for student services may be appealed by the complainant:

(a) The dismissal of a sexual misconduct complaint; or

(b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.

(2) A complainant may appeal a disciplinary decision by filing a notice of appeal with the vice-president for student services within twenty-one days of service of the notice of the discipline. The notice of appeal may include a written statement setting forth the grounds of appeal. Failure to file a timely notice of appeal constitutes a waiver of this right and the disciplinary decision shall be deemed final.

(3) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.

(4) Except as otherwise specified in this supplemental procedure, a complainant who timely appeals a disciplinary decision or who intervenes as a party to respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

(5) An appeal by a complainant from the following disciplinary actions involving allegations of sexual misconduct against a student shall be handled as a brief adjudicative proceeding:

(a) Exoneration and dismissal of the proceedings;

(b) A disciplinary warning;

(c) A written reprimand;

(d) Disciplinary probation;

(e) Suspensions of ten instructional days or less; and/or

(f) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(6) An appeal by a complainant from disciplinary action imposing a suspension in excess of ten instructional days or an expulsion shall be reviewed by the student conduct board.

(7) In proceedings before the student conduct committee, respondent and complainant shall have the right to be accompanied by a nonattorney assistant of their choosing during the appeal process. Complainant may choose to be represented at the hearing by an attorney at his or her own expense, but will be deemed to have waived that right unless, at least four business days before the hearing, he or she files a written notice of the attorney's identity and participation with the committee chair, and with copies to the respondent and the student conduct officer.

(8) In proceedings before the student conduct committee, complainant and respondent shall not directly question or cross-examine one another. All questions shall be directed to

the committee chair, who will act as an intermediary and pose questions on the parties' behalf.

(9) Student conduct hearings involving sexual misconduct allegations shall be closed to the public, unless respondent and complainant both waive this requirement in writing and request that the hearing be open to the public. Complainant, respondent and their respective nonattorney assistants and/or attorneys may attend portions of the hearing where argument, testimony and/or evidence are presented to the student conduct committee.

(10) The chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice upon complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of his or her appeal rights.

(11) Complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties.

(12) The president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

### WSR 14-13-081

#### PROPOSED RULES

#### HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed June 16, 2014, 12:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-08-027.

Title of Rule and Other Identifying Information: WAC 182-505-0120 Breast and cervical cancer treatment program (BCCTP) for women—Client eligibility.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at [http://www.hca.wa.gov/documents/directions\\_to\\_csp.pdf](http://www.hca.wa.gov/documents/directions_to_csp.pdf) or directions can be obtained by calling (360) 725-1000, on July 22, 2014, at 10:00 a.m.

Date of Intended Adoption: Not sooner than July 23, 2014.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax (360) 586-9727, by 5:00 p.m. on July 22, 2014.

Assistance for Persons with Disabilities: Contact Kelly Richters by July 14, 2014, TTY (800) 848-5429 or (360) 725-1307 or e-mail [kelly.richters@hca.wa.gov](mailto:kelly.richters@hca.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Pursuant to section 213(44) of the ESSB 6002, the legislature reinstated the BCCTP. WAC 182-505-0120 must be revised to reflect this legislative directive.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, Patient Protection and Affordable Care Act (Public Law 111-148); 42 C.F.R. § 431, 435, and 457; and 45 C.F.R. § 155.

Statute Being Implemented: ESSB 6002, chapter 221, Laws of 2014.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Kevin Sullivan, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1344; Implementation and Enforcement: Jessie M. Dean, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-1301.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative rules review committee has not requested the filing of a small business economic impact statement, and these rules do not impose a disproportionate cost impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

June 16, 2014

Kevin M. Sullivan  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-02-034, filed 12/29/11, effective 1/1/12)

**WAC 182-505-0120 Washington apple health breast and cervical cancer treatment program (BCCTP) for women—Client eligibility.** (1) Effective ~~((July 1, 2004))~~ April 1, 2014, a woman is eligible for categorically needy (CN) coverage under the Washington apple health (WAH) breast and cervical cancer treatment program (BCCTP) only when she:

(a) Has been screened for breast or cervical cancer under the ~~((center for disease control (CDC)))~~ department of health's breast ((and)), cervical ((cancer early detection)), and colon health program ((BCCEDP)) (BCCHP);

(b) Is found to require treatment for either breast or cervical cancer or for a related precancerous condition;

(c) Is under sixty-five years of age;

(d) Is not ~~((eligible for))~~ covered by another WAH-CN ((medicaid)) program;

(e) Is uninsured or does not otherwise have creditable coverage;

(f) Meets residency requirements as described in WAC ~~((388-468-0005))~~ 182-503-0520;

(g) Meets Social Security number requirements as described in WAC ~~((388-476-0005))~~ 182-503-0515; ((and))

(h) Meets the requirements for citizenship or U.S. national status (~~(as defined in WAC 388-424-0001)~~) or "qualified alien" status as described in WAC (~~(388-424-0006 (1) or (4))~~) 182-503-0535; and

(i) Meets the income standard set by the BCCHP.

(2) The certification period(~~(s described in WAC 388-416-0015 (1), (4), and (6) apply to the BCCTP. Eligibility)~~) for (~~(medicaid continues throughout the full course of treatment as certified by the CDC-BCCEDP)~~) breast and cervical

cancer treatment covered under this section is twelve months as provided in WAC 182-504-0015. Renewal of eligibility must be completed prior to the end of each certification period to remain continuously enrolled. Eligibility for BCCTP coverage under subsection (1)(b) of this section continues throughout the course of treatment as certified by the BCCHP.

~~((3) Income and asset limits are set by the CDC-BCCEDP.))~~

**WSR 14-13-088**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed June 17, 2014, 6:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-09-091.

Title of Rule and Other Identifying Information: Chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance and chapter 296-17A WAC, Classifications for Washington workers' compensation insurance.

Hearing Location(s): Labor and Industries (L&I) Building, Room S-119, 7273 Linderson Way S.W., Tumwater, WA 98501, on July 22, 2014, at 10:00 a.m.

Date of Intended Adoption: August 19, 2014.

Submit Written Comments to: JoAnne Attwood, P.O. Box 44148, Olympia, WA 98504-4148, e-mail JoAnne.Attwood@lni.wa.gov, fax (360) 902-4799 by July 22, 2014, 5:00 p.m.

Assistance for Persons with Disabilities: Contact office of information and assistance by July 15, 2014, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:

**Miscellaneous Classification and Rating Rule Changes**

	<b>WAC Numbers</b>	<b>WAC Description</b>	<b>What is Changing</b>	<b>Reason for Change</b>
1.	296-17-31018	Exception classifications	Update language to plain-talk and reformat. Move scopes descriptions to the classifications in chapter 296-17A WAC.	The standard exception classification restrictions are presently addressed specifically in the general reporting rules. Customers must look in two places in the rules to learn what the restrictions are. We propose to rewrite each standard exception classification to incorporate the parameters of the reporting requirements into the language of the classification. This change will ease administrative burden and make it easier to do business with L&I.
2.	296-17A-0107-00-01	<ul style="list-style-type: none"> <li>• Utility line construction: Underground, N.O.C.</li> <li>• Pipelaying, N.O.C.</li> </ul>	Reformat language and remove language referring to depth, which causes confusion when applying the WAC.	Staff have indicated that the word "depth" is causing confusion for them and for employers when assigning 0107. Depth has no bearing on what the correct classification is. The classification is assigned based only on the work activity performed.

	<b>WAC Numbers</b>	<b>WAC Description</b>	<b>What is Changing</b>	<b>Reason for Change</b>
3.	296-17A-0108-01	Sewer construction; septic tank installation	Reformat language and remove language referring to depth, which causes confusion when applying the WAC.	Staff have indicated that the word "depth" is causing confusion for them and for employers when assigning 0108-01. Depth has no bearing on what the correct classification is. The classification is assigned based only on the work activity performed.
4.	296-17A-0112-02	Pit, crusher and bunker operations in connection with road, street and highway construction	Update language to clarify application of WAC, using "for" rather than "in connection with" and clarifying that the classification is not assigned to contactors [contractors] making materials for their own road construction project. Language as written has been confusing to those applying classification.	Staff requested clarification due to the difficulty understanding the intent of the language.
5.	296-17A-0301-08	Landscape construction operations, N.O.C.	Add a reference to landscape roofing being reported in 0507-05 Roofing.	Landscape roofing is a relatively new type of business operation. The worker exposure is comparable to roofing. Staff have applied the roofing classification since this activity started. We are documenting an existing work practice. Landscape roofing is to be reported in 0507-05 Roofing instead of 0301-08 Landscaping or 0308-01 Lawn care maintenance.
6.	296-17A-0308-01	Lawn care maintenance	Add a reference to landscape roofing being reported in 0507-05 Roofing.	Landscape roofing is a relatively new type of business operation. The worker exposure is comparable to roofing. Staff have applied the roofing classification since this activity started. We are documenting an existing work practice. Landscape roofing is to be reported in 0507-05 Roofing instead of 0301-08 Landscaping or 0308-01 Lawn care maintenance.
7.	296-17A-0507-05	Roofwork construction and repair	Add landscape roofing activities to WAC as this is where we have been classifying this new industry.	Landscape roofing is a relatively new type of business operation. The worker exposure is comparable to roofing. Staff have applied the roofing classification since this activity started. We are documenting an existing work practice. Landscape roofing is to be reported in 0507-05 Roofing instead of 0301-08 Landscaping or 0308-01 Lawn care maintenance.

	WAC Numbers	WAC Description	What is Changing	Reason for Change
8.	296-17A-0510	Wood frame building: Construction or alterations, N.O.C.	Clarify an existing distinction between 0516, Building repair, and 0510 for nonmetal siding.	Staff requested this clarification in the rule to increase efficiency and consistency when applying classifications 0516 and 0510: <ul style="list-style-type: none"> <li>• Changing "wood or vinyl" to "non-metal" reflects evolution of industry without changing scope of classification.</li> <li>• Clarification added so employers and staff can distinguish between applying 0510 and 0516 without having to also look in two additional WACs.</li> </ul>
9.	296-17A-0514-01	Nonstructural additions to buildings or structures: Installation, removal, alteration, and/or repair	Add "metal" to the title to read "Nonstructural metal additions to buildings or structures: Installation, removal, alteration, and/or repair."	Staff requested we include "metal" additions in the title of the rule so that it is more obvious that metal additions are included in 0514-01.
10.	296-17A-0516-00-02	<ul style="list-style-type: none"> <li>• Building repair, remodeling and carpentry</li> <li>• Building repair, remodeling and carpentry, N.O.C. This subclassification applies to a firm that chooses to report all construction phases into separate construction classifications</li> </ul>	<ul style="list-style-type: none"> <li>• Clarify that repairing or installing <u>all types</u> of siding on an existing structure is included in this classification.</li> <li>• Correct formatting of language for wood framing/sheathing/windows/nonmetal siding on the list of classes to be reported separately.</li> </ul>	<ul style="list-style-type: none"> <li>• Staff requested clarification to eliminate questions regarding what types of siding should be included in 0516-00 Building repair, remodeling and carpentry.</li> <li>• A spacing error in the formatting caused confusion for staff.</li> </ul>
11.	296-17A-0803-00	Cities and towns—All other employees	Clarify exclusionary language regarding waterworks operations in cities that has caused confusion among staff.	Various staff reported confusion in determining whether waterworks duties performed by employees of cities/towns are included in 0803 Cities/towns or are reported separately in 1507-02 Waterworks operations. We are clarifying that businesses providing waterworks operations are classified as 1507-02 Waterworks, but duties performed by city/town employees are reported in 0803-00 Cities/towns.
12.	296-17A-1501-01	Housing authorities, N.O.C.—All other employees	Remove "disabled" and replace with "people with disabilities."	Terminology has changed.
13.	296-17A-3105-06-07	<ul style="list-style-type: none"> <li>• Concrete blocks, bricks, poles, piles, tiles and beams manufacturing</li> <li>• Concrete sewer and irrigation pipes, concrete septic tanks and concrete</li> </ul>	Remove "at a construction site" from language to clarify application of classifications.	This is a manufacturing classification. Reference to a construction site was unnecessary and confusing. Staff requested this clarification in the rule to increase efficiency and consistency when applying classification 3105.

	WAC Numbers	WAC Description	What is Changing	Reason for Change
		products, N.O.C. manufacturing		
14.	296-17A-3309-02	Golf cart sales/rental agencies	Update language to plain-talk and reformat.	Improve the flow of the text using plain talk principles to make it easier to understand and apply the rules.
15.	296-17A-3309-03	Motorcycle, moped, motor scooter, snowmobile, jet ski, all-terrain vehicles sales/rental agencies	Update language to plain-talk and reformat. Add a reference to the appropriate classification for durable medical equipment (DME) businesses and 6306-01 Stores: Furniture—Rental.	There was language describing DME businesses in two different classifications (3309-03 and 6306-01) which created confusion for staff when classifying these DME businesses. Emphasizing the correct classification for DME.
16.	296-17A-3406-04	Automobile or truck—Detailing by contractor; glass tinting; windshield repair	Add a reference to clarify that boat detailing is to be reported in 3414-00 Boat dealers or 3414-01 Marinas and boat house operations: Boat storage facilities (whichever classification applies).	Staff applying this classification requested the reference be added to provide direction to the appropriate classification for boat detailing.
17.	296-17A-3411-01-02	<ul style="list-style-type: none"> <li>• Automobile: Service centers, repair shops or garages</li> <li>• Automobile: Service specialty shops</li> </ul>	Add to list of exclusions "Dealers or service/repair centers for semi-trucks, diesel tractor-trailers, buses, and other heavy equipment or machinery which are to be reported separately in classification 6409 Dealers: Machinery/equipment, N.O.C."	Staff requested this reference be added to all subclassifications to help guide to the correct classification and ensure consistency. The same exclusion is already in 3411-00 Automobile: Dealers, rental or leasing agencies, including service repair garages; recreational vehicle; dealers, rental/leasing agencies, or service/repair garages.
18.	296-17A-3701-09	Drug, medicine, or pharmaceutical preparation: Manufacturing	Add an exclusion that retail compounding pharmacy stores are to be reported in 6406-16 Stores: Drug—Retail.	Staff requested clarification when classifying compounding. Adding this reference to the exclusions will help guide to the correct classification and ensure consistency.
19.	296-17A-3702-05	Wine making or wineries Spirituous liquor: Manufacturing	Add "off premises" to the exclusion to read: This classification excludes off-premises wine/liquor stores which are to be reported in classification 6403 Stores: Wine, liquor, or soft drinks—Retail.	Document current practice of separately rating a retail store when it is not located on the premises of a winery.
20.	296-17A-3901-00-01	<ul style="list-style-type: none"> <li>• Bakeries—Retail</li> <li>• Bakeries—Retail—Specialty shops</li> </ul>	Clarify that some wholesale activity is included in 3901 as long as the principal business remains retail.	Classification 3901 excluded all wholesale activities. This does not conform to either the practice of most small retail bakeries or how we currently apply these classifications. Most retail bakeries and retail specialty bakeries sell wholesale to a limited number of local stores, restaurants, or coffee shops.

	WAC Numbers	WAC Description	What is Changing	Reason for Change
21.	296-17A-4900	Construction: Superintendent or project manager	Update language to plain-talk and reformat. Add qualifying language from WAC 296-17-31018 and clarify that a division of hours is permitted by contract.	A division of hours by project was introduced in rule changes in 2010. Because at the time we did not know if exposure would be measured in hours or payroll, the wording was very general, and not very clear.
22.	296-17A-4904 -00 -13 -17 -20	<ul style="list-style-type: none"> <li>• Clerical office, N.O.C.</li> <li>• Clerical office: Insurance companies, agents or brokers</li> <li>• Clerical office: Employee leasing companies</li> <li>• Community action organizations—Clerical office employees</li> </ul>	Update language to plain-talk and reformat. Add qualifying language from WAC 296-17-31018.	See changes described in item #1, WAC 296-17-31018.
23.	296-17A-4910-02	Mini-storage warehouse	Change title from mini-storage warehouse to Mini-storage facilities.	A representative of the Washington Self Storage Association asked department staff to remove the word "warehouse" from the title of this classification. The title has caused confusion for their members who are assigned 4910-02 since storage unit facilities are not actually warehouses and the scopes language of this classification otherwise doesn't mention warehouses.
24.	296-17A-5003 -01 -02	<ul style="list-style-type: none"> <li>• Log hauling by contractor</li> <li>• Log truck drivers, N.O.C.</li> </ul>	Update language to plain-talk and reformat. Add qualifying language from WAC 296-17-31018 and language regarding division of hours.	See changes described in item #1, WAC 296-17-31018.
25.	296-17A-5201 -75 -76 -78	<ul style="list-style-type: none"> <li>• Electric power or transmission equipment: Manufacturing or assembly</li> <li>• Electric toasters, frying pans, wire harnesses, vacuum cleaners, electrical appliances, N.O.C: Manufacturing or assembly</li> <li>• Electric motors, generators, alternators, starters, convertors, solenoids and servomotors: Manufacturing or assembly including repair</li> </ul>	Reformat all subclassifications. Clarify that solar panel manufacturing is included.	Improve the flow of the text using plain talk principles to make it easier for customers and staff to understand and apply the rules. Solar panel manufacturing is a relatively new industry. We are documenting the existing practice of classifying solar panel manufacturing in 5201.
26.	296-17A-5301-19	Travel agencies	Remove "disabled" and replace with "people with disabilities."	Terminology has changed.

	<b>WAC Numbers</b>	<b>WAC Description</b>	<b>What is Changing</b>	<b>Reason for Change</b>
27.	296-17A-6207	Carnivals—Traveling	Correct reference from WAC 296-17-675 to 296-17A-5206.	Classification WAC numbers changed in the past. This correction ensures the reference in 6207 is correct.
28.	296-17A-6208-11	Carnival operations, N.O.C.	Correct reference from WAC 296-17-675 to 296-17A-5206.	Classification WAC numbers changed in the past. This correction ensures the reference in 6208 is correct.
29.	296-17A-6301 -00 -06 -07	<ul style="list-style-type: none"> <li>• Sales personnel: Vehicles and marine pleasure craft</li> <li>• Instructors of driving schools</li> <li>• Limousine drivers</li> </ul>	Update language to plain-talk and reformat. Add qualifying language from WAC 296-17-31018.	See changes described in item #1, WAC 296-17-31018.
30.	296-17A-6303 -00 -03 -21	<ul style="list-style-type: none"> <li>• Outside sales personnel, N.O.C.; messengers</li> <li>• Insurance sales personnel and claims adjusters</li> <li>• Home health care services: Social workers and dietitians</li> </ul>	Update language to plain-talk and reformat. Add qualifying language from WAC 296-17-31018.	See changes described in item #1, WAC 296-17-31018.
31.	296-17A-6305-05	Stores: Wig or hat—Retail	Correct spelling of "brooches."	Correct misspelling.
32.	296-17A-6306 -00 -02 -06	<ul style="list-style-type: none"> <li>• Stores: Furniture—Wholesale or retail;</li> <li>• Stores: Billiard or pool table—Wholesale or retail</li> <li>• Stores: Appliance—Wholesale or retail</li> <li>• Stores: Office furniture—Wholesale or retail</li> </ul>	Correct apostrophe placement in the word "store's."	Correct use of apostrophe.
33.	296-17A-6306-01	Stores: Furniture—Rental	Add DME to title.	There was language describing DME businesses in two different classifications (3309-03 Motorcycle, moped, motor scooter, snowmobile, jet ski, all-terrain vehicles sales/rental agencies and 6306-01 Stores: Furniture—Rental) which created confusion for staff when classifying these DME businesses. Emphasizing the correct classification for DME.
34.	296-17A-6403-07	Stores: Wine, liquor, or soft drinks—Retail	Clarify that when a store or tasting room is operated off winery premises they are separately reported. Remove language regarding state-operated liquor stores.	Document current practice of separately rating a retail store when it is not located on the premises of a winery. Change in language regarding state-operated liquor stores is needed due to new laws eliminating state-operated liquor stores.

	<b>WAC Numbers</b>	<b>WAC Description</b>	<b>What is Changing</b>	<b>Reason for Change</b>
35.	296-17A-6409-00	Dealers: Machinery/equipment, N.O.C.; service/repair garages; machinery/equipment, N.O.C.	Update classification title to read: Dealers: Service/repair garages, machinery, equipment, N.O.C.	Staff requested the classification title be improved to emphasize the service and repair of machinery in a better way.
36.	296-17A-6509-04	Boarding homes and centers, N.O.C., adult family homes, rooming houses, foster homes, and orphanages	Remove "disabled" and replace with "people with disabilities."	Terminology has changed.
37.	296-17A-6510	Domestic servants/home care assistants employed in or about the private residence of a home owner	Remove "handicapped" and replace with "people with disabilities."	Terminology has changed.
38.	296-17A-6511 -00 -20	<ul style="list-style-type: none"> <li>• Chore services/home care assistants</li> <li>• Community action organizations—Chore services/home care assistants</li> </ul>	<p>Correct reference from home care quality authority to home care referral registry (HCRR).</p> <p>Update language to plain-talk and reformat.</p> <p>Indicate examples of activities included in 6511, such as:</p> <ul style="list-style-type: none"> <li>° Supervised visits between children and parents, including transporting of the child</li> <li>° Packing up senior homes</li> <li>° Organizing homes prior to customers putting a home on the market</li> <li>° Organizing homes prior to customers having an estate auction</li> <li>° Pet sitting</li> <li>° House sitting.</li> </ul>	<p>DSHS changed the programs responsible for the chore service activities. Staff and customers have requested clarification as to some work activities included in this classification. Documenting current practice of classifying.</p>
39.	296-17A-6512-00	Home care services/HCRR	Remove "disabled" and replace with "people with disabilities."	Terminology has changed.
40.	296-17A-6602-05	Janitorial, N.O.C.	Correct typo principle to principal.	Correct misspelling.
41.	296-17A-6709-00	Sheltered workshops	Remove "disabled" and replace with "people with disabilities."	Terminology has changed.
42.	296-17A-6902-02	Logging road: Construction or maintenance	Correct reference from WAC 296-17-675 to 296-17A-5206.	Classification WAC numbers changed in the past. This correction ensures the reference in 6902 is correct.

	WAC Numbers	WAC Description	What is Changing	Reason for Change
43.	296-17A-6905-01	Salaried law enforcement officers of counties and taxing districts; Volunteer law enforcement officers, N.O.C.: Full coverage	Clarify that detention and correctional officers are included in this classification.	Staff often question whether these types of personnel are included in 6905 Salaried law enforcement officers of counties and taxing districts. This change is needed to assist staff in assigning the appropriate classification for claims. Documenting current practice.
44.	296-17A-7101	Corporate officers, N.O.C.	Update language to plain-talk and reformat. Add qualifying language from WAC 296-17-31018 and language regarding division of hours.	See changes described in item #1, WAC 296-17-31018.
45.	296-17A-7309	Work activity centers	Remove "disabled" and replace with "people with disabilities."	Terminology has changed.

The department intends to review these chapters and make revisions to:

- Correct typographical and other errors (such as invalid telephone numbers and out-of-date references),
- Revise wording and formatting to make the rules easier to understand and apply, and
- Incorporate and formalize existing agency practices (such as expressly including in a risk classification employment that the department currently includes by interpretation or analogy).

The purpose of this rule making is not to make substantive changes to how the department classifies employment, but to review and revise its classification plan to ensure it is clear and understandable. These changes will not change the way we calculate employer rates, our reporting requirements, or how we classify businesses.

As part of this rule making, the department also intends to review these chapters as required by SSB 5679 (chapter 30, Laws of 2013 2nd sp. sess.) to make changes where possible to reduce the regulatory burden on employers insured with the state fund.

Statutory Authority for Adoption: RCW 51.04.020 and 51.16.035.

Statute Being Implemented: RCW 51.16.035.

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

Name of Proponent: [L&I], governmental.

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No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency is exempt from conducting a small business economic impact statement since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.310 (4)(f) and do not change current coverage options for employers and workers.

A cost-benefit analysis is not required under RCW 34.05.328. Since the proposed rules do not change any existing coverage options for employers or workers and adjust fees pursuant to legislative standards, they are exempted by RCW 34.05.328 (5)(b)(vi) from the requirement for a cost-benefit analysis.

June 17, 2014  
Joel Sacks  
Director

AMENDATORY SECTION (Amending WSR 13-08-063, filed 4/1/13, effective 1/1/14)

**WAC 296-17-31018 Exception classifications. (1) What are exception classifications?**

~~((In *WAC 296-17-31012* we discussed our classification policy. We described the process used to classify risk and stated that we assign the basic classification or basic classifications that best describe the nature of your company's business. While this policy is modeled after the policy used by private insurance carriers and is geared to administrative ease for you, we recognize that there are some duties or operations where your employees do not share the same general workplace hazards that your other employees are exposed to. To provide for those operations that are outside the scope of a basic classification, we have created three types of exception classifications listed below:))~~ Exception classifications describe employees who are not exposed to the normal hazards associated with a basic classification. Exception classifications may also have special reporting rules concerning a division of worker hours.

There are three types of exception classifications:

- Standard exception classifications;
- Special exception classifications; and
- General exclusion classifications.

**(2) What are the standard exception classifications?**

~~((Standard exception classifications cover those employments that are administrative in nature and common to many industries. Employees covered by a standard exception clas-~~

sification cannot be exposed to any operative hazard of the business. If the language of the basic classification assigned to your business does not include these employments, you may be able to report them separately. You cannot divide the work hours of an employee between a standard exception classification and a basic classification unless it is permitted by another rule. If an employee works part of their time in a standard exception classification and part of their time in your basic classification, then all exposure (hours) must be reported in the highest rated basic classification applicable to the work being performed. The standard exception classifications are:

- Classification 4904 (*WAC 296-17A-4904*) "clerical office employment." This classification includes clerical, administrative, and drafting employees.
- Sales personnel classifications 6301 (*WAC 296-17A-6301*), and 6303 (*WAC 296-17A-6303*) includes outside sales personnel and messengers.
- Classification 7101 (*WAC 296-17A-7101*) applies to corporate officers who have elected optional coverage. A corporate officer as used in these rules is a person who is an officer in the corporation, such as the president, who also serves on the corporation's board of directors and owns stock in the corporation.
- Classification 7100 (*WAC 296-17A-7100*) applies to members of a limited liability company who have elected optional coverage.

**Clerical office employees** are defined as employees whose duties are limited to: Answering telephones; handling correspondence; creating or maintaining financial, employment, personnel, or payroll records; composing informational material on a computer; creating or maintaining computer software; and technical drafting. Their work must be performed in a clerical office which is restricted to:

- A work area which is physically separated by walls, partitions, or other physical barriers, from all other work areas of the employer; and
- Where only clerical office work as described in this rule is performed.

A clerical office does not include any work area where inventory is located, where products are displayed for sale, or area where the customer brings products for payment. Clerical office employees can perform cashiering and telephone sales work if they do not provide any retail or wholesale customer service that involves handling, showing, demonstrating, or delivering any product sold by the employer. Clerical office employees can make bank deposits, pick up and deliver mail at the post office, or purchase office supplies, if their primary work duties are clerical office duties as defined in this rule.

**Sales personnel** are defined as employees whose duties are limited to: Soliciting new customers by telephone or in person; servicing existing customer accounts; showing, selling, or explaining products or services; completing correspondence; placing orders; performing public relations duties; and estimating. Although some of sales person's duties may be performed in a clerical office, most of their work is conducted away from the employer's physical busi-

ness location or in showrooms. We refer to work that takes place away from the employer's premises as "*outside sales.*" Sales personnel whose duties include customer service activities such as, but not limited to, the delivery of product, stocking shelves, handling inventory, or otherwise merchandising products sold to retail or wholesale customers are excluded from all standard exception classifications. Sales personnel with duties such as delivery and stocking of shelves are to be reported in the basic classification applicable to the business unless the basic classification assigned to the business requires another treatment.

**Messengers** are defined as employees whose duties are delivering interoffice mail, making deposits, and similar duties that are exclusively for the administration of the employer's business. Classification 6303 "messengers" does not include delivering mail or packages to the employer's customer or as a service to the public. If a messenger is engaged in delivering mail or packages as a service to the public they are to be assigned to the basic classification of the business or classification 1101 as applicable.

**Corporate officers'** duties in classification 7101 must be limited to: Clerical duties; outside sales duties as described above; administrative duties such as hiring staff; attending meetings, negotiating contracts, and performing public relations work. To qualify for this classification, a corporate officer must:

- Be a shareholder in the corporation;
- Be elected as a corporate officer and empowered in accordance with the articles of incorporation or bylaws of the corporation;
- Serve on the corporation's board of directors;
- Not have any exposure to any operative hazard of the business; and
- Not directly supervise employees who have any exposure to any operative hazard of the business.

**Members of a limited liability company (LLC)** duties in classification 7100 must be limited to: Clerical duties; outside sales duties as described above; administrative duties such as hiring staff, attending meetings, negotiating contracts, and performing public relations work. This includes only those members who have duties and authority similar to the exemption criteria of corporate officers in RCW 51.12-020.

Classification 6303 may apply to a corporate officer or member of a limited liability company whose duties are limited to outside sales activities as described in the sales personnel section of this rule. Under no circumstance is classification 4904 to be assigned to any corporate officer or member of a limited liability company.) Standard exception classifications are administrative in nature. Employees covered by a standard exception classification are not exposed to the general hazards described in a basic classification description. If the language of the basic classification does not specifically include clerical office and sales workers, you are allowed to report in standard exception classifications when applicable.

A worker's hours cannot be divided between a standard exception classification and any other classification. If some work is included in a standard exception classification, but other duties are not, then all the worker's hours must be

reported in the higher rated classification that applies to those duties. **Exception to the rule:** *A division of hours is permitted between a standard exception classification and racing operations, flight crews, or diving operations. See subsection (4) of this section.*

The standard exception classifications are:

- **Classification 4904**, clerical office workers as described in WAC 296-17A-4904;
- **Classification 6301**, sales personnel, driving instructors, and limousine drivers as described in WAC 296-17A-6301;
- **Classification 6303**, outside sales personnel as described in WAC 296-17A-6303;
- **Classification 7100**, members of limited liabilities electing coverage as described in WAC 296-17A-7100; and
- **Classification 7101**, corporate officers electing coverage as described in WAC 296-17A-7101.

### (3) What are the special exception classifications?

(Special exception classifications represent operations found within an employer's business that are allowed to be reported separately when certain conditions are met. Assuming the conditions noted under each exception below have been met, the following classifications may be used even if your basic classification includes the phrases "all operations" or "all employees." These special exceptions are subject to a division of worker hours in connection with all other basic classifications unless specifically prohibited in an individual classification WAC rule.

**Farms: Hand harvesting crops**—Classification 4806 (WAC 296-17A-4806) will apply if the employee:

- Is hand harvesting crops such as nuts, berries, prunes, field flowers, or bulbs; and
- Is harvesting by picking from trees while standing on the ground or harvesting from the ground while sitting, kneeling, bending, or stooping.

**Security guards**—Classification 6601 (WAC 296-17A-6601) will apply if the security guard:

- Is an employee of an employer engaged in logging or construction;
- Is for the purpose of guarding the employer's logging or construction sites;
- Is employed at the site only during the hours the employer is not conducting any other operations at the site;
- Has no other duties during their work shift as a security guard.

If all of the above conditions are not met, the security guard is to be reported in the basic classification applicable to the construction or logging operation being conducted.

**Janitors**—Classification 6602 (WAC 296-17A-6602) will apply if:

- The janitorial/cleaning activities being performed are limited to the employer's clerical office;
- The clerical office meets the criteria described earlier in this rule; and

- The employer's office employment is assigned to be reported in classification 4904.

**Construction: Superintendent or project manager**—Classification 4900 (WAC 296-17A-4900) will apply if the superintendent or project manager:

- Is an employee of a licensed contractor engaged in construction;
- Has no direct control over work crews;
- Performs no construction labor at the construction site or project location.

If all of the conditions are not met, the superintendent or project manager is to be reported in the basic classification applicable to the construction project.

**Construction: Estimator**—Classification 4911 (WAC 296-17A-4911) will apply if the estimator:

- Is the employee of a licensed contractor engaged in construction; and
- Has no duties other than estimating during their work shift.

If these conditions are not met, the estimator is to be reported in the basic classification applicable to their employer's business or the construction project.

**Permanent yard or shop operations**—Classification 5206 (WAC 296-17A-5206) will apply if:

- The permanent yard or shop is maintained exclusively for the storage and maintenance of materials or equipment used in the business of logging, log hauling, construction, or trucking.

**Log truck drivers**—Classification 5003 (WAC 296-17A-5003) will apply if the log truck driver has no other duties during their work shift that are subject to the logging classification 5001 (WAC 296-17A-5001).

