

WSR 06-22-004

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 19, 2006, 2:06 p.m., effective November 19, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rules clarify eligibility requirements for employers and employees who wish to participate in the shared work program. They explain the department's expectations of employers, the number of plans an employer is permitted to have, the circumstances under which a plan may be revoked, and define terms.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-36-010, 192-36-015, 192-36-020, and 192-36-025.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, and 50.60.901.

Adopted under notice filed as WSR 06-16-086 on July 31, 2006.

Changes Other than Editing from Proposed to Adopted Version: The words "in writing" were added to WAC 192-250-025(7) to clarify requirements. For purposes of clarity, the phrase "within the three year period" was deleted from WAC 192-250-025 (8)(d). The second sentence of WAC 192-250-030 was changed to clarify that the good cause factors listed in the rule are in addition to those listed in RCW 50.60.070.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 9, Amended 0, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 9, Amended 0, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 9, Amended 0, Repealed 4.

Date Adopted: October 6, 2006.

Karen T. Lee
Commissioner

NEW SECTION

WAC 192-100-040 Seasonal employment. The term "seasonal employment" means work with regular periodic layoffs, showing a consistent pattern of employment and unemployment.

Chapter 192-250 WAC

Shared Work Program

NEW SECTION

WAC 192-250-005 Definitions. For purposes of this chapter:

(1) "Full time employment" means paid time of thirty-five to forty hours each week.

(2) "General economic downturn" means a regional slowdown in work within an industry that is not due to factors that are typical for the industry or occupation.

(3) "Seasonal employment" is defined in WAC 192-100-040.

NEW SECTION

WAC 192-250-010 What is the shared work program and who can participate? (1) The shared work program is a voluntary program that offers Washington employers an alternative to laying off skilled employees during periods of general economic downturn.

(2) An employer may reduce an employee's full-time weekly work hours from ten to fifty percent and the employee can receive the same percentage of unemployment benefits. For example, an eligible employee who normally works forty hours each week is reduced to thirty hours per week, a reduction of twenty-five percent. The employee is eligible to receive twenty-five percent of his or her weekly benefit amount, regardless of the wages earned that week.

(3) Both public and private sector employers are eligible to participate in the program.

(4) An employer or employers' association must submit a signed shared work plan application to the commissioner for approval. A plan that meets the approval criteria listed in RCW 50.60.030 and this chapter will be approved for a maximum of fifty-two weeks.

NEW SECTION

WAC 192-250-015 When is an employer eligible to participate in the shared work program? A business must be legally registered in the state of Washington for at least six months (one hundred eighty days) before applying for the shared work program. "Registration" includes being issued an Employment Security (ES) reference number as well as a Unified Business Identifier (UBI) number.

NEW SECTION

WAC 192-250-020 What is the criteria for having a shared work plan approved? In addition to the criteria listed in RCW 50.60.030, employers must:

(1) Be current in the payment of all unemployment insurance taxes required under Title 50 RCW, or have an approved deferred payment contract on file with the department;

(2) Include their ES reference number on the plan application; and

(3) Designate a representative to be a liaison between the department and the employees who participate in the shared work plan.

NEW SECTION

WAC 192-250-025 What are the requirements for employers with an approved shared work plan? (1) What information am I responsible for providing to my employees? When your shared work plan is approved, you are responsible for telling your employees:

(a) They are approved for participation in the shared work program;

(b) How to apply for shared work benefits; and

(c) How to file their weekly claims.

(2) What employee fringe benefits do I have to provide while participating in the shared work program? (a) You must continue to provide your employees with health benefits and with retirement benefits for defined pension plans under Section 3(35) of the Employee Retirement Income Security Act of 1974. You must maintain these benefits for your shared work employees as though their weekly hours had not been reduced.

(b) You must continue to provide paid vacation, holiday, and sick leave on the same basis as before their hours were reduced.

(c) Other benefits such as long-term disability and life insurance are optional. You may choose to provide these benefits but they are not a requirement for participation in the program.

(3) What is required if the business name is changed? You must report any change in your business name to the shared work program unit within ten working days.

(4) What is required if the designated employer representative is changed? You must notify the shared work unit of the change within ten working days.

(5) Can I modify an approved shared work plan? Answering "yes" to plan modification on your application allows additional employees or units of your business to be added after the approved plan start date. You may also modify the number of hours an employee works during a week according to the needs of your business. Adding new employees or units to an approved plan is subject to the same eligibility review that applied to the original plan.

(6) Can I change the definition of full-time work for my employees? No. Once you have established the number of hours that are full-time for the worker on the original application, this number may not be modified.

(7) What other information am I responsible for giving the department? In addition to the application for participation in the program, you are responsible for verifying the information on the report of shared work payments sent by the department. You must report any discrepancies to the shared work unit in writing within ten working days.

(8) How many shared work plans may I have? (a) You may have two shared work plans within a three year period beginning with the effective date of the first plan. We will review each shared work plan application to see if it meets the eligibility requirements. Even if a previous plan

was approved, this does not mean subsequent plans are automatically approved.

(b) You will not be eligible for a new plan until at least twelve months after the expiration date of the second approved plan.

(c) A plan may be approved for up to twelve months from the effective date. Plans approved for fewer than twelve months still count as one plan.

(d) If your business is approved for a shared work plan, but your employees do not claim shared work benefits during the life of the plan, it will still be treated as one plan.

(e) The commissioner may, in individual cases and at his or her discretion, waive the twelve month waiting period in subsection (b).

(9) What if my ES reference number changes? You must report the change to the shared work unit within ten working days. A change in ES reference number represents a change in employer and the existing shared work plan will be canceled. The successor employer may submit a new shared work plan application to the department for review.

NEW SECTION

WAC 192-250-030 What are the grounds for revoking a shared work plan?—RCW 50.60.070. The department may revoke a shared work plan for good cause. In addition to the factors listed in RCW 50.60.070, "good cause" includes, but is not limited to:

(1) An employer's failure within ten working days to:

(a) Report a change in their ES reference number.

(b) Report an impending sale or transfer of the business or company.

(c) Report a change in the designated employer representative.

(d) Provide wage and hour reports, documents, or other information needed by the shared work unit to decide if the employer or employee(s) is eligible for participation in the shared work program.

(e) Verify the information on the employer's shared work payments report, and notify the shared work unit of any discrepancies in writing.

(2) An employer's failure to maintain employee fringe benefits as required by WAC 192-250-025(2) while participating in the program.

NEW SECTION

WAC 192-250-035 Information for employees participating in an approved shared work plan. (1) What are the requirements for participating in my employer's plan? You must have at least four hundred sixty hours of work with this employer in the calendar quarter before the quarter in which your employer's application is submitted.

(2) When do I apply for benefits? Your employer representative will tell you if you need to apply for benefits and how to do so. If you have a current valid claim, you do not need to apply again.

(3) How do I file my weekly claim for benefits? See WAC 192-140-005 for instructions on filing weekly claims. You must also report the number of hours you were paid for holidays, vacations, or sick leave. You must report hours and

gross earnings for part-time and second jobs, plus your hours and net earnings from any self-employment. You can file weekly claims by telephone or over the internet.

(4) **What happens if the total number of hours worked is not a whole number?** If the total number of hours you worked in a week includes a fraction of an hour, the department will round the total down to the next whole number. This rounded number will be compared to your usual hours of work to calculate your shared work benefit payment for the week. For example: You work 28.5 hours of a normal 40 hour week. The 28.5 hours is rounded down to 28 hours and then divided by 40, meaning you worked 70 percent of the available hours. Your shared work payment would be 30 percent of your regular weekly benefit amount.

(5) **What happens if I don't work all scheduled hours for my shared work employer?** (a) You are not eligible for shared work benefits for any week that you do not work all hours you have been scheduled by your shared work employer.

(b) You must be available for additional hours of work, up to full time, with the shared work employer. If your employer gives you at least 24 hours' notice that additional work is available and you do not work those additional hours, you are not eligible for shared work benefits for that week.

(c) When you are not eligible for shared work benefits in any week claimed, your claim will be processed as a regular unemployment claim.

(6) **Do I have to look for work while participating in the shared work program?** No. You are not required to look for work while participating in the shared work program.

(7) **Is there a minimum or maximum number of hours I can work in a week and still receive shared work benefits?** You must have 20 to 36 hours of paid time during a week to receive shared work benefits. In any week you are paid for fewer than 20 hours or more than 36 hours, your claim will be processed as a regular unemployment claim.

(8) **How long can I receive shared work benefits?** You can receive up to 26 weeks of shared work payments during your benefit year, depending on the maximum amount of benefits available on your claim. The 26 weeks do not have to be claimed consecutively. Your waiting week counts as one of the 26 weeks of shared work payments.

NEW SECTION

WAC 192-250-045 Who is not eligible for participation in the shared work program? (1) The following employees are not eligible for participation in the shared work program:

(a) Employees paid on any basis other than hourly wage. This includes, but is not limited to, employees paid on a piece rate, mileage rate, job rate, salary, or commission basis. The commissioner may waive this provision for employees paid on a piece rate basis if an hourly rate of pay can be established.

(b) Officers of the corporation that is applying for participation.

(2) The following businesses are not eligible for participation in the shared work program:

(a) Businesses with a benefit ratio of more than 5.4 percent.

(b) Nonqualified employers, meaning employers who have reported no payroll for four consecutive quarters.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 192-36-010	Information for employees participating in an approved shared work plan.
WAC 192-36-015	Criteria for approving a shared work plan.
WAC 192-36-020	Information for employers with an approved shared work plan.
WAC 192-36-025	Are corporate officers eligible for participation in the shared work program?

WSR 06-22-006

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

(Medical Assistance)

[Filed October 19, 2006, 4:17 p.m., effective November 19, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rules are no longer needed because the disease management pilot program has been discontinued June 30, 2006. The department has plans to create a new chronic care management program next year based on the results of the disease management pilot program.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-557-5000, 388-557-5050, 388-557-5100, 388-557-5150, 388-557-5200, 388-557-5250, and 388-557-5300.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.500, and 74.09.530.

Adopted under notice filed as WSR 06-15-100 on July 17, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 7.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 7.

Date Adopted: October 11, 2006.

Andy Fernando, Manager
Rules and Policies Assistance Unit

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-557-5000 Disease management program—General.
- WAC 388-557-5050 Disease management program—Definitions.
- WAC 388-557-5100 Disease management program—Client eligibility and assignment.
- WAC 388-557-5150 Requirements for becoming an MAA-contracted disease management organization (DMO).
- WAC 388-557-5200 MAA-contracted disease management organization (DMO)—Confidentiality and data sharing.
- WAC 388-557-5250 Disease management program—Scope of services.
- WAC 388-557-5300 Disease management program services—Billing limits.

WSR 06-22-015

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed October 23, 2006, 12:41 p.m., effective November 23, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Adopt rules that establish program in which the Washington state department of transportation will permit businesses or individuals to install motorist-owned tire chains, on the highway right-of-way, for a fee.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-095.

Statutory Authority for Adoption: Chapter 47.04 RCW.

Adopted under notice filed as WSR 06-17-120 on August 18, 2006.

Changes Other than Editing from Proposed to Adopted Version: At the request of AAA of Washington, language was added to clarify safety standards that must be met by chain installers and signs that chain installers will use at their work stations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 9, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 6, 2006.

John F. Conrad
Assistant Secretary
Engineering and Regional Operations

AMENDATORY SECTION (Amending WSR 05-04-053, filed 1/28/05, effective 2/28/05)

WAC 468-38-095 Emergency road restrictions due to weather or other conditions. (1) **Who has the authority to implement emergency procedures to restrict the movement of a vehicle(s) operating on state highways?** RCW 47.48.031 and 46.44.080 provide authority for the chief or another officer of the state patrol, or the secretary of transportation or designee, to restrict vehicle movement by closing or restricting movement on a section(s) of state highway(s) to all vehicles or specific class of vehicles.

(2) **Under what conditions would a road restriction be put in place?** A restriction or closure may be put in place whenever the department or the state patrol believe that weather or other conditions have created a substantial risk to public safety.

(3) **How are the restrictions maintained?** The department and the state patrol shall exchange notices of conditions that require a restriction(s) or closure to be placed on the highway, and notices when conditions change that will allow the restriction to be terminated. Either the department or the state patrol, whichever agency can best respond to the condition, shall manually control traffic as needed until the restriction is terminated or until the department can install traffic control devices.

(4) **How will the notification of a restriction be communicated to the highway users?** The department and the state patrol have a joint responsibility to provide notice of both the placement and removal of highway restrictions/closures. Notices shall be provided to the news media, affected law enforcement agencies, and other appropriate organizations, both public and private. For areas requiring vehicles to apply tire chains, see subsection (8) of this section.

(5) **At what point does visibility play a factor in the movement of a vehicle operating under special permit?** Moves must not be made when visibility is reduced to one thousand feet or less. If visibility is reduced during transport,

the vehicle or vehicle combination must clear the highway at the nearest safe location.

(6) **Can an individual move under special permit be restricted through enforcement intervention?** Yes. An enforcement officer, at his/her discretion, may require the driver of the permitted vehicle or vehicle combination to pull off of the highway when weather or other conditions become unsafe for further movement. The enforcement officer may direct or escort the permitted vehicle to a place of safety where it may be parked until the unsafe conditions abate.

(7) **Do vehicles carrying hazardous or radioactive cargo have greater opportunity of being affected by restrictions?** Yes. Due to the potential risks to the public, RCW 47.01.270 and 47.48.050 have provided the department and the state patrol with the specific authority to close a section(s) of the highway(s) to transporters of placarded radioactive or hazardous cargo. The basis for closure is the same as stated in subsection (2) of this section.

(8) **Who has authority to prohibit permitted vehicles from chain/approved traction device control areas, and how is this communicated?** The department and the state patrol may prohibit a vehicle, whether moving under special permit for oversize/overweight or not, from entering chain/approved traction device control areas. Prohibitions are put in place when it is determined the vehicle will experience difficulty in safely traveling the area. Traffic control signs will generally communicate prohibitions (i.e., "TRACTION ADVISORY/OVERSIZE VEHICLES PROHIBITED," "CHAINS REQUIRED ON ALL VEHICLES EXCEPT ALL WHEEL DRIVE," "VEHICLES OVER 10,000 GVWR CHAINS REQUIRED," etc.). In addition, specific vehicle combinations may be required to operate with specified traction devices (i.e., "TRACTORS PULLING DOUBLE TRAILERS MUST CHAIN UP"). Also, refer to WAC 204-24-050 (2)(h) for a list of areas where sufficient tire chains must be carried on the vehicle(s) between November 1 and April 1 of each year.

(9) **What penalties are in place for vehicles moving in prohibited areas?** Movement into a restricted area when the vehicle is prohibited, or without the specified traction device, is a violation of the special permit, which is a traffic infraction, and subject to the penalties of RCW 46.44.105.

(10) **What responsibilities must the operator of a vehicle(s) operating under special permit, during winter road conditions, assume when signs or other traffic control devices are not present?** A vehicle, or vehicle combination, operating under special permit for oversize, must stop movement at the nearest safe location during periods when:

- (a) Snow is falling to a degree that visibility is limited to less than one thousand feet; or
- (b) Immediately following a severe storm when snow removal equipment is operating; or
- (c) When fog or rain limits visibility to less than one thousand feet; or
- (d) When compact snow and ice conditions require the use of chains.

Movement must not resume until conditions have abated and clearance obtained from the nearest department or state patrol office. Failure to stop is a violation of the permit and subject to the penalties of RCW 46.44.105.

(11) What services may a business or person provide under the department's tire chain service provider program, as authorized under chapter 47.04 RCW? If the department has issued a permit as provided under subsection (18) of this section to a business or person, hereinafter permittee(s), they are only allowed to install and/or remove motorist-provided tire chains under this program. Providing other services for a fee on highway right of way is prohibited. Permittees are not allowed to sell or rent tire chains to motorists on the highway right of way. If needed, minor repair of motorist-provided tire chains or selling elastic cords to motorists to ensure the proper fit of chains to tires is allowed as part of the installation or removal of tire chains. For example, a minor repair may be the replacement of a link that is missing from a tire chain.

(12) Where on the highway right of way will permittees be allowed to establish work stations? The department will designate chain-on and chain-off areas. Permittees will be allowed to establish work stations in authorized locations only in these designated areas. Permittees are prohibited from establishing work stations on the highway right of way outside of department specified locations. Permittees shall set up a sign to identify their work station. The sign shall display the permittee's permit number and prices charged for services.

(13) When may permittees establish work stations in designated areas? Permittees may establish work stations in designated areas only when they are requested to do so by the department's maintenance personnel responsible for highway operations. Department maintenance personnel will also notify permittees when chains are no longer required and work stations must be closed. Establishing work stations without a request from department maintenance personnel is prohibited.

(14) Are motorists required to use tire chain installation and/or removal services? Use of tire chain services is voluntary. Motorists installing or removing their own tire chains will be able to use designated chain-on and chain-off areas for this purpose.

(15) What fees may permittees charge for their services? A set fee schedule will be annually determined by the department with input from interested parties. All permittees will charge the same fee schedule for services provided. The schedule will include fees for minor repairs and selling elastic cords to motorists for the proper fit of chains to tires. Charging amounts outside of the set fee schedule while working on the highway right of way is prohibited.

(16) What worker safety standards do permittees have to meet while working on the highway right of way? All permittees must follow, at a minimum, all safety work standards and requirements that are listed in the permit. Safety apparel worn by chain installers will meet standards of the American National Standard Institute and the International Safety Equipment Association (ANSI/ISEA). The permittee's permit number shall be visibly displayed on his/her vest, jacket, or other outer garment.

(17) If multiple permittees are authorized to work on highway right of way, how will a fair opportunity to work be afforded to all permittees? If multiple permittees are

permitted, the department will utilize a rotational call-out system.

(18) What process is available for acquiring a permit? An application/permit form must be completed and submitted to the department. An orientation session provided by the department, must be attended by all chain installers. Chain installers must exhibit tire chain installation/removal competency. After the applicant has participated in the orientation session, the department may issue a permit to the applicant. The department may limit the number of permits issued on a first-come first-served basis. The department, in issuing a permit for the installation or removal of tire chains, assumes no responsibility for the actions, inactions, competence, or reliability of the permittee in performing those services and shall not be liable for the damages relating to acts or omissions of the permittees in accordance with RCW 47.04.270.

(19) What happens if any permit condition is violated by the permittee or if the permittee has made false or misleading statements on the permit application? If a permittee violates any permit condition or if the permittee has made a false or misleading statement on the permit application, the department may immediately revoke the permit. The permittee is not entitled to a permit revocation hearing.

WSR 06-22-019

PERMANENT RULES

CENTRAL WASHINGTON UNIVERSITY

[Filed October 23, 2006, 3:28 p.m., effective November 23, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Drafted in response to community demand, this new rule will provide access to professional career counseling services for non-CWU students and nonalumni, new section WAC 106-200-110.

Statutory Authority for Adoption: RCW 28B.10.528 and 28B.35.120(12).

Adopted under notice filed as WSR 06-15-079 on July 14, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 25, 2006.

Jerilyn S. McIntyre
President

NEW SECTION

WAC 106-200-110 Career counseling services for non-CWU students or nonalumni. (1) Career services are available to anyone who seeks professional career assistance. CWU alumni who have completed forty-five quarter credits or more at CWU and CWU students are afforded these services free of charge. CWU students are defined as those who are currently enrolled, part-time or full-time, or are currently taking one quarter (fall, winter, or spring) away from school.

(2) Fees for non-CWU students and nonalumni:

Career assessment instruments plus interpretation - Thirty dollars per assessment.

Career counseling - Twenty dollars per session up to one hour.

Payment is made before the counseling session at the cashier's office (student financial services) located in 104 Barge Hall, 509-963-2224. Payment can be in the form of cash, Visa, MasterCard or money order.

(3) Career service locations:

Career Services
Barge Hall 202, 204M
Ellensburg Campus
400 East University Way
Ellensburg, WA 98926
509-963-1921
509-963-2404

CWU-Lynnwood
Snoqualmie Hall 106
20000 68th Ave. W.
Lynnwood, WA 98036
425-640-1574 ext. 3878

CWU-Des Moines
Building 29, Room 261
2400 S. 240th Street
Des Moines, WA 98198
206-439-3800 ext. 3841

CWU-Yakima Center
Deccio Higher Education Center
1000 S. 12th Avenue, Room 107
509-574-6894
509-963-3700

WSR 06-22-023

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed October 24, 2006, 2:51 p.m., effective December 1, 2006]

Effective Date of Rule: December 1, 2006.

Purpose: The purpose of this rule making is to amend the department's requirements relating to smoking in office work environments to conform with chapter 70.160 RCW, which was expanded with the passage of Initiative 901.

AMENDED SECTIONS:

WAC 296-307-590 Summary.

- Changed the title of WAC 296-307-59005 to "Prohibit tobacco smoke in your office work environment.["]
- Deleted WAC 296-307-59010.
- Added a link to this section.

WAC 296-307-59005 Prohibit tobacco smoke in your office work environment.

- Added language to the exemption relating to maintaining a twenty-five feet distance from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited.
- Combined this section and WAC 296-307-59010.
- Deleted language relating to smoking rooms.

WAC 296-800-240 Summary.

- Changed the title of WAC 296-800-24005 to "Prohibit tobacco smoke in your office work environment.["]
- Deleted WAC 296-800-24010.
- Added a link to this section.

WAC 296-800-24005 Prohibit tobacco smoke in your office work environment.

- Added language to the exemption relating to maintaining a twenty-five feet distance from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited.
- Combined this section and WAC 296-800-24010.
- Deleted language relating to smoking rooms.

REPEALED SECTIONS:

WAC 296-307-59010 Control tobacco smoke that comes in from the outside.

- Moved requirements relating to administrative controls to WAC 296-307-59005.
- Repealed this section.

WAC 296-800-24010 Control tobacco smoke that comes in from the outside.

- Moved requirements relating to administrative controls to WAC 296-800-24005.
- Repealed this section.

Citation of Existing Rules Affected by this Order:
Amending WAC 296-307-590 Summary, 296-307-59005 Prohibit tobacco smoke in your office work environment, 296-800-240 Summary and 296-800-24005 Prohibit tobacco smoke in your office work environment; and repealing WAC 296-307-59010 Control tobacco smoke that comes in from the outside and 296-800-24010 Control tobacco smoke that comes in from the outside.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Adopted under notice filed as WSR 06-16-105 on August 16 [1], 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 2.

Date Adopted: October 24, 2006.

Judy Schurke
Acting Director

AMENDATORY SECTION (Amending WSR 01-17-033, filed 8/8/01, effective 9/1/01)

WAC 296-307-590 Environmental tobacco smoke in the office—Summary. Your responsibility:

To ~~((control))~~ eliminate exposure to environmental tobacco smoke in your office work environment

You must:

~~((Control))~~ Prohibit tobacco smoke in your ~~((building))~~ office work environment.

WAC 296-307-59005

~~((Control tobacco smoke that comes in from the outside WAC 296-307-59010))~~

Note: This rule does not preempt any federal, state, municipal, or other local authority's regulation of indoor smoking that is more protective than this section.

Definitions: *Office work environment* is an indoor or enclosed occupied space where clerical work, administration, or business is carried out.

In addition, it includes:

- Other workplace spaces controlled by the employer and used by office workers, such as cafeterias, meeting rooms, and washrooms.
- Office areas of manufacturing and production facilities, not including process areas.
- Office areas of businesses such as food and beverage establishments, agricultural operations, construction, commercial trade, services, etc.

Smoking

A person is smoking if they are:

- Lighting up
- Inhaling
- Exhaling
- Carrying a pipe, cigar or cigarette of any kind that is burning.

Link: For work environments outside the office, contact your local health department using the link <http://www.seconhandsmokesyou.com> or by calling them directly.

AMENDATORY SECTION (Amending WSR 01-17-033, filed 8/8/01, effective 9/1/01)

WAC 296-307-59005 ~~((Control))~~ Prohibit tobacco smoke in your ~~((building))~~ office work environment.

EXEMPTION: The minimum criteria specified in this rule do not apply to outdoor structures provided for smokers such as gazebos or lean-tos that maintain the twenty-five-foot distance from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited.

You must:

~~((*) (1) Prohibit smoking in your office work environment~~

~~((OR~~

~~• Restrict smoking inside your office work environment to designated enclosed smoking rooms that meet the following minimum criteria:~~

~~—Identify smoking rooms clearly with signs.~~

~~—Make sure the designated smoking rooms are not in common areas, such as:~~

~~◆ Places where nonsmoking employees are required to work or visit~~

~~◆ Restrooms~~

~~◆ Washrooms~~

~~◆ Hallways~~

~~◆ Stairways~~

~~◆ Cafeterias/lunchrooms~~

~~◆ Meeting rooms~~

~~—Make sure that no employee is required to enter a designated smoking room while someone is smoking there.~~

~~—Conduct cleaning and maintenance work in designated smoking rooms when smokers are not present.~~

~~You must:~~

~~• Ventilate designated smoking rooms at a rate of at least 60 cubic feet per minute per smoker (calculated on the basis of the maximum number of smokers expected during the course of a normal working day), which can be supplied by transfer air from adjacent areas.~~

~~—Maintain enough negative air pressure in designated smoking areas to prevent smoke from migrating into non-smoking areas, at all times.~~

~~—Operate a separate mechanical exhaust system in designated smoking rooms, to make sure exhausted air moves directly outside, and does not recirculate into nonsmoking areas.~~

~~—Prohibit use of the designated smoking room if the mechanical exhaust system is not working properly, until repairs are completed.~~

Note: This ventilation rate is recommended for occupancies of no more than 7 people for every 100 square feet of net occupied space in the designated smoking room.)

(2) Use administrative controls to prevent tobacco smoke from entering your office from outside the building.

• Make sure that outside smoking areas used by your employees are at least twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-307-59010 Control tobacco smoke that comes in from the outside.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-800-240 Summary. Your responsibility: To ~~((control))~~ eliminate exposure to *environmental tobacco smoke* in your *office work environment*.

You must:

~~((Control))~~ Prohibit tobacco smoke in your ~~((building))~~ office work environment

~~WAC 296-800-24005.~~

~~((Control tobacco smoke that comes in from the outside WAC 296-800-24010.))~~

Note: This rule does not preempt any federal, state, municipal, or other local authority's regulation of indoor smoking that is more protective than this section.

Definition: Office work environment is an indoor or enclosed occupied space where clerical work, administration, or business is carried out. In addition, it includes:

- Other workplace spaces controlled by the employer and used by office workers, such as cafeterias, meeting rooms, and washrooms.
- Office areas of manufacturing and production facilities, not including process areas.
- Office areas of businesses such as food and beverage establishments, agricultural operations, construction, commercial trade, services, etc.

Link: For work environments outside the office, contact your local health department using the link <http://www.secondhandsmokesyou.com> or by calling them directly.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-800-24005 ((Control)) Prohibit tobacco smoke in your ((building)) office work environment.

Exemption: The minimum criteria specified in this rule do not apply to outdoor structures provided for smokers such as gazebos or lean-tos that maintain the twenty-five feet distance from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited.

You must:

~~((*) (1) Prohibit smoking in your office work environment ((OR))~~

(2) Use administrative controls to prevent tobacco smoke from entering your office from outside the building.

• Make sure that outside smoking areas used by your employees are at least twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited.

~~((Restrict smoking inside your office work environment to designated enclosed smoking rooms that meet the following minimum criteria:~~

~~—Identify smoking rooms clearly with signs.~~

~~—Make sure the designated smoking rooms are not in common areas, such as:~~

~~◆ Places where nonsmoking employees are required to work or visit~~

~~◆ Restrooms~~

~~◆ Washrooms~~

~~◆ Hallways~~

~~◆ Stairways~~

~~◆ Cafeterias/lunchrooms~~

~~◆ Meeting rooms~~

~~—Make sure that no employee is required to enter a designated smoking room while someone is smoking there.~~

~~—Conduct cleaning and maintenance work in designated smoking rooms when smokers are not present.~~

~~You must:~~

~~• Ventilate designated smoking rooms at a rate of at least 60 cubic feet per minute per smoker (calculated on the basis of the maximum number of smokers expected during the course of a normal working day), which can be supplied by transfer air from adjacent areas.~~

~~—Maintain enough negative air pressure in designated smoking areas to prevent smoke from migrating into non-smoking areas, at all times.~~

~~—Operate a separate mechanical exhaust system in designated smoking rooms, to make sure exhausted air moves directly outside, and does not recirculate into nonsmoking areas.~~

~~—Prohibit use of the designated smoking room if the mechanical exhaust system is not working properly, until repairs are completed.~~

Note: This ventilation rate is recommended for occupancies of no more than seven people for every 100 square feet of net occupied space in the designated smoking room.))

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-800-24010 Control tobacco smoke that comes in from the outside.

WSR 06-22-024
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed October 24, 2006, 2:52 p.m., effective December 1, 2006]

Effective Date of Rule: December 1, 2006.

Purpose: Chapter 296-876 WAC, Ladders, portable and fixed, the training requirements that are currently located in chapter 296-876 WAC were inadvertently repealed in a rule making that was adopted as WSR 06-16-020 on July 24, 2006. The purpose of this adoption is to put the training requirements back into this chapter.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Adopted under notice filed as WSR 06-17-137 on September 6 [August 22], 2006.

Changes Other than Editing from Proposed to Adopted Version: Adopted as proposed.

These requirements, currently in this rule, were inadvertently repealed in a recent rule making with an effective date of December 1, 2006. They will be returned to the chapter under new numbers, with an effective date of December 1, 2006, so that there is no loss of protection.

Adding two new sections relating to training:

WAC 296-876-150 Training—Section contents.

- Created this summary page and moved the existing WAC 296-876-500 to this section.

WAC 296-876-15005 Training.

- Crated this section and moved the existing WAC 296-876-50005 to this section.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: October 24, 2006.

Judy Schurke
Acting Director

NEW SECTION

WAC 296-876-150 Training—Section contents.

Your responsibility:

To train employees who use ladders.

Training.

WAC 296-876-15005.

NEW SECTION

WAC 296-876-15005 Training.

You must:

- Train employees to recognize ladder hazards and the procedures to minimize these hazards.

- Have a competent person train employees that use ladders in at least the following topics:

- The proper construction, use, placement, and care in handling ladders.

- The maximum intended load capacities of ladders that are used.

- The requirements of this chapter.

- Retrain employees as necessary to make sure they know and understand the content of the original training.

WSR 06-22-025
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed October 25, 2006, 8:08 a.m., effective November 25, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Rule making is required to add language to the rule to include eliminating certain vehicle use classes from

requiring a Washington state patrol vehicle identification inspection and to facilitate the microfiche reduction of record retention from twenty years to six years plus the current year.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-115, 308-56A-150, and 308-56A-210.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 06-17-069 on August 11, 2006.

Changes Other than Editing from Proposed to Adopted Version: We added back into the language in subsection (4)(b) WAC 308-56A-150 the length of a vehicle inspection for vehicle dealers.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 24, 2006.

Liz Luce
Director

AMENDATORY SECTION (Amending WSR 03-05-081, filed 2/19/03, effective 3/22/03)

WAC 308-56A-115 Vehicles from ((jurisdiction)) a state or country other than Washington. (1) What ownership documents are required to title and license a vehicle not currently titled or licensed in the state of Washington?

(a) If a vehicle is titled in another state, the application for certificate of ownership must be accompanied by the most current title issued by that state.

(b) If the vehicle was acquired from an agency of the United States government, the federal ownership document issued by the United States government must accompany the application for certificate of ownership. When a bill of sale covers more than one vehicle, a photocopy may be accepted when:

(i) United States federal government already registered and/or titled in Washington with an FED use class, the purchaser needs a bill of sale and the current registration for an NTI or when title is issued in Washington, need title properly released.

(ii) A ((secured)) secure odometer disclosure completed only by the transferee/buyer if the vehicle falls within the federal odometer criteria.

(c) If a vehicle is titled in another country, the application for certificate of ownership must be accompanied by the

most current ownership document issued by that ((jurisdiction)) country. If the country from which the vehicle is imported cancels the vehicle title and/or registration for export, the application for certificate of ownership must be accompanied by documents showing proof of ownership and evidence of the cancellation.

(d) If a member of the United States armed forces owns the vehicle and the vehicle has been registered by a United States government military entity, the application for certificate of ownership must be accompanied by the registration certificate as proof of ownership. If there is a lien holder, the armed forces member must provide the lien holder information at the time of application.

(2) What ownership documents are required to obtain a certificate of ownership for a vehicle from a non-titling ((jurisdiction)) state or country?

(a) If the vehicle is from a ((jurisdiction)) state or country that by policy or law does not title a specific vehicle, but does register it, the department will accept the registration as an ownership document. If the applicant is not the owner shown on the registration, a bill of sale or release of interest is also required.

(b) If the vehicle is from a ((jurisdiction)) state or country that neither registers nor titles, the department will accept a statement from the applicant certifying when and where they purchased the vehicle, and that the previous ((jurisdiction)) state or country does not title or register this type of vehicle. A bill of sale is required for vehicles brought in from ((such jurisdiction)) any state or country. A statement certifying how the vehicle was acquired must be submitted at the time of application. The Washington certificate of ownership may contain a special notation if issued under these circumstances. If the bill of sale is not available, ownership in doubt procedures from WAC 308-56A-210 apply.

(3) What if I am unable to locate a record of my vehicle in any ((jurisdiction)) state or country? If there is no indication that your vehicle is from a nontitle or nonregistration ((jurisdiction)) state or country, and no ((jurisdiction has a)) record of your vehicle is found, you may follow ownership in doubt procedures in WAC 308-56A-210.

(4) What is required to title a vehicle from a titling ((jurisdiction)) state or country that has refused to issue a title document for a specific vehicle? If the ((jurisdiction)) state or country has refused to issue title, Washington may require the customer to comply with ownership in doubt procedures from WAC 308-56A-210 except those in WAC 308-56A-210(2). In those cases where a title was refused for reasons not applicable to Washington, the department may consider issuing a title with the appropriate documentation.