**Retail product demonstrators**—Classification 6406 (WAC 296-17A-6406) will apply if the product demonstrator:

- Has no other duties during the work shift, other than minor set up and preparation, demonstrating, or providing sample products free of charge to the public;
- Does not demonstrate equipment or machinery;
- Does no delivery, selling, stocking of shelves, or assembly requiring the use of power tools;
- Does not set up product displays that remain after the demonstration;
- Is employed by a manufacturer, wholesaler, or business specializing in providing product demonstrators and their services to others.

If all of these conditions are not met, product demonstrators are to be reported in the basic classifications applicable to their employers.

### (4) What are the general exclusion classifications?

General exclusion classifications represent operations that are so exceptional or unusual that they are excluded from the scope of all basic classifications. If you have these operations, we will assign a separate classification to cover them. You must keep accurate records of the work hours your employees work in these classifications. If you do not keep

accurate time records for each employee performing work covered by a general exclusion classification, we will assign the work hours in question to the highest rated classification applicable to those hours. The general exclusion classifications are:

- **Aircraft operations:** All operations of the flying crew;
- **Racing operations:** All operations of the drivers and pit crews;
- **Diving operations:** All operations of diving personnel and ship tenders who assist in diving operations;
- **New construction or alterations of the business premises;**
- **Musicians and entertainers.**

A division of work time is permitted between a standard exception classification and flight crew operations, racing operations, or diving operations. If you fail to keep original time records that clearly show the time spent in the office or in sales work, we will assign all work hours in question to the highest rated classification applicable to the work hours in question.

**Example:** Assume a corporate officer performs duties which are described in classification 7101. Occasionally, the officer flies a plane to attend a meeting. You would report the flying exposure (hours) of the corporate officer in classification 6803. The remainder of the corporate officer's time would continue to be reported in classification 7101.) Special exception classifications represent operations found within an employer's business that are allowed to be reported separately from the basic classification under certain conditions. Assuming the conditions described in each classification's description are met, the following classifications may be used even if your basic classification includes the phrases "all operations" or "all employees."

Whenever a division of hours is not permitted for a special exception classification, all of the hours must be reported in the higher rated classification applicable to the work not included in the special exception classification.

The special exception classifications and their division of hour requirements are:

- **Farms: Hand harvesting crops - WAC 296-17A-4806.** A division of hours between classification 4806 and a basic farm classification is permitted.
- **Security guards at construction or logging sites - WAC 296-17A-6601.** There can be no division of hours for a worker between classification 6601 and the basic classification during a work shift.
- **Cleaning employer's business offices - WAC 296-17A-6602.** A division of hours is not permitted between this special exception classification and the basic classification for the business.
- **Construction: Superintendent or project manager - WAC 296-17A-4900.** A division of hours is permitted between classification 4900 and a basic construction classification for work performed under separate building permits and at separate locations.
- **Construction: Estimator - WAC 296-17A-4911.** No division of hours is permitted between classification 4911 and another basic or special exception classification during a work shift.

- **Permanent yard or shop operations - WAC 296-17A-5206.** No division of hours is permitted between classification 5206 and another basic or special exception classification during a work shift.
- **Log truck drivers - WAC 296-17A-5003.** There can be no division of hours for a worker between classification 5003 and the basic logging classification 5001 during a work shift.
- **Retail store demonstrators - WAC 296-17A-6406.** There can be no division of hours between classification 6406 and a basic classification during a work shift.

#### (4) What are the general exclusion classifications?

General exclusions are activities excluded from all basic classifications that do not specifically describe that type of work. You must report work described by a general exclusion in the basic classification that applies to those operations.

The general exclusion classifications are:

- **Aircraft operations:** Applies to duties performed by flight crews. A division of hours is permitted between flight crew classifications and **all** other classifications.

**Example:** Assume a corporate officer performs duties which are described in classification 7101. Occasionally, the officer flies a plane to attend a meeting. You would report the flying exposure (hours) of the corporate officer in classification 6803. The remainder of the corporate officer's time would continue to be reported in classification 7101.

- **Racing operations:** Applies to duties performed by race car or boat drivers and their pit crews. A division of hours is permitted between racing drivers/pit crew classifications and **all** other classifications. *See example for aircraft operations.*
- **Diving operations:** Applies to duties performed by underwater divers and any boat tenders who assist in diving operations. A division of hours is permitted between divers and tenders and **all** other classifications. *See example for aircraft operations.*
- **New construction or alterations of the business premises:** Applies to construction duties by employees of the business, other than those considered normal maintenance and repair. No special division of hours rules apply to this general exclusion classification.
- **Musicians and entertainers:** Applies to covered employees performing as musicians and entertainers. No special division of hours rules apply to this general exclusion classification.

**Special note:** Whenever you have multiple classifications assigned to your business, if you fail to keep original time records as specified in WAC 296-17-35201, which clearly show the time worked in each classification, we will assign any hours in question to the highest rated classification that may apply to the work performed.

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

**WAC 296-17A-0107 Classification 0107.**

**((0107-00 Utility line construction: Underground, N.O.C.**

Applies to contractors engaged in underground utility line or cable construction that is not covered by another classification (N.O.C.). Work contemplated by this classification includes the installation and maintenance of underground television cable, power, and telephone line including main, extension, and outside service connection lines by utility contractors. Installation of these types of utilities usually occurs at a depth of three feet or less. This classification includes digging narrow trenches, laying pipe or conduit, laying line or cable, and filling or backfilling trenches. In some instances automatic equipment is used which in one operation opens the trench, lays the line and backfills. Equipment used by contractors subject to this classification includes backhoes, mechanical or manual trench diggers, automatic equipment and dump trucks.

This classification excludes land or road clearing and excavation which is to be reported separately in classification 0101; overhead television, power, or telephone lines including poles or towers which are to be reported separately in classification 0509 or the applicable utility company classification; asphalt surfacing/resurfacing which is to be reported separately in classification 0210 or 0212; concrete construction which is to be reported separately in the applicable concrete construction classification(s); construction specialty services including the installation of guardrails, lighting standards and striping which is to be reported separately in classification 0219; and the installation and the hookup of electrical wiring from where the utility company's lines end to the structure's power meter by the contractor wiring a building.

**0107-01 Pipelaying, N.O.C.**

Applies to contractors engaged in underground pipelaying or pipeline construction not covered by another classification (N.O.C.). Work contemplated by this classification includes the installation and maintenance of underground gas, oil or water main construction, and other pipelines such as those extending cross country. Installation of these types of pipes usually occurs at a depth of approximately three feet. This classification includes digging narrow trenches, laying pipe, making connections, and filling or backfilling trenches. This classification includes machinery and equipment such as backhoes, mechanical or manual trench diggers, and dump trucks.

This classification excludes land or road clearing and excavation which is to be reported separately in classification 0101; construction of sewer lines, drainage systems, canals, ditches, or underground tanks generally occurring at a depth greater than three feet which is to be reported separately in classification 0108; asphalt surfacing/resurfacing which is to be reported separately in classification 0210 or 0212 as applicable; concrete construction which is to be reported separately in the applicable concrete construction classification(s); and construction specialty services such as the installation of guardrails, lighting standards and striping which is to be reported separately in classification 0219.)

**Utility line and pipelaying construction, underground, N.O.C.**

**Applies to:** Contractors engaged in underground utility line, cable, and pipelaying or pipeline construction.

**Construction services performed by utility line construction and pipelaying contractors include, but are not limited to:**

• Installation and maintenance of underground communication and power lines, including main, extension and outside service connection lines by utility contractors:

• Installation and maintenance of underground gas, oil or water mains;

• Pipelines such as those extending cross country.

**Typical activities include, but are not limited to:**

• Digging narrow trenches;

• Laying pipe or conduit;

• Making connections;

• Laying line or cable;

• Filling or backfilling trenches.

**Typical machinery includes, but is not limited to:**

• Backhoes;

• Mechanical or manual trench diggers;

• Dump trucks;

• Automatic equipment which in one operation opens the trench, lays the line and backfills.

**Excluded activities in this classification:**

• Land or road clearing and excavation (report in 0101);

• Overhead television, power, or telephone lines including poles or towers (report in 0509 or the applicable utility company classification);

• Asphalt surfacing/resurfacing (report in 0210 or 0212);

• Concrete construction (report in applicable concrete construction classification(s));

• Construction specialty services including the installation of guardrails, lighting standards and striping (report in 0219);

• Installation and hookup of electrical wiring from where the utility company's lines end to the structure's power meter by the contractor wiring a building (report in 0601);

• Construction of sewer lines, drainage systems, canals, ditches, or underground tanks (report in 0108);

• Installation of cable in buildings (report in 0601).

For administrative purposes, classification 0107 is divided into the following subclassification(s): 0107-00; and 0107-01.

**0107-00 Utility line construction: Underground, N.O.C.**

**0107-01 Pipelaying, N.O.C.**

AMENDATORY SECTION (Amending WSR 10-18-024, filed 8/24/10, effective 10/1/10)

**WAC 296-17A-0108 Classification 0108.**

**0108-00 Ditches and canals, N.O.C.**

Applies to contractors engaged in the construction of ditches and canals not covered by another classification (N.O.C.). A ditch or canal consists of a long trench dug in the ground that will remain uncovered to serve as an artificial waterway or artificially improved river such as for irrigation, drainage, or a boundary line. Work contemplated by this classification includes digging of main irrigation canals or drainage ditches and all laterals extending from the canal or ditch, installation of pipe, making connections as needed, and filling or backfilling as needed. Equipment used by contractors subject to this classification includes a variety of machinery and equipment such as power shovels, backhoes, bulldozers, dump trucks, and mechanical or hand tool trench diggers.

This classification excludes asphalt surfacing/resurfacing which is to be reported separately in classification 0210 or 0212, and concrete construction which is to be reported separately in the applicable concrete construction classification(s).

**0108-01 Sewer construction; septic tank installation**

~~((Applies to contractors engaged in the construction or repair of new or existing sewer lines and systems. This includes, but is not limited to, sewers, cesspools, drainpools, storm drains, and septic tanks including the drainfield construction. Work contemplated by this classification includes the installation and maintenance of all types of storm, sanitary or sewage lines and systems. Installation of these types of pipelines and systems occur entirely, or in part, at a depth greater than 3'. This classification includes such activities as excavation, trench digging, leveling trench with fill material such as sand or gravel, filling or backfilling, installation of force main type sewage work, the installation of storm sewer lines including the outfall construction of drain concrete boxes, catch basins, manholes, handling and laying of pipe (regardless of the size of pipe or depth below the ground), making connections, etc. Equipment used by contractors subject to this classification includes a variety of machinery and equipment such as power shovels, backhoes, bulldozers, dump trucks, trenchless or directional boring equipment, and manual digging.~~

~~This classification excludes side sewer hookups (street to house) when performed by a plumbing contractor as part of a plumbing contract which is to be reported separately in classification 0306; and sewer pipe cleaning including services engaged in line cleaning and unplugging of waste lines which is to be reported separately in classification 0306.))~~

**Applies to:** Contractors engaged in the construction or repair of new or existing sewer lines and systems. This includes, but is not limited to, sewers, cesspools, drainpools, storm drains, and septic tanks including the drainfield construction.

**Construction services include,** but are not limited to:

- Installation and maintenance of all types of storm, sanitary or sewage lines and systems;
- Excavation and trench digging;

• Leveling trenches with fill material such as sand or gravel, including filling or backfilling;

• Installation of force main type sewage work;

• Installation of storm sewer lines including the outfall construction of drain concrete boxes, catch basins, manholes, and handling and laying of pipe (regardless of the size of pipe or depth below the ground);

• Making connections.

**Typical machinery includes,** but is not limited to:

• Power shovels;

• Backhoes;

• Bulldozers;

• Dump trucks;

• Trenchless or directional boring equipment;

• Manual digging.

**Excluded activities in this classification:**

• Side sewer hookups (street to house) when performed by a plumbing contractor as part of a plumbing contract (report in 0306);

• Sewer pipe cleaning including services engaged in line cleaning and unplugging of waste lines (report in 0306).

**0108-02 Tanks, N.O.C. - Underground: Installation, repair, or removal**

Applies to contractors engaged in the installation, repair or removal of underground tanks not covered by another classification (N.O.C.) such as those used to store gas or oil. Activities include excavating or digging of holes, placement or removal of tank, and filling or backfilling. This classification makes no distinction as to the size of tank being placed or removed. Usually, the actual lifting into or out of the ground occurs with the use of a power shovel, front end loader or backhoe. Equipment used by contractors subject to this classification includes a variety of earth moving equipment such as power shovels, front end loaders, backhoes, bulldozers, and dump trucks.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-0112 Classification 0112.**

**0112-00 Commercial production of sand, gravel, clay and stone products**

Applies to establishments engaged in the production of sand, gravel, clay and stone products. Material may be excavated in an open or surface type pit at the production site, or from a mine or quarry operation. Sand, gravel and stone is washed, crushed, sorted, graded and screened. Sand or gravel in its natural state usually requires only screening with the larger stones being removed. The larger stones are crushed and rescreened. Clay is screened and graded. Refined products are stored in bins, hoppers, piles or yards prior to delivery by truck or rail to customers. This classification includes dealers who stockpile or store products in a yard type of environment prior to delivery to the customers when done in connection with the production of such products. Equipment includes, but is not limited to, scrapers, shovels, front end

loaders, trucks, conveyors, jaw crushers, gyrators, roll crushers, and shaking tables.

This classification excludes establishments engaged in selling custom soil mixes, bark, decorative rock, sand, or gravel purchased from others which are to be reported separately in classification 1103.

**Special note:** Classifications 0112 and 1103 are not to be assigned to the same business unless all the conditions of the general reporting rule covering the operation of a secondary business have been met.

#### **0112-01 Humus or peat digging**

Applies to establishments engaged in the digging or stripping of humus or peat. Humus is a brown or black organic substance consisting of decayed vegetable matter that provides nutrients for plants and increases the water retention of soil. Peat is a partially carbonized vegetable matter found in bogs and used as fertilizer and fuel. Work contemplated by this classification involves stripping material from the surface or bogs with mechanical equipment such as, but not limited to, power shovels, scrapers, drag lines, clamshell diggers or cranes, and hydraulic dredges. The material is conveyed from the pit or bog to hoppers by trucks or belt conveyors. At times it is necessary to grade, screen and dry the material prior to storage or delivery to customers. This classification includes dealers who stockpile or store material in a yard type of environment prior to delivery to customers when done in connection with the digging or stripping of such products.

**Special note:** Classifications 0112 and 1103 are not to be assigned to the same business unless all of the conditions of the general reporting rule covering the operation of a secondary business have been met.

#### **0112-02 Pit, crusher and bunker operations ((in connection with)) for road, street and highway construction**

Applies to establishments engaged in pit, crusher and bunker operations in connection with highway, street or roadway construction projects. Generally, this type of operation is located in close proximity to the project site and is only set up for the duration of the project. Work contemplated by this classification includes excavating open or surface pits, scraping or stripping the surface, crushing, and bunker (storage) of material. Products extracted from the pit or surface include boulders, stone, rock, gravel, aggregate, sand, dirt or clay. These products can be used directly without any further refinements or could be washed, sorted, crushed and/or screened. Products are stored in bunkers or piles until needed. These products are used in a variety of ways as part of the roadway project such as, but not limited to, making preliminary roads into an area, filling in low or uneven areas, use as natural barriers, and bringing the roadbed and surrounding areas to grade. Equipment includes, but is not limited to, power shovels, scrapers, bulldozers, front end loaders and other earth moving equipment, trucks, conveyors, jaw crushers, gyrators, roll crushers, shaking tables, etc.

**Special note:** This classification (~~excludes contractors that maintain a temporary pit, crusher or bunker operation when performed by a contractor engaged in additional phases of the same road, street or highway construction project which is to be reported separately in classification 0101~~) is

not assigned to contractors making the materials for their own road construction project.

#### **0112-03 Sand, gravel, or shale: Digging, N.O.C.**

Applies to establishments engaged in the digging or dredging of sand, gravel or shale that is not covered by another classification (N.O.C.). The material is excavated from surface pits with mechanical equipment such as power shovels, drag lines, clamshell diggers or cranes, or obtained from nonnavigable waters by means of hydraulic dredges, clamshell dredges, etc. The material is conveyed from the bank, pit or dredge to hoppers by trucks, belt conveyors, narrow gauge railroads or pipelines. It is then washed, graded, screened and stored in bins, hoppers, or piles prior to delivery by truck or rail to customers. Sand or gravel in its natural state usually requires only screening with the larger stones being removed. In some instances, the larger stones may be crushed and rescreened which is included in this classification. This classification includes dealers who stockpile or store material in a yard type of environment prior to delivery to customers when done in connection with the digging or stripping of such products.

This classification excludes underground mining operations which are to be reported separately in classification 1702.

**Special note:** Classifications 0112 and 1103 are not to be assigned to the same account unless all the conditions of the general reporting rule covering the operation of a secondary business have been met.

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

#### **WAC 296-17A-0301 Classification 0301.**

#### **0301-04 Lawn type sprinkler systems: Installation, service or repair**

Applies to contractors engaged in the installation, service or repair of lawn type sprinkler systems. This type of activity is performed by landscaping contractors, plumbing contractors, and irrigation specialist contractors. Generally, lawn type sprinkler systems are installed at private residences or commercial businesses. The process involves identifying the area of land to be covered to determine the size and amount of pipe and sprinkler heads needed for the job. The installation involves cutting a trench in the ground (twelve to eighteen inches deep and wide enough to accommodate the pipe) with a vibrating plow or pipe pulling machine. Next, pipe is laid in the trench, glued, or otherwise joined, heads and canisters are installed, and the timer is hooked up. The system is checked for leaks, needed adjustments are made, and the pipe and heads are buried.

This classification excludes open canal type irrigation systems which are to be reported separately in classification 0108; the installation, service or repair of above or below ground agricultural/irrigation systems which is to be reported separately in classification 0301-06; and maintenance and cleaning of lawn sprinkler system pipes and heads done in connection with a landscape maintenance contract which is to be reported separately in classification 0308.

### **0301-06 Agricultural sprinkler/irrigation systems, N.O.C.: Installation, service or repair**

Applies to contractors engaged in the installation, service or repair of above or below ground agricultural sprinkler and irrigation systems not covered by another classification (N.O.C.). The more common types of systems include below ground, fixed or movable, and wheel or impulse. Generally, these types differ from lawn sprinkler systems in that the size of pipes and pumps installed are much larger to produce the water pressure needed to irrigate large areas of land. Installation of below ground systems involves the use of trenching equipment to dig trenches, which are usually more than two feet deep to lay pipe. The above ground systems are laid out and assembled based on the need of the land area.

This classification excludes open canal type irrigation systems which are to be reported separately in classification 0108, and the installation, service or repair of lawn type sprinkler systems which is to be reported separately in classification 0301-04.

### **0301-08 Landscape construction operations, N.O.C.**

Applies to landscape contractors engaged in new landscape construction or renovation projects not covered by another classification (N.O.C.). This classification also applies to specialist contractors engaged in the installation of invisible fences which are usually used to confine animals within a given area. Landscape construction work contemplated by this classification includes producing a preliminary drawing of the landscape or renovation project, preparing the ground (which may include tilling and spreading top soils or custom mix soils), installing sprinkler systems, planting trees, plants or shrubs, planting or replanting grass from seed or sod, installing ground cover material or plastic to retard weeds, placing concrete borders, the incidental construction of rockery, extruded concrete curbing, fences, ponds, paths, walkways, arbors, trellis and gazebos when performed by employees of a landscape contractor as part of a landscape contract. If these activities are conducted separately from a landscape contract and not part of the landscape project, they must be reported separately in the classification applicable to the work being performed. Equipment used by contractors subject to this classification includes, but is not limited to, tractors with till attachments, small front end loaders, trenchers, mowers, fertilizer spreaders, wheelbarrows, and electric power tools.

Invisible fence construction work contemplated by this classification includes identifying the land area to be fenced, sketching a preliminary drawing, burying the wire in a narrow trench (about one inch wide by two to six inches deep) that has been dug along the field perimeter (or just securing the wire onto the ground around the perimeter), and connecting the low voltage transmitter box (usually about the size of a hand-held calculator) that plugs into a 110 volt electrical outlet. This classification includes training sessions for the animal and related maintenance and repair at the customer's location. Equipment used to install invisible fences includes, but is not limited to, rakes or other hand tools, and small trench diggers.

This classification excludes all grading, clearing, or contouring of land which is to be reported separately in classification 0101; bulkheads not adjacent to water, or similar struc-

tures built of rock, which are to be reported separately in classification 0302; the installation or on-site maintenance of roofing materials composed of impermeable barriers, sod, soil, and plants, sometimes termed landscape roofing, living roofing, garden roofing, green/environmentally beneficial roofing, brown/biodiverse roofing, or vegetative roofing, which is to be reported in classification 0507; any installation or maintenance of a landscape roofing irrigation system, which is reported in classification 0507; and lawn care maintenance or chemical spraying or fumigating which is to be reported separately in classification 0308.

AMENDATORY SECTION (Amending WSR 09-16-110, filed 8/4/09, effective 10/1/09)

### **WAC 296-17A-0308 Classification 0308.**

#### **0308-00 Chemical spraying and fumigating**

Applies to establishments engaged in providing chemical spraying and fumigating services only to established residential landscaping and commercial properties. Work contemplated by this classification includes, but is not limited to, the application of various liquid and granular chemicals (fertilizers, herbicides, pesticides, insecticides, iron, nitrogen, slow release food stakes) for use on grass, plants, shrubs, flowers, trees, moss, ivy or weeds. Employees of establishments subject to this classification arrive at the location site in a tank truck equipped with a premixed solution that is dispensed with a spray hose, or by fertilizer spreaders, injection guns, and back pack dispensers.

This classification excludes chemical spraying of roadway median strips by nonmunicipal employees adjacent to state, city or town roadways which is to be reported separately in classification 0101; chemical spraying done in connection with forest roads or reforestation projects which is to be reported in the applicable forestry classification; pest and termite control which is to be reported separately in classification 6602; chemical spraying and fumigating by employees of cities, counties, state agencies, or other municipalities which is to be reported in the classification applicable to the type of municipality performing the work; chemical spraying of agricultural farms or orchards which *may* be reported separately in classification 4808 or in the agricultural classification applicable to the employer's operation; and crop dusting by aircraft which is to be reported separately in classification 6903.

#### **0308-01 Lawn care maintenance**

Applies to contractors engaged in maintenance of established lawns and gardens. Work contemplated by this classification includes, but is not limited to, mowing and thatching lawns, edging, weeding flower beds, raking, rototilling gardens, application of fertilizers, and spraying and trimming of shrubs. Also included is minor landscape renovation and/or restoration activities incidental to, and performed as part of, the lawn care maintenance contract for an existing lawn or landscape such as the removal and replacement of plants, turf repair or reseeded of grass, and the spreading of decorative rock, topsoil, or bark. This classification includes replacement of sprinkler heads and cleaning of lawn type sprinkler systems only when performed in connection with and inci-

dental to the lawn care maintenance contract. Contractors who provide snow blowing and snow removal services using hand-held or push-propelled equipment are included in this classification. Equipment used by contractors subject to this classification includes, but is not limited to, riding or power lawn mowers, power sweepers, edgers, thatchers, weed eaters, grass blowers, fertilizer spreaders, sprayers, gas or electric power tools, and hand tools.

This classification excludes new landscape construction which is to be reported separately in classification 0301; tree care and pruning services which are to be reported separately in classification 0101; grading, clearing, or contouring of land which is to be reported separately in classification 0101; installation, service or repair of lawn type sprinkler systems which is to be reported separately in classification 0301; ~~(and)~~ the installation, service or repair of above or below ground agricultural irrigation systems which is to be reported separately in classification 0301; the installation or on-site maintenance of roofing materials composed of impermeable barriers, sod, soil, and plants, sometimes termed landscape roofing, living roofing, garden roofing, green/environmentally beneficial roofing, brown/biodiverse roofing, or vegetative roofing, which is to be reported in classification 0507; any installation or maintenance of a landscape roofing irrigation system, which is reported in classification 0507.

**Special notes:** Classifications 0308 and 0301 may be assigned to the same business provided that the conditions of the general reporting rule covering the operation of a secondary business have been met.

Care should be exercised in the assignment of this classification when tree services are included. Tree care service contracts generally call for the radical topping, pruning or cutting of tree limbs to remove or eliminate a hazard to buildings, property, or power lines. Tree trimming as part of this classification is only for the purpose of shaping and maintaining healthy trees and to control size for the visual relationship to other landscape material.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-0507 Classification 0507.**

**0507-05 Roofwork construction and repair**

Applies to contractors engaged in the installation or repair of roofing material on all types of new or existing buildings or structures. Roofing materials include, but are not limited to, felt roofing paper, rolled composition, wood, fiberglass or composition shingles or shakes, aluminum or sheet metal, masonry or ceramic tile, tar, and polyurethane foam. Installation of roofing materials varies with the product. Wood, fiberglass and composition shingles are nailed; masonry, slate or ceramic tiles require drilling, nailing or cementing; polyurethane foam is applied by spray then coated with a protective layer of paint-like material; hot tar requires melting in tanks, usually at ground level, then it is pumped or raised by bucket to the roof top and applied by spray or mop; cold apply uses an adhesive to bond roofing membranes to form a roofing system; cold tar is applied by brush, spray or mop; single ply involves large sheets of roofing material which are unrolled on the roof with edges over-

lapping and seamed; and metal roofing is seam welded or nailed. For purposes of this classification the term "roofwork" includes repairs to the subroof such as the replacement of trusses, rafters, supports, and sheathing, but excludes the placement of trusses, rafters, supports or sheathing on new building construction. Essentially, when removing the existing roof material from an existing building or structure it is not uncommon to find dry rot or deterioration to parts of the subroof. The repair of the subroof is part of the roof repair or replacement project and is included in this classification. By contrast, when a subroof is constructed on new buildings or structures, this activity is to be reported separately in the classification applicable to the work being performed such as 0510 for wood frame construction or 0518 for nonwood frame construction. This classification includes the installation or on-site maintenance of roofing materials composed of impermeable barriers, sod, soil, and plants, sometimes termed landscape roofing, living roofing, garden roofing, green/environmentally beneficial roofing, brown/biodiverse roofing, or vegetative roofing; and any installation or maintenance of a landscape roofing irrigation system.

This classification excludes roof cleaning, moss or snow removal on single story buildings not incidental to, or part of, a roofing contract which is to be reported separately in classification 6602; roof cleaning or moss removal of multiple story buildings not incidental to, or part of, a roofing contract which is to be reported separately in classification 0504; the installation of gutters and downspouts which is to be reported separately in classification 0519; waterproofing parts of buildings other than roofs which is to be reported separately in classification 0504 and/or 0101; placing roof trusses, rafters, supports and sheathing on new wood frame buildings which is to be reported separately in classification 0510; the application of polystyrene strips used as insulation on mobile homes which is to be reported separately in classification 0512; and placing roof trusses, rafters, supports and sheathing on new buildings, N.O.C. which is to be reported separately in classification 0518.

**0507-99 Roofwork construction and repair (only to be assigned by the roofing specialist)**

Applies to roofing contractors who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" for prime contractor liability.

**Special note:** Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

**AMENDATORY SECTION** (Amending WSR 13-11-128, filed 5/21/13, effective 7/1/13)

**WAC 296-17A-0510 Classification 0510.**

**0510-00 Wood frame building: Construction or alterations, N.O.C.**

Applies to contractors engaged in wood frame building construction or alterations not covered by another classification (N.O.C.). For the purposes of this classification, wood

frame building construction means buildings erected exclusively of wood or wood products. This classification includes all building framing activities done in connection with wood frame building construction including:

- Placement of roof trusses;
- Sheathing roofs;
- Installation of exterior building siding;
- Installation of exterior doors and door frames;
- Installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract on a wood frame building;
- Erection of log home shells at customer's location.

The manufacturing of log homes in a permanent yard which includes peeling the logs, notching the logs with chain-saws, and assembly is to be reported in classification 1003-06.

This classification excludes all other phases of wood frame building construction not listed as part of the framing activities above such as, but not limited to:

- Site preparation and excavation (0101);
- Overhead or underground utilities, asphalt work, or concrete work which is to be reported separately in the applicable classification;
- New landscape work (0301);
- Brick work (0302);
- Stucco work (0303);
- Plumbing work (0306);
- HVAC work (0307);
- Carpet and tile work (0502);
- Exterior painting (0504);
- Roof work (0507);
- Insulation work (0512);
- Interior finish carpentry - Interior doors, cabinets, fixtures or molding (0513);
- Installation of garage doors (0514);
- Installation of sheet metal siding, gutters, and nonstructural sheet metal patio covers/carports (0519);
- Interior painting (0521);
- Electrical work (0601); and
- Wallboard installation, taping or texturing which are to be reported separately in the applicable classifications. For a more thorough description of the activities included and excluded from wood frame building construction, review the Construction Industry Guide.

**Special note:** Classification 0510 also includes wood frame building alterations or remodel work when the activity involves building new additions. The term "new additions" is defined as adding on to an existing wood frame building (upwards or outwards) in which the use of structural supports and main bearing beams is required. This is distinguishable from classification 0516 - Building repair or carpentry work that typically does not require the placement of structural supports or main bearing beams. The purpose of classification 0516 is to build or rebuild with nonstructural or bearing beams, or to replace an existing portion (including existing structural and bearing beams) of a wood frame building for appearances or as a result of deterioration to make it appear new again. Care should be exercised as the terminology to build, rebuild, remodel, construct or reconstruct is irrelevant

to assignment of classification which should recognize what the project actually involves.

**Guidelines:**

- Altering all or part of an existing wood frame building by adding on new additions - 0510<sub>2</sub>;
- Constructing a new wood frame building that never existed - 0510<sub>2</sub>;
- Remodeling all or part of an existing wood frame building *without* adding on new additions - 0516<sub>2</sub>;
- Altering all or part of an existing wood garage by adding on new additions - 0510<sub>2</sub>;
- Altering the existing interior of a wood frame building by adding exterior additions - 0510<sub>2</sub>;
- Constructing a new wood garage that never existed - 0510<sub>2</sub>;
- Constructing, altering, or remodeling the interiors of nonwood frame buildings - 0516<sub>2</sub>;
- Constructing a new wood carport or wood shed that never existed - 0510<sub>2</sub>;
- Constructing or replacing a wood deck for any type of nonwood building - 0516<sub>2</sub>;
- Constructing or replacing a wood deck on an existing wood house - 0516<sub>2</sub>;
- Construction of a new wood deck by the framing contractor when a new wood house is being built - 0510<sub>2</sub>;
- Installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract of a wood frame building - 0510<sub>2</sub>;
- Installation of ~~((wood or vinyl))~~ nonmetal siding on a new ~~((or existing))~~ wood frame building or a new addition - 0510<sub>2</sub>;
- ~~((Installation of wood or vinyl siding on a new addition by the remodeling contractor - 0510-00))~~
- Installation of ~~((wood or vinyl))~~ nonmetal siding on an existing structure by ~~((a remodeling contractor - 0516-00 or 0510-00))~~;  
- A siding contractor - 0510;  
- A remodeling contractor with subclassification 0516-02 - 0510;  
- A remodeling contractor with subclassification 0516-00 - 0516-00;
- Rebuilding an existing wood carport or wood shed (all or part) with or without new additions - 0516<sub>2</sub>;
- Remodeling all or part of an existing wood garage without adding on new additions - 0516<sub>2</sub>;
- Remodeling the existing interior of a wood frame building without adding exterior additions - 0516.

**0510-99 Wood frame building: Construction or alteration, N.O.C. (only to be assigned by the wood framing specialist)**

Applies to framing contractors who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" status for prime contractor liability.

**Special note:** Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-0514 Classification 0514.**

**0514-00 Garage or overhead door: Installation, service or repair**

Applies to contractors engaged in the installation, service or repair of garage or overhead doors made of wood or metal. As part of a new construction project, the installation usually occurs before the building or structure is painted. Garage or overhead door installation can also occur as a replacement to an existing door or as an alteration or addition to a building or structure. The process involves installing door tracks on both sides of the doorway, inserting the door, which usually consists of panels or sections, into the tracks, and attaching panels or sections to one another. This classification also includes the installation of automatic door openers when performed as a part of the garage or overhead door installation contract, and by the same contractor installing the doors.

This classification excludes the installation, service or repair of commercial automatic door openers when it is not performed as a part of the garage or overhead door installation contract which is to be reported separately in classification 0603; the installation, service or repair of residential automatic door openers when it is not performed as a part of the garage or overhead door installation contract which is to be reported separately in classification 0607; the installation of exterior glass doors and door frames such as nonautomatic and automatic opening doors at retail establishments or commercial buildings which are to be reported separately in classification 0511; the installation of interior or exterior doors and door frames when performed by a framing contractor as part of framing a wood frame building which is to be reported separately in classification 0510; the installation of interior doors and door frames which is to be reported separately in classification 0513; the installation of wood, fiberglass or metal exterior doors as part of a nonwood frame building when performed by employees of the general contractor which is to be reported separately in classification 0518; and the repair or replacement of wood, fiberglass or metal doors on an existing building which is to be reported separately in classification 0516.

**0514-01 Nonstructural metal additions to buildings or structures: Installation, removal, alteration, and/or repair**

Applies to contractors engaged in the installation, removal, alteration, and/or repair of nonstructural additions to buildings or structures. Nonstructural metal additions include, but are not limited to, fire escapes, staircases, balconies, railings, roll down shutters, window or door lintels, protective window or door gratings, bank cages, decorative elevator entrances or doors, permanent stadium seating, and wall facades and facings. Generally, the process involves bolting, screwing, riveting, or welding these additions to the interior or exterior of buildings or structures. Contractors who operate a shop to prefabricate the additions are to be assigned the classification applicable for the shop manufacturing work being performed. When a contractor's business is assigned a manufacturing classification for shop operations,

classification 5206, "Permanent yard or shop," is no longer applicable to the contractor's business for the storage of materials or repair of equipment.

This classification excludes sheet metal installation such as siding, gutters and downspouts, and nonstructural sheet metal patio covers/carports which are to be reported separately in classification 0519; the installation, repair or dismantling of portable bleachers or stages which is to be reported separately in classification 0603; and the erection of commercial metal carports, service station canopies, and structural iron or steel work as part of a building or structure which is to be reported separately in classification 0518.

AMENDATORY SECTION (Amending WSR 13-11-128, filed 5/21/13, effective 7/1/13)

**WAC 296-17A-0516 Classification 0516.**

**0516-00 Building repair, remodeling and carpentry**

**This subcode applies to a firm that chooses to report all construction phases in one classification. This is to simplify recordkeeping.**

Applies to contractors engaged in building repair, remodeling and carpentry work.

This classification applies to:

- Remodeling and carpentry-related framing work on concrete, brick and steel buildings.
- Wood framed building renovation and remodeling projects when the skeleton framework is not being modified or altered.

Typical projects include, but are not limited to:

- Interior building demolition ("strip outs") involving only the removal of interior walls, partitions, interior trim, cabinetry, doors, flooring and related construction materials;
- Converting a room from one use to another, such as a bedroom to a study, or a garage to a family room;
- Enlarging or reconfiguring a room by removing or adding an interior wall;
- Upgrading a kitchen or bathroom;
- Repairing or installing all types of siding on an existing structure:

- Adding structures such as a wooden deck to an existing building, screening a porch, installing a wood patio cover, or assembling sheet metal tool or garden sheds.

Contractors subject to this classification use a variety of dimensional lumber and wood products, light weight metal studs and plastic and fiber reinforced boards, metal fasteners (nails, screws and bolts), and metal reinforcing or support straps such as joist hangers and post brackets.

This classification includes:

- Framing of wood structures with light weight metal studs.
- Installation of earthquake tie downs on residential buildings.
- Specialty service providers or contractors engaged in providing general repair services or performing remodeling projects on buildings and structures.

**Contractors who alter, remodel or repair existing structures and have opted to report their construction activities under this single subclassification 0516-00 are not to be assigned any other construction classification**

with the exception of roof work or roofing which is to be reported separately in classification 0507-05.

**Special note:** Businesses assigned to this classification are distinguishable from those assigned to classification 0516-02, in that 0516-02 requires each phase of construction to be reported separately in the appropriate construction classification(s).

Contractors that build **new wood structural additions** as part of a remodeling contract must also report each phase separately. They must use classification 0510-00 to report the new framing. All other phases of the construction must be reported separately in the appropriate classification(s) as noted in the text of classification 0516-02.

Contractors that build new structural additions and also repair and remodel existing structures will be assigned both 0510-00 and 0516-02 in addition to any other appropriate classification. 0516-00 will not be assigned to these employers.

Subclassifications 0516-00 and 0516-02 cannot be active on an account at the same time.

**0516-01 Wood playground equipment: Installation and/or repair**

Applies to contractors engaged in the installation and/or repair of wood playground equipment. Work contemplated by this classification begins after the area of land has been excavated and/or cleared and includes installing wood playground equipment at private residences and in public settings such as, but not limited to, schools, parks, day care centers, churches, and hotels. This classification usually includes a variety of playground equipment comprised of treated wood beams, poles, posts, and a variety of dimensional lumber used in building swings, forts, stationary and swinging bridges, balance beams, climbing towers, slides, and rope and tire walks. Generally, the process involves setting poles or posts with use of a post hole digger, backhoe or tractor equipped with an auger. The poles or posts may be set in concrete. Depending on the piece of equipment being built, use of beams, planks, dimensional lumber, rope, chains, tires, and metal bars or rings, are securely attached with nails, screws, bolts or eye hooks. This classification includes the building of borders surrounding the playground equipment area with beams or railroad ties and the spreading of pea gravel, sand or wood chips underneath the equipment.

This classification excludes the installation of metal playground equipment which is to be reported separately in classification 0603, and the excavation or clearing of land which is to be reported separately in classification 0101.

**0516-02 Building repair, remodeling and carpentry, N.O.C.**

**This subcode applies to a firm that chooses to report all construction phases into separate construction classifications.**

Applies to contractors engaged in building repair, remodeling and carpentry work, not covered by another classification (N.O.C.).

This classification applies to:

- Remodeling and carpentry-related framing work on the interior of concrete, brick and steel buildings.

- Wood framed building renovation and remodeling projects when the skeleton framework is not being modified or altered.

Typical projects include, but are not limited to:

- Interior building demolition ("strip outs") involving only the removal of interior walls, partitions, interior trim, cabinetry, doors, flooring and related construction materials.
- Converting a room from one use to another, such as a bedroom to a study, or a garage to a family room.
- Enlarging or reconfiguring a room by removing or adding an interior wall.
- Upgrading a kitchen or bathroom.
- Adding structures such as a wooden deck to an existing building, screening a porch, installing a wood patio cover, or assembling sheet metal tool or garden sheds.

Contractors subject to this classification use a variety of dimensional lumber and wood products, light weight metal studs and plastic and fiber reinforced boards, metal fasteners (nails, screws and bolts), and metal reinforcing or support straps such as joist hangers and post brackets.

This classification includes:

- Framing of wood structures with light weight metal studs.
- Installation of earthquake tie downs on residential buildings.
- Specialty service providers or contractors engaged in providing general repair services or performing remodeling projects on buildings and structures.

**Except for interior demolition, framing and drywall which are to be reported in classification 0516-02, each phase must be reported separately in the appropriate classification noted below, but not limited to:**

Concrete foundations/slabs	0217
Interior painting	0521
Counter tops	0302/0502
Metal siding/gutters	0519
Drywall	0550/0551
Plumbing	0306
Electrical	0601
Roofing new construction	0507
Roof work includes repairs to trusses, rafters, supports and sheathing	0507
Exterior painting	0504
Wood framing/sheathing/windows/non-metal siding	0510
Floor coverings	0502
Interior finish carpentry	0513
Window installation (not part of a framing contract)	0511
Insulation	0512
Masonry	0302
Brick	0302

**Reference:** WAC 296-17-31013 and 296-17-31017.

Contractors performing remodeling or alteration projects which involve **new structural additions** must report that activity in classification 0510-00 and any other applicable classification(s) noted above.

**Contractors who alter, remodel or repair existing structures can choose to report all hours in classification 0516-00. This classification excludes roofing or roof work which is to be reported in 0507-05. This method can simplify recordkeeping.**

**Special note:** Proper reporting in multiple construction classifications requires special care in maintaining required records. If these records have not been maintained as required, all worker hours for which the records were not maintained will be reassigned to the highest rated classification applicable to the work that was performed.

**Reference:** WAC 296-17-31013.

Averages, estimates or percentages are not allowed.

**Reference:** WAC 296-17-31017.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-0803 Classification 0803.**

**0803-00 Cities and towns - All other employees**

Applies to employees of cities or towns who:

- Perform manual labor (~~(, or who)~~);
- Supervise a work crew performing manual labor such as custodial or maintenance (~~(,)~~); and
- Operate machinery or equipment (~~(operators)~~), including (~~(transit bus drivers)~~) buses. This classification includes:
  - Administrative personnel with field exposure, such as engineers, safety inspectors, and biologists (~~(, who have field exposure, and also includes store and stock clerks)~~). For purposes of this classification, field exposure is defined as any exposure other than the normal travel to a work assignment, such as an auditor or social worker would encounter.

This classification excludes:

- Municipal power districts which are to be reported separately in classification 1301;
- Privately owned and operated bus or transit systems which are to be reported separately in classification 1407; (~~(irrigation and waterworks operations)~~)
- Public utility water districts, co-ops, or privately operated water distribution systems, which are to be reported separately in classification 1507;
- Law enforcement officers who are to be reported separately in classifications 6905 and 6906, as appropriate;
- Firefighters who are to be reported separately in classification 6904;
- Volunteers who are to be reported separately in classification 6901; and
- Clerical office and administrative employees who are to be reported separately in classification 5305.

**AMENDATORY SECTION** (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

**WAC 296-17A-1501 Classification 1501.**

**1501-00 Counties and taxing districts, N.O.C. - All other employees**

Applies to employees of counties and taxing districts, not covered by another classification (N.O.C.), who:

- Operate machinery or equipment, including transit bus drivers;
- Perform manual labor;
- Supervise a work crew performing manual labor such as custodial or maintenance.

This classification includes administrative personnel such as:

- Engineers, safety inspectors, and biologists who have field exposure;
- Internal inventory and supply clerks.

For purposes of this classification, field exposure is defined as any exposure other than the normal travel to or from a work assignment.

This classification excludes:

- Clerical office and administrative employees who are to be reported separately in classification 5306;
- Electric light and power public utility districts which are to be reported separately in classification 1301;
- Firefighters who are to be reported separately in classification 6904;
- Hospital districts which are to be reported separately in classification 6105;
- Irrigation system public utility districts which are to be reported separately in classification 1507;
- Law enforcement officers who are to be reported separately in classifications 6905 and 6906, as appropriate;
- Port districts which are to be reported separately in classification 4201;
- Privately owned and operated bus or transit systems which are to be reported separately in classification 1407;
- School districts, library districts or museum districts which are to be reported separately in classification 6103 or 6104;
- Water distribution or purification system public utility districts which are to be reported separately in classification 1507;
- Volunteers who are to be reported separately in classification 6901 or 6906, as appropriate.

**1501-01 Housing authorities, N.O.C. - All other employees**

Applies to employees of housing authorities, not covered by another classification, who:

- Perform manual labor;
- Supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators.

This classification includes all functional operations of a housing authority such as:

- Building and grounds maintenance;
- Inspection, maintenance and repairs, including minor structural repairs;
- Janitorial service.

Also included in this classification are:

- Administrative personnel such as engineers and safety inspectors who have field exposure;
- Internal inventory and supply clerks;

- Meter readers;
- Security personnel, other than those with law enforcement powers.

For purposes of this classification, housing authorities are defined as nonprofit, public and political entities which serve the needs of a specific city, county or Indian tribe. The nature and objectives of some of the projects undertaken by housing authorities include providing decent, safe and sanitary living accommodations for low income persons, or providing group homes or halfway houses to serve ~~((developmentally or otherwise disabled persons))~~ people with disabilities or juveniles released from correctional facilities. A housing authority has the power to:

- Prepare, carry out, lease and operate housing facilities;
- Provide for the construction, reconstruction, improvement, alteration or repair of any housing project;
- Sell or rent dwellings forming part of the project to or for persons of low income;
- Acquire, lease, rent or sell or otherwise dispose of any commercial space located in buildings or structures containing a housing project;
- Arrange or contract for the furnishing of the units;
- Investigate into the means and methods of improving such conditions where there is a shortage of suitable, safe and sanitary dwelling accommodations for persons of low income.

This classification excludes:

- Clerical office and administrative employees who are to be reported separately in classification 5306;
- New construction or major alteration activities which are to be reported separately in the appropriate construction classifications;
- Security personnel with law enforcement powers who are to be reported separately in classification 6905;
- Volunteers who are to be reported separately in classifications 6901 or 6906, as appropriate.

#### **1501-08 Native American tribal councils - All other employees**

Applies to employees of Native American tribal councils who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators. This classification includes:

- Administrative personnel such as engineers, safety inspectors, and biologists who have field exposure;
- Internal inventory and supply clerks of the tribal council.

For purposes of this classification, field exposure is defined as any exposure other than the normal travel to and from a work assignment.

This classification excludes:

- Clerical office and administrative employees who are to be reported separately in classification 5306;
- Electric light and power public utility districts which are to be reported separately in classification 1301;
- Firefighters who are to be reported separately in classification 6904;
- Hospital districts which are to be reported separately in classification 6105;

- Irrigation system public utility districts which are to be reported separately in classification 1507;
- Law enforcement officers who are to be reported separately in classifications 6905 and 6906;
- New construction or reconstruction activities which are to be reported separately in the appropriate construction classification;
- School districts, library districts or museum districts which are to be reported separately in classification 6103 or 6104;
- Water distribution or purification system public utility districts which are to be reported separately in classification 1507.

**Special notes:** Housing authorities operating under the name of, and for the benefit of, a particular tribe are not exempt from mandatory coverage. These housing authorities are federally funded and are not owned or controlled by a tribe.

Only those tribal operations which are also provided by county governments are subject to classification 1501. Some activities are considered to be normal operations to be included in this classification. These include, but are not limited to:

- Building maintenance;
- Garbage and sewer works;
- Grounds keepers;
- Park maintenance;
- Road maintenance;
- Visiting nurses and home health care.

All other tribal council operations which are not normally performed by a county government shall be assigned the appropriate classification for the activities being performed.

Some operations are outside the scope of classification 1501 and are to be reported separately in the applicable classifications. These include, but are not limited to:

- Bingo parlors;
- Casinos;
- Fish/shellfish hatcheries;
- Food banks;
- Gift shops;
- Grocery stores;
- Head Start programs;
- Liquor stores;
- Logging;
- Meals on wheels;
- Motels/hotels;
- Restaurants;
- Tobacco stores;
- Tree planting/reforestation.

#### **1501-09 Military base maintenance, N.O.C.**

Applies to establishments not covered by another classification (N.O.C.), engaged in providing all support operations and services on a military base on a contract basis. Such services include, but are not limited to:

- Data processing;
- Photography;
- Mail delivery (on post and to other military facilities);
- Hotel/motel services;
- Mess halls;

- Recreational facilities;
- Grounds and building maintenance;
- Vehicle maintenance;
- Maintenance of such facilities as water works, sewer treatment plants and roads.

This classification excludes:

- New construction or construction repair projects which are to be reported separately in the applicable construction classification for the work being performed;
  - Contracts for specific activities on a military base such as, but not limited to, building maintenance, club or mess hall operations, or vehicle maintenance, which are to be reported separately in the applicable classification for the work being performed;
  - Firefighters who are to be reported separately in classification 6904;
  - Law enforcement officers who are to be reported separately in classification 6905;
  - Clerical office and administrative employees who are to be reported separately in classification 5306.

**Special note:** Classification 1501-09 is to be assigned to an establishment only when *all* support services on a military base are being provided by the contractor. Care should be taken when assigning classification 1501-09 to firms whose military support services include loading, unloading, repair or construction of vessels, or the repair of buildings or structures used for such activities as that firm may be subject to federal maritime law.

#### **1501-20 Community action organizations - All other employees N.O.C.**

Applies to organizations performing an array of services to support the local community and citizens in need. The services provided by community action organizations may include, but are not limited to:

- Child care; after school care;
- Alternative schools; in home chore services;
- Employment or independence training;
- Counseling and assistance;
- Drug and alcohol recovery programs;
- Decent, safe and sanitary living accommodations for low-income or needy citizens;
- Transitional or emergency housing; weatherization;
- Food and clothing banks;
- Meals;
- Medical services.

This classification applies to employees of community action organizations N.O.C. (not otherwise classified) who perform manual-type labor, or who supervise a work crew performing manual labor. Work in this classification includes, but is not limited to:

- Cooks;
- Food banks;
- Drivers;
- Janitorial or maintenance and repair work weatherization services.

**Note:** Businesses providing only one service described in this class may be assigned the classification applicable to the service provided. If all conditions of the general reporting rules have been met, standard exception classifications may apply.

Excluded from this risk classification are:

- New construction or major alteration activities which are to be reported separately in the appropriate construction classifications;
- Office employees who work exclusively in an administrative office environment who are to be reported in classification 4904-20;
- Professional or administrative employees who may also have duties outside of the office who are to be reported in classification 5308-20;
- Chore workers/home service workers who are to be reported in classification 6511-20;
- Housing authorities which are to be reported in 1501-01 and 5306-26;
- Welfare special works programs which are to be reported in 6505;
- Work activity centers which are to be reported in 7309;
- Volunteers who are to be reported in classification 6901.

See classifications 5308-20 and 4904-20 for other community action operations.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-3105 Classification 3105.**

##### **3105-06 Concrete blocks, bricks, poles, piles, tiles and beams manufacturing**

Applies to establishments engaged in the manufacture of concrete blocks, bricks, poles, tiles, and beams. Sand, gravel, cement, cinders, aggregates, mesh wire, rods, and, in some cases, plastics are received from others. Raw materials are mixed with water and fed into molds or forming machines. Heavy mesh wire or rods may be inserted into the molds for strength. The formed products are usually steam dried and placed in the yard for curing prior to shipping. This classification does not apply to the manufacture of these products when done by construction contractors (~~at a construction site~~) for use in the construction project.

This classification excludes the production of raw materials which is to be reported separately in the applicable mining, quarrying, or excavation classification; the installation or erection of products manufactured under this classification which is to be reported separately in the classification applicable to the work being performed; the manufacture of concrete sewer and irrigation pipes, septic tanks and concrete products not classified elsewhere which is to be reported separately in classification 3105-07; the manufacture of statuary and ornamental items from plaster or concrete which is to be reported separately in classification 3509; and the manufacture of brick or clay products which is to be reported separately in classification 3501.

**Special note:** This classification differs from classification 3509 "statuary or ornament manufacturing" in that products manufactured in classification 3105 are rough, do not require perfect finishes, and are generally for construction use; products manufactured in classification 3509 are for decorative purposes, are usually lighter weight, and have smoother or more perfect finishes than the concrete products manufactured in classification 3105.

### 3105-07 Concrete sewer and irrigation pipes, concrete septic tanks and concrete products, N.O.C. manufacturing

Applies to establishments engaged in the manufacture of concrete sewer and irrigation pipes, septic tanks and other concrete products not covered by another classification (N.O.C.), such as, but not limited to, panels, tubs, catch basin covers, chimney caps, columns, incinerators, manhole covers, pier footings, monuments, coffins, caskets, and burial vaults. Sand, gravel, cement, cinders, aggregates, mesh wire, rods, and, in some cases, plastics are received from others. Raw materials are mixed with water and fed into molds or forming machines. Heavy mesh wire or rods may be inserted into the molds for strength. The formed products are usually steam dried and placed in the yard for curing prior to shipping. The manufacture of concrete panels generally involves the cutting and welding of metal to form a frame to which concrete fiberboard is attached. Additional steps may involve the application of an adhesive to the frame and the attachment of decorative material such as crushed rock, gravel, ceramic tile or brick. The fabrication of the metal framing is included within the scope of this classification when performed by employees of an employer engaged in manufacturing concrete panels. This classification does not apply to the manufacture of these products when done by construction contractors ((at a construction site)) for use in the construction project.

This classification excludes the production of raw materials which is to be reported separately in the applicable mining, quarrying, or excavation classification; the installation or erection of products manufactured under this classification which is to be reported separately in the applicable classification; the manufacture of concrete blocks, bricks, poles, piles, tiles and beams which is to be reported separately in classification 3105-06; the manufacture of statuary and ornamental items from plaster or concrete which is to be reported separately in classification 3509; and the manufacture of brick or clay products which is to be reported separately in classification 3501.

**Special note:** This classification differs from classification 3509 "statuary and ornament manufacturing" in that products manufactured in classification 3105 are rough, do not require perfect finishes, and are generally for construction use; products manufactured in classification 3509 are for decorative purposes, are usually lighter weight, and have smoother or more perfect finishes than the concrete products manufactured in classification 3105.

**AMENDATORY SECTION** (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

#### WAC 296-17A-3309 Classification 3309.

##### ~~(3309-02 Golf cart sales/rental agencies~~

~~Applies to establishments engaged in the sale and/or rental of new, used golf carts and go-carts, and related items such as, but not limited to, golf cart trailers, canopies, protective outerwear, helmets, and replacement parts for the above products. The sale of boats and canoes can be included in this classification if they are incidental to the sale of golf carts and go-carts. This classification includes outside lots, and full~~

~~product line parts and service departments. Regional service representatives who provide factory training to local dealer shop mechanics are included in this classification.~~

~~This classification excludes establishments primarily engaged in the sale of boats, boat trailers and motors, which are to be reported separately in classification 3414, and the repair of lawn and garden equipment and small engines which is to be reported separately in classification 3402.~~

##### ~~3309-03 Motorcycle, moped, motor scooter, snowmobile, jet ski, all terrain vehicles sales/rental agencies~~

~~Applies to establishments engaged in the sale of new and used motorcycles, mopeds, motor scooters, snowmobiles, jet skis, three wheel and four wheel all-terrain vehicles. These establishments may also sell related items such as, but not limited to, portable generators, lawn and garden equipment, chain saws, water pumps, snow blowers, small gasoline engines, boat motors, protective outerwear, helmets, and replacement parts for the above products. The sale of boats and canoes can be included in this classification if they are incidental to the sale of motorcycles, mopeds, or other primary merchandise. This classification includes service managers and service personnel, parts department personnel who have shop exposure, and lot personnel. Also included are motorcycle service and repair shops, motorcycle dismantlers (wrecking yards), regional service representatives who provide factory training to local dealer shop mechanics, and establishments engaged in the sale/rental and service (repair) of motorized mobility aids, such as motorized wheelchairs and 3-wheel scooters.~~

~~This classification excludes establishments primarily engaged in the sale of boats, boat trailers and motors, which are to be reported separately in classification 3414; establishments primarily engaged in the sale of lawn and garden equipment which is reported separately in classification 6309; and the repair of lawn and garden equipment and small engines which is to be reported separately in classification 3402.~~

~~**Special note:** While most businesses assigned to this classification have an inventory of parts which they use in the service and repair of customer vehicles, some employers have full line parts stores. Care should be taken when considering assignment of classification 6309 for part sales. Only those businesses that have a full line parts store which is physically separated from the repair shop and whose sales of parts are primarily for off-premises repair (do it yourself repair) should be considered for classification 6309.)~~

##### ~~**Golf cart, motorcycle, and motorized sport vehicle dealers**~~

~~Classification 3309 applies to dealers that sell, rent, or repair:~~

- ~~• Golf carts and trailers;~~
- ~~• Go carts;~~
- ~~• All-terrain vehicles (ATV);~~
- ~~• Jet skis;~~
- ~~• Motorcycles;~~
- ~~• Motor scooters;~~
- ~~• Snowmobiles.~~

These establishments may also sell other incidental items such as:

- Boat motors;
- Canoes;
- Chain saws;
- Helmets;
- Lawn and garden equipment;
- Portable generators;
- Protective outerwear;
- Replacement parts;
- Small gasoline engines;
- Snow blowers;
- Water pumps.

Occupations included in this classification are:

- Service and repair personnel;
- Service managers;
- Parts department employees who also provide service and repair;
- Lot attendants who wash, fuel and prep vehicles, and keep service area organized;
- Motorcycle dismantlers (motorcycle wrecking yards);
- Regional service reps who provide factory training to local dealer shop mechanics.

**Special note:** If all conditions of the general reporting rules covering standard exception employees have been met, businesses in this classification with sales staff may qualify for classification 6301-00. See WAC 296-17-31018(2).

**Special note:** While most businesses in this classification have an inventory of parts which they use to service and repair customer vehicles, some employers have a full line of parts, accessories, and clothing store. Businesses with a full line of parts, accessories and clothing store which is physically separated from the repair shop, and sales of parts are primarily for off-premises (do it yourself) repair with no interchange of labor between the service department and the store, may also be assigned classification 6309.

Excluded from this classification are establishments primarily engaged in:

- Sales or rental of automobiles, motor homes, or travel trailers that are reported in classification 3411;
- Sales of boats, boat trailers and motors that are reported in classification 3414;
- Sales or rental of durable medical equipment or mobility aids that are reported in classification 6306;
- Sales or rental of heavy commercial or industrial equipment that are reported in classification 6409;
- Sales of lawn and garden equipment, and sales or rental of bicycles that are reported in classification 6309; and
- Repair of lawn and garden equipment and small engines that are reported in classification 3402.

For administrative purposes, Classification 3309 is divided into the following subclassifications:

### **3309-02 Golf cart sales/rental dealers**

### **3309-03 Motorized cycles and recreational vehicle dealers**

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

### **WAC 296-17A-3406 Classification 3406.**

#### **3406-00 Automotive or truck gas service stations, N.O.C.: Lube and oil change specialists, and mobile lube and oil services**

Applies to establishments operating full service gasoline or diesel service stations not covered by another classification (N.O.C.). This classification includes cashiers. Full service includes, but is not limited to:

- Pumping gas for customers;
- Replacing wiper blades;
- Checking and/or filling the fluid levels (oil, transmission, wiper wash and antifreeze);
- Adding air to the tires.

The repairs included in this classification are:

- Oil and filter changes;
- Tune-ups;
- Replacement of brakes;
- Front end alignments;
- The repair or replacement of tires.

This also applies to establishments engaged exclusively in preventive automotive maintenance, such as, but not limited to:

- Adding air to tires;
- Changing oil and filters;
- Checking and/or filling fluid levels;
- Checking and/or replacing belts, hoses;
- Lubing chassis;
- Replacing wiper blades.

This classification excludes:

- Portable automobile or truck car washes which are to be reported separately in classification 6602;
- Establishments engaged in automobile or truck repair services and tune up specialists which are to be reported separately in classification 3411;
- Establishments engaged in the service or repair of machinery or equipment N.O.C. which are to be reported separately in classification 6409;
- Self-service gas stations which are to be reported separately in classification 3409; and
- Convenience grocery stores or mini-markets with self-service gasoline operations which are to be reported separately in classification 3410.

#### **3406-01 Automobile or truck storage garages**

Applies to establishments operating automobile or truck storage garages. Generally, these types of storage garages consist of an enclosed structure and usually with more than one level of parking. Storage garages may provide additional incidental services such as, but not limited to:

- Gasoline;
- Tune-ups;
- Washing and waxing services;
- Cashiers;
- Full-time attendants or security personnel.

This classification excludes:

- Portable automobile or truck car washes which are to be reported separately in classification 6602;

- Establishments providing parking lot services which are to be reported separately in classification 6704;
- Automobile or truck repair services which are to be reported separately in classification 3411;
- Establishments engaged in the service or repair of machinery or equipment N.O.C. which are to be reported separately in classification 6409;
- Self-service gas stations which are to be reported separately in classification 3409; and
- Full service gas station services which are to be reported separately in classification 3406-00.

**Special note:** Storage garages applicable to this classification are distinguishable from parking lots in classification 6704 in that parking lots usually are not an enclosed structure, and they do not provide service to automobiles.

#### **3406-04 Automobile or truck - Detailing by contractor; glass tinting; windshield repair**

Applies to establishments engaged in providing automobile or truck detailing services, and to establishments engaged solely in tinting glass in automobiles, or repairing cracks, chips or bull's-eyes in windshields. This classification includes cashiers. Detailing services involve complete, in-depth cleaning of exteriors and interiors such as, but not limited to:

- Washing;
- Waxing;
- Polishing;
- Buffing;
- May also involve tinting glass;
- Vacuuming or otherwise cleaning the autos':
  - Chrome work;
  - Tires;
  - Hub caps;
  - Windows;
  - Mirrors;
  - Carpets;
  - Seats.

This classification excludes:

- Portable automobile or truck car washes which are to be reported separately in classification 6602;
- Tinting or installation of automobile or truck window glass performed by a glass dealer which is to be reported separately in classification 1108;
- Glass tinting or the application of tinted plastic film to glass windows and doors in buildings which are to be reported separately in classification 0511;
- Detailing performed in connection with automobile or truck dealers, service centers or repair garages which are to be reported separately in classification 3411;
- Detailing performed in connection with automobile or truck body and fender repair shops which is to be reported separately in classification 3412;
- Detailing performed in connection with establishments engaged in the service or repair of machinery or equipment, N.O.C. which is to be reported separately in classification 6409; ~~(and)~~
- Detailing performed in connection with full service gas stations which is to be reported separately in classification 3406-00; and

- Detailing performed in connection with boat dealers or marinas which is to be reported in classification 3414.

#### **3406-05 Automobile or truck car washes**

Applies to establishments providing automobile or truck washing services. This classification includes the exterior washing, waxing, polishing or buffing, cleaning of chrome and tires, and the interior cleaning of windows, carpets, dash and seats. These services may be performed at a coin operated self-service unit, or at a full service automatic unit where the vehicle is conveyed through the line assisted by attendants. This classification includes cashiers and the sale of accessory items such as, but not limited to:

- Air fresheners;
- Beverages;
- Bottled car care products;
- Floor mats;
- Snack foods.

This classification excludes:

- Portable automobile or truck car washes which are to be reported separately in classification 6602;
- Washing services performed in connection with automobile or truck dealers, service centers or repair garages which are to be reported separately in classification 3411;
- Washing services performed in connection with automobile or truck body and fender repair shops which are to be reported separately in classification 3412;
- Washing services performed in connection with establishments engaged in the service or repair of machinery or equipment, N.O.C. which are to be reported separately in classification 6409;
- Washing services performed in connection with full service gas stations which are to be reported separately in classification 3406;
- Washing services performed in connection with self-service gasoline operations which are to be reported separately in classification 3409; and
- Washing services performed in connection with convenience stores that have self-service gasoline operations which are to be reported separately in classification 3410.

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

#### **WAC 296-17A-3411 Classification 3411.**

##### **3411-00 Automobile: Dealers, rental or leasing agencies, including service repair garages; Recreational vehicle: Dealers, rental/leasing agencies, or service/repair garages**

Applies to establishments engaged in selling, renting, or leasing automobiles, including service/repair centers operated by dealers. This classification also applies to establishments engaged in selling, renting, leasing *or* servicing/repairing recreational vehicles. For purposes of this classification, the term "automobile" includes standard sized passenger cars, pickup trucks, and sport utility vehicles. The term "recreational vehicle" includes motor homes, travel trailers, campers, and also includes sport and utility trailers. Work contemplated by this classification includes, but is not limited to, all phases of automotive mechanical service and

repair work, washing, vacuuming, and waxing vehicles, and detailing such as striping, window tinting, vinyl repair, installing molding and electronic accessories when performed by employees of an employer subject to this classification. This classification includes service managers, parts department employees who have shop exposure, towing service for in-shop repairs, lot personnel, and customer courtesy van or car drivers.

This classification excludes: Dealers or service/repair centers for semi-trucks, diesel tractor-trailers, buses, and other heavy equipment or machinery which are to be reported separately in classification 6409; recreational vehicle dealers who also sell factory built housing units such as modular and mobile homes who are to be reported separately in classification 3415; parts department employees who are not exposed to any hazards of the service/repair shop who may be reported separately in classification 6309; auto body shop employees or auto body specialty shops who are to be reported separately in classification 3412; dealers who sell truck canopies and related accessories, but do not sell the other vehicles/trailers included in this classification who are to be reported separately in classification 1106; establishments engaged in welding or cutting repairs and/or hydraulic installation which are to be reported separately in classification 3402; and sales employees who may be reported separately in classification 6301 provided all the conditions of the general reporting rule covering standard exception employees have been met.

**Special notes:** Used automobile dealers will not normally have service/repair garages or parts departments but will have lot personnel and detailers. Automobile rental and leasing agencies will normally have all the operations described above with the exception of parts department employees. New automobile dealers will routinely have all of the operations described above.

Establishments engaged in providing towing service for hire are to be reported separately in classification 1109. For purposes of this classification "towing for hire" means a towing service not performed in connection with repairs to be done by the service/repair shop.

#### **3411-01 Automobile: Service centers, repair shops or garages**

Applies to establishments engaged in servicing and repairing automobiles for others. For purposes of this classification, the term "automobile" includes standard sized passenger cars, pickup trucks, and sport utility vehicles. Work contemplated by this classification includes, but is not limited to, all phases of automotive mechanical service when performed by employees of an employer subject to this classification, such as engine overhauls and rebuilding, resurfacing heads, valve grinding, transmission overhauls or rebuilding, electrical repairs, brake service, engine tune ups, fuel injection service, carburetor repair, and engine diagnostic service. This classification includes service managers, parts department employees who have shop exposure, incidental sales of reconditioned cars, towing service for in-shop repairs, customer courtesy van or car drivers, roadside assistance, and tire chain installation. Parts department employees who are not exposed to any hazards of the repair shop may be reported separately in classification 6309.

This classification excludes: Dealers or service/repair centers for semi-trucks, diesel tractor-trailers, buses, and other heavy equipment or machinery which are to be reported separately in classification 6409; auto body shop employees who are to be reported separately in classification 3412.