(5) What documentation is required in addition to the ownership document if my vehicle is from a foreign country? In addition to the ownership document, the application for certificate of ownership must be accompanied by:

(a) An approved United States Department of Treasury Customs Service form properly executed authorizing the vehicle entry into this country. Applications for certificate of ownership for vehicles imported from Puerto Rico need not be accompanied by a customs document;

(b) An English translation for any document provided which is not in the English language. The translator shall pro-

vide a notarized/certified affidavit attesting to the accuracy of the translation;

(c) A release of interest from the owners shown on the ownership documents, as provided in WAC 308-56A-210, if the applicant is not the owner shown.

AMENDATORY SECTION (Amending WSR 04-08-002, filed 3/24/04, effective 4/24/04)

WAC 308-56A-150 Certificate of vehicle inspection.

(1) **When is a certificate of vehicle inspection required?** A certificate of vehicle inspection, completed by the Washington state patrol or other authorized inspector, must accompany the application for certificate of ownership and include the applicable statutory inspection fee whenever the applicant's vehicle is:

(a) Reported destroyed since the last certificate of ownership was issued;

(b) A homemade, assembled, or rebuilt vehicle not previously titled as such;

(c) One whose identification number needs verification as requested by the department, county auditor, or authorized agent;

(d) A kit vehicle not previously titled as such (if no vehicle identification number (VIN) previously assigned);

(e) A street rod not previously titled as such;

(f) A glider kit not previously titled as such;

(g) Subject to ownership in doubt described in WAC 308-56A-210(1) except those in WAC 308-56A-210(2);

(h) One which the Washington crime information center (WACIC) or National Crime Information Center (NCIC) indicates may be stolen; ~~((e))~~

(i) One for which the WACIC/NCIC has failed to respond to the stolen vehicle search required by chapter 46.12 RCW; or

(j) Inspections are not required for snowmobiles or mobile homes.

(2) **Is there a fee charged for a VIN inspection?** Yes, the amount of the fee is established in RCW 46.12.040. The fee is not due when:

(a) The out-of-state fee authorized by chapter 46.12 RCW has been collected on the same application; or

(b) The Washington state patrol or department of licensing has determined that the fee is not due.

(3) **Who is authorized to perform a vehicle inspection?** Vehicle inspections may be performed by:

(a) The Washington state patrol;

(b) Other entities or individuals designated by the director if the vehicle is located in ~~((a foreign))~~ another state or country and the requirement for inspection by the Washington state patrol will cause undue hardship.

(4) **How long is a vehicle certificate of inspection valid?** The vehicle certificate of inspection is valid for the following periods of time after the inspection date:

(a) Sixty days for vehicles:

(i) Reported destroyed;

(ii) Homemade, assembled, rebuilt, street rods, kit vehicles and glider kits;

(iii) If the identification number needs verification, has been removed, defaced, altered, destroyed, illegible or missing;

(iv) With no Washington record or no manufacture certificate/statement of origin (MCO/MSO)~~((-~~

~~(v)))~~ except those in WAC 308-56A-210(2);

(v) Referred for inspection for any reason not listed.

(b) Three hundred sixty-five days for a ~~((vehicle held in inventory for resale by a))~~ licensed vehicle dealer.

AMENDATORY SECTION (Amending WSR 03-05-081, filed 2/19/03, effective 3/22/03)

WAC 308-56A-210 Ownership in doubt. (1) What does an applicant do when an acceptable release of interest or documentation as defined in WAC 308-56A-265 is not available? When an applicant is unable to provide an acceptable release of interest or documentation, the applicant may:

~~((a))~~ ~~Petition any district or superior court of any county of this state to receive a judgment awarding ownership of the vehicle. Such judgment is required if ownership of the vehicle is contested after the applicant makes application for ownership in doubt and before the three year ownership in doubt period has lapsed; or~~

~~((b))~~ Apply for registration only or bonded ~~((certificate of ownership))~~ title as described in this rule ~~((if a judgment is unavailable as described in (a) of this subsection))~~. The applicant must:

~~((i))~~ (a) Provide evidence of ownership of the vehicle such as, but not limited to, a bill of sale;

~~((ii))~~ (b) Obtain a Washington state patrol vehicle identification number (VIN) inspection;

~~((iii))~~ (c) Make a reasonable effort to determine ownership of the vehicle by writing to the agency that issued the last known certificate of ownership or registration. For purposes of this section, an individual purchaser or transferee of a vehicle may request the name and address of the owner(s) of record for that vehicle from the department by satisfying (b)(i) of this subsection and completing a form (Vehicle/Vessel disclosure request) approved by the department. When the department is satisfied the request is for obtaining proper release of interest, the department may disclose the name(s) and address of the last owner(s) of record for that vehicle.

~~((A))~~ (i) If a record is found, the applicant must send a certified or registered letter, return receipt requested, to each owner and secured party of record at the address shown on the last record. The letter must contain information regarding the sender's claim to ownership and a request for the released certificate of ownership or a notarized or certified release of interest.

~~((B))~~ (ii) If the previous owner does not respond within fifteen days after acknowledged receipt or the letter was returned unclaimed, the applicant must provide the form titled ~~((Affidavit of Request for Bonded Title or Registration without Title))~~ Application for Ownership in Doubt, explaining how the vehicle was acquired;

If no record is found, the applicant must provide the completed form titled, ~~((Affidavit of Request for Bonded~~

~~Title or Registration without Title))~~ Application for Ownership in Doubt.

~~((iv))~~ (d) Determine whether to ~~(bond the vehicle and apply for a certificate of ownership)~~ apply for a bonded title or apply for registration only. A ~~(bond)~~ bonded title is required if the ~~(seller of the vehicle)~~ applicant is a Washington state vehicle dealer ~~(or in lieu of the judgment described in (a) of this subsection if there is evidence of a security agreement on the last record found)~~. A bond ~~(shall)~~ must be for a period of three years from the date of application and be in the amount of one and one-half times the value of the vehicle as determined by one of the following:

~~((A))~~ (i) Information provided by any guide book or other publication of recognized standing in the vehicle industry; or

~~((B))~~ (ii) A value that is agreeable to the applicant and verifiable by the authorized department agent or employee.

(2) **Are there exceptions to the VIN inspection requirement?** Yes, the following vehicles are exempt from a VIN inspection if there is a Washington vehicle record and the customer presents a certificate of ownership or registration certificate issued by Washington, or another state, or country, or if there is no Washington vehicle record (for proof of VIN) and the customer presents a title or registration certificate issued by Washington state or other state or country unless from a state or country that neither registers nor titles as described in WAC 308-56A-115:

(a) Moped;

(b) Trailer with scale weight less than 2,000 pounds;

(c) Off-road and nonhighway vehicles not originally manufactured for road use if model year is ten years old or older;

(d) Travel trailer if model year is ten years old or older;

(e) Camper model year is ten years old or older;

(f) Manufactured homes of any age.

(3) **How can I provide proof of my vehicle's identification number?** An Application for Ownership in Doubt form approved by the department must be completed:

(a) For a vehicle that has an embossed VIN:

(i) A VIN pencil or pen scraping for those vehicles listed above is required; or

(ii) An approved photograph of the VIN is provided; and

(b) For a vehicle that does not have an embossed VIN, the Application for Ownership in Doubt form stating the VIN and how the VIN is attached to the vehicle.

(c) In the absence of either (a) or (b) of this subsection, a VIN inspection is required.

(4) **If I have a bonded ~~(certificate of ownership)~~ title, how can I get a certificate of ownership (title) without the bonded notation?** In order to get a certificate of ownership without the bonded notation~~(, you may)~~:

(a) Submit the properly endorsed certificate of ownership or a satisfactory release of interest and make application to the department anytime during the three-year period; or

(b) After the three-year period, make application to the department.

~~((3))~~ (5) **If I have a three-year registration only, how can I obtain a certificate of ownership?** ~~(In order)~~ To receive a certificate of ownership~~(, you may)~~:

(a) Submit the properly endorsed certificate of ownership or a satisfactory release of interest and make application to the department anytime during the three-year period; or

(b) After the three-year period, make application to the department.

~~((4))~~ (6) **May I sell a vehicle with a bonded ~~(certificate of ownership)~~ title or a three-year registration only?** Yes. A bonded ~~(certificate of ownership)~~ title may be released and provided to the buyer the same as any other certificate of ownership. There is a possibility that a Washington bonded ~~(certificate of ownership)~~ title may not be accepted by another state. If the other state has a similar program, they may issue their own type of bonded certificate of ownership. If there is a registration only, provide the buyer with a notarized or certified release of interest. The new owner may either provide a judgment ~~(as described in subsection (1)(a) of this section)~~ from a district or superior court of Washington or wait until the expiration of the time remaining on the previous ownership in doubt period and then make application for the certificate of ownership. If a notarized/certified release of interest cannot be obtained from the current registered owner, the new owner must start over with a new three-year bonded or registration only process.

Licensed vehicle dealers cannot lawfully sell vehicles that are registration only.

WSR 06-22-026

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed October 25, 2006, 8:10 a.m., effective November 25, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Rule making is required to establish where to obtain warning stickers and where to display them. This rule is established to meet the requirements described in SB 6364 passed by the 59th legislature, 2006 regular session.

Statutory Authority for Adoption: Chapter 88.02 RCW.

Adopted under notice filed as WSR 06-17-039 on August 8, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 24, 2006.

Sharon L. Whitehead
for Liz Luce
Director

NEW SECTION

WAC 308-93-146 Vessel carbon monoxide warning sticker. (1) **What is a carbon monoxide warning sticker?** A carbon monoxide warning sticker is displayed on a vessel to warn people of the dangers of carbon monoxide poisoning.

(2) **What vessels are required to have a carbon monoxide warning sticker?** Any vessel with an engine that produces carbon monoxide by burning a carbon based fuel such as: Gas, propane, oil, diesel, or charcoal. A personal watercraft (Jet Ski type) is exempt from this rule.

(3) **How do I get a carbon monoxide warning sticker?** You will receive the carbon monoxide warning sticker from your vessel dealer, or vehicle/vessel licensing offices when you:

- (a) Purchase a vessel from a dealer; or
- (b) Renew your vessel registration; or
- (c) Transfer a vessel into your name from a private sale; or
- (d) Transfer a vessel from outside the state or country with a certificate of ownership or registration to a Washington certificate of ownership or registration; or
- (e) Request one through your local vehicle/vessel licensing office; or
- (f) Receive one that has been approved by the Coast Guard from a boating safety organization.

(4) **Where do I attach the carbon monoxide warning sticker to my boat or vessel?** You must attach it on the interior of the vessel so it is clearly visible to a person and where they may be exposed to carbon monoxide.

(5) **Is there a charge for the carbon monoxide warning sticker?** No.

(6) **Will I ever have to replace my vessel carbon monoxide warning sticker?** Yes, when the sticker becomes faded, damaged, or is no longer readable you can request a replacement at no cost.

(7) **Will a carbon monoxide warning sticker installed by the manufacturer or issued by another state meet the requirements of this rule?** Yes, the department will accept any warning sticker that warns of the dangers of carbon monoxide poisoning, provided the warning sticker is attached on the interior of the vessel.

Purpose:

- WAC 388-148-0120 details what events involving children placed in licensed placements must be reported to the division of licensing resources. Included in these events is when youth "runaway."
- WAC 388-148-0120 also is revised to removing [remove] subsection (3)(e) "runaways" from the WAC, which is addressed in greater detail in new WAC 388-148-0123.
- The adoption of new WAC 388-148-0123 will serve to shorten reporting timelines and clarify who a licensed placement provider needs to contact when a child become[s] missing or leaves their care.
- The revision of WAC 388-148-0010 will add children's administration's new definition of "children missing from care."

When effective, these permanent rules will replace emergency rules filed as WSR 06-18-020 on August 25, 2006.

Citation of Existing Rules Affected by this Order: Amending WAC 388-148-0010 and 388-148-0120.

Statutory Authority for Adoption: RCW 74.15.030, 74.08.090.

Other Authority: Chapters 74.13 and 74.15 RCW.

Adopted under notice filed as WSR 06-17-155 on August 22, 2006.

A final cost-benefit analysis is available by contacting Tim Kelly, Children's Administration, P.O. Box 45710, 14th and Jefferson, Olympia, WA 98504-5710, phone (360) 902-7772, fax (360) 902-7903, e-mail ketd300@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 2, Repealed 0.

Date Adopted: October 25, 2006.

Robin Arnold-Williams
Secretary

AMENDATORY SECTION (Amending WSR 04-08-073, filed 4/5/04, effective 5/6/04)

WAC 388-148-0010 What definitions do I need to know to understand this chapter? The following definitions are for the purpose of this chapter and are important to understand these rules:

"**Abuse or neglect**" means the injury, sexual abuse, sexual exploitation, negligent treatment or mistreatment of a child where the child's health, welfare and safety are harmed.

"**Agency**" is defined in RCW 74.15.020(1).

WSR 06-22-030
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed October 25, 2006, 1:54 p.m., effective November 25, 2006]

Effective Date of Rule: Thirty-one days after filing.

"Assessment" means the appraisal or evaluation of a child's physical, mental, social and/or emotional condition.

"Capacity" means the maximum number of children that a home or facility is licensed to care for at a given time.

"Care provider" means any licensed or certified person or organization or staff member of a licensed organization that provides twenty-four-hour care for children.

"Case manager" means the private agency employee who coordinates the planning efforts of all the persons working on behalf of a child. Case managers are responsible for implementing the child's case plan, assisting in achieving those goals, and assisting with day-to-day problem solving.

"Certification" means:

(1) Department approval of a person, home, or facility that does not legally need to be licensed, but wishes to have evidence that it meets the minimum licensing requirements; or

(2) Department licensing of a child-placing agency to certify that a foster home meets licensing requirements.

"Children" or **"youth,"** for this chapter, means individuals who are:

(1) Under eighteen years old, including expectant mothers under eighteen years old; or

(2) Up to twenty-one years of age and pursuing a high school, equivalent course of study (GED), or vocational program;

(3) Up to twenty-one years of age with developmental disabilities; or

(4) Up to twenty-one years of age if under the custody of the Washington state juvenile rehabilitation administration.

"Child-placing agency" means an agency licensed to place children for temporary care, continued care or adoption.

"Crisis residential center (CRC)" means an agency under contract with DSHS that provides temporary, protective care to children in a foster home, regular (semi-secure) or secure group setting.

"Compliance agreement" means a written licensing improvement plan to address deficiencies in specific skills, abilities or other issues of a fully licensed home or facility in order to maintain and/or increase the safety and well-being of children in their care.

"DCFS" means the division of children and family services.

"DDD" means division of developmental disabilities.

"Department" means the department of social and health services (DSHS).

"Developmental disability" is a disability as defined in RCW 71A.10.020.

"DLR" means the division of licensed resources.

"Firearms" means guns or weapons, including but not limited to the following: BB guns, pellet guns, air rifles, stun guns, antique guns, bows and arrows, handguns, rifles, and shotguns.

"Foster-adopt" means placement of a child with a foster parent(s) who intends to adopt the child, if possible.

"Foster home or foster family home" means person(s) licensed to regularly provide care on a twenty-four-hour basis to one or more children in the person's home.

"Full licensure" means an entity meets the requirements established by the state for licensing or approved as meeting state minimum licensing requirements.

"Group care facility for children" means a location maintained and operated for a group of children on a twenty-four-hour basis.

"Group receiving center" or **"GRC"** means a facility providing the basic needs of food, shelter, and supervision for more than six children placed by the department, generally for thirty or fewer days. A group receiving center is considered a group care program and must comply with the group care facility licensing requirements.

"Hearing" means the administrative review process.

"I" refers to anyone who operates or owns a foster home, staffed residential home, and group facilities, including group homes, child-placing agencies, maternity homes, day treatment centers, and crisis residential centers.

"Infant" means a child under one year of age.

"License" means a permit issued by the department affirming that a home or facility meets the minimum licensing requirements.

"Licensor" means:

(1) A division of licensed resources (DLR) employee at DSHS who:

(a) Approves licenses or certifications for foster homes, group facilities, and child-placing agencies; and

(b) Monitors homes and facilities to ensure that they continue to meet minimum health and safety requirements.

(2) An employee of a child-placing agency who:

(a) Attests that foster homes supervised by the child-placing agency meets licensing requirements; and

(b) Monitors those foster homes to ensure they continue to meet the minimum licensing standards.

"Maternity service" as defined in RCW 74.15.020.

"Medically fragile" means the condition of a child who has a chronic illness or severe medical disabilities requiring regular nursing visits, extraordinary medical monitoring, or on-going (other than routine) physician's care.

"Missing child" means:

(1) Any child up to eighteen years of age for whom Children's Administration (CA) has custody and control (not including children in dependency guardianship) and:

(a) The child's whereabouts are unknown; and/or

(b) The child has left care without the permission of the child's caregiver or CA.

(2) Children who are missing are categorized under one of the following definitions:

(a) "Taken from placement" means that a child's whereabouts are unknown, and it is believed that the child is being or has been concealed, detained or removed by another person from a court-ordered placement and the removal, concealment or detention is in violation of the court order;

(b) "Absence not authorized, whereabouts unknown" means the child is not believed to have been taken from placement, did not have permission to leave the placement, and there has been no contact with the child and the whereabouts of the child is unknown; or

(c) "Absence not authorized, whereabouts known" means that a child has left his or her placement without permission and the social worker has some contact with the child

or may periodically have information as to the whereabouts of the child.

"Multidisciplinary teams (MDT)" means groups formed to assist children who are considered at-risk youth or children in need of services, and their parents.

"Nonambulatory" means not able to walk or traverse a normal path to safety without the physical assistance of another individual.

"Out-of-home placement" means a child's placement in a home or facility other than the child's parent, guardian, or legal custodian.

"Premises" means a facility's buildings and adjoining grounds that are managed by a person or agency in charge.

"Probationary license" means a license issued as part of a disciplinary action to an individual or agency that has previously been issued a full license but is out of compliance with minimum licensing requirements and has entered into an agreement aimed at correcting deficiencies to minimum licensing requirements.

"Psychotropic medication" means a type of medicine that is prescribed to affect or alter thought processes, mood, sleep, or behavior. These include anti-psychotic, antidepressants and anti-anxiety medications.

"Relative" means a person who is related to the child as defined in RCW 74.15.020 (4)(a)(i), (ii), (iii), and (iv) only.

"Respite" means brief, temporary relief care provided to a child and his or her parents, legal guardians, or foster parents with the respite provider fulfilling some or all of the functions of the care-taking responsibilities of the parent, legal guardian, or foster parent.

"Secure facilities" means a crisis residential center that has locking doors and windows, or secured perimeters intended to prevent children from leaving without permission.

"Service plan" means a description of the services to be provided or performed and who has responsibility to provide or perform the activities for a child or child's family.

"Severe developmental disabilities" means significant disabling, physical and/or mental condition(s) that cause a child to need external support for self-direction, self-support and social participation.

"Social service staff" means a clinician, program manager, case manager, consultant, or other staff person who is an employee of the agency or hired to develop and implement the child's individual service and treatment plans.

"Staffed residential home" means a licensed home providing twenty-four-hour care for six or fewer children or expectant mothers. The home may employ staff to care for children or expectant mothers. It may or may not be a family residence.

"Standard precautions" is a term relating to procedures designed to prevent transmission of bloodborne pathogens in health care and other settings. Under standard precautions, blood or other potentially infectious materials of all people should always be considered potentially infectious for HIV and other pathogens. Individuals should take appropriate precautions using personal protective equipment like gloves to prevent contact with blood or other bodily fluids.

"Washington state patrol fire protection bureau" or **"WSP/FPB"** means the state fire marshal.

"We" or **"our"** refers to the department of social and health services, including DLR licensors and DCFS social workers.

"You" refers to anyone who operates a foster home, staffed residential home, and group facilities, including group homes, maternity programs, day treatment programs, crisis residential centers, group receiving centers, and child-placing agencies.

AMENDATORY SECTION (Amending WSR 04-08-073, filed 4/5/04, effective 5/6/04)

WAC 388-148-0120 What incidents involving children must I report? (1) You or your staff must report the incidents contained in WAC 388-148-0120(2), as soon as possible and in no instance later than forty-eight hours to your local:

- (a) Children's administration intake staff, and
 - (b) The child's social worker or case manager.
- (2) The incidents to be reported include:
- (a) Any reasonable cause to believe that a child has suffered child abuse or neglect;
 - (b) Any violations of the licensing or certification requirements where the health and safety of a foster child is at risk and the violations are not corrected immediately;
 - (c) Death of a child;
 - (d) Any child's suicide attempt that results in injury requiring medical treatment or hospitalization;
 - (e) Any use of physical restraint that is alleged improperly applied or excessive;
 - (f) Sexual contact between two or more children that is not considered typical play between preschool age children;
 - (g) Any disclosures of sexual or physical abuse by a child in care;
 - (h) Physical assaults between two or more children that result in injury requiring off-site medical attention or hospitalization;
 - (i) Physical assaults of foster parent or staff by children that result in injury requiring off-site medical attention or hospitalization;
 - (j) Any medication that is given incorrectly and requires off-site medical attention; or
 - (k) Serious property damage or other significant licensing requirement that is a safety hazard and is not immediately corrected or may compromise the continuing health and safety of children.
- (3) You or your staff must report the following incidents as soon as possible or in no instance later than forty-eight hours, to the child's social worker, if the child is in the department's custody or to the case manager if placed with a child-placing agency program:
- (a) Suicidal/homicidal ideations, gestures, or attempts that do not require professional medical treatment;
 - (b) Unexpected health problems outside the anticipated range of reactions caused by medications, that do not require professional medical attention;
 - (c) Any incident of medication incorrectly administered;
 - (d) Physical assaults between two or more children that result in injury but did not require professional medical attention;

(e) ~~((Runaways;~~
 (f)) Any emergent medical or psychiatric care that requires off-site attention; and
 ((g)) (f) Use of prohibited physical restraints for behavior management as described in WAC 388-148-0485.

(4) Programs providing care to medically fragile children who have nursing care staff on duty may document the incidents described in WAC 388-148-0120 (3)(b)(c) in the facility daily logs, rather than contacting the social worker or case manager, if agreed to in the child's ISSP.

NEW SECTION

WAC 388-148-0123 What are my reporting responsibilities when a child is missing from care? (1) As soon as you have reason to know a child in your care is missing as defined in WAC 388-148-0010, or has refused to return to or remain in your care, or whose whereabouts are otherwise unknown, you or your staff are required to notify the following:

(a) The child's assigned social worker, if the child is in the department's custody;
 (b) CA intake, if the social worker is not available or it is after normal business hours; or
 (c) The case manager if the child is placed by a child-placing agency program.

(2) You or your staff are required to contact local law enforcement if the child is missing as defined in WAC 388-148-0010 within six hours. However, if one or more of the following factors are present, you must contact law enforcement immediately:

(a) The child has been, or is believed to have been, taken from placement as defined in WAC 388-148-0010;
 (b) The child has been, or is believed to have been, lured from placement or to have left placement under circumstances that indicate the child may be at risk of physical or sexual assault or exploitation;
 (c) The child is age thirteen or younger;
 (d) The child has one or more physical or mental health conditions that if not treated daily will place the child at severe risks;
 (e) The child is pregnant or parenting and the infant/child is believed to be with him or her;
 (f) The child has severe emotional problems (e.g., suicidal ideations) that if not treated will place the child at severe risk;

(g) The child has a developmental disability that impairs the child's ability to care for him/herself;

(h) The child has a serious alcohol and/or substance abuse problem; or

(i) The child is at risk due to circumstances unique to that child.

After contacting local law enforcement, the Washington State Patrol's (WSP) Missing Children Clearinghouse must also be contacted and informed that the child is missing from care. The telephone number for the Clearinghouse is 1 (800) 543-5678.

(3) If the child leaves school or has an unauthorized absence from school, the caregiver should consult with the social worker to assess the situation and determine when law

enforcement should be called. If any of the factors listed in subsections (2)(a) through (h) of this section are present, the caregiver and the social worker may decide it is appropriate to delay notification to law enforcement for up to four hours after the end of the school day to give the child the opportunity to return on their own.

(4) The caregiver will provide the following information to law enforcement and to the social worker when making a missing child report, if available:

(a) When the child left;
 (b) Where the child left from;
 (c) What the child was wearing;
 (d) Any known behaviors or interactions that may have precipitated the child's departure;
 (e) Any possible places the child may go to;
 (f) Any special physical or mental health conditions or medications that affect the child's safety;
 (g) Any known companions who may be aware of and involved in the child's absence;
 (h) Other professionals, relatives, significant adults or peers who may know where the child would go; and
 (i) A recent photo of the child.
 (5) The caregiver should obtain the number of the missing person report and provide that number to CA staff.

WSR 06-22-032

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed October 25, 2006, 2:46 p.m., effective November 25, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To clarify ethical issues for board members when working as private consultants.

Citation of Existing Rules Affected by this Order: Amending chapter 196-09 WAC.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 06-18-070 on September 5, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 3, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 11, 2006.

George A. Twiss
 Executive Director

Chapter 196-09 WAC

BOARD PRACTICES AND PROCEDURES
(Formerly chapter 196-08 WAC)NEW SECTION

WAC 196-09-130 Board member limitations—Contract selection (1) When a member of the Board of Registration for Professional Engineers and Land Surveyors (Board) is beneficially interested, directly or indirectly, in a contract, sale, lease, purchase or grant that may be made by, through, or is under the supervision of the Board in whole or in part, or when the member accepts, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in such contract, sale, lease, purchase or grant, the member must:

(a) Exclude him or herself from the Board discussion regarding the specific contract, sale, lease, purchase or grant;

(b) Exclude him or herself from the Board vote on the specific contract, sale, lease, purchase or grant; and

(c) Refrain from attempting to influence the remaining Board members in their discussion and vote regarding the specific contract, sale, lease, purchase or grant.

(2) The prohibition against discussion set forth in sections (a) and (c) may not prohibit the member of the Board from using his or her general expertise to educate and provide general information on the subject area to the other members.

(3) Under subsection (1), "any other person" has a beneficial interest in a contract, sale, lease, purchase or grant when the other person bids or otherwise seeks to be awarded the contract, sale, lease, purchase or grant.

EXAMPLE:

The Board is composed of licensed professional engineers (PE) and professional land surveyors (PLS). A licensed PE member of the Board is employed by a company, which conducts forensic evaluations for the purpose of determining whether an engineering design was properly performed. The Board is in the process of selecting a contractor to conduct an evaluation of said engineering design for the Board's use during disciplinary activities. The company that employs the PE member of the Board has responded to the Board's RFP.

The PE member of the Board may use his general expertise regarding the performance of forensic evaluations to educate the Board as to the general elements of such review. The member is prohibited from participating in the Board's discussion, decision and vote for selecting a contractor.

NEW SECTION

WAC 196-09-131 Board member limitations—Transactions (1) When a member of the Board of Registration for Professional Engineers and Land Surveyors (Board) either owns a beneficial interest in or is an officer, agent, employee or member of an entity or individual, which is engaged in a transaction involving the Board, the member must:

(a) Exclude him or herself from the Board discussion regarding the specific transaction;

(b) Exclude him or herself from the Board vote on the specific transaction; and

(c) Refrain from attempting to influence the remaining Board members in their discussion and vote regarding the specific transaction.

(2) The prohibition against discussion and voting set forth in sections (a) and (c) may not prohibit the member of the Board from using his or her general expertise to educate and provide general information on the subject area to the other members.

(3)(a) "Transaction" involving the Board means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the member in question believes, or has reason to believe:

(i) Is, or will be, the subject of board action; or

(ii) Is one to which the Board is or will be a party; or

(iii) Is one in which the Board has a direct and substantial proprietary interest.

(b) "Transaction" involving the Board does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by a member; or a claim, case, lawsuit, or similar matter if the member did not participate in the underlying transaction involving the Board that is the basis for the claim, case, or lawsuit. Rulemaking is not a "transaction" as described in this subsection.

(4) "Board action" means any action on the part of the Board including, but not limited to:

(a) A decision, determination, finding, ruling, or order; and

(b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

EXAMPLE:

The Board may discipline engineers or land surveyors for incompetence in their practice in Washington. The Board is conducting an investigation involving questionable surveying services provided by a county engineer's office. One of the members of the Board sits on that county's planning commission. The member must exclude him or herself from any Board investigation, discussion, deliberation and vote with respect to disciplinary actions arising from the investigation.

NEW SECTION

WAC 196-09-135 Reporting of board member recusal (1) If exclusion occurs pursuant to WAC 196-09-130 or WAC 196-09-131, the member of the Board should disclose to the public the reasons for his or her recusal from any Board action whenever recusal occurs. The Board staff should record each exclusion and the basis for the exclusion in the minutes of the Board meetings.

WSR 06-22-033
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed October 25, 2006, 2:47 p.m., effective November 25, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: As part of an effort to better organize existing and future rules under an existing chapter heading that is more applicable to the subject matter.

Citation of Existing Rules Affected by this Order: Repealing WAC 196-23-030 and 196-23-050.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 06-18-071 on September 5, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 2, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 11, 2006.

George A. Twiss
Executive Director

Chapter 196-25

BUSINESS PRACTICES

NEW SECTION

WAC 196-25-070 Providing direct supervision.

Direct supervision is a combination of activities by which a licensee maintains control over those decisions that are the basis for the finding, conclusions, analysis, rationale, details, and judgments that are embodied in the development and preparation of engineering or land surveying plans, specifications, plats, reports, and related activities. **Direct supervision** requires providing personal direction, oversight, inspection, observation and supervision of the work being certified.

Communications between the licensee and those persons who are performing the work include, but are not limited to, use of any of the following ways: Direct face-to-face communications; written communications; U.S. mail; electronic mail; facsimiles; telecommunications, or other current technology: Provided, That the licensee retains, maintains, and asserts continuing control and judgement.

NEW SECTION

WAC 196-25-080 Practice by businesses, organizations or public agencies. When a business, organization or

public agency offers or performs engineering or land surveying services as defined in RCW 18.43.020, the business, organization or public agency shall perform its duties and responsibilities in accordance with chapter 18.43 RCW and applicable rules.

WSR 06-22-034
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed October 25, 2006, 2:48 p.m., effective November 25, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To repeal WAC 196-23-030 and 196-23-050 and move them to chapter 196-25 WAC, Business practices.

Citation of Existing Rules Affected by this Order: Repealing WAC 196-23-030 and 196-23-050; and amending chapter 196-25 WAC.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 06-18-072 on September 5, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 2; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 11, 2006.

George A. Twiss
Executive Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 196-23-030 Providing direct supervision.

WAC 196-23-050 Practice by businesses, organizations or public agencies.

WSR 06-22-035
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed October 25, 2006, 2:49 p.m., effective November 25, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To allow professional engineers that have completed the requirements for licensure in structural engineering to put the letters S.E. following their name.

Citation of Existing Rules Affected by this Order: Amending chapter 196-23 WAC.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 06-18-073 on September 5, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 11, 2006.

George A. Twiss
Executive Director

NEW SECTION

WAC 196-23-040 Use of the title S.E. Only professional engineers who have completed the State of Washington's requirements for licensure in structural engineering are permitted to use the title of S.E. when representing his or her licensing credential, as in, *James Smith, P.E., S.E.* Use of the title S.E. by any individual who is not licensed in structural engineering as provided in Chapter 18.43 RCW, is subject to disciplinary action by the Board in accordance with Chapter 18.43 RCW and/or Chapter 18.235 RCW.

**WSR 06-22-036
PERMANENT RULES
DEPARTMENT OF LICENSING**

[Filed October 25, 2006, 2:50 p.m., effective November 25, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To address how the stamp/seal should be used on various documents, and how the stamp/seal must be affixed, and signed.

Citation of Existing Rules Affected by this Order: Amending chapter 196-23 WAC.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 06-18-074 on September 5, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 11, 2006.

George A. Twiss
Executive Director

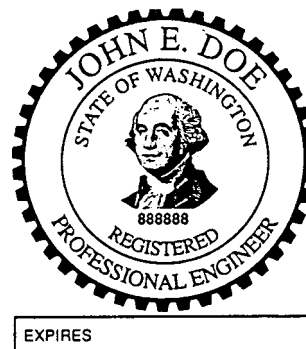
Chapter 196-23 WAC

STAMPING AND SEALS

AMENDATORY SECTION (Amending WSR 99-15-058, filed 7/15/99)

WAC 196-23-010 Seals. All individuals licensed in accordance with chapter 18.43 RCW shall procure a seal/stamp that conforms to the design as authorized by the board. It is the responsibility of the licensee to maintain control over the use of his/her stamp/seal. The impression or image of the seal/stamp shall conform to the below-illustrated design and be of a size that assures full legibility of the following required information:

- (1) State of Washington;
- (2) Registered professional engineer or registered professional land surveyor;
- (3) Certificate number;
- (4) Licensee's name as shown on wall certificate;
- (5) Date of license expiration. (Expiration date to be handwritten by Licensee)



AMENDATORY SECTION (Amending WSR 09-15-055 [99-15-055], filed 7/15/99)

WAC 196-23-020 Seal/stamp usage. The use of the seal/stamp shall be in accordance with chapter 18.43 RCW or as otherwise described herein:

- (1) Final documents are those documents that are prepared and distributed for filing with public officials, use for construction, final agency approvals or use by clients. Any

final document must contain the seal/stamp, handwritten license expiration date by the licensee, ((and)) signature and date of signature of the licensee who prepared or directly supervised the work. For the purpose of this section "document" is defined as plans, specifications, plats, surveys, as-built documents prepared by the licensee, and reports.

(2) Preliminary documents are those documents not considered final as defined herein, but are released or distributed by the licensee. Preliminary documents must be clearly identified as "PRELIMINARY" or contain such wording so it may be differentiated from a final document. Preliminary documents ~~((shall))~~ must be stamped, ~~((and dated,))~~ but need not be signed or dated by the licensee.

(3) Plan sets: Every page of a plan set must contain the seal/stamp, ~~((and))~~ signature of the licensee(s) who prepared or who had direct supervision over the preparation of the work, and date of signature.

(a) Plans/plats containing work prepared by or under the direct supervision of more than one licensee ~~((shall))~~ should be sealed/stamped/dated by each licensee and shall clearly note the extent of each licensee's responsibility.