**Special note:** While most businesses assigned to this classification have an inventory of parts which they use in the service and repair of customer vehicles, some employers have full line auto parts stores. Care needs to be taken when considering assignment of classification 6309 for auto part sales. Only those businesses that have a full line auto parts store which is physically separated from the repair shop and whose sales of auto parts are primarily for off-premises repair (do it yourself repair) should be considered for classification 6309. *This classification does not apply to auto repair shops that also sell and install tires on customer vehicles. See classification 6405 for auto repair shops that also sell and install tires.* Establishments engaged in providing towing service for hire are to be reported separately in classification 1109. For purposes of this classification "towing for hire" means a towing service not performed in connection with repairs to be done by the repair shop.

#### **3411-02 Automobile: Service specialty shops**

Applies to establishments engaged in providing specialized automobile repair services such as air conditioning systems, muffler repair, cruise controls and electrical systems. For purposes of this classification, the term "automobile" includes standard sized passenger cars, pickup trucks, and sport utility vehicles. Work contemplated by this classification includes, but is not limited to, inspection of vehicle components for wear, diagnostic analysis, and repair of various components such as brakes and cooling systems, after-market installation of components such as cruise control, air conditioning systems, and sun roofs; and specialized repair services such as mufflers and transmissions. This classification includes service managers, part sales, towing service for in-shop repairs, and customer courtesy van or car drivers.

This classification excludes: Dealers or service/repair centers for semi-trucks, diesel tractor-trailers, buses, and other heavy equipment or machinery which are to be reported separately in classification 6409.

**Special note:** Businesses assigned to this classification will generally have an inventory of supplies and parts which they use in the service and repair of customer vehicles although some sales of parts and components may occur. *This classification does not apply to any shop that sells and installs tires on customer vehicles. See classification 6405 for auto repair shops that also sell and install tires.* Establishment engaged in providing towing service for hire are to be reported separately in classification 1109. For purposes of this classification "towing for hire" means a towing service not performed in connection with repairs to be done by the repair shop.

AMENDATORY SECTION (Amending WSR 10-24-118, filed 12/1/10, effective 1/1/11)

**WAC 296-17A-3701 Classification 3701.**

**3701-03 Ammonia, nitrogen and ammonium nitrate: Manufacturing**

Applies to establishments engaged in the manufacture of ammonia, nitrogen and ammonium nitrate. Ammonia is a colorless gas used as a component in fertilizer, medicines and cleaning compounds manufacturing. The manufacturing process involves combining hydrogen and nitrogen gases with a catalyst which causes a reaction between the two gases when heated in a generator. Ammonium nitrate is a crystalline compound used mainly in fertilizers, explosives and propellants. The manufacturing process involves combining ammonia and nitric acid in a reactor. Nitrogen is a colorless gas that is obtained from the air and processed by compressing air in a pressurized tank, removing impurities, and separating nitrogen and oxygen through heating.

**3701-04 Nitrate recovery from X-ray and photo films**

Applies to establishments engaged in recovering nitrate or silver from X-ray and photo films. The recovery process involves placing the films in developing solutions, ionizing the solution and separating the elements.

**3701-05 Dye and chemicals: Manufacturing**

Applies to establishments engaged in the manufacture of all types of dyes and in the manufacture of dyes and chemicals that are used exclusively for tinting candles. Organic and inorganic compounds such as, but not limited to, phenols, alcohols, caustics, acids, salts and gases are used in the manufacturing process. Manufacturing methods include, but are not limited to, weighing raw materials to specifications and pumping them into vats where they are heated, agitated and cooled. They are then filtered through presses, dried in ovens, ground into a powder, and then packaged. Liquid or paste forms of dye go through the same process with the exception of the drying and grinding operations.

**3701-06 Chemicals, N.O.C.: Manufacturing by nitration, alkylation and oxidation processes**

Applies to establishments engaged in the manufacture of chemicals not covered by another classification (N.O.C.) using a nitration, alkylation or oxidation process. Nitration involves the combining of nitrate with an organic compound to produce nitrobenzenes used in solvents, fertilizers and acids. Alkylation involves combining alkyls with other substances to form products used in the production of paper pulp, hard soap and petroleum products. Oxidation involves the combining of oxygen with other substances to produce products such as, but not limited to, hydrogen peroxide, protective metal coatings, and pharmaceutical preparations.

This classification excludes the manufacture of ammonia or nitrogen which is to be reported separately in classification 3701-03 and the manufacture of oxygen, hydrogen, acetylene gas, carbonic acid gas, or acids which is to be reported separately in classification 3701-10.

**3701-07 Chemical mixing, blending and repackaging only: Fireworks manufacturing**

Applies to establishments engaged exclusively in mixing, blending or repackaging chemicals; it does *not* apply to the manufacture of ingredients for the mixing operation. The product may be mixed by hand or through a mechanical process. The equipment used by establishments covered by this classification is limited to storage tanks, mixing or blending screens and vats, filling and packaging machines and miscellaneous equipment such as fork lifts and trucks. Fireworks are assembled by hand and using hand operated tools.

This classification excludes establishments involved in more than a mixing, blending or repackaging operation which are to be reported separately in the appropriate chemical manufacturing classification, and technicians who set up and carry out fireworks displays who are to be reported separately in classification 6207.

**3701-08 Cosmetics: Manufacturing**

Applies to establishments engaged in the manufacture of cosmetics such as, but not limited to, soap, shampoo, hair conditioners, skin moisturizers, baby powder, lipstick, nail polish, bath oil, bath salts, and various personal care creams, gels or lotions. The process involves the mixing of premanufactured ingredients, using equipment such as storage tanks, mixers, heating devices, bottling/packaging/labeling equipment, and laboratory equipment for product development and quality control.

This classification excludes the manufacturing of the ingredients used in the mixing of the cosmetics.

**3701-09 Drug, medicine, or pharmaceutical preparation: Manufacturing**

Applies to establishments engaged in the manufacture of pharmaceuticals including drugs, medicines, and preparations such as, but not limited to, tablets, pills, ointments, liquids, and powders. Processes contemplated by this classification include mixing or blending of the base medicinal ingredients and additives such as, but not limited to, sugars, starches, flavorings, and waxes used for coating tablets. Compounds are then pulverized, distilled, heated and/or dried.

This classification excludes:

- The manufacture or harvest of the ingredients used in the manufacture of the pharmaceuticals;
- Retail compounding pharmacy stores which are to be reported in 6406-16.

**3701-10 Oxygen, hydrogen, acetylene gas, carbonic acid gas: Manufacturing**

Applies to establishments engaged in the manufacture of oxygen, hydrogen, acetylene gas, carbonic acid gas, dry ice, or acid. The manufacture of oxygen and hydrogen involves the recovery of these gaseous elements from the air by compression, expansion and cooling operations until it liquefies. The liquid air then goes to a fractionator where the oxygen is separated from the hydrogen along with other gases such as neon and helium. Acetylene is a highly flammable but non-toxic gas that is manufactured by reacting calcium carbide with water in a pressure generator which combines carbon and lime to form the end product. Carbonic acid gas, also known as phenol, is a caustic poisonous gas used in manufac-

turing resins, plastics, and disinfectants. The manufacture of phenol involves a compression and refrigeration process.

**3701-11 Alcohol: Manufacturing, distilling, N.O.C.**

Applies to establishments engaged in manufacturing or distilling nonspirituous alcohol not covered by another classification (N.O.C.). Types of alcohol include, but are not limited to, methanol (wood alcohol), ethanol (grain alcohol) or denatured alcohol (combination of methanol and ethanol). Products produced include, but are not limited to, solvents, processing materials, germicides, antiseptics, or materials intended to be used as an ingredient in other products such as varnish and shellac. The processes for the production are varied depending on the type of alcohol and end product but all use a distillation process which involves the heating of liquids and subsequent condensation of vapors to purify or separate a substance contained in the original wood or grain product.

This classification excludes the manufacture of spirituous liquor which is to be reported separately in classification 3702 and gasohol distilling or refining which is to be reported separately in classification 3407.

**3701-13 Polish, dressing, or ink: Manufacturing**

Applies to establishments engaged in the manufacture of polish, dressings, or ink. Polish and dressing products include, but are not limited to, polish or dressings for shoes, leather, furniture, automobiles or metal. The ingredients and processes for polish and dressing manufacturing vary, depending on the end product. Typical ingredients include but are not limited to oils, waxes, resins, detergents, methanol, solvents, water and coloring. The process may involve a simple mixing operation or a more involved process involving heating or cooking and molding into a cake or stick form. Typical equipment includes, but is not limited to, weighing and measuring scales, mixers, stoves, molding apparatus, automatic filling, labeling, wrapping and packaging machines. Ink manufacturing covers all types of ink including, but not limited to, newspaper, book, magazine, and writing ink. The process involves the cooking of oils and resins which produces a resin. Pigments and dryers are blended into the resin mixture and diluted to proper consistency.

This classification excludes the manufacture of candles, crayons, and adhesives which is to be reported separately in classification 3701-25.

**3701-14 Extract: Manufacturing, including distillation of essential oils**

Applies to establishments engaged in the manufacture of extract including the distillation of essential oils. Extracts are concentrated forms of an essential component of a food or a plant. Extracts include, but are not limited to, flavorings, perfume oils, sachet powders, ingredients for skin conditioners and hop extracts used in the brewing of beer. The process involves extracting flavorings or oils from various plants, herbs or fruit peelings by pressing, cooking, steaming or distillation. The extracts may be mixed or blended with other extracts for strength, consistency or color and are then bottled or canned. Typical equipment includes, but is not limited to, steam cookers, presses, distillation apparatus, filters, grinders, tanks, vats and filling, packaging and labeling machines.

This classification excludes perfume manufacturing which is to be reported separately in classification 3701-15; mint distilling which is to be reported separately in classification 3701-17; and hop pellet manufacturing which is to be reported separately in classification 2101.

**3701-15 Perfume: Manufacturing, including distillation of essential oils**

Applies to establishments engaged in the manufacture of perfumes including the distillation of essential oils. Perfumes may be used as a personal fragrance or by other manufacturers such as in the making of scented candles. The process typically involves the distillation, cooking, grinding, compounding, drying, blending, or liquidizing of ingredients. These ingredients may include, but not be limited to, extracts, oils, colors and binders.

This classification excludes the manufacture of candles which is to be reported separately in classification 3701-25.

**3701-17 Mint distilling**

Applies to establishments engaged in the distillation of mint. The process may begin with mint oil that is purchased from others or with the distillation of the mint leaves into mint oil. The mint leaves are chopped and blown into a mint steamer which lifts the moisture and oils from the mint. The resultant steam then goes through a series of condensation lines. Water is added to force the oil to the top of the liquid. The mint oil is heated for purification and to lessen the fragrance. Various mint oils may then be blended together to produce different types such as spearmint and peppermint. The product is then packaged in stainless steel or epoxy lined barrels.

This classification excludes the raising and harvesting of mint which is to be reported separately in classification 4811.

**3701-20 Salt, borax or potash producing or refining**

Applies to establishments engaged in the production of or refining of salt, borax or potash. This classification includes the manufacture of common salt used in chemical and food processing, borax which is used in the manufacture of glass, glazes, soap, and boric acid, and potash which is used in fertilizer. Salt ores received from others are dissolved in water to produce a brine of the desired concentration. It is refined into common salt by adding caustic soda and soda ash. Potash is refined by adding an amine to the brine which causes the salts to float to the surface where they are skimmed off. Borax is made by separating it from the potash by a rapid cooling process. All three of these products are then fully evaporated by heating in a partial vacuum to produce crystals or granules which are then dried.

This classification excludes the production of raw materials used in the manufacture of these products.

**3701-21 Serum, antitoxin or virus: Manufacturing**

Applies to establishments engaged in the manufacture of serums, antitoxins, or viruses. The process involves considerable microscopic laboratory work as well as working with animals. The animals are injected with bacteria and viruses, periodically bled and eventually killed. The killing of the animals is included in this classification as it is incidental and necessary to perform the operation to extract the serum from the glands and to separate the red blood cells from the blood.

This classification excludes the manufacture of other drugs or medicines which are to be reported separately in classification 3701-09.

### **3701-22 Paint, varnish or lacquer: Manufacturing**

Applies to establishments engaged in the manufacture of paint, varnish, lacquer, enamel, shellac, paint removers and thinners. The paint manufacturing process involves a series of mixing and grinding operations. The pigments (solids) are then blended with oils or resins (liquids). A paint extender may also be added at this point. The paint is then pumped into filling machines where various sized containers are filled and then labeled. Lacquer, varnish, enamel, shellac and paint removers and thinners vary in the ingredients used but the process is similar to that of paint manufacturing in that it is mainly a mixing operation. Varnishes involve a cooking process which is generally not used in the manufacture of the other products included in this classification.

This classification excludes the production of raw materials used in the manufacture of these products.

### **3701-23 Putty or synthetic resin: Manufacturing**

Applies to establishments engaged in the manufacture of putty or synthetic resin. Putty is a finely powdered chalk mixed with linseed oil. The main ingredients for both putty and synthetic resins are ground chalk, limestone and/or calcite. The process for both products involves grinding and mixing operations.

This classification excludes the production of the raw materials used in the manufacture of these products.

### **3701-25 Candle, crayon, and paste or glue: Manufacturing**

Applies to establishments engaged in the manufacture of candles, crayons, and synthetic adhesives such as paste or glue. Raw materials used for making candles include, but are not limited to, beeswax, paraffin, stearin, wicks and colors which are received from others. The wax is heated in kettles or similar devices into which the wicks are dipped either by hand or by dipping equipment which can be either manual or automated. A fragrance may be added to the melted wax for scented candles. When the wax has attained the desired shape and size it is hung on lines to dry. The wicks are then cut and the candles are placed in molds to shape the base of the candle. Color is then added by dipping either by hand for specialized designs or by machine for solid colors. The candles are then inspected, wrapped, packaged and labeled. Crayons use the same ingredients that are used in making candles with the exception of the wicks. The type of wax used in making crayons determines the hardness. The wax is melted in a kettle or similar device and poured into molds for shaping and cooling. The crayons are then inspected, packaged and labeled. Synthetic paste or glue is made from powder or granule arabic gum or modified starch which is received from others along with preservatives and the containers and caps. The process involves mixing and cooking the ingredients in steel tanks and pumping the product to a filling area where it is packaged, labeled and capped.

This classification excludes the manufacture of polish, dressing, or ink which is to be reported separately in classification 3701-13; the manufacture of glue from animal substances which is to be reported separately in classification

4301; and the production of raw materials used in the manufacture of these products.

### **3701-27 Hazardous/toxic material: Repackaging for disposal**

Applies to establishments engaged in *identifying and repackaging* hazardous/toxic materials for disposal. This classification is distinguished from classification 4305-20, in that classification 3701-27 applies to the *identifying and repackaging for disposal* of such materials as drugs, pesticides, chemicals, and toners that contain toxic or hazardous materials, while classification 4305-20 includes the *processing or handling* of such materials as medical or septic tank waste, drug lab or hazardous spill *cleanup*, and *reprocessing or handling* of low-level radioactive materials. For handling hazardous or toxic materials, the workers are equipped with protective clothing such as long sleeved shirts, depending on the material to which they will be exposed. They may also be equipped with steel toed boots, protective gloves, safety glasses and various types of respirator equipment. On a typical project, the first step is to visually inspect the materials to see if they appear to be the materials described on a job order. If there is a question of identity, a sample of the material is sent to a lab for analysis. The establishment may have its own lab facilities or the sample may be sent to an outside lab, or the customer may have it analyzed. Every component of the sample must be identified. Once the material has been identified, and all containers labeled, the containers are separated into appropriate groupings. Smaller containers of similar types of materials are packed into 55 gallon drums with plastic or other cushioning protective material to prevent breakage. All necessary paper work and forms required by various government agencies must be completed before the material can be transported to a disposal site.

This classification excludes hazardous/toxic material *processing or handling*, including processing of medical or septic tank waste, drug lab or hazardous spill cleanup; reprocessing or handling of low-level radioactive materials which is to be reported separately in classification 4305-20; and the replacement of nontoxic toner in cartridges used in business machines which is to be reported separately in classification 4107.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

### **WAC 296-17A-3702 Classification 3702.**

#### **3702-01 Breweries or malt houses**

##### **Yeast: Manufacturing**

Applies to establishments engaged in operating breweries, micro breweries, or malt houses, and includes all operations involved in the making of malt, beer, or ale as well as packaging into kegs, bottles or cans. Beer is produced from water, hops, barley malt and corn or rice; this mixture is cooked, filtered, cooled and then fermented. After the fermentation is complete, the beer is usually pasteurized and filtered, then sealed in kegs or packaged in individual bottles or cans. The exact process varies from brewery to brewery. Some breweries produce their own malt while others obtain the barley malt from an independent malting company. This

classification includes warehouses and distributing stations maintained by the breweries at the brewery or at separate locations. This classification also includes tour guides, tasting room and gift shop employees. This classification also applies to establishments engaged in the manufacture of yeast.

This classification excludes establishments engaged exclusively as wholesale or combined wholesale/retail distributors of beverages which are to be reported separately in classification 2105.

### **3702-03 Bottling: Beverages, N.O.C.**

Applies to establishments engaged in the production, bottling, and distribution of beverages not covered by another classification (N.O.C.) such as, but not limited to, carbonated and noncarbonated soft drinks, seltzers, fruit juices, lemonades, iced teas, and bottled waters. These bottling establishments purchase syrup or concentrate from the franchiser or concentrate manufacturer to produce a variety of products. Containers such as, but not limited to, aluminum or steel cans, plastic or glass bottles, are sanitized, filled with beverages, and sealed. Typically, bottlers will operate a single production facility and have multiple distribution warehouses.

This classification excludes establishments engaged exclusively as wholesale or combined wholesale/retail distributors of beverages which are to be reported separately in classification 2105 and manufacturers of syrup/concentrate for soft drinks which are to be rated separately in classification 3902.

### **3702-05 Wine making or wineries Spirituos liquor: Manufacturing**

Applies to establishment engaged in making wine from fruits or flavoring products such as, but not limited to, grapes, berries, peaches, or dandelions. The ingredients are crushed and the juice extracted; yeast is added to the juice; then the mixture is stored in a cool, temperature-controlled environment (such as a cellar) for fermentation to begin. During the natural fermentation, the sugar from the fruit is converted into alcohol. Additional processing includes clarification, filtration, pasteurization, centrifugation, and blending. The wine is bottled under vacuum and corked, labeled, and cased. This classification also applies to establishments engaged in the manufacture of spirituous liquor such as whiskey, gin, rum, and vodka. Operations involve preparing the mash from various grains, potatoes or molasses received from others, and fermenting, distilling and barreling of the products. This classification includes tour guides, tasting room and gift shop employees.

This classification excludes establishments engaged exclusively as a wholesale or combined wholesale/retail distributor of beverages which are to be reported separately in classification 2105; off-premises wine/liquor stores which are to be reported separately in classification 6403; and vineyard operations which are to be reported separately in classification 4813.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

### **WAC 296-17A-3901 Classification 3901.**

#### **3901-00 Bakeries - Retail**

Applies to establishments engaged in the baking of assorted goods (~~(such as, but not limited to, breads, cakes, pies, and pastries for retail sales. This classification includes "deli" sections in retail bakeries where bakery products, and items such as soups, salads, sandwiches and beverages, are available for on-premises consumption.~~

~~This classification excludes commercial wholesale bakeries that bake products for sale to trade customers such as supermarkets, restaurants, and distributors which are to be reported separately in classification 3906, and specialty bake shops that produce single product lines such as cookies and donuts, which are to be reported separately in classification 3901-01.)~~ for retail sales, such as, but not limited to:

- Breads;
- Cakes;
- Pies;
- Pastries.

This classification includes "deli" sections in retail bakeries where bakery products, and items such as soups, salads, sandwiches and beverages are available for on-premises consumption.

Some retail bakeries also wholesale a portion of their product locally to coffee shops, grocery stores and other retailers. If a bakery's principal business remains retail, this is allowed under subclassification 3901-00.

This classification excludes:

• Larger commercial wholesale bakeries that bake products for sale to trade customers such as supermarkets, restaurants, and distributors which are to be reported separately in classification 3906; and

• Specialty bake shops that produce single product lines such as cookies and donuts, which are to be reported separately in classification 3901-01.

#### **3901-01 Bakeries - Retail - Specialty shops**

Applies to establishments engaged in operating specialty bake shops where products are sold to retail customers. A specialty bake shop is an establishment that makes and sells ~~((a single product line such as cookies, donuts, pies, or bagels to customers for consumption on or away from the premises. This classification includes related sales of beverages.~~

~~This classification excludes commercial wholesale bakeries that bake products for sale to trade customers such as supermarkets, restaurants, and distributors which are to be reported separately in classification 3906, and retail bakeries engaged in the baking of assorted goods such as breads, cakes, pies, and pastries, for retail sales which are to be reported separately in classification 3901-00.)~~ to customers a single product line for consumption on or away from the premises, such as:

- Bagels;
- Cookies;
- Doughnuts;
- Pies.

This classification includes related sales of beverages.

Some retail bakeries also wholesale a portion of their product locally to coffee shops, grocery stores and other retailers. If a bakery's principal business remains that of a retail specialty bakery, this is allowed under subclassification 3901-01.

AMENDATORY SECTION (Amending WSR 10-21-088, filed 10/20/10, effective 1/1/11)

**WAC 296-17A-4900 Classification 4900.**

**4900-00 Construction: Superintendent or project manager**

((This is a special exception classification and it can only be assigned to an account along with another basic construction classification. It applies to employees of a construction company with administrative oversight or management duties. It permits working at a construction site when overseeing a project if not directly taking part in any construction operations. The work can include:

- Consulting with engineers, architects, or other design experts;
- Managing supervisors and coordinating subcontractor schedules;
- Ordering and scheduling equipment and supplies;
- Inspection of work.

This classification excludes anyone who performs any of the following duties:

- Directly supervising the work of employees or independent contractors;
- Performing manual labor;
- Operating or repairing equipment;
- Delivering supplies or equipment.

If all of these conditions are not met, the superintendent or project manager must be reported in the basic classification applicable to the construction project. A construction project is defined by a unique location and unique building permit.) Applies to employees with administrative oversight or management duties who visit or work at construction sites but who do not directly take part in any construction operations.

The work can include:

- Consulting with engineers, architects, or other design experts;
- Managing supervisors and coordinating subcontractor schedules;
- Ordering and scheduling equipment and supplies;
- Inspection of work.

This classification excludes anyone at a construction site who:

- Directly supervises the work of employees or independent contractors;
- Performs manual labor;
- Operates or repairs equipment;
- Delivers supplies or equipment.

If superintendents or project managers perform any excluded duties, then all of their hours for that project must be reported in the construction classification(s) applicable to the work they perform. If detailed records of the hourly work performed are not maintained, all project hours are reportable

in the highest rated classification applicable to the construction project.

**Special note:** A construction superintendent or project manager may be reported in classification 4900 for any project where the classification's restrictions are met, even if the same individual must be reported in a basic construction classification for another construction project. A construction project is defined by a unique location and unique building permit.

**Special note:** This special exception classification can be assigned to an account only along with a basic construction classification that describes the applicable phase of construction for the project.

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

**WAC 296-17A-4904 Classification 4904.**

((4904-00 Clerical office, N.O.C.

Applies to those employees whose job duties and work environment meet *all* the conditions of the general reporting rules covering clerical office standard exception employees who are not covered by another classification (N.O.C.) assigned to their employer's account. Duties of clerical office personnel contemplated by this classification are limited to:

- Answering telephones;
- Creating or maintaining computer software, technical drafting;
- Creating or maintaining financial, employment, personnel or payroll records;
- Handling correspondence;
- Composing informational material on a computer.

**Special note:** When considering this classification, care must be taken to look beyond titles of employees. Employees may or may not qualify for this classification with occupational titles such as, but not limited to:

- Cashiers;
- Clerks;
- Ticket sellers.

This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

**4904-13 Clerical office: Insurance companies, agents or brokers**

Applies to clerical office employees of insurance companies, including insurance agents or brokers who perform duties exclusively of clerical nature and without an interchange of labor between clerical and nonclerical duties. This classification is limited to duties defined as:

- Assisting walk-in customers;
- Handling correspondence such as the preparation of insurance policies and billing;
- Maintaining personnel and payroll records;
- Performing the necessary computer work;
- Responding to telephone inquiries;
- Receiving and processing payments and invoices.

**Special note:** Individuals performing duties as an agent, broker, or solicitor (and holding a license as issued by the office of the insurance commissioner) are exempt from cov-

erage as specified in RCW 51.12.020(11) and 48.17.010. To elect voluntary coverage these individuals must submit a completed optional coverage form to the department. In addition, care should be exercised to determine if the insurance company employs individuals such as receptionists, bookkeepers, or claims clerks who perform clerical duties which may include the incidental taking of insurance applications and receiving premiums in the office of an agent or broker. Such individuals may or may not hold a license as issued by the office of the insurance commissioner, and are not deemed to be a solicitor, agent or broker when compensation is not related to the volume of such applications, insurance, or premiums. In these instances, the clerical individuals fall under mandatory workers' compensation coverage, and do not meet the requirements to be exempt from coverage as specified in RCW 51.12.020(11).

#### **4904-17 Clerical office: Employee leasing companies**

Applies to clerical office employees of employee leasing companies. This classification requires that clerical office employees perform duties exclusively of a clerical nature, without an interchange of labor between clerical and nonclerical duties, and that these duties be performed in an area or areas separated from the operative hazards of the business. This classification is limited to duties defined as:

- Handling correspondence such as preparing and processing billing statements and forms;
- Maintaining personnel and payroll records;
- Receptionist and administrative duties;
- Responding to telephone inquiries;
- Performing the necessary computer entry work.

**Special note:** This is a standard exception classification and is not to be assigned unless all the conditions of the general reporting rule covering clerical office standard exception employees have been met.

#### **4904-20 Community action organizations – Clerical office employees**

Applies to organizations performing an array of services to support the local community and citizens in need. The services provided by community action organizations include:

- After school care;
- Alternative schools;
- Child care;
- Counseling and assistance;
- Decent, safe and sanitary living accommodations for low income or needy citizens;
- Drug and alcohol recovery programs;
- Employment or independence training;
- Food and clothing banks;
- In-home chore services;
- Meals;
- Medical services;
- Transitional or emergency housing;
- Weatherization.

This classification includes employees whose work duties include administrative office work such as:

- Answering phones;
- Completing correspondence and forms;
- Reception work;
- Computer work;

- Maintaining financial, personnel and payroll records;
- Conducting meetings;
- Providing counseling services within the offices of the organization.

All work is performed exclusively in an office environment where no other types of work are conducted, and the office is separated from any other work activity by walls, partitions, or other physical barriers. Work performed outside of the office is limited to banking or post office type duties performed by workers who qualify for this classification. A worker's reported hours may not be divided between this classification and any other risk classifications.

Excluded from this risk classification are all other employees including:

- Administrative employees whose duties are not performed exclusively in an administrative office, who are to be reported in risk classification 5308-20;
- Chore workers/home service workers who are to be reported in classification 6511-20;
- Employees who perform labor such as food bank operations, driving, weatherization, janitorial, property management, maintenance and repair work which are to be reported in risk classification 1501-20;
- Medical, dental or nursing professionals;
- Housing authorities which are to be reported in 1501-01 and 5306-26;
- Volunteers who are to be reported separately in classification 6901;
- Welfare special works programs which are to be reported in 6505;
- Work activity centers which are to be reported in 7309. See classifications 1501-20 and 5308-20 for other community action operations.))

#### **Administrative, clerical, reception, and sales staff working in a business office**

Classification **4904** is a standard exception classification, as described in WAC 296-17-31018 Exception classifications, with restrictions on both the type of work and the work place. If any of a worker's duties are excluded from **4904** because of restrictions described in this rule, then none of the worker's hours may be reported in Classification **4904**.

#### **Special note: Care must be taken:**

• To look beyond job titles, such as "clerk" or "cashier." Job titles do not ensure the work or the workplace meet the requirements for **4904**.

• Ensure standard exceptions are permitted - Some basic classifications include office work.

Classification **4904** applies only to employees whose job duties are restricted to a business office, meeting room, or similar office like environment that is:

- Physically separated by walls, partitions, or other physical barriers from all other work areas; and
- Where only office work, as described in this rule, is performed.

Classification **4904** excludes any work area where:

- Products sold by the employer are handled or stored;
- Carry out merchandise is displayed for sale;
- Customers bring merchandise they are purchasing to make payment.

Office work is limited to duties such as:

- Communicating by phone or routing phone calls;
  - Programming software;
  - Technical drafting;
  - Designing publication layouts on hardware or by drafting;
  - Maintaining financial, personnel, or payroll records;
  - Writing or routing correspondence;
  - Billing and receiving payments;
  - Preparation of insurance policies or billing records;
  - Composing informational material;
  - Copying documents;
  - Utilizing computer software;
  - Manual or computer design work;
  - Completing forms;
  - Researching records;
  - Checking persons into a hotel or other facility;
  - Writing reports and manuals;
  - Attending meetings;
  - Assisting walk-in customers;
  - Processing payments and invoices.
- Office work excludes:
- Handling, packaging, mailing, receiving, or demonstrating any product (or their components) sold by the employer;
  - Hand delivering business correspondence outside of the business office.

**Special notes:**

Classification 4904 permits limited and minimal work outside an office for:

- Banking;
- Taking correspondence to or from the post office;
- Purchasing supplies for the office;
- Taking training courses;
- Attending meetings.

Classification 4904 permits limited and minimal exposure to areas of the employer's premises that do not qualify for office work, if this is necessary for getting to or from a:

- Restroom facility;
- Business office;
- Lunchroom or dining area;
- Break room;
- Delivery of a personal message.

For administrative purposes classification 4904 is divided into the following subclassifications:

**4904-00 Clerical office, N.O.C.**

**4904-13 Clerical office for insurance business**

**Special note:** Individuals issued a license by the office of the insurance commissioner and acting as an insurance producer are exempt from coverage as specified in RCW 51.12.020(11). To elect voluntary coverage these individuals must submit a completed optional coverage form to the department. This exclusion to coverage does not apply if the license is held by someone who otherwise:

- Does not work in the capacity of an insurance producer;
- Is not compensated related to the volume of insurance sold or premiums collected; and
- Holds a license solely for the purpose of receiving applications or premiums.

**4904-17 Clerical office: Employee leasing companies**

**4904-20 Community action organizations - Clerical office employees**

Applies to organizations performing an array of services to support the local community and citizens in need. See subclassifications 1501-20 and 5308-20 for other community action organization classifications.

**AMENDATORY SECTION** (Amending WSR 09-16-107, filed 8/4/09, effective 1/1/10)

**WAC 296-17A-4910 Classification 4910.**

**4910-00 Property management services**

Applies to establishments engaged in managing their own property or properties owned by others. Properties include, but are not limited to, privately owned residential or commercial buildings, malls, apartment or condominium complexes, mobile home parks, halls, and conference rooms. Typical operations contemplated by this classification include, but are not limited to, management duties, advertising, showing vacant units to prospective tenants, collecting rent, providing security, and normal maintenance and repair when conducted by employees of employers subject to this classification. Normal maintenance and repair contemplated by this classification includes replacing parts on existing fixtures or equipment, repairing existing structures, normal cleaning or janitorial activities, maintaining existing landscaping, and shoveling snow from driveways or walkways. Construction, alteration, or improvements to the properties are *not* considered normal maintenance and are *not* contemplated by this classification. Major repair work is usually performed by contractors who are not employees of the property management business. *Apartment or condominium complexes and mobile home parks* may have common areas such as, but not limited to, laundry facilities, community rooms, tennis courts, exercise rooms, swimming pools, saunas or hot tubs, and playgrounds or small park areas. Common areas are maintained by employees of the complex or park owner or by the property management service. Residents of mobile home parks are usually responsible for maintaining their own mobile homes and their immediate space.

This classification includes homeowners' associations where residents in a housing development pay annual fees which cover the maintenance of lawns, paths, sprinkler systems, and common areas such as pools, activity centers, and tennis courts by employees of the homeowners' association.

This classification excludes employees engaged exclusively in clerical duties who are to be reported separately in classification 4904; employees engaged exclusively in sales duties such as collecting rents, showing and advertising the facility, conducting auctions, or in a combination of clerical and sales duties who are to be reported separately in classification 6303; establishments providing janitorial services exclusively which are to be reported separately in classification 6602; contractors engaged in mobile home set up or removal who are to be reported separately in classification 0517; any new construction or alteration work performed by employees of employers subject to this classification which is to be reported separately in the applicable construction classification; establishments that contract to perform maintenance

nance or repair, but have no responsibilities in the management of the property, which are to be reported separately in the applicable classification; and lodging or food serving operations which are to be reported separately in the applicable classification.