(b) As provided for in subsections (1) and (2) of this section, each page of a plan set must contain the seal/stamp of the licensee who prepared or who had direct supervision over the preparation of the work, and may contain the signature of the licensee depending on whether the plan set is final or preliminary.

(c) Plan/plat sheets containing and/or depicting background and/or supporting information that is duplicated from other plans need only be sealed/stamped by the licensee(s) who prepared or was in direct supervision of the design, ~~((on that plan sheet. Whenever possible, t))~~ The origin of the background information shall ((should)) be noted on the plan sheet.

(d) All design revisions to final plan/plat sheets shall ~~((be performed by qualified licensees and shall be done in accordance with the provisions of RCW 18.43.070. The revised plan/plat sheets))~~ clearly identify on each sheet; the revisions made and shall contain the name and seal of the licensee, and signature of the licensee with the date the ((revision was made)) sheet was sealed.

(4) Specifications: Specifications that are prepared by or under the direct supervision of a licensee shall contain the seal/stamp, ~~((and))~~ signature of the licensee and the date of signature. If the specifications prepared by a licensee are a portion of a bound specification document that contains specifications other than that of an engineering or land surveying nature, the licensee need only seal/stamp that portion or portions of the documents for which the licensee is responsible. Nothing herein should be construed to require that each page of an engineering or land surveying specification be sealed/stamped by the licensee.

(5) Document review: When a licensee is required to review work prepared by another professional engineer or land surveyor, the reviewing licensee shall fully review those documents and shall prepare a report that discusses the findings of the review with any supporting calculations and sketches. The reviewing licensee would then seal/stamp, ~~((and))~~ sign and date the report. The report would make ref-

erence to and/or be attached to the subject document(s) reviewed.

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.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending WSR 04-04-01 [04-04-001], filed 1/21/04)

WAC 196-23-070 Signature. The terms "signature or signed," as used in chapter 18.43 RCW and/or Title 196 WAC, shall mean the following:

(1) A handwritten identification that represents the act of putting one's name on a document to attest to its validity. The handwritten identification must be:

(a) Original and written by hand;

(b) Permanently affixed to the document(s) being certified;

(c) Applied to the document by the identified ~~((registrant))~~ licensee;

(d) Placed directly over the seal/stamp of the licensee.

(2) A digital identification that is an electronic authentication process attached to or logically associated with an electronic document. The digital identification must be:

(a) Unique to the ~~((registrant))~~ licensee using it;

(b) Capable of independent verification;

(c) Under the exclusive control of the ~~((registrant))~~ licensee using it;

(d) Linked to a document in such a manner that the digital identification is invalidated if any data in the document is changed.

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.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 06-22-037

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed October 25, 2006, 2:51 p.m., effective November 25, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To repeal chapter 196-24 WAC and place existing section into new chapter that better explains subject matter.

Citation of Existing Rules Affected by this Order: Repealing chapter 196-24 WAC.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 06-18-075 on September 5, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 11, 2006.

George A. Twiss
Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 196-24-110 Land surveying standards.

WSR 06-22-038

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed October 25, 2006, 2:52 p.m., effective November 25, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: As part of an effort to better organize existing and future rules under one chapter heading that pertain to the professional practices of professional engineers and professional land surveyors.

Citation of Existing Rules Affected by this Order: Repealing chapter 196-24 WAC.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 06-18-076 on September 5, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 11, 2006.

George A. Twiss
Executive Director

NEW CHAPTER WAC 196-29

PROFESSIONAL PRACTICES

NEW SECTION

WAC 196-29-110 Land surveying practice standards. Failure by any registrant to comply with the provisions of the Survey Recording Act, chapter 58.09 RCW and the survey standards, chapter 332-130 WAC shall be considered misconduct or malpractice as defined by RCW 18.43-105(11).

The following standards shall also apply:

(1) The monumentation, posting, and/or the marking of a boundary line between two existing corner monuments constitutes the "practice of land surveying" as defined in chapter 18.43 RCW and chapter 196-16 WAC, and consequently requires said work to be performed under the direct supervision of a registered professional land surveyor.

(2) The field survey work performed to accomplish the monumentation, posting, and marking of a boundary line between two existing corner monuments shall meet the minimum standards imposed by chapter 332-130 WAC.

(3) The monumentation, posting, and/or marking of a boundary line between two existing corner monuments involves a determination of the accuracy and validity of the existing monuments by the use of standard survey methods and professional judgment.

(4) The monumentation, posting, and marking of a boundary line between two existing corner monuments shall require the filing of a record of survey according to chapter 58.09 RCW unless both corners satisfy one or both of the following requirements:

(a) The corner(s) are shown as being established on a properly recorded or filed survey according to chapter 58.09 RCW and are accurately and correctly shown thereon.

(b) The corner(s) are described correctly, accurately, and properly on a land corner record according to chapter 58.09 RCW if their establishment was by a method not requiring the filing of a record of survey.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 06-22-040 PERMANENT RULES OFFICE OF THE CODE REVISER

[Filed October 26, 2006, 8:00 a.m., effective November 26, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Washington state patrol accepts the filing of orders after the business hours of the office of the code reviser. The phone information in WAC 1-21-160 is incorrect and needs to be corrected. Also a clarification of the process of acceptance of filings by the Washington state patrol is necessary to assist state agencies and the Washington state

patrol with the procedure of accepting these filings and with the delivery of these filings to the office of the code reviser.

Citation of Existing Rules Affected by this Order: Amending WAC 1-21-160.

Statutory Authority for Adoption: RCW 1.08.110 and 34.05.385.

Adopted under notice filed as WSR 06-17-179 on August 23, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: October 25, 2006.

K. Kyle Thiessen
Code Reviser

AMENDATORY SECTION (Amending WSR 06-16-019, filed 7/24/06, effective 8/24/06)

WAC 1-21-160 Filing after office hours. The office of the code reviser is open for the filing of agency rule-making notices and orders from 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. The office of the code reviser delegates to the Washington state patrol the authority to accept at other times the filing of orders adopting, amending, or repealing rules when the nature of the order requires their immediate filing and/or effectiveness. To use this service, the agency may telephone the ~~((capitol security unit of the))~~ Washington state patrol communications center at ((360) 753-2191 to) 360-586-1999. When your call is answered, request a zone 4 trooper and arrange for receipt of the filing(s) ~~((by the state patrol))~~. The agency shall give the original and three copies of each filing to the trooper. The trooper shall mark each copy with the trooper's name, badge number, date, and time and arrange for all of the copies to be delivered to the office of the code reviser as early as possible on the next business day. The agency filing the rules with the state patrol shall notify the office of the code reviser of the filing by 9:00 a.m. on the next business day after ~~((the))~~ filing and arrange to receive the stamped copies.

WSR 06-22-046

PERMANENT RULES

CENTRAL WASHINGTON UNIVERSITY

[Filed October 27, 2006, 8:41 a.m., effective November 27, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Modify existing protected groups as required by federal legislation.

Citation of Existing Rules Affected by this Order: Amending WAC 106-72-005 and 106-72-025.

Statutory Authority for Adoption: RCW 28B.10.528 and 28B.35.120(12).

Other Authority: 41 C.R.F. [C.F.R.] 06-50.

Adopted under notice filed as WSR 06-19-112 on September 20, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 2, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 25, 2006.

Jerilyn S. McIntyre
President

AMENDATORY SECTION (Amending WSR 05-05-057, filed 2/14/05, effective 3/17/05)

WAC 106-72-005 Equal opportunity/affirmative action in employment. Central Washington University is an equal opportunity employer. The university will:

(1) Recruit, hire, train, and promote persons in all job titles, without regard to race, color, creed, religion, national origin, sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a ~~((disabled or Vietnam era))~~ protected veteran.

(2) Ensure that all personnel actions such as compensation, benefits, transfers, terminations, layoffs, return from layoff, reductions in force (RIF), university-sponsored training, education, tuition assistance, and social and recreation programs, will be administered without regard to race, color, creed, religion, national origin, sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a ~~((disabled or Vietnam era))~~ protected veteran.

Central Washington University is committed to affirmative action for Asians, Blacks, Hispanics, Native Americans, women, persons forty years of age or older, persons of disability, ~~((disabled veterans and Vietnam era))~~ and all protected veterans. This commitment is expressed through the university's efforts to eliminate barriers to equal employment opportunity and improve employment opportunities encountered by these protected groups.

AMENDATORY SECTION (Amending WSR 05-05-057, filed 2/14/05, effective 3/17/05)

WAC 106-72-025 Equal opportunity for students.

Central Washington University will provide students equal access to all programs and services on the basis of merit without regard to race, color, creed, religion, national origin, sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a ~~((disabled or Vietnam-era))~~ protected veteran.

No person will be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by the university including, but not limited to, admissions, academic programs, student employment, counseling and guidance services, financial aid, recreational activities, and intercollegiate athletics.

Programs may be developed by the university, however, for special student populations as affirmative action measures to overcome the effects of past discrimination.

No member of the university community shall treat students differently because of their race, color, creed, religion, national origin, sex, sexual orientation, gender identity and expression, age, marital status, disability (except to provide reasonable accommodation), or status as a ~~((disabled or Vietnam-era))~~ protected veteran. The university has established mechanisms to address complaints to discriminatory treatment, including harassing behaviors (e.g., physical, verbal, graphic, or written) which might lead to the creation of a hostile environment.

WSR 06-22-051

PERMANENT RULES

GAMBLING COMMISSION

[Order 604—Filed October 27, 2006, 8:51 a.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Purpose: The gambling commission is rewriting its rules manual using plain English techniques. The rules manual has been divided into sections and is being rewritten a section at a time. Rules pertaining to fund raising events have been rewritten in plain English and titled as chapter 230-09 WAC.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 06-17-133 on August 22, 2006, with a published date of September 6, 2006.

Changes Other than Editing from Proposed to Adopted Version: WAC 230-09-020, 230-09-131, 230-09-150 and 230-09-165 were updated to reflect changes to current rules filed under WSR 06-17-083 with a published date of September 6, 2006, and adopted under WSR 06-21-114. The amendment allows poker to be played at fund-raising events.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 35, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 35, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 35, Amended 0, Repealed 0.

Date Adopted: October 25, 2006.

Susan Arland

Rules Coordinator

Chapter 230-09 WAC

FUND-RAISING EVENT RULES

NEW SECTION

WAC 230-09-001 Purpose. Licensees may only hold fund-raising events (FREs) to raise funds for organizational purposes. Licensees must operate the FRE with a profit motive. A "profit motive" means a gambling activity conducted for purposes of obtaining funds for a charitable or nonprofit organization's programs. FRE licensees must make a good faith effort to ensure that the expenses paid for all phases of the FRE are less than the total gross receipts received.

NEW SECTION

WAC 230-09-005 Notify local law enforcement. Licensees must notify local law enforcement agencies in writing of the time and place of the FRE at least ten days before conducting the FRE.

NEW SECTION

WAC 230-09-010 Ten thousand dollars net receipts limit. (1) The calendar year net receipt limits of RCW 9.46.0233 apply to all FRE licensees. Net receipts are all wagers and bets received minus money used to purchase prizes and pay out cash prizes.

(2) Any licensees exceeding the calendar year net receipt limit must distribute excess net receipts within thirty days to another bona fide charitable or nonprofit organization that either:

- (a) We license; or
- (b) Meets the criteria set forth in RCW 9.46.0209.

NEW SECTION

WAC 230-09-015 Fund-raising events on December 31. Licensees who hold FREs which continue past midnight on December 31 into the new calendar year may treat each hour of the event held as if the hours had occurred solely in the calendar year recorded on their license application. These hours are counted in computing and applying limits on the net receipts and on the number of FREs, or consecutive hours of those FREs, in the calendar year for which the license was issued.

NEW SECTION

WAC 230-09-020 Post house rules. Licensees must develop house rules to govern the scope and manner of all gambling activities they will conduct during the FRE and prominently post these rules in the area where they will conduct the FRE. At a minimum, these rules must:

- (1) State that single wagers must not exceed ten dollars. Raffle wagers may exceed ten dollars, but must not exceed the limits set forth in RCW 9.46.0277; and
- (2) State that there are no limits on wagers made with scrip and no limits on the number of poker tournament chips that may be wagered; and
- (3) Prohibit tipping.

NEW SECTION

WAC 230-09-025 No wagering among participants. Licensees must not allow any participants at FREs to wager money or other items of value against any other participant, such as in side bets in poker, at the FRE.

NEW SECTION

WAC 230-09-030 Use chips or scrip. Licensees must use chips or scrip or coin for wagering at FREs. *Limited* FRE licensees must use chips and scrip only. Licensees must issue the chips or scrip only during and at the FRE itself. Licensees must not redeem chips or scrip after the FRE has concluded.

NEW SECTION

WAC 230-09-035 Prepare membership list. FRE licensees must prepare a list of all persons from their organizations participating in the management or operation of the FRE. The list must be available on the premises of the FRE and contain, at a minimum, the name, address, telephone number, and a brief statement signed by the chief executive officer certifying that each member listed is a full and regular member of the organization.

NEW SECTION

WAC 230-09-040 Separation of duties for central accounting system required. Licensees must set up and maintain a central accounting system in a format we prescribe for all activities conducted at the FRE. Licensees must obtain accounting forms from us. The central accounting system must provide for the following minimum separation of duties:

- (1) A cashier to handle the beginning bank, provide chips to the games, redeem chips and cash checks for the players; and
- (2) A runner to transport money, chips, and lock boxes between gambling stations at the event; and
- (3) Floor supervisors to supervise not more than six gambling stations each and who must supervise the transfer of lock boxes and chips and change trays to the count room; and
- (4) Gambling station operators to control the activity at a specific gambling station.

NEW SECTION

WAC 230-09-045 Counting money. Licensees must have an area for counting money separate from the area where gambling is taking place. Licensees must use the forms and format we prescribe for the count. Licensees must:

- (1) Bring all money from the FRE to the counting area; and
- (2) Assign three cashiers to count the money. Two cashiers must be in the counting area at all times money is present; and
- (3) Have at least two cashiers verify the beginning count and sign the record; and
- (4) Restrict access to the counting area to the cashiers and to the runner(s) who transport money or chips to or from those stations; and
- (5) Transfer all money and chips to the counting area at the end of the day or event for final tabulation, reconciliation, and verification; and
- (6) Have at least three bankers or cashiers verify the final tabulation and reconciliation and sign the verification.

NEW SECTION

WAC 230-09-050 Use lock boxes and money paddles. Licensees must have numbered games stations with separate lock boxes and money paddles for each station. "Money paddle" means a wooden or plastic implement used to push money into the lock box slot.

- (1) The money paddle must remain in the lock box slot whenever it is not in use. The money slot of the lock box must not exceed three and one-half inches in length and one-half inch in width; and
- (2) Dealers must exchange all currency presented by the players for coin or chips and the dealer must immediately place it in the lock box; and
- (3) Licensees must keep the keys to all lock boxes in the counting area at all times; and
- (4) Only cashiers may open the lock boxes and they must open them only in the counting area.

NEW SECTION

WAC 230-09-055 Maintain records of net receipts. Licensees must maintain records in sufficient detail to determine the net receipts of each gambling station operated. Licensees must:

- (1) Record a reconciliation of the ending cash on hand to net receipts; and
- (2) Deposit the ending cash on hand within two banking days of the conclusion of the fund-raising event and must include a validated deposit slip as part of the records; and
- (3) Not spend any of the ending cash before the deposit.

NEW SECTION

WAC 230-09-060 Winners must be present and participating to win. Winners must be present and participating to win at a fund-raising event.

NEW SECTION

WAC 230-09-065 Use only full and regular members to operate the fund-raising event. (1) Licensees must use only full and regular members of the charitable or nonprofit organization to manage or assist in the operation of an FRE. "Full and regular membership" is defined in WAC 230-03-140.

(2) Licensees may also use "members" and "bona fide members" as defined in RCW 9.46.0261 to manage or assist in the operation of an FRE.

NEW SECTION

WAC 230-09-070 Compensation of other authorized employees. Generally, licensees must not pay people to work at an FRE. However, in the following circumstances, licensees may compensate people:

(1) Licensees may allow people who are not members of the organization to perform incidental functions, which we will not consider "management or operation" under RCW 9.46.120. These incidental functions include:

- (a) Serving food and drink to participants in the FRE; or
- (b) Parking cars; or
- (c) Maintaining general crowd control and order at the FRE; or
- (d) Detecting people cheating, as long as that employee is a commissioned law enforcement officer with the power to make arrests in the jurisdiction in which the FRE is being held or is the employee of a commercial securities service firm licensed to provide these services by the city, town, or county in which the FRE is being conducted; or
- (e) Providing janitorial functions; or
- (f) Supervising these people, as long as the licensee does not pay these employees more than the local prevailing level of payment for supervising at events other than FREs.

(2) Licensees may also furnish food and nonalcoholic beverages to full and regular members who volunteer as long as the food or drink does not exceed twenty dollars per volunteer per FRE.

(3) If a licensee's employee is also a full and regular member of the organization or its auxiliary and is not scheduled for assigned employee duties at the time of the FRE, the employee may assist in the FRE.

NEW SECTION

WAC 230-09-075 Workers must wear name tags. All fund-raising event workers must wear a name tag at all times. Name tags must include at least the member's first initial and last name or first name and first initial of the last name and the name of the organization.

**PREMISES AND EQUIPMENT
FOR FUND-RAISING EVENTS**

NEW SECTION

WAC 230-09-080 Holding fund-raising events on commercial business premises. (1) Licensees may operate FREs on commercial business premises only if:

(a) The commercial business is closed to the public at all times during which the licensee conducts the FRE; or

(b) The portion of the business premises in which the licensee conducts the FRE is separate and apart from the portion used by the commercial business. In this rule, "separate and apart" means having a permanent or temporary partition. The partition must:

(i) Have not more than two designated openings to limit pedestrian flow; and

(ii) Provide a solid, distinct separation between the portion of the premises where the licensee conducts the FRE and the portion of the premises the commercial business uses.

(2) Licensees must not conduct an FRE on or within a commercial business premises while any other organization is conducting an FRE on or within the same commercial business premises.

NEW SECTION

WAC 230-09-085 Commercial business must not participate in fund-raising events. (1) Licensees must ensure the owners, managers, or employees of the commercial business premises used for the FRE do not participate in the operation of any of the FRE activities.

(2) Licensees must not hold an FRE on the premises of a commercial business if any of the licensee's officers are owners, managers, or employees of the commercial business.

NEW SECTION

WAC 230-09-090 Control of premises. Licensees must have, and exercise, complete control over the portion of the premises where the FRE takes place at all times they conduct the FRE. However, if the sale, service, or consumption of liquor is permitted in that portion of the premises, the liquor licensee or permittee must be responsible for compliance with liquor laws and regulations.

NEW SECTION

WAC 230-09-095 Using, leasing, or renting equipment. (1) FRE licensees must purchase, lease, or rent gambling equipment only from a licensed distributor or another FRE licensee.

(2) FRE licensees may sell their equipment to other FRE licensees or distributors.

(3) FRE licensees may loan or rent their own equipment for up to four events per year without obtaining an FRE equipment distributor license if:

(a) The FREs take place within the twelve calendar month period following the licensee's last FRE; and

(b) The licensee ensures their equipment is only used in FREs or other authorized activities, such as bingo.

(4) FRE equipment distributor licensees must sell, rent, or lease gambling equipment, premises, or services for use in an FRE on commercially reasonable terms.

(5) Licensees must make all rentals at a lump sum or hourly rate and rentals must not be based on a percentage of the income or profit from the FRE.

**GAMBLING ACTIVITIES AUTHORIZED
AT FUND-RAISING EVENTS**

NEW SECTION

WAC 230-09-100 Pull-tabs authorized. Licensees must operate pull-tabs solely under their FRE license, not under a separate pull-tab license. If licensees sell pull-tabs, they must:

- (1) Purchase the pull-tabs for specific use at FREs and record the identification and inspection services stamps on the form we provide; and
- (2) Mix the pull-tabs and sell them out of a clear container. Licensees must not use a coin-operated dispensing device; and
- (3) Use the manufacturer's set price for each specific series; and
- (4) Have no more than three pull-tab series out for play at one time; and
- (5) Sell all pull-tabs from a booth or similar confined area which prohibits public access to the pull-tabs; and
- (6) Treat each pull-tab series as a separately numbered gambling station. Each series must have a separate corresponding lock box, money paddle, and chip tray for making change and payment of prizes. The attendant(s) on duty must immediately place all currency, coins, or chips used to purchase pull-tabs in the corresponding lock box. All change given back to players must be in the form of chips or coins from the chip tray; and
- (7) Deface all winning pull-tabs when they are cashed in and put them in the corresponding lock box; and
- (8) Pay winning pull-tabs in chips and coins only, or players may cash in winning pull-tabs for additional pull-tabs only from the same series; and
- (9) Comply with all other rules and laws for pull-tabs in Title 230 WAC and chapter 9.46 RCW.

NEW SECTION

WAC 230-09-105 Processing pull-tabs after play. When attendants remove a series from play, a runner must take the series, including the flare, the corresponding lock box, and chip tray to the count room.

- (1) Cashiers must immediately record all gross gambling receipts collected, prizes paid, and tabs sold and write the totals on the pull-tab accounting report we furnish according to the instructions attached; and
- (2) After completing the count, cashiers must package or band winning pull-tabs separately and place them with the unused portion of that particular series in the original shipping container. The licensee must retain the used series for one year; and
- (3) At the completion of the FRE, licensees must:
 - (a) Take all series still out for play to the count room and follow count room procedures; and
 - (b) Return all unopened pull-tab series to the licensed distributor who sold the series for a full refund. Licensees must not sell or operate the unopened series under their separate pull-tab license.

NEW SECTION

WAC 230-09-110 Punch boards not authorized. Fund-raising event licensees must not operate punch boards as part of the FRE.

NEW SECTION

WAC 230-09-115 Bingo authorized. Licensees must operate bingo solely under their FRE license, not under a separate bingo license. If licensees operate bingo, they must:

- (1) Count income from bingo against the maximum net receipts authorized for FREs; and
- (2) Comply with all of our rules for Class A, B, and C bingo.

NEW SECTION

WAC 230-09-120 Disposable bingo cards. (1) Licensees that have a separate bingo license and use disposable bingo cards at the FRE must follow the inventory control procedures for disposable cards in the bingo rules chapter.

(2) Licensees that do not have a separate bingo license must keep all unused disposable cards or packets as part of the FRE record. Licensees may return unused cards or packets to the distributor if there are no breaks in the consecutive card/audit numbers. Licensees must receive documentation from the distributor of the total number of cards or packets returned and the beginning and ending card/audit numbers.

NEW SECTION

WAC 230-09-125 Raffles authorized. (1) Licensees may operate raffles at FREs in one of two ways:

- (a) **Solely under their fund-raising event license.** Licensees must conduct all aspects of the raffle during the FRE. Income from this raffle counts toward the FRE limits; or
 - (b) **Under a separate raffle license.** Licensees must sell all tickets for the raffle and deposit all tickets in the drawing receptacle before the FRE and hold the raffle drawing at the FRE. Income from this raffle counts toward the limits of the licensee's raffle class.
- (2) For raffles conducted under an FRE license, licensees must:
- (a) Not sell single FRE raffle tickets for more than twenty-five dollars per ticket; and
 - (b) Not require a person to buy more than one ticket; and
 - (c) Use consecutively numbered tickets; and
 - (d) Ensure that each ticket has a separate and equal chance to win; and
 - (e) Randomly draw the winning ticket; and
 - (f) Operate and account for raffles as independent gambling stations at the FRE; and
 - (g) Maintain records to verify gross sales of tickets; and
 - (h) Report all FRE raffle income, prizes awarded, and other expenses and these amounts count toward the maximum net receipts authorized for FREs.

NEW SECTION

WAC 230-09-130 Blackjack or "21" authorized. Licensees may operate blackjack or "21" at licensed FREs according to the following requirements:

- (1) Dealers must deal all cards from a dealing shoe. The deal must begin with a shoe containing at least four full decks of cards and proceed until the cards are reshuffled, withdrawn for examination, or replaced. The shoe must then be refilled with at least four decks of cards and the process repeated; and
- (2) Dealers must deal cards to the players face up on the table; and
- (3) Players must not pick up, shuffle, or cut the cards; and
- (4) Licensees must use only standard size playing cards; and
- (5) Dealers may shuffle the cards using a device, apparatus, or mechanism.

NEW SECTION

WAC 230-09-131 Poker tournaments authorized. Licensees may operate poker tournaments at fund-raising events. Licensees must:

- (1) Adopt and prominently post tournament rules; and
- (2) Count all money paid to enter a tournament or purchase chips as a wager when determining their ten thousand dollar net receipts limits; and
- (3) Not allow chips used in poker tournaments to have a monetary value; and
- (4) Allow chips to be redeemed for merchandise prizes only; and
- (5) Maintain a record of all prizes awarded, including, at least:
 - (a) The amount paid for each prize; and
 - (b) For donated prizes, the name of the donor and a description of the prize(s) donated; and
 - (c) The name and complete address of each winner.

JOINT FUND-RAISING EVENTSNEW SECTION

WAC 230-09-135 Joining together with other licensees to conduct a fund-raising event. FRE licensees may jointly conduct an FRE if they:

- (1) Do not exceed their individual FRE limit for the calendar year or a single event; and
- (2) Prepare a list of all persons from their organizations participating in the management or operation of the FRE. The list must be available on the premises of the FRE and contain, at a minimum, the name, address, telephone number, and a brief statement signed by the chief executive officer certifying that each member listed is a full and regular member of the organization; and
- (3) Keep records which clearly disclose the amount of money received and spent in connection with the joint FRE.

NEW SECTION

WAC 230-09-140 Lead organization responsibilities. The lead organization must:

- (1) Be responsible for the central accounting system; and
- (2) Comply with all recordkeeping and reporting rules; and
- (3) Deposit the ending cash on hand; and
- (4) Prepare and submit a fund-raising event report; and
- (5) Disburse all funds due to any participating organizations by check within thirty days following the event.

LIMITED FUND-RAISING EVENTSNEW SECTION

WAC 230-09-145 Limited fund-raising event defined. A limited FRE means:

- (1) Only members and guests of the organization may participate in a limited FRE. A limited FRE is not open to the public; and
- (2) Only merchandise prizes, not cash, are awarded; and
- (3) The organization may hire a licensed FRE equipment distributor to provide the equipment and staff to operate gambling stations; and
- (4) The organization may deduct the cost of equipment rental and services when calculating the FRE net receipts limits.

NEW SECTION

WAC 230-09-150 Operating a limited fund-raising event. (1) Licensees must:

- (a) Require participants to purchase scrip with cash; and
 - (b) Exchange scrip at gambling stations for chips; and
 - (c) Allow only full and regular members to make cash transactions for scrip and maintain records during the FRE; and
 - (d) Disclose the prizes offered. The costs of prizes must not exceed fair market value. The organization may advertise the prize to the participants at the retail value; and
 - (e) Prevent the cost of all prizes from exceeding ten percent of the gross revenue of the event; and
 - (f) Comply with all other FRE rules.
- (2) Licensees may allow unlimited wagering when using scrip and poker tournament chips.

NEW SECTION

WAC 230-09-155 Recordkeeping at limited fund-raising events. Limited FREs licensees must comply with WAC 230-06-070. In order to show compliance with FRE limits, licensees also must provide details regarding how much of the admission fees from the limited FRE they allocate to gambling scrip and how much they allocate to other activities, such as meals and entertainment.

NEW SECTION

WAC 230-09-160 Fund-raising event distributor rules at limited fund-raising events. (1) The FRE equip-

ment distributor must not share in any way in the proceeds of the FRE.

(2) Employees of the FRE equipment distributor must:

- (a) Wear a name tag with, at a minimum, their first name and the full name of the distributor; and
- (b) Not handle cash transactions; and
- (c) Not allow participants to purchase chips with cash.

NEW SECTION

WAC 230-09-165 Restrictions on gambling activities at limited fund-raising events. (1) Licensees must not sell pull-tabs at limited FREs.

(2) Licensees may operate poker tournaments. Tournament rules must be established and prominently posted.

(3) Licensees must ensure that participants play only for merchandise prizes.

(4) Licensees may allow participants to exchange chips or scrip for raffle tickets at the end of a limited FRE to determine who will win merchandise prizes.

(5) Licensees may only sell bingo cards to participants in exchange for scrip.

WSR 06-22-052
PERMANENT RULES
GAMBLING COMMISSION

[Order 603—Filed October 27, 2006, 8:53 a.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Purpose: The gambling commission is rewriting its rules manual using plain English techniques. The rules manual has been divided into sections and is being rewritten a section at a time. Rules pertaining to promotional contests of chance have been rewritten in plain English and titled as chapter 230-18 WAC.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 06-17-134 on August 22, 2006, with a published date of September 6, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 0, Repealed 0.

Date Adopted: October 25, 2006.

Susan Arland
Rules Coordinator

Chapter 230-18 WAC

PROMOTIONAL CONTESTS OF CHANCE NOT LICENSED BY THE WASHINGTON STATE GAMBLING COMMISSION

NEW SECTION

WAC 230-18-005 Telephone fees deemed "consideration." Participants may be required to place a telephone call to enter a promotional contest of chance, but additional fees such as those for a 1-900 number are "consideration" and are not authorized.

NEW SECTION

WAC 230-18-010 Promotional contests of chance similar to bingo. A business may offer a promotional contest of chance (PCOC) that is similar to bingo, commonly referred to as "no fee bingo."

(1) A business must not:

(a) Charge participants a direct or indirect fee to participate in the PCOC. Indirect fees include, but are not limited to, cover charges; and

(b) Operate the PCOC for no more than a total of three hours per day, twice per week. Participants must receive a bingo card immediately before the start of each game.

(2) A business must:

(a) Award only merchandise items, such as food, nonalcoholic beverages, hats, shirts, or other promotional items valued at less than twenty-five dollars each. The business must:

(i) Not substitute cash prizes for merchandise prizes; and

(ii) Not award prizes worth more than one hundred dollars per week or five thousand dollars per year; and

(iii) Record the names of winners and prize(s) won for each game; and

(b) Use recreational bingo cards that are not used in authorized bingo games.

NEW SECTION

WAC 230-18-015 Promotional game cards used in promotional contests of chance. (1) A business may use promotional game cards similar to pull-tabs as part of a promotional contest of chance (PCOC) if the game cards:

(a) Are readily distinguishable from other pull-tabs sold in the state of Washington; and

(b) Are designed and manufactured for a specific PCOC; and

(c) Clearly display the name of the sponsoring business or the promoted product(s); and

(d) Have no price per play on the card; and

(e) Have the official rules of play, including "no purchase necessary," printed on the back.

(2) We may seize PCOC game cards that violate these restrictions.

WSR 06-22-059
PERMANENT RULES
PUGET SOUND
CLEAN AIR AGENCY

[Filed October 30, 2006, 11:09 a.m., effective December 1, 2006]

Effective Date of Rule: December 1, 2006.

Purpose: To amend Regulation I, Section 3.11 (Civil Penalties) and Section 3.25 (Federal Regulation Reference Date).

Citation of Existing Rules Affected by this Order: Amending Regulation I, Sections 3.11 and 3.25.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 06-19-049 on September 15, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 26, 2006.

Steve M. Van Slyke
Supervisory Engineer

AMENDATORY SECTION

REGULATION I SECTION 3.11 CIVIL PENALTIES

(a) Any person who violates any of the provisions of chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed (~~(\$14,686.00)~~) \$15,127.00 per day for each violation.

(b) Any person who fails to take action as specified by an order issued pursuant to chapter 70.94 RCW or Regulations I, II, and III of the Puget Sound Clean Air Agency shall be liable for a civil penalty of not more than (~~(\$14,686.00)~~) \$15,127.00 for each day of continued noncompliance.

(c) Within 30 days of the date of receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. To be considered timely, a mitigation request must be actually received by the Agency, during regular office hours, within 30 days of the date of receipt of a Notice and Order of Civil Penalty. This time period shall be calculated by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or legal holiday, and then it is excluded and the next succeeding day that is not a Saturday, Sunday, or legal holiday is included. The date stamped by the Agency on the mitigation request is prima facie evidence of the date the Agency received the request.

(d) A mitigation request must contain the following:

(1) The name, mailing address, telephone number, and telefacsimile number (if available) of the party requesting mitigation;

(2) A copy of the Notice and Order of Civil Penalty involved;

(3) A short and plain statement showing the grounds upon which the party requesting mitigation considers such order to be unjust or unlawful;

(4) A clear and concise statement of facts upon which the party requesting mitigation relies to sustain his or her grounds for mitigation;

(5) The relief sought, including the specific nature and extent; and

(6) A statement that the party requesting mitigation has read the mitigation request and believes the contents to be true, followed by the party's signature.

The Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(e) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC. An appeal must be filed with the Hearings Board and served on the Agency within 30 days of the date of receipt of the Notice and Order of Civil Penalty or the notice of disposition on the application for relief from penalty.

(f) A civil penalty shall become due and payable on the later of:

(1) 30 days after receipt of the notice imposing the penalty;

(2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or

(3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.

(g) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(h) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

(i) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

AMENDATORY SECTION**REGULATION I SECTION 3.25 FEDERAL REGULATION REFERENCE DATE**

Whenever federal regulations are referenced in Regulation I, II, or III, the effective date shall be July 1, (~~2005~~) 2006.

**WSR 06-22-060
PERMANENT RULES
PUGET SOUND
CLEAN AIR AGENCY**

[Filed October 30, 2006, 11:10 a.m., effective December 1, 2006]

Effective Date of Rule: December 1, 2006.

Purpose: Amend Regulation I, Section 5.03 (Applicability of Registration Program) and Section 6.03 (Notice of Construction).

Citation of Existing Rules Affected by this Order: Amending Regulation I, Sections 5.03 and 6.03.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 06-19-052 on September 18, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 26, 2006.