#### **4910-01 Chimney cleaning - Residential buildings**

Applies to establishments engaged in providing chimney cleaning services to residential customers. Workers who perform chimney cleaning services are commonly referred to as "chimney sweeps" and usually work alone or as a two-person team. When working as a team, one "sweep" works inside the house and the other works on the roof. The methods of cleaning vary. To protect the floors and furniture, drop cloths are placed in front of the fireplace and taped over the opening. The vertical drop cloth may have a "boot" or slit in it which allows rods to be pushed through. Various brushes, usually wire, are attached to extension rods and worked up and down the flue to dislodge the soot and creosote. Creosote deposits may be removed also with a chimney bar, which is a pipe-like instrument with a chisel end, or by using metal scrapers. Where the chimney top is protected from the rain by a hood or cap, it may not be possible to insert the brushes into the opening; a chain or weight may be lowered and swung back and forth inside the chimney. Some sweeps have custom-made vacuum trucks with large collection chambers to collect the soot. In addition to cleaning the chimney flue and fireplace, some sweeps clean oil, gas and coal burning furnaces, repair chimney and flue linings, remove animals from chimneys, and offer other related services. Repairs included in this classification are limited to such activities as caulking around the flashing and sealing brickwork.

This classification excludes establishments engaged in industrial or commercial chimney or smokestack cleaning services which are to be reported separately in classification 0508; contractors engaged in chimney reconstruction or new construction made of masonry or brick who are to be reported separately in classification 0302; contractors engaged in the installation of sheet metal stove pipe who are to be reported separately in classification 0307; and the installation of a new lining in the chimney which is to be reported separately in the applicable classification.

#### **4910-02 Mini-storage (~~warehouse~~) facilities**

Applies to establishments engaged in operating mini-storage facilities. Mini-storage facilities are usually fenced and entry is through a locking gate through which owners and renters of units are provided access. The units range from lockers to rooms of various sizes; once the unit is rented, the tenant or owner has sole access to it. Typical operations include, but are not limited to, management or clerical duties, renting or selling storage units to others, providing security, and normal maintenance and repair when performed by employees of employers subject to this classification. Normal maintenance and repair contemplated by this classification includes replacing parts on existing fixtures or equipment, repairing existing structures, normal cleaning of public areas, controlling rodents and other pests, maintaining existing landscaping, and shoveling snow from driveways or walkways. Construction, alteration, or improvements to the properties are *not* considered normal maintenance and are *not*

contemplated by this classification. Major repair work is usually performed by contractors who are not employees of the storage facilities.

This classification excludes employees engaged exclusively in clerical duties who are to be reported separately in classification 4904; employees engaged exclusively in sales duties or in a combination of clerical and sales duties who are to be reported separately in classification 6303; and new construction or alteration work which is to be reported separately in the applicable construction classification.

#### **4910-03 Temporary signs - Placement or removal**

Applies to establishments engaged in placing or removing temporary yard signs such as, but not limited to, real estate signs for real estate offices or property management firms and campaign signs. The smaller signs are usually mounted on a metal rod which is pounded into the ground to a depth of about 18". A post hole digger may be used to dig holes for larger signs that require a more sturdy post.

This classification excludes all other types of sign installation, painting or repair which are to be reported separately in the applicable classification.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-5003 Classification 5003.**

##### ~~((5003-01 Log hauling by contractor~~

~~Applies to contractors engaged in hauling logs for others from a logging side to a mill or storage yard. The loading and unloading of the truck is included in this classification when performed by the truck driver.~~

~~This classification excludes the hauling of logs from a log storage yard to a shipping destination which is to be reported separately in classification 1102 and log hauling by employees of a logging company which is to be reported separately in classification 5003-02.~~

##### **5003-02 Log truck drivers, N.O.C.**

~~Applies to employees of a logging company who are hauling the company's own logs from the logging side to a mill or storage yard.~~

~~This classification excludes the hauling of logs from a log storage yard to a shipping destination which is to be reported separately in classification 1102 and log hauling by a log hauling contractor which is to be reported separately in classification 5003-01.)~~

Applies to the hauling of logs from a logging side to a mill or storage yard.

This classification excludes the hauling of logs from a log storage yard to a shipping destination, which is to be reported separately in classification 1102.

For administrative purposes, this classification is divided into the following subclassifications:

##### **5003-01 Log hauling by contractor**

Applies to contractors hauling logs for others. The loading and unloading of the truck is included in this classification when performed by the truck driver.

**5003-02 Log truck drivers, N.O.C.**

Applies to employees of a logging company who haul the company's own logs. If the log truck driver has other duties during their work shift that are subject to the logging classification 5001, then the hauling of the logs must be reported in classification 5001 (WAC 296-17-31018 Exception classifications).

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-5201 Classification 5201.****5201-75 Electric power or transmission equipment: Manufacturing or assembly**

~~((Applies to establishments engaged in the manufacture or assembly of electrical power or transmission equipment, most of which is industrial and is used by public utilities for the transmission of electrical power. Equipment manufactured includes, but is not limited to, transformers, switchboards, circuit breakers, switches or switchboard apparatus, power switching devices or systems, and power invertors. Transformers step down voltage from very high to a lower voltage. Switching equipment is normally used to switch the electricity from an incoming line to outgoing lines. Transformers are usually made from sheet metal which is approximately 14 gauge. Machinery used to manufacture transformers is similar to that used in a sheet metal shop. Winding machines are also used to wind wire to form a coil which is placed inside the transformer. This is a shop or plant only classification.~~

~~This classification excludes the installation, service or repair away from shop of products manufactured which are to be reported separately in the applicable classification; the installation, removal, and repair of electric power or transmission equipment or machinery by a contractor which is to be reported separately in the classification applicable to the work being performed.~~

~~**Special note:** Switchboards, current breakers and switches subject to this classification are distinguishable from switchboards, current breakers and switches covered in classification 3602. Classification 3602 switches are those found on personal computers, household light switches, and small electrical appliances compared to switches manufactured in classification 5201 which are large metal bars used in power plants and substations. Circuit breakers covered in classification 3602 are of the size found in household breaker panels compared to circuit breakers covered in classification 5201 which appear more like large round cylinders with flat metal bars extruding from the cylinders. Switchboards covered in classification 3602 are computerized systems such as telephone systems compared to industrial switchboards such as those used in rail systems for switching trains on tracks.))~~  
Applies to the manufacture or assembly of industrial electrical transmission equipment and other large electrical equipment used in producing or transmitting electrical power. This is a shop or plant only classification. Equipment includes, but is not limited to:

Transformers - Equipment that reduces the level of voltage.

• Industrial switchboards, switches, switchboard apparatus, and power switching devices and systems (switching equipment moves electricity from incoming lines to outgoing lines).

• Industrial circuit breakers – Automatic switches that prevent electrical circuit overload.

• Power inverters – Equipment that changes direct current (DC) to alternating current (AC).

• Solar panels and photovoltaic (PV) inverters used in solar power production (PV inverters change DC current out of a photovoltaic solar panel into AC current).

This classification excludes:

• The installation, service or repair of equipment away from shop or plant. See classifications 0601, 0509, 0603, 0307, and 0306.

• Manufacturing switches and other switching apparatus, circuit breakers found on personal computers, household light switches, small electrical appliances, household breaker panels, and telephone systems that are reported in 3602.

**5201-76 Electric toasters, frying pans, wire harnesses, vacuum cleaners, electrical appliances, N.O.C: Manufacturing or assembly**

~~((Applies to establishments engaged in the manufacture or assembly of electric toasters, frying pans, wire harnesses, vacuum cleaners (including central vacuum systems), table top or counter top electrical appliances which are not covered by another classification (N.O.C.) including, but not limited to, electric shavers, steam and dry irons, waffle irons, can openers, mixers and blenders. *Wire harnesses* are the configuration of wires making up the electrical circuit inside an appliance or vehicle that does not include the cord set which will connect the appliance to the power source. The manufacturing process contemplated by this classification is the assembly of component parts and casings, purchased from other manufacturers, with small hand tools such as, but not limited to, drills, screwdrivers, rivet guns, and soldering or brazing tools. This is a shop or plant only classification; all activities away from the shop or plant are to be reported separately.~~

~~This classification excludes establishments engaged in the repair of household appliances for others which are to be reported separately in classification 0607; establishments engaged in the manufacture of larger household appliances such as electric ranges, washing machines and refrigerators which are to be reported separately in classification 3402; establishments engaged in the assembly of electric cordset radio and ignitions which are to be reported separately in classification 3602; and the service or repair away from shop of products manufactured in this classification which are to be reported separately in the applicable classification.))~~

Applies to the manufacture or assembly of household electrical appliances. This includes the assembly of component parts and casings with small hand tools such as drills, screwdrivers, rivet guns, and soldering or brazing tools. Electrical appliances include, but are not limited to, electric:

• Toasters;

• Frying pans;

• Shavers;

• Clothes irons;

• Waffle irons;

- Can openers;
- Mixers and blenders;
- Vacuum cleaners (including central vacuum systems);
- Wire harnesses (a configuration of wires inside an appliance or vehicle);

• And other counter top electrical appliances which are not covered by another classification (N.O.C.).

This classification excludes the:

• Installation, services, or repair of household appliances away from the shop or plant that are reported separately in classification 0607;

• Manufacture or assembly of larger household appliances such as electric ranges, washing machines and refrigerators that are reported separately in classification 3402;

• Manufacture or assembly of electric cords, radio cable, and ignitions which are reported separately in classification 3602.

### **5201-78 Electric motors, generators, alternators, starters, convertors, solenoids and servomotors: Manufacturing or assembly including repair**

~~((Applies to establishments engaged in the manufacture or assembly of electric motors, generators, alternators, starters, convertors, solenoids and servomotors of all sizes and horsepower. *Convertors* convert electricity from one voltage to another; *solenoids* are switches used to control the flow of electrical current; *servomotors* are electrical motors used to help control a mechanical device. This is a shop or plant only classification; all activities away from the shop or plant are to be reported separately.~~

~~This classification excludes the installation, service, or repair away from shop of products manufactured in this classification which are to be reported separately in the applicable classification and the installation, removal, and repair of electric power or transmission equipment in machinery by contractor which is to be reported separately in classification 0601-.)~~ Applies to manufacture or assembly of:

• Electric motors (convert electrical energy into mechanical energy);

• Generators (convert mechanical energy to DC electrical current);

• Alternators (convert mechanical energy to AC electrical current);

• Starters (electric motors used to initiate an engine's operation under its own power);

• Convertors (change electricity from one voltage to another);

• Solenoids (switches that control the flow of electrical current);

• Servomotors (electrical motors used to help control a mechanical device) of all sizes and horsepower.

This classification excludes the installation, service, or repair of electric equipment in machinery by contractor that is reported separately in classification 0601.

AMENDATORY SECTION (Amending WSR 13-11-128, filed 5/21/13, effective 7/1/13)

### **WAC 296-17A-5301 Classification 5301.**

#### **5301-10 Accounting or bookkeeping services**

Applies to establishments engaged in providing general accounting or bookkeeping services to others. Types of services contemplated by establishments subject to this classification include, but are not limited to:

- Auditing;
- Tax preparation;
- Medical or dental claims processing and billing;
- Advisory services.

This classification includes:

- Clerical office;
- Outside sales, and personnel who travel from one office to another.

This classification excludes establishments engaged primarily in management consultant services that are not otherwise classified, which are to be reported separately in classification 5301-12.

**Special note:** This classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

#### **5301-11 Law firms**

Applies to establishments engaged in providing legal services to others. Law firms may specialize in one or more areas of law. This classification includes clerical office and outside sales personnel who travel from one office environment to another.

**Special note:** This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

#### **5301-12 Management consultant services, N.O.C.**

Applies to establishments engaged in providing management consulting services not covered by another classification (N.O.C.). Management consultants typically will observe and analyze:

- Computer or communication systems;
- Mail distribution;
- Organizational structures;
- Planning or development of related business needs;
- Work processes or work flows.

After a thorough analysis, consultants usually prepare a written report for the customer which identifies problem areas and/or recommends improvements to processes or equipment. Consultants may remain to oversee the implementation of the recommended improvements. Consultants subject to this classification do not sell any product they have recommended although they may act as an agent for their client in purchasing the product. Consulting projects vary from client to client depending upon the contract. Included within this classification are businesses that provide similar consultative services such as, but not limited to:

- Advertising agencies;
- Employer representative organizations;

- Mortgage brokers and financial advisers who do not make purchases on behalf of their clients;
- Public relations companies.

This classification includes clerical office staff, outside sales personnel and other staff who travel from one office to another.

This classification excludes businesses that perform computer consulting for others, which is to be reported in classification 5302.

**Special note:** This classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

### 5301-13 Credit bureaus; collection agencies

Applies to establishments that are licensed to provide collection and/or credit investigation services to others. Services include, but are not limited to:

- Checking the credit backgrounds of their client's potential customers;
- Collection of NSF checks or delinquent debts owed to clients of the collection agency.

If debts are not collected, the service agency may initiate legal proceedings against the debtor. This classification includes clerical office and outside sales personnel, and other staff who travel from one office to another.

This classification excludes establishments engaged in providing process and legal messenger services which are to be reported separately in classification 6601.

### 5301-14 Employment agencies

*(only to be assigned by the temporary help/leasing underwriter)*

Applies to establishments that are licensed to provide employment services for others. Clients of employment agencies may be persons seeking employment or companies looking for employees. Employment agencies usually conduct preliminary interviews with candidates for positions prior to referring them to their client companies for interviews. Generally, establishments subject to this classification place people in permanent positions. This classification includes clerical office and outside sales personnel, and staff who travel from one office to another.

This classification excludes:

- Employees of a temporary help agency who are assigned to work in the administrative or branch offices of the agency who are to be reported separately in classification 7104;
- Employees of a temporary help agency who are assigned on a temporary basis to its customers who are to be reported separately in the appropriate temporary help classification.

### 5301-15 Court reporting services

Applies to establishments engaged in providing court reporting services to others. Court reporters record verbatim testimony presented in court proceedings, depositions, public hearings or meetings. The most frequently used method to

record testimony is by stenotype machine, although it may be recorded by voice recording on audio tape, or by manual shorthand. Transcription of the recorded material may be performed by the court reporter or by "note readers" or typists. The majority of court reporters today use computer-aided transcription systems. Court reporters may also offer notary public services for their clients. This classification includes clerical office and staff who travel from one office to another.

### 5301-16 Service and professional organizations

Applies to establishments engaged in protecting or furthering the interest of their members and/or the general public. Many of these operate as nonprofit organizations. Service and professional organizations may perform one or many of the following activities:

- Administer certification tests;
- Arbitrate disputes;
- Award scholarships;
- Collect membership dues;
- Compile, review, and disseminate informational data;
- Disburse funds;
- Host conventions;
- Issue vehicle license registrations, plates, decals, and certificates of title;
- Lobby the legislature;
- Manage promotional marketing programs;
- Maintain a membership directory;
- Offer insurance programs;
- Operate a tourist information center;
- Organize fund-raising campaigns;
- Perform charitable community services;
- Perform collective bargaining;
- Provide counseling, adoption, and advocacy services;
- Provide job placement assistance;
- Publish a newsletter;
- Research and interpret local, state, and federal regulations and apprise members of the results;
- Sponsor athletic leagues and tournaments;
- Sponsor educational training programs.

Also included in this classification are Economic Development Councils, Boards, or Associations. These nonprofit organizations provide economic consulting services and related statistics to government and industry in the promotion of economic stability, and recruit businesses that will create jobs and provide loans from the grant funds they manage. This classification includes clerical office and outside sales personnel who travel from one office environment to another.

This classification excludes:

- Collection of donated items by truck which is to be reported separately in classification 1101;
- Labor unions and employee representative associations which are to be reported separately in classification 6503.

**Special note:** If a charitable organization subject to classification 5301 operates a retail store for the sale of donated items, the collection of those items by truck, and all store operations, are to be reported separately in classification 6504.

**5301-18 Telephone answering services**

Applies to establishments engaged in providing telephone answering services for others. Customers include, but are not limited to:

- Attorneys;
- Medical professionals;
- Private businesses;
- Individuals.

Most answering services today use computerized communications systems to identify company names when answering calls for various companies, obtain correct information about the company to respond to questions, record and relay accurate messages in a timely manner. Related services often offered by telephone answering service companies include, but are not limited to:

- Dispatching;
- Monitoring alarm systems;
- Placing reminder calls;
- Rental of office space;
- Scheduling appointments for customers;
- Telemarketing;
- Voice mail or paging.

This classification includes clerical office personnel and staff who travel from one office to another.

**5301-19 Travel agencies**

Applies to establishments engaged in providing travel arrangement services for others. Travel agencies coordinate all types of travel arrangements for their clients through:

- Air;
- Bus lines;
- Car rental agencies;
- Cruise;
- Hotels;
- Motels;
- Related travel providers;
- Resorts;
- Train;
- Travel insurance companies.

Services vary and could include:

- Arrangement of special needs for ~~((disabled))~~ people with disabilities or elderly travelers;
- Booking reservations;
- Delivery of tickets and itineraries to clients;
- Selling tickets for tours, excursions, or other entertainment events.

This classification includes clerical office and sales staff who travel from one office to another.

**5301-21 Word processing or secretarial services**

Applies to establishments engaged in providing word processing or secretarial services to others. Services include, but are not limited to:

- Desktop publishing;
- Dictation and transcription services;
- Making copies of documents;
- Typing/compiling reports, proposals, resumes, or correspondence;
- Sending faxes.

A pickup and delivery service may be offered. This classification includes clerical office and outside sales personnel who travel from one office environment to another.

**Special note:** This classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

**AMENDATORY SECTION** (Amending WSR 13-11-128, filed 5/21/13, effective 7/1/13)

**WAC 296-17A-6207 Classification 6207.****6207-00 Carnivals - Traveling**

Applies to those employees of an employer engaged in operating traveling carnivals, who are drivers and/or engaged in the set up and/or tear down of mechanical and nonmechanical amusement rides, and any temporary structure associated with a traveling carnival such as, but not limited to, game, food, or souvenir concession booths, mobile offices, aid rooms or ticket booths.

This classification excludes clerical office employees who are assigned to a permanent office location with no outside duties who may be reported separately in classification 4904 provided all the conditions of the general reporting rules covering standard exception employees have been met; clerical employees who travel with the carnival or with ride operators and who work out of a mobile office, ride operators, game attendants, ticket sellers/takers and personnel involved in the care, custody, and maintenance of carnival facilities who are to be reported separately in classification 6208; establishments engaged in operating mechanical or nonmechanical rides at a permanent location which are to be reported separately in classification 6208; and establishments engaged in operating video or amusement game arcades at a permanent location, not within or operated in connection with an amusement park, which are to be reported separately in classification 6406.

**Special note:** Permanent shop employees, and those employees assigned to the shop during the winter quartering period may be reported separately in classification 5206 provided the conditions set forth in WAC 296-17-31018 have been met.

**6207-01 Circuses - Traveling**

Applies to establishments engaged in operating a traveling circus. Work contemplated by this classification includes all preparations, operations and maintenance normally performed by employees of an employer having operations subject to this classification. Employments include, but are not limited to, drivers, trainers, performers, ticket sellers/takers, clerical staff who travel with the circus, set up/tear down of mechanical and nonmechanical rides, concession booths or stands, mobile offices, aid rooms, ticket booths and all other temporary structures associated with a traveling circus.

This classification excludes clerical office employees who are assigned to a permanent office location with no out-

side duties, who may be reported separately in classification 4904 provided all the conditions of the general reporting rules covering standard exception employees have been met.

**Special note:** Classifications 6208 and 5206 do not apply to circus operations.

#### **6207-02 Amusement rides - Traveling**

Applies to establishments engaged in operating mechanical or nonmechanical amusement rides. Employments contemplated by this classification include, but are not limited to, drivers and all employees engaged in the set up and tear down, operation, and maintenance of mechanical and nonmechanical rides and all other temporary structures associated with the amusement rides. This classification also includes automobile stunt shows, such as monster trucks or motorcycle car jumps, that perform for entertainment purposes. Covered employments associated with automobile stunt shows include, but are not limited to, drivers, mechanics, and maintenance employees who set up and take down ramps or other structures used in the show.

This classification excludes clerical office employees who are assigned to a permanent office location with no outside duties, who may be reported separately in classification 4904 provided all the conditions of the general reporting rule covering standard exception employees have been met; clerical employees who travel with the amusement operations and work out of a mobile office, ride operators, attendants, ticket sellers/takers, and personnel involved in the care, custody, and maintenance of amusement facilities who may be reported separately in classification 6208; employers engaged in operating mechanical or nonmechanical rides at a permanent location which are to be reported separately in classification 6208; and establishments engaged in operating video or amusement game arcades at a permanent location, not within or operated in connection with an amusement park, which are to be reported separately in classification 6406.

**Special note:** Permanent shop employees, and those employees assigned to the shop during the winter quartering period, may be reported separately in classification 5206 provided the conditions set forth in WAC ((~~296-17-675~~) 296-17A-5206) have been met.

#### **6207-03 Rodeos**

Applies to establishments engaged in the production of rodeos. Employments contemplated by this classification include all operations normally performed by employees of an employer having operations subject to this classification such as, but not limited to, drivers and all arena employees, setting up/tearing down temporary enclosures/structures/bleachers, clowns, gate openers, animal handlers, ticket sellers/takers, first-aid staff, and clerical staff who travel with the rodeo.

This classification excludes clerical office employees who are assigned to a permanent office location with no outside duties, who may be reported separately in classification 4904 provided all the conditions of the general reporting rule covering standard exception employees have been met; and stock handlers who contract with a rodeo producer to supply horses, bulls, or other rodeo animals, who are to be reported separately in classification 7302.

**Special note:** Classifications 6208 and 5206 do not apply to rodeos.

#### **6207-04 Fireworks exhibition**

Applies to establishments engaged in producing pyrotechnic exhibitions. This classification includes purchasing ready made fireworks, setting up displays, timing fuses, lighting the fireworks, and cleaning up.

This classification excludes establishments engaged in the manufacture of fireworks which are to be reported separately in classification 4601.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-6208 Classification 6208.**

#### **6208-00 Amusement parks; exhibition caves or caverns**

Applies to establishments engaged in providing amusement parks to the public or in the operation of cave or caverns for exhibition purposes. Establishments subject to this classification are located on a permanent site and usually offer a variety of activities such as, but not limited to, amusement rides, water slides, miniature golf, and games such as tossing rings, throwing balls, and shooting air rifles. There may be one or more separate arcade areas located within the park. This classification includes rides, ticket sellers, gate attendants, food and beverage operations, care, custody and maintenance of the above facilities and operations similar to a traveling carnival.

This classification excludes set up, tear down and delivery of amusement park rides, games and food booths which are to be reported separately in classification 6207.

#### **6208-01 Ranges: Archery, ball, dart, golf, firearms shooting**

Applies to establishments engaged in operating indoor or outdoor archery, ball, dart, golf, and firearms shooting ranges. Golf driving ranges subject to this classification are operated separately from a golf course. If the driving range is operated in conjunction with a golf course, then the entire establishment is to be reported separately in classification 6206. Ball ranges (batting cages) are establishments set up to provide batting practice. Archery ranges are permanent establishments that provide targets for practice. If these operations are conducted in conjunction with an amusement park, then the entire operation is to be reported separately in classification 6208-00. This classification includes ticket sellers, food and beverage operations and care, custody and maintenance of the above facilities.

This classification excludes miniature golf courses which are to be reported separately in classification 6208-07, and ranges that use air rifles which are to be reported separately in classification 6208-10.

#### **6208-03 Boat rental facilities**

Applies to establishments engaged in renting row boats, paddle boats, rubber rafts or similar water craft for recreational purposes when the water is part of a park. This classification includes the operation of bumper boat amusement rides if that is the sole function of the establishment. If the bumper boats are operated as part of an amusement park, the

entire establishment is to be reported separately in classification 6208-00. This classification includes ticket sellers, food and beverage operations and care, custody and maintenance of the above facilities.

#### **6208-04 Fairs, shows and exhibitions, N.O.C.**

Applies to establishments or community organizations engaged in managing, sponsoring and conducting fairs, shows and exhibitions not covered by another classification (N.O.C.). Events may include, but not be limited to, community fairs, animal (pet or livestock), flower, art, and trade shows. Many of the exhibitors and concessionaires are independent businesses that rent space at the site. Work contemplated by this classification includes, but is not limited to, coordinating exhibitors, arranging for a facility and utilities, selling tickets, judging entries, security personnel, helping to set up and tear down booths, the showing of animals in an arena, food and beverage operations and care, custody and maintenance of the above facilities.

This classification excludes all raising or care of animals which are to be reported separately in the applicable classifications.

#### **6208-07 Miniature golf courses**

Applies to establishments engaged in the operation of miniature golf courses. This classification includes ticket sellers, food and beverage operations and care, custody and maintenance of the above facilities.

This classification excludes miniature golf courses operated in conjunction with an amusement park which are to be reported separately in classification 6208-00.

#### **6208-08 Kiddie rides at permanent locations**

Applies to establishments engaged in operating kiddie rides at a permanent location. Ride attendants duties include, but are not limited to, selling tickets, directing patrons getting on and off the rides, keeping order among the patrons waiting to ride, and making sure all belts and safety devices are in the proper place and functioning. This classification includes food and beverage operations and care, custody and maintenance of the above facilities.

#### **6208-09 Race tracks**

Applies to establishments engaged in the operation of race tracks such as, but not limited to, stock car, go cart, motorcycle, horse, and drag racing tracks. Employments contemplated by this classification include, but are not limited to, selling tickets, booking events, coordinating participants, and security. This classification includes food and beverage operations and care, custody and maintenance of the above facilities.

This classification excludes parimutuel clerks at a horse racing track and cashiers with no other duties who may be reported separately in classification 4904 provided all the conditions of the general reporting rules covering standard exception employees have been met; and the handling of horses or vehicles which is to be reported separately in the classification applicable to the work being performed.

#### **6208-10 Shooting galleries for air rifles only; laser tag, war games, paint ball facilities**

Applies to establishments engaged in operating shooting galleries for *air rifles only*. If the air rifle shooting gallery is operated in conjunction with an amusement park, the entire operation is to be reported separately in classification 6208-00. This classification also applies to laser tag, war games, and paint ball facilities. This classification includes ticket sellers, food and beverage operations and care, custody and maintenance of the above facilities.

This classification excludes operations involving any firearms such as, but not limited to, pistol or rifle ranges, which are to be reported separately in classification 6208-01.

#### **6208-11 Carnival operations, N.O.C.**

Applies to those employees of an employer engaged in operating carnivals who are not covered by another classification (N.O.C.). These employees are generally employed as ride operators, game attendants, ticket sellers/takers, and traveling clerical workers. This classification includes operations care, custody and maintenance of the above facilities.

This classification excludes clerical office employees who are assigned to a permanent office location with no outside duties, who may be reported separately in classification 4904 provided all the conditions of the general reporting rules covering standard exception employees have been met; employees engaged in driving and/or set up and tear down of all mechanical and nonmechanical rides, concession booths or stands, mobile offices, aid rooms, ticket booths, and all other temporary structures associated with a traveling carnival who are to be reported separately in classification 6207; employees of carnival operations assigned to work in food booths who are to be reported separately in classification 3905; and employees of carnival operations assigned to work in souvenir or gift shops who may be reported separately in classification 6406 provided they have no other duties.

**Special note:** Permanent shop employees, and those employees assigned to the shop during the winter quartering period, may be reported separately in classification 5206 provided the conditions set forth in WAC ((296-17-675)) 296-17A-5206 have been met.

AMENDATORY SECTION (Amending WSR 11-24-022, filed 11/30/11, effective 1/1/12)

#### **WAC 296-17A-6301 Classification 6301.**

#### **~~((6301-00 Sales personnel: Vehicles and marine pleasure craft~~**

~~Applies to sales employees of establishments engaged in selling and/or leasing new and/or used automobiles, trucks, campers, recreational vehicles, mobile homes, motorcycles or other all-terrain vehicles, or boats and other marine pleasure craft and who are not covered by another classification assigned to the employer's account. Duties contemplated by this classification are limited to sales training, test driving, showing and demonstrating vehicles, completing paper work, and arranging for delivery of purchased vehicles.~~

**Special note:** This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

**6301-06 Instructors of driving schools**

Applies to instructors of driving schools. Instructors duties include, but are not limited to, demonstrating driving techniques, and observing student drivers.

This classification excludes administrative staff and classroom instructors of driving schools who are to be reported separately in classification 6103; vehicle repair or maintenance staff who are to be reported separately in classification 3411; and high school driving instructors who are to be reported separately in classification 6104.

**Special note:** This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

**6301-07 Limousine drivers**

Applies to drivers of establishments engaged in providing limousine services to others. Limousine services provide luxury transportation for special occasions such as, but not limited to, birthday parties, weddings, dances, sporting events, concerts, and corporate business functions. Clients usually travel in groups from two to ten. Drivers are professionally trained chauffeurs; they generally provide services by appointment from specific locations to set destinations, and often wait with the vehicle while clients attend events. Depending on the occasion, the limousine service may also provide beverages, snacks, balloons, or flowers. Since the service is intended for luxury as opposed to meeting deadlines, the hazards of driving differ from most other professional drivers.

This classification excludes employees who repair and/or service the company's limousines who are to be reported separately in classification 3411.

**Special note:** This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

**Special note:** Clerical office employees may be reported separately in classification 4904 provided all the conditions of the general reporting rule covering standard exception employees have been met.

**Special note:** Vehicle owners are responsible for payment of workers' compensation premiums. The department will report nonpayment to the department of licensing. The department of licensing will suspend or revoke the for-hire vehicle certificate until the premiums are paid.)

**Lot and marina sales personnel for vehicles and pleasure craft; driving instructors, and limousine drivers**

Classification **6301** is a standard exception classification, as described in WAC 296-17-31018 Exception classifications, with restrictions on both the type of work and where the work can take place. If any of a worker's duties are excluded from **6301** because of restrictions described in this rule, then none of the worker's hours may be reported in classification **6301**.

**Special note:** Care must be taken to:

- Look beyond job titles such as "salesperson" or "driving instructor." Job titles do not ensure the work or the workplace meet the requirements for **6301**;

- Ensure standard exceptions are permitted - Some basic classifications include sales;

- Ensure workers assigned to classification **6301** perform no work other than what is allowed by this classification and that permitted in WAC 296-17-4904.

Classification **6301** is restricted to the following work areas:

- Those allowed for office work in WAC 296-17A-4904:

- Classrooms;

- Sales lots and other sales display areas;

- In a vehicle/water craft for a test drive or instruction;

- Operating a "special occasion" limousine.

Classification **6301** includes all activities allowed by WAC 296-17A-4904 (office workers) as well as:

- Test driving;

- Showing and demonstrating products;

- Sales training;

- In car driving instruction for driving schools;

- Driving for limousine services that take people to and from special events by appointment.

Classification 6301 excludes:

- Classroom instructors or administrators at driving schools performing no work inside vehicles, who are reported separately in classification **6103**;

- Vehicle repair or maintenance work reported separately in classification **3411**;

- In vehicle driving instructors for high schools, who are reported in classification **6104**;

- Airport limousine services or similar shuttle type operations that are reported separately in classification **1407**;

- On call taxi-type services that are reported separately in classification **1401**;

- Dealership employees responsible for transporting vehicles (such as cars purchased at an auction) who are reported separately in classification **3411**.

For administrative purposes, classification **6301** is divided into the following subclassifications:

**6301-00 Sales personnel: Vehicles and marine pleasure craft****6301-06 Instructors of driving schools****6301-07 Limousine drivers**

**Special note:** The owner of a limousine is responsible for payment of workers' compensation premiums. The department will report nonpayment to the department of licensing and the for-hire vehicle certification will be revoked until payment is made. See also WAC 296-17-35203(9). Special reporting instruction.

**AMENDATORY SECTION** (Amending WSR 13-08-063, filed 4/1/13, effective 1/1/14)

**WAC 296-17A-6303 Classification 6303.****((6303-00 Outside sales personnel, N.O.C.; messengers**

Applies to those employees whose job duties and work environment meet *all* the conditions of the general reporting rules covering outside sales personnel, and who are not covered by another classification (N.O.C.) assigned to the employer's account. Duties of outside sales personnel contemplated by this classification are limited to soliciting new customers by telephone or in person, showing, selling, and explaining products or services in a showroom or other loca-

tion, servicing existing accounts, completing correspondence, placing orders, performing public relations duties, and estimating. Duties of messengers are limited to delivering interoffice mail, making deposits, and similar duties that are exclusively for the administration of the employer's business. This classification excludes:

- The delivery of products or merchandise or the stocking of shelves which is to be reported separately as applicable;
- The demonstration or delivery of machinery or equipment which are to be reported separately as applicable;
- Establishments engaged as collection agencies or public relations agencies which are to be reported separately in classification 5301;
- Sales personnel engaged in home or door-to-door sales which are to be reported in classification 6309;
- Retail product demonstrators—Workers who show and explain specific products in a retail setting and who are to be reported as required by WAC 296-17-31018(3) and 296-17A-6406;
- Establishments engaged in providing inspection and valuations exclusively for insurance companies which are to be reported separately in classification 4903;
- Establishments engaged in process and legal messenger services which are to be reported separately in classification 6601.

**Special note:** When considering this classification care must be taken to look beyond titles of employees. Employees with occupational titles such as, but not limited to, collectors, counselors, consultants, or appraisers may or may not qualify for this classification. This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

### **6303-03 Insurance sales personnel and claims adjusters**

Applies to insurance sales personnel and claims adjusters with outside duties. Duties of employees subject to this classification are limited to selling insurance policies at their place of business or at the client's home, or going to the scene of an accident or catastrophe to assess damage. Work may be performed within an office or away from the employer's premises.

**Special note:** Individuals performing duties as an agent, broker, or solicitor (and who hold a license as issued by the office of the insurance commissioner) are exempt from coverage as specified in RCW 51.12.020(11) and 48.17.010. To elect voluntary coverage these individuals must submit a completed optional coverage form to the department.

### **6303-21 Home health care services: Social workers and dietitians**

Applies to social workers and dietitians employed by home health care service establishments who provide care for handicapped individuals. Duties of these employees include teaching physically or developmentally disabled individuals

in their own home to manage daily living skills such as caring for themselves, dressing, cooking, shopping, and going to the doctor. This classification also includes dietitians, sometimes called nutritionists, who usually are referred to patients by their physicians. The dietitian assesses the patient's current nutritional status, including current food intake, medical background, family history, currently prescribed medications, and social and psychological needs, then develops a food plan to meet the patient's needs. Employees subject to this classification do no cooking.

This classification excludes nursing and home health care services which are to be reported separately in classification 6110; therapy services which are to be reported separately in classification 6109; domestic servants who are to be reported separately in classification 6510; and chore workers who are to be reported separately in classification 6511.

**Special note:** This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met. *This classification is not to be assigned to any account that does not also have classification 6110 and/or 6511.*)

### **Sales personnel with outside duties, messengers, insurance producers or surplus line brokers, social workers and dietitians employed by a home health care service**

Although referenced as sales personnel, this classification also applies to others with similar type activities. While some duties may be performed in a business office, the work is often conducted away from the employer's physical business location or in showrooms. We refer to work that takes place away from the employer's premises as "outside sales."

Classification **6303** is a standard exception classification, as described in WAC 296-17-31018 Exception classifications, with restrictions on both the type of work and where the work can take place. If any of a worker's duties are excluded from **6303** because of restrictions described in this rule, then none of the worker's hours may be reported in classification **6303**.

**Special note:** Care must be taken to:

- Look beyond job titles such as salesperson, social worker, or messenger. Job titles do not ensure the work satisfies the restrictions for classification **6303**;

- Ensure standard exceptions are permitted - Some basic classifications include sales work;

- Ensure workers assigned classification **6303** perform no work other than what is allowed by this classification or that permitted in WAC 296-17-4904.

Classification **6303** includes all activities allowed by WAC 296-17A-4904 (office workers) as well as:

- Meeting with customers off premises;
- Showing and demonstrating products and merchandise;
- Off-site classroom instructional training;
- Driving oneself or being transported to or from meeting or training locations;

- Delivering interoffice mail, correspondence and legal documents necessary for administering the employer's business;

- Providing counseling or verbal direction to clients of a home health care service;

- Performing public relations for employers' business.

Classification **6303** excludes:

• Stocking, shipping, receiving, or delivering merchandise:

• The demonstration of machinery or equipment:  
• Workers who perform any duties not specifically allowed by WAC 296-17A-4904 or 296-17A-6303:

• Specialty services merchandising products in stores, reported in classification **0607-19**:

• Directly supervising workers not included in classifications **4904** or **6303**:

• Providing samples to retail customers, reported in classification **6406-40** or **7106-01**:

• Working as a driver for a service that transports or chauffeurs others:

• Driving, cooking, or cleaning for, or physically assisting others for home health care services:

• Employees of collection agencies, who are reported separately in **5301-13**:

• Door-to-door sales persons who are reported separately in **6309-22**:

• Employees of services (WAC 269-17A-4903) providing inspection or valuation services to others:

• Employees of messenger services who are reported separately in **1101-09**:

• Employees working for a legal messenger service who are reported separately in **6601-07**:

• Construction estimators, who are reported in classification **4911**, when their work is limited to time and material estimating for a full work shift.

***Special note:*** Hands on training outside of a classroom setting has to be reported separately in the applicable basic classification. For example, a karate instructor is reported in classification 6204, not 6303.

For administrative purposes, classification **6303** is divided into the following subclassifications:

**6303-00 Outside sales personnel, messengers, N.O.C.**

**6303-03 Insurance sales personnel and claims adjusters**

***Special note:*** Individuals licensed by the insurance commissioner as insurance producers for soliciting, negotiating, and selling insurance are exempt from coverage as specified in RCW 51.12.020(11) and 48.17.010. To elect voluntary coverage, these individuals must submit a completed optional coverage form to the department.

**6303-21 Home health care services: Social workers and dietitians**

Social workers are employed by home health care services providing care for people living with disabilities. Duties include teaching people living with physical or developmental disabilities in their own home to manage daily living skills such as caring for themselves, dressing, cooking, shopping, and going to the doctor.

Dietitians (also called nutritionists) are referred to patients by their physicians. The dietitian assesses the patient's current nutritional status, and then develops a food plan to meet the patient's needs.

Subclassification **6303-21** excludes:

• Cooking, cleaning, transporting and physically assisting clients:

• Nursing and home health care services which are to be reported separately in **6110-00**:

• Therapy services which are reported separately in **6109**:

• Domestic servants who are to be reported separately in **6510-00**:

• Chore workers who are to be reported separately in **6511**:

• Home care services provided through the home care referral registry (HCRR) who are to be reported separately in **6512-00**.

***Special note:*** Subclassification **6303-21** is not to be assigned to any account that does not also have classification **6110** and/or **6511**.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-6305 Classification 6305.**

**6305-00 Stores: Clothing - Retail**

Applies to establishments engaged in the retail sale of new or used clothing. Merchandise varies, but generally includes shoes, jewelry, giftware, or accessories in addition to wearing apparel. Some establishments will specialize in certain types of clothing such as, but not limited to, athletic wear, T-shirts, coats, socks, or vintage clothing. This classification also applies to stores that rent clothing such as, but not limited to, costumes, tuxedos, or wedding apparel. This classification includes all store employees including specialty services such as alterations personnel and delivery drivers.

This classification is distinguishable from department stores in classification 6304 or retail variety stores in classification 6406 in the limited number of specialized departments and the variety of nonclothing or giftware merchandise for sale.

***Special note:*** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

**6305-01 Stores: Dry goods - Retail**

Applies to establishments engaged in the retail sale of a variety of new or used dry goods. For purposes of this classification dry goods include, but are not limited to, fabric, embroideries, veiling, laces, textile trimmings, curtains, draperies, blankets, bedspreads, sheets, pillowcases, tablecloths, napkins, and towels. This classification includes all store employees.

This classification is distinguishable from retail fabric stores in classification 6406 in that dry good stores will carry primarily finished piece goods for sale while fabric stores will carry primarily fabric, sewing notions and a limited supply of finished goods.

***Special note:*** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

**6305-02 Stores: Shoe - Retail**

**Shoe shine stands**

Applies to establishments engaged in the retail sale of new or used shoes. Establishments may sell a full line of shoes or they may specialize in certain types such as athletic

shoes, safety shoes, work boots, women's, men's, or children's shoes. It is customary for shoe stores to sell some related products such as, but not limited to, handbags, socks, belts, or shoe care products. This classification includes all store employees. This classification also applies to shoe shine stands.

This classification excludes establishments engaged in the manufacture or repair of shoes or boots which are to be reported separately in classification 3802.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

#### **6305-04 Stores: Western wear, including tack - Retail**

Applies to establishments engaged in the retail sale of new or used western style clothing. Merchandise varies, but may also include western style shoes and boots, jewelry, giftware, or horse tack. This classification includes all store employees including specialty services such as alterations personnel and delivery drivers.

This classification is distinguishable from department stores in classification 6304 in that classification 6305 businesses are not comprised of specialized departments and do not carry furniture, housewares, and similar items required as part of the department store classification.

This classification excludes establishments engaged exclusively in the sale of horse tack and related animal grooming and care products which are to be reported separately in classification 2009 "farm supply stores."

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

#### **6305-05 Stores: Wig or hat - Retail**

Applies to establishments engaged in the retail sale of new or used wigs or hats. Merchandise varies, but generally these establishments will also sell related hair care products, hat pins, (~~broaches~~) brooches or similar accessory items. This classification includes all store employees.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

#### **6305-06 Custom dressmaking, tailoring, alterations**

Applies to establishments who provide custom dressmaking, tailoring, or alterations services to others. Activities include the showing of sketches and fabrics, modeling samples, taking individual orders and measurements, cutting, basting and fitting. Employees use sewing machines, but much of the work is hand sewing, steaming or pressing. Materials include fabrics, buttons, zippers, and sewing notions. Tools and machinery include, but are not limited to, scissors, steam presses and irons, dress forms, and sewing machines with attachments to perform a variety of sewing functions. Custom dressmakers and tailors may sell fabrics and sewing notions, or limited supply ready-made apparel. The sale of these items by establishments engaged in custom dressmaking or tailoring is included in this classification. This classification is distinguishable from clothing manufac-

urers in classification 3802 in that establishments subject to classification 6305 make custom clothing for individuals rather than making garments on a quantity basis. However, customers of a 6305 business may order several items of a kind such as for a wedding party or small theater group.

This classification excludes the mass production of wearing apparel which is to be reported separately in classification 3802.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

AMENDATORY SECTION (Amending WSR 09-20-039, filed 9/30/09, effective 1/1/10)

#### **WAC 296-17A-6306 Classification 6306.**

#### **6306-00 Stores: Furniture - Wholesale or retail**

##### **Stores: Billiard or pool table - Wholesale or retail**

Applies to establishments engaged in the wholesale or retail sale of new, used, or antique household furniture. This classification also includes the sale of related items such as, but not limited to, lamps, bedding, pillows, floor and window coverings, framed pictures, art pieces and sculptures when sold in connection with a furniture store operation. This classification includes the delivery and the incidental repair of merchandise sold. Incidental repair in this classification is limited to such activities as the repair or cleaning of upholstery or fixing a small scratch on a table. The installation of carpet and window coverings may be included in this classification if such merchandise is part of the store's inventory and is readily available for sale and delivery to the customer. The contract installation of any merchandise which must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, a furniture store could bid on a job to carpet all units of an apartment complex. If the carpet is ordered from the factory as opposed to carpet carried at the store and in the (~~stores~~) store's inventory, then the installation is to be reported separately in classification 0502. This classification also applies to stores that sell billiard or pool tables.

**Special note:** Care should be exercised when considering this classification for antique or used furniture stores since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing, or upholstery work which are to be reported separately in the applicable service or repair classification.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

**6306-01 Stores: Furniture and durable medical equipment - Rental**

Applies to establishments engaged in the rental of new, used, or antique household furniture. This classification also includes the sales of related items such as, but not limited to, lamps, bedding, pillows, framed pictures, art pieces and sculptures when sold in connection with a furniture rental store operation. This classification includes the delivery and the incidental repair of merchandise rented. Incidental repair in this classification is limited to such activities as the repair or cleaning of upholstery or fixing a small scratch on a table. This classification also applies to establishments that provide rent-to-own purchasing options, and to establishments engaged in the sale or rental of hospital beds, motorized wheelchairs and similar patient appliances.

**Special note:** Care should be exercised when considering this classification for an antique or used furniture store since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing, or upholstery work which are to be reported separately in the applicable service or repair classification.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

**6306-02 Stores: Appliance - Wholesale or retail**

Applies to establishments engaged in the wholesale or retail sale of gas, electric, or propane household appliances. Household appliances include, but are not limited to, refrigerators, freezers, stoves, range tops, trash compactors, washing machines, clothes dryers, television consoles, big screen televisions, and television antennas or satellite dish receiving units. Appliance stores will routinely carry smaller appliances which are generally referred to as counter top units which include, but are not limited to, mixers, blenders, microwave ovens, toasters and espresso machines and are included in this classification when sold in connection with the appliance store operation. This classification covers the sale of primarily new appliances although establishments subject to this classification accept trade-ins and sell some used appliances. Also included is the incidental repair of appliances sold by the appliance store, parts departments employees, and the delivery of products sold. The contract installation of any merchandise which must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, an appliance store could bid on a job to supply appliances for all units of an apartment complex. If the appliances are ordered from the factory as opposed to items carried at the store and in the ~~((stores))~~ store's inventory then the installation is to be reported separately in classification 0607. Establishments engaged in the sale of commercial appliances may be assigned to this classification provided such establishments operate a ~~((bonafide))~~ bona fide store operation. Generally, however, commercial appliances such as those used to equip bakeries and restaurants are factory ordered items which are made to a customer's specifications from a manufacturer's representative.

Applies to establishments engaged in the wholesale or retail sale of new pianos and organs. This classification includes all operations associated with the store including service, repair, and delivery. It is common for stores subject to this classification to carry other musical instruments such as, but not limited to, guitars, drums and wind instruments as well as provide instructions on the use of instruments.

**Special note:** Care should be taken when considering this classification for an antique or used appliance store since such establishments are primarily engaged in reconditioning appliances (service and repair) for resale and are to be reported separately in classification 0607.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

**6306-03 Stores: Piano or organ - Wholesale or retail**

This classification excludes establishments engaged exclusively in piano tuning which are to be reported separately in classification 4107; stores that sell musical instruments other than pianos or organs which are to be reported separately in classification 6406; and establishments engaged in the reconditioning of organs and pianos accompanied by the related sales of reconditioned pianos and organs which are to be reported separately in classification 2906.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

**6306-06 Stores: Office furniture - Wholesale or retail**

Applies to establishments engaged in the wholesale or retail sale of new, used, or antique office furniture. This classification also includes the sales of related items such as, but not limited to, lamps, floor and window coverings, framed pictures, art pieces and sculptures when sold in connection with an office furniture store operation. This classification includes the delivery of furniture and related items, and the incidental repair of office furniture items sold by the office furniture store such as upholstery repair and cleaning. The installation of carpet and window coverings may be included in this classification if such merchandise is part of the store's inventory and readily available for sale and delivery to the customer. The contract installation of any merchandise that must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, an office furniture store could bid on a job to supply modular desk units for a large office complex. If the desk units are ordered from the factory as opposed to units carried at the store and in the ~~((stores))~~ store's inventory, then the installation is to be reported separately in classification 2002.

**Special note:** Care should be exercised when considering this classification for an antique or used office furniture store since such establishments may actually be a furniture

refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing or upholstery work.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

#### **6306-07 Audio/visual equipment rental and event services**

Applies to businesses engaged in renting audio/visual equipment and providing temporary setup or "staging" services at hotels, theaters, events, or businesses. Services may include, but are not limited to, the design, cost estimate, rental, and setup of audio/visual equipment such as projectors, cameras, videos, screens, microphones, sound systems, mixers, lights, or grip equipment. These businesses usually store the equipment in their warehouse, stage it in a loading area, load and transport it in a van or truck, or the customer may pick it up. Employees may be stationed at a customer's site, such as a hotel, and equipment may be stored at the customer's site for daily setup. Services provided are usually scheduling and coordination, delivery, equipment setup, testing, cleaning, and repair. Employees may operate equipment during an event or help troubleshoot problems, or return at the end of the event to disassemble the equipment and return it to the warehouse. Businesses in this classification may also offer sales of accessories or other new and used equipment. Repair is usually limited to the businesses' own equipment, but minimal repair services for customers are included in this classification.

This classification excludes:

- Contractors with a limited energy electrical license providing low voltage wiring with installation of audio/visual equipment, who are to be reported in classification 0608((-);
- Retail stereo component or camera stores which also rent, but provide no staging services, who are to be reported in classification 6406((-);
- Firms providing equipment setup or repair only, who are to be reported in classification 0607((-);
- Musicians and their own employees performing stage setup, who are to be reported in classification 6605((-);
- Sponsors of exhibitions or shows who are to be reported in classification 6208.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-6403 Classification 6403.**

##### **6403-01 Stores: Coffee, tea, or spice - Retail**

Applies to establishments engaged in the retail sale of specialty coffees, teas, or spices. They may sell coffee/tea in

packaged and/or ready to drink forms and may offer a small selection of pastries or cookies for the customers' convenience.

This classification excludes espresso street carts or stands and lunch counter/restaurant operations which are to be reported separately in classification 3905.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

##### **6403-02 Stores: Dairy products - Retail**

Applies to establishments engaged in the retail sale of dairy products such as, but not limited to, milk, eggs, cheese, and ice cream. As a convenience to their customers, these establishments may offer a limited supply of related foods such as bread. This classification is distinguishable from other 6403 store operations in that the primary products available for sale are dairy products.

This classification excludes espresso street carts or stands and lunch counter/restaurant operations which are to be reported separately in classification 3905.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

##### **6403-04 Stores: Fruit or vegetable - Retail**

Applies to establishments primarily engaged in the retail sale of fresh fruits and/or vegetables. These stores are usually found in individual stands at public or municipal street markets, or at roadside stands not located on the farm which may range from a small booth to a store-like operation. Sales at roadside stands away from the farm location or public markets are to be reported in this classification even if vendors grow all their own produce.

This classification excludes establishments that grow their own fruits and vegetables and sell them at their farm location which are to be reported separately in the appropriate agricultural classification as required by the general inclusion provision of the general rules, espresso street carts or stands and lunch counter/restaurant operations which are reported separately in classification 3905.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

##### **6403-05 Stores: Specialty grocery - Retail**

Applies to establishments engaged in retail sale of specialty grocery items. Establishments subject to this classification have a limited selection of grocery items which are generally related to ethnic foods and cuisine, gourmet meats, cheeses, or condiments, health food or pet food. This classification also applies to stores that sell U-bake pizza.

This classification excludes establishments engaged in the sale of nutritional supplements such as, but not limited to, vitamins, herbal compounds, protein powders, or energy bars, which are to be reported separately in classification 6406; espresso street carts or stands and lunch counter/restaurant operations which are reported separately in classification 3905.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

**6403-06 Stores: Mini-markets or convenience grocery, N.O.C. - Retail**

Applies to establishments engaged as retail convenience grocery stores or mini-marts. Generally these stores sell convenience items such as, but not limited to, soft drinks, beer/wine, snack foods, candy and a limited selection of canned or boxed foods. They may also prepare foods such as sandwiches, chicken, jo jos and hot dogs. While these stores may sell a variety of grocery items they are distinguished from stores in classification 6402 in that they do not sell all of the items specified for retail grocery store operations. Generally the difference can be established by determining if the store cuts and sells fresh meat. This classification also applies to food bank operations.

This classification excludes establishments engaged as convenience grocery stores or mini-markets with self-service gasoline operations which are to be reported separately in classification 3410 and espresso street carts or stands and lunch counter/restaurant operations which are to be reported separately in classification 3905.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

**6403-07 Stores: Wine, liquor, or soft drinks - Retail**

Applies to establishments engaged primarily in the retail sale of wine, liquor, or soft drinks and an assortment of pre-packaged mixed drinks, and related gift items. Establishments in this classification are not operated (~~in connection with~~) at the same location as a manufacturing, bottling, restaurant, or tavern operation. (~~This classification also applies to liquor stores operated by Native American tribes and to contract state liquor stores operated by nonstate employees.~~) A store or tasting room in this classification is at a location away from a winery, frequently in a populated area, and may also sell food or gift items. This classification contemplates a minimal amount of mail order sales and locker rentals in a wine cellar operated by a wine store.

This classification excludes (~~state operated liquor stores which are reported separately in classification 5307~~); State contracted liquor stores with additional operations described in a higher-rated store classification; establishments engaged in the distillation, brewing, or bottling of alcohol, beer or wine (~~which often have~~) with tasting rooms and gift shops at their site, which are (~~reported separately~~) included in classification 3702; and establishments engaged primarily in selling wine-making or beer-making kits and supplies which are reported separately in classification 6406.

**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

AMENDATORY SECTION (Amending WSR 07-12-047, filed 5/31/07, effective 7/1/07)

**WAC 296-17A-6409 Classification 6409.**

**6409-00 Dealers: (~~(Machinery/equipment, N.O.C.)~~) Service/repair garages(+), machinery(A), equipment, N.O.C.**

Applies to establishments engaged in the sale, lease, rental, service, and/or repair of new or used machinery and equipment not covered by another classification (N.O.C.). For purposes of this classification the terms machinery or equipment includes, but are not limited to, semi-trucks, diesel tractors, buses, construction equipment, concrete barriers and other flagging equipment used in construction projects, logging equipment, transportation equipment, freight hauling equipment, well drilling equipment, power generators, and industrial or manufacturing machinery. Operations of dealers include, but are not limited to, the sale, lease, rental, demonstration, service, or repair of their equipment, either on their premises or at the customer's site, and delivery to customer. The variety of merchandise carried by a machinery and equipment dealer varies with the needs of the geographical area and may be displayed in inside showrooms and/or outside yards. Operations of service centers include diagnostic services, all phases of mechanical service such as, but not limited to, tuning, overhauling and/or rebuilding engines, motors, or transmissions, resurfacing heads, repairing carburetors or fuel injection systems and grinding valves or brakes on equipment or machinery owned by others. In addition to parts for the machinery and equipment, establishments in this classification may carry some automobile parts, hardware items, and supplies such as oil, filters, and belts. This classification includes lot sales and lot personnel, service managers and employees, parts department employees who have exposure to the service/repair shop or duties related to the sale of machinery/equipment, towing service for in-shop repairs, and regional sales and/or service representatives who provide factory service or training to local dealers and other customers. Parts department employees who are not exposed to any hazards of the service/repair shop or have no duties related to the sale of machinery/equipment may be reported separately in classification 6309. This classification also includes the rental and installation of temporary fences.

This classification excludes farm machinery and equipment dealers who are to be reported separately in classification 6408; store operations of dairy equipment and supply dealers which is to be reported separately in classification 6407; the installation of industrial plant equipment which is to be reported separately in classification 0603; the installation, service, or repair of dairy machinery or equipment which is to be reported separately in classification 0603; all field installation, service, or repair work of wind machine dealers which is to be reported separately in classification 0603; and the manufacture or structural repair of heavy machinery or equipment which is to be reported separately in classification 5109.

**Special note:** Care needs to be taken when considering the assignment of classification 6309 for the sale of parts. Most businesses assigned to classification 6409-00 have an inventory of parts or accessories which they use in the service

or repair of machinery or equipment, or maintain as a convenience to their customers. *Only* those businesses that maintain a complete line of replacement parts that is physically separated from the service/repair shop should be considered for classification 6309.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-6509 Classification 6509.**

**6509-04 Boarding homes and centers, N.O.C., adult family homes, rooming houses, foster homes, and orphanages**

Applies to establishments engaged in providing residential and social care for children, aged, and special categories of persons who are ambulatory and for whom medical care is not a major element. This classification includes, but is not limited to, alcohol and drug rehabilitation centers, shelters for the homeless, safe houses for abused women and children, orphanages, homes for (~~mentally, emotionally, physically, and developmentally disabled individuals~~) people with disabilities, adult family homes, and group homes as well as halfway homes for delinquents and offenders. Alzheimer care facilities are also included in this classification. Work contemplated by this classification includes meal service, linen service, housekeeping and transportation. Medical care includes only the administration of drugs.

This classification excludes convalescent, assisted living, and nursing homes which are to be reported separately in classification 6108.

**6509-05 Fraternity or sorority houses**

Applies to establishments providing living accommodations to *only* those college and university students who are members of the fraternity or sorority. Fraternities and sororities operate as independent political, economic and social organizations within the guidelines of the college. Fraternity and sorority houses normally have all the amenities of a home-kitchen, living room, dining room, bedrooms and bathrooms. Chapter houses may also have a party room with floor space for social functions and a Chapter room which are a combination library, study, meeting and trophy room. Employments contemplated by this classification includes house directors who supervise and manage facility, cooks, helpers and facilities maintenance.

**6509-07 Retirement centers**

Applies to establishments engaged in operating retirement centers which cater to the elderly by offering an independent life style in a communal environment. Differing from a boarding home, a retirement center will usually offer a studio, one bedroom or two bedroom apartments as opposed to a single room. Most offer a full service dining area for all meals, exercise programs for individuals or groups, a hairdresser, gift shop, housekeeping/laundry service, a full social/activity program, security, as well as assisted living services. Assisted living services, if offered, include, but are not limited to, assistance in maintaining the resident's schedule for prescription medication, transportation for medical appointments, and 24 hour on-call emergency assistance. On-call emergency services may be pro-

vided by a full-time nurse who can assess situations and summon a doctor or ambulance as necessary.

***Special note:*** Residents of a retirement center are capable of an independent lifestyle and do not require an on-site physician or personal care services. Businesses engaged in providing temporary or permanent residences which provide various levels of medical and *personal care services such as feeding, bathing, and personal hygiene* are to be reported separately in classification 6108.

AMENDATORY SECTION (Amending WSR 07-12-047, filed 5/31/07, effective 7/1/07)

**WAC 296-17A-6510 Classification 6510.**

**6510-00 Domestic servants/home care assistants employed in or about the private residence of a home owner**

Applies to individuals employed by a home owner to provide domestic services/home care assistants in or about the home owner's private residence. This classification includes services such as, but not limited to, cooking, housekeeping, caring for children, caring for the elderly and (~~handicapped~~) people with disabilities including personal care such as bathing, body care, dressing and help with ambulating, as well as companionship, running errands, shopping, gardening, caretaker at homeowner's residence, and transporting members of the household by vehicle to appointments, after school activities, or similar activities. This classification also includes the care of animals not used for a business at the homeowner's residence.

This classification is subject to the provisions of RCW 51.12.020 - Employments excluded - which states in part: "The following are the only employments which shall not be included within the mandatory coverage of this title:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed forty or more hours a week in such employment.

(2) Any person employed to do gardening, maintenance, or repair, in or about the private home of the employer...." This classification is also subject to the provisions of RCW 51.12.110 which allows the employer to elect optional coverage for domestic servants and caretakers.

This classification excludes entities whose nature of business is to provide chore services which are to be reported separately in classification 6511; domestic (residential) cleaning or janitorial services which are to be reported separately in classification 6602; lawn and yard maintenance services which are to be reported separately in classification 0308; skilled or semiskilled nursing care which is to be reported separately in classification 6110; and new construction which would be reported in the classification appropriate for that phase of construction.

AMENDATORY SECTION (Amending WSR 10-16-121, filed 8/3/10, effective 10/1/10)

**WAC 296-17A-6511 Classification 6511.**

**~~((6511-00))~~ Chore services/home care assistants**

~~((Applies to establishments engaged in providing chore services/home care assistants to private individuals. Chore services performed by the chore workers/home care assistants include, but are not limited to, general household chores, meal planning and preparation, shopping and errands either with or without the client, personal care such as bathing, body care, dressing, and help with ambulating, as well as companionship. Frequently the recipients of service are funded by DSHS or some other community service agency; however, the services are also available to those who pay privately. This classification also applies to supported living, tenant support, and intensive tenant support services.~~

~~This classification excludes individuals working under a welfare special works training program who are to be reported separately in classification 6505; domestic (residential) cleaning or janitorial services which are to be reported separately in classification 6602; and skilled or semiskilled nursing care which is to be reported separately in classification 6110. This classification also excludes home care providers covered under the home care quality authority who are to be reported separately under classification 6512.~~

**6511-20 Community action organizations – Chore services/home care assistants**

Applies to community action organizations who provide chore services/home care assistants to private individuals. Chore services performed by the chore workers/home care assistants include, but are not limited to, general household chores, meal planning and preparation, shopping and errands either with or without the client, personal care such as bathing, body care, dressing, and help with ambulating, as well as companionship. This classification also applies to supported living, tenant support, and intensive tenant support services.

This classification excludes individuals working under a special work experience training program who are to be reported separately in classification 6505; domestic (residential) cleaning or janitorial services which are to be reported separately in classification 6602; and skilled or semiskilled nursing care which is to be reported separately in classification 6110. This classification also excludes home care providers covered under the Washington state home care quality authority who are to be reported separately in classification 6512.)

**Applies to:**

Entities providing chore services/home care assistants to private individuals.

**Chore services performed by the chore workers/home care assistants include, but are not limited to:**

- General household chores;
- Meal planning and preparation;
- Shopping and errands, either with or without the client;
- Personal care, such as bathing, body care, dressing, and help with ambulating;
- Companionship.

**Note:** Some common terms to describe these types of services include supported living, tenant support, and intensive tenant support services.

**Also included in this classification are:**

- Supervising visits between children and parents, including transporting the child;
- Packing up senior homes;
- Organizing homes prior to customers putting a home on the market;
- Organizing homes prior to customers having an estate auction;
- Pet sitting;
- House sitting.

**Excluded activities in this classification:**

- Firms involved in organizing homes and also conducting estate auctions (report in 6603).
- Social workers and dieticians employed by home health care service establishments (report in 6303-21). Workers in classification 6303-21 are teaching people living with physical or developmental disabilities living in their own home to manage daily living skills such as caring for themselves, dressing, cooking, etc. Workers in classification 6511 are performing this work as a service to individuals.
- Individuals working under a welfare special works training program (report in classification 6505).
- Residential cleaning or janitorial services (report in classification 6602).
- Skilled or semi-skilled nursing care (report in classification 6110).
- Home health care providers covered under the Washington state home care referral registry (report in classification 6512).
- Household furnishings moving and storage (report in classification 6907).
- Staging services (report in classification 0607).
- Any construction related work. Example: If a business builds shelving as part of organizing homeowner's personal belongings, this employer would not be eligible to report in classification 6511.

For administrative purposes, classification 6511 is divided into the following subclassification(s):

**6511-00 Chore services/home care assistants**

**6511-20 Community action organizations – Chore services/home care assistants**

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

**WAC 296-17A-6512 Classification 6512.**

**6512-00 Home care services/home care referral registry (HCRR)**

Applies to persons who are employed by people who are ill, ((disabled)) people with disabilities, or vulnerable individuals to provide home care services that enable those individuals to remain in their own homes. Services provided may include, but are not limited to:

- Household tasks, such as housekeeping, shopping, meal planning and preparation, and transportation; and delegated tasks of nursing under RCW 18.79.260 (3)(e);
- Personal care such as assistance with dressing, feeding, and personal hygiene to facilitate self-care.

**Special note:** Premiums are paid by the home care referral registry (HCRR) on behalf of the persons who provide the home care services.

**AMENDATORY SECTION** (Amending WSR 08-15-132, filed 7/22/08, effective 10/1/08)

**WAC 296-17A-6602 Classification 6602.**

**6602-02 Contract window washing services**

Applies to establishments engaged in contract window washing services not done in connection with a janitorial service. These establishments specialize in cleaning both interior and exterior windows in residential and commercial, single and multistory buildings. Also included in this classification is the service of defogging multiple-paned windows.

This classification excludes establishments engaged in residential cleaning which are to be reported separately in classification 6602-04 and establishments engaged in both commercial and residential cleaning which are to be reported separately in classification 6602-03.

**6602-03 Janitorial cleaning services, N.O.C.**

Applies to establishments engaged in providing general interior cleaning services for commercial businesses or for combined commercial and residential customers. General cleaning services include, but are not limited to, washing, waxing, and polishing floors, vacuuming and shampooing carpets, dusting and washing walls, dusting or cleaning mirrors, cabinets, moldings, lights, hardware, sinks, tubs, commodes, and appliances, and replacing light globes, paper or linen towels. This classification includes window washing when performed by the janitorial service employees in conjunction with a general house cleaning contract, it also includes the cleaning of swimming pools, spas and hot tubs. Fire restoration, which includes cleaning smoke or water damaged buildings, drying and/or cleaning carpets and upholstered furniture, washing and polishing furniture, washing walls, washing and waxing floors, cleaning personal contents of the home or business such as linens, dishes, drapes, and other general cleaning tasks, are included in this classification.

This classification excludes establishments engaged exclusively in contract window washing services which are to be reported separately in classification 6602-02, and establishments engaged in residential cleaning which are to be reported separately in classification 6602-04.

**Special note:** Care should be exercised with companies specializing in fire restoration or water damage related work. These companies may be general contractors who will not only do the clean up work, but will also do repairs such as, but not limited to, repair or replace cabinets, doors, and fixtures, patch drywall, paint, and replace windows. Construction-related tasks, when performed by a company doing the clean up work, are to be assigned the appropriate construction classification. Each contract should be reviewed to determine

the proper classification assignment. A division of individual work hours between classification 6602 and any construction, erection, or shop classification is not allowed. Employees having duties that fall within a construction classification and who are also engaged in preoccupancy cleanup are to be reported in the applicable construction classification.