Steve M. Van Slyke
Supervisory Engineer

AMENDATORY SECTION**REGULATION I: SECTION 5.03 APPLICABILITY OF REGISTRATION PROGRAM**

(a) The requirements of this article shall apply only to:

(1) Sources subject to a federal emission standard under:

(A) 40 CFR Part 60 (except Subparts B, S, BB, and AAA, and Subpart IIII pertaining to owners and operators of emergency stationary compression ignition internal combustion engines);

(B) 40 CFR Part 61 (except Subparts B, H, I, K, Q, R, T, W, and the provisions of Subpart M pertaining to asbestos on roadways, asbestos demolition and renovation activities, and asbestos spraying);

(C) 40 CFR Part 62; or

(D) 40 CFR Part 63 (except Subpart LL and the provisions of Subparts S and MM pertaining to kraft and sulfite pulp mills, and Subpart ZZZZ pertaining to emergency and limited-use stationary reciprocating internal combustion engines);

(2) Sources with a federally enforceable emission limitation established in order to avoid operating permit program applicability under Article 7 of this regulation;

(3) Sources with annual emissions:

(A) Greater than or equal to 2.50 tons of any single hazardous air pollutant (HAP);

(B) Greater than or equal to 6.25 tons of total hazardous air pollutants (HAP); or

(C) Greater than or equal to 25.0 tons of carbon monoxide (CO), nitrogen oxides (NOx), particulate matter (PM2.5 or PM10), sulfur oxides (SOx), or volatile organic compounds (VOC);

(4) Sources subject to the following sections of Regulation I, II, or III:

(A) Refuse burning equipment subject to Section 9.05 of Regulation I (including crematories);

(B) Fuel burning equipment or refuse burning equipment burning oil that exceeds any limit in Section 9.08 of Regulation I and sources marketing oil to such sources;

(C) Fuel burning equipment subject to Section 9.09 of Regulation I with a rated heat input greater than or equal to 1 MMBtu/hr of any fuel other than natural gas, propane, butane, or distillate oil, or greater than or equal to 10 MMBtu/hr of any fuel;

(D) Sources with spray-coating operations subject to Section 9.16 of Regulation I;

(E) Petroleum refineries subject to Section 2.03 of Regulation II;

(F) Gasoline loading terminals subject to Section 2.05 of Regulation II;

(G) Gasoline dispensing facilities subject to Section 2.07 of Regulation II;

(H) Volatile organic compound storage tanks subject to Section 3.02 of Regulation II;

(I) Can and paper coating facilities subject to Section 3.03 of Regulation II;

(J) Motor vehicle and mobile equipment coating operations subject to Section 3.04 of Regulation II;

(K) Flexographic and rotogravure printing facilities subject to Section 3.05 of Regulation II;

(L) Polyester, vinyl ester, gelcoat, and resin operations subject to Section 3.08 of Regulation II;

(M) Aerospace component coating operations subject to Section 3.09 of Regulation II;

(N) Dry cleaners subject to Section 3.03 of Regulation III; or

(O) Ethylene oxide sterilizers subject to Section 3.07 of Regulation III;

(5) Sources with any of the following gas or odor control equipment having a rated capacity of greater than or equal to 200 cfm (≥ 4 " diameter inlet):

(A) Activated carbon adsorption;

(B) Afterburner;

(C) Barometric condenser;

(D) Biofilter;

- (E) Catalytic afterburner;
 - (F) Catalytic oxidizer;
 - (G) Chemical oxidation;
 - (H) Condenser;
 - (I) Dry sorbent injection;
 - (J) Flaring;
 - (K) Non-selective catalytic reduction;
 - (L) Refrigerated condenser;
 - (M) Selective catalytic reduction; or
 - (N) Wet scrubber;
- (6) Sources with any of the following particulate control equipment having a rated capacity of greater than or equal to 2,000 cfm (≥ 10 " diameter inlet):
- (A) Baghouse;
 - (B) Demister;
 - (C) Electrostatic precipitator;
 - (D) HEPA (high efficiency particulate air) filter;
 - (E) HVAF (high velocity air filter);
 - (F) Mat or panel filter;
 - (G) Mist eliminator;
 - (H) Multiple cyclones;
 - (I) Rotoclone;
 - (J) Screen;
 - (K) Venturi scrubber;
 - (L) Water curtain; or
 - (M) Wet electrostatic precipitator;
- (7) Sources with a single cyclone having a rated capacity of greater than or equal to 20,000 cfm (≥ 27 " diameter inlet);
- (8) Sources with any of the following equipment:
- (A) Asphalt batch plants;
 - (B) Burn-off ovens;
 - (C) Coffee roasters;
 - (D) Commercial composting with raw materials from off-site;
 - (E) Commercial smokehouses with odor control equipment;
 - (F) Concrete batch plants (ready-mix concrete);
 - (G) Galvanizing;
 - (H) Iron or steel foundries;
 - (I) Microchip or printed circuit board manufacturing;
 - (J) Rendering plants;
 - (K) Rock crushers or concrete crushers;
 - (L) Sewage treatment plants with odor control equipment;
 - (M) Shipyards;
 - (N) Steel mills; or
 - (O) Wood preserving lines or retorts; and
- (9) Sources with equipment (or control equipment) that has been determined by the Control Officer to warrant registration through review of a Notice of Construction application under Section 6.03(a) or a Notification under Section 6.03(b) of this regulation, due to the amount and nature of air contaminants produced, or the potential to contribute to air pollution, and with special reference to effects on health, economic and social factors, and physical effects on property.
- (b) The requirements of this article shall not apply to:
- (1) Motor vehicles;
 - (2) Nonroad engines or nonroad vehicles as defined in Section 216 of the federal Clean Air Act;

(3) Sources that require an operating permit under Article 7 of this regulation;

(4) Solid fuel burning devices subject to Article 13 of this regulation; or

(5) Any source, including any listed in Sections 5.03 (a)(4) through 5.03 (a)(9) of this regulation, that has been determined through review by the Control Officer not to warrant registration, due to the amount and nature of air contaminants produced or the potential to contribute to air pollution, and with special reference to effects on health, economic and social factors, and physical effects on property.

(c) It shall be unlawful for any person to cause or allow the operation of any source subject to registration under this section, unless it meets all the requirements of Article 5 of this regulation.

(d) An exemption from new source review under Article 6 of this regulation shall not be construed as an exemption from registration under this article. In addition, an exemption from registration under this article shall not be construed as an exemption from any other provision of Regulation I, II, or III.

AMENDATORY SECTION

REGULATION I: SECTION 6.03 NOTICE OF CONSTRUCTION

(a) It shall be unlawful for any person to cause or allow the establishment of a new source, or the replacement or substantial alteration of control equipment installed on an existing source, unless a "Notice of Construction application" has been filed and an "Order of Approval" has been issued by the Agency. The exemptions in Sections 6.03 (b) and (c) of this regulation shall not apply to:

(1) Any project that qualifies as construction, reconstruction, or modification of an affected facility within the meaning of 40 CFR Part 60 (New Source Performance Standards), except for Subpart AAA (New Residential Wood Heaters), Subpart BB (Kraft Pulp Mills), ~~((and))~~ Subpart S (Primary Aluminum Reduction Plants), and Subpart IIII pertaining to owners and operators of emergency stationary compression ignition internal combustion engines; and for relocation of affected facilities under Subpart I (Hot Mix Asphalt Facilities) and Subpart OOO (Nonmetallic Mineral Processing Plants) for which an Order of Approval has been previously issued by the Agency;

(2) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants), except for Subpart B (Radon from Underground Uranium Mines), Subpart H (Emissions of Radionuclides other than Radon from Department of Energy Facilities), Subpart I (Radionuclides from Federal Facilities other than Nuclear Regulatory Commission Licensees and not covered by Subpart H), Subpart K (Radionuclides from Elemental Phosphorus Plants), Subpart Q (Radon from Department of Energy Facilities), Subpart R (Radon from Phosphogypsum Stacks), Subpart T (Radon from Disposal of Uranium Mill Tailings), Subpart W (Radon from Operating Mill Tailings), and for demolition and renovation projects subject to Subpart M (Asbestos);

(3) Any project that qualifies as a new source as defined under 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories), except for the provisions of Subpart M (Dry Cleaning Facilities) pertaining to area source perchloroethylene dry cleaners, Subpart LL (Primary Aluminum Reduction Plants), and the provisions of Subpart S (Pulp and Paper Industry) and Subpart MM (Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills) pertaining to kraft and sulfite pulp mills, and Subpart ZZZZ pertaining to emergency and limited-use stationary reciprocating internal combustion engines;

(4) Any new major stationary source or major modification as defined under WAC 173-400-030; and

(5) Any stationary source previously exempted from review that is cited by the Agency for causing air pollution under Section 9.11 of this regulation.

(b) **Notifications.** A Notice of Construction application and Order of Approval are not required for the following new sources, provided that a complete notification is filed with the Agency prior to initial startup:

Liquid Storage and Transfer

(1) Storage tanks used exclusively for:

(A) Gasoline and having a rated capacity of 1,001-19,999 gallons, PROVIDED THAT they are installed in accordance with the current California Air Resources Board Executive Orders;

(B) Organic liquids with a true vapor pressure of 2.2-4.0 psia and having a rated capacity of 20,000-39,999 gallons; or

(C) Organic liquids with a true vapor pressure of 0.5-0.75 psia and having a rated capacity \geq 40,000 gallons.

(2) Loading and unloading equipment used exclusively for the storage tanks exempted above, including gasoline dispensers at gasoline stations.

Relocation of Portable Batch Plants

(3) Relocation of the following portable facilities: asphalt batch plants, nonmetallic mineral processing plants, rock (or concrete) crushers, and concrete batch plants for which an Order of Approval has been previously issued by the Agency. *All the conditions in the previously issued Order of Approval remain in effect.*

Dry Cleaning

(4) Unvented, dry-to-dry, dry-cleaning equipment that is equipped with refrigerated condensers to recover the cleaning solvent.

Printing

(5) Non-heatset, web offset presses and wholesale, sheet-fed offset presses (lithographic or letterpress) using exclusively soy-based or kerosene-like oil-based inks, fountain solutions with \leq 6% VOC by volume or \leq 8.5% if refrigerated to $<$ 60°F, and cleaning solvents with a vapor pressure \leq 25mm Hg or a VOC content \leq 30% by volume.

Water Treatment

(6) Industrial and commercial wastewater evaporators (except flame impingement) used exclusively for wastewater generated on-site that meets all discharge limits for disposal into the local municipal sewer system (including metals, cyanide, fats/oils/grease, pH, flammable or explosive materials, organic compounds, hydrogen sulfide, solids, and food

waste). *A letter from the local sewer district documenting compliance is required in order to use this exemption.*

Sanding Equipment

(7) Sanding equipment controlled by a fabric filter with an airflow of 2,000-5,000 cfm and an air-to-cloth ratio of $<$ 3.5:1 (for reverse-air or manual cleaning) or $<$ 12:1 (for pulse-jet cleaning).

Ventilation and Control Equipment

(8) Vacuum-cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes controlled by a fabric filter with an airflow of 2,000-5,000 cfm and an air-to-cloth ratio of $<$ 3.5:1 (for mechanical or manual cleaning) or $<$ 12:1 (for pulse-jet cleaning).

(9) Replacement of existing paint spray booths. *All the conditions in the previously issued Order of Approval remain in effect.*

Miscellaneous

(10) Any source not otherwise exempt under Section 6.03(c) of this regulation that has been determined through review of a Notice of Construction application by the Control Officer not to warrant an Order of Approval because it has a de minimis impact on air quality and does not pose a threat to human health or the environment.

Coffee Roasters

(11) Batch coffee roasters with a maximum rated capacity of 10 lbs per batch or less.

(c) **Exemptions.** A Notice of Construction application and Order of Approval are not required for the following new sources, provided that sufficient records are kept to document the exemption:

Combustion

(1) Fuel-burning equipment (except when combusting pollutants generated by a non-exempt source) having a rated capacity:

(A) $<$ 10 million Btu per hour heat input burning exclusively distillate fuel oil, natural gas, propane, butane (or any combination thereof);

(B) $<$ 0.5 million Btu per hour heat output burning waste-derived fuel (including fuel oil not meeting the specifications in Section 9.08 of this regulation); or

(C) $<$ 1 million Btu per hour heat input burning any other fuel.

(2) All stationary gas turbines with a rated heat input $<$ 10 million Btu per hour.

(3) Stationary internal combustion engines having a rated capacity:

(A) $<$ 50 horsepower output;

(B) Used solely for instructional purposes at research, teaching, or educational facilities; or

(C) Portable or standby units operated $<$ 500 hours per year, PROVIDED THAT they are not operated at a facility with a power supply contract that offers a lower rate in exchange for the power supplier's ability to curtail energy consumption with prior notice.

(4) Relocation of portable, stationary internal combustion engines or gas turbines for which an Order of Approval has been previously issued by the Agency.

(5) All nonroad compression ignition engines subject to 40 CFR Part 89.

Metallurgy

(6) Crucible furnaces, pot furnaces, or induction furnaces with a capacity $\leq 1,000$ pounds, PROVIDED THAT no sweating or distilling is conducted, and PROVIDED THAT only precious metals, or an alloy containing $>50\%$ aluminum, magnesium, tin, zinc, or copper is melted.

(7) Crucible furnaces or pot furnaces with a capacity ≤ 450 cubic inches of any molten metal.

(8) Ladles used in pouring molten metals.

(9) Foundry sand-mold forming equipment.

(10) Shell core and shell-mold manufacturing machines.

(11) Molds used for the casting of metals.

(12) Die casting machines with a rated capacity $\leq 1,000$ pounds that are not used for copper alloys.

(13) Equipment used for heating metals immediately prior to forging, pressing, rolling, or drawing, if any combustion equipment is also exempt.

(14) Forming equipment used exclusively for forging, rolling, or drawing of metals, if any combustion equipment is also exempt.

(15) Heat treatment equipment used exclusively for metals, if any combustion equipment is also exempt.

(16) Equipment used exclusively for case hardening, carburizing, cyaniding, nitriding, carbonitriding, siliconizing, or diffusion treating of metals, if any combustion equipment is also exempt.

(17) Atmosphere generators used in connection with metal heat-treating processes.

(18) Sintering equipment used exclusively for metals other than lead, PROVIDED THAT no coke or limestone is used, if any combustion equipment is also exempt.

(19) Welding equipment and oxygen/gaseous fuel cutting equipment.

(20) Soldering or brazing, or equipment, including brazing ovens.

(21) Equipment used exclusively for surface preparation, passivation, deoxidation, and/or stripping that meets all of the following tank content criteria:

(A) ≤ 50 grams of VOC per liter;

(B) No acids other than boric, formic, acetic, phosphoric, sulfuric, or $\leq 12\%$ hydrochloric; and

(C) May contain alkaline oxidizing agents, hydrogen peroxide, salt solutions, sodium hydroxide, and water in any concentration.

Associated rinse tanks and waste storage tanks used exclusively to store the solutions drained from this equipment are also exempt. (This exemption does not include anodizing, hard anodizing, chemical milling, circuit board etching using ammonia-based etchant, electrocleaning, or the stripping of chromium, except sulfuric acid and/or boric acid anodizing with a total bath concentration of $\leq 20\%$ by weight and using $\leq 10,000$ amp-hours per day, or phosphoric acid anodizing with a bath concentration of $\leq 15\%$ by weight of phosphoric acid and using $\leq 20,000$ amp-hours per day.)

(22) Equipment used exclusively for electrolytic plating (except the use of chromic and/or hydrochloric acid) or electrolytic stripping (except the use of chromic, hydrochloric, nitric, or sulfuric acid) of brass, bronze, copper, iron, tin, zinc, precious metals, and associated rinse tanks and waste

storage tanks used exclusively to store the solutions drained from this equipment. Also, equipment used to electrolytically recover metals from spent or pretreated plating solutions that qualify for this exemption.

Ceramics and Glass

(23) Kilns used for firing ceramic-ware or artwork, if any combustion equipment is also exempt.

(24) Porcelain enameling furnaces, porcelain enameling drying ovens, vitreous enameling furnaces, or vitreous enameling drying ovens, if any combustion equipment is also exempt.

(25) Hand glass melting furnaces, electric furnaces, and pot furnaces with a capacity $\leq 1,000$ pounds of glass.

(26) Heat-treatment equipment used exclusively for glass, if any combustion equipment is also exempt.

(27) Sintering equipment used exclusively for glass PROVIDED THAT no coke or limestone is used, if any combustion equipment is also exempt.

Plastics and Rubber and Composites

(28) Equipment used exclusively for conveying and storing plastic pellets.

(29) Extrusion equipment used exclusively for extruding rubber or plastics where no organic plasticizer is present, or for pelletizing polystyrene foam scrap.

(30) Equipment used for extrusion, compression molding, and injection molding of plastics, PROVIDED THAT the VOC content of all mold release products or lubricants is $\leq 1\%$ by weight.

(31) Injection or blow-molding equipment for rubber or plastics, PROVIDED THAT no blowing agent other than compressed air, water, or carbon dioxide is used.

(32) Presses or molds used for curing, post-curing, or forming composite products and plastic products, PROVIDED THAT the blowing agent contains no VOC or chlorinated compounds.

(33) Presses or molds used for curing or forming rubber products and composite rubber products with a ram diameter ≤ 26 inches, PROVIDED THAT it is operated at $\leq 400^\circ\text{F}$.