**6602-04 Janitorial cleaning services - Residential**

Applies to establishments engaged in providing general interior janitorial cleaning or services to residential customers. General cleaning services include, but are not limited to, washing, waxing, and polishing floors, vacuuming and shampooing carpets, dusting and washing walls, dusting or cleaning mirrors, cabinets, moldings, lights, hardware, sinks, tubs, commodes, and appliances. This classification includes window cleaning when performed in connection with a general house cleaning contract.

This classification excludes establishments engaged exclusively in contract window cleaning which are to be reported separately in classification 6602-02 and establishments engaged in commercial or combined commercial and residential cleaning which are to be reported separately in 6602-03.

**6602-05 Janitors, N.O.C.**

Applies to the janitorial staff assigned to clean the clerical and administrative offices of establishments whose (~~prin- eiple~~) principal business undertaking is other than providing janitorial services *and* who are eligible to report their clerical employees in classification 4904. *This classification is applicable only to janitors who clean the office area.* Janitors who clean outside the office area such as a shop, warehouse, or retail store area, are excluded from this classification and are to be reported separately in the classification applicable to the employer's business.

**Special note:** See the special exception section of the general rules for a complete description of these requirements.

**6602-08 Pest control**

Applies to establishments engaged in pest control services for others. These establishments offer inspection for, and elimination of, unwanted pests in buildings and other wooden structures. Pests include, but are not limited to, termites, carpenter ants, fleas, ticks, mice, ants, cockroaches, and bees. This classification applies to all operations of elimination services such as, but not limited to, spraying liquid or aerosol pesticide, dusting with powder, setting out traps or bait, applying pesticides to the soil to creating a chemical barrier around the base of a structure, digging trenches around foundations, and drilling holes through masonry surfaces in order to pour or pump chemicals into the infected areas. Establishments may also offer inspection and certification services for customers seeking mortgage approval. This classification also includes the removal of pet waste from the yards of private residences.

This classification excludes any structural repairs which are to be reported separately in the appropriate construction classification.

**6602-10 Portable cleaning and washing, N.O.C.**

Applies to establishments engaged in cleaning and washing services not otherwise classified (N.O.C.). This classification contemplates cleaning and washing, by means of portable spray or steam power units, machinery, equipment, automobiles, trucks, recreational vehicles, mobile homes, walk-in freezers, and shopping carts. This classification also applies to the cleaning or removal of snow from roofs, gutters or downspouts of one-story buildings.

This classification excludes establishments engaged in cleaning buildings or structures, cleaning or removing snow from roofs, gutters, and downspouts on multistory buildings, which are to be reported separately in classification 0504.

**6602-12 Street and building decoration: Hanging or removing flags or bunting**

Applies to establishments engaged in hanging or removing flags or bunting for conventions, celebrations, events, or similar decorations on the exterior or interior of buildings, structures, or streets. Buntings are strips of decorative cloth which may be used to span a roadway to promote events, as overhead streamers at an auto sales lot, or as a sign hung on a building to advertise grand openings.

This classification excludes the manufacture of flags or bunting which is to be reported separately in the applicable classification.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-6709 Classification 6709.****6709-00 Sheltered workshops**

Applies to persons (~~who are disabled, and to developmentally disabled persons~~) with disabilities, including developmental disabilities, who are enrolled as employees of sheltered workshops. Classification 6709-00 applies regardless of the type of work performed. This classification also applies to *all* staff who operate sheltered workshops, even if the sheltered workshop also operates a work activity center, and to *all* staff who operate work activity centers.

This classification excludes (~~persons who are most severely disabled, and developmentally disabled persons~~) people with the most severe disabilities, including people with developmental disabilities, who are enrolled in work activity centers who are to be reported separately in classification 7309.

**Special note:** Sheltered workshops may also operate a work activity center at the same location or at a separate site.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-6902 Classification 6902.****6902-02 Logging road: Construction or maintenance**

Applies to the construction or maintenance of logging roads. For purposes of this classification logging roads are roads for which the basic use is to provide access into a timber or forest area and for the transporting of logs out of the area by truck. This classification includes roads constructed on public or private land in connection with timber sales or

logging, such as roads being constructed in accordance with the State Department of Natural Resources or the United States Forest Service timber sales. Logging roads contemplated by this classification are typically cleared and graded with a bulldozer and then paved with gravel, crushed rock, or large stones. Logging roads are generally engineered to support the weight of logging equipment and trucks but not necessarily to handle speeds and volume of nonlogging traffic. As a rule, these roads are not surfaced with asphalt or paved with concrete. Classification 6902 includes log road maintenance which is limited to keeping the road bed in good repair such as regrading and fill to repair washouts and ruts.

This classification excludes the felling of timber, bucking and delimiting of all trees in the proposed roadway or adjacent shoulder and all other logging activities which are to be reported separately in classification 5001; all excavation, land clearing or grading as a part of roadway construction not in connection with a logging road which is to be reported separately in classification 0101; construction of asphalt roads which is to be reported separately in classification 0210; construction of concrete roads which is to be reported separately in classification 0214; mechanical roadside brushing or machine application of chemicals which is to be reported separately in classification 5006; and permanent shop or yard operations which are to be reported separately in classification 5206 provided the conditions of WAC (~~296-17-675~~) 296-17A-5206 have been met.

**6902-03 Logging railroad: Construction or maintenance**

Applies to the construction or maintenance of logging railroads. For purposes of this classification logging railroads are side tracks and spurs which feed into existing railroad main lines. Log trucks haul logs from the cutting site to the logging railroad where they are loaded onto the logging railroad cars and transported to the main line. This classification includes railroads constructed on public or private land in connection with timber sales or logging, such as roads being constructed in accordance with the State Department of Natural Resources or the United States Forest Service timber sales. The construction includes clearing and grading with use of a bulldozer; laying dirt, rock and ballast; laying ties and track; and installing crossover frogs, switches, switch stands, switch mechanisms and crossing planks as needed. This classification also includes log railroad maintenance which is limited to keeping the railroad line operational.

This classification excludes the falling of timber, bucking and delimiting of all trees in the proposed roadway or adjacent shoulder, and all other logging activities which are to be reported separately in classification 5001; the construction of railroad lines not in connection with a logging railroad which is to be reported separately in classification 0101; construction of logging roads which is to be reported separately in classification 6902-02; and maintenance and storage of equipment and material at a permanent yard or shop which is to be reported separately in classification 5206 provided the conditions of WAC 296-17-675 have been met.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-6905 Classification 6905.**

**6905-00 Salaried law enforcement officers of cities and towns; Volunteer law enforcement officers, N.O.C.: Full coverage**

Applies to salaried law enforcement officers of cities and towns and to volunteer law enforcement officers of cities and towns who are not otherwise classified (N.O.C.) for whom full coverage is *elected*. Duties of law enforcement officers include, but are not limited to, directing traffic, patrolling by motor vehicle, motorcycle, bicycle, or on foot or horseback, preventing crimes, investigating disturbances of the peace, arresting violators, conducting criminal investigations, giving first aid, and guarding persons detained at the police station.

This classification excludes volunteer law enforcement officers for whom the city or town has elected medical aid benefits only who are to be reported separately in classification 6906.

See classifications 0803, 1301, 1404, 1501, 5305, 6901, and 6904, and for other city or town operations.

**Special note:** This coverage is *optional* for volunteer law enforcement officers. To elect this coverage, the city or town must submit a completed Application for Optional Coverage to the department. Conditions of coverage are outlined on the application. If coverage is provided, all volunteer law enforcement officers must be included.

**6905-01 Salaried law enforcement officers of counties and taxing districts; Volunteer law enforcement officers, N.O.C.: Full coverage**

Applies to salaried law enforcement, detention, and correctional officers of counties and taxing districts and to volunteer law enforcement officers of counties and taxing districts who are not otherwise classified (N.O.C.) for whom full coverage is *elected*. Duties of law enforcement officers include, but are not limited to, directing traffic, patrolling by motor vehicle, motorcycle, bicycle, or on foot or horseback, preventing crimes, investigating disturbances of the peace, arresting violators, conducting criminal investigations, giving first aid, and guarding persons detained at the police station.

This classification excludes volunteer law enforcement officers for whom the county or taxing district has elected medical aid benefits only who are to be reported separately in classification 6906.

See classifications 1301, 1404, 1501, 5305, 6901 and 6904, and for other city or town operations.

**Special note:** This coverage is *optional* for volunteer law enforcement officers. To elect this coverage, the county or taxing district must submit a completed Application for Optional Coverage to the department. Conditions of coverage are outlined on the application. If coverage is provided, all volunteer law enforcement officers must be included.

**6905-02 Salaried law enforcement officers of Native American tribal councils; Volunteer law enforcement officers, N.O.C.: Full coverage**

Applies to salaried law enforcement officers of Native American tribal councils and to volunteer law enforcement officers of Native American tribal councils who are not otherwise classified (N.O.C.) for whom full coverage is *elected*. Duties of law enforcement officers include, but are not limited to, directing traffic, patrolling by motor vehicle, motorcycle, bicycle, or on foot or horseback, preventing crimes, investigating disturbances of the peace, arresting violators, conducting criminal investigations, giving first aid, and guarding persons detained at the police station.

This classification excludes volunteer law enforcement officers for whom the Native American tribal council has elected medical aid benefits only who are to be reported separately in classification 6906.

**Special note:** This coverage is *optional* for volunteer law enforcement officers. To elect this coverage, the Native American tribal council must submit a completed Application for Optional Coverage to the department. Conditions of coverage are outlined on the application. If coverage is provided, all volunteer law enforcement officers must be included.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-7101 Classification 7101.**

**7101-00 Corporate officers, N.O.C.**

Applies to executive officers of a corporation who are not covered by another classification (N.O.C.) and ~~((who have elected optional coverage. To qualify for this classification, a corporate officer must own stock in the corporation, be elected and empowered in accordance with the articles or bylaws of incorporation, serve on the board of directors, and perform only administrative, clerical or outside sales duties. Any officer who performs any duties directly related to the operational activities of the corporation must be reported in the basic classification applicable to the work being performed. Typical titles of executive officers include chairman, president, vice president, secretary and treasurer.~~

~~**Special note:** Under no circumstances will classification 4904 be assigned to an executive officer. Any officer engaged exclusively in outside sales is to be reported separately in classification 6303. Executive officers are exempt from mandatory coverage if the conditions of RCW 51.12.020(8) have been met; however, they may elect optional coverage.)~~ for whom optional coverage has been elected. This is a standard exception classification as described in WAC 296-17-31018 Exception classifications. To qualify for this section, a corporate officer must:

- Be exempt from mandatory coverage pursuant to RCW 51.12.020(8);
- Not be exposed to the operative hazard of the business;
- and
- Not directly supervise workers who are exposed to the operative hazard of the business.

Officers who are exposed to the operative hazard, or who directly supervise workers who are exposed to the operative

hazard, must be reported in the basic classification applicable to the work performed.

**Special note:** Exempt officers can never be reported in classification 4904. Exempt officers can be reported in classification 6303 if they meet all the standard exception requirements for classification 6303 detailed in WAC 296-17-31018.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-7309 Classification 7309.**

**7309-00 Work activity centers**

Applies only to the people with the most ((severely disabled persons)) severe disabilities, and to ((developmentally disabled persons)) people with developmental disabilities whose handicaps are so severe as to make their productivity inconsequential, and who are included on the center's certificate for special minimum wage issued by the U.S. Department of Labor.

This classification excludes:

- All staff who operate work activity centers and all staff who operate sheltered workshops, even if the sheltered workshop also operates a work activity center, who are to be reported separately in classification 6709((?)); and ((disabled persons and developmentally disabled persons))

- People with disabilities, including people with developmental disabilities, who are enrolled in sheltered workshops who are to be reported separately in classification 6709.

**Special note:** Work activity centers differ from sheltered workshops in the severity of the impairments of the participants.

While the workers' compensation rates for classifications 7309 and 6709 are identical, the premiums for classification 7309 are calculated on a piece rate basis to reflect the limited productivity of the workers covered by this classification.

**WSR 14-13-091**

**WITHDRAWL OF PROPOSED RULES**

**WESTERN WASHINGTON UNIVERSITY**

(By the Code Reviser's Office)

[Filed June 17, 2014, 9:44 a.m.]

WAC 516-26-040, proposed by the Western Washington University in WSR 13-24-015, appearing in issue 13-24 of the Washington State Register, which was distributed on December 18, 2013, is withdrawn by the office of the code reviser 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 14-13-095**

**PROPOSED RULES**

**PROFESSIONAL EDUCATOR  
STANDARDS BOARD**

[Filed June 17, 2014, 10:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-12-062.

Title of Rule and Other Identifying Information: Amends WAC 181-85-075 to clarify the professional growth plans requirements for educators with a continuing certificate.

Hearing Location(s): Radisson Hotel, SeaTac Airport, 18118 International Boulevard, Seattle, WA 98188, on July 22, 2014, at 8:30.

Date of Intended Adoption: July 22, 2014.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by July 15, 2014.

Assistance for Persons with Disabilities: Contact David Brenna by July 15, 2014, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Clarifies requirements for professional growth plans and integration of science, technology, engineering and math (STEM) in those plans.

Reasons Supporting Proposal: Recent legislative direction related to STEM integration.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: RCW 28A.410.2212.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

June 17, 2014

David Brenna

Senior Policy Analyst

**AMENDATORY SECTION** (Amending WSR 13-16-077, filed 8/6/13, effective 9/6/13)

**WAC 181-85-075 Continuing education requirement.** Continuing education requirements are as follows:

(1) Each holder of a continuing 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 181-85-025 and 181-85-030, prior to the lapse date of the first issue of the continuing certificate and during each five-year period between subsequent lapse dates as calculated in WAC 181-85-100.

(2) Individuals holding a valid continuing certificate in subsection (1) of this section may choose to renew the certificate via annual professional growth plans developed since the certificate was issued ~~((in collaboration with the professional growth team as defined in WAC 181-79A-030)).~~ Completion of four annual professional growth plans during each five-year period between subsequent lapse dates meets the requirement for renewal. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred fifty hours to meet the requirements of subsection (1) of this section. The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207 for teachers, WAC 181-78A-540(1) for administrators, or WAC 181-78A-540(2) for educational staff associates. For educators holding multiple certificates in chapter 181-85 WAC or WAC 181-79A-251, a professional growth plan for teacher, administrator, or educational staff associate shall meet the requirement for all certificates held by an individual which is affected by this section. Each completed annual professional growth plan shall receive the equivalent of thirty continuing education credit hours.

Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.

(3) 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.

(4) Each holder of a continuing school psychologist certificate affected by this chapter may present a copy of a valid National Certified School Psychologist certificate issued by the National Association of School Psychologists in lieu of the completion of the continuing education credit hours required by this chapter.

(5) Beginning September 1, 2014, continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and engineering instruction as per RCW 28A.410.2212.

### WSR 14-13-099

#### WITHDRAWL OF PROPOSED RULES CRIMINAL JUSTICE TRAINING COMMISSION

[Filed June 17, 2014, 12:59 p.m.]

The Washington state criminal justice training commission would like to withdraw WSR 14-01-019.

Sonja Hirsch  
Rules Coordinator

### WSR 14-13-106 PROPOSED RULES OFFICE OF INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2013-25—Filed June 17, 2014, 3:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-21-142.

Title of Rule and Other Identifying Information: Filing of financial statements and related filings electronically.

Hearing Location(s): Insurance Commissioner's Office, TR 120, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, on July 22, 2014, at 9:00 a.m.

Date of Intended Adoption: July 23, 2014.

Submit Written Comments to: Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-025 [98504-0258], e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109 by July 21, 2014.

Assistance for Persons with Disabilities: Contact Lori [Lorie] Villaflores by July 21, 2014, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Under this proposed rule the commissioner will consider amending the rules regarding the filing of financial statements and related filings by Washington domestic insurance companies, health care service contractors, health maintenance organizations, and self-funded multiple employer welfare arrangements to require that these financial and related statements only be filed electronically with the NAIC and for those related financial filings that the NAIC does not accept, these entities must file them electronically with the commissioner. When the filings have been made with the NAIC, the commissioner will deem the statements to have been filed with the commissioner.

Reasons Supporting Proposal: Currently all Washington domestic insurance companies, health care service contractors, health maintenance organizations, and self-funded multiple employer welfare arrangements are required to file their financial statements and related filings with the commissioner. Both paper and electronic filings are accepted under the agency's current business process. These proposed amendments to rules will require that these filings only be made electronically, thereby saving paper and expenses.

Statutory Authority for Adoption: RCW 48.02.060, 48.05.250, 48.44.050, 48.46.095, 48.46.200 and 48.125.090.

Statute Being Implemented: RCW 48.05.073, 48.05.250, 48.05.383, 48.44.095, 48.46.080, and 48.125.090.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258,

(360) 725-7036; Implementation and Enforcement: Bill Michaels, P.O. Box 40259, Olympia, WA 98504-0259, (360) 725-7214.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Most of the insurers affected by these proposed regulatory changes are not small businesses, as defined by chapter 19.85 RCW. The proposed rule makes provisions for the only two insurers who fit the small business definition found in chapter 19.85 RCW that do not currently file financial statements (and other related statements) electronically; the provisions will not cause these companies to incur any additional costs.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7036, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

June 17, 2014  
Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 07-14-104, filed 7/2/07, effective 8/2/07)

**WAC 284-07-050 Financial statement instructions.**

(1) For the purpose of this section, the following definitions shall apply:

(a) "Insurer" shall have the same meaning as set forth in RCW 48.01.050. It also includes health care service contractors registered under chapter 48.44 RCW (~~and~~), health maintenance organizations registered under chapter 48.46 RCW, (~~and~~) fraternal benefit societies registered under chapter 48.36A RCW, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW.

(b) "Insurance" shall have the same meaning as set forth in RCW 48.01.040. It also includes prepayment of health care services as set forth in RCW 48.44.010(3) (~~and~~), prepayment of comprehensive health care services as set forth in RCW 48.46.020(1), and health care services under RCW 48.125.010(1).

(2) Each authorized insurer (~~is required to~~) must file with the (~~commissioner~~) National Association of Insurance Commissioners (NAIC) an annual statement for the previous calendar year in the general form and context as (~~promulgated~~) adopted by the (~~National Association of Insurance Commissioners~~) NAIC (~~for the kinds of insurance to be reported upon~~) (~~and shall also file a copy thereof with the NAIC~~). The filing with the NAIC will be deemed to be a filing with the commissioner. To effectuate RCW 48.05.250, 48.05.400, 48.36A.260, 48.44.095 and 48.46.080 and to enhance consistency in the accounting treatment accorded various kinds of insurance transactions, the valuation of assets, and related matters, insurers (~~shall~~) must adhere to the appropriate Annual Statement Instructions and the Accounting Practices and Procedures Manuals (~~promulgated~~) adopted by the NAIC.

(3) This section does not relieve an insurer from its obligation to comply with specific requirements of (~~the insurance code or rules~~) Titles 48 RCW and 284 WAC.

(4) Annual statements:

(a) Annual statements for all domestic insurers must be filed electronically with the (~~commissioner. Insurers must electronically transmit the annual statement, as described in subsection (2) of this section, in PDF or other format as noted on the commissioner's web site. The commissioner has the discretion to allow an insurer to file annual statements on paper. The insurer must demonstrate that filing in electronic form will create an undue financial hardship for the insurer. Applications for permission to file on paper must be received by the commissioner at least ninety days before the annual statement is due~~) NAIC. The filing with the NAIC will be deemed to be a filing with the commissioner. The commissioner has the discretion to allow an insurer to file electronically with the commissioner. The insurer must demonstrate that filing with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file with the NAIC must be received by the commissioner at least ninety days before the annual statement is due. If the NAIC does not collect or accept any annual statement supplement, schedule, form, or other document, then the domestic insurer must file the supplement, schedule, form, or other document electronically with the commissioner.

(b) To comply with statutory requirements that annual statements must be verified by the oaths of at least two of the insurer's officers, insurers may:

(i) Use a method of electronic signature verification that has been approved by the commissioner for use by the insurer; or

(ii) (~~File a paper copy of the~~) Include in the electronic filing an image of the original signatures (~~and jurat page of the annual statement at the time of the electronic filing of the annual statement~~) in PDF format as noted on the commissioner's web site. This (~~paper copy~~) electronically filed document must contain (~~the original~~) a legally binding signature of the company officers and the notary administering the oath.

(c) Both the electronic annual statement and the verification of that statement by the oaths of two officers must be received by the NAIC and the commissioner, if applicable, to complete an annual statement filing. The date of receipt of the later of the electronic annual statement or verification is considered the receipt date of the annual statement.

(5)(a) Each domestic insurer (~~shall~~) must file quarterly statements of its financial condition with the (~~commissioner and with the~~) NAIC. The filing with the NAIC will be deemed to be a filing with the commissioner. The commissioner has the discretion to allow an insurer to file electronically with the commissioner. The insurer must demonstrate that filing with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file with the NAIC must be received by the commissioner at least ninety days before the quarterly statement is due. If the NAIC does not collect or accept any quarterly statement supplement, schedule, form, or other document, then the domestic insurer must file the supplement, schedule, form, or other document electronically with the commissioner. Each foreign insurer (~~shall~~) must file quarterly statements of its financial condition with the NAIC. (~~The commissioner may require a foreign insurer to file quarterly statements with the commissioner whenever, in the commissioner's discretion, there is a~~

need to more closely monitor the financial activities of the foreign insurer.) The statements ~~((shall))~~ must be filed ~~((in the commissioner's office))~~ with the NAIC or the commissioner, if applicable, not later than the forty-fifth day or the fifteenth day of the second month after the end of the insurer's calendar quarters, whichever is later. The quarterly statements ~~((shall))~~ must be in the form and content as ~~((promulgated))~~ adopted by the NAIC for quarterly reporting by insurers, ~~((shall))~~ must be prepared according to appropriate Annual and Quarterly Statement Instructions and the Accounting Practices and Procedures Manuals ~~((promulgated))~~ adopted by the NAIC and ~~((shall))~~ must be supplemented with additional information required by this title and by the commissioner. Quarterly statements for the fourth quarter are not required.

(b) Quarterly statements must be filed with the ~~((commissioner))~~ NAIC by electronically transmitting the quarterly statement as described in this subsection ~~((, in PDF or other format as noted on the commissioner's web site)).~~

(c) To comply with statutory requirements that quarterly statements must be verified by the oaths of at least two of the insurer's officers, insurers may:

(i) Use a method of electronic signature verification that has been approved by the commissioner for use by the insurer; or

(ii) Include in the electronic filing an image of the original signatures in PDF format as noted on the commissioner's web site. This electronically filed document must contain a legally binding signature of the company officers and the notary administering the oath.

(6) As a part of any investigation by the commissioner, the commissioner may require an insurer to file monthly financial statements whenever, in the commissioner's discretion, there is a need to more closely monitor the financial activities of the insurer. Monthly financial statements ~~((shall))~~ must be filed in the commissioner's office no later than the twenty-fifth day of the month following the month for which the financial statement is being filed. ~~((Such))~~ Insurers must electronically transmit the monthly financial statements, as described in this subsection, in PDF or other format as noted on the commissioner's web site. The monthly financial statements ~~((shall))~~ must be the internal financial statements of the company. In addition, the commissioner may require these internal financial statements to be accompanied by a schedule converting the financial statements to reflect financial position according to statutory accounting practices and submitted in a form using the same format and designation as the ~~((insurer's))~~ quarterly financial statements of insurers. "Financial statements" as used in this subsection includes:

- (a) Statement of assets;
- (b) Liabilities, capital and surplus;
- (c) Statements of revenue and expenses; and
- (d) Statements of cash flows.

(7) Health care service contractors shall use the Health Statement Form ~~((promulgated))~~ adopted by the NAIC for their statutory filings.

(8) Each health care service contractor's ~~((and)),~~ health maintenance organization's, and self-funded multiple employer welfare arrangements annual statement ~~((shall))~~

must be accompanied by an additional data statement form (IC-13A-HC/IC-14-HMO).

(9) The commissioner may allow a reasonable extension of the time for filing the financial statements. A request for an extension must be in writing. The request must be received prior to the due date of the filing and must state good cause for the extension. An extension can only be granted in writing; paper, fax, or e-mail is considered "writing" for purposes of this subsection.

AMENDATORY SECTION (Amending WSR 02-21-120, filed 10/23/02, effective 11/23/02)

**WAC 284-07-060 Statement of actuarial opinion.** (1)

For purposes of this section "insurer" has the same meaning as set forth in RCW 48.01.050. It also includes health care service contractors registered under chapter 48.44 RCW, health maintenance organizations registered under chapter 48.46 RCW, ~~((and))~~ fraternal benefit societies registered under chapter 48.36A RCW, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW.

(2)(a) Each insurer ~~((shall))~~ must include with its annual statement, a statement from a qualified actuary, as defined in WAC 284-05-060, or as defined in subsection (4) of this section for domestic property and casualty insurers, or as defined in subsection (5) of this section for health care service contractors ~~((and)),~~ health maintenance organizations, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW entitled "Statement of Actuarial Opinion," setting forth the actuary's opinion relating to the insurer's reserves and other actuarial items, prepared in accordance with the appropriate *Annual Statement Instructions* and *Accounting Practices and Procedures Manuals* ~~((promulgated))~~ adopted by the National Association of Insurance Commissioners. If an exemption is allowed by the *Annual Statement Instructions* and is approved by the domiciliary commissioner, an insurer shall be exempt from this requirement (unless the commissioner of Washington makes a specific finding, by order, bulletin, letter, or otherwise, that for a specific insurer, or one or more insurers, company compliance is necessary to carry out the commissioner's statutory responsibilities). A certified copy of the approved exemption must be filed with the annual statement in all jurisdictions in which the company is authorized.

(b) After December 31, ~~((2002))~~ 2014, statements of actuarial opinion for all domestic and foreign insurers must be filed electronically with the ~~((commissioner))~~ NAIC. The filing with the NAIC will be deemed to be a filing with the commissioner. This includes the statement of actuarial opinion for the year ended December 31, ~~((2002))~~ 2014. Insurers must electronically transmit the statement of actuarial opinion, as described in (a) of this subsection, in PDF or other format as noted on the commissioner's web site. The commissioner has the discretion to allow an insurer to file a statement of actuarial opinion ~~((on paper))~~ electronically with the commissioner. The insurer must demonstrate that filing ~~((in electronic form))~~ with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file ~~((a paper copy))~~ with the NAIC must be received by the

commissioner at least ninety days before the statement of actuarial opinion is due.

(c) To comply with requirements that statements of actuarial opinion must be signed by the actuary, an insurer may:

(i) Use a method of electronic signature verification that has been approved by the commissioner for use by the insurer; or

(ii) ~~((File a paper copy of the signature page of the statement of actuarial opinion at the time of the electronic filing of the statement of actuarial opinion. The paper copy must contain the original signature of the actuary.))~~ Include in the electronic filing an image of the original signature in PDF format as noted on the commissioner's web site. This electronically filed document must contain a legally binding signature of the actuary and any person providing supporting documentation.

(3) This section does not relieve an insurer from its obligation to comply with other requirements of ~~((the insurance code or rules thereunder))~~ Titles 48 RCW and 284 WAC.

(4) With respect to statements of actuarial opinion for property and casualty insurers domiciled in this state, a person can demonstrate competency in loss reserve evaluation, and thus be considered to be a qualified actuary, only by being:

(a) A member in good standing of the Casualty Actuarial Society; or

(b) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries; or

(c) A person with documented experience, skill, and knowledge substantially equivalent to that required for either (a) or (b) of this subsection, acceptable to the commissioner. A person qualifying under this alternative (c) must be approved in advance by the commissioner, as prescribed by the *Annual Statement Instructions*.

(5) With respect to statements of actuarial opinion for health care service contractors ~~((and))~~, health maintenance organizations, and self-funded multiple employer welfare arrangements the qualified actuary must be:

(a) A member in good standing of the American Academy of Actuaries;

(b) A person recognized by the American Academy of Actuaries as qualified for such actuarial evaluation; or

(c) A person with documented experience, skill, and knowledge substantially equivalent to that required for either (a) or (b) of this subsection, acceptable to the commissioner. A person qualifying under this alternative (c) must be approved in advance by the commissioner. In such a case, the health care service contractor or health maintenance organization must request approval at least ninety days prior to the filing of its annual statement.

AMENDATORY SECTION (Amending WSR 02-21-120, filed 10/23/02, effective 11/23/02)

**WAC 284-07-070 Statements to be filed in electronic form.** (1) For the purpose of this section, the following definition shall apply: "Insurer" shall have the same meaning as set forth in RCW 48.01.050. It also includes health care ser-

vice contractors registered under chapter 48.44 RCW, health maintenance organizations registered under chapter 48.46 RCW, ~~((and))~~ fraternal benefit societies registered under chapter 48.36A RCW, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW.

(2) Annual statements, quarterly statements, and other financial reports filed by an insurer with the commissioner or the National Association of Insurance Commissioners ~~((shall))~~ must be filed in electronic form ~~((as well as on paper through December 31, 2002. All annual, quarterly, and other financial statements filed by an insurer after December 31, 2002, shall be filed with the commissioner in electronic form only))~~ after September 1, 2014, according to WAC 284-07-050.

(3) Until the commissioner otherwise directs by letter, bulletin, or otherwise, generally or as to one or more companies, "electronic form" means ~~((, on a diskette,))~~ internet filing ~~((, or File Transfer Protocol (FTP) filing, for all filings made prior to January 1, 2003. For all filings required to be made on or after January 1, 2003, "electronic form" will exclude diskette.~~

~~((4) An insurer who on December 31, 1996, was not subject to this rule or has not previously filed in electronic form to the commissioner or the NAIC, shall comply with this rule for the year ending December 31, 1996, and each year thereafter. To enhance the intrastate and interstate surveillance of the insurer's financial condition earlier filing is permitted.~~

~~((5) The requirement under this section applies to the extent that the NAIC has issued a diskette submission directive or has otherwise approved or prescribed an applicable diskette format for the particular class of insurer)).~~

~~((6))~~ (4) The commissioner may allow a reasonable extension of the time for filing the financial statements. A request for an extension must be in writing. The request must be received prior to the due date of the filing and must state good cause for the extension. An extension can only be granted in writing; paper, fax, or e-mail is considered "writing" for purposes of this subsection.

AMENDATORY SECTION (Amending WSR 09-20-069, filed 10/5/09, effective 11/5/09)

**WAC 284-07-100 Purpose and scope.** (1) The purpose of WAC 284-07-100 through 284-07-230 is to improve the Washington state insurance commissioner's surveillance of the financial condition of insurers by requiring:

(a) An annual audit of financial statements reporting the financial position and the results of operations of insurers by independent certified public accountants;

(b) *Communications of Internal Control Related Matters Noted in an Audit*; and

(c) Management's report of internal control over financial reporting.

(2) Every insurer, as defined in WAC 284-07-110, ~~((shall be))~~ is subject to WAC 284-07-100 through 284-07-230. Insurers having direct premiums written of less than one million dollars in any calendar year and less than one thousand policyholders or certificate holders of direct written policies nation-wide at the end of the calendar year ~~((shall be))~~ are exempt from WAC 284-07-100 through 284-07-230 for

the year (unless the commissioner makes a specific finding that compliance is necessary for the commissioner to carry out statutory responsibilities) except that insurers having assumed premiums (~~(pursuant to)~~ under either contracts (~~and/or~~) or treaties, or both of reinsurance of one million dollars or more will not be (~~so~~) exempt.

(3) Foreign or alien insurers filing the audited financial report in another state, (~~(pursuant to)~~ under that state's requirement for filing of audited financial reports, which has been found by the commissioner to be substantially similar to the requirements herein, are exempt from WAC 284-07-120 through 284-07-210 if:

(a) A copy of the audited financial report, *Communication of Internal Control Related Matters Noted in an Audit*, and the Accountants' Letter of Qualifications that are filed with the other state are filed with the NAIC in accordance with the filing dates specified in WAC 284-07-120, 284-07-190 and 284-07-200, respectively (Canadian insurers may submit accountant's reports as filed with the Office of the Superintendent of Financial Institutions, Canada); and

(b) A copy of any Notification of Adverse Financial Condition Report filed with the other state is filed with the NAIC within the time specified in WAC 284-07-180.

(4) Foreign or alien insurers required to file management's report of internal control over financial reporting in another state are exempt from filing the report in this state provided the other state has substantially similar reporting requirements and the report is filed with the commissioner of the other state within the time specified.

(5) WAC 284-07-100 through 284-07-230 shall not prohibit, preclude, or in any way limit the commissioner from ordering, conducting, or performing examinations of insurers under the rules, regulations, practices, and procedures of the insurance commissioner.

(6) All reports and filings required by WAC 284-07-100 through 284-07-230 must be filed electronically with the (~~(commissioner)~~) NAIC. The filing with the NAIC will be deemed to be a filing with the commissioner. If the NAIC does not collect or accept any of these reports and filings, then the domestic insurer must file the report and other filings electronically with the commissioner. Insurers must electronically transmit the report or filing in PDF or other format as noted on the commissioner's web site. The commissioner has the discretion to allow an insurer to file (~~(paper copies of)~~) electronically with the commissioner any reports and filings required by WAC 284-07-100 through 284-07-230. The insurer must demonstrate that filing (~~(in electronic form)~~) with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file (~~(in hard copy)~~) with the NAIC must be received by the commissioner at least ninety days before the (~~(statement of annual statement)~~) report or filing is due.

(7) To comply with statutory or other requirements that reports or filings be signed or verified, insurers and accountants may:

(a) Use a method of electronic signature verification that has been approved by the commissioner; or

(b) (~~(File a paper copy of the signature or verification at the time of the electronic transmission of the report or filing.~~

~~(8) The report or filing and the appropriate signatures and/or verifications must both be received to complete a filing. The date of receipt of the later of the two parts of the filing is considered the receipt date of the report or filing.)~~ Include in the electronic filing an image of the signature in PDF format as noted on the commissioner's web site. This electronically filed document must contain a legally binding signature of the insurer or independent certified public accountant.

AMENDATORY SECTION (Amending WSR 09-20-069, filed 10/5/09, effective 11/5/09)

**WAC 284-07-190 Communication of internal control related matters noted in an audit.** (1) In addition to the annual audited financial report, each insurer (~~(shall)~~) must furnish the commissioner with a written communication as to any unremediated material weaknesses in its internal controls over financial reporting noted during the audit. Such communication (~~(shall)~~) must be prepared by the accountant within sixty days after the filing of the annual audited financial report, and (~~(shall)~~) must contain a description of any unremediated material weakness (as the term material weakness is defined by SAS No. 60, *Communication of Internal Control Related Matters Noted in an Audit*, or its replacement) as of December 31 immediately preceding (so as to coincide with the audited financial report discussed in WAC 284-07-120(1)) in the insurer's internal control over financial reporting noted by the accountant during the course of their audit of the financial statements. If no unremediated material weaknesses were noted, the communication should so state.

(2) The insurer (~~(is required to)~~) must provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if such actions are not described in the accountant's communication.

(3) Insurers must electronically file the written communication as to any unremediated material weakness in its internal controls over financial reporting noted during an audit, as described in subsection (1) of this section, in PDF or other format as noted on the commissioner's web site.

AMENDATORY SECTION (Amending WSR 09-20-069, filed 10/5/09, effective 11/5/09)

**WAC 284-07-217 Management's report of internal control over financial reporting.** (1) Every insurer required to file an audited financial report (~~(pursuant to)~~) under WAC 284-07-100 through 284-07-230 that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and federal flood program, of five hundred million dollars or more (~~(shall)~~) must prepare a report of the insurer's or group of insurers' internal control over financial reporting, as these terms are defined in WAC 284-07-110. The report (~~(shall)~~) must be filed with the commissioner along with the *Communications of Internal Control Related Matters Noted in an Audit* described under WAC 284-07-190. Management's report of internal control over financial reporting shall be as of December 31 immediately preceding.

(2) Notwithstanding the premium threshold in subsection (1) of this section, the commissioner may require an

insurer to file management's report of internal control over financial reporting if the insurer is in any RBC level event, or meets any one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in WAC 284-16-310.

(3) An insurer or group of insurers that is:

(a) Directly subject to Section 404;

(b) Part of a holding company system whose parent is directly subject to Section 404;

(c) Not directly subject to Section 404 but is a SOX compliant entity; or

(d) A member of a holding company system whose parent is not directly subject to Section 404 but is a SOX compliant entity may file its or its parent's Section 404 Report and an addendum in satisfaction of this section's requirement provided that those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in WAC 284-07-130 (2)(b) through (g)) were included in the scope of the Section 404 Report. The addendum (~~shall~~) must be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in WAC 284-07-130 (2)(b) through (g)) excluded from the Section 404 Report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 Report, the insurer or group of insurers may either file:

(i) A WAC 284-07-217 report; or

(ii) The Section 404 Report and a WAC 284-07-217 report for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 Report.

(4) Management's report of internal control over financial reporting (~~shall~~) must include:

(a) A statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;

(b) A statement that management has established internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles;

(c) A statement that briefly describes the approach or processes by which management evaluated the effectiveness of the internal control over financial reporting;

(d) A statement that briefly describes the scope of work that is included and whether any internal controls were excluded;

(e) Disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding. Management is not permitted to conclude that the internal control over financial reporting is effective to provide reason-

able assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weakness in its internal control over financial reporting;

(f) A statement regarding the inherent limitations of internal control systems; and

(g) Signatures of the chief executive officer and the chief financial officer (or equivalent position/title).

(5) Insurers must electronically file management's report of internal control over financial reporting, as described in subsection (1) of this section, in PDF or other format as noted on the commissioner's web site.

(6) Management (~~shall~~) must document and make available upon financial condition examination the basis upon which its assertions, required in subsection (4) of this section, are made. Management may base its assertions, in part, upon review, monitoring and testing of internal controls undertaken in the normal course of its activities.

(a) Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost-effective manner and, as such, may include assembly of or reference to existing documentation.

(b) Management's report on internal control over financial reporting, required by subsection (1) of this section, and any documentation provided in support thereof during the course of a financial condition examination, (~~shall~~) must, to the extent provided by law, be kept confidential by the commissioner.

## WSR 14-13-108

### PROPOSED RULES

### DEPARTMENT OF LICENSING

[Filed June 17, 2014, 3:55 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-08-077.

Title of Rule and Other Identifying Information: Motor vehicle titles—Quick titles.

Hearing Location(s): Highways-Licenses Building, Conference Room 413, 1125 Washington Street S.E., Olympia, WA (check in at counter on first floor), on July 24, 2014, at 3:00 p.m.

Date of Intended Adoption: July 25, 2014.

Submit Written Comments to: Jaime Grantham, Administrator, Vehicle and Vessel Operations, P.O. Box 9020, Mailstop 48211, Olympia, WA 98507, e-mail [jgrantham@dol.wa.gov](mailto:jgrantham@dol.wa.gov), by July 23, 2014.

Assistance for Persons with Disabilities: Contact Jaime Grantham by July 23, 2014, TTY (360) 902-3812 or (360) 902-3811.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Create a new section in chapter 308-56A WAC governing the issuance of "quick titles" (motor vehicle titles that are issued under an expedited process) by subagents.

Reasons Supporting Proposal: The legislature recently amended RCW 46.12.555 to provide that subagents may pro-

cess quick titles "in accordance with rules adopted by the department." The department intends to adopt WAC 308-56A-006 to ensure that quick titles are appropriately issued by subagents.

Statutory Authority for Adoption: RCW 46.01.110 and 46.12.555.

Statute Being Implemented: RCW 46.12.555.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Clark J. Holloway, Highways-Licenses Building, Olympia, Washington, (360) 902-3846; Implementation and Enforcement: Jaime Grantham, Highways-Licenses Building, Olympia, Washington, (360) 902-3718.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.025(3) and 34.05.310 (4)(b).

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this proposed rule under the provisions of RCW 34.05.328 (5)(a)(i).

June 17, 2014  
Damon Monroe  
Rules Coordinator

#### NEW SECTION

**WAC 308-56A-006 Quick titles—Issuance by subagents. (1) How may a subagent qualify to issue quick titles under RCW 46.12.555?** Subagents may issue quick titles under the conditions and procedures established by the department.

**(2) May a subagent's authority to issue quick titles be terminated or suspended?** Yes, if the department or a vehicle licensing agent finds that a subagent has violated or no longer meets the qualifications or requirements of the department's policy or procedures regarding the issuance of quick titles the vehicle licensing agent may terminate or suspend for any period of time the subagent's authority to issue quick titles.

#### **WSR 14-13-111 PROPOSED RULES**

#### **DEPARTMENT OF TRANSPORTATION**

[Filed June 18, 2014, 9:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-23-004.

Title of Rule and Other Identifying Information: WAC 468-46-010 Engineering and traffic investigation of request for transit vehicle stop zone, revise to allow approval of in-lane transit vehicle stops on state highways.

WAC 468-46-020 Secretary of transportation or designee to approve transit vehicle stop zones, revise to allow approval of in-lane transit vehicle stops on state highways.

WAC 468-46-060 Elimination of transit vehicle stop zones, repeal as this rule specifically required the reduction of in-lane transit vehicle stops.

Hearing Location(s): 310 Maple Park Avenue, Commission Board Room, Room 1D2, Olympia, WA 98504, on July 31, 2014, at 1:30 p.m.

Date of Intended Adoption: July 31, 2014.

Submit Written Comments to: MaryLou Nebergall, P.O. Box 47329, Olympia, WA 98504, e-mail nebergm@wsdot.wa.gov, fax (360) 704-6381, by July 28, 2014.

Assistance for Persons with Disabilities: Contact Washington state department of transportation (WSDOT) reception by July 28, 2014, TTY 711 or (360) 705-7000.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In response to requests from transit agencies, WSDOT seeks more flexibility to allow in-lane transit vehicle stops when appropriate and provide consistent language in rules that determine when and where a transit vehicle may stop temporarily in a roadway for the purpose of receiving or discharging passengers.

Reasons Supporting Proposal: In-lane transit vehicle stops eliminate the need for buses to merge into traffic from a pullout which may increase the reliability of the bus service schedule.

Statutory Authority for Adoption: RCW 46.61.560.

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

Name of Proponent: WSDOT development and traffic divisions, governmental.

Name of Agency Personnel Responsible for Drafting: MaryLou Nebergall, 310 Maple Park Avenue S.E., Olympia, WA, (360) 705-7458; Implementation and Enforcement: John Nisbet, 310 Maple Park Avenue S.E., Olympia, WA, (360) 705-7280.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposed revisions only affect locations and requirements for transit vehicle stop locations.

A cost-benefit analysis is not required under RCW 34.05.328. There are no additional costs associated with the proposed revisions.

June 18, 2014  
Kathryn W. Taylor  
Assistant Secretary

#### AMENDATORY SECTION (Amending WSR 79-01-033, filed 12/20/78)

**WAC 468-46-010 Engineering and traffic investigation of request for transit vehicle stop zone.** When requesting a transit vehicle stop zone outside of any incorporated city or town, the public transit agency shall be responsible for conducting a field review to evaluate accessibility to the proposed location. When the requested location is within the roadway, the transit agency shall have a policy for in-lane stops that addresses safety and operational issues. Upon receipt of a request from a public transit authority for approval of a transit vehicle stop zone outside of any incorporated city or town, the department of transportation shall ~~(conduct an engineering and traffic investigation in an~~

~~attempt to find a suitable location at which transit vehicles may stop wholly off the roadway for the purpose of receiving or discharging passengers))~~ assess the sight distance at the proposed location.

AMENDATORY SECTION (Amending WSR 79-01-033, filed 12/20/78)

**WAC 468-46-020 Secretary of transportation or designee to approve transit vehicle stop zones.** ~~((Should such a location not be found within a reasonable or practical distance suitable to the transit authority needs, and the public convenience requires that transit vehicles temporarily stop upon the roadway for the purpose of receiving or discharging passengers.))~~ The secretary of transportation or any assistant secretary or district engineer to whom the secretary has delegated the authority, may approve a transit vehicle stop zone ((at the most suitable location available having adequate sight distance based upon engineering judgment, with stopping sight distance as a minimum. The secretary of transportation may approve transit vehicle stop zones at locations not meeting the above requirements)) that conforms to WAC 468-46-010 or where the secretary deems the circumstances warrant such exceptions.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 468-46-060 Elimination of transit vehicle stop zones.

**WSR 14-13-112  
PROPOSED RULES  
DEPARTMENT OF  
EARLY LEARNING**

[Filed June 18, 2014, 10:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-05-046.

Title of Rule and Other Identifying Information: WAC 170-296A-1725 Licensee minimum education, equivalent education.

Hearing Location(s): Department of Early Learning (DEL), Olympia Office, 1110 Jefferson Street S.E., Olympia, WA 98501, on July 22, 2014, at 12 p.m.

Date of Intended Adoption: Not earlier than July 22, 2014.

Submit Written Comments to: Rules Coordinator, DEL, P.O. Box 40970, Olympia, WA 98504-0970, e-mail rules@del.wa.gov, fax (360) 586-0533, by July 22, 2014.

Assistance for Persons with Disabilities: Contact DEL rules coordinator by July 8, 2014, (360) 407-1962.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To allow family home child care applicants another means of meeting the requirement to have education equivalent to a high school

diploma, i.e., by completing DEL approved early childhood education initial certificate.

Reasons Supporting Proposal: Current education requirements for family home child care providers create a barrier to licensure for providers who demonstrate educational achievement by completing an early childhood education initial certificate, yet do not have a high school diploma or GED, twelve years of elementary and secondary education, a child development associate credential, or forty-five credits of post-secondary education. The proposed rules remove that barrier by making completion of the department approved early childhood education initial certificate a form of equivalent education.

Statutory Authority for Adoption: RCW 43.215.060, 43.215.070, chapter 43.215 RCW.

Statute Being Implemented: Chapter 43.215 RCW.

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

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Mary Kay Quinlan, Licensing Administrator, DEL State Office, P.O. Box 40970, Olympia, WA 98504, (360) 407-1953; Implementation and Enforcement: DEL licensing offices, statewide.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules are not expected to impose new costs on businesses that are required to comply. If the rules result in costs, those costs are not expected to be "more than minor" as defined in chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328. DEL is not among the agencies listed as required to comply with RCW 34.05.328.

June 18, 2014  
Elizabeth M. Hyde  
Director

AMENDATORY SECTION (Amending WSR 13-21-112, filed 10/22/13, effective 11/22/13)

**WAC 170-296A-1725 Licensee minimum education.**

(1) For any initial family home child care license issued on or after March 31, 2012, the applicant must have a high school diploma.

(2) If the applicant does not have a high school diploma, he or she must submit written evidence of equivalent education. As used in this section, "equivalent education" means:

(a) Passing the general educational development (GED) tests;

(b) Completion of twelve years of elementary and secondary education;

(c) Possessing a current child development associate (CDA) credential as approved through the council for professional recognition; ~~((or))~~

(d) Completion of forty-five credits of post secondary education; or

(e) Completion of the department approved early childhood education initial certificate.

(3) In addition to equivalent education defined within this section, a family home child care licensee licensed prior

to March 31, 2012, and continuously maintaining the license may meet the "equivalent education" requirement by achieving a level three rating in the early achievers program, Washington state's quality rating improvement system, prior to March 31, 2017.

**WSR 14-13-116**  
**PROPOSED RULES**  
**BELLEVUE COLLEGE**  
[Filed June 18, 2014, 11:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-10-004.

Title of Rule and Other Identifying Information: Repeal chapter 132H-120 WAC, Student code of Community College District VIII and replace with new chapter 132H-125 WAC, Student conduct code of Bellevue College.

Hearing Location(s): Bellevue College, Building B, Room B201B, 3000 Landerholm Circle S.E., Bellevue, WA 98007, on July 23, 2014, at 1:00 p.m.

Date of Intended Adoption: September 10, 2014.

Submit Written Comments to: Ana Blackstad, 3000 Landerholm Circle S.E., Bellevue, WA 98007, e-mail ana.blackstad@bellevuecollege.edu, fax (425) 564-6024, by July 18, 2014.

Assistance for Persons with Disabilities: Contact Pavy Thao by July 18, 2014, (425) 564-3151.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The current student code is not compliant with the requirements of the Violence Against Women Act (VAWA) reauthorization.

This proposal repeals the previous chapter on student code and replaces it with a chapter that is in compliance with VAWA and is consistent with the recommendations for model language for community and technical colleges. The new version of the student code:

(1) Updates the student conduct code to reflect recent changes in the law regarding personal use of marijuana, bullying, and sexual violence and to bring the code into compliance with requirements imposed by VAWA.

(2) Updates and clarifies disciplinary sanctions and terms and conditions that the college can impose against students who are found to have violated the student conduct code.

(3) Updates the student conduct procedures and bring[s] them into compliance with VAWA.

(4) Expands the jurisdiction of the student conduct code to include off campus conduct.

(5) Makes appeals from disciplinary reprimands and disciplinary probation to brief adjudicative proceedings.

(6) Retains review by the student conduct committee for appeals from disciplinary suspensions and dismissals.

(7) Makes the preponderance of the evidence the applicable standard of proof for disciplinary matters.

(8) Makes available the same procedural rights to alleged victims of sexual misconduct as are available to student respondents accused of sexual misconduct.

Reasons Supporting Proposal: The revised code will enhance the college's compliance with Title IX requirements and VAWA. In addition, the new language provides for additional clarity and consistency in the process.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

Rule is necessary because of federal law, Title IX-20 U.S.C. §§ 1681-88; VAWA-42 § 13701 note; etc.

Name of Proponent: Bellevue College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ana Blackstad, Bellevue College, 3000 Landerholm Circle S.E., B234E, Bellevue, WA 98007, (425) 564-2630.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Such a statement is not required for these college rules under RCW 19.85.030.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to these college rules.

June 18, 2014  
Lisa Corcoran  
Rules Coordinator

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 132H-120-010	Title.
WAC 132H-120-020	Preamble.
WAC 132H-120-030	Definitions.
WAC 132H-120-040	Jurisdiction.
WAC 132H-120-050	Student rights and freedoms.
WAC 132H-120-200	Student responsibilities.
WAC 132H-120-210	Purpose of disciplinary action.
WAC 132H-120-220	Responsibility of college discipline committee.
WAC 132H-120-225	Disciplinary terms.
WAC 132H-120-235	Initial disciplinary proceedings.
WAC 132H-120-245	Appeals of disciplinary action—Generally.
WAC 132H-120-300	Discipline committee procedure.
WAC 132H-120-305	Evidence admissible in hearings.
WAC 132H-120-310	Decision by the college discipline committee.
WAC 132H-120-335	Final appeal.
WAC 132H-120-350	Readmission after expulsion.
WAC 132H-120-360	Reporting, recording and maintenance of records.
WAC 132H-120-405	Summary suspension proceedings.
WAC 132H-120-410	Permission to enter or remain on campus.

WAC 132H-120-420	Notice of summary suspension proceedings.
WAC 132H-120-430	Procedures of summary suspension hearing.
WAC 132H-120-440	Decision by the dean of student services.
WAC 132H-120-450	Notice of suspension.
WAC 132H-120-460	Suspension for failure to appear.
WAC 132H-120-475	Appeals from summary suspension hearing.

### Chapter 132H-125 WAC

#### STUDENT CONDUCT CODE OF BELLEVUE COLLEGE

##### NEW SECTION

**WAC 132H-125-010 Authority.** The board of trustees, acting pursuant to RCW 28B.50.140, delegates to the president of Bellevue College the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice-president of student services and/or designated student conduct officer. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

##### NEW SECTION

**WAC 132H-125-020 Statement of student rights.** As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy which are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(d) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate

and disrespectful conduct, and any and all harassment, including sexual harassment.

(2) Due process.

(a) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

##### NEW SECTION

**WAC 132H-125-030 Prohibited student conduct.** The college may impose disciplinary sanctions against a student who commits, or aids, abets, incites, encourages or assists another person to commit, an act(s) of misconduct, which include, but are not limited to, the following:

(1) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication.

(a) **Cheating** includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) **Plagiarism** includes taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment. May also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) **Fabrication** includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(2) **Other dishonesty.** Any other acts of dishonesty. Such acts include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee.

(3) **Obstruction or disruption.** Obstruction or disruption of:

(a) Any instruction, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(4) **Assault.** Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, stalking or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this subsection:

(a) **Bullying** is physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

(b) **Stalking** is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such an intent.

(5) **Cyber misconduct.** Cyberstalking, cyberbullying or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully, or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's e-mail communications directly or through spyware, sending threatening e-mails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's e-mail identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(6) **Property violation.** Damage to, or theft or misuse of, real or personal property or money of:

(a) The college or state;

(b) Any student or college officer, employee, or organization;

(c) Any other member of the college community or organization; or

(d) Possession of such property or money after it has been stolen.

(7) **Failure to comply with directive.** Failure to comply with the direction of a college officer or employee who is acting in the legitimate performance of his or her duties, including failure to properly identify oneself to such a person when requested to do so.

(8) **Weapons.** Possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus, subject to the following exceptions:

(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties; or

(b) Students with legally issued concealed weapons permits may store their weapons in vehicles parked in accordance with RCW 9.41.050 on campus provided the vehicle is locked and the weapon is concealed from view; or

(c) The president or his delegate may authorize possession of a weapon on campus upon a showing that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to any terms or conditions incorporated therein.

(9) **Hazing.** Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization

that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm to any student.

(10) **Alcohol, drug, and tobacco violations.**

(a) **Alcohol.** The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(b) **Marijuana.** The use, possession, delivery, sale, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(c) **Drugs.** The use, possession, delivery, sale, or being under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

(d) **Tobacco, electronic cigarettes, and related products.** Tobacco, electronic cigarettes, and related products: The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location where such use is prohibited, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased, or operated by the college. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(11) **Lewd conduct.** Conduct which is lewd or obscene.

(12) **Discriminatory conduct.** Discriminatory conduct which harm or adversely affect any member of the college community because of her/his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran status; or any other legally protected classification.

(13) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members.

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(c) **Sexual violence.** The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the

person is incapable of giving consent including rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, gender- or sex-based stalking. The term further includes acts of dating or domestic violence. A person may be incapable of giving consent by reason of age, threat or intimidation, lack of opportunity to object, disability, drug or alcohol consumption, or other cause.

(14) **Harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran status; or any other legally protected classification. See "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media, and electronic communications.

(15) **Retaliation.** Retaliation against any individual for reporting, providing information, exercising one's rights or responsibilities, or otherwise being involved in the process of responding to, investigating, or addressing allegations or violations of federal, state, or local law, or college policies including, but not limited to, student conduct code provisions prohibiting discrimination and harassment.

(16) **Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

- (a) Unauthorized use of such resources or opening of a file, message, or other item;
- (b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;
- (c) Unauthorized use or distribution of someone else's password or other identification;
- (d) Use of such time or resources to interfere with someone else's work;
- (e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;
- (f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;
- (g) Use of such time or resources in violation of applicable copyright or other law;
- (h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or
- (i) Failure to comply with the college's electronic use policy.

(17) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.

(18) **Safety violations.** Safety violation includes any nonaccidental conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

(19) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college traffic and parking rules.

(20) **Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

#### NEW SECTION

**WAC 132H-125-040 Disciplinary sanctions—Terms and conditions.** The following disciplinary sanctions may be imposed upon students found to have violated the student conduct code.

(1) **Disciplinary warning.** A verbal statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) **Written reprimand.** Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(3) **Disciplinary probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation, and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(4) **Disciplinary suspension.** Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.

(5) **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

(6) Disciplinary terms and conditions that may be imposed in conjunction with the imposition of a disciplinary sanction include, but are not limited to, the following:

(a) Restitution. Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(b) Professional evaluation. Referral for drug, alcohol, psychological or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(7) **Not in good standing.** A student may be deemed "not in good standing" with the college. If so, the student shall be subject to the following restrictions:

(a) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(b) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

#### NEW SECTION

**WAC 132H-125-200 Statement of jurisdiction.** The student conduct code shall apply to student conduct that occurs on college premises, to conduct that occurs at or in connection with college-sponsored activities, or to off-campus conduct that in the judgment of the college adversely affects the college community or the pursuit of its objectives. Jurisdiction extends to, but is not limited to, locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities. Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. The college has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct that occurs off campus.

#### NEW SECTION

**WAC 132H-125-210 Definitions.** The following definitions shall apply for the purposes of this student conduct code:

(1) **"Business day"** means a weekday, excluding weekends and college holidays.

(2) **"College premises"** shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

(3) **"Conduct review officer"** is the vice-president of student services or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code. The president is authorized to reassign any and all of the conduct review officer's duties or responsibilities, as set forth in this chapter, as may be reasonably necessary.

(4) **"Disciplinary action"** is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code.

(5) **"Disciplinary appeal"** is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of ten instructional days or an expulsion, are heard by the student conduct committee. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings.

(6) **"Filing"** is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official. Unless otherwise provided, filing shall be accomplished by:

(a) Hand delivery of the document to the specified college official or college official's assistant; or

(b) Sending the document by e-mail and first class mail to the specified college official's office and college e-mail address.

(7) **"Respondent"** is the student against whom disciplinary action is initiated.

(8) **"Service"** is the process by which a document is officially delivered to a party. Service is deemed complete upon hand delivery of the document or upon the date the document is e-mailed and deposited in the mail. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) Sending the document by e-mail and by certified mail or first class mail to the party's last known address.

(9) **"Student"** includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students."

(10) **"Student conduct officer"** is a college administrator designated by the president or vice-president of student

services to be responsible for implementing and enforcing the student conduct code. The president or vice-president of student services is authorized to reassign any and all of the student conduct officer's duties or responsibilities, as set forth in this chapter, as may be reasonably necessary.

(11) **"The president"** is the president of the college. The president is authorized to delegate any and all of his or her responsibilities, as set forth in this chapter, as may be reasonably necessary.

#### NEW SECTION

##### **WAC 132H-125-220 Initiation of disciplinary action.**

(1) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing him or her to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting. At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting, the student conduct officer may take disciplinary action based upon the available information.

(3) Within ten days of the initial disciplinary meeting and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting his or her decision, the specific student conduct code provisions found to have been violated, the discipline imposed, if any, and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal.

(4) The student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings.

(b) Impose a disciplinary sanction(s), as described in WAC 132H-125-040 and BC Policy 2050.

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

#### NEW SECTION

##### **WAC 132H-125-230 Appeal from disciplinary action.**

(1) The respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty-one days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent and the conduct review officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(7) The student conduct committee shall hear appeals from:

(a) The imposition of disciplinary suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president.

(8) Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Written reprimands; and

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(9) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

#### NEW SECTION

##### **WAC 132H-125-240 Brief adjudicative proceedings—Initial hearing.**

(1) Brief adjudicative proceedings shall be conducted by a conduct review officer designated by the president. The conduct review officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the agency's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon both the parties within ten days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within twenty-one days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) If the conduct review officer, upon review, determines that the respondent's conduct may warrant imposition

of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

#### NEW SECTION

**WAC 132H-125-250 Brief adjudicative proceedings—Review of an initial decision.** (1) An initial decision is subject to review by the president, provided the respondent files a written request for review with the conduct review officer within twenty-one days of service of the initial decision.

(2) The president shall not participate in any case in which he or she is a complainant or witness, or in which he/she has direct or personal interest, prejudice, or bias, or in which he/she has acted previously in an advisory capacity.

(3) During the review, the president shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to determine whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within twenty days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within twenty days after the request is submitted.

(5) If the president, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

#### NEW SECTION

**WAC 132H-125-260 Student conduct committee.** (1) The student conduct committee shall consist of six members:

(a) Two full-time students appointed by the student government;

(b) Two faculty members appointed by the president;

(c) Two administrative staff members, other than an administrator serving as a student conduct or conduct review officer, appointed by the president prior to the beginning of the academic year for alternating two-year terms.

(2) One of the administrative staff members shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee. The administrative staff members shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee, so long as one faculty member, one student, and one administrative staff member are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).

#### NEW SECTION

**WAC 132H-125-270 Appeal—Student conduct committee.** (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW, and by the Model Rules of Procedure, chapter 10-08 WAC. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown.

(3) The committee chair is authorized to conduct pre-hearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request, filed at least five days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of (a) the conduct officer's notification of imposition of discipline, or referral to the committee, and (b) the notice of appeal, or any response to referral, by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer, upon request, shall provide reasonable assistance to the respondent in obtaining relevant and admissible evidence that is within the college's control.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) Each party may be accompanied at the hearing by a nonattorney assistant of his/her choice. A respondent may

elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

#### NEW SECTION

**WAC 132H-125-280 Student conduct committee hearings—Presentations of evidence.** (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

(a) Proceed with the hearing and issuance of its decision; or

(b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that he/she selects, in accordance with RCW 34.05.-449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer, unless represented by an assistant attorney general, shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

#### NEW SECTION

**WAC 132H-125-290 Student conduct committee—Initial decision.** (1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within twenty days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility

of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's initial order shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall identify and impose disciplinary sanction(s) or conditions, if any, as authorized in the student code. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the disciplinary sanction and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanction(s) or conditions as authorized herein.

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

#### NEW SECTION

**WAC 132H-125-300 Appeal from student conduct committee initial decision.** (1) A respondent who is aggrieved by the findings or conclusions issued by the student conduct committee may appeal the committee's initial decision to the president by filing a notice of appeal with the president's office within twenty-one days of service of the committee's initial decision. Failure to file a timely appeal constitutes a waiver of the right and the initial decision shall be deemed final.

(2) The notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain argument why the appeal should be granted. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the notice of appeal.

(3) The president shall provide a written decision to all parties within forty-five days after receipt of the notice of appeal. The president's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.

(4) The president may, at his or her discretion, suspend any disciplinary action pending review of the merits of the findings, conclusions, and disciplinary actions imposed.

(5) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

#### NEW SECTION

**WAC 132H-125-310 Summary suspension.** (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or

(c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.

(5) The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.

(a) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(b) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(c) If the respondent fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(d) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

(e) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

#### NEW SECTION

**WAC 132H-125-320 Discipline procedures for cases involving allegations of sexual misconduct.** Both the respondent and the complainant in cases involving allega-

tions of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial disciplinary decision-making process and to appeal any disciplinary decision.

Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct by a student. In such cases, these procedures shall supplement the student disciplinary procedures in WAC 132H-125-005 through 132H-125-060. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall take precedence.

#### NEW SECTION

**WAC 132H-125-330 Supplemental definitions.** The following supplemental definitions shall apply for purposes of student conduct code proceedings involving allegations of sexual misconduct by a student:

(1) A "**complainant**" is an alleged victim of sexual misconduct, as defined in subsection (2) of this section.

(2) "**Sexual misconduct**" is prohibited sexual- or gender-based conduct by a student including, but not limited to:

(a) Sexual activity for which clear and voluntary consent has not been given in advance;

(b) Sexual activity with someone who is incapable of giving valid consent because, for example, she or he is underage, sleeping, or otherwise incapacitated due to alcohol or drugs;

(c) Sexual harassment;

(d) Sexual violence which includes, but is not limited to, sexual assault, domestic violence, intimate violence, and sexual- or gender-based stalking; and

(e) Nonphysical conduct such as sexual- or gender-based digital media stalking, sexual- or gender-based online harassment, sexual- or gender-based cyberbullying, nonconsensual recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity.

#### NEW SECTION

**WAC 132H-125-340 Supplemental complaint process.** The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student:

(1) The college's Title IX compliance officer shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(2) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(3) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety, and

welfare of the complainant or other members of the college community or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(4) The student conduct officer, prior to initiating disciplinary action, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.

(5) The student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of his or her appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt notice of the protective disciplinary sanctions and/or conditions.

#### NEW SECTION

##### **WAC 132H-125-350 Supplemental appeal rights.** (1)

The following actions by the student conduct officer may be appealed by the complainant:

- (a) The dismissal of a sexual misconduct complaint; or
- (b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.

(2) A complainant may appeal a disciplinary decision by filing a notice of appeal with the conduct review officer within twenty-one days of service of the notice of the discipline decision provided for in WAC 132H-125-110(5). The notice of appeal may include a written statement setting forth the grounds of appeal. Failure to file a timely notice of appeal constitutes a waiver of this right and the disciplinary decision shall be deemed final.

(3) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.

(4) Except as otherwise specified in this supplemental procedure, a complainant who timely appeals a disciplinary decision or who intervenes as a party to the respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

(5) An appeal by a complainant from the following disciplinary actions involving allegations of sexual misconduct against a student shall be handled as a brief adjudicative proceeding:

- (a) Exoneration and dismissal of the proceedings;
- (b) Disciplinary warning;
- (c) Written reprimand;
- (d) Disciplinary probation;
- (e) Suspensions of ten instructional days or less; and/or

(f) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(6) An appeal by a complainant from disciplinary action imposing a suspension in excess of ten instructional days or an expulsion shall be reviewed by the student conduct committee.

(7) In proceedings before the student conduct committee, respondent and complainant shall have the right to be accompanied by a nonattorney assistant of their choosing during the appeal process. Complainant may choose to be represented at the hearing by an attorney at his or her own expense, but will be deemed to have waived that right unless, at least four business days before the hearing, he or she files a written notice of the attorney's identity and participation with the committee chair, and with copies to the respondent and the student conduct officer.

(8) In proceedings before the student conduct committee, complainant and respondent shall not directly question or cross examine one another. All questions shall be directed to the committee chair, who will act as an intermediary and pose questions on the parties' behalf.

(9) Student conduct hearings involving sexual misconduct allegations shall be closed to the public, unless respondent and complainant both waive this requirement in writing and request that the hearing be open to the public. Complainant, respondent and their respective nonattorney assistants and/or attorneys may attend portions of the hearing where argument, testimony, and/or evidence are presented to the student conduct committee.

(10) The chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice upon complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of his or her appeal rights.

(11) The complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties.

(12) The president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.