(34) Ovens used exclusively for the curing or forming of plastics or composite products, where no foam-forming or expanding process is involved, if any combustion equipment is also exempt.

(35) Ovens used exclusively for the curing of vinyl plastisols by the closed-mold curing process, if any combustion equipment is also exempt.

(36) Equipment used exclusively for softening or annealing plastics, if any combustion equipment is also exempt.

(37) Hot wire cutting of expanded polystyrene foam and woven polyester film.

(38) Mixers, roll mills, and calenders for rubber or plastics where no material in powder form is added and no organic solvents, diluents, or thinners are used.

Material Working and Handling

(39) Equipment used for mechanical buffing (except tire buffers), polishing, carving, cutting, drilling, grinding, machining, planing, pressing, routing, sawing, stamping, or turning of wood, ceramic artwork, ceramic precision parts, leather, metals, plastics, rubber, fiberboard, masonry, glass, silicon, semiconductor wafers, carbon, graphite, or compos-

ites. This exemption also applies to laser cutting, drilling, and machining of metals.

(40) Hand-held sanding equipment.

(41) Sanding equipment controlled by a fabric filter with an airflow of <2,000 cfm.

(42) Equipment used exclusively for shredding of wood (e.g., tub grinders, hammermills, hoppers), or for extruding, pressing, handling, or storage of wood chips, sawdust, or wood shavings.

(43) Paper shredding and associated conveying systems and baling equipment.

(44) Hammermills used exclusively to process aluminum and/or tin cans.

(45) Tumblers used for the cleaning or deburring of metal products without abrasive blasting.

Abrasive Blasting

(46) Portable abrasive blasting equipment used at a temporary location to clean bridges, water towers, buildings, or similar structures, PROVIDED THAT any blasting with sand (or silica) is performed with $\geq 66\%$ by volume water.

(47) Portable vacuum blasting equipment using steel shot and vented to a fabric filter.

(48) Hydroblasting equipment using exclusively water as the abrasive.

(49) Abrasive blasting cabinets vented to a fabric filter, PROVIDED THAT the total internal volume of the cabinet is ≤ 100 cubic feet.

(50) Shot peening operations, PROVIDED THAT no surface material is removed.

Cleaning

(51) Solvent cleaning:

(A) Non-refillable, hand-held aerosol spray cans of solvent; or

(B) Closed-loop solvent recovery systems with refrigerated or water-cooled condensers used for recovery of waste solvent generated on-site.

(52) Steam-cleaning equipment.

(53) Unheated liquid solvent tanks used for cleaning or drying parts:

(A) With a solvent capacity ≤ 10 gallons and containing $\leq 5\%$ by weight perchloroethylene, methylene chloride, carbon tetra-chloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof;

(B) Using a solvent with a true vapor pressure ≤ 0.6 psi containing $\leq 5\%$ by weight perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloro-ethylene, or any combination thereof;

(C) With a remote reservoir and using a solvent containing $\leq 5\%$ by weight perchloroethylene, methylene chloride, carbon tetra-chloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof; or

(D) With a solvent capacity ≤ 2 gallons.

(54) Hand-wipe cleaning.

Coating, Resin, and Adhesive Application

(55) Powder-coating equipment.

(56) Portable coating equipment and pavement strippers used exclusively for the field application of architectural coatings and industrial maintenance coatings to stationary structures and their appurtenances or to pavements and curbs.

(57) High-volume low-pressure (HVLP) spray-coating equipment having a cup capacity ≤ 8 fluid ounces, PROVIDED THAT it is not used to coat >9 square feet per day and is not used to coat motor vehicles or aerospace components.

(58) Airbrushes having a cup capacity ≤ 2 fluid ounces and an airflow of 0.5-2.0 cfm.

(59) Hand-held aerosol spray cans having a capacity of ≤ 1 quart of coating.

(60) Spray-coating equipment used exclusively for application of automotive undercoating materials with a flash point $>100^\circ\text{F}$.

(61) Ovens associated with an exempt coating operation, if any combustion equipment is also exempt.

(62) Ovens associated with a coating operation that are used exclusively to accelerate evaporation, if any combustion equipment is also exempt. (Note: The coating operation is not necessarily exempt.)

(63) Radiation-curing equipment using ultraviolet or electron beam energy to initiate a chemical reaction forming a polymer network in a coating.

(64) Hand lay, brush, and roll-up resins equipment and operations.

(65) Equipment used exclusively for melting or applying of waxes or natural and synthetic resins.

(66) Hot-melt adhesive equipment.

(67) Any adhesive application equipment that exclusively uses materials containing $<1\%$ VOC by weight and $<0.1\%$ HAP.

(68) Equipment used exclusively for bonding of linings to brake shoes, where no organic solvents are used.

Printing

(69) Retail, sheet-fed, non-heatset offset presses (lithographic or letter-press).

(70) Presses using exclusively UV-curable inks.

(71) Presses using exclusively plastisols.

(72) Presses using exclusively water-based inks (<1.5 lbs VOC per gallon, excluding water, or $<10\%$ VOC by volume) and cleaning solvents without VOC.

(73) Presses used exclusively for making proofs.

(74) Electrostatic, ink jet, laser jet, and thermal printing equipment.

(75) Ovens used exclusively for exempt printing presses, if any combustion equipment is also exempt.

Photography

(76) Photographic process equipment by which an image is reproduced upon material sensitized by radiant energy, excluding equipment using perchloroethylene.

Liquid Storage and Transfer

(77) Storage tanks permanently attached to a motor vehicle.

(78) Storage tanks used exclusively for:

(A) Liquefied gases, including any tanks designed to operate in excess of 29.7 psia without emissions;

(B) Asphalt at a facility other than an asphalt roofing plant, asphalt processing plant, or petroleum refinery;

(C) Any liquids (other than asphalt) that also have a rated capacity $\leq 1,000$ gallons;

(D) Organic liquids (other than gasoline or asphalt) that also have a rated capacity $<20,000$ gallons;

(E) Organic liquids (other than asphalt) with a true vapor pressure <2.2 psia (e.g., ASTM spec. fuel oils and lubricating oils) that also have a rated capacity <40,000 gallons;

(F) Organic liquids (other than asphalt) with a true vapor pressure <0.5 psia that also have a rated capacity \geq 40,000 gallons;

(G) Sulfuric acid or phosphoric acid with an acid strength \leq 99% by weight;

(H) Nitric acid with an acid strength \leq 70% by weight;

(I) Hydrochloric acid or hydrofluoric acid tanks with an acid strength \leq 30% by weight;

(J) Aqueous solutions of sodium hydroxide, sodium hypochlorite, or salts, PROVIDED THAT the surface of the solution contains \leq 1% VOC by weight;

(K) Liquid soaps, liquid detergents, vegetable oils, fatty acids, fatty esters, fatty alcohols, waxes, and wax emulsions;

(L) Tallow or edible animal fats intended for human consumption and of sufficient quality to be certifiable for United States markets;

(M) Water emulsion intermediates and products, including latex, with a VOC content \leq 5% by volume or a VOC composite partial pressure of \leq 0.1 psi at 68°F; or

(N) Wine, beer, or other alcoholic beverages.

(79) Loading and unloading equipment used exclusively for the storage tanks exempted above.

(80) Loading and unloading equipment used exclusively for transferring liquids or compressed gases into containers having a rated capacity <60 gallons, except equipment transferring >1,000 gallons per day of liquid with a true vapor pressure >0.5 psia.

(81) Equipment used exclusively for the packaging of sodium hypochlorite-based household cleaning or pool products.

Mixing

(82) Mixing equipment, PROVIDED THAT no material in powder form is added and the mixture contains <1% VOC by weight.

(83) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives.

(84) Equipment used exclusively for the manufacture of water emulsions of waxes, greases, or oils.

(85) Equipment used exclusively for the mixing and packaging of lubricants or greases.

(86) Equipment used exclusively for manufacturing soap or detergent bars, including mixing tanks, roll mills, plodders, cutters, wrappers, where no heating, drying, or chemical reactions occur.

(87) Equipment used exclusively to mill or grind coatings and molding compounds in a paste form, PROVIDED THAT the solution contains <1% VOC by weight.

(88) Batch mixers with a rated working capacity \leq 55 gallons.

(89) Batch mixers used exclusively for paints, varnishes, lacquers, enamels, shellacs, printing inks, or sealers, PROVIDED THAT the mixer is equipped with a lid that contacts \geq 90% of the rim.

Water Treatment

(90) Oil/water separators, except those at petroleum refineries.

(91) Water cooling towers and water cooling ponds not used for evaporative cooling of process water, or not used for evaporative cooling of water from barometric jets or from barometric condensers, and in which no chromium compounds are contained.

(92) Equipment used exclusively to generate ozone and associated ozone destruction equipment for the treatment of cooling tower water or for water treatment processes.

(93) Municipal sewer systems, including wastewater treatment plants and lagoons, PROVIDED THAT they do not use anaerobic digesters or chlorine sterilization. This exemption does not include sewage sludge incinerators.

(94) Soil and groundwater remediation projects involving <15 pounds per year of benzene or vinyl chloride, <500 pounds per year of perchloroethylene, and <1,000 pounds per year of toxic air contaminants.

Landfills and Composting

(95) Passive aeration of soil, PROVIDED THAT the soil is not being used as a cover material at a landfill.

(96) Closed landfills that do not have an operating, active landfill gas collection system.

(97) Non-commercial composting.

Agriculture, Food, and Drugs

(98) Equipment used in agricultural operations, in the growing of crops, or the raising of fowl or animals.

(99) Insecticide, pesticide, or fertilizer spray equipment.

(100) Equipment used in retail establishments to dry, cook, fry, bake, or grill food for human consumption, including charbroilers, smokehouses, barbecue units, deep fat fryers, cocoa and nut roasters, but not including coffee roasters.

(101) Cooking kettles (other than deep frying equipment) and confection cookers where all the product in the kettle is edible and intended for human consumption.

(102) Bakery ovens with a total production of yeast leavened bread products <10,000 pounds per operating day, if any combustion equipment is also exempt.

(103) Equipment used to dry, mill, grind, blend, or package <1,000 tons per year of dry food products such as seeds, grains, corn, meal, flour, sugar, and starch.

(104) Equipment used to convey, transfer, clean, or separate <1,000 tons per year of dry food products or waste from food production operations.

(105) Storage equipment or facilities containing dry food products that are not vented to the outside atmosphere, or that handle <1,000 tons per year.

(106) Equipment used exclusively to grind, blend, package, or store tea, cocoa, spices, coffee, flavor, fragrance extraction, dried flowers, or spices, PROVIDED THAT no organic solvents are used in the process.

(107) Equipment used to convey or process materials in bakeries or used to produce noodles, macaroni, pasta, food mixes, and drink mixes where products are edible and intended for human consumption, PROVIDED THAT no organic solvents are used in the process. This exemption does not include storage bins located outside buildings.

(108) Brewing operations at facilities producing <3 million gallons per year of beer.

(109) Fermentation tanks for wine (excluding tanks used for the commercial production of yeast for sale).

(110) Equipment used exclusively for tableting, or coating vitamins, herbs, or dietary supplements, PROVIDED THAT no organic solvents are used in the process.

(111) Equipment used exclusively for tableting or packaging pharmaceuticals and cosmetics, or coating pharmaceutical tablets, PROVIDED THAT no organic solvents are used.

Quarries, Nonmetallic Mineral Processing Plants, and Concrete and Asphalt Batch Plants

(112) Portable sand and gravel plants and crushed stone plants with a cumulative rated capacity of all initial crushers ≤ 150 tons per hour.

(113) Fixed sand and gravel plants and crushed stone plants with a cumulative rated capacity of all initial crushers ≤ 25 tons per hour.

(114) Common clay plants and pumice plants with a cumulative rated capacity of all initial crushers of ≤ 10 tons per hour.

(115) Mixers and other ancillary equipment at concrete batch plants (or aggregate product production facilities) with a rated capacity < 15 cubic yards per hour.

(116) Concrete mixers with a rated working capacity of ≤ 1 cubic yard.

(117) Drilling or blasting (explosives detonation).

(118) Asphaltic concrete crushing/recycling equipment with a throughput $< 5,000$ tons per year.

Construction

(119) Asphalt paving application.

(120) Asphalt (hot-tar) roofing application.

(121) Building construction or demolition, except that notification of demolitions is required under Section 4.03 of Regulation III.

Ventilation and Control Equipment

(122) Comfort air-conditioning systems, or ventilating systems (forced or natural draft), PROVIDED THAT they are not designed or used to control air contaminants generated by, or released from, sources subject to Notice of Construction.

(123) Refrigeration units, except those used as, or in conjunction with, air pollution control equipment.

(124) Refrigerant recovery and/or recycling units, excluding refrigerant reclaiming facilities.

(125) Emergency ventilation systems used exclusively to contain and control emissions resulting from the failure of a compressed gas storage system.

(126) Emergency ventilation systems used exclusively to scrub ammonia from refrigeration systems during process upsets or equipment breakdowns.

(127) Negative air machines equipped with HEPA filters used to control asbestos emissions from demolition/renovation activities.

(128) Portable control equipment used exclusively for storage tank degassing.

(129) Vacuum-cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes controlled by a fabric filter with an airflow $< 2,000$ cfm.

(130) Control equipment used exclusively for sources that are exempt from Notice of Construction under Section 6.03(c) of this regulation.

(131) Routine maintenance, repair, or similar parts replacement of control equipment.

Testing and Research

(132) Laboratory testing and quality assurance/control testing equipment used exclusively for chemical and physical analysis, teaching, or experimentation, used specifically in achieving the purpose of the analysis, test, or teaching activity. Non-production bench scale research equipment is also included.

Miscellaneous

(133) Single-family and duplex dwellings.

(134) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment, if any combustion equipment used to power such equipment is also exempt.

(135) Equipment, including dryers, used exclusively for dyeing, stripping, or bleaching of textiles where no organic solvents, diluents, or thinners are used, if any combustion equipment used to power such equipment is also exempt.

(136) Chemical vapor sterilization equipment where no ethylene oxide is used, and with a chamber volume of ≤ 2 cubic feet used by healthcare facilities.

(137) Ozone generators that produce < 1 pound per day of ozone.

(138) Fire extinguishing equipment.

(d) Each Notice of Construction application and Section 6.03(b) notification shall be submitted on forms provided by the Agency and shall be accompanied by the appropriate fee as required by Section 6.04 of this regulation. Notice of Construction applications shall also include any additional information required to demonstrate that the requirements of this Article are met. Notice of Construction applications shall also include an environmental checklist or other documents demonstrating compliance with the State Environmental Policy Act.

WSR 06-22-104

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Optometry)

[Filed November 1, 2006, 11:00 a.m., effective December 2, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rules implement ESSB 5535, enacted by the 2006 legislature by directing all optometrists to complete required training to authorize full scope of practice by January 1, 2011. Full scope of practice includes topical, oral, and limited controlled substances prescriptive authority and administration of epinephrine by injection. The rules also authorize an inactive credential status for optometrists.

Citation of Existing Rules Affected by this Order: Amending WAC 246-851-490.

Statutory Authority for Adoption: RCW 18.54.070(2).

Adopted under notice filed as WSR 06-16-116 on August 1, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 1, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 1, Repealed 0.

Date Adopted: September 15, 2006.

Jeffrey B. Sutro, O.D.
Optometry Board Chair

(b) Provide verification from all jurisdictions in which the applicant holds a license, whether active or inactive, indicating that the applicant is not subject to charges or disciplinary action for unprofessional conduct or impairment; and

(c) Meet the requirements of chapter 246-12 WAC, Part 4.

AMENDATORY SECTION (Amending WSR 96-20-087, filed 10/1/96, effective 11/1/96)

WAC 246-851-490 Examination and licensure. To qualify for licensure in this state a candidate must:

(1) Successfully complete Parts I, II, and III of the National Board of Examiners in Optometry (NBEO) examinations; the Part III having been administered and successfully completed after January 1, 1993(~~(;)~~).

(2) Applicants who completed the NBEO Part II examination prior to January 1, 1993, must successfully complete the International Association of Examiners in Optometry (IAB) examination in treatment and management of ocular disease(~~(; and)~~).

(3) Successfully complete a jurisprudence questionnaire(~~(; and)~~).

(4) Be a graduate of a state accredited high school or equivalent(~~(; and)~~).

(5) Be a graduate of a school or college of optometry accredited by the Council on Optometric Education of the American Optometric Association and approved by the Washington state board of optometry(~~(; and)~~).

(6) Be of good moral character.

(7) Effective January 1, 2007, all applicants who receive their initial (first) license in Washington state must meet all the certification requirements of RCW 18.53.010 (2)(a), (b), (c), and (d).

(8) Effective January 1, 2009, all optometrists licensed in Washington state must be certified under RCW 18.53.010 (2)(a) and (b).

(9) Effective January 1, 2011, all optometrists licensed in Washington state must be certified under RCW 18.53.010 (2)(a), (b), (c), and (d).

NEW SECTION

WAC 246-851-540 Inactive credential. (1) An optometrist may obtain an inactive credential. Refer to the requirements of chapter 246-12 WAC, Part 4.

(2) To return to active practice from inactive practice, an optometrist must:

(a) Meet the requirements of RCW 18.53.010 (2)(a), (b), (c), and (d